

By: Representative Mitchell

To: Judiciary A

HOUSE BILL NO. 1142

1 AN ACT TO CREATE A DRIVING UNDER THE INFLUENCE REHABILITATION  
 2 BOARD TO BE LOCATED WITHIN THE MISSISSIPPI STATE HOSPITAL AT  
 3 WHITFIELD FOR THE PURPOSE OF ESTABLISHING A TREATMENT PROGRAM FOR  
 4 REPEAT ALCOHOL OFFENDERS WHO ARE CONVICTED OF DRIVING UNDER THE  
 5 INFLUENCE; TO CREATE THE DRIVING UNDER THE INFLUENCE  
 6 REHABILITATION FUND; TO AMEND SECTION 63-11-30, MISSISSIPPI CODE  
 7 OF 1972, TO PROVIDE THAT REPEAT DRIVING UNDER THE INFLUENCE  
 8 OFFENDERS SHALL BE COMMITTED TO THE MISSISSIPPI STATE HOSPITAL AT  
 9 WHITFIELD; TO AMEND SECTION 41-17-1, MISSISSIPPI CODE OF 1972, TO  
 10 INCLUDE REPEAT OFFENDERS CONVICTED OF DRIVING UNDER THE INFLUENCE  
 11 AS PERSONS ELIGIBLE FOR CARE AND TREATMENT AT THE STATE MENTAL  
 12 INSTITUTION; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972,  
 13 TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A STATE ASSESSMENT  
 14 TO BE DEPOSITED IN THE DRIVING UNDER THE INFLUENCE REHABILITATION  
 15 FUND; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) There is hereby created a Driving Under the  
 18 Influence Rehabilitation Board of Mental Health to be located  
 19 within the Mississippi State Hospital at Whitfield to establish a  
 20 treatment program for offenders who have been convicted of driving  
 21 under the influence (DUI) more than once. The board shall consist  
 22 of eight (8) members to be selected by the Director of the  
 23 Mississippi State Board of Health. Each member shall at a minimum  
 24 possess an advanced academic degree along with experience and  
 25 training in an area of study providing knowledge of medical and  
 26 social problems, specifically, alcoholism.

27 (2) There is created a special fund in the State Treasury  
 28 to be known as the "Driving Under the Influence Rehabilitation  
 29 Fund." Monies deposited in such fund shall be expended by the  
 30 Board of DUI Rehabilitation as authorized and appropriated by the  
 31 Legislature to defray the cost of providing counseling and  
 32 rehabilitation to repeat drunk drivers for the establishment of  
 33 programs and other related personnel matters.



34 (3) The board shall have the following duties:

35 (a) To formulate, develop and implement a plan for the  
36 prevention of continued alcohol abuse by repeat DUI offenders, and  
37 the care, treatment and rehabilitation of alcohol abusers.

38 (b) To coordinate the efforts and enlist the assistance  
39 of all public and private agencies, organizations and individuals  
40 interested in the prevention of alcoholism and treatment and  
41 rehabilitation of repeat drunk drivers.

42 (c) To cooperate with the State Penitentiary Board, the  
43 Probation and Parole Board, and other agencies having law  
44 enforcement and corrections responsibilities in establishing and  
45 conducting treatment and rehabilitation programs for repeat drunk  
46 drivers who, after conviction, are committed to the State Hospital  
47 at Whitfield.

48 (d) To cooperate with the division of alcohol and drug  
49 misuse created under Section 41-30-5 in efforts to successfully  
50 rehabilitate repeat drunk drivers.

51 (e) The board shall adopt, amend, promulgate and  
52 enforce such rules and regulations as may be deemed necessary to  
53 carry out the purposes of this act.

