

By: Dearing, Simmons, Walls, Johnson (38th) To: Judiciary

## SENATE BILL NO. 2060

1 AN ACT TO AMEND SECTION 63-9-11, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE FOR SENTENCING OF A FIRST-TIME TRAFFIC VIOLATOR TO A  
3 SAFE-DRIVING SCHOOL AND TO PROVIDE THAT A FIRST TRAFFIC VIOLATION  
4 WILL NOT BE ENTERED ON THE DRIVING RECORD OF ANY INDIVIDUAL; TO  
5 AMEND SECTION 63-9-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY;  
6 AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 63-9-11, Mississippi Code of 1972, is  
9 amended as follows:

10 63-9-11. (1) It is a misdemeanor for any person to violate  
11 any of the provisions of Chapter 3, 5, or 7 of this title, unless  
12 such violation is by such chapters or other law of this state  
13 declared to be a felony.

14 (2) Every person convicted of a misdemeanor for a violation  
15 of any of the provisions of such chapters for which another  
16 penalty is not provided shall for first conviction thereof be  
17 punished by a fine of not more than One Hundred Dollars (\$100.00)  
18 or by imprisonment for not more than ten (10) days; for a second  
19 such conviction within one (1) year thereafter such person shall  
20 be punished by a fine of not more than Two Hundred Dollars  
21 (\$200.00) or by imprisonment for not more than twenty (20) days or  
22 by both such fine and imprisonment; upon a third or subsequent  
23 conviction within one (1) year after the first conviction such  
24 person shall be punished by a fine of not more than Five Hundred  
25 Dollars (\$500.00) or by imprisonment for not more than six (6)  
26 months or by both such fine and imprisonment.

27 (3) Whenever, in a misdemeanor case, a person is convicted  
28 of violating any of the provisions of Chapter 3, 5 or 7 of this

29 title, the court imposing sentence may order the defendant to  
30 attend and participate in a traffic safety violator school, in  
31 addition to any other penalty authorized by law.

32 (4) If a person pleads not guilty to a misdemeanor offense  
33 under any of the provisions of Chapter 3, 5 or 7 of this title but  
34 is convicted, and the person has not received a prior conviction  
35 under said chapters within three (3) years of the date of the  
36 alleged offense, the court shall suspend the sentence for such  
37 offense to allow the defendant ninety (90) days to successfully  
38 complete a safety violator school at his own cost. Upon  
39 successful completion by the defendant of the course, the court  
40 shall set the conviction aside, dismiss the prosecution and direct  
41 that the case be closed. The court on its own motion shall  
42 expunge the record of the conviction, and the only record  
43 maintained thereafter shall be the nonpublic record required under  
44 Section 63-9-17, Mississippi Code of 1972, solely for use by the  
45 courts in determining an offender's eligibility under this section  
46 as a first-time offender.

47 (5) If all of the conditions set forth in paragraphs (a)  
48 through (f) of this subsection are met, the court may withhold  
49 acceptance of the plea and defer sentencing in order to allow the  
50 defendant ninety (90) days to successfully complete a traffic  
51 safety violator school at his own cost, whereupon the court shall  
52 dismiss the prosecution and direct that the case be closed. The  
53 only record maintained thereafter shall be the nonpublic record  
54 required under Section 63-9-17, Mississippi Code of 1972, solely  
55 for use by the courts in determining eligibility as a first-time  
56 offender under this section:

57 (a) The person, except as provided in paragraph (f),  
58 enters a plea in person or in writing of nolo contendere or guilty  
59 and presents to the court an oral request or a written request, in  
60 person or by mail postmarked on or before the appearance date on  
61 the citation, to attend a traffic safety violator school.

62           (b) The court enters judgment on the defendant's plea  
63 of nolo contendere or guilty at the time the plea is made, but  
64 defers the imposition or the execution of the whole or any part of  
65 the sentence for ninety (90) days.

66           (c) The defendant has a valid Mississippi driver's  
67 license or permit.

68           (d) The defendant's public and nonpublic driving record  
69 as maintained by the Department of Public Safety does not indicate  
70 successful completion of a driver's education, training or  
71 improvement course under this section within the three (3) years  
72 of the date of the alleged offense.

73           (e) The defendant files an affidavit with the court  
74 stating that this is his first conviction in more than three (3)  
75 years, he is not in the process of taking a course under this  
76 section and he has not completed a course under this section that  
77 is not yet reflected on his driving record.

78           (f) The offense charged is for a misdemeanor offense  
79 under Chapter 3, 5 or 7 of this title.

80           (6) An out-of-state resident may be allowed to complete a  
81 substantially similar program in his home state, province or  
82 country provided paragraphs (a), (b), (d), (e) and (f) of  
83 subsection (5) of this section are satisfied, and provided that  
84 the defendant has a valid driver's license or permit from that  
85 home jurisdiction.

86           SECTION 2. Section 63-9-17, Mississippi Code of 1972, is  
87 amended as follows:

88           63-9-17. (1) Every court shall keep a full record of the  
89 proceedings of every case in which a person is charged with any  
90 violation of law regulating the operation of vehicles on the  
91 highways, streets or roads of this state.

92           (2) Unless otherwise sooner required by law, within  
93 forty-five (45) days after the conviction of a person upon a  
94 charge of violating any law regulating the operation of vehicles

95 on the highways, streets or roads of this state, every \* \* \* court  
96 in which such conviction was had shall prepare and immediately  
97 forward to the Department of Public Safety an abstract of the  
98 record of said court covering the case in which said person was so  
99 convicted, which abstract must be certified by the person so  
100 authorized to prepare the same to be true and correct.

101 (3) Said abstract must be made upon a form approved by the  
102 Department of Public Safety, and shall include the name and  
103 address of the party charged, the registration number of the  
104 vehicle involved, the nature of the offense, the date of hearing,  
105 the plea, the judgment, and if the fine was satisfied by  
106 prepayment or appearance bond forfeiture, and the amount of the  
107 fine or forfeiture, as the case may be.

108 (4) Every \* \* \* court shall also forward a like report to  
109 the Department of Public Safety upon the conviction of any person  
110 of manslaughter or other felony in the commission of which a  
111 vehicle was used.

112 (5) Every court shall also forward a like report to the  
113 Department of Public Safety upon the satisfactory completion by  
114 any defendant of a traffic safety violator school under subsection  
115 (4) or (5) of Section 63-9-11, Mississippi Code of 1972, and the  
116 department shall make and maintain a private, nonpublic record to  
117 be kept for a period of three (3) years. The record shall be  
118 solely for the use of the courts in determining eligibility under  
119 Section 63-9-11, Mississippi Code of 1972, as a first-time  
120 offender, and shall not constitute a criminal record for the  
121 purpose of private or administrative inquiry. Reports forwarded  
122 to the Department of Public Safety under this subsection shall be  
123 exempt from the provisions of the Mississippi Public Records Act  
124 of 1983.

125 (6) The failure by refusal or neglect of any such judicial  
126 officer to comply with any of the requirements of this section  
127 shall constitute misconduct in office and shall be grounds for

128 removal therefrom.

129       (7) The Department of Public Safety shall keep copies of all  
130 abstracts received hereunder for a period of three (3) years at  
131 its main office and the same shall be open to public inspection  
132 during reasonable business hours.

133       SECTION 3. This act shall take effect and be in force from  
134 and after January 1, 2001.