

By: Senator(s) Bryan

To: Judiciary

SENATE BILL NO. 2776

1 AN ACT TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972,  
 2 TO CREATE THE FIRST OFFENDER DUI PROGRAM FOR DRUG AND ALCOHOL  
 3 TREATMENT OF DUI FIRST OFFENDERS WHERE THE OFFENSE DOES NOT RESULT  
 4 IN BODILY INJURY OR DEATH; TO CREATE THE FIRST OFFENDER DUI  
 5 PROGRAM SPECIAL FUND; TO REQUIRE THAT PAYMENT OF TREATMENT TO THE  
 6 EXTENT OF ABILITY TO PAY; TO AMEND SECTION 99-19-73, MISSISSIPPI  
 7 CODE OF 1972, TO PROVIDE STATEWIDE MONETARY ASSESSMENTS TO  
 8 SUPPLEMENT FUNDING FOR TREATMENT OPTIONS; AND FOR RELATED  
 9 PURPOSES.

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

11 **SECTION 1.** Section 63-11-30, Mississippi Code of 1972, is  
 12 amended as follows:

13 63-11-30. (1) It is unlawful for any person to drive or  
 14 otherwise operate a vehicle within this state who (a) is under the  
 15 influence of intoxicating liquor; (b) is under the influence of  
 16 any other substance which has impaired such person's ability to  
 17 operate a motor vehicle; (c) has an alcohol concentration of eight  
 18 one-hundredths percent (.08%) or more for persons who are above  
 19 the legal age to purchase alcoholic beverages under state law, or  
 20 two one-hundredths percent (.02%) or more for persons who are  
 21 below the legal age to purchase alcoholic beverages under state  
 22 law, in the person's blood based upon grams of alcohol per one  
 23 hundred (100) milliliters of blood or grams of alcohol per two  
 24 hundred ten (210) liters of breath as shown by a chemical analysis  
 25 of such person's breath, blood or urine administered as authorized  
 26 by this chapter; (d) is under the influence of any drug or  
 27 controlled substance, the possession of which is unlawful under  
 28 the Mississippi Controlled Substances Law; or (e) has an alcohol  
 29 concentration of four one-hundredths percent (.04%) or more in the  
 30 person's blood, based upon grams of alcohol per one hundred (100)



31 milliliters of blood or grams of alcohol per two hundred ten (210)  
32 liters of breath as shown by a chemical analysis of such person's  
33 blood, breath or urine, administered as authorized by this chapter  
34 for persons operating a commercial motor vehicle.

35 (2) (a) (i) Except as otherwise provided in subsection (3)  
36 or (5), upon conviction of any person for the first offense of  
37 violating subsection (1) of this section where chemical tests  
38 provided for under Section 63-11-5 were given, or where chemical  
39 test results are not available, such person shall be \* \* \*  
40 imprisoned for twenty-four (24) hours in jail and ordered to  
41 participate in the First Offender DUI Program; \* \* \* the court may  
42 also require attendance at a victim impact panel \* \* \*.

43 1. A person sentenced to the First Offender  
44 DUI Program shall bear the cost of all testing, monitoring and  
45 enrollment in alcohol or substance abuse programs unless, after  
46 determining the inability of the defendant to pay the cost, the  
47 court assesses a lesser amount.

48 2. A defendant must meet the following  
49 eligibility requirements for the program:

50 a. The defendant must first serve a  
51 minimum of twenty-four (24) consecutive hours in jail.

52 b. The defendant is required to comply  
53 with all of the following provisions for the duration of the  
54 defendant's participation in the First Offender DUI Program:

55 A. Testing at least once a day for  
56 the use of alcoholic beverages or drugs by a scientific method  
57 that is not limited to urinalysis or a breath or intoxication test  
58 in the defendant's home or at the office of a person designated by  
59 the court to conduct these tests.

60 B. Participation in an alcohol or  
61 drug program, or both, that is accredited by the Department of  
62 Mental Health.



63 C. Prohibition of association with  
64 any individual determined to be detrimental to the defendant's  
65 successful participation in the program.

