

By: Representative Miles

To: Transportation;
Judiciary BHOUSE BILL NO. 1130
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 63-1-7 AND 63-1-78, MISSISSIPPI CODE
 2 OF 1972, TO CLARIFY WHICH MILITARY PERSONNEL ARE NOT REQUIRED TO
 3 HAVE A DRIVER'S LICENSE WHILE OPERATING MOTOR VEHICLES FOR
 4 MILITARY PURPOSES; TO AMEND SECTION 63-1-75, MISSISSIPPI CODE OF
 5 1972, TO INCLUDE CERTAIN ADDITIONAL TRAFFIC VIOLATIONS IN THE
 6 DEFINITION OF THE TERM "SERIOUS TRAFFIC VIOLATION" FOR PURPOSES OF
 7 THE MISSISSIPPI COMMERCIAL DRIVER'S LICENSE LAW AND TO PROVIDE
 8 THAT SUCH VIOLATIONS INCLUDE VIOLATIONS WHILE OPERATING A MOTOR
 9 VEHICLE THAT IS NOT A COMMERCIAL MOTOR VEHICLE; TO AMEND SECTION
 10 63-1-83, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COMMISSIONER OF
 11 PUBLIC SAFETY TO SUSPEND THE COMMERCIAL DRIVER'S LICENSE OF A
 12 PERSON THAT IS CONVICTED OF OPERATING A COMMERCIAL MOTOR VEHICLE
 13 WITHOUT A COMMERCIAL DRIVER'S LICENSE OR WITHOUT THE PROPER TYPE
 14 OF LICENSE OR ENDORSEMENT; TO AMEND SECTION 63-1-82, MISSISSIPPI
 15 CODE OF 1972, TO REVISE CERTAIN ENDORSEMENTS AND RESTRICTIONS FOR
 16 COMMERCIAL DRIVER'S LICENSES; TO AMEND SECTION 63-9-11,
 17 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE HOLDER OF A
 18 COMMERCIAL DRIVER'S LICENSE SHALL NOT BE ELIGIBLE TO PARTICIPATE
 19 IN A TRAFFIC SAFETY VIOLATOR COURSE AND HAVE CERTAIN MISDEMEANOR
 20 TRAFFIC VIOLATIONS REMOVED FROM HIS DRIVING RECORD; TO AMEND
 21 SECTION 63-9-17, MISSISSIPPI CODE OF 1972, TO DECREASE THE PERIOD
 22 OF TIME THAT A COURT HAS AFTER CONVICTION OF A PERSON FOR
 23 VIOLATING A LAW REGULATING THE OPERATION OF VEHICLES TO SEND TO
 24 THE DEPARTMENT OF PUBLIC SAFETY AN ABSTRACT OF THE RECORD OF THE
 25 CASE; TO INCREASE FROM THREE TO TEN THE YEARS THAT THE DEPARTMENT
 26 OF PUBLIC SAFETY IS REQUIRED TO KEEP AND MAINTAIN A PERSON'S
 27 TRAFFIC VIOLATION RECORDS; TO AMEND SECTIONS 63-1-19 AND 63-1-81,
 28 MISSISSIPPI CODE OF 1972, TO REQUIRE DRIVER'S LICENSE AND DRIVER'S
 29 PERMIT HOLDERS AND APPLICANTS TO NOTIFY THE DEPARTMENT OF PUBLIC
 30 SAFETY WHENEVER THERE IS A CHANGE IN THE ADDRESS OR NAME OF THE
 31 HOLDER OR APPLICANT; AND FOR RELATED PURPOSES.

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

33 **SECTION 1.** Section 63-1-7, Mississippi Code of 1972, is
 34 amended as follows:

35 63-1-7. No license issued pursuant to this article shall be
 36 required of:

37 (a) Any person while operating a motor vehicle for
 38 military purposes, if the person is a member of the United States
 39 Armed Forces or Reserves on active duty, a member of the National
 40 Guard on active duty or full-time National Guard duty, a National

41 Guard military technician, or participating in part-time National
42 Guard training.

43 (b) Any nonresident person who has in his immediate
44 possession a valid license to drive a motor vehicle on the
45 highways of his home state or country, issued to him by the proper
46 authorities of his home state or country, or of any nonresident
47 person whose home state or country does not require the licensing
48 of a person to operate a motor vehicle on the highways but does
49 require him to be duly registered. Such person being eighteen
50 (18) years of age or older may operate a motor vehicle in the
51 state for a period of sixty (60) days without securing a license.
52 However, any nonresident person operating a motor vehicle in this
53 state shall be subject to all the provisions of this article,
54 except as specified above.

