

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 878**

**By Senator(s) Committee**

12           **Amend by striking all after the enacting clause and inserting**  
13 **in lieu thereof the following:**

14  
15           SECTION 1. (1) (a) In addition to the penalties authorized  
16 for any second or subsequent convictions of Section 63-11-30, the  
17 court shall order either the impoundment or immobilization of any  
18 vehicle registered to the person convicted, if the court  
19 determines it is a vehicle to which the person has access and  
20 which should be subject to these sanctions, for a minimum period  
21 of thirty (30) days up to the entire length of license suspension  
22 to occur during the driver's license suspension period; provided,  
23 however, that if other licensed drivers living in the household  
24 are dependent upon the vehicle subject to impoundment or  
25 immobilization for necessary transportation, the court may order  
26 the installation of an ignition interlock system on the vehicle in  
27 lieu of impoundment or immobilization. Additionally, the court  
28 shall order the installation of an ignition interlock system on  
29 any vehicle registered to the person for a minimum period of six  
30 (6) months to occur upon reinstatement of the person's driver's  
31 license if the court determines it is a vehicle to which the  
32 person has access and which should be subject to ignition  
33 interlock. The cost associated with impoundment, immobilization  
34 or ignition interlock shall be paid by the person convicted. For

35 the purpose of this section, "ignition interlock device" means a  
36 device which connects a motor vehicle ignition system to a  
37 breath-alcohol analyzer and prevents a motor vehicle ignition from  
38 starting if the driver's blood alcohol level exceeds the  
39 calibrated setting on the device.

40 (b) A person may not tamper with, or in any way attempt  
41 to circumvent the immobilization or impoundment of vehicles  
42 ordered by the court. A violation of this paragraph (b) is a  
43 misdemeanor and upon conviction the violator shall be fined an  
44 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more  
45 than One Thousand Dollars (\$1,000.00) or imprisoned for not more  
46 than one (1) year or both.

47 (c) When a court orders a person to operate only a  
48 motor vehicle which is equipped with a functioning ignition  
49 interlock device, the court shall establish a specific calibration  
50 setting no lower than two one-hundredths percent (.02%) nor more  
51 than four one-hundredths percent (.04%) blood alcohol  
52 concentration at which the ignition interlock device will prevent  
53 the motor vehicle from being started.

54 (d) Upon ordering use of an ignition interlock device,  
55 the court shall:

56 (i) State on the record the requirement for and  
57 the period of use of the device, and so notify the Department of  
58 Public Safety;

59 (ii) Direct that the records of the department  
60 reflect that the person may not operate a motor vehicle that is  
61 not equipped with an ignition interlock device;

62 (iii) Direct the department to attach or imprint a  
63 notation on the driver's license of any person restricted under  
64 this section stating that the person may operate only a motor  
65 vehicle equipped with an ignition interlock device;

66 (iv) Require proof of the installation of the  
67 device and periodic reporting by the person for verification of  
68 the proper operation of the device;

69 (v) Require the person to have the system

70 monitored for proper use and accuracy by an entity approved by the  
71 department at least semiannually, or more frequently as the  
72 circumstances may require;

73 (vi) Require the person to pay the reasonable cost  
74 of leasing or buying, monitoring, and maintaining the device, and  
75 may establish a payment schedule therefore.

76 (e) (i) 1. A person prohibited under this section  
77 from operating a motor vehicle that is not equipped with an  
78 ignition interlock device may not solicit or have another person  
79 attempt to start or start a motor vehicle equipped with such a  
80 device.

81 2. A person may not attempt to start or start  
82 a motor vehicle equipped with an ignition interlock device for the  
83 purpose of providing an operable motor vehicle to a person who is  
84 prohibited under this section from operating a motor vehicle that  
85 is not equipped with an ignition interlock device.

86 3. A person may not tamper with, or in any  
87 way attempt to circumvent, the operation of an ignition interlock  
88 device that has been installed in a motor vehicle.

89 4. A person may not knowingly provide a motor  
90 vehicle not equipped with a functioning ignition interlock device  
91 to another person who the provider of such vehicle knows or should  
92 know is prohibited from operating a motor vehicle not equipped  
93 with an ignition interlock device.

94 (ii) A violation of this paragraph (e) is a  
95 misdemeanor and upon conviction the violator shall be fined an  
96 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more  
97 than One Thousand Dollars (\$1,000.00) or imprisoned for not more  
98 than one (1) year, or both.