66 D. All other provisions of the  
67 sentence imposed.

68 (ii) The court shall terminate a defendant's  
69 participation in the First Offender DUI Program and require the  
70 defendant to serve thirty (30) days by jail confinement if:

71 1. The defendant fails to successfully  
72 complete a court ordered alcohol or drug screening, counseling,  
73 education and treatment program.

74 2. The court finds that the defendant left  
75 the premises without permission of the court or supervising  
76 authority during a time the defendant is ordered to be on the  
77 premises.

78 (iii) At any other time the court may terminate a  
79 defendant's participation in the First Offender DUI Program and  
80 require the defendant to complete the alternative jail sentence by  
81 jail confinement.

82 (iv) There is hereby created in the State Treasury  
83 a special fund designated as the First Offender DUI Program Fund  
84 into which shall be deposited monies assessed first offenders  
85 under the program, such monies assessed under Section 99-19-73,  
86 and such money as may be appropriated by the Legislature. Money  
87 is this fund shall be used to fund drug and alcohol treatment  
88 under the First Offender DUI Program. The expenditure of the  
89 funds deposited in this fund shall be paid by the State Treasurer  
90 upon requisitions signed by the Director of the Department of  
91 Mental Health.

92 (v) In addition, the Department of Public Safety,  
93 the Commissioner of Public Safety or his duly authorized agent  
94 shall, after conviction and upon receipt of the court abstract,  
95 suspend the driver's license and driving privileges of such person



96 for a period of not less than ninety (90) days and until such  
97 person \* \* \* successfully completes the First Offender DUI Program  
98 as herein provided; provided, however, in no event shall such  
99 period of suspension exceed one (1) year. Commercial driving  
100 privileges shall be suspended as provided in Section 63-1-83.

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

123 2. The petition filed under the provisions of  
124 this subsection shall contain the specific facts which the  
125 petitioner alleges to constitute a hardship and the driver's  
126 license number of the petitioner. A hearing may be held on any  
127 petition filed under this subsection only after ten (10) days'  
128 prior written notice to the Commissioner of Public Safety, or his



129 designated agent, or the attorney designated to represent the  
130 state. At such hearing, the court may enter an order reducing the  
131 period of suspension.

132 3. The order entered under the provisions of  
133 this subsection shall contain the specific grounds upon which  
134 hardship was determined, and shall order the petitioner to attend  
135 and complete an alcohol safety education program as provided in  
136 Section 63-11-32. A certified copy of such order shall be  
137 delivered to the Commissioner of Public Safety by the clerk of the  
138 court within five (5) days of the entry of the order. The  
139 certified copy of such order shall contain information which will  
140 identify the petitioner, including, but not limited to, the name,  
141 mailing address, street address, social security number and  
142 driver's license number of the petitioner.

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

- 148 a. Continue his employment;  
149 b. Continue attending school or an  
150 educational institution; or  
151 c. Obtain necessary medical care.

152 5. Proof of the hardship shall be established  
153 by clear and convincing evidence which shall be supported by  
154 independent documentation.

155 (b) Except as otherwise provided in subsection (3),  
156 upon any second conviction of any person violating subsection (1)  
157 of this section, the offenses being committed within a period of  
158 five (5) years, such person shall be fined not less than Six  
159 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred  
160 Dollars (\$1,500.00), shall be imprisoned not less than five (5)  
161 days nor more than one (1) year and sentenced to community service



