

By: Senator(s) Dearing

To: Highways and
Transportation

SENATE BILL NO. 2598

1 AN ACT TO AMEND SECTIONS 63-9-11 AND 63-9-17, MISSISSIPPI
2 CODE OF 1972, TO REPEAL THE SUNSET PROVISIONS FOR THE ADULT
3 TRAFFIC VIOLATOR SAFETY COURSE PROGRAM; TO REVISE CERTAIN ASPECTS
4 OF THE PROGRAM; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 63-9-11, Mississippi Code of 1972, is
7 amended as follows:

8 63-9-11. (1) It is a misdemeanor for any person to violate
9 any of the provisions of Chapter 3, 5 or 7 of this title, unless
10 such violation is by such chapters or other law of this state
11 declared to be a felony.

12 (2) Every person convicted of a misdemeanor for a violation
13 of any of the provisions of such chapters for which another
14 penalty is not provided shall for first conviction thereof be
15 punished by a fine of not more than One Hundred Dollars (\$100.00)
16 or by imprisonment for not more than ten (10) days; for a second
17 such conviction within one (1) year thereafter such person shall
18 be punished by a fine of not more than Two Hundred Dollars
19 (\$200.00) or by imprisonment for not more than twenty (20) days or
20 by both such fine and imprisonment; upon a third or subsequent
21 conviction within one (1) year after the first conviction such
22 person shall be punished by a fine of not more than Five Hundred
23 Dollars (\$500.00) or by imprisonment for not more than six (6)
24 months or by both such fine and imprisonment.

25 (3) (a) Whenever a person not covered under Section 63-1-55
26 is charged with a misdemeanor violation of any of the provisions
27 of Chapter 3, 5 or 7 of this title, the person shall be eligible
28 to participate in not less than four (4) hours of a traffic safety

29 violator course and thereby have no record of the violation on the
30 person's driving record if the person meets all the following
31 conditions:

32 (i) The defendant has a valid * * * driver's
33 license or permit.

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

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

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

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

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

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

58 (b) (i) 1. An eligible defendant may enter a plea of
59 nolo contendere or guilty in person or in writing and present to
60 the court, in person or by mail postmarked on or before the

61 appearance date on the citation, an oral or written request to
62 participate in a course under this subsection (3).

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

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

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

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

99 (e) A court shall inform a defendant making inquiry or
100 entering a personal appearance of the provisions of this
101 subsection (3).

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

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

108 (h) No officer or employee of the sentencing court nor
109 law enforcement officers within the area of the court's
110 jurisdiction shall personally benefit from a defendant's
111 attendance of a traffic safety violator course. Violation of this
112 prohibition shall result in termination of employment.

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

121 * * *

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

124 63-9-17. (1) Every court shall keep a full record of the
125 proceedings of every case in which a person is charged with any

126 violation of law regulating the operation of vehicles on the
127 highways, streets or roads of this state.

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

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

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

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

158 exempt from the provisions of the Mississippi Public Records Act
159 of 1983. * * *

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

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

170 **SECTION 3.** This act shall take effect and be in force from
171 and after July 1, 2004.