55 (c) Any person while operating a road roller, road
56 machinery or any farm tractor or implement of husbandry
57 temporarily drawn, moved or propelled on the highways.

58 (d) Any engineer or motorman using tracks for road or
59 street, though used in the streets.

60 (e) Any person while operating an electric personal
61 assistive mobility device as defined in Section 63-3-103.

62 **SECTION 2.** Section 63-1-78, Mississippi Code of 1972, is
63 amended as follows:

64 63-1-78. (1) Except as otherwise specifically provided in
65 this article, the provisions of this article shall be inapplicable
66 to the following persons and vehicles:

67 (a) Those operators of a farm vehicle which is:

68 (i) Controlled by a farmer and operated by the
69 farmer, an employee of the farmer or a member of the farmer's
70 family;

71 (ii) Used to transport agricultural products,
72 aquacultural products, unprocessed forestry products, farm

73 machinery or farm supplies, or any combination thereof, to or from
74 a farm;

75 (iii) Not used in the operations of a common or
76 contract motor carrier; and

77 (iv) Used within one hundred fifty (150) miles of
78 the person's farm;

79 (b) Those persons who drive or operate emergency or
80 fire equipment which is necessary to the preservation of life or
81 property or the execution of emergency governmental functions;

82 (c) Commercial motor vehicles when operated in pursuit
83 of military purposes by * * * active duty military personnel;
84 members of the military reserves; members of the National Guard on
85 active duty, including personnel on full-time National Guard duty,
86 personnel on part-time training and National Guard military
87 technicians; and active duty United States Coast Guard personnel;

88 (d) Those persons who hold a valid Class D commercial
89 driver's license as provided under Section 63-1-82; and

90 (e) Any vehicle which is used strictly and exclusively
91 to transport personal possessions or family members for
92 nonbusiness purposes.

93 (2) The provisions of subsection (1) of this section shall
94 not be construed as exempting any person or vehicle from the
95 provisions of the Highway Safety Patrol and Driver's License Law
96 of 1938, the Mississippi Implied Consent Law or the provisions of
97 any other laws of this state.

98 **SECTION 3.** Section 63-1-75, Mississippi Code of 1972, is
99 amended as follows:

100 63-1-75. The following words, as used in this article, shall
101 have the meanings herein ascribed unless the context clearly
102 requires otherwise:

103 (a) "Alcohol" means any substance containing any form
104 of alcohol including, but not limited to, ethanol, methanol,
105 propanol and isopropanol;

106 (b) "Alcohol concentration" means the concentration of
107 alcohol in a person's blood, breath or urine. When expressed as a
108 percentage it means:

109 (i) The number of grams of alcohol per one hundred
110 (100) milliliters of blood; or

111 (ii) The number of grams of alcohol per two
112 hundred ten (210) liters of breath; or

113 (iii) The number of grams of alcohol per
114 sixty-seven (67) milliliters of urine;

115 (c) "Commercial driver's license" means a license
116 issued in accordance with the requirements of this article to an
117 individual which authorizes the individual to drive a Class A, B
118 or C commercial motor vehicle;

119 (d) "Commercial Driver License Information System"
120 means the information system established pursuant to the CMVSA to
121 serve as a clearinghouse for locating information related to the
122 licensing and identification of commercial motor vehicle drivers;

123 (e) "Commercial driver instruction permit" means a
124 permit issued pursuant to Section 63-1-79;

125 (f) "Commercial motor vehicle" means a motor vehicle
126 designed or used to transport passengers or property:

127 (i) If the vehicle has a gross vehicle weight
128 rating of twenty-six thousand one (26,001) or more pounds, or such
129 lesser rating as determined by applicable federal regulations; or

130 (ii) If the vehicle is designed to transport
131 sixteen (16) or more passengers, including the driver; or

132 (iii) If the vehicle is transporting hazardous
133 materials and is required to be placarded in accordance with the
134 Hazardous Materials Transportation Act, 49 Code of Federal
135 Regulations, Part 172, Subpart F;

136 (g) "Controlled substance" means any substance so
137 classified under Section 102(6) of the Controlled Substances Act,
138 21 USCS 802(6), and includes all substances listed on Schedules I

139 through V of 21 Code of Federal Regulations, Part 1308, as they
140 may be revised from time to time, any substance so classified
141 under Sections 41-29-113 through 41-29-121, Mississippi Code of
142 1972, and any other substance which would impair a person's
143 ability to operate a motor vehicle;

