

HOUSE BILL NO. 1268

1 AN ACT TO BRING FORWARD SECTIONS 63-11-1, 63-11-3, 63-11-5,  
 2 63-11-7, 63-11-8, 63-11-9, 63-11-11, 63-11-13, 63-11-15, 63-11-17,  
 3 63-11-19, 63-11-21, 63-11-23, 63-11-25, 63-11-26, 63-11-27,  
 4 63-11-30, 63-11-31, 63-11-32, 63-11-37, 63-11-39, 63-11-40,  
 5 63-11-41, 63-11-45, 63-11-47, 63-11-49, 63-11-51 AND 63-11-53,  
 6 MISSISSIPPI CODE OF 1972, WHICH SET FORTH THE MISSISSIPPI IMPLIED  
 7 CONSENT LAW, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 63-11-1, Mississippi Code of 1972, is  
 10 brought forward as follows:

11 63-11-1. This chapter may be cited as the Mississippi  
 12 Implied Consent Law.

13 **SECTION 2.** Section 63-11-3, Mississippi Code of 1972, is  
 14 brought forward as follows:

15 63-11-3. The following words and phrases shall have the  
 16 meaning ascribed herein, unless the context clearly indicates  
 17 otherwise:

18 (a) "Driving privilege" or "privilege" means both the  
 19 driver's license of those licensed in Mississippi and the driving  
 20 privilege of unlicensed residents and the privilege of  
 21 nonresidents, licensed or not, the purpose of this section being  
 22 to make unlicensed and nonresident drivers subject to the same  
 23 penalties as licensed residents.

24 (b) "Community service" means work, projects or  
 25 services for the benefit of the community assigned, supervised and  
 26 recorded by appropriate public officials.

27 (c) "Chemical test" means an analysis of a person's  
 28 blood, breath, urine or other bodily substance for the

29 determination of the presence of alcohol or any other substance  
30 which may impair a person's mental or physical ability.

31 (d) "Refusal to take breath, urine and/or blood test"  
32 means an individual declining to take a chemical test, and/or the  
33 failure to provide an adequate breath sample as required by the  
34 Implied Consent Law when requested by a law enforcement officer.

35 (e) "Alcohol concentration" means either grams of  
36 alcohol per one hundred (100) milliliters of blood or grams of  
37 alcohol per two hundred ten (210) liters of breath.

38 (f) "Qualified person to withdraw blood" means any  
39 person who has been trained to withdraw blood in the course of  
40 their employment duties including but not limited to laboratory  
41 personnel, phlebotomist, emergency medical personnel, nurses and  
42 doctors.

43 (g) "Victim impact panel" means a two-hour seminar in  
44 which victims of DUI accidents relate their experiences following  
45 the accident to persons convicted under the Implied Consent Law.  
46 Paneling programs shall be based on a model developed by Mothers  
47 Against Drunk Driving (MADD) victim panel or equivalent program  
48 approved by the court.

49 (h) "Booked" means the administrative step taken after  
50 the arrested person is brought to the police station, which  
51 involves entry of the person's name, the crime for which the  
52 arrest was made, and other relevant facts on the police docket,  
53 and which may also include photographing, fingerprinting, and the  
54 like.

55 **SECTION 3.** Section 63-11-5, Mississippi Code of 1972, is  
56 brought forward as follows:

57 63-11-5. (1) Any person who operates a motor vehicle upon  
58 the public highways, public roads and streets of this state shall  
59 be deemed to have given his consent, subject to the provisions of  
60 this chapter, to a chemical test or tests of his breath for the  
61 purpose of determining alcohol concentration. A person shall give

62 his consent to a chemical test or tests of his breath, blood or  
63 urine for the purpose of determining the presence in his body of  
64 any other substance which would impair a person's ability to  
65 operate a motor vehicle. The test or tests shall be administered  
66 at the direction of any highway patrol officer, any sheriff or his  
67 duly commissioned deputies, any police officer in any incorporated  
68 municipality, any national park ranger, any officer of a  
69 state-supported institution of higher learning campus police force  
70 if such officer is exercising this authority in regard to a  
71 violation that occurred on campus property, or any security  
72 officer appointed and commissioned pursuant to the Pearl River  
73 Valley Water Supply District Security Officer Law of 1978 if such  
74 officer is exercising this authority in regard to a violation that  
75 occurred within the limits of the Pearl River Valley Water Supply  
76 District, when such officer has reasonable grounds and probable  
77 cause to believe that the person was driving or had under his  
78 actual physical control a motor vehicle upon the public streets or  
79 highways of this state while under the influence of intoxicating  
80 liquor or any other substance which had impaired such person's  
81 ability to operate a motor vehicle. No such test shall be  
82 administered by any person who has not met all the educational and  
83 training requirements of the appropriate course of study  
84 prescribed by the Board on Law Enforcement Officers Standards and  
85 Training; provided, however, that sheriffs and elected chiefs of  
86 police shall be exempt from such educational and training  
87 requirement. No such tests shall be given by any officer or any  
88 agency to any person within fifteen (15) minutes of consumption of  
89 any substance by mouth.

90 (2) If the officer has reasonable grounds and probable cause  
91 to believe such person to have been driving a motor vehicle upon  
92 the public highways, public roads, and streets of this state while  
93 under the influence of intoxicating liquor, such officer shall  
94 inform such person that his failure to submit to such chemical

95 test or tests of his breath shall result in the suspension of his  
96 privilege to operate a motor vehicle upon the public streets and  
97 highways of this state for a period of ninety (90) days in the  
98 event such person has not previously been convicted of a violation  
99 of Section 63-11-30, or, for a period of one (1) year in the event  
100 of any previous conviction of such person under Section 63-11-30.

101 (3) The traffic ticket, citation or affidavit issued to a  
102 person arrested for a violation of this chapter shall conform to  
103 the requirements of Section 63-9-21(3)(b).

104 (4) Any person arrested under the provisions of this chapter  
105 shall be informed that he has the right to telephone for the  
106 purpose of requesting legal or medical assistance immediately  
107 after being booked for a violation under this chapter.

108 (5) The Commissioner of Public Safety and the State Crime  
109 Laboratory created pursuant to Section 45-1-17 are hereby  
110 authorized from and after the passage of this section to adopt  
111 procedures, rules and regulations, applicable to the Implied  
112 Consent Law.

113 **SECTION 4.** Section 63-11-7, Mississippi Code of 1972, is  
114 brought forward as follows:

115 63-11-7. If any person be unconscious or dead as a result of  
116 an accident, or unconscious at the time of arrest or apprehension  
117 or when the test is to be administered, or is otherwise in a  
118 condition rendering him incapable of refusal, such person shall be  
119 subjected to a blood test for the purpose of determining the  
120 alcoholic content of his blood as provided in this chapter, if the  
121 arresting officer has reasonable grounds to believe the person to  
122 have been driving a motor vehicle upon the public highways, public  
123 roads and streets of this state while under the influence of  
124 intoxicating liquor. The results of such test or tests, however,  
125 shall not be used in evidence against such person in any court or  
126 before any regulatory body without the consent of the person so  
127 tested, or, if deceased, such person's legal representative.

128 However, refusal of release of evidence so obtained by such  
129 officer or agency will in criminal actions against such person  
130 result in the suspension of his or her driver's license for a  
131 period of ninety (90) days as provided in this chapter for  
132 conscious and capable persons who have refused to submit to such  
133 test. Blood may only be withdrawn under the provisions of Section  
134 63-11-9. It is the intent of this chapter that blood samples  
135 taken under this section shall be used exclusively for statistical  
136 evaluation of accident causes with safeguards established to  
137 protect the identity of such victims and to extend the rights of  
138 privileged communications to those engaged in taking, handling and  
139 evaluating such statistical evidence.