99 (iii) A person shall not be in violation of this  
100 paragraph (e) if:

101 1. The starting of a motor vehicle equipped  
102 with an ignition interlock device is done for the purpose of  
103 safety or mechanical repair of the device or the vehicle, and the  
104 person subject to the court order does not operate the vehicle; or

105                   2. The court finds that a person is required  
106 to operate a motor vehicle in the course and scope of the person's  
107 employment. If the vehicle is owned by the person's employer, the  
108 person may operate that vehicle during regular working hours for  
109 the purposes of employment without installation of an ignition  
110 interlock device if the employer has been notified of such driving  
111 privilege restriction and if proof of that notification is kept  
112 with the vehicle at all times. This employment exemption does not  
113 apply if the business entity that owns the vehicle is owned or  
114 controlled by the person who is prohibited from operating the  
115 motor vehicle not equipped with an ignition interlock device.

116                   (f) (i) In addition to the circumstances under which a  
117 judge may order the use of an ignition interlock device set out in  
118 subsection (1)(a) of this section, a judge may order that the  
119 vehicle owned or operated by a person or a family member of any  
120 person who committed a violation of Section 63-11-30 be equipped  
121 with an ignition interlock device for all or a portion of the time  
122 the driver's license of the operator of such vehicle is suspended  
123 or restricted pursuant to this section, if:

124                   1. The operator of the vehicle used to  
125 violate Section 63-11-30 has at least one (1) prior conviction for  
126 driving a motor vehicle when such person's privilege to do so is  
127 cancelled, suspended or revoked as provided by Section 63-11-30;  
128 or

129                   2. The driver's license of the operator of  
130 such vehicle was cancelled, suspended or revoked at the time of  
131 the violation of Section 63-11-30.

132                   (ii) The provisions of this paragraph (f) shall  
133 not apply if the vehicle used to commit the violation of Section  
134 63-11-30, was, at the time of such violation, rented or stolen.

135                   (2) The provisions of this section are supplemental to the  
136 provisions of Section 63-11-30.

137                   SECTION 2. Section 63-11-30, Mississippi Code of 1972, is  
138 amended as follows:

139                   63-11-30. (1) It is unlawful for any person to drive or

140 otherwise operate a vehicle within this state who (a) is under the  
141 influence of intoxicating liquor; (b) is under the influence of  
142 any other substance which has impaired such person's ability to  
143 operate a motor vehicle; (c) has an alcohol concentration of ten  
144 one-hundredths percent (.10%) or more for persons who are above  
145 the legal age to purchase alcoholic beverages under state law, or  
146 two one-hundredths percent (.02%) or more for persons who are  
147 below the legal age to purchase alcoholic beverages under state  
148 law, in the person's blood based upon grams of alcohol per one  
149 hundred (100) milliliters of blood or grams of alcohol per two  
150 hundred ten (210) liters of breath as shown by a chemical analysis  
151 of such person's breath, blood or urine administered as authorized  
152 by this chapter; (d) is under the influence of any drug or  
153 controlled substance, the possession of which is unlawful under  
154 the Mississippi Controlled Substances Law; or (e) has an alcohol  
155 concentration of four one-hundredths percent (.04%) or more in the  
156 person's blood, based upon grams of alcohol per one hundred (100)  
157 milliliters of blood or grams of alcohol per two hundred ten (210)  
158 liters of breath as shown by a chemical analysis of such person's  
159 blood, breath or urine, administered as authorized by this chapter  
160 for persons operating a commercial motor vehicle.

161 (2) (a) Except as otherwise provided in subsection (3),  
162 upon conviction of any person for the first offense of violating  
163 subsection (1) of this section where chemical tests provided for  
164 under Section 63-11-5 were given, or where chemical test results  
165 are not available, such person shall be fined not less than Two  
166 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars  
167 (\$1,000.00), or imprisoned for not more than forty-eight (48)  
168 hours in jail or both; and the court shall order such person to  
169 attend and complete an alcohol safety education program as  
170 provided in Section 63-11-32. The court may substitute attendance  
171 at a victim impact panel instead of forty-eight (48) hours in  
172 jail. In addition, the Department of Public Safety, the  
173 Commissioner of Public Safety or his duly authorized agent shall,  
174 after conviction and upon receipt of the court abstract, suspend

175 the driver's license and driving privileges of such person for a  
176 period of not less than ninety (90) days and until such person  
177 attends and successfully completes an alcohol safety education  
178 program as herein provided; provided, however, in no event shall  
179 such period of suspension exceed one (1) year. Commercial driving  
180 privileges shall be suspended as provided in Section 63-1-83.