144 (h) "Conviction" means an unvacated adjudication of
145 guilt, or a determination that a person has violated or failed to
146 comply with the law in a court of original jurisdiction or an
147 authorized administrative tribunal, an unvacated forfeiture of
148 bail or collateral deposited to secure the person's appearance in
149 court, a plea of guilty or nolo contendere accepted by the court
150 or tribunal, the payment of a fine or court cost, or violation of
151 a condition of release without bail, regardless of whether or not
152 the penalty is rebated, suspended or probated;

153 (i) "Disqualification" means a withdrawal of the
154 privilege to drive a commercial motor vehicle, including a
155 suspension, cancellation or revocation of a person's driver's
156 license or driving privileges and an out-of-service order;

157 (j) "Drive" means to drive, operate or be in physical
158 control of a motor vehicle;

159 (k) "Driver" means any person who drives, operates or
160 is in physical control of a commercial motor vehicle or who is
161 required to hold a commercial driver's license;

162 (l) "Driver's license" means a license issued by a
163 state to an individual which authorizes the individual to drive a
164 motor vehicle;

165 (m) "Felony" means any offense under state or federal
166 law that is punishable by death or imprisonment for a term of one
167 (1) year or more;

168 (n) "Foreign jurisdiction" means any jurisdiction other
169 than a state or the United States;

170 (o) "Gross vehicle weight rating" means the value
171 specified by the manufacturer as the maximum loaded weight of a

172 single or a combination (articulated) vehicle, or registered gross
173 weight, whichever is greater. The gross vehicle weight rating of
174 a combination (articulated) vehicle (commonly referred to as the
175 "gross combination weight rating") is the gross vehicle weight
176 rating of the power unit plus the gross vehicle weight rating of
177 the towed unit or units;

178 (p) "Hazardous materials" has the meaning as that found
179 in Section 103 of the Hazardous Materials Transportation Act, 49
180 Appx. USCS 1801 et seq.;

181 (q) "Motor vehicle" means every vehicle which is
182 self-propelled and every vehicle which is propelled by electric
183 power obtained from overhead trolley wires but not operated upon
184 rails, except vehicles moved solely by human power, motorized
185 wheelchairs and electric assistive mobility devices, as such term
186 is defined in Section 63-3-103;

187 (r) "Nonresident commercial driver's license" means a
188 commercial driver's license issued by a state to an individual who
189 resides in a foreign jurisdiction;

190 (s) "Out-of-service order" means a temporary
191 prohibition against driving a commercial motor vehicle;

192 (t) "Serious traffic violation" means a conviction when
193 operating a * * * motor vehicle of:

194 (i) Excessive speeding, involving a single charge
195 of any speed fifteen (15) miles per hour or more above the posted
196 speed limit or such other minimum speed above the posted speed
197 limit as prescribed by the CMVSA or federal regulations
198 promulgated pursuant thereto;

199 (ii) Reckless driving as defined under state or
200 local law;

201 (iii) Improper or erratic traffic lane changes;

202 (iv) Following the vehicle ahead too closely;

203 (v) A violation of any state or local law related
204 to motor vehicle traffic control resulting in a fatal accident

205 other than a parking violation, a vehicle weight violation or a
206 vehicle defect; * * *

207 (vi) Operating a commercial motor vehicle without
208 obtaining a commercial driver's license;

209 (vii) Operating a commercial motor vehicle without
210 a commercial driver's license in the driver's possession;

211 (viii) Operating a commercial motor vehicle
212 without the proper class of commercial driver's license and/or
213 endorsements for the specific vehicle group being operated or for
214 the passengers or type of cargo being transported; and

215 (ix) Any other violation of a state or local law
216 which the United States Secretary of Transportation determines by
217 regulation to be a serious traffic violation under the CMVSA;

218 (u) "State" means a state of the United States and the
219 District of Columbia;

220 (v) "United States" means the fifty (50) states and the
221 District of Columbia.

222 **SECTION 4.** Section 63-1-83, Mississippi Code of 1972, is
223 amended as follows:

224 63-1-83. (1) From and after April 1, 1992, it shall be a
225 violation of this article and the Commissioner of Public Safety
226 shall suspend for a period of one (1) year the commercial driver's
227 license and commercial motor vehicle driving privileges of any
228 person whom he determines to have committed a first violation of:

229 (a) Driving a commercial motor vehicle for which a
230 commercial driver instruction permit or commercial driver's
231 license is required under this article while under the influence
232 of alcohol or a controlled substance;

233 (b) Driving a commercial motor vehicle for which a
234 commercial driver instruction permit or commercial driver's
235 license is required under this article while the alcohol
236 concentration of the person's blood, breath or urine is four
237 one-hundredths percent (.04%) or more;

238 (c) Knowingly and willfully leaving the scene of an
239 accident involving a commercial motor vehicle for which a
240 commercial driver instruction permit or commercial driver's
241 license is required under this article, if the vehicle was driven
242 by such person;

243 (d) Using a commercial motor vehicle for which a
244 commercial driver instruction permit or commercial driver's
245 license is required under this article in the commission of any
246 felony as defined in this article; * * *

247 (e) Refusing to submit to a test to determine the
248 driver's alcohol concentration while driving a commercial motor
249 vehicle for which a commercial driver instruction permit or
250 commercial driver's license is required under this article; or

251 (f) Operating a commercial motor vehicle without a
252 commercial driver's license or without the proper type of license
253 or endorsement.