140 **SECTION 5.** Section 63-11-8, Mississippi Code of 1972, is  
141 brought forward as follows:

142 63-11-8. (1) The operator of any motor vehicle involved in  
143 an accident that results in a death shall be tested for the  
144 purpose of determining the alcohol content or drug content of such  
145 operator's blood, breath or urine. Any blood withdrawal required  
146 by this section shall be administered by any qualified person and  
147 shall be administered within two (2) hours after such accident, if  
148 possible. The exact time of the accident, to the extent possible,  
149 and the exact time of the blood withdrawal shall be recorded.

150 (2) If any investigating law enforcement officer has  
151 reasonable grounds to believe that a person is the operator of a  
152 motor vehicle involved in an accident that has resulted in a  
153 death, it shall be such officer's duty to see that a chemical test  
154 is administered as required by this section.

155 (3) The results of a test administered pursuant to this  
156 section may be used as evidence in any court or administrative  
157 hearing without the consent of the person so tested.

158 (4) No person may refuse to submit to a chemical test  
159 required under the provisions of this section.

160 (5) Analysis of blood or urine to determine alcohol or drug  
161 content pursuant to this section shall be conducted by the  
162 Mississippi Crime Laboratory or a laboratory whose methods and  
163 procedures have been approved by the Mississippi Crime Laboratory.

164 **SECTION 6.** Section 63-11-9, Mississippi Code of 1972, is  
165 brought forward as follows:

166 63-11-9. Under Section 63-11-7, any qualified person acting  
167 at the request of a law enforcement officer may withdraw blood for  
168 the purpose of determining the alcoholic content therein. This  
169 limitation shall not apply to the taking of breath or urine  
170 specimens.

171 **SECTION 7.** Section 63-11-11, Mississippi Code of 1972, is  
172 brought forward as follows:

173 63-11-11. If the test given under the provisions of this  
174 chapter is a chemical test of urine, the person tested shall be  
175 given such privacy in the taking of the urine specimen as will  
176 insure the accuracy of the specimen and, at the same time,  
177 maintain the dignity of the individual involved.

178 **SECTION 8.** Section 63-11-13, Mississippi Code of 1972, is  
179 brought forward as follows:

180 63-11-13. The person tested may, at his own expense, have a  
181 physician, registered nurse, clinical laboratory technologist or  
182 clinical laboratory technician or any other qualified person of  
183 his choosing administer a test, approved by the State Crime  
184 Laboratory created pursuant to Section 45-1-17, in addition to any  
185 other test, for the purpose of determining the amount of alcohol  
186 in his blood at the time alleged as shown by chemical analysis of  
187 his blood, breath or urine. The failure or inability to obtain an  
188 additional test by such arrested person shall not preclude the  
189 admissibility in evidence of the test taken at the direction of a  
190 law enforcement officer.

191 **SECTION 9.** Section 63-11-15, Mississippi Code of 1972, is  
192 brought forward as follows:

193           63-11-15. Upon the written request of the person tested, or  
194 his attorney, full information concerning the test taken at the  
195 direction of the law enforcement officer shall be made available  
196 to him or to his attorney.

197           **SECTION 10.** Section 63-11-17, Mississippi Code of 1972, is  
198 brought forward as follows:

199           63-11-17. No qualified person, hospital, clinic or funeral  
200 home shall incur any civil or criminal liability as the result of  
201 the proper administration of a test or chemical analysis of a  
202 person's breath, blood or urine when requested in writing by a law  
203 enforcement officer to administer such a test or perform such  
204 chemical analysis.

205           **SECTION 11.** Section 63-11-19, Mississippi Code of 1972, is  
206 brought forward as follows:

207           63-11-19. A chemical analysis of the person's breath, blood  
208 or urine, to be considered valid under the provisions of this  
209 section, shall have been performed according to methods approved  
210 by the State Crime Laboratory created pursuant to Section 45-1-17  
211 and the Commissioner of Public Safety and performed by an  
212 individual possessing a valid permit issued by the State Crime  
213 Laboratory for making such analysis. The State Crime Laboratory  
214 and the Commissioner of Public Safety are authorized to approve  
215 satisfactory techniques or methods, to ascertain the  
216 qualifications and competence of individuals to conduct such  
217 analyses, and to issue permits which shall be subject to  
218 termination or revocation at the discretion of the State Crime  
219 Laboratory. The State Crime Laboratory shall not approve the  
220 permit required herein for any law enforcement officer other than  
221 a member of the State Highway Patrol, a sheriff or his deputies, a  
222 city policeman, an officer of a state-supported institution of  
223 higher learning campus police force, a security officer appointed  
224 and commissioned pursuant to the Pearl River Valley Water Supply  
225 District Security Officer Law of 1978, a national park ranger, a

226 national park ranger technician, a military policeman stationed at  
227 a United States military base located within this state other than  
228 a military policeman of the Army or Air National Guard or of  
229 Reserve Units of the Army, Air Force, Navy or Marine Corps, a  
230 marine law enforcement officer employed by the Department of  
231 Marine Resources, or a conservation officer employed by the  
232 Mississippi Department of Wildlife, Fisheries and Parks. The  
233 permit given a conservation officer or a marine law enforcement  
234 officer shall authorize such officer to administer tests only for  
235 violations of Sections 59-23-1 through 59-23-7.

236 The State Crime Laboratory shall make periodic, but not less  
237 frequently than quarterly, tests of the methods, machines or  
238 devices used in making chemical analysis of a person's breath as  
239 shall be necessary to ensure the accuracy thereof, and shall issue  
240 its certificate to verify the accuracy of the same.

241 **SECTION 12.** Section 63-11-21, Mississippi Code of 1972, is  
242 brought forward as follows:

243 63-11-21. If a person refuses upon the request of a law  
244 enforcement officer to submit to a chemical test of his breath  
245 designated by the law enforcement agency as provided in Section  
246 63-11-5, none shall be given, but the officer shall at that point  
247 demand the driver's license of the person, who shall deliver his  
248 driver's license into the hands of the officer. If a person  
249 refuses to submit to a chemical test under the provisions of this  
250 chapter, the person shall be informed by the law enforcement  
251 officer that the refusal to submit to the test shall subject him  
252 to arrest and punishment consistent with the penalties prescribed  
253 in Section 63-11-30 for persons submitting to the test. The  
254 officer shall give the driver a receipt for his license on forms  
255 prescribed and furnished by the Commissioner of Public Safety.  
256 The officer shall forward the driver's license together with a  
257 sworn report to the Commissioner of Public Safety stating that he  
258 had reasonable grounds and probable cause to believe the person

259 had been driving a motor vehicle upon the public highways, public  
260 roads and streets of this state while under the influence of  
261 intoxicating liquor, or any other substance which may impair a  
262 person's mental or physical ability, stating such grounds, and  
263 that the person had refused to submit to the chemical test of his  
264 breath upon request of the law enforcement officer.

265         **SECTION 13.** Section 63-11-23, Mississippi Code of 1972, is  
266 brought forward as follows:

267         63-11-23. (1) The Commissioner of Public Safety, or his  
268 authorized agent, shall review the sworn report by a law  
269 enforcement officer as provided in Section 63-11-21. If upon such  
270 review the Commissioner of Public Safety, or his authorized agent,  
271 finds (a) that the law enforcement officer had reasonable grounds  
272 and probable cause to believe the person had been driving a motor  
273 vehicle upon the public highways, public roads and streets of this  
274 state while under the influence of intoxicating liquor or any  
275 other substance which may impair a person's mental or physical  
276 ability; (b) that he refused to submit to the test upon request of  
277 the officer; and (c) that the person was informed that his license  
278 and/or driving privileges would be suspended or denied if he  
279 refused to submit to the chemical test, then the Commissioner of  
280 Public Safety, or his authorized agent, shall give notice to the  
281 licensee that his license or permit to drive, or any nonresident  
282 operating privilege, shall be suspended thirty (30) days after the  
283 date of such notice for a period of ninety (90) days in the event  
284 such person has not previously been convicted of a violation of  
285 Section 63-11-30, or, for a period of one (1) year in the event of  
286 any previous conviction of such person under Section 63-11-30. In  
287 the event the commissioner or his authorized agent determines that  
288 the license should not be suspended, he shall return the license  
289 or permit to the licensee.

