

By: Senator(s) Dearing

To: Judiciary

SENATE BILL NO. 2346

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

29 of this title, the court imposing sentence may order the defendant  
30 to attend and participate in not less than four (4) hours of a  
31 court-approved traffic safety violator school, in addition to any  
32 other penalty authorized by law.

33 (b) No employee of the sentencing court shall  
34 personally benefit from a defendant's sentence to a traffic safety  
35 violator school. Violation of this prohibition shall result in  
36 termination of employment.

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

53 (5) If all of the conditions set forth in paragraphs (a)  
54 through (f) of this subsection are met, the court may withhold  
55 acceptance of the plea and defer sentencing in order to allow the  
56 defendant ninety (90) days to successfully complete not less than  
57 four (4) hours of a court-approved traffic safety violator school  
58 at his own cost, whereupon the court shall dismiss the prosecution  
59 and direct that the case be closed. The only record maintained  
60 thereafter shall be the nonpublic record required under Section  
61 63-9-17, Mississippi Code of 1972, solely for use by the courts in

62 determining eligibility as a first-time offender under this  
63 section:

64 (a) The person, except as provided in paragraph (f),  
65 enters a plea in person or in writing of nolo contendere or guilty  
66 and presents to the court an oral request or a written request, in  
67 person or by mail postmarked on or before the appearance date on  
68 the citation, to attend not less than four (4) hours of a  
69 court-approved traffic safety violator school.

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

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

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

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

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

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

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

96 63-9-17. (1) Every court shall keep a full record of the  
97 proceedings of every case in which a person is charged with any  
98 violation of law regulating the operation of vehicles on the  
99 highways, streets or roads of this state.

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

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

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

120 (5) Every court shall also forward a like report to the  
121 Department of Public Safety upon the satisfactory completion by  
122 any defendant of a court-approved traffic safety violator school  
123 under subsection (4) or (5) of Section 63-9-11, Mississippi Code  
124 of 1972, and the department shall make and maintain a private,  
125 nonpublic record to be kept for a period of three (3) years. The  
126 record shall be solely for the use of the courts in determining

127 eligibility under Section 63-9-11, Mississippi Code of 1972, as a  
128 first-time offender, and shall not constitute a criminal record  
129 for the purpose of private or administrative inquiry. Reports  
130 forwarded to the Department of Public Safety under this subsection  
131 shall be exempt from the provisions of the Mississippi Public  
132 Records Act of 1983.

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

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

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