162 work for not less than ten (10) days nor more than one (1) year.  
163 The minimum penalties shall not be suspended or reduced by the  
164 court and no prosecutor shall offer any suspension or sentence  
165 reduction as part of a plea bargain. Except as may otherwise be  
166 provided by paragraph (d) of this subsection, the Commissioner of  
167 Public Safety shall suspend the driver's license of such person  
168 for two (2) years. Suspension of a commercial driver's license  
169 shall be governed by Section 63-1-83. Upon any second conviction  
170 as described in this paragraph, the court shall ascertain whether  
171 the defendant is married, and if the defendant is married shall  
172 obtain the name and address of the defendant's spouse; the clerk  
173 of the court shall submit this information to the Department of  
174 Public Safety. Further, the commissioner shall notify in writing,  
175 by certified mail, return receipt requested, the owner of the  
176 vehicle and the spouse, if any, of the person convicted of the  
177 second violation of the possibility of forfeiture of the vehicle  
178 if such person is convicted of a third violation of subsection (1)  
179 of this section. The owner of the vehicle and the spouse shall be  
180 considered notified under this paragraph if the notice is  
181 deposited in the United States mail and any claim that the notice  
182 was not in fact received by the addressee shall not affect a  
183 subsequent forfeiture proceeding.

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

187 (c) Except as otherwise provided in subsection (3), for  
188 any third or subsequent conviction of any person violating  
189 subsection (1) of this section, the offenses being committed  
190 within a period of five (5) years, such person shall be guilty of  
191 a felony and fined not less than Two Thousand Dollars (\$2,000.00)  
192 nor more than Five Thousand Dollars (\$5,000.00), shall be  
193 imprisoned not less than one (1) year nor more than five (5) years  
194 in the State Penitentiary. The minimum penalties shall not be



195 suspended or reduced by the court and no prosecutor shall offer  
196 any suspension or sentence reduction as part of a plea bargain.  
197 The law enforcement agency shall seize the vehicle operated by any  
198 person charged with a third or subsequent violation of subsection  
199 (1) of this section, if such convicted person was driving the  
200 vehicle at the time the offense was committed. Such vehicle may  
201 be forfeited in the manner provided by Sections 63-11-49 through  
202 63-11-53. Except as may otherwise be provided by paragraph (e) of  
203 this subsection, the Commissioner of Public Safety shall suspend  
204 the driver's license of such person for five (5) years. The  
205 suspension of a commercial driver's license shall be governed by  
206 Section 63-1-83.

207 (d) Except as otherwise provided in subsection (3), any  
208 person convicted of a second violation of subsection (1) of this  
209 section shall receive an in-depth diagnostic assessment, and if as  
210 a result of such assessment is determined to be in need of  
211 treatment of his alcohol and/or drug abuse problem, such person  
212 shall successfully complete treatment of his alcohol and/or drug  
213 abuse problem at a program site certified by the Department of  
214 Mental Health. Such person shall be eligible for reinstatement of  
215 his driving privileges upon the successful completion of such  
216 treatment after a period of one (1) year after such person's  
217 driver's license is suspended. Each person who receives a  
218 diagnostic assessment shall pay a fee representing the cost of  
219 such assessment. Each person who participates in a treatment  
220 program shall pay a fee representing the cost of such treatment.

221 (e) Except as otherwise provided in subsection (3), any  
222 person convicted of a third or subsequent violation of subsection  
223 (1) of this section shall receive an in-depth diagnostic  
224 assessment, and if as a result of such assessment is determined to  
225 be in need of treatment of his alcohol and/or drug abuse problem,  
226 such person shall enter an alcohol and/or drug abuse program  
227 approved by the Department of Mental Health for treatment of such



228 person's alcohol and/or drug abuse problem. If such person  
229 successfully completes such treatment, such person shall be  
230 eligible for reinstatement of his driving privileges after a  
231 period of three (3) years after such person's driver's license is  
232 suspended.

233 (f) The Department of Public Safety shall promulgate  
234 rules and regulations for the use of interlock ignition devices as  
235 provided in Section 63-11-31 and consistent with the provisions  
236 therein. Such rules and regulations shall provide for the  
237 calibration of such devices and shall provide that the cost of the  
238 use of such systems shall be borne by the offender. The  
239 Department of Public Safety shall approve which vendors of such  
240 devices shall be used to furnish such systems.