54 **SECTION 2.** Section 63-11-30, Mississippi Code of 1972, is  
55 amended as follows:

56 63-11-30. (1) It is unlawful for any person to drive or  
57 otherwise operate a vehicle within this state who (a) is under the  
58 influence of intoxicating liquor; (b) is under the influence of  
59 any other substance which has impaired such person's ability to  
60 operate a motor vehicle; (c) has an alcohol concentration of ten  
61 one-hundredths percent (.10%) or more for persons who are above  
62 the legal age to purchase alcoholic beverages under state law, or  
63 two one-hundredths percent (.02%) or more for persons who are  
64 below the legal age to purchase alcoholic beverages under state  
65 law, in the person's blood based upon grams of alcohol per one  
66 hundred (100) milliliters of blood or grams of alcohol per two



67 hundred ten (210) liters of breath as shown by a chemical analysis  
68 of such person's breath, blood or urine administered as authorized  
69 by this chapter; (d) is under the influence of any drug or  
70 controlled substance, the possession of which is unlawful under  
71 the Mississippi Controlled Substances Law; or (e) has an alcohol  
72 concentration of four one-hundredths percent (.04%) or more in the  
73 person's blood, based upon grams of alcohol per one hundred (100)  
74 milliliters of blood or grams of alcohol per two hundred ten (210)  
75 liters of breath as shown by a chemical analysis of such person's  
76 blood, breath or urine, administered as authorized by this chapter  
77 for persons operating a commercial motor vehicle.

78 (2) (a) Except as otherwise provided in subsection (3),  
79 upon conviction of any person for the first offense of violating  
80 subsection (1) of this section where chemical tests provided for  
81 under Section 63-11-5 were given, or where chemical test results  
82 are not available, such person shall be fined not less than Two  
83 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars  
84 (\$1,000.00), or imprisoned for not more than forty-eight (48)  
85 hours in jail or both; and the court shall order such person to  
86 attend and complete an alcohol safety education program as  
87 provided in Section 63-11-32. The court may substitute attendance  
88 at a victim impact panel instead of forty-eight (48) hours in  
89 jail. In addition, the Department of Public Safety, the  
90 Commissioner of Public Safety or his duly authorized agent shall,  
91 after conviction and upon receipt of the court abstract, suspend  
92 the driver's license and driving privileges of such person for a  
93 period of not less than ninety (90) days and until such person  
94 attends and successfully completes an alcohol safety education  
95 program as herein provided; provided, however, in no event shall  
96 such period of suspension exceed one (1) year. Commercial driving  
97 privileges shall be suspended as provided in Section 63-1-83.

98 The circuit court having jurisdiction in the county in which  
99 the conviction was had or the circuit court of the person's county



100 of residence may reduce the suspension of driving privileges under  
101 Section 63-11-30(2)(a) if the denial of which would constitute a  
102 hardship on the offender, except that no court may issue such an  
103 order reducing the suspension of driving privileges under this  
104 subsection until thirty (30) days have elapsed from the effective  
105 date of the suspension. Hardships shall only apply to first  
106 offenses under Section 63-11-30(1), and shall not apply to second,  
107 third or subsequent convictions of any person violating subsection  
108 (1) of this section. A reduction of suspension on the basis of  
109 hardship shall not be available to any person who refused to  
110 submit to a chemical test upon the request of a law enforcement  
111 officer as provided in Section 63-11-5. When the petition is  
112 filed, such person shall pay to the circuit clerk of the court  
113 where the petition is filed a fee of Fifty Dollars (\$50.00), which  
114 shall be deposited into the State General Fund to the credit of a  
115 special fund hereby created in the State Treasury to be used for  
116 alcohol or drug abuse treatment and education, upon appropriation  
117 by the Legislature. This fee shall be in addition to any other  
118 court costs or fees required for the filing of petitions.

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

127 The order entered under the provisions of this subsection  
128 shall contain the specific grounds upon which hardship was  
129 determined, and shall order the petitioner to attend and complete  
130 an alcohol safety education program as provided in Section  
131 63-11-32. A certified copy of such order shall be delivered to  
132 the Commissioner of Public Safety by the clerk of the court within



133 five (5) days of the entry of the order. The certified copy of  
134 such order shall contain information which will identify the  
135 petitioner, including, but not limited to, the name, mailing  
136 address, street address, social security number and driver's  
137 license number of the petitioner.

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

- 143 (i) Continue his employment;
- 144 (ii) Continue attending school or an educational  
145 institution; or
- 146 (iii) Obtain necessary medical care.

147 Proof of the hardship shall be established by clear and  
148 convincing evidence which shall be supported by independent  
149 documentation.