254 If any of the violations in subsection (1) of this section
255 occurred while transporting hazardous materials required to be
256 placarded under the Hazardous Materials Transportation Act, the
257 commissioner shall suspend the commercial driver's license of such
258 person for a period of three (3) years.

259 (2) The Commissioner of Public Safety shall suspend the
260 commercial driver's license of a person for life, or such lesser
261 minimum period of time as shall be required under applicable
262 federal law or regulations, if a person is determined to have
263 committed two (2) or more of the violations specified in
264 subsection (1) of this section or any combination of such
265 violations arising from two (2) or more separate incidents. The
266 provisions of this subsection (2) shall apply only to violations
267 occurring on or after April 1, 1992.

268 (3) The Commissioner of Public Safety shall suspend for life
269 the commercial driver's license of any person who uses a
270 commercial motor vehicle for which a commercial driver instruction

271 permit or commercial driver's license is required under this
272 article in the commission of any felony involving the manufacture,
273 distribution or dispensing of a controlled substance, or
274 possession with intent to manufacture, distribute or dispense a
275 controlled substance. The provisions of this subsection (3) shall
276 apply only to violations occurring on or after April 1, 1992.

277 (4) The Commissioner of Public Safety shall suspend for a
278 period of sixty (60) days the commercial driver's license of any
279 person convicted of two (2) serious traffic violations, or one
280 hundred twenty (120) days if convicted of three (3) serious
281 traffic violations, committed in a * * * motor vehicle * * *
282 arising from separate incidents occurring within a period of three
283 (3) years. * * *

284 (5) In addition to the reasons specified in this section for
285 suspension of the commercial driver's license, the Commissioner of
286 Public Safety shall be authorized to suspend the commercial
287 driver's license of any person for being out of compliance with an
288 order for support, as defined in Section 93-11-153. The procedure
289 for suspension of a commercial driver's license for being out of
290 compliance with an order for support, and the procedure for the
291 reissuance or reinstatement of a commercial driver's license
292 suspended for that purpose, and the payment of any fees for the
293 reissuance or reinstatement of a commercial driver's license
294 suspended for that purpose, shall be governed by Section 93-11-157
295 or 93-11-163, as the case may be. If there is any conflict
296 between any provision of Section 93-11-157 or 93-11-163 and any
297 provision of this article, the provisions of Section 93-11-157 or
298 93-11-163, as the case may be, shall control.

299 **SECTION 5.** Section 63-1-82, Mississippi Code of 1972, as
300 amended by House Bill No. 1041, 2005 Regular Session, is amended
301 as follows:

302 63-1-82. (1) Each commercial driver's license shall be
303 marked "Commercial Driver's License" or "CDL" and shall, to the

304 maximum extent practicable, be tamper proof. Each such license
305 shall include thereon, but not be limited to, the following
306 information:

307 (a) The name and residential address of the licensee;

308 (b) The licensee's color photograph;

309 (c) A physical description of the licensee, including
310 his sex, height, weight, eye and hair color;

311 (d) The licensee's date of birth;

312 (e) Except for a nonresident commercial driver's
313 license, the licensee's social security number; and any other
314 identifying information which the Commissioner of Public Safety,
315 by rule or regulation, determines necessary and essential for the
316 purposes of complying with the provisions of this article;

317 (f) The licensee's signature;

318 (g) The class or type of commercial motor vehicle or
319 vehicles which the licensee is authorized to drive together with
320 any endorsements or restrictions;

321 (h) The name of this state; and

322 (i) The dates between which the license is valid.

323 (2) The holder of a valid commercial driver's license may
324 drive all vehicles in the class for which that license is issued
325 and all lesser classes of vehicles, including any vehicle for
326 which an operator's license or commercial driver's license issued
327 under Article 1 of this chapter authorizes a person to drive.
328 However, vehicles which require an endorsement may not be driven
329 unless the proper endorsement appears on the license.