290         The notice of suspension shall be in writing and given in the  
291 manner provided in Section 63-1-52(2)(a).

292           (2) If the chemical testing of a person's breath indicates  
293 the blood alcohol concentration was eight one-hundredths percent  
294 (.08%) or more for persons who are above the legal age to purchase  
295 alcoholic beverages under state law, or two one-hundredths percent  
296 (.02%) or more for persons who are below the legal age to purchase  
297 alcoholic beverages under state law, based upon grams of alcohol  
298 per one hundred (100) milliliters of blood or grams of alcohol per  
299 two hundred ten (210) liters of breath as shown by a chemical  
300 analysis of such person's blood, or breath, or urine, the  
301 arresting officer shall seize the license and give the driver a  
302 receipt for his license on forms prescribed by the Commissioner of  
303 Public Safety and shall promptly forward the license together with  
304 a sworn report to the Commissioner of Public Safety. The receipt  
305 given a person as provided herein shall be valid as a permit to  
306 operate a motor vehicle for a period of thirty (30) days in order  
307 that the defendant be processed through the court having original  
308 jurisdiction and a final disposition had. If the defendant  
309 requests a trial within thirty (30) days and such trial is not  
310 commenced within thirty (30) days, then the court shall determine  
311 if the delay in the trial is the fault of the defendant or his  
312 counsel. If the court finds that such is not the fault of the  
313 defendant or his counsel, then the court shall order the  
314 defendant's driving privileges to be extended until such time as  
315 the defendant is convicted. If a receipt or permit to drive  
316 issued pursuant to the provisions of this subsection expires  
317 without a trial having been requested as provided for in this  
318 subsection, then the Commissioner of Public Safety or his  
319 authorized agent shall suspend the license or permit to drive or  
320 any nonresident operating privilege for the applicable period of  
321 time as provided for in subsection (1) of this section.

322           (3) If the person is a resident without a license or permit  
323 to operate a motor vehicle in this state, the Commissioner of  
324 Public Safety, or his authorized agent, shall deny to the person

325 the issuance of a license or permit for a period of one (1) year  
326 beginning thirty (30) days after the date of notice of such  
327 suspension.

328 (4) It shall be the duty of the county prosecuting attorney,  
329 an attorney employed under the provisions of Section 19-3-49, or  
330 in the event there is no such prosecuting attorney for the county,  
331 the duty of the district attorney to represent the state in any  
332 hearing held under the provisions of Section 63-11-25, under the  
333 provisions of Section 63-11-37(2) or under the provisions of  
334 Section 63-11-30(2)(a).

335 **SECTION 14.** Section 63-11-25, Mississippi Code of 1972, is  
336 brought forward as follows:

337 63-11-25. If the forfeiture, suspension or denial of  
338 issuance is sustained by the Commissioner of Public Safety, or his  
339 duly authorized agent pursuant to subsection (1) of Section  
340 63-11-23, upon such hearing, the person aggrieved may file within  
341 ten (10) days after the rendition of such decision a petition in  
342 the circuit or county court having original jurisdiction of the  
343 violation for review of such decision and such hearing upon review  
344 shall proceed as a trial de novo before the court without a jury.  
345 Provided further, that no such party shall be allowed to exercise  
346 the driving privilege while any such appeal is pending.

347 **SECTION 15.** Section 63-11-26, Mississippi Code of 1972, is  
348 brought forward as follows:

349 63-11-26. When the Commissioner of Public Safety, or his  
350 authorized agent, shall suspend the driver's license or permit to  
351 drive of a person or shall deny the issuance of a license or  
352 permit to a person as provided in Section 63-11-30, the person  
353 shall not be entitled to any judicial review of or appeal from the  
354 actions of the commissioner. A final conviction under said  
355 section shall finally adjudicate the privilege of such convicted  
356 person to operate a motor vehicle upon the public highways, public  
357 roads and streets of this state.

358           **SECTION 16.** Section 63-11-27, Mississippi Code of 1972, is  
359 brought forward as follows:

360           63-11-27. When it has been finally determined under the  
361 procedures of Sections 63-11-21 through 63-11-25, that a  
362 nonresident's privilege to operate a motor vehicle in this state  
363 has been suspended, the commissioner, or his duly authorized  
364 agent, shall give information in writing of the action taken to  
365 the motor vehicle administrator of the state of the person's  
366 residence and of any state in which he has a license.

367           **SECTION 17.** Section 63-11-30, Mississippi Code of 1972, is  
368 brought forward as follows:

369           63-11-30. (1) It is unlawful for any person to drive or  
370 otherwise operate a vehicle within this state who (a) is under the  
371 influence of intoxicating liquor; (b) is under the influence of  
372 any other substance which has impaired such person's ability to  
373 operate a motor vehicle; (c) has an alcohol concentration of eight  
374 one-hundredths percent (.08%) or more for persons who are above  
375 the legal age to purchase alcoholic beverages under state law, or  
376 two one-hundredths percent (.02%) or more for persons who are  
377 below the legal age to purchase alcoholic beverages under state  
378 law, in the person's blood based upon grams of alcohol per one  
379 hundred (100) milliliters of blood or grams of alcohol per two  
380 hundred ten (210) liters of breath as shown by a chemical analysis  
381 of such person's breath, blood or urine administered as authorized  
382 by this chapter; (d) is under the influence of any drug or  
383 controlled substance, the possession of which is unlawful under  
384 the Mississippi Controlled Substances Law; or (e) has an alcohol  
385 concentration of four one-hundredths percent (.04%) or more in the  
386 person's blood, based upon grams of alcohol per one hundred (100)  
387 milliliters of blood or grams of alcohol per two hundred ten (210)  
388 liters of breath as shown by a chemical analysis of such person's  
389 blood, breath or urine, administered as authorized by this chapter  
390 for persons operating a commercial motor vehicle.

391           (2) (a) Except as otherwise provided in subsection (3),  
392 upon conviction of any person for the first offense of violating  
393 subsection (1) of this section where chemical tests provided for  
394 under Section 63-11-5 were given, or where chemical test results  
395 are not available, such person shall be fined not less than Two  
396 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars  
397 (\$1,000.00), or imprisoned for not more than forty-eight (48)  
398 hours in jail or both; and the court shall order such person to  
399 attend and complete an alcohol safety education program as  
400 provided in Section 63-11-32. The court may substitute attendance  
401 at a victim impact panel instead of forty-eight (48) hours in  
402 jail. In addition, the Department of Public Safety, the  
403 Commissioner of Public Safety or his duly authorized agent shall,  
404 after conviction and upon receipt of the court abstract, suspend  
405 the driver's license and driving privileges of such person for a  
406 period of not less than ninety (90) days and until such person  
407 attends and successfully completes an alcohol safety education  
408 program as herein provided; provided, however, in no event shall  
409 such period of suspension exceed one (1) year. Commercial driving  
410 privileges shall be suspended as provided in Section 63-1-83.