181 The circuit court having jurisdiction in the county in which  
182 the conviction was had or the circuit court of the person's county  
183 of residence may reduce the suspension of driving privileges under  
184 Section 63-11-30(2)(a) if the denial of which would constitute a  
185 hardship on the offender, except that no court may issue such an  
186 order reducing the suspension of driving privileges under this  
187 subsection until thirty (30) days have elapsed from the effective  
188 date of the suspension. Hardships shall only apply to first  
189 offenses under Section 63-11-30(1), and shall not apply to second,  
190 third or subsequent convictions of any person violating subsection  
191 (1) of this section. A reduction of suspension on the basis of  
192 hardship shall not be available to any person who refused to  
193 submit to a chemical test upon the request of a law enforcement  
194 officer as provided in Section 63-11-5. When the petition is  
195 filed, such person shall pay to the circuit clerk of the court  
196 where the petition is filed a fee of Fifty Dollars (\$50.00), which  
197 shall be deposited into the State General Fund to the credit of a  
198 special fund hereby created in the State Treasury to be used for  
199 alcohol or drug abuse treatment and education, upon appropriation  
200 by the Legislature. This fee shall be in addition to any other  
201 court costs or fees required for the filing of petitions.

202 The petition filed under the provisions of this subsection  
203 shall contain the specific facts which the petitioner alleges to  
204 constitute a hardship and the driver's license number of the  
205 petitioner. A hearing may be held on any petition filed under  
206 this subsection only after ten (10) days' prior written notice to  
207 the Commissioner of Public Safety, or his designated agent, or the  
208 attorney designated to represent the state. At such hearing, the  
209 court may enter an order reducing the period of suspension.

210           The order entered under the provisions of this subsection  
211 shall contain the specific grounds upon which hardship was  
212 determined, and shall order the petitioner to attend and complete  
213 an alcohol safety education program as provided in Section  
214 63-11-32. A certified copy of such order shall be delivered to  
215 the Commissioner of Public Safety by the clerk of the court within  
216 five (5) days of the entry of the order. The certified copy of  
217 such order shall contain information which will identify the  
218 petitioner, including, but not limited to, the name, mailing  
219 address, street address, social security number and driver's  
220 license number of the petitioner.

221           At any time following at least thirty (30) days of suspension  
222 for a first offense violation of this section, the court may grant  
223 the person hardship driving privileges upon written petition of  
224 the defendant, if it finds reasonable cause to believe that  
225 revocation would hinder the person's ability to:

- 226                   (i) Continue his employment;
- 227                   (ii) Continue attending school or an educational  
228 institution; or
- 229                   (iii) Obtain necessary medical care.

230           Proof of the hardship shall be established by clear and  
231 convincing evidence which shall be supported by independent  
232 documentation.

233           (b) Except as otherwise provided in subsection (3),  
234 upon any second conviction of any person violating subsection (1)  
235 of this section, the offenses being committed within a period of  
236 five (5) years, such person shall be fined not less than Six  
237 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred  
238 Dollars (\$1,500.00) and shall be imprisoned not less than ten (10)  
239 days nor more than one (1) year and sentenced to community service  
240 work for not less than ten (10) days nor more than one (1) year.  
241 The minimum penalties shall not be suspended. Except as may  
242 otherwise be provided by paragraph (e) of this subsection, the  
243 Commissioner of Public Safety shall suspend the driver's license  
244 of such person for two (2) years. Suspension of a commercial

245 driver's license shall be governed by Section 63-1-83. Upon any  
246 second conviction as described in this paragraph, the court shall  
247 ascertain whether the defendant is married, and if the defendant  
248 is married shall obtain the name and address of the defendant's  
249 spouse; the clerk of the court shall submit this information to  
250 the Department of Public Safety. Further, the commissioner shall  
251 notify in writing, by certified mail, return receipt requested,  
252 the owner of the vehicle and the spouse, if any, of the person  
253 convicted of the second violation of the possibility of forfeiture  
254 of the vehicle if such person is convicted of a third violation of  
255 subsection (1) of this section. The owner of the vehicle and the  
256 spouse shall be considered notified under this paragraph if the  
257 notice is deposited in the United States mail and any claim that  
258 the notice was not in fact received by the addressee shall not  
259 affect a subsequent forfeiture proceeding.