241 (3) (a) This subsection shall be known and may be cited as  
242 Zero Tolerance for Minors. The provisions of this subsection  
243 shall apply only when a person under the age of twenty-one (21)  
244 years has a blood alcohol concentration two one-hundredths percent  
245 (.02%) or more, but lower than eight one-hundredths percent  
246 (.08%). If such person's blood alcohol concentration is eight  
247 one-hundredths percent (.08%) or more, the provisions of  
248 subsection (2) shall apply.

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

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





261 of residence may reduce the suspension of driving privileges under  
262 Section 63-11-30(2)(a) if the denial of which would constitute a  
263 hardship on the offender, except that no court may issue such an  
264 order reducing the suspension of driving privileges under this  
265 subsection until thirty (30) days have elapsed from the effective  
266 date of the suspension. Hardships shall only apply to first  
267 offenses under Section 63-11-30(1), and shall not apply to second,  
268 third or subsequent convictions of any person violating subsection  
269 (1) of this section. A reduction of suspension on the basis of  
270 hardship shall not be available to any person who refused to  
271 submit to a chemical test upon the request of a law enforcement  
272 officer as provided in Section 63-11-5. When the petition is  
273 filed, such person shall pay to the circuit clerk of the court  
274 where the petition is filed a fee of Fifty Dollars (\$50.00), which  
275 shall be deposited into the State General Fund to the credit of a  
276 special fund hereby created in the State Treasury to be used for  
277 alcohol or drug abuse treatment and education, upon appropriation  
278 by the Legislature. This fee shall be in addition to any other  
279 court costs or fees required for the filing of petitions.

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

288       The order entered under the provisions of this subsection  
289 shall contain the specific grounds upon which hardship was  
290 determined, and shall order the petitioner to attend and complete  
291 an alcohol safety education program as provided in Section  
292 63-11-32. A certified copy of such order shall be delivered to  
293 the Commissioner of Public Safety by the clerk of the court within



294 five (5) days of the entry of the order. The certified copy of  
295 such order shall contain information which will identify the  
296 petitioner, including, but not limited to, the name, mailing  
297 address, street address, social security number and driver's  
298 license number of the petitioner.

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

- 304 (i) Continue his employment;
- 305 (ii) Continue attending school or an educational  
306 institution; or
- 307 (iii) Obtain necessary medical care.

308 Proof of the hardship shall be established by clear and  
309 convincing evidence which shall be supported by independent  
310 documentation.

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

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

324 (e) Any person under the age of twenty-one (21) years  
325 convicted of a second violation of subsection (1) of this section,  
326 may have the period that his driver's license is suspended reduced



327 if such person receives an in-depth diagnostic assessment, and as  
328 a result of such assessment is determined to be in need of  
329 treatment of his alcohol and/or drug abuse problem and  
330 successfully completes treatment of his alcohol and/or drug abuse  
331 problem at a program site certified by the Department of Mental  
332 Health. Such person shall be eligible for reinstatement of his  
333 driving privileges upon the successful completion of such  
334 treatment after a period of six (6) months after such person's  
335 driver's license is suspended. Each person who receives a  
336 diagnostic assessment shall pay a fee representing the cost of  
337 such assessment. Each person who participates in a treatment  
338 program shall pay a fee representing the cost of such treatment.

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

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



360 (4) In addition to the other penalties provided in this  
361 section, every person refusing a law enforcement officer's request  
362 to submit to a chemical test of his breath as provided in this  
363 chapter, or who was unconscious at the time of a chemical test and  
364 refused to consent to the introduction of the results of such test  
365 in any prosecution, shall suffer an additional suspension of  
366 driving privileges as follows:

367 The Commissioner of Public Safety or his authorized agent  
368 shall suspend the driver's license or permit to drive or deny the  
369 issuance of a license or permit to such person as provided for  
370 first, second and third or subsequent offenders in subsection (2)  
371 of this section. Such suspension shall be in addition to any  
372 suspension imposed pursuant to subsection (1) of Section 63-11-23.  
373 The minimum suspension imposed under this subsection shall not be  
374 reduced and no prosecutor is authorized to offer a reduction of  
375 such suspension as part of a plea bargain.

