

By: Senator(s) Dawkins

To: Judiciary, Division B

SENATE BILL NO. 2634

1 AN ACT TO AMEND SECTION 63-1-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE DEFINITIONS UNDER THE DRIVER'S LICENSE CHAPTER; TO AMEND
3 SECTION 63-1-6, MISSISSIPPI CODE OF 1972, TO PROHIBIT USE OF
4 WIRELESS COMMUNICATION DEVICES BY MOTORCYCLE OPERATORS UNDER THE
5 AGE OF 18; TO AMEND SECTION 63-1-21, MISSISSIPPI CODE OF 1972, TO
6 PROHIBIT USE OF WIRELESS COMMUNICATION DEVICES BY HOLDERS OF A
7 TEMPORARY DRIVING PERMIT OR INTERMEDIATE LICENSE; TO AMEND SECTION
8 63-1-55, MISSISSIPPI CODE OF 1972, TO EXEMPT THE MISDEMEANOR OF
9 USING A WIRELESS COMMUNICATION DEVICE WHILE DRIVING FROM THE
10 NON-ADJUDICATION FOR MINORS PROCESS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 63-1-3, Mississippi Code of 1972, is
13 amended as follows:

14 63-1-3. The following words and phrases when used in this
15 article shall, for the purpose of such law, have the meanings
16 respectively ascribed to them in this section:

17 (a) The term "commissioner" means the Commissioner of
18 Public Safety of this state;

19 (b) The term "highway" means every way or place of
20 whatever nature open to the use of the public for the purpose of
21 vehicular travel, and shall include streets of municipalities;

22 (c) The term "operator" means any person in actual
23 physical control of a motor vehicle on the highway;

24 (d) The term "owner" means a person who holds the legal
25 title of a vehicle; in the event a vehicle is the subject of an
26 agreement for the conditional sale or lease thereof with the right
27 of purchase upon performance of the conditions stated in the
28 agreement and with an immediate right of possession vested in the
29 conditional vendee or lessee, or in the event a mortgagor of a
30 vehicle is entitled to possession, then such conditional vendee or

31 lessee or mortgagor shall be deemed the owner for the purpose of
32 this article;

33 (e) The term "wireless communication device" means (i)
34 a handheld or hands-free device used to access a wireless
35 telephone service, or (ii) a text-messaging device;

36 (f) The term "911 system" shall have the meaning
37 ascribed in Section 19-5-303.

38 **SECTION 2.** Section 63-1-6, Mississippi Code of 1972, is
39 amended as follows:

40 63-1-6. (1) (a) No person shall drive or operate a
41 motorcycle upon the highways of the State of Mississippi without
42 first securing either a regular operator's license with a
43 motorcycle endorsement upon it, or a restricted motorcycle
44 operator's license, except those persons especially exempted by
45 Section 63-1-7, Mississippi Code of 1972; provided, however, that
46 any person possessing a valid Mississippi operator's license
47 issued prior to July 1, 1985, may operate a motorcycle upon the
48 highways of this state until such time as said license expires.
49 Upon the expiration of a license issued prior to July 1, 1985, and
50 the payment of One Dollar (\$1.00), the applicant for renewal may
51 obtain the necessary motorcycle endorsement without further
52 examination.

53 (b) A motorcycle endorsement may be issued any person
54 who holds a valid Mississippi driver's license and meets the other
55 requirement for such endorsement contained in this chapter.

56 (c) A restricted motorcycle operator's license may be
57 issued to any applicant who fulfills all the requirements
58 necessary to obtain a Mississippi operator's license that may be
59 applicable to the operation of a motorcycle. Such license shall
60 entitle the holder thereof to operate a motorcycle, and no other
61 motor vehicle, upon the highways of this state.

62 (2) (a) A person under eighteen (18) years of age may not
63 use a wireless communication device while operating a motorcycle.

64 (b) A violation of this subsection is a misdemeanor.

65 **SECTION 3.** Section 63-1-21, Mississippi Code of 1972, is
66 amended as follows:

67 63-1-21. (1) Every applicant for a new or original driver's
68 or operator's license, except persons holding an out-of-state
69 license, shall first obtain a temporary driving permit upon the
70 payment of a fee of One Dollar (\$1.00) to the Department of Public
71 Safety and upon the successful completion of the examination
72 provided for in Section 63-1-33 and the payment of the fee for
73 such examination provided for in Section 63-1-43.