330 (3) Commercial driver's licenses may be issued with the
331 following classifications:

332 (a) Class A. Any combination of vehicles with a gross
333 vehicle weight rating of twenty-six thousand one (26,001) pounds
334 or more, provided the gross vehicle weight rating of the vehicle
335 or vehicles being towed is in excess of ten thousand (10,000)
336 pounds;

337 (b) Class B. Any single vehicle with a gross vehicle
338 weight rating of twenty-six thousand one (26,001) pounds or more,
339 and any such vehicle towing a vehicle not in excess of ten
340 thousand (10,000) pounds;

341 (c) Class C. Any single vehicle with a gross vehicle
342 weight rating of less than twenty-six thousand one (26,001) pounds
343 or any such vehicle towing a vehicle with a gross vehicle weight
344 rating not in excess of ten thousand (10,000) pounds comprising:

345 (i) Vehicles designed to transport sixteen (16) or
346 more passengers, including the driver; and

347 (ii) Vehicles used in the transportation of
348 hazardous materials which are required to be placarded under the
349 Hazardous Materials Transportation Act, 49 USCS Appx., Section
350 1801 et seq.; and

351 (d) Class D. All other vehicles or combination of
352 vehicles which are not included in Class A, Class B or Class C and
353 for which a commercial license is required to be issued as
354 provided by Section 63-1-43, Mississippi Code of 1972.

355 (4) Commercial driver's licenses may be issued with the
356 following endorsements and restrictions:

357 (a) "H" authorizes the driver to drive a vehicle
358 transporting hazardous materials;

359 (b) "K" restricts the driver to vehicles not equipped
360 with air brakes;

361 (c) "T" authorizes driving double and triple trailers;

362 (d) "P" authorizes driving vehicles carrying
363 passengers;

364 (e) "N" authorizes driving tank vehicles;

365 (f) "X" represents a combination of hazardous materials
366 and tank vehicle endorsements;

367 (g) "S" authorizes driving school buses * * * operated
368 for the purpose of transporting pupils to and from school or to
369 school-related functions * * *; and

370 (h) "F" restricts driving which requires a commercial
371 license to intrastate driving only.

372 (5) Before issuing a commercial driver's license, the
373 Commissioner of Public Safety shall obtain driving record
374 information through the Commercial Driver License Information
375 System.

376 (6) Within ten (10) days after issuing a commercial driver's
377 license, the Commissioner of Public Safety shall notify the
378 Commercial Driver License Information System of that fact,
379 providing all information required to ensure identification of the
380 person.

381 (7) The fee charged for the issuance of each original and
382 each renewal of a Class A, B or C commercial driver's license
383 shall be Thirty-eight Dollars (\$38.00) plus the applicable
384 photograph fee. In addition, a fee of Five Dollars (\$5.00) shall
385 be charged for each endorsement * * * entered on a commercial
386 driver's license under subsection (4) of this section. * * *

387 (8) If a commercial driver instruction permit or commercial
388 driver's license is lost or destroyed, or if the holder of a
389 commercial driver's license changes his name, mailing address or
390 residence, an application for a duplicate permit or license shall
391 be made as provided by Section 63-1-37, Mississippi Code of 1972.

392 (9) All commercial driver's licenses issued under the
393 provisions of this article shall be issued for a period of not
394 more than four (4) years and shall expire at midnight on the last
395 day of the licensee's month of birth.

396 (10) Every person applying for renewal of a commercial
397 driver's license shall complete the application form required by
398 Section 63-1-81, Mississippi Code of 1972, providing updated
399 information and required certifications and paying the appropriate
400 fees. If the applicant wishes to retain a hazardous materials
401 endorsement, the written test for a hazardous materials
402 endorsement must be taken and passed.

403 (11) A fee of Thirty-seven Dollars (\$37.00), plus actual
404 costs involved in conducting background record checks of
405 applicants before issuing renewal, transfer or upgrade of a
406 commercial driver's license with a hazardous material endorsement
407 for the purpose of determining that the applicant does not pose a
408 security threat warranting denial of such endorsement, shall be
409 charged in addition to all other fees for the issuance of each
410 original and each renewal of a Class A, B or C commercial driver's
411 license. The fees collected under this subsection shall be
412 deposited into a special fund in the State Treasury. Monies in
413 the fund may be expended, upon legislative appropriation, solely
414 for the purpose of paying administrative costs and expenses
415 incurred by the department in performing background checks.

416 (12) The Commissioner of Public Safety, by rule or
417 regulation, shall establish a driver's license photograph fee
418 which shall be the actual cost of the photograph rounded off to
419 the next highest dollar. Monies collected for the photograph fee
420 shall be deposited into a special photograph fee account which the
421 Department of Public Safety shall use to pay the actual cost of
422 producing the photographs. Any monies collected in excess of the
423 actual costs of the photography shall be deposited to the General
424 Fund of the State of Mississippi.