260 For any second or subsequent conviction of any person under  
261 this section, the person shall also be subject to the penalties  
262 set forth in Section 1 of House Bill No. 878, 2000 Regular  
263 Session.

264 (c) Except as otherwise provided in subsection (3), for  
265 any third or subsequent conviction of any person violating  
266 subsection (1) of this section, the offenses being committed  
267 within a period of five (5) years, such person shall be guilty of  
268 a felony and fined not less than Two Thousand Dollars (\$2,000.00)  
269 nor more than Five Thousand Dollars (\$5,000.00) and shall be  
270 imprisoned not less than one (1) year nor more than five (5) years  
271 in the State Penitentiary. The minimum penalties shall not be  
272 suspended. The law enforcement agency shall seize the vehicle  
273 operated by any person charged with a third or subsequent  
274 violation of subsection (1) of this section, if such convicted  
275 person was driving the vehicle at the time the offense was  
276 committed. Such vehicle may be forfeited in the manner provided  
277 by Sections 63-11-49 through 63-11-53. Except as may otherwise be  
278 provided by paragraph (e) of this subsection, the Commissioner of  
279 Public Safety shall suspend the driver's license of such person



280 for five (5) years. The suspension of a commercial driver's  
281 license shall be governed by Section 63-1-83.

282 (d) Except as otherwise provided in subsection (3), any  
283 person convicted of a second or subsequent violation of subsection  
284 (1) of this section \* \* \* shall receive an in-depth diagnostic  
285 assessment, and if as a result of such assessment is determined to  
286 be in need of treatment of his alcohol and/or drug abuse problem  
287 shall successfully complete treatment of his alcohol and/or drug  
288 abuse problem at a program site certified by the Department of  
289 Mental Health. Such person shall be eligible for reinstatement of  
290 his driving privileges upon the successful completion of such  
291 treatment after a period of one (1) year after such person's  
292 driver's license is suspended. Each person who receives a  
293 diagnostic assessment shall pay a fee representing the cost of  
294 such assessment. Each person who participates in a treatment  
295 program shall pay a fee representing the cost of such treatment.

296 (e) Except as otherwise provided in subsection (3), any  
297 person convicted of a third or subsequent violation of subsection  
298 (1) of this section may enter an alcohol and/or drug abuse program  
299 approved by the Department of Mental Health for treatment of such  
300 person's alcohol and/or drug abuse problem. If such person  
301 successfully completes such treatment, such person shall be  
302 eligible for reinstatement of his driving privileges after a  
303 period of three (3) years after such person's driver's license is  
304 suspended.

305 (3) (a) This subsection shall be known and may be cited as  
306 Zero Tolerance for Minors. The provisions of this subsection  
307 shall apply only when a person under the age of twenty-one (21)  
308 years has a blood alcohol concentration two one-hundredths percent  
309 (.02%) or more, but lower than eight one-hundredths percent  
310 (.08%). If such person's blood alcohol concentration is eight  
311 one-hundredths percent (.08%) or more, the provisions of  
312 subsection (2) shall apply.

313 (b) Upon conviction of any person under the age of  
314 twenty-one (21) years for the first offense of violating

315 subsection (1) of this section where chemical tests provided for  
316 under Section 63-11-5 were given, \* \* \* such person shall have his  
317 driver's license suspended for ninety (90) days and shall be fined  
318 Two Hundred Fifty Dollars (\$250.00); and the court shall order  
319 such person to attend and complete an alcohol safety education  
320 program as provided in Section 63-11-32. The court may also  
321 require attendance at a victim impact panel.

322         The circuit court having jurisdiction in the county in which  
323 the conviction was had or the circuit court of the person's county  
324 of residence may reduce the suspension of driving privileges under  
325 Section 63-11-30(2)(a) if the denial of which would constitute a  
326 hardship on the offender, except that no court may issue such an  
327 order reducing the suspension of driving privileges under this  
328 subsection until thirty (30) days have elapsed from the effective  
329 date of the suspension. Hardships shall only apply to first  
330 offenses under Section 63-11-30(1), and shall not apply to second,  
331 third or subsequent convictions of any person violating subsection  
332 (1) of this section. A reduction of suspension on the basis of  
333 hardship shall not be available to any person who refused to  
334 submit to a chemical test upon the request of a law enforcement  
335 officer as provided in Section 63-11-5. When the petition is  
336 filed, such person shall pay to the circuit clerk of the court  
337 where the petition is filed a fee of Fifty Dollars (\$50.00), which  
338 shall be deposited into the State General Fund to the credit of a  
339 special fund hereby created in the State Treasury to be used for  
340 alcohol or drug abuse treatment and education, upon appropriation  
341 by the Legislature. This fee shall be in addition to any other  
342 court costs or fees required for the filing of petitions.

