

By: Senator(s) Posey

To: Judiciary

SENATE BILL NO. 2546

1 AN ACT TO AMEND SECTION 99-19-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR THE WAIVER OF THE RIGHT TO TRIAL AND PAYMENT OF FINE
3 WITHOUT APPEARING IN COURT FOR TRAFFIC, MOTOR VEHICLE AND GAME AND
4 FISH MISDEMEANOR VIOLATIONS; TO AMEND SECTION 99-33-3, MISSISSIPPI
5 CODE OF 1972, IN CONFORMITY; TO REPEAL SECTION 21-23-17,
6 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE WAIVER OF TRIAL
7 AND PAYMENT OF FINE WITHOUT APPEARING IN MUNICIPAL COURT; TO
8 REPEAL SECTION 63-9-29, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
9 FOR THE WAIVER OF TRIAL AND PAYMENT OF FINE WITHOUT APPEARING IN
10 JUSTICE COURT; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 99-19-3, Mississippi Code of 1972, is
13 amended as follows:

14 99-19-3. (1) Except as provided in subsection (2) of this
15 section, a person indicted for a criminal offense shall not be
16 convicted thereof, unless by confession of his guilt in open court
17 or by admitting the truth of the charge against him by his plea,
18 or by the verdict of a jury accepted and recorded in court. A
19 person charged with an offense shall not be punished therefor
20 unless legally convicted thereof in a court having jurisdiction of
21 the cause and of the person.

22 (2) In all cases in the circuit, county, justice and
23 municipal courts involving a traffic misdemeanor violation or a
24 game and fish misdemeanor violation where a person has been issued
25 a ticket or has been formally charged by affidavit, indictment or
26 information and desires to waive a trial and not appear in court
27 and defend the charge, the amount of the fine, in the discretion
28 of the court, may be paid in advance to the clerk of the court.
29 When the fine is paid in advance, the person cited must be
30 notified by language plainly printed on a waiver form or the
31 ticket of the person's right to a trial and the consequences of



32 the voluntary advance payment of the fine. In cases where formal
33 charges have been made and the person charged has been notified to
34 appear in court at a certain date and time, the clerk of the court
35 is authorized to accept a cash appearance bond, not to exceed the
36 amount of the fine, conditioned upon the appearance of the person
37 in court at the cited date and time. In the event of default, the
38 cash appearance bond may be forfeited in payment of any judgment
39 in the case in an amount not to exceed the amount of the bond; and
40 in such cases of cash appearance bond forfeiture, it shall be
41 final without necessity of judgment nisi and issuance of the writ
42 of scire facias. In the event a person so cited or charged pays a
43 fine in advance after notice of the person's rights, this shall
44 constitute a waiver of formal charge, arraignment and trial; and
45 in such cases and in cases of default on cash appearance bond,
46 such action shall be a plea of nolo contendere by such person and
47 the court, upon the advance payment of fine or the default on cash
48 appearance bond, may convict the person of the offense stated in
49 the ticket or formal charges without further appearance by the
50 person. Traffic convictions shall be reported to the Commissioner
51 of Public Safety as required by law and convictions for any
52 offense charged by a conservation officer shall be reported to the
53 Commissioner of Wildlife, Fisheries and Parks as required by law.
54 It shall not be necessary to enter traffic misdemeanor cases in
55 the municipal court docket.

56 (3) For the purposes of this section:

57 (a) The term "fine" means, in addition to the pecuniary
58 punishment, all fees, costs, assessments and other charges
59 required by law to be imposed in such cases.

60 (b) The term "traffic misdemeanor" means a violation of
61 traffic or motor vehicle laws that do not require mandatory
62 imprisonment upon conviction but shall not include repeat
63 offenders where a sentence of imprisonment is likely and shall not
64 include charges under the Mississippi Implied Consent Law.



65 (c) The term "game and fish misdemeanor" means a
66 violation not punishable by imprisonment and charged by a
67 conservation officer.

68 **SECTION 2.** Section 99-33-3, Mississippi Code of 1972, is
69 amended as follows:

70 99-33-3. On affidavit of the commission of any crime, of
71 which the justice court has jurisdiction, lodged with the justice
72 court, the clerk shall, upon direction by a justice court judge of
73 the county, issue a warrant for the arrest of the offender
74 returnable forthwith or on a certain day to be named. The clerk,
75 or the justice court judge to whom the case is assigned, shall
76 issue subpoenas for witnesses as in civil cases, and the justice
77 court judge may enter a conviction as provided in Section 99-19-3,
78 or shall try and dispose of the case according to law; and, on
79 conviction, shall order such punishment to be inflicted as the law
80 provides; provided, however, that no fine imposed shall be in an
81 amount less than Fifteen Dollars (\$15.00).

82 **SECTION 3.** Section 21-23-17, Mississippi Code of 1972, which
83 provides for the waiver of trial and payment of fine without
84 appearing in municipal court, is repealed.

85 **SECTION 4.** Section 63-9-29, Mississippi Code of 1972, which
86 provides for the waiver of trial and payment of fine without
87 appearing in justice court, is repealed.

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

