

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2942

By Representative(s) Committee

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, in a misdemeanor case, a person is

28 charged with a violation of any of the provisions of Chapter 3, 5
29 or 7 of this title and the person pleads guilty or nolo
30 contendere, the court shall withhold acceptance of the plea and
31 defer sentencing if the defendant meets all of the conditions set
32 forth in paragraphs (a) through (f) of subsection (4) of this
33 section and requests to be allowed to complete at his own cost, a
34 traffic safety violator school approved by the Commissioner of
35 Public Safety. If the defendant successfully completes not less
36 than four (4) hours of an approved traffic safety violator school
37 within ninety (90) days and pays the applicable fine, costs and
38 any assessments required by law to be paid upon conviction of such
39 an offense, including an additional fee of Ten Dollars (\$10.00),
40 the court shall set the conviction aside, dismiss the prosecution
41 and direct that the case be closed. The court on its own motion
42 shall expunge the record of the conviction, and the only record
43 maintained thereafter shall be the nonpublic record required under
44 Section 63-9-17, solely for use by the courts in determining an
45 offender's eligibility under this section as a first-time
46 offender. The additional fee of Ten Dollars (\$10.00) imposed
47 under this paragraph shall be forwarded by the court clerk to the
48 State Treasurer for deposit into a special fund created in the
49 State Treasury. Monies in the special fund may be expended by the
50 Department of Public Safety, upon Legislative appropriation, to
51 defray the costs incurred by the department in maintaining the
52 records of persons who are eligible for sentencing as first-time
53 violators under the provisions of subsections (3) and (4) of this
54 section.

55 (b) No employee of the sentencing court shall
56 personally benefit from a defendant's sentence to a traffic safety
57 violator school. Violation of this prohibition shall result in
58 termination of employment.

59 (c) A traffic safety violator school may qualify to
60 offer courses under paragraph (a) of this subsection only upon
61 application filed with and approved by the Commissioner of Public
62 Safety. Such qualification may be revoked by the commissioner for

63 such cause as the commissioner determines appropriate. The
64 Commissioner of Public Safety may adopt and promulgate such rules
65 and regulations as he deems necessary or desirable to carry out
66 the provisions of this paragraph.

67 (4) In order for a defendant to be eligible under subsection
68 (3) of this section:

69 (a) The defendant must enter a plea in person or in
70 writing of nolo contendere or guilty and present to the court an
71 oral request or a written request by mail postmarked on or before
72 the appearance date on the citation, to attend not less than four
73 (4) hours of an approved traffic safety violator school;

74 (b) The court must enter judgment on the defendant's
75 plea of nolo contendere or guilty at the time the plea is made,
76 but shall defer the imposition or the execution of the whole or
77 any part of the sentence for ninety (90) days;

78 (c) The defendant has a valid Mississippi driver's
79 license or permit;

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

85 (e) The defendant must file an affidavit with the court
86 stating that this is his first conviction in more than three (3)
87 years, that he is not in the process of taking a course under this
88 section and that he has not completed a course under this section
89 that is not yet reflected on his driving record; and

90 (f) The offense charged must be a misdemeanor offense
91 under Chapter 3, 5 or 7 of this title.

92 (5) An out-of-state resident may be allowed to complete a
93 substantially similar program in his home state, province or
94 country provided paragraphs (4) (a), (b), (d), (e) and (f) of this
95 section are satisfied, and provided that the defendant has a valid
96 driver's license or permit from that home jurisdiction.

97 (6) Subsections (3) through (5) of this section shall stand

98 repealed from and after July 1, 2003.

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

101 63-9-17. (1) Every court shall keep a full record of the
102 proceedings of every case in which a person is charged with any
103 violation of law regulating the operation of vehicles on the
104 highways, streets or roads of this state.

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

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

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

125 (5) Every court shall also forward a like report to the
126 Department of Public Safety after the satisfactory completion by a
127 defendant of an approved traffic safety violator school under
128 Section 63-9-11, and the department shall make and maintain a
129 private, nonpublic record to be kept for a period of three (3)
130 years. The record shall be solely for the use of the courts in
131 determining eligibility under Section 63-9-11, as a first-time
132 offender, and shall not constitute a criminal record for the

133 purpose of private or administrative inquiry. Reports forwarded
134 to the Department of Public Safety under this subsection shall be
135 exempt from the provisions of the Mississippi Public Records Act
136 of 1983. This subsection shall stand repealed from and after July
137 1, 2003.

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

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

146 **SECTION 3.** This act shall take effect and be in force from
147 and after July 1, 2002.