411           The circuit court having jurisdiction in the county in which  
412 the conviction was had or the circuit court of the person's county  
413 of residence may reduce the suspension of driving privileges under  
414 Section 63-11-30(2)(a) if the denial of which would constitute a  
415 hardship on the offender, except that no court may issue such an  
416 order reducing the suspension of driving privileges under this  
417 subsection until thirty (30) days have elapsed from the effective  
418 date of the suspension. Hardships shall only apply to first  
419 offenses under Section 63-11-30(1), and shall not apply to second,  
420 third or subsequent convictions of any person violating subsection  
421 (1) of this section. A reduction of suspension on the basis of  
422 hardship shall not be available to any person who refused to  
423 submit to a chemical test upon the request of a law enforcement

424 officer as provided in Section 63-11-5. When the petition is  
425 filed, such person shall pay to the circuit clerk of the court  
426 where the petition is filed a fee of Fifty Dollars (\$50.00), which  
427 shall be deposited into the State General Fund to the credit of a  
428 special fund hereby created in the State Treasury to be used for  
429 alcohol or drug abuse treatment and education, upon appropriation  
430 by the Legislature. This fee shall be in addition to any other  
431 court costs or fees required for the filing of petitions.

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

440 The order entered under the provisions of this subsection  
441 shall contain the specific grounds upon which hardship was  
442 determined, and shall order the petitioner to attend and complete  
443 an alcohol safety education program as provided in Section  
444 63-11-32. A certified copy of such order shall be delivered to  
445 the Commissioner of Public Safety by the clerk of the court within  
446 five (5) days of the entry of the order. The certified copy of  
447 such order shall contain information which will identify the  
448 petitioner, including, but not limited to, the name, mailing  
449 address, street address, social security number and driver's  
450 license number of the petitioner.

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

456 (i) Continue his employment;

457                   (ii) Continue attending school or an educational  
458 institution; or

459                   (iii) Obtain necessary medical care.

460           Proof of the hardship shall be established by clear and  
461 convincing evidence which shall be supported by independent  
462 documentation.

463           (b) Except as otherwise provided in subsection (3),  
464 upon any second conviction of any person violating subsection (1)  
465 of this section, the offenses being committed within a period of  
466 five (5) years, such person shall be fined not less than Six  
467 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred  
468 Dollars (\$1,500.00), shall be imprisoned not less than five (5)  
469 days nor more than one (1) year and sentenced to community service  
470 work for not less than ten (10) days nor more than one (1) year.  
471 The minimum penalties shall not be suspended or reduced by the  
472 court and no prosecutor shall offer any suspension or sentence  
473 reduction as part of a plea bargain. Except as may otherwise be  
474 provided by paragraph (d) of this subsection, the Commissioner of  
475 Public Safety shall suspend the driver's license of such person  
476 for two (2) years. Suspension of a commercial driver's license  
477 shall be governed by Section 63-1-83. Upon any second conviction  
478 as described in this paragraph, the court shall ascertain whether  
479 the defendant is married, and if the defendant is married shall  
480 obtain the name and address of the defendant's spouse; the clerk  
481 of the court shall submit this information to the Department of  
482 Public Safety. Further, the commissioner shall notify in writing,  
483 by certified mail, return receipt requested, the owner of the  
484 vehicle and the spouse, if any, of the person convicted of the  
485 second violation of the possibility of forfeiture of the vehicle  
486 if such person is convicted of a third violation of subsection (1)  
487 of this section. The owner of the vehicle and the spouse shall be  
488 considered notified under this paragraph if the notice is  
489 deposited in the United States mail and any claim that the notice

490 was not in fact received by the addressee shall not affect a  
491 subsequent forfeiture proceeding.

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

495 (c) Except as otherwise provided in subsection (3), for  
496 any third or subsequent conviction of any person violating  
497 subsection (1) of this section, the offenses being committed  
498 within a period of five (5) years, such person shall be guilty of  
499 a felony and fined not less than Two Thousand Dollars (\$2,000.00)  
500 nor more than Five Thousand Dollars (\$5,000.00), shall serve not  
501 less than one (1) year nor more than five (5) years in the custody  
502 of the Department of Corrections; provided, however, that for any  
503 such offense which does not result in serious injury or death to  
504 any person, any sentence of incarceration may be served in the  
505 county jail rather than in the State Penitentiary at the  
506 discretion of the circuit court judge. The minimum penalties  
507 shall not be suspended or reduced by the court and no prosecutor  
508 shall offer any suspension or sentence reduction as part of a plea  
509 bargain. The law enforcement agency shall seize the vehicle  
510 operated by any person charged with a third or subsequent  
511 violation of subsection (1) of this section, if such convicted  
512 person was driving the vehicle at the time the offense was  
513 committed. Such vehicle may be forfeited in the manner provided  
514 by Sections 63-11-49 through 63-11-53. Except as may otherwise be  
515 provided by paragraph (e) of this subsection, the Commissioner of  
516 Public Safety shall suspend the driver's license of such person  
517 for five (5) years. The suspension of a commercial driver's  
518 license shall be governed by Section 63-1-83.

519 (d) Except as otherwise provided in subsection (3), any  
520 person convicted of a second violation of subsection (1) of this  
521 section shall receive an in-depth diagnostic assessment, and if as  
522 a result of such assessment is determined to be in need of

523 treatment of his alcohol and/or drug abuse problem, such person  
524 shall successfully complete treatment of his alcohol and/or drug  
525 abuse problem at a program site certified by the Department of  
526 Mental Health. Such person shall be eligible for reinstatement of  
527 his driving privileges upon the successful completion of such  
528 treatment after a period of one (1) year after such person's  
529 driver's license is suspended. Each person who receives a  
530 diagnostic assessment shall pay a fee representing the cost of  
531 such assessment. Each person who participates in a treatment  
532 program shall pay a fee representing the cost of such treatment.

533 (e) Except as otherwise provided in subsection (3), any  
534 person convicted of a third or subsequent violation of subsection  
535 (1) of this section shall receive an in-depth diagnostic  
536 assessment, and if as a result of such assessment is determined to  
537 be in need of treatment of his alcohol and/or drug abuse problem,  
538 such person shall enter an alcohol and/or drug abuse program  
539 approved by the Department of Mental Health for treatment of such  
540 person's alcohol and/or drug abuse problem. If such person  
541 successfully completes such treatment, such person shall be  
542 eligible for reinstatement of his driving privileges after a  
543 period of three (3) years after such person's driver's license is  
544 suspended.

545 (f) The Department of Public Safety shall promulgate  
546 rules and regulations for the use of interlock ignition devices as  
547 provided in Section 63-11-31 and consistent with the provisions  
548 therein. Such rules and regulations shall provide for the  
549 calibration of such devices and shall provide that the cost of the  
550 use of such systems shall be borne by the offender. The  
551 Department of Public Safety shall approve which vendors of such  
552 devices shall be used to furnish such systems.

553 (3) (a) This subsection shall be known and may be cited as  
554 Zero Tolerance for Minors. The provisions of this subsection  
555 shall apply only when a person under the age of twenty-one (21)

556 years has a blood alcohol concentration two one-hundredths percent  
557 (.02%) or more, but lower than eight one-hundredths percent  
558 (.08%). If such person's blood alcohol concentration is eight  
559 one-hundredths percent (.08%) or more, the provisions of  
560 subsection (2) shall apply.

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

571 The court in the county in which the conviction was had or  
572 the circuit court of the person's county of residence may reduce  
573 the suspension of driving privileges under Section 63-11-30(2)(a)  
574 if the denial of which would constitute a hardship on the  
575 offender, except that no court may issue such an order reducing  
576 the suspension of driving privileges under this subsection until  
577 thirty (30) days have elapsed from the effective date of the  
578 suspension. Hardships shall only apply to first offenses under  
579 Section 63-11-30(1), and shall not apply to second, third or  
580 subsequent convictions of any person violating subsection (1) of  
581 this section. A reduction of suspension on the basis of hardship  
582 shall not be available to any person who refused to submit to a  
583 chemical test upon the request of a law enforcement officer as  
584 provided in Section 63-11-5. When the petition is filed, such  
585 person shall pay to the circuit clerk of the court where the  
586 petition is filed a fee of Fifty Dollars (\$50.00), which shall be  
587 deposited into the State General Fund to the credit of a special  
588 fund hereby created in the State Treasury to be used for alcohol

589 or drug abuse treatment and education, upon appropriation by the  
590 Legislature. This fee shall be in addition to any other court  
591 costs or fees required for the filing of petitions.