343         The petition filed under the provisions of this subsection  
344 shall contain the specific facts which the petitioner alleges to  
345 constitute a hardship and the driver's license number of the  
346 petitioner. A hearing may be held on any petition filed under  
347 this subsection only after ten (10) days' prior written notice to  
348 the Commissioner of Public Safety, or his designated agent, or the  
349 attorney designated to represent the state. At such hearing, the

350 court may enter an order reducing the period of suspension.

351 The order entered under the provisions of this subsection  
352 shall contain the specific grounds upon which hardship was  
353 determined, and shall order the petitioner to attend and complete  
354 an alcohol safety education program as provided in Section  
355 63-11-32. A certified copy of such order shall be delivered to  
356 the Commissioner of Public Safety by the clerk of the court within  
357 five (5) days of the entry of the order. The certified copy of  
358 such order shall contain information which will identify the  
359 petitioner, including, but not limited to, the name, mailing  
360 address, street address, social security number and driver's  
361 license number of the petitioner.

362 At any time following at least thirty (30) days of suspension  
363 for a first offense violation of this section, the court may grant  
364 the person hardship driving privileges upon written petition of  
365 the defendant, if it finds reasonable cause to believe that  
366 revocation would hinder the person's ability to:

- 367 (i) Continue his employment;
- 368 (ii) Continue attending school or an educational  
369 institution; or
- 370 (iii) Obtain necessary medical care.

371 Proof of the hardship shall be established by clear and  
372 convincing evidence which shall be supported by independent  
373 documentation.

374 (c) Upon any second conviction of any person under the  
375 age of twenty-one (21) years violating subsection (1) of this  
376 section, the offenses being committed within a period of five (5)  
377 years, such person shall be fined not more than Five Hundred  
378 Dollars (\$500.00) and shall have his driver's license suspended  
379 for one (1) year.

380 (d) For any third or subsequent conviction of any  
381 person under the age of twenty-one (21) years violating subsection  
382 (1) of this section, the offenses being committed within a period  
383 of five (5) years, such person shall be fined not more than One  
384 Thousand Dollars (\$1,000.00) and shall have his driver's license

385 suspended until he reaches the age of twenty-one (21) or for two  
386 (2) years, whichever is longer.

387 (e) Any person under the age of twenty-one (21) years  
388 convicted of a second violation of subsection (1) of this section,  
389 may have the period that his driver's license is suspended reduced  
390 if such person receives an in-depth diagnostic assessment, and as  
391 a result of such assessment is determined to be in need of  
392 treatment of his alcohol and/or drug abuse problem and  
393 successfully completes treatment of his alcohol and/or drug abuse  
394 problem at a program site certified by the Department of Mental  
395 Health. Such person shall be eligible for reinstatement of his  
396 driving privileges upon the successful completion of such  
397 treatment after a period of six (6) months after such person's  
398 driver's license is suspended. Each person who receives a  
399 diagnostic assessment shall pay a fee representing the cost of  
400 such assessment. Each person who participates in a treatment  
401 program shall pay a fee representing the cost of such treatment.

402 (f) Any person under the age of twenty-one (21) years  
403 convicted of a third or subsequent violation of subsection (1) of  
404 this section shall complete treatment of an alcohol and/or drug  
405 abuse program at a site certified by the Department of Mental  
406 Health.

407 (g) The court shall have the discretion to rule that a  
408 first offense of this subsection by a person under the age of  
409 twenty-one (21) years shall be nonadjudicated. Such person shall  
410 be eligible for nonadjudication only once. The Department of  
411 Public Safety shall maintain a confidential registry of all cases  
412 which are nonadjudicated as provided in this paragraph. A judge  
413 who rules that a case is nonadjudicated shall forward such ruling  
414 to the Department of Public Safety. Judges and prosecutors  
415 involved in implied consent violations shall have access to the  
416 confidential registry for the purpose of determining  
417 nonadjudication eligibility. A record of a person who has been  
418 nonadjudicated shall be maintained for five (5) years or until  
419 such person reaches the age of twenty-one (21) years. Any person

420 whose confidential record has been disclosed in violation of this  
421 paragraph shall have a civil cause of action against the person  
422 and/or agency responsible for such disclosure.

