

By: Representative Coleman (29th)

To: Transportation

HOUSE BILL NO. 1143

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 court-approved traffic safety violator
31 school, in 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 court-approved traffic safety violator school at his
39 own cost. Upon successful completion by the defendant of the
40 course, the court shall set the conviction aside, dismiss the
41 prosecution and direct that the case be closed. The court on its
42 own motion shall expunge the record of the conviction, and the
43 only record maintained thereafter shall be the nonpublic record
44 required under Section 63-9-17, Mississippi Code of 1972, solely
45 for use by the courts in determining an offender's eligibility
46 under this section 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
51 court-approved traffic safety violator school at his own cost,
52 whereupon the court shall dismiss the prosecution and direct that
53 the case be closed. The only record maintained thereafter shall
54 be the nonpublic record required under Section 63-9-17,
55 Mississippi Code of 1972, solely for use by the courts in
56 determining eligibility as a first-time offender under this
57 section:

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

62 the citation, to attend a court-approved traffic safety violator
63 school.

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

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

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

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

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

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

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

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

94 (2) Unless otherwise sooner required by law, within
95 forty-five (45) days after the conviction of a person upon a
96 charge of violating any law regulating the operation of vehicles
97 on the highways, streets or roads of this state, every * * * court
98 in which such conviction was had shall prepare and immediately
99 forward to the Department of Public Safety an abstract of the
100 record of said court covering the case in which said person was so
101 convicted, which abstract must be certified by the person so
102 authorized to prepare the same to be true and correct.

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

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

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

127 (6) The failure by refusal or neglect of any such judicial
128 officer to comply with any of the requirements of this section
129 shall constitute misconduct in office and shall be grounds for
130 removal therefrom.

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

135 SECTION 3. This act shall take effect and be in force from
136 and after January 1, 2002.