150 (b) Except as otherwise provided in subsection (3),  
151 upon any second conviction of any person violating subsection (1)  
152 of this section, the offenses being committed within a period of  
153 five (5) years, such person shall be committed to the Mississippi  
154 State Hospital at Whitfield to receive an in-depth diagnostic  
155 assessment to determine the need for treatment of any alcohol  
156 abuse problem. If it is determined that an alcohol problem  
157 exists, the person shall be required to remain at Whitfield until  
158 he successfully completes a six-week treatment program to be  
159 developed by the DUI Rehabilitation Board established in Section 1  
160 of House Bill No. , 2002 Regular Session. If it is determined  
161 that such person does not have an alcohol problem, the person  
162 shall be subject to the criminal provisions of paragraph (c) of  
163 this subsection. The Commissioner of Public Safety shall suspend  
164 the driver's license of a person upon a second conviction for two  
165 (2) years. Suspension of a commercial driver's license shall be



166 governed by Section 63-1-83. Upon any second conviction as  
167 described in this paragraph, the court shall ascertain whether the  
168 defendant is married, and if the defendant is married shall obtain  
169 the name and address of the defendant's spouse; the clerk of the  
170 court shall submit this information to the Department of Public  
171 Safety. Further, the commissioner shall notify in writing, by  
172 certified mail, return receipt requested, the owner of the vehicle  
173 and the spouse, if any, of the person convicted of the second  
174 violation of the possibility of forfeiture of the vehicle if such  
175 person is convicted of a third violation of subsection (1) of this  
176 section. The owner of the vehicle and the spouse shall be  
177 considered notified under this paragraph if the notice is  
178 deposited in the United States mail and any claim that the notice  
179 was not in fact received by the addressee shall not affect a  
180 subsequent forfeiture proceeding. Such person shall be eligible  
181 for reinstatement of his driving privileges upon the successful  
182 completion of such treatment after a period of one (1) year after  
183 such person's driver's license is suspended. Each person who  
184 receives a diagnostic assessment shall pay a fee representing the  
185 cost of such assessment. Each person who participates in a  
186 treatment program shall pay a fee representing the cost of such  
187 treatment in addition to any fee authorized under Section  
188 99-19-73. This subsection shall not apply to persons under the  
189 age of twenty-one (21).

190 For any second or subsequent conviction of any person under  
191 this section, the person shall also be subject to the penalties  
192 set forth in Section 63-11-31.

193 (c) Except as otherwise provided in subsections (2)(b)  
194 and (3), for any third or subsequent conviction of any person  
195 violating subsection (1) of this section, the offenses being  
196 committed within a period of five (5) years, such person shall be  
197 guilty of a felony and fined not less than Two Thousand Dollars  
198 (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00), shall



199 be imprisoned not less than one (1) year nor more than five (5)  
200 years in the State Penitentiary. The minimum penalties shall not  
201 be suspended or reduced by the court and no prosecutor shall offer  
202 any suspension or sentence reduction as part of a plea bargain.  
203 The law enforcement agency shall seize the vehicle operated by any  
204 person charged with a third or subsequent violation of subsection  
205 (1) of this section, if such convicted person was driving the  
206 vehicle at the time the offense was committed. Such vehicle may  
207 be forfeited in the manner provided by Sections 63-11-49 through  
208 63-11-53. Except as may otherwise be provided by paragraph (e) of  
209 this subsection, the Commissioner of Public Safety shall suspend  
210 the driver's license of such person for five (5) years. The  
211 suspension of a commercial driver's license shall be governed by  
212 Section 63-1-83.

213 \* \* \*

214 (d) Except as otherwise provided in subsection (3), any  
215 person convicted of a third or subsequent violation of subsection  
216 (1) of this section shall receive an in-depth diagnostic  
217 assessment, and if as a result of such assessment is determined to  
218 be in need of treatment of his alcohol and/or drug abuse problem,  
219 such person shall enter an alcohol and/or drug abuse program  
220 approved by the Department of Mental Health for treatment of such  
221 person's alcohol and/or drug abuse problem. If such person  
222 successfully completes such treatment, such person shall be  
223 eligible for reinstatement of his driving privileges after a  
224 period of three (3) years after such person's driver's license is  
225 suspended.

