

By: Senator(s) Posey

To: Judiciary, Division B

SENATE BILL NO. 2702

1 AN ACT TO AMEND SECTION 49-4-31, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE A LAW ENFORCEMENT OFFICER TO REQUEST THAT A PERSON
 3 INVOLVED IN A HUNTING ACCIDENT IN WHICH HIS USE OF A WEAPON
 4 RESULTS IN INJURY OR DEATH TO SUBMIT TO A CHEMICAL TEST FOR
 5 DETERMINING THE PRESENCE OF ALCOHOL; TO PROVIDE THAT A PERSON WHO
 6 HUNTS IN THIS STATE IS DEEMED TO GIVE IMPLIED CONSENT TO SUCH
 7 TESTS IF THE PERSON IS INVOLVED IN A HUNTING ACCIDENT IN WHICH THE
 8 USE OF A WEAPON RESULTS IN SERIOUS INJURY OR DEATH TO ANOTHER
 9 PERSON; TO REQUIRE SUCH TESTS TO MEET THE REQUIREMENTS UNDER THE
 10 IMPLIED CONSENT LAW; TO PROVIDE FOR SUSPENSION OF THE HUNTING
 11 LICENSE IF THE PERSON IS INTOXICATED; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 49-4-31, Mississippi Code of 1972, is
 14 amended as follows:

15 49-4-31. (1) Upon notification by a duly authorized law
 16 enforcement officer of a death or injury that occurred by use of a
 17 weapon by any person engaged in hunting, a hunter safety officer
 18 of the department shall immediately initiate an investigation of
 19 the incident and shall submit a report to the executive director
 20 of the department. The executive director shall submit the report
 21 to the commission. If the commission determines there is probable
 22 cause to believe that the accident occurred as a result of
 23 culpable negligence on the part of the person causing the death or
 24 injury, the commission shall notify the district attorney of the
 25 circuit court district in which the incident occurred.

26 (2) A law enforcement officer may request that the person
 27 who causes serious bodily injury or death to another person by use
 28 of a weapon submit to a chemical test for determining the presence
 29 of alcohol or other drugs.

30 **SECTION 2.** (1) Any person who exercises the privilege of
 31 hunting in this state shall be deemed to have given implied

32 consent to a chemical test of his blood, breath, urine or other
33 bodily substance for the purpose of determining the presence of
34 alcohol or any other drug, if the person is involved in a hunting
35 accident in which his use of a weapon caused an injury or death to
36 a person.

37 (2) For the chemical analysis of the person's blood, breath,
38 urine or other bodily substance to be considered valid under this
39 section, the analysis must have been performed according to the
40 requirements established in Section 63-11-19.

41 (3) When a person undergoes a chemical test at the request
42 of a law enforcement officer, only a physician, registered nurse,
43 laboratory technician, emergency medical technician, or other
44 qualified person may draw blood for the purpose of determining the
45 alcohol or drug content therein. This limitation shall not apply
46 to the taking of breath or urine specimens. No physician,
47 registered nurse, laboratory technician, emergency medical
48 technician or other qualified person shall incur any civil
49 liability as a result of the medically proper taking of the blood
50 specimens, when requested by a law enforcement officer.

51 **SECTION 3.** (1) A person involved in a hunting accident in
52 which his use of a weapon caused a serious bodily injury or death
53 to another person and who has an alcohol concentration of eight
54 one-hundredths percent (.08%) or more based on specified levels in
55 Section 63-11-30 or is under the influence of any drug or
56 controlled substance shall have his hunting privileges revoked or
57 suspended for two (2) years, in addition to any other punishment
58 imposed. The chemical test must have been administered within
59 three (3) hours after the hunting accident.

60 (2) If a person refuses to submit to such test at the
61 request of a law enforcement officer, then none shall be given.
62 The hunting privileges of a person who refuses such test shall be
63 suspended for four (4) years. The law enforcement officer shall
64 inform the person that his refusal to submit to a test is

65 admissible in court and that his hunting privileges will be
66 revoked or suspended for four (4) years.

67 (3) The results of such tests shall be admissible in any
68 civil or criminal action arising out of the hunting accident in
69 which the person was involved.

70 (4) Any person whose hunting privileges are revoked or
71 suspended under this section shall be required to complete an
72 approved hunter education course before such hunting privileges
73 may be restored.

74 **SECTION 4.** (1) Hunting accident reports shall not be a
75 public record nor made available for public distribution, except
76 as otherwise provided by law.

77 (2) Upon written request of any person involved in the
78 hunting accident, the representative of his estate, the surviving
79 spouse or surviving next of kin, the commission may disclose to
80 the requesting party any information contained in the report.

81 (3) The commission shall charge a minimum reproduction fee
82 of Ten Dollars (\$10.00) plus any other costs associated with the
83 request for the report.

84 **SECTION 5.** This act shall take effect and be in force from
85 and after July 1, 2005.