

By: Representatives Rushing, Cummings

To: Transportation

HOUSE BILL NO. 1351
(As Passed the House)

1 AN ACT TO AMEND SECTION 63-11-31, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A COUNTY, MUNICIPALITY, SHERIFF'S DEPARTMENT OR
3 THE DEPARTMENT OF PUBLIC SAFETY SHALL NOT BE REQUIRED TO KEEP,
4 STORE OR OTHERWISE EXERCISE CUSTODY OVER A MOTOR VEHICLE IMPOUNDED
5 FOR A VIOLATION OF THE IMPLIED CONSENT LAW; AND FOR RELATED
6 PURPOSES.

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

8 SECTION 1. Section 63-11-31, Mississippi Code of 1972, is
9 amended as follows:

10 63-11-31. (1) (a) In addition to the penalties authorized
11 for any second or subsequent convictions of Section 63-11-30, the
12 court shall order either the impoundment or immobilization of all
13 vehicles registered to the person convicted for the entire length
14 of license suspension to occur during the driver's license
15 suspension period; provided, however, that if other licensed
16 drivers living in the household are dependent upon the vehicle
17 subject to impoundment or immobilization for necessary
18 transportation, the court may order the installation of an
19 ignition interlock system on the vehicle in lieu of impoundment or
20 immobilization. Additionally, the court shall order the
21 installation of an ignition interlock system on all vehicles
22 registered to the person for a minimum period of six (6) months to
23 occur upon reinstatement of the person's driver's license if the
24 court determines it is a vehicle to which the person has access
25 and which should be subject to ignition interlock. The cost
26 associated with impoundment, immobilization or ignition interlock
27 shall be paid by the person convicted. However, a county,
28 municipality, sheriff's department or the Department of Public

29 Safety shall not be required to keep, store, maintain, serve as a
30 bailee or otherwise exercise custody over a motor vehicle
31 impounded under the provisions of this section. For the purpose
32 of this section, "ignition interlock device" means a device which
33 connects a motor vehicle ignition system to a breath-alcohol
34 analyzer and prevents a motor vehicle ignition from starting if
35 the driver's blood alcohol level exceeds the calibrated setting on
36 the device.

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

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

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

53 (i) State on the record the requirement for and
54 the period of use of the device, and so notify the Department of
55 Public Safety;

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

59 (iii) Direct the department to attach or imprint a
60 notation on the driver's license of any person restricted under

61 this section stating that the person may operate only a motor
62 vehicle equipped with an ignition interlock device;

63 (iv) Require proof of the installation of the
64 device and periodic reporting by the person for verification of
65 the proper operation of the device;

66 (v) Require the person to have the system
67 monitored for proper use and accuracy by an entity approved by the
68 department at least semiannually, or more frequently as the
69 circumstances may require;

70 (vi) Require the person to pay the reasonable cost
71 of leasing or buying, monitoring, and maintaining the device, and
72 may establish a payment schedule therefor.

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

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

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

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

91 (ii) A violation of this paragraph (e) is a
92 misdemeanor and upon conviction the violator shall be fined an
93 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more

94 than One Thousand Dollars (\$1,000.00) or imprisoned for not more
95 than one (1) year, or both.

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

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

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

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

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

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

129 (ii) The provisions of this paragraph (f) shall
130 not apply if the vehicle used to commit the violation of Section
131 63-11-30, was, at the time of such violation, rented or stolen.

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

134 SECTION 2. This act shall take effect and be in force from
135 and after its passage.