423 (4) Every person convicted of operating a vehicle while  
424 under the influence of intoxicating liquor or any other substance  
425 which has impaired such person's ability to operate a motor  
426 vehicle where the person (a) refused a law enforcement officer's  
427 request to submit to a chemical test of his breath as provided in  
428 this chapter, or (b) was unconscious at the time of a chemical  
429 test and refused to consent to the introduction of the results of  
430 such test in any prosecution, shall be punished consistent with  
431 the penalties prescribed herein for persons submitting to the  
432 test, except that there shall be an additional suspension of  
433 driving privileges as follows:

434 The Commissioner of Public Safety or his authorized agent  
435 shall suspend the driver's license or permit to drive or deny the  
436 issuance of a license or permit to such person as provided for  
437 first, second and third or subsequent offenders in subsection (2)  
438 of this section. Such suspension shall be in addition to any  
439 suspension imposed pursuant to subsection (1) of Section 63-11-23.

440 (5) Every person who operates any motor vehicle in violation  
441 of the provisions of subsection (1) of this section and who in a  
442 negligent manner causes the death of another or mutilates,  
443 disfigures, permanently disables or destroys the tongue, eye, lip,  
444 nose or any other limb, organ or member of another shall, upon  
445 conviction, be guilty of a felony and shall be committed to the  
446 custody of the State Department of Corrections for a period of  
447 time not to exceed twenty-five (25) years.

448 (6) Upon conviction of any violation of subsection (1) of  
449 this section, the trial judge shall sign in the place provided on  
450 the traffic ticket, citation or affidavit stating that the person  
451 arrested either employed an attorney or waived his right to an  
452 attorney after having been properly advised. If the person  
453 arrested employed an attorney, the name, address and telephone  
454 number of the attorney shall be written on the ticket, citation or

455 affidavit. The judge shall cause a copy of the traffic ticket,  
456 citation or affidavit, and any other pertinent documents  
457 concerning the conviction, to be sent to the Commissioner of  
458 Public Safety. A copy of the traffic ticket, citation or  
459 affidavit and any other pertinent documents, having been attested  
460 as true and correct by the Commissioner of Public Safety, or his  
461 designee, shall be sufficient proof of the conviction for purposes  
462 of determining the enhanced penalty for any subsequent convictions  
463 of violations of subsection (1) of this section.

464 (7) Convictions in other states of violations for driving or  
465 operating a vehicle while under the influence of an intoxicating  
466 liquor or while under the influence of any other substance that  
467 has impaired the person's ability to operate a motor vehicle  
468 occurring after July 1, 1992, shall be counted for the purposes of  
469 determining if a violation of subsection (1) of this section is a  
470 first, second, third or subsequent offense and the penalty that  
471 shall be imposed upon conviction for a violation of subsection (1)  
472 of this section.

473 (8) For the purposes of determining how to impose the  
474 sentence for a second, third or subsequent conviction under this  
475 section, the indictment shall not be required to enumerate  
476 previous convictions. It shall only be necessary that the  
477 indictment state the number of times that the defendant has been  
478 convicted and sentenced within the past five (5) years under this  
479 section to determine if an enhanced penalty shall be imposed. The  
480 amount of fine and imprisonment imposed in previous convictions  
481 shall not be considered in calculating offenses to determine a  
482 second, third or subsequent offense of this section.

483 (9) Any person under the legal age to obtain a license to  
484 operate a motor vehicle convicted under this section shall not be  
485 eligible to receive such license until the person reaches the age  
486 of eighteen (18) years.

487 (10) Suspension of driving privileges for any person  
488 convicted of violations of Section 63-11-30(1) shall run  
489 consecutively.

490       (11) The court may order the use of an ignition interlock  
491 device as provided by Section 1 of House Bill. No. 878, 2000  
492 Regular Session.