226 (e) The Department of Public Safety shall promulgate  
227 rules and regulations for the use of interlock ignition devices as  
228 provided in Section 63-11-31 and consistent with the provisions  
229 therein. Such rules and regulations shall provide for the  
230 calibration of such devices and shall provide that the cost of the  
231 use of such systems shall be borne by the offender. The



232 Department of Public Safety shall approve which vendors of such  
233 devices shall be used to furnish such systems.

234 (3) (a) This subsection shall be known and may be cited as  
235 Zero Tolerance for Minors. The provisions of this subsection  
236 shall apply only when a person under the age of twenty-one (21)  
237 years has a blood alcohol concentration two one-hundredths percent  
238 (.02%) or more, but lower than eight one-hundredths percent  
239 (.08%). If such person's blood alcohol concentration is eight  
240 one-hundredths percent (.08%) or more, the provisions of  
241 subsection (2) shall apply.

242 (b) Upon conviction of any person under the age of  
243 twenty-one (21) years for the first offense of violating  
244 subsection (1) of this section where chemical tests provided for  
245 under Section 63-11-5 were given, or where chemical test results  
246 are not available, such person shall have his driver's license  
247 suspended for ninety (90) days and shall be fined Two Hundred  
248 Fifty Dollars (\$250.00); and the court shall order such person to  
249 attend and complete an alcohol safety education program as  
250 provided in Section 63-11-32. The court may also require  
251 attendance at a victim impact panel.

252 The circuit court having jurisdiction in the county in which  
253 the conviction was had or the circuit court of the person's county  
254 of residence may reduce the suspension of driving privileges under  
255 Section 63-11-30(2)(a) if the denial of which would constitute a  
256 hardship on the offender, except that no court may issue such an  
257 order reducing the suspension of driving privileges under this  
258 subsection until thirty (30) days have elapsed from the effective  
259 date of the suspension. Hardships shall only apply to first  
260 offenses under Section 63-11-30(1), and shall not apply to second,  
261 third or subsequent convictions of any person violating subsection  
262 (1) of this section. A reduction of suspension on the basis of  
263 hardship shall not be available to any person who refused to  
264 submit to a chemical test upon the request of a law enforcement





265 officer as provided in Section 63-11-5. When the petition is  
266 filed, such person shall pay to the circuit clerk of the court  
267 where the petition is filed a fee of Fifty Dollars (\$50.00), which  
268 shall be deposited into the State General Fund to the credit of a  
269 special fund hereby created in the State Treasury to be used for  
270 alcohol or drug abuse treatment and education, upon appropriation  
271 by the Legislature. This fee shall be in addition to any other  
272 court costs or fees required for the filing of petitions.

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

281 The order entered under the provisions of this subsection  
282 shall contain the specific grounds upon which hardship was  
283 determined, and shall order the petitioner to attend and complete  
284 an alcohol safety education program as provided in Section  
285 63-11-32. A certified copy of such order shall be delivered to  
286 the Commissioner of Public Safety by the clerk of the court within  
287 five (5) days of the entry of the order. The certified copy of  
288 such order shall contain information which will identify the  
289 petitioner, including, but not limited to, the name, mailing  
290 address, street address, social security number and driver's  
291 license number of the petitioner.

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

297 (i) Continue his employment;



298 (ii) Continue attending school or an educational  
299 institution; or

300 (iii) Obtain necessary medical care.

301 Proof of the hardship shall be established by clear and  
302 convincing evidence which shall be supported by independent  
303 documentation.

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

310 (d) For any third or subsequent conviction of any  
311 person under the age of twenty-one (21) years violating subsection  
312 (1) of this section, the offenses being committed within a period  
313 of five (5) years, such person shall be fined not more than One  
314 Thousand Dollars (\$1,000.00) and shall have his driver's license  
315 suspended until he reaches the age of twenty-one (21) or for two  
316 (2) years, whichever is longer.

317 (e) Any person under the age of twenty-one (21) years  
318 convicted of a second violation of subsection (1) of this section,  
319 may have the period that his driver's license is suspended reduced  
320 if such person receives an in-depth diagnostic assessment, and as  
321 a result of such assessment is determined to be in need of  
322 treatment of his alcohol and/or drug abuse problem and  
323 successfully completes treatment of his alcohol and/or drug abuse  
324 problem at a program site certified by the Department of Mental  
325 Health. Such person shall be eligible for reinstatement of his  
326 driving privileges upon the successful completion of such  
327 treatment after a period of six (6) months after such person's  
328 driver's license is suspended. Each person who receives a  
329 diagnostic assessment shall pay a fee representing the cost of



330 such assessment. Each person who participates in a treatment  
331 program shall pay a fee representing the cost of such treatment.

