

By: Senator(s) Dearing

To: Judiciary

SENATE BILL NO. 2942
(As Passed the Senate)

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 chapter 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 chapter for which another penalty
16 is not provided shall for first conviction thereof be punished by
17 a fine of not more than One Hundred Dollars (\$100.00) or by
18 imprisonment for not more than ten (10) days; for a second such
19 conviction within one (1) year thereafter such person shall be
20 punished by a fine of not more than Two Hundred Dollars (\$200.00)
21 or by imprisonment for not more than twenty (20) days or by both
22 such fine and imprisonment; upon a third or subsequent conviction
23 within one (1) year after the first conviction such person shall
24 be punished by a fine of not more than Five Hundred Dollars
25 (\$500.00) or by imprisonment for not more than six (6) months or
26 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 law enforcement personnel or officer of the
34 court shall personally benefit in his jurisdiction, be it county,
35 district or municipality, from a defendant's sentence to a traffic
36 safety violator school. Violation of this prohibition shall
37 result in termination of employment.

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

54 (5) If all of the conditions set forth in paragraphs (a)
55 through (f) of this subsection are met, the court may withhold
56 acceptance of the plea and defer sentencing in order to allow the
57 defendant ninety (90) days to successfully complete not less than
58 four (4) hours of a court-approved traffic safety violator school
59 at his own cost, whereupon the court shall dismiss the prosecution
60 and direct that the case be closed. The only record maintained
61 thereafter shall be the nonpublic record required under Section
62 63-9-17, Mississippi Code of 1972, solely for use by the courts in



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

142 **SECTION 3.** This act shall take effect and be in force from
143 and after January 1, 2003.

