

By: Senator(s) Posey

To: Wildlife and Fisheries;  
Judiciary

SENATE BILL NO. 2973

1 AN ACT TO AMEND SECTION 63-11-19, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW THE UNITED STATES COAST GUARD TO CONDUCT A BREATHALYZER  
3 TEST UNDER THE MISSISSIPPI ALCOHOL BOATING SAFETY ACT; TO AMEND  
4 SECTION 59-23-3, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR  
5 RELATED PURPOSES.

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

7 SECTION 1. Section 63-11-19, Mississippi Code of 1972, is  
8 amended as follows:

9 63-11-19. A chemical analysis of the person's breath, blood  
10 or urine, to be considered valid under the provisions of this  
11 section, shall have been performed according to methods approved  
12 by the State Crime Laboratory created pursuant to Section 45-1-17  
13 and the Commissioner of Public Safety and performed by an  
14 individual possessing a valid permit issued by the State Crime  
15 Laboratory for making such analysis. The State Crime Laboratory  
16 and the Commissioner of Public Safety are authorized to approve  
17 satisfactory techniques or methods, to ascertain the  
18 qualifications and competence of individuals to conduct such  
19 analyses, and to issue permits which shall be subject to  
20 termination or revocation at the discretion of the State Crime  
21 Laboratory. The State Crime Laboratory shall not approve the  
22 permit required herein for any law enforcement officer other than  
23 a member of the State Highway Patrol, a sheriff or his deputies, a  
24 city policeman, an officer of a state-supported institution of  
25 higher learning campus police force, a security officer appointed  
26 and commissioned pursuant to the Pearl River Valley Water Supply  
27 District Security Officer Law of 1978, a national park ranger, a  
28 national park ranger technician, a military policeman stationed at

29 a United States military base located within this state other than  
30 a military policeman of the Army or Air National Guard or of  
31 Reserve Units of the Army, Air Force, Navy or Marine Corps, a law  
32 enforcement officer of the United States Coast Guard, a marine law  
33 enforcement officer employed by the Department of Marine  
34 Resources, or a conservation officer employed by the Mississippi  
35 Department of Wildlife, Fisheries and Parks. The permit given a  
36 conservation officer, a marine law enforcement officer, or a  
37 United States Coast Guard officer shall authorize such officer to  
38 administer tests only for violations of Sections 59-23-1 through  
39 59-23-7.

40 The State Crime Laboratory shall make periodic, but not less  
41 frequently than quarterly, tests of the methods, machines or  
42 devices used in making chemical analysis of a person's breath as  
43 shall be necessary to ensure the accuracy thereof, and shall issue  
44 its certificate to verify the accuracy of the same.

45 SECTION 2. Section 59-23-3, Mississippi Code of 1972, is  
46 amended as follows:

47 59-23-3. For the purposes of this chapter, the following  
48 terms shall have the following meanings unless the context shall  
49 prescribe otherwise:

50 (a) "Chemical test" means an analysis of a person's  
51 blood, breath, urine or other bodily substance for the  
52 determination of the presence of alcohol or any other substance  
53 which may impair a person's mental or physical ability.

54 (b) "Department" means Mississippi Department of  
55 Wildlife, Fisheries and Parks.

56 (c) "Executive director" means the chief officer of the  
57 department.

58 (d) "Intoxicated" means under the influence of alcohol  
59 or any combination of alcohol, controlled substance or drugs, so  
60 that there is impaired thought and action and loss of normal

61 control of a person's faculties to such an extent as to endanger  
62 any person.

63 (e) "Law enforcement officer" means an officer  
64 described in Section 63-11-19 \* \* \*.

65 (f) "Prima facie evidence of intoxication" includes  
66 evidence that at the time of an alleged violation there was ten  
67 one-hundredths percent (.10%) or more by weight of alcohol in the  
68 person's blood.

69 (g) "Public waters" means all public waters over which  
70 the state has jurisdiction.

71 (h) "Watercraft" means a motorized vessel with a motor  
72 of twenty-five (25) horsepower or greater used for transportation  
73 on public waters and personal watercraft (jet skis).

74 (i) "Operates a watercraft" or "operation of a  
75 watercraft" shall mean a watercraft that is underway in the water.

76 SECTION 3. This act shall take effect and be in force from  
77 and after its passage.