74 (2) A temporary driving permit entitles the holder, provided
75 the permit is in his immediate possession, to drive a motor
76 vehicle other than a motorcycle on the highways of the State of
77 Mississippi only when accompanied by a licensed operator who is at
78 least twenty-one (21) years of age and who is actually occupying
79 the seat beside the driver. A temporary driving permit may be
80 issued to any applicant who is at least fifteen (15) years of age.
81 A temporary driving permit shall be valid for a period of one (1)
82 year from the date of issue. A person may not use a wireless
83 communication device while driving under a temporary driving
84 permit; violation of this provision is a misdemeanor.

85 (3) An intermediate license allows unsupervised driving from
86 6:00 a.m. to 10:00 p.m. At all other times the intermediate
87 licensee must be supervised by a parent, guardian or other person
88 age twenty-one (21) years or older who holds a valid driver's
89 license under this article and who is actually occupying the seat
90 beside the driver. A person may not use a wireless communication
91 device while driving under an intermediate license; violation of
92 this provision is a misdemeanor.

93 (4) The fee for issuance of an intermediate license shall be
94 Five Dollars (\$5.00).

95 Except as otherwise provided by Section 63-1-6, every
96 applicant for a restricted motorcycle operator's license or a

97 motorcycle endorsement shall first obtain a temporary motorcycle
98 driving permit upon the payment of a fee of One Dollar (\$1.00) to
99 the Department of Public Safety, and upon the successful
100 completion of the examination provided for in Section 63-1-33, and
101 payment of the fee for said examination provided for in Section
102 63-1-43. All applicants for such temporary permit shall (a) be at
103 least fifteen (15) years of age; (b) operate a motorcycle only
104 under the direct supervision of a person at least twenty-one (21)
105 years of age who possesses either a valid driver's or operator's
106 license with a motorcycle endorsement or a valid restricted
107 motorcycle operator's license; (c) be prohibited from transporting
108 a passenger on a motorcycle; (d) be prohibited from operating a
109 motorcycle upon any controlled access highway; * * * (e) be
110 prohibited from operating a motorcycle during the hours of 6:00
111 p.m. through 6:00 a.m.; and (f) be prohibited from using a
112 wireless communication device. Temporary motorcycle driving
113 permits shall be valid for the same period of time and may be
114 renewed upon the same conditions as temporary driving permits
115 issued for vehicles other than motorcycles.

116 **SECTION 4.** Section 63-1-55, Mississippi Code of 1972, is
117 amended as follows:

118 63-1-55. A trial judge, in his discretion, if the person so
119 convicted or who has entered a plea of guilty for any traffic
120 violation, except the offenses enumerated in paragraphs (a)
121 through (e) of subsection (1) of Section 63-1-51, violations of
122 the Implied Consent Law and the Uniform Controlled Substances Law,
123 and misdemeanor use of a wireless communication device while
124 driving, and who is a minor and dependent upon and subject to the
125 care, custody and control of his parents or guardian, may, in lieu
126 of the penalties otherwise provided by law and the provision of
127 said section, suspend such minor's driver's license by taking and
128 keeping same in custody of the court for a period of time not to
129 exceed ninety (90) days. The judge so ordering such suspension

130 shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE
131 SUSPENDED FOR _____ DAYS IN LIEU OF CONVICTION" and such action
132 by the trial judge shall not constitute a conviction. The trial
133 judge also may require the minor to successfully complete a
134 defensive driving course approved by the judge as a condition of
135 the suspension. Costs of court and penalty assessment for driver
136 education and training program may be imposed in such actions
137 within the discretion of the court. Should a minor appeal, in the
138 time and manner as by law provided, the decision whereby his
139 license is suspended, the trial judge shall then return said
140 license to the minor and impose the fines and * * * penalties that
141 he would have otherwise imposed and same shall constitute a
142 conviction.

143 **SECTION 5.** This act shall take effect and be in force from
144 and after July 1, 2006.