

## REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2942: Traffic violators; sentence to driver education.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 a person not covered under Section 63-1-55  
28 is charged with a misdemeanor violation of any of the provisions  
29 of Chapter 3, 5 or 7 of this title, the person shall be eligible

30 to participate in not less than four (4) hours of a traffic safety  
31 violation course and thereby have no record of the violation on the  
32 person's driving record if the person meets all the following  
33 conditions:

34 (i) The defendant has a valid Mississippi driver's  
35 license or permit.

36 (ii) The defendant has not had a conviction of a  
37 violation under Chapter 3, 5 or 7 of this title within three (3)  
38 years before the current offense; any conviction entered before  
39 October 1, 2002, does not constitute a prior offense for the  
40 purposes of this subsection (3).

41 (iii) The defendant's public and nonpublic driving  
42 record as maintained by the Department of Public Safety does not  
43 indicate successful completion of a traffic safety violator course  
44 under this section in the three-year period before the offense.

45 (iv) The defendant files an affidavit with the  
46 court stating that this is the defendant's first conviction in  
47 more than three (3) years or since October 1, 2002, whichever is  
48 the lesser period of time; the defendant is not in the process of  
49 taking a course under this section; and the defendant has not  
50 completed a course under this section that is not yet reflected on  
51 the defendant's public or nonpublic driving record.

52 (v) The offense charged is for a misdemeanor  
53 offense under Chapter 3, 5 or 7 of this title.

54 (vi) The defendant pays the applicable fine, costs  
55 and any assessments required by law to be paid upon conviction of  
56 such an offense.

57 (vii) The defendant pays to the court an  
58 additional fee of Ten Dollars (\$10.00) to elect to proceed under  
59 the provisions of this subsection (3).

60 (b) (i) 1. An eligible defendant may enter a plea of  
61 nolo contendere or guilty in person or in writing and present to  
62 the court, in person or by mail postmarked on or before the  
63 appearance date on the citation, an oral or written request to  
64 participate in a course under this subsection (3).

65 2. The court shall withhold acceptance of the

66 plea and defer sentencing in order to allow the eligible defendant  
67 ninety (90) days to successfully complete not less than four (4)  
68 hours of a court-approved traffic safety violator course at the  
69 cost of the defendant. Upon proof of successful completion  
70 entered with the court, the court shall dismiss the prosecution  
71 and direct that the case be closed. The only record maintained  
72 thereafter shall be the nonpublic record required under Section  
73 63-9-17 solely for use by the courts in determining eligibility  
74 under this subsection (3).

75 (ii) If a person pleads not guilty to a  
76 misdemeanor offense under any of the provisions of Chapter 3, 5 or  
77 7 of this title but is convicted, and the person meets all the  
78 requirements under paragraph (a) of this subsection, upon request  
79 of the defendant the court shall suspend the sentence for such  
80 offense to allow the defendant forty-five (45) days to  
81 successfully complete not less than four (4) hours of a  
82 court-approved traffic safety violator course at his own cost.  
83 Upon successful completion by the defendant of the course, the  
84 court shall set the conviction aside, dismiss the prosecution and  
85 direct that the case be closed. The court on its own motion shall  
86 expunge the record of the conviction, and the only record  
87 maintained thereafter shall be the nonpublic record required under  
88 Section 63-9-17 solely for use by the courts in determining an  
89 offender's eligibility under this subsection (3).

90 (c) An out-of-state resident shall be allowed to  
91 complete a substantially similar program in his home state,  
92 province or country provided the requirements of this subsection  
93 (3) are met, except that the necessary valid driver's license or  
94 permit shall be one issued by the home jurisdiction.

95 (d) A court shall not approve a traffic safety  
96 violator course under this subsection (3) that does not supply at  
97 least four (4) hours of instruction, an instructor's manual  
98 setting forth an appropriate curriculum, student workbooks, some  
99 scientifically verifiable analysis of the effectiveness of the  
100 curriculum and provide minimum qualifications for instructors.