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

337 (g) The court shall have the discretion to rule that a  
338 first offense of this subsection by a person under the age of  
339 twenty-one (21) years shall be nonadjudicated. Such person shall  
340 be eligible for nonadjudication only once. The Department of  
341 Public Safety shall maintain a confidential registry of all cases  
342 which are nonadjudicated as provided in this paragraph. A judge  
343 who rules that a case is nonadjudicated shall forward such ruling  
344 to the Department of Public Safety. Judges and prosecutors  
345 involved in implied consent violations shall have access to the  
346 confidential registry for the purpose of determining  
347 nonadjudication eligibility. A record of a person who has been  
348 nonadjudicated shall be maintained for five (5) years or until  
349 such person reaches the age of twenty-one (21) years. Any person  
350 whose confidential record has been disclosed in violation of this  
351 paragraph shall have a civil cause of action against the person  
352 and/or agency responsible for such disclosure.

353 (4) In addition to the other penalties provided in this  
354 section, every person refusing a law enforcement officer's request  
355 to submit to a chemical test of his breath as provided in this  
356 chapter, or who was unconscious at the time of a chemical test and  
357 refused to consent to the introduction of the results of such test  
358 in any prosecution, shall suffer an additional suspension of  
359 driving privileges as follows:

360 The Commissioner of Public Safety or his authorized agent  
361 shall suspend the driver's license or permit to drive or deny the  
362 issuance of a license or permit to such person as provided for



363 first, second and third or subsequent offenders in subsection (2)  
364 of this section. Such suspension shall be in addition to any  
365 suspension imposed pursuant to subsection (1) of Section 63-11-23.  
366 The minimum suspension imposed under this subsection shall not be  
367 reduced and no prosecutor is authorized to offer a reduction of  
368 such suspension as part of a plea bargain.

369 (5) Every person who operates any motor vehicle in violation  
370 of the provisions of subsection (1) of this section and who in a  
371 negligent manner causes the death of another or mutilates,  
372 disfigures, permanently disables or destroys the tongue, eye, lip,  
373 nose or any other limb, organ or member of another shall, upon  
374 conviction, be guilty of a felony and shall be committed to the  
375 custody of the State Department of Corrections for a period of  
376 time of not less than five (5) years and not to exceed twenty-five  
377 (25) years.

378 (6) Upon conviction of any violation of subsection (1) of  
379 this section, the trial judge shall sign in the place provided on  
380 the traffic ticket, citation or affidavit stating that the person  
381 arrested either employed an attorney or waived his right to an  
382 attorney after having been properly advised. If the person  
383 arrested employed an attorney, the name, address and telephone  
384 number of the attorney shall be written on the ticket, citation or  
385 affidavit. The judge shall cause a copy of the traffic ticket,  
386 citation or affidavit, and any other pertinent documents  
387 concerning the conviction, to be sent to the Commissioner of  
388 Public Safety. A copy of the traffic ticket, citation or  
389 affidavit and any other pertinent documents, having been attested  
390 as true and correct by the Commissioner of Public Safety, or his  
391 designee, shall be sufficient proof of the conviction for purposes  
392 of determining the enhanced penalty for any subsequent convictions  
393 of violations of subsection (1) of this section.

394 (7) Convictions in other states of violations for driving or  
395 operating a vehicle while under the influence of an intoxicating



396 liquor or while under the influence of any other substance that  
397 has impaired the person's ability to operate a motor vehicle  
398 occurring after July 1, 1992, shall be counted for the purposes of  
399 determining if a violation of subsection (1) of this section is a  
400 first, second, third or subsequent offense and the penalty that  
401 shall be imposed upon conviction for a violation of subsection (1)  
402 of this section.

403 (8) For the purposes of determining how to impose the  
404 sentence for a second, third or subsequent conviction under this  
405 section, the indictment shall not be required to enumerate  
406 previous convictions. It shall only be necessary that the  
407 indictment state the number of times that the defendant has been  
408 convicted and sentenced within the past five (5) years under this  
409 section to determine if an enhanced penalty shall be imposed. The  
410 amount of fine and imprisonment imposed in previous convictions  
411 shall not be considered in calculating offenses to determine a  
412 second, third or subsequent offense of this section.