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

427 63-9-11. (1) It is a misdemeanor for any person to violate
428 any of the provisions of Chapter 3, 5 or 7 of this title, unless
429 such violation is by such chapters or other law of this state
430 declared to be a felony.

431 (2) Every person convicted of a misdemeanor for a violation
432 of any of the provisions of such chapters for which another
433 penalty is not provided shall for first conviction thereof be
434 punished by a fine of not more than One Hundred Dollars (\$100.00)
435 or by imprisonment for not more than ten (10) days; for a second

436 such conviction within one (1) year thereafter such person shall
437 be punished by a fine of not more than Two Hundred Dollars
438 (\$200.00) or by imprisonment for not more than twenty (20) days or
439 by both such fine and imprisonment; upon a third or subsequent
440 conviction within one (1) year after the first conviction such
441 person shall be punished by a fine of not more than Five Hundred
442 Dollars (\$500.00) or by imprisonment for not more than six (6)
443 months or by both such fine and imprisonment.

444 (3) (a) Whenever a person not covered under Section 63-1-55
445 is charged with a misdemeanor violation of any of the provisions
446 of Chapter 3, 5 or 7 of this title, the person shall be eligible
447 to participate in not less than four (4) hours of a traffic safety
448 violator course and thereby have no record of the violation on the
449 person's driving record if the person meets all the following
450 conditions:

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

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

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

462 (iv) The defendant files an affidavit with the
463 court stating that this is the defendant's first conviction in
464 more than three (3) years or since October 1, 2002, whichever is
465 the lesser period of time; the defendant is not in the process of
466 taking a course under this section; and the defendant has not
467 completed a course under this section that is not yet reflected on
468 the defendant's public or nonpublic driving record.

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

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

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

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

482 2. The court shall withhold acceptance of the
483 plea and defer sentencing in order to allow the eligible defendant
484 ninety (90) days to successfully complete not less than four (4)
485 hours of a court-approved traffic safety violator course at the
486 cost of the defendant. Upon proof of successful completion
487 entered with the court, the court shall dismiss the prosecution
488 and direct that the case be closed. The only record maintained
489 thereafter shall be the nonpublic record required under Section
490 63-9-17 solely for use by the courts in determining eligibility
491 under this subsection (3).

492 (ii) If a person pleads not guilty to a
493 misdemeanor offense under any of the provisions of Chapter 3, 5 or
494 7 of this title but is convicted, and the person meets all the
495 requirements under paragraph (a) of this subsection, upon request
496 of the defendant the court shall suspend the sentence for such
497 offense to allow the defendant forty-five (45) days to
498 successfully complete not less than four (4) hours of a
499 court-approved traffic safety violator course at his own cost.
500 Upon successful completion by the defendant of the course, the
501 court shall set the conviction aside, dismiss the prosecution and

502 direct that the case be closed. The court on its own motion shall
503 expunge the record of the conviction, and the only record
504 maintained thereafter shall be the nonpublic record required under
505 Section 63-9-17 solely for use by the courts in determining an
506 offender's eligibility under this subsection (3).

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

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

518 (e) A court shall inform a defendant making inquiry or
519 entering a personal appearance of the provisions of this
520 subsection (3).

521 (f) The Department of Public Safety shall cause notice
522 of the provisions of this subsection (3) to be available on its
523 official web site.

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

527 (h) No employee of the sentencing court shall
528 personally benefit from a defendant's attendance of a traffic
529 safety violator course. Violation of this prohibition shall
530 result in termination of employment.

531 (i) The additional fee of Ten Dollars (\$10.00) imposed
532 under this subsection (3) shall be forwarded by the court clerk to
533 the State Treasurer for deposit into a special fund created in the
534 State Treasury. Monies in the special fund may be expended by the

535 Department of Public Safety, upon legislative appropriation, to
536 defray the costs incurred by the department in maintaining the
537 nonpublic record of persons who are eligible for participation
538 under the provisions of this subsection (3).

539 (4) The provisions of subsection (3) of this section shall
540 not be applicable to violation of any of the provisions of Chapter
541 3, 5 or 7 of this title committed by the holder of a commercial
542 driver's license issued under the Mississippi Commercial Driver's
543 License Law, regardless of whether the violation occurred while
544 operating a commercial motor vehicle or some other motor vehicle.

545 **SECTION 7.** Section 63-9-17, Mississippi Code of 1972, is
546 amended as follows:

547 63-9-17. (1) Every court shall keep a full record of the
548 proceedings of every case in which a person is charged with any
549 violation of law regulating the operation of vehicles on the
550 highways, streets or roads of this state.