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

600 The order entered under the provisions of this subsection  
601 shall contain the specific grounds upon which hardship was  
602 determined, and shall order the petitioner to attend and complete  
603 an alcohol safety education program as provided in Section  
604 63-11-32. A certified copy of such order shall be delivered to  
605 the Commissioner of Public Safety by the clerk of the court within  
606 five (5) days of the entry of the order. The certified copy of  
607 such order shall contain information which will identify the  
608 petitioner, including, but not limited to, the name, mailing  
609 address, street address, social security number and driver's  
610 license number of the petitioner.

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

- 616 (i) Continue his employment;
- 617 (ii) Continue attending school or an educational  
618 institution; or
- 619 (iii) Obtain necessary medical care.

620 Proof of the hardship shall be established by clear and  
621 convincing evidence which shall be supported by independent  
622 documentation.

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

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

636 (e) Any person under the age of twenty-one (21) years  
637 convicted of a second violation of subsection (1) of this section,  
638 may have the period that his driver's license is suspended reduced  
639 if such person receives an in-depth diagnostic assessment, and as  
640 a result of such assessment is determined to be in need of  
641 treatment of his alcohol and/or drug abuse problem and  
642 successfully completes treatment of his alcohol and/or drug abuse  
643 problem at a program site certified by the Department of Mental  
644 Health. Such person shall be eligible for reinstatement of his  
645 driving privileges upon the successful completion of such  
646 treatment after a period of six (6) months after such person's  
647 driver's license is suspended. Each person who receives a  
648 diagnostic assessment shall pay a fee representing the cost of  
649 such assessment. Each person who participates in a treatment  
650 program shall pay a fee representing the cost of such treatment.

651 (f) Any person under the age of twenty-one (21) years  
652 convicted of a third or subsequent violation of subsection (1) of

653 this section shall complete treatment of an alcohol and/or drug  
654 abuse program at a site certified by the Department of Mental  
655 Health.

656 (g) The court shall have the discretion to rule that a  
657 first offense of this subsection by a person under the age of  
658 twenty-one (21) years shall be nonadjudicated. Such person shall  
659 be eligible for nonadjudication only once. The Department of  
660 Public Safety shall maintain a confidential registry of all cases  
661 which are nonadjudicated as provided in this paragraph. A judge  
662 who rules that a case is nonadjudicated shall forward such ruling  
663 to the Department of Public Safety. Judges and prosecutors  
664 involved in implied consent violations shall have access to the  
665 confidential registry for the purpose of determining  
666 nonadjudication eligibility. A record of a person who has been  
667 nonadjudicated shall be maintained for five (5) years or until  
668 such person reaches the age of twenty-one (21) years. Any person  
669 whose confidential record has been disclosed in violation of this  
670 paragraph shall have a civil cause of action against the person  
671 and/or agency responsible for such disclosure.

672 (4) In addition to the other penalties provided in this  
673 section, every person refusing a law enforcement officer's request  
674 to submit to a chemical test of his breath as provided in this  
675 chapter, or who was unconscious at the time of a chemical test and  
676 refused to consent to the introduction of the results of such test  
677 in any prosecution, shall suffer an additional suspension of  
678 driving privileges as follows:

679 The Commissioner of Public Safety or his authorized agent  
680 shall suspend the driver's license or permit to drive or deny the  
681 issuance of a license or permit to such person as provided for  
682 first, second and third or subsequent offenders in subsection (2)  
683 of this section. Such suspension shall be in addition to any  
684 suspension imposed pursuant to subsection (1) of Section 63-11-23.  
685 The minimum suspension imposed under this subsection shall not be

686 reduced and no prosecutor is authorized to offer a reduction of  
687 such suspension as part of a plea bargain.

688 (5) Every person who operates any motor vehicle in violation  
689 of the provisions of subsection (1) of this section and who in a  
690 negligent manner causes the death of another or mutilates,  
691 disfigures, permanently disables or destroys the tongue, eye, lip,  
692 nose or any other limb, organ or member of another shall, upon  
693 conviction, be guilty of a separate felony for each such death,  
694 mutilation, disfigurement or other injury and shall be committed  
695 to the custody of the State Department of Corrections for a period  
696 of time of not less than five (5) years and not to exceed  
697 twenty-five (25) years for each such death, mutilation,  
698 disfigurement or other injury, and the imprisonment for the second  
699 or each subsequent conviction, in the discretion of the court,  
700 shall commence either at the termination of the imprisonment for  
701 the preceding conviction or run concurrently with the preceding  
702 conviction. Any person charged with causing the death of another  
703 as described in this subsection shall be required to post bail  
704 before being released after arrest.

705 (6) Upon conviction of any violation of subsection (1) of  
706 this section, the trial judge shall sign in the place provided on  
707 the traffic ticket, citation or affidavit stating that the person  
708 arrested either employed an attorney or waived his right to an  
709 attorney after having been properly advised. If the person  
710 arrested employed an attorney, the name, address and telephone  
711 number of the attorney shall be written on the ticket, citation or  
712 affidavit. The judge shall cause a copy of the traffic ticket,  
713 citation or affidavit, and any other pertinent documents  
714 concerning the conviction, to be sent to the Commissioner of  
715 Public Safety. A copy of the traffic ticket, citation or  
716 affidavit and any other pertinent documents, having been attested  
717 as true and correct by the Commissioner of Public Safety, or his  
718 designee, shall be sufficient proof of the conviction for purposes

719 of determining the enhanced penalty for any subsequent convictions  
720 of violations of subsection (1) of this section.

721 (7) Convictions in other states of violations for driving or  
722 operating a vehicle while under the influence of an intoxicating  
723 liquor or while under the influence of any other substance that  
724 has impaired the person's ability to operate a motor vehicle  
725 occurring after July 1, 1992, shall be counted for the purposes of  
726 determining if a violation of subsection (1) of this section is a  
727 first, second, third or subsequent offense and the penalty that  
728 shall be imposed upon conviction for a violation of subsection (1)  
729 of this section.

730 (8) For the purposes of determining how to impose the  
731 sentence for a second, third or subsequent conviction under this  
732 section, the indictment shall not be required to enumerate  
733 previous convictions. It shall only be necessary that the  
734 indictment state the number of times that the defendant has been  
735 convicted and sentenced within the past five (5) years under this  
736 section to determine if an enhanced penalty shall be imposed. The  
737 amount of fine and imprisonment imposed in previous convictions  
738 shall not be considered in calculating offenses to determine a  
739 second, third or subsequent offense of this section.

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

744 (10) Suspension of driving privileges for any person  
745 convicted of violations of Section 63-11-30(1) shall run  
746 consecutively.

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

749 **SECTION 18.** Section 63-11-31, Mississippi Code of 1972, is  
750 brought forward as follows:

751           63-11-31. (1) In addition to the penalties authorized for  
752 any second or subsequent convictions of Section 63-11-30, the  
753 court shall order either the impoundment or immobilization of all  
754 vehicles registered to the person convicted for the entire length  
755 of license suspension to commence upon conviction and persist  
756 during the entire driver's license suspension period. However, a  
757 county, municipality, sheriff's department or the Department of  
758 Public Safety shall not be required to keep, store, maintain,  
759 serve as a bailee or otherwise exercise custody over a motor  
760 vehicle impounded under the provisions of this section.