101 (e) A court shall inform a defendant making inquiry or

102 entering a personal appearance of the provisions of this  
103 subsection (3).

104 (f) The Department of Public Safety shall cause notice  
105 of the provisions of this subsection (3) to be available on its  
106 official website.

107 (g) Failure of a defendant to elect to come under the  
108 provisions of this subsection (3) for whatever reason, in and of  
109 itself, shall not invalidate a conviction.

110 (h) No employee of the sentencing court shall  
111 personally benefit from a defendant's attendance of a traffic  
112 safety violator course. Violation of this prohibition shall  
113 result in termination of employment.

114 (i) The additional fee of Ten Dollars (\$10.00) imposed  
115 under this subsection (3) shall be forwarded by the court clerk to  
116 the State Treasurer for deposit into a special fund created in the  
117 State Treasury. Monies in the special fund may be expended by the  
118 Department of Public Safety, upon legislative appropriation, to  
119 defray the costs incurred by the department in maintaining the  
120 nonpublic record of persons who are eligible for participation  
121 under the provisions of this subsection (3).

122 (j) This subsection (3) shall stand repealed after  
123 December 31, 2004.

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

126 63-9-17. (1) Every court shall keep a full record of the  
127 proceedings of every case in which a person is charged with any  
128 violation of law regulating the operation of vehicles on the  
129 highways, streets or roads of this state.

130 (2) Unless otherwise sooner required by law, within  
131 forty-five (45) days after the conviction of a person upon a  
132 charge of violating any law regulating the operation of vehicles  
133 on the highways, streets or roads of this state, every \* \* \* court  
134 in which such conviction was had shall prepare and immediately  
135 forward to the Department of Public Safety an abstract of the  
136 record of said court covering the case in which said person was so  
137 convicted, which abstract must be certified by the person so

138 authorized to prepare the same to be true and correct.

139 (3) Said abstract must be made upon a form approved by the  
140 Department of Public Safety, and shall include the name and  
141 address of the party charged, the registration number of the  
142 vehicle involved, the nature of the offense, the date of hearing,  
143 the plea, the judgment, and if the fine was satisfied by  
144 prepayment or appearance bond forfeiture, and the amount of the  
145 fine or forfeiture, as the case may be.

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

150 (5) Every court shall also forward a like report to the  
151 Department of Public Safety after the satisfactory completion by a  
152 defendant of an approved traffic safety violator course under  
153 Section 63-9-11, and the department shall make and maintain a  
154 private, nonpublic record to be kept for a period of three (3)  
155 years. The record shall be solely for the use of the courts in  
156 determining eligibility under Section 63-9-11, as a first-time  
157 offender, and shall not constitute a criminal record for the  
158 purpose of private or administrative inquiry. Reports forwarded  
159 to the Department of Public Safety under this subsection shall be  
160 exempt from the provisions of the Mississippi Public Records Act  
161 of 1983. This subsection shall stand repealed after December 31,  
162 2004.

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

167 (7) The Department of Public Safety shall keep copies of all  
168 abstracts received hereunder for a period of three (3) years at  
169 its main office and the same shall be open to public inspection  
170 during reasonable business hours. This subsection shall not apply  
171 to nonpublic records maintained solely for the use of the courts  
172 in determining offender eligibility.

173 **SECTION 3.** This act shall take effect and be in force from

174 and after October 1, 2002.

**Further, amend by striking the title in its entirety and inserting in lieu thereof the following:**

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.

CONFEREES FOR THE SENATE

**X** \_\_\_\_\_  
Bennie L. Turner

**X** \_\_\_\_\_  
Bob M. Dearing

**X** \_\_\_\_\_  
Robert L. Johnson III

CONFEREES FOR THE HOUSE

**X** \_\_\_\_\_  
J. P. Compretta

**X** \_\_\_\_\_  
Randy Mitchell

**X** \_\_\_\_\_  
Mike Eakes