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

417 (10) Suspension of driving privileges for any person  
418 convicted of violations of Section 63-11-30(1) shall run  
419 consecutively.

420 (11) The court may order the use of any ignition interlock  
421 device as provided in Section 63-11-31.

422 **SECTION 3.** Section 41-17-1, Mississippi Code of 1972,  
423 is amended as follows:

424 41-17-1. The State Insane Hospital at Whitfield, and the  
425 East Mississippi Insane Hospital at Meridian, are established for  
426 the care and treatment of lunatics, insane persons and repeat  
427 offenders convicted of driving under the influence as provided



428 under Section 63-11-30, free of charge, except as otherwise  
429 provided.

430 **SECTION 4.** Section 99-19-73, Mississippi Code of 1972, is  
431 amended as follows:

432 99-19-73. (1) **Traffic Violations.** In addition to any  
433 monetary penalties and any other penalties imposed by law, there  
434 shall be imposed and collected the following state assessment from  
435 each person upon whom a court imposes a fine or other penalty for  
436 any violation in Title 63, Mississippi Code of 1972, except  
437 offenses relating to the Mississippi Implied Consent Law (Section  
438 63-11-1 et seq.) and offenses relating to vehicular parking or  
439 registration:

440	FUND	AMOUNT
441	State Court Education Fund.....	\$ 1.50
442	State Prosecutor Education Fund.....	1.00
443	Driver Training Penalty Assessment Fund.....	7.00
444	Law Enforcement Officers Training Fund.....	5.00
445	Spinal Cord and Head Injury Trust Fund	
446	(for all moving violations).....	4.00
447	Emergency Medical Services Operating Fund.....	10.00
448	Mississippi Leadership Council on Aging	
449	Fund.....	1.00
450	TOTAL STATE ASSESSMENT.....	\$ 29.50

451 (2) **Implied Consent Law Violations.** In addition to any  
452 monetary penalties and any other penalties imposed by law, there  
453 shall be imposed and collected the following state assessment from  
454 each person upon whom a court imposes a fine or any other penalty  
455 for any violation of the Mississippi Implied Consent Law (Section  
456 63-11-1 et seq.):

457	FUND	AMOUNT
458	Crime Victims' Compensation Fund.....	\$ 10.00
459	State Court Education Fund.....	1.50
460	State Prosecutor Education Fund.....	1.00



461	Driver Training Penalty Assessment Fund.....	22.00
462	Law Enforcement Officers Training Fund.....	11.00
463	Emergency Medical Services Operating Fund.....	10.00
464	Mississippi Alcohol Safety Education Program Fund....	5.00
465	<u>Driving Under the Influence Rehabilitation Fund.....</u>	<u>30.00</u>
466	Federal-State Alcohol Program Fund.....	10.00
467	Mississippi Crime Laboratory	
468	Implied Consent Law Fund.....	25.00
469	Spinal Cord and Head Injury Trust Fund.....	25.00
470	State General Fund.....	35.00
471	TOTAL STATE ASSESSMENT.....	<u>\$185.50</u>

472       (3) **Game and Fish Law Violations.** In addition to any  
473 monetary penalties and any other penalties imposed by law, there  
474 shall be imposed and collected the following state assessment from  
475 each person upon whom a court imposes a fine or other penalty for  
476 any violation of the game and fish statutes or regulations of this  
477 state:

478	FUND	AMOUNT
479	State Court Education Fund.....	\$ 1.50
480	State Prosecutor Education Fund.....	1.00
481	Law Enforcement Officers Training Fund.....	5.00
482	Hunter Education and Training Program Fund.....	5.00
483	State General Fund.....	30.00
484	TOTAL STATE ASSESSMENT.....	\$ 42.50

485       (4) **Litter Law Violations.** In addition to any monetary  
486 penalties and any other penalties imposed by law, there shall be  
487 imposed and collected the following state assessment from each  
488 person upon whom a court imposes a fine or other penalty for any  
489 violation of Section 97-15-29 or 97-15-30:

490	FUND	AMOUNT
491	Statewide Litter Prevention Fund.....	\$ 25.00
492	TOTAL STATE ASSESSMENT.....	\$ 25.00



493           (5) **Other Misdemeanors.** In addition to any monetary  
 494 penalties and any other penalties imposed by law, there shall be  
 495 imposed and collected the following state assessment from each  
 496 person upon whom a court imposes a fine or other penalty for any  
 497 misdemeanor violation not specified in subsection (1), (2) or (3)  
 498 of this section, except offenses relating to vehicular parking or  
 499 registration:

500           FUND	AMOUNT
501           Crime Victims' Compensation Fund.....	\$ 10.00
502           State Court Education Fund.....	1.50
503           State Prosecutor Education Fund.....	1.00
504           Law Enforcement Officers Training Fund.....	5.00
505           State General Fund.....	30.00
506           State Crime Stoppers Fund.....	1.50
507           TOTAL STATE ASSESSMENT.....	\$ 49.00

508           (6) **Other Felonies.** In addition to any monetary penalties  
 509 and any other penalties imposed by law, there shall be imposed and  
 510 collected the following state assessment from each person upon  
 511 whom a court imposes a fine or other penalty for any felony  
 512 violation not specified in subsection (1), (2) or (3) of this  
 513 section:

514           FUND	AMOUNT
515           Crime Victims' Compensation Fund.....	\$ 10.00
516           State Court Education Fund.....	1.50
517           State Prosecutor Education Fund.....	1.00
518           Law Enforcement Officers Training Fund.....	5.00
519           State General Fund.....	60.00
520           Criminal Justice Fund.....	50.00
521           TOTAL STATE ASSESSMENT.....	\$127.50

522           (7) If a fine or other penalty imposed is suspended, in  
 523 whole or in part, such suspension shall not affect the state  
 524 assessment under this section. No state assessment imposed under





525 the provisions of this section may be suspended or reduced by the  
526 court.

527 (8) After a determination by the court of the amount due, it  
528 shall be the duty of the clerk of the court to promptly collect  
529 all state assessments imposed under the provisions of this  
530 section. The state assessments imposed under the provisions of  
531 this section may not be paid by personal check. It shall be the  
532 duty of the chancery clerk of each county to deposit all such  
533 state assessments collected in the circuit, county and justice  
534 courts in such county on a monthly basis with the State Treasurer  
535 pursuant to appropriate procedures established by the State  
536 Auditor. The chancery clerk shall make a monthly lump-sum deposit  
537 of the total state assessments collected in the circuit, county  
538 and justice courts in such county under this section, and shall  
539 report to the Department of Finance and Administration the total  
540 number of violations under each subsection for which state  
541 assessments were collected in the circuit, county and justice  
542 courts in such county during such month. It shall be the duty of  
543 the municipal clerk of each municipality to deposit all such state  
544 assessments collected in the municipal court in such municipality  
545 on a monthly basis with the State Treasurer pursuant to  
546 appropriate procedures established by the State Auditor. The  
547 municipal clerk shall make a monthly lump-sum deposit of the total  
548 state assessments collected in the municipal court in such  
549 municipality under this section, and shall report to the  
550 Department of Finance and Administration the total number of  
551 violations under each subsection for which state assessments were  
552 collected in the municipal court in such municipality during such  
553 month.

554 (9) It shall be the duty of the Department of Finance and  
555 Administration to deposit on a monthly basis all such state  
556 assessments into the proper special fund in the State Treasury.  
557 The monthly deposit shall be based upon the number of violations



558 reported under each subsection and the pro rata amount of such  
559 assessment due to the appropriate special fund. The Department of  
560 Finance and Administration shall issue regulations providing for  
561 the proper allocation of these special funds.

562 (10) The State Auditor shall establish by regulation  
563 procedures for refunds of state assessments, including refunds  
564 associated with assessments imposed before July 1, 1990, and  
565 refunds after appeals in which the defendant's conviction is  
566 reversed. The Auditor shall provide in such regulations for  
567 certification of eligibility for refunds and may require the  
568 defendant seeking a refund to submit a verified copy of a court  
569 order or abstract by which such defendant is entitled to a refund.  
570 All refunds of state assessments shall be made in accordance with  
571 the procedures established by the Auditor.

572 **SECTION 5.** This act shall take effect and be in force from  
573 and after July 1, 2002.