761           (2) (a) If other licensed drivers living in the household  
762 are dependent upon the vehicle subject to impoundment or  
763 immobilization for necessary transportation, the court may order  
764 the installation of an ignition interlock system on the vehicle in  
765 lieu of impoundment or immobilization. Additionally, the court  
766 shall order the installation of an ignition interlock system on  
767 all vehicles registered to the person for a minimum period of six  
768 (6) months to occur upon reinstatement of the person's driver's  
769 license if the court determines it is a vehicle to which the  
770 person has access and which should be subject to ignition  
771 interlock. The cost associated with impoundment, immobilization  
772 or ignition interlock shall be paid by the person convicted. For  
773 the purpose of this section, "ignition interlock device" means a  
774 device which connects a motor vehicle ignition system to a  
775 breath-alcohol analyzer and prevents a motor vehicle ignition from  
776 starting if the driver's blood alcohol level exceeds the  
777 calibrated setting on the device.

778           (b) A person may not tamper with, or in any way attempt  
779 to circumvent the immobilization or impoundment of vehicles  
780 ordered by the court. A violation of this paragraph (b) is a  
781 misdemeanor and upon conviction the violator shall be fined an  
782 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more

783 than One Thousand Dollars (\$1,000.00) or imprisoned for not more  
784 than one (1) year or both.

785 (c) When a court orders a person to operate only a  
786 motor vehicle which is equipped with a functioning ignition  
787 interlock device, the court shall establish a specific calibration  
788 setting no lower than two one-hundredths percent (.02%) nor more  
789 than four one-hundredths percent (.04%) blood alcohol  
790 concentration at which the ignition interlock device will prevent  
791 the motor vehicle from being started.

792 (d) Upon ordering use of an ignition interlock device,  
793 the court shall:

794 (i) State on the record the requirement for and  
795 the period of use of the device, and so notify the Department of  
796 Public Safety;

797 (ii) Direct that the records of the department  
798 reflect that the person may not operate a motor vehicle that is  
799 not equipped with an ignition interlock device;

800 (iii) Direct the department to attach or imprint a  
801 notation on the driver's license of any person restricted under  
802 this section stating that the person may operate only a motor  
803 vehicle equipped with an ignition interlock device;

804 (iv) Require proof of the installation of the  
805 device and periodic reporting by the person for verification of  
806 the proper operation of the device;

807 (v) Require the person to have the system  
808 monitored for proper use and accuracy by an entity approved by the  
809 department at least semiannually, or more frequently as the  
810 circumstances may require;

811 (vi) Require the person to pay the reasonable cost  
812 of leasing or buying, monitoring, and maintaining the device, and  
813 may establish a payment schedule therefore.

814 (e) (i) 1. A person prohibited under this section  
815 from operating a motor vehicle that is not equipped with an

816 ignition interlock device may not solicit or have another person  
817 attempt to start or start a motor vehicle equipped with such a  
818 device.

819                   2. A person may not attempt to start or start  
820 a motor vehicle equipped with an ignition interlock device for the  
821 purpose of providing an operable motor vehicle to a person who is  
822 prohibited under this section from operating a motor vehicle that  
823 is not equipped with an ignition interlock device.

824                   3. A person may not tamper with, or in any  
825 way attempt to circumvent, the operation of an ignition interlock  
826 device that has been installed in a motor vehicle.

827                   4. A person may not knowingly provide a motor  
828 vehicle not equipped with a functioning ignition interlock device  
829 to another person who the provider of such vehicle knows or should  
830 know is prohibited from operating a motor vehicle not equipped  
831 with an ignition interlock device.

832                   (ii) A violation of this paragraph (e) is a  
833 misdemeanor and upon conviction the violator shall be fined an  
834 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more  
835 than One Thousand Dollars (\$1,000.00) or imprisoned for not more  
836 than one (1) year, or both.

837                   (iii) A person shall not be in violation of this  
838 paragraph (e) if:

839                   1. The starting of a motor vehicle equipped  
840 with an ignition interlock device is done for the purpose of  
841 safety or mechanical repair of the device or the vehicle, and the  
842 person subject to the court order does not operate the vehicle; or

843                   2. The court finds that a person is required  
844 to operate a motor vehicle in the course and scope of the person's  
845 employment. If the vehicle is owned by the person's employer, the  
846 person may operate that vehicle during regular working hours for  
847 the purposes of employment without installation of an ignition  
848 interlock device if the employer has been notified of such driving

849 privilege restriction and if proof of that notification is kept  
850 with the vehicle at all times. This employment exemption does not  
851 apply if the business entity that owns the vehicle is owned or  
852 controlled by the person who is prohibited from operating the  
853 motor vehicle not equipped with an ignition interlock device.

854 (f) (i) A judge may also order that the vehicle owned  
855 or operated by a person or a family member of any person who  
856 committed a violation of Section 63-11-30 be equipped with an  
857 ignition interlock device for all or a portion of the time the  
858 driver's license of the operator of such vehicle is suspended or  
859 restricted pursuant to this section, if:

860 1. The operator of the vehicle used to  
861 violate Section 63-11-30 has at least one (1) prior conviction for  
862 driving a motor vehicle when such person's privilege to do so is  
863 cancelled, suspended or revoked as provided by Section 63-11-30;  
864 or

865 2. The driver's license of the operator of  
866 such vehicle was cancelled, suspended or revoked at the time of  
867 the violation of Section 63-11-30.

868 (ii) The provisions of this paragraph (f) shall  
869 not apply if the vehicle used to commit the violation of Section  
870 63-11-30, was, at the time of such violation, rented or stolen.

871 (3) The provisions of this section are supplemental to the  
872 provisions of Section 63-11-30.

873 **SECTION 19.** Section 63-11-32, Mississippi Code of 1972, is  
874 brought forward as follows:

875 63-11-32. (1) The State Department of Public Safety in  
876 conjunction with the Governor's Highway Safety Program, the State  
877 Board of Health, or any other state agency or institution shall  
878 develop and implement a driver improvement program for persons  
879 identified as first offenders convicted of driving while under the  
880 influence of intoxicating liquor or another substance which had

881 impaired such person's ability to operate a motor vehicle,  
882 including provision for referral to rehabilitation facilities.

883 (2) The program shall consist of a minimum of ten (10) hours  
884 of instruction. Each person who participates shall pay a nominal  
885 fee to defray a portion of the cost of the program.

886 (3) Such assessments as are collected under subsection (2)  
887 of Section 99-19-73 shall be deposited in a special fund hereby  
888 created in the State Treasury and designated the "Mississippi  
889 Alcohol Safety Education Program Fund." Monies deposited in such  
890 fund shall be expended by the Board of Trustees of State  
891 Institutions of Higher Learning as authorized and appropriated by  
892 the Legislature to defray the costs of the Mississippi Alcohol  
893 Safety Education Program operated pursuant to the provisions of  
894 this section. Any revenue in the fund which is not encumbered at  
895 the end of the fiscal year shall lapse to the General Fund.

896 (4) Such assessments as are collected under subsection (2)  
897 of Section 99-19-73 shall be deposited in a special fund hereby  
898 created in the State Treasury and designated the "Federal-State  
899 Alcohol Program Fund." Monies deposited in such fund shall be  
900 expended by the Department of Public Safety as authorized and  
901 appropriated by the Legislature to defray the costs of alcohol and  
902 traffic safety programs. Any revenue in the fund which is not  
903 encumbered at the end of the fiscal year shall lapse to the  
904 General Fund.

905 (5) Such assessments as are collected under subsection (2)  
906 of Section 99-19-73 shall be deposited in a special fund hereby  
907 created in the State Treasury and designated the "Mississippi  
908 Crime Laboratory Implied Consent Law Fund." Monies deposited in  
909 such fund shall be expended by the Department of Public Safety as  
910 authorized and appropriated by the Legislature to defray the costs  
911 of equipment replacement and operational support of the  
912 Mississippi Crime Laboratory relating to enforcement of the  
913 Implied Consent Law. Any revenue in the fund which is not

914 encumbered at the end of the fiscal year shall not lapse to the  
915 General Fund but shall remain in the fund.