551 (2) Unless otherwise sooner required by law, within five (5)
552 days after the conviction of a person upon a charge of violating
553 any law regulating the operation of vehicles on the highways,
554 streets or roads of this state, every court in which such
555 conviction was had shall prepare and immediately forward to the
556 Department of Public Safety an abstract of the record of said
557 court covering the case in which said person was so convicted,
558 which abstract must be certified by the person so authorized to
559 prepare the same to be true and correct.

560 (3) Said abstract must be made upon a form approved by the
561 Department of Public Safety, and shall include the name and
562 address of the party charged, the registration number of the
563 vehicle involved, the nature of the offense, the date of hearing,
564 the plea, the judgment, and if the fine was satisfied by
565 prepayment or appearance bond forfeiture, and the amount of the
566 fine or forfeiture, as the case may be.

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

571 (5) Every court shall also forward a like report to the
572 Department of Public Safety after the satisfactory completion by a
573 defendant of an approved traffic safety violator course under
574 Section 63-9-11, and the department shall make and maintain a
575 private, nonpublic record to be kept for a period of ten (10)
576 years. The record shall be solely for the use of the courts in
577 determining eligibility under Section 63-9-11, as a first-time
578 offender, and shall not constitute a criminal record for the
579 purpose of private or administrative inquiry. Reports forwarded
580 to the Department of Public Safety under this subsection shall be
581 exempt from the provisions of the Mississippi Public Records Act
582 of 1983.

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

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

593 **SECTION 8.** Section 63-1-19, Mississippi Code of 1972, is
594 amended as follows:

595 63-1-19. (1) (a) Every applicant for a license or permit
596 issued pursuant to this article, or for renewal of such license or
597 permit, shall file an application for such license, permit or
598 renewal, on a form provided by the Department of Public Safety,
599 with the commissioner or an official license examiner of the

600 department. All persons not holding valid, unexpired licenses
601 issued in this state shall be required to secure an original
602 license, except those specifically exempted from licensing under
603 Section 63-1-7. The application shall state the name, date of
604 birth, the social security number of the applicant unless the
605 applicant is not a United States citizen and does not possess a
606 social security number issued by the United States government,
607 sex, race, color of eyes, color of hair, weight, height and
608 residence address, and whether or not the applicant's privilege to
609 drive has been suspended or revoked at any time, and, if so, when,
610 by whom, and for what cause, and whether any previous application
611 by him has been denied, and whether he has any physical defects
612 which would interfere with his operating a motor vehicle safely
613 upon the highways.

614 (b) Every applicant for an original license shall show
615 proof of domicile in this state. The commissioner shall
616 promulgate any rules and regulations necessary to enforce this
617 requirement and shall prescribe the means by which an applicant
618 for an original license may show domicile in this state. Proof of
619 domicile shall not be required of applicants under eighteen (18)
620 years of age.

621 (c) Unless the applicant is not a United States citizen
622 and does not possess a social security number issued by the United
623 States government, each application or filing made under this
624 section shall include the social security number(s) of the
625 applicant in accordance with Section 93-11-64, Mississippi Code of
626 1972.

627 (2) No person who is illegally in the United States or
628 Mississippi shall be issued a license. The application of a
629 person who is not a United States citizen and who does not possess
630 a social security number issued by the United States government
631 shall state the name, date of birth, sex, race, color of eyes,
632 color of hair, weight, height and residence address, and whether

633 or not the applicant's privilege to drive has been suspended or
634 revoked at any time, and, if so, when, by whom, and for what
635 cause, and whether any previous application by him has been
636 denied, and whether he has any physical defects which would
637 interfere with his operating a motor vehicle safely upon the
638 highways. The commissioner shall adopt and promulgate such rules
639 and regulations as he deems appropriate requiring additional
640 documents, materials, information or physical evidence to be
641 provided by the applicant as may be necessary to establish the
642 identity of the applicant and that the applicant is not present in
643 the United States or the State of Mississippi illegally.

644 (3) Whenever a person who has applied for or who has been
645 issued a license or permit under this article moves from the
646 address listed in the application or on the permit or license, or
647 whenever the name of a licensee changes by marriage or otherwise,
648 such person, within thirty (30) days thereafter, shall notify, in
649 writing, the Department of Public Safety, Driver Services
650 Division, and inform the department of his or her previous address
651 and new address and of his or her former name and new name. The
652 department shall not change the name of a licensee or permittee on
653 his or her license or permit unless the applicant appears in
654 person at an office of the department and provides a certified
655 copy of his or her marriage license, court order, birth
656 certificate or divorce decree changing the licensee's or
657 permittee's name.