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

385 (6) Upon conviction of any violation of subsection (1) of  
386 this section, the trial judge shall sign in the place provided on  
387 the traffic ticket, citation or affidavit stating that the person  
388 arrested either employed an attorney or waived his right to an  
389 attorney after having been properly advised. If the person  
390 arrested employed an attorney, the name, address and telephone  
391 number of the attorney shall be written on the ticket, citation or  
392 affidavit. The judge shall cause a copy of the traffic ticket,



393 citation or affidavit, and any other pertinent documents  
394 concerning the conviction, to be sent to the Commissioner of  
395 Public Safety. A copy of the traffic ticket, citation or  
396 affidavit and any other pertinent documents, having been attested  
397 as true and correct by the Commissioner of Public Safety, or his  
398 designee, shall be sufficient proof of the conviction for purposes  
399 of determining the enhanced penalty for any subsequent convictions  
400 of violations of subsection (1) of this section.

401 (7) Convictions in other states of violations for driving or  
402 operating a vehicle while under the influence of an intoxicating  
403 liquor or while under the influence of any other substance that  
404 has impaired the person's ability to operate a motor vehicle  
405 occurring after July 1, 1992, shall be counted for the purposes of  
406 determining if a violation of subsection (1) of this section is a  
407 first, second, third or subsequent offense and the penalty that  
408 shall be imposed upon conviction for a violation of subsection (1)  
409 of this section.

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

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



424 (10) Suspension of driving privileges for any person  
425 convicted of violations of Section 63-11-30(1) shall run  
426 consecutively.

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

429 **SECTION 2.** Section 99-19-73, Mississippi Code of 1972, is  
430 amended as follows:

431 99-19-73. (1) **Traffic Violations.** In addition to any  
432 monetary penalties and any other penalties imposed by law, there  
433 shall be imposed and collected the following state assessment from  
434 each person upon whom a court imposes a fine or other penalty for  
435 any violation in Title 63, Mississippi Code of 1972, except  
436 offenses relating to the Mississippi Implied Consent Law (Section  
437 63-11-1 et seq.) and offenses relating to vehicular parking or  
438 registration:

439 FUND	AMOUNT
440 State Court Education Fund.....	\$ 1.50
441 State Prosecutor Education Fund.....	1.00
442 Driver Training Penalty Assessment Fund.....	7.00
443 Law Enforcement Officers Training Fund.....	5.00
444 Spinal Cord and Head Injury Trust Fund	
445 (for all moving violations).....	4.00
446 Emergency Medical Services Operating Fund.....	10.00
447 Mississippi Leadership Council on Aging	
448 Fund.....	1.00
449 Law Enforcement Officers and Fire Fighters Death	
450 Benefits Trust Fund.....	.50
451 TOTAL STATE ASSESSMENT.....	\$ 30.00

452 (2) **Implied Consent Law Violations.** In addition to any  
453 monetary penalties and any other penalties imposed by law, there  
454 shall be imposed and collected the following state assessment from  
455 each person upon whom a court imposes a fine or any other penalty



456 for any violation of the Mississippi Implied Consent Law (Section  
 457 63-11-1 et seq.):

458 FUND	AMOUNT
459 Crime Victims' Compensation Fund.....	\$ 10.00
460 State Court Education Fund.....	1.50
461 State Prosecutor Education Fund.....	1.00
462 Driver Training Penalty Assessment Fund.....	22.00
463 Law Enforcement Officers Training Fund.....	11.00
464 Emergency Medical Services Operating Fund.....	10.00
465 Mississippi Alcohol Safety Education Program Fund....	5.00
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 Capital Defense Counsel Special Fund.....	1.00
471 State General Fund.....	35.00
472 Law Enforcement Officers and Fire Fighters Death	
473 Benefits Trust Fund.....	.50
474 <u>First Offender DUI Program.....</u>	<u>100.00</u>
475 TOTAL STATE ASSESSMENT.....	\$ <u>257.00</u>