916         **SECTION 20.** Section 63-11-37, Mississippi Code of 1972, is  
917 brought forward as follows:

918         63-11-37. It shall be the duty of the trial judge, upon  
919 conviction of any person under Section 63-11-30, to mail a true  
920 and correct copy of the traffic ticket, citation or affidavit  
921 evidencing the arrest that resulted in the conviction and a copy  
922 of the abstract of the court record within five (5) days to the  
923 Commissioner of Public Safety at Jackson, Mississippi. The trial  
924 judge in municipal and justice courts shall show on the docket and  
925 the trial judge in courts of record shall show on the minutes:

926             (a) Whether or not a chemical test was given and the  
927 results of the test;

928             (b) Where conviction was based in whole or in part on  
929 the results of such a test.

930         The abstract of the court record shall show the date of the  
931 conviction, the results of the test if there was one and the  
932 penalty so that a record of same may be made by the Department of  
933 Public Safety.

934         For the purposes of Section 63-11-30, a bond forfeiture shall  
935 operate as and be considered as a conviction.

936         **SECTION 21.** Section 63-11-39, Mississippi Code of 1972, is  
937 brought forward as follows:

938         63-11-39. The court having jurisdiction or the prosecutor  
939 shall not reduce any charge under this chapter to a lesser charge.

940         **SECTION 22.** Section 63-11-40, Mississippi Code of 1972, is  
941 brought forward as follows:

942         63-11-40. Any person whose driver's license, or driving  
943 privilege has been cancelled, suspended or revoked under the  
944 provisions of this chapter and who drives any motor vehicle upon  
945 the highways, streets or public roads of this state, while such  
946 license or privilege is cancelled, suspended or revoked, shall be

947 guilty of a misdemeanor and upon conviction shall be punished by  
948 imprisonment for not less than forty-eight (48) hours nor more  
949 than six (6) months, and fined not less than Two Hundred Dollars  
950 (\$200.00) nor more than Five Hundred Dollars (\$500.00).

951 The Commissioner of Public Safety shall suspend the driver's  
952 license or driving privilege of any person convicted under the  
953 provisions of this section for an additional six (6) months. Such  
954 suspension shall begin at the end of the original cancellation,  
955 suspension or revocation and run consecutively.

956 **SECTION 23.** Section 63-11-41, Mississippi Code of 1972, is  
957 brought forward as follows:

958 63-11-41. If a person under arrest refuses to submit to a  
959 chemical test under the provisions of this chapter, evidence of  
960 refusal shall be admissible in any criminal action under this  
961 chapter.

962 **SECTION 24.** Section 63-11-45, Mississippi Code of 1972, is  
963 brought forward as follows:

964 63-11-45. No coverage otherwise afforded under any policy of  
965 insurance shall be denied on the ground that any person has  
966 refused any test provided for by this chapter nor on the basis of  
967 the results of any such test. Any provision to such effect in any  
968 insurance policy hereinafter issued shall be void.

969 **SECTION 25.** Section 63-11-47, Mississippi Code of 1972, is  
970 brought forward as follows:

971 63-11-47. The Commissioner of Public Safety, acting in  
972 concert with the State Crime Laboratory created pursuant to  
973 Section 45-1-17, is hereby expressly authorized and directed to  
974 determine the equipment and supplies which are adequate and  
975 necessary from both a medical and law enforcement standpoint for  
976 administration of this chapter. The Commissioner of Public  
977 Safety, upon receiving such recommendation from the State Crime  
978 Laboratory, shall recommend an equipment standard for such  
979 equipment to the State Fiscal Management Board. The State Fiscal

980 Management Board, using such a uniform standard for said  
981 equipment, shall advertise its intention of purchasing said  
982 equipment by one (1) publication in at least one (1) newspaper  
983 having general circulation in the State of Mississippi at least  
984 ten (10) days before the purchase of such equipment and supplies,  
985 and the advertisement shall clearly and distinctly describe the  
986 articles to be purchased, and shall receive sealed bids thereon  
987 which shall be opened in public at a time and place to be  
988 specified in the advertisement.

989 The State Fiscal Management Board shall accept the lowest and  
990 best bid for said equipment and supplies; in its discretion, it  
991 may reject any and all bids submitted. The lowest and best bid  
992 for said equipment and supplies accepted by the State Fiscal  
993 Management Board shall be the state-approved price of said  
994 equipment for purchase by the state, county and city governments.

995 Title to all such testing equipment in the state purchased  
996 hereunder shall remain in the Commissioner of Public Safety  
997 regardless of what entity pays the purchase price.

998 The state, counties and municipalities may purchase in the  
999 name of the Commissioner of Public Safety such equipment and  
1000 supplies from other vendors of said equipment and supplies  
1001 necessary to implement this chapter, provided they purchase of the  
1002 same quality and standard as certified to the State Fiscal  
1003 Management Board and approved by the department. However, such  
1004 equipment and supplies shall not be purchased by the state,  
1005 counties and municipalities unless it is at a price equivalent to  
1006 or lower than that approved by the State Fiscal Management Board,  
1007 pursuant to the bid procedure as outlined herein.

1008 **SECTION 26.** Section 63-11-49, Mississippi Code of 1972, is  
1009 brought forward as follows:

1010 63-11-49. (1) When a vehicle is seized under Section  
1011 63-11-30(2)(c) or (d), the arresting officer shall impound the  
1012 vehicle and the vehicle shall be held as evidence until a court of

1013 competent jurisdiction makes a final disposition of the case and  
1014 the vehicle may be forfeited by the administrative forfeiture  
1015 procedures provided for in this section upon final disposition as  
1016 provided in Section 63-11-30(2)(c).

1017 (2) The attorney for the law enforcement agency shall  
1018 provide notice of intention to forfeit the seized vehicle  
1019 administratively, by certified mail, return receipt requested, to  
1020 all persons who are required to be notified pursuant to Section  
1021 63-11-51.

1022 (3) In the event that notice of intention to forfeit the  
1023 seized vehicle administratively cannot be given as provided in  
1024 subsection (2) of this section because of refusal, failure to  
1025 claim, insufficient address or any other reason, the attorney for  
1026 the law enforcement agency shall provide notice by publication in  
1027 a newspaper of general circulation in the county in which the  
1028 seizure occurred for once a week for three (3) consecutive weeks.

1029 (4) Notice pursuant to subsections (2) and (3) of this  
1030 section shall include the following information:

1031 (a) A description of the vehicle;

1032 (b) The approximate value of the vehicle;

1033 (c) The date and place of the seizure;

1034 (d) The connection between the vehicle and the  
1035 violation of Section 63-11-30;

1036 (e) The instructions for filing a request for judicial  
1037 review; and

1038 (f) A statement that the vehicle will be forfeited to  
1039 the law enforcement agency if a request for judicial review is not  
1040 timely filed.

1041 (5) In the event that a spouse of the owner of the seized  
1042 vehicle makes a showing to the department that the seized vehicle  
1043 is the only source of transportation for the spouse, the chief law  
1044 enforcement officer shall declare that the vehicle is thereby  
1045 forfeited to such spouse. A written declaration of forfeiture of

1046 a vehicle pursuant to this subsection shall be sufficient cause  
1047 for the title to the vehicle to be transferred to the spouse. The  
1048 provisions of this subsection shall apply only to one (1)  
1049 forfeiture per vehicle; if the vehicle is the subject of a  
1050 subsequent forfeiture proceeding by virtue of a subsequent  
1051 conviction of either spouse, the spouse to whom the vehicle was  
1052 forfeited pursuant to the first forfeiture proceeding may not  
1053 utilize the remedy provided herein in another forfeiture  
1054 proceeding.