658 (4) (a) Any male who is at least eighteen (18) years of age
659 but less than twenty-six (26) years of age and who applies for a
660 permit or license or a renewal of a permit or license under this
661 chapter shall be registered in compliance with the requirements of
662 Section 3 of the Military Selective Service Act, 50 USCS Appx 451
663 et seq., as amended.

664 (b) The department shall forward in an electronic
665 format the necessary personal information of the applicant to the

666 Selective Service System. The applicant's submission of the
667 application shall serve as an indication that the applicant either
668 has already registered with the Selective Service System or that
669 he is authorizing the department to forward to the Selective
670 Service System the necessary information for registration. The
671 commissioner shall notify the applicant on, or as a part of, the
672 application that his submission of the application will serve as
673 his consent to registration with the Selective Service System, if
674 so required. The commissioner also shall notify any male
675 applicant under the age of eighteen (18) that he will be
676 registered upon turning age eighteen (18) as required by federal
677 law.

678 **SECTION 9.** Section 63-1-81, Mississippi Code of 1972, is
679 amended as follows:

680 63-1-81. (1) Each application for a commercial driver's
681 license or commercial driver instruction permit shall include the
682 following:

- 683 (a) The full name and the current mailing and
684 residential address of the applicant;
- 685 (b) A physical description of the applicant, including
686 sex, height, weight, eye and hair color;
- 687 (c) The applicant's date of birth;
- 688 (d) The applicant's social security number unless the
689 application is for a nonresident commercial driver's license;
- 690 (e) The applicant's signature;
- 691 (f) The applicant's color photograph;
- 692 (g) All certifications required by applicable federal
693 regulations;
- 694 (h) Any other information which the Commissioner of
695 Public Safety, by rule or regulation, determines necessary and
696 essential; and
- 697 (i) The consent of the applicant to release driving
698 record information.

699 (2) Whenever a person who has applied for or who has been
700 issued a license or permit under this article moves from the
701 address listed in the application or on the permit or license, or
702 whenever the name of a licensee changes by marriage or otherwise,
703 such person, within thirty (30) days thereafter, shall notify, in
704 writing, the Department of Public Safety, Driver Services
705 Division, and inform the department of his or her previous address
706 and new address and of his or her former name and new name. The
707 department shall not change the name of a licensee or permittee on
708 his or her license or permit unless the applicant appears in
709 person at an office of the department and provides a certified
710 copy of his or her marriage license, court order, birth
711 certificate or divorce decree changing the licensee's or
712 permittee's name.

713 (3) The fee for accepting and processing an application for
714 a commercial driver instruction permit shall be Ten Dollars
715 (\$10.00).

716 (4) The fee for accepting and processing an application for
717 a Class A, B or C commercial driver's license shall be Twenty-five
718 Dollars (\$25.00).

719 (5) No person who has been a resident of this state for
720 thirty (30) days may drive a commercial motor vehicle under the
721 authority of a commercial driver's license issued by another
722 jurisdiction. Any violation of this subsection shall be
723 punishable as provided by Section 63-1-69, Mississippi Code of
724 1972.

725 (6) Any person who knowingly falsifies information or
726 certifications required under subsection (1) of this section shall
727 be subject to the penalties prescribed in Section 63-1-59,
728 Mississippi Code of 1972, and shall be subject to suspension of
729 his commercial driver's instruction permit or commercial driver's
730 license in accordance with Section 63-1-51, Mississippi Code of
731 1972.

732 (7) Each application or filing made under this section shall
733 include the social security number(s) of the applicant in
734 accordance with Section 93-11-64, Mississippi Code of 1972.

735 (8) (a) Any male who is at least eighteen (18) years of age
736 but less than twenty-six (26) years of age and who applies for a
737 commercial license or renewal of a commercial license under this
738 article shall be registered in compliance with the requirements of
739 Section 3 of the Military Selective Service Act, 50 USCS Appx 451
740 et seq., as amended.

741 (b) The department shall forward in an electronic
742 format the necessary personal information of the applicant to the
743 Selective Service System. The applicant's submission of the
744 application shall serve as an indication that the applicant either
745 has already registered with the Selective Service System or that
746 he is authorizing the department to forward to the Selective
747 Service System the necessary information for registration. The
748 commissioner shall notify the applicant on, or as a part of, the
749 application that his submission of the application will serve as
750 his consent to registration with the Selective Service System, if
751 so required. The commissioner also shall notify any male
752 applicant under the age of eighteen (18) that he will be
753 registered upon turning age eighteen (18) as required by federal
754 law.

755 **SECTION 10.** This act shall take effect and be in force from
756 and after July 1, 2005.