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

482 FUND	AMOUNT
483 State Court Education Fund.....	\$ 1.50
484 State Prosecutor Education Fund.....	1.00
485 Law Enforcement Officers Training Fund.....	5.00
486 Hunter Education and Training Program Fund.....	5.00
487 State General Fund.....	30.00
488 Law Enforcement Officers and Fire Fighters Death	



489 Benefits Trust Fund..... .50  
 490 TOTAL STATE ASSESSMENT..... \$ 43.00

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

496 FUND	AMOUNT
497 Statewide Litter Prevention Fund.....	\$ 25.00
498 <u>First Offender DUI Program.....</u>	<u>\$ 5.00</u>
499 TOTAL STATE ASSESSMENT.....	\$ <u>30.00</u>

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

507 FUND	AMOUNT
508 Crime Victims' Compensation Fund.....	\$ 10.00
509 State Court Education Fund.....	1.50
510 State Prosecutor Education Fund.....	1.00
511 Law Enforcement Officers Training Fund.....	5.00
512 Capital Defense Counsel Special Fund.....	1.00
513 State General Fund.....	30.00
514 State Crime Stoppers Fund.....	1.50
515 Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
517 TOTAL STATE ASSESSMENT.....	\$ 50.50

518 (6) **Other Felonies.** In addition to any monetary penalties  
 519 and any other penalties imposed by law, there shall be imposed and  
 520 collected the following state assessment from each person upon  
 521 whom a court imposes a fine or other penalty for any felony





522 violation not specified in subsection (1), (2) or (3) of this  
523 section:

524	FUND	AMOUNT
525	Crime Victims' Compensation Fund.....	\$ 10.00
526	State Court Education Fund.....	1.50
527	State Prosecutor Education Fund.....	1.00
528	Law Enforcement Officers Training Fund.....	5.00
529	Capital Defense Counsel Special Fund.....	1.00
530	State General Fund.....	60.00
531	Criminal Justice Fund.....	50.00
532	Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
534	<u>First Offender DUI Program.....</u>	<u>5.00</u>
535	TOTAL STATE ASSESSMENT.....	<u>\$134.00</u>

536 (7) If a fine or other penalty imposed is suspended, in  
537 whole or in part, such suspension shall not affect the state  
538 assessment under this section. No state assessment imposed under  
539 the provisions of this section may be suspended or reduced by the  
540 court.

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



555 assessments were collected in the circuit, county and justice  
556 courts in such county during such month. It shall be the duty of  
557 the municipal clerk of each municipality to deposit all such state  
558 assessments collected in the municipal court in such municipality  
559 on a monthly basis with the State Treasurer pursuant to  
560 appropriate procedures established by the State Auditor. The  
561 municipal clerk shall make a monthly lump-sum deposit of the total  
562 state assessments collected in the municipal court in such  
563 municipality under this section, and shall report to the  
564 Department of Finance and Administration the total number of  
565 violations under each subsection for which state assessments were  
566 collected in the municipal court in such municipality during such  
567 month.

568 (9) It shall be the duty of the Department of Finance and  
569 Administration to deposit on a monthly basis all such state  
570 assessments into the proper special fund in the State Treasury.  
571 The monthly deposit shall be based upon the number of violations  
572 reported under each subsection and the pro rata amount of such  
573 assessment due to the appropriate special fund. The Department of  
574 Finance and Administration shall issue regulations providing for  
575 the proper allocation of these special funds.

576 (10) The State Auditor shall establish by regulation  
577 procedures for refunds of state assessments, including refunds  
578 associated with assessments imposed before July 1, 1990, and  
579 refunds after appeals in which the defendant's conviction is  
580 reversed. The Auditor shall provide in such regulations for  
581 certification of eligibility for refunds and may require the  
582 defendant seeking a refund to submit a verified copy of a court  
583 order or abstract by which such defendant is entitled to a refund.  
584 All refunds of state assessments shall be made in accordance with  
585 the procedures established by the Auditor.

586 \* \* \*



587           **SECTION 3.** This act shall take effect and be in force from  
588 and after July 1, 2003.