493       SECTION 3. (1) The following words and phrases shall have  
494 the meaning ascribed herein:

495           (a) "Open container" means any glass, metal, plastic or  
496 other container which contains any alcoholic beverage as defined  
497 in Section 67-1-5, Mississippi Code of 1972, or light wine or beer  
498 as defined in Section 67-3-1, Mississippi Code of 1972, and which  
499 has been opened or punctured or cut in such a way that the  
500 contents may be consumed by any person or has been constructed in  
501 such a way that the contents may be consumed by any person without  
502 opening or puncturing or cutting it.

503           (b) If an open container in a motor vehicle is not in  
504 the possession of a passenger, such open container shall be  
505 considered to be in the possession of the operator of a vehicle if  
506 the bottle, can or other container is in the passenger area of the  
507 motor vehicle.

508           (c) "Motor vehicle" means a vehicle driven or drawn by  
509 mechanical power and manufactured primarily for use on public  
510 highways, but does not include a vehicle operated solely on a rail  
511 or rails.

512           (d) "Passenger area" means the area designed to seat  
513 the driver and passengers while the motor vehicle is in operation  
514 and any area that is readily accessible to the driver or a  
515 passenger while in their seated positions, including the glove  
516 compartment.

517           (e) "Public highway or right-of-way" means the entire  
518 width between the right-of-way boundary lines of every way  
519 publicly maintained when any part thereof is open to the use of  
520 the public for purposes of vehicular travel.

521       (2) It shall be unlawful for a person to possess an open  
522 container or to consume an alcoholic beverage within the passenger  
523 area of a motor vehicle while operating or occupying the motor  
524 vehicle on any public road, highway or highway right-of-way in

525 this state.

526 (3) Nothing in this act shall prohibit the possession of an  
527 open container:

528 (a) By a passenger in the living quarters of a parked  
529 and nonmoving house coach or house trailer; or

530 (b) By a passenger, other than the driver, who has  
531 hired the vehicle that is owned, operated and driven by a person  
532 presently engaged in the business of transporting passengers for  
533 compensation; or

534 (c) When the open container is located behind the last  
535 upright seat of a motor vehicle not equipped with a trunk; or

536 (d) When the open container is located in an area not  
537 normally occupied by the driver or passengers in a motor vehicle  
538 not equipped with a trunk; or

539 (e) When the open container is located in a locked  
540 glove compartment.

541 (4) Any person who violates the provisions of this act shall  
542 be guilty of a misdemeanor and, upon conviction, shall be fined  
543 not more than Fifty Dollars (\$50.00).

544 (5) Any local ordinance which imposes more stringent  
545 restrictions on the possession of open containers in vehicles than  
546 those imposed by this section shall be preempted by this section.

547 (6) A violation of this section shall not be entered on the  
548 driving record of a person convicted of such violation, nor shall  
549 any state assessment provided for by Section 99-19-73, or any  
550 other state law, be imposed or collected.

551 (7) No motor vehicle may be stopped for a violation of this  
552 section unless an open container is visually observed in such  
553 motor vehicle.

554 SECTION 4. The provisions of Section 3 of this act shall not  
555 be construed as exempting any person or vehicle from the  
556 provisions of the Highway Safety Patrol and Driver's License Law  
557 of 1938, the Mississippi Implied Consent Law or the provisions of  
558 any other laws of this state.

559 SECTION 5. This act shall take effect and be in force from



560 and after September 1, 2000, and shall stand repealed from and  
561 after September 1, 2003.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO REQUIRE VEHICLE IMPOUNDMENT, IMMOBILIZATION OR USE  
2 OF AN IGNITION INTERLOCK SYSTEM IN DUI CONVICTION; TO PROVIDE FOR  
3 THE ADMINISTRATION OF THE USE OF SUCH DEVICES; TO PROVIDE  
4 PENALTIES FOR VIOLATION; TO AMEND SECTION 63-11-30, MISSISSIPPI  
5 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT AND TO MAKE  
6 TECHNICAL CHANGES; TO PROHIBIT THE POSSESSION OF AN OPEN ALCOHOLIC  
7 BEVERAGE, LIGHT WINE OR BEER CONTAINER OR THE CONSUMPTION OF  
8 ALCOHOLIC BEVERAGES, LIGHT WINE OR BEER, WITHIN THE PASSENGER  
9 COMPARTMENT OF A MOTOR VEHICLE; TO PRESCRIBE PENALTIES FOR  
10 VIOLATIONS; AND FOR RELATED PURPOSES.