1055 (6) Persons claiming an interest in the seized vehicle may  
1056 initiate judicial review of the seizure and proposed forfeiture by  
1057 filing a request for judicial review with the attorney for the  
1058 law enforcement agency within thirty (30) days after receipt of  
1059 the certified letter or within thirty (30) days after the first  
1060 publication of notice, whichever is applicable.

1061 (7) If no request for judicial review is timely filed, the  
1062 attorney for the law enforcement agency shall prepare a written  
1063 declaration of forfeiture of the subject vehicle and the forfeited  
1064 vehicle shall be disposed of in accordance with the provisions of  
1065 Section 63-11-53.

1066 (8) Upon receipt of a timely request for judicial review,  
1067 the attorney for the law enforcement agency shall promptly file a  
1068 petition for forfeiture and proceed as provided in Section  
1069 63-11-51.

1070 **SECTION 27.** Section 63-11-51, Mississippi Code of 1972, is  
1071 brought forward as follows:

1072 63-11-51. (1) Except as otherwise provided in Section  
1073 63-11-49, when a vehicle is seized under Section 63-11-30(2)(c) or  
1074 (d), proceedings under this section shall be instituted promptly  
1075 upon final conviction.

1076 (2) A petition for forfeiture shall be filed promptly in the  
1077 name of the State of Mississippi, the county or the municipality  
1078 and may be filed in the county in which the seizure is made, the

1079 county in which the criminal prosecution is brought or the county  
1080 in which the owner of the seized vehicle is found. Forfeiture  
1081 proceedings may be brought in the circuit court or the county  
1082 court if a county court exists in the county and the value of the  
1083 seized vehicle is within the jurisdictional limits of the county  
1084 court as set forth in Section 9-9-21. A copy of such petition  
1085 shall be served upon the following persons by service of process  
1086 in the same manner as in civil cases:

1087 (a) The owner of the vehicle, if address is known;

1088 (b) Any secured party who has registered his lien or  
1089 filed a financing statement as provided by law, if the identity of  
1090 such secured party can be ascertained by the law enforcement  
1091 agency by making a good faith effort to ascertain the identity of  
1092 such secured party as described in subsections (3), (4), (5), (6)  
1093 and (7) of this section;

1094 (c) Any other bona fide lienholder or secured party or  
1095 other person holding an interest in the vehicle in the nature of a  
1096 security interest of whom the law enforcement agency has actual  
1097 knowledge;

1098 (d) Any person in possession of the vehicle subject to  
1099 forfeiture at the time that it was seized.

1100 (3) If the vehicle is susceptible of titling under the  
1101 Mississippi Motor Vehicle Title Law and if there is any reasonable  
1102 cause to believe that the vehicle has been titled, the law  
1103 enforcement agency shall inquire of the State Tax Commission as to  
1104 what the records of the State Tax Commission show regarding who is  
1105 the record owner of the vehicle and who, if anyone, holds any lien  
1106 or security interest which affects the vehicle.

1107 (4) If the vehicle is not titled in the State of  
1108 Mississippi, then the law enforcement agency shall attempt to  
1109 ascertain the name and address of the person in whose name the  
1110 vehicle is licensed, and if the vehicle is licensed in a state  
1111 which has in effect a certificate of title law, the agency shall

1112 inquire of the appropriate agency of that state as to what the  
1113 records of the agency show regarding who is the record owner of  
1114 the vehicle and who, if anyone, holds any lien, security interest  
1115 or other instrument in the nature of a security device which  
1116 affects the vehicle.

1117 (5) In the event the answer to an inquiry states that the  
1118 record owner of the vehicle is any person other than the person  
1119 who was in possession of it when it was seized, or states that any  
1120 person holds any lien, encumbrance, security interest, other  
1121 interest in the nature of a security interest, which affects the  
1122 vehicle, the law enforcement agency shall cause any record owner  
1123 and also any lienholder, secured party, other person who holds an  
1124 interest in the vehicle in the nature of a security interest, to  
1125 be named in the petition of forfeiture and to be served with  
1126 process in the same manner as in civil cases.

1127 (6) If the owner of the vehicle cannot be found and served  
1128 with a copy of the petition of forfeiture, the law enforcement  
1129 agency shall file with the clerk of the court in which the  
1130 proceeding is pending an affidavit to such effect, whereupon the  
1131 clerk of the court shall publish notice of the hearing addressed  
1132 to "the Unknown Owner of . . .," filling in the blank space with a  
1133 reasonably detailed description of the vehicle subject to  
1134 forfeiture. Service by publication shall contain the other  
1135 requisites prescribed in Section 11-33-41, and shall be served as  
1136 provided in Section 11-33-37 for publication of notice for  
1137 attachments at law.

1138 **SECTION 28.** Section 63-11-53, Mississippi Code of 1972, is  
1139 brought forward as follows:

1140 63-11-53. (1) All money derived from the seizure and  
1141 forfeiture of vehicles under Section 63-11-30(2)(c) and (d) and  
1142 Sections 63-11-49 and 63-11-51 by the Mississippi Highway Safety  
1143 Patrol shall be forwarded to the State Treasurer and deposited in  
1144 a special fund which is hereby created for use by the Department

1145 of Public Safety upon appropriation by the Legislature.  
1146 Unexpended amounts remaining in such special fund at the end of a  
1147 fiscal year shall not lapse into the State General Fund, and any  
1148 interest earned on amounts in such special fund shall be deposited  
1149 to the credit of the special fund. All other law enforcement  
1150 agencies shall establish a special fund which is to be used for  
1151 law enforcement purposes to purchase equipment for the law  
1152 enforcement agency, and any interest earned on the amount in such  
1153 special fund shall be deposited to the credit of the special fund.

1154 (2) Except as otherwise provided in subsection (3), all  
1155 vehicles that have been forfeited shall be sold at a public  
1156 auction for cash by the law enforcement agency, to the highest and  
1157 best bidder after advertising the sale for at least once each week  
1158 for three (3) consecutive weeks, the last notice to appear not  
1159 more than ten (10) days nor less than five (5) days prior to such  
1160 sale, in a newspaper having a general circulation in the county in  
1161 which the vehicle was seized. Such notices shall contain a  
1162 description of the vehicle to be sold and a statement of the time  
1163 and place of sale. It shall not be necessary to the validity of  
1164 such sale either to have the vehicle present at the place of sale  
1165 or to have the name of the owner thereof stated in such notice.  
1166 The proceeds of the sale shall be disposed of as follows:

1167 (a) To any bona fide lienholder, secured party, or  
1168 other party holding an interest in the vehicle in the nature of a  
1169 security interest, to the extent of his interest; and

1170 (b) The balance, if any, remaining after deduction of  
1171 all storage, court costs and expenses of liquidation shall be  
1172 deposited in the manner described in subsection (1) of this  
1173 section.

1174 (3) The law enforcement agency may maintain, repair, use and  
1175 operate for official purposes all vehicles that have been  
1176 forfeited if the vehicles are free from any interest of a bona  
1177 fide lienholder, secured party or other party who holds an

1178 interest in the nature of a security interest. The agency may  
1179 purchase the interest of a bona fide lienholder, secured party or  
1180 other party who holds an interest so that the vehicle can be  
1181 released for its use. If the vehicle is susceptible of titling  
1182 under the Mississippi Motor Vehicle Title Law, the agency shall be  
1183 deemed to be the purchaser, and the certificate of title shall be  
1184 issued to it as required by subsection (4) of this section.

1185 (4) The State Tax Commission shall issue a certificate of  
1186 title to any person who purchases vehicles under the provisions of  
1187 this section when a certificate of title is required under the  
1188 laws of this state.

1189 **SECTION 29.** This act shall take effect and be in force from  
1190 and after July 1, 2006.