

By: Representative Turner

To: Judiciary A

## HOUSE BILL NO. 614

1 AN ACT TO CREATE THE CRIME OF CHILD ENDANGERMENT FOR ANY  
2 PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO DRIVES OR OTHERWISE  
3 OPERATES A VEHICLE IN VIOLATION OF THE IMPLIED CONSENT LAW WITH A  
4 VEHICLE OCCUPANT WHO IS UNDER TWENTY-ONE YEARS OF AGE; TO PROVIDE  
5 PENALTIES FOR VIOLATIONS; TO AMEND SECTION 63-11-30, MISSISSIPPI  
6 CODE OF 1972, TO REVISE BLOOD ALCOHOL LEVEL CONCENTRATION FOR  
7 SECOND OR SUBSEQUENT OFFENDERS; TO CONFORM TO THE PROVISIONS OF  
8 THIS ACT; TO AMEND SECTION 63-11-31, MISSISSIPPI CODE OF 1972, IN  
9 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) Any person twenty-one (21) years of age or  
12 older who drives or otherwise operates a vehicle in violation of  
13 subsection (1) of Section 63-11-30, with a vehicle occupant who is  
14 under twenty-one (21) years of age is guilty of child  
15 endangerment.

16 (2) A first violation of subsection (1) of this section  
17 shall constitute an offense separate and in addition to an offense  
18 under Section 63-11-30 or any other offense, violation of which  
19 shall constitute a misdemeanor punishable, upon conviction, by a  
20 fine of not more than One Thousand Dollars (\$1,000.00), by  
21 imprisonment for not more than one (1) year, or by both such fine  
22 and imprisonment. A second or subsequent violation of subsection  
23 (1) of this section shall be a felony punishable, upon conviction,  
24 by a fine of not more than Five Thousand Dollars (\$5,000.00) and  
25 by imprisonment in the custody of the Department of Corrections  
26 for not less than one (1) year nor more than five (5) years.

27 (3) A person who violates this section shall be required to  
28 use an interlock device as provided in Section 63-11-31. Such  
29 person shall not be eligible for any sentence reduction, plea  
30 bargain or any diversion program.

31 (4) A person convicted under this section shall be required  
32 to receive an in-depth diagnostic assessment and if it is  
33 determined that such person is in need of treatment for an alcohol  
34 and/or drug abuse problem, such person shall successfully complete  
35 treatment at a program site certified by the Department of Mental  
36 Health.

37 **SECTION 2.** Section 63-11-30, Mississippi Code of 1972, is  
38 amended as follows:

39 63-11-30. (1) It is unlawful for any person to drive or  
40 otherwise operate a vehicle within this state who (a) is under the  
41 influence of intoxicating liquor; (b) is under the influence of  
42 any other substance which has impaired such person's ability to  
43 operate a motor vehicle; (c) has an alcohol concentration of eight  
44 one-hundredths percent (.08%) or more for persons who are above  
45 the legal age to purchase alcoholic beverages under state law for  
46 a first offense or five one-hundredths percent (.05%) for a second  
47 or subsequent offense, or two one-hundredths percent (.02%) or  
48 more for persons who are below the legal age to purchase alcoholic  
49 beverages under state law, in the person's blood based upon grams  
50 of alcohol per one hundred (100) milliliters of blood or grams of  
51 alcohol per two hundred ten (210) liters of breath as shown by a  
52 chemical analysis of such person's breath, blood or urine  
53 administered as authorized by this chapter; (d) is under the  
54 influence of any drug or controlled substance, the possession of  
55 which is unlawful under the Mississippi Controlled Substances Law;  
56 or (e) has an alcohol concentration of four one-hundredths percent  
57 (.04%) or more in the person's blood, based upon grams of alcohol  
58 per one hundred (100) milliliters of blood or grams of alcohol per  
59 two hundred ten (210) liters of breath as shown by a chemical  
60 analysis of such person's blood, breath or urine, administered as  
61 authorized by this chapter for persons operating a commercial  
62 motor vehicle.

63           (2) (a) Except as otherwise provided in subsection (3),  
64 upon conviction of any person for the first offense of violating  
65 subsection (1) of this section where chemical tests provided for  
66 under Section 63-11-5 were given, or where chemical test results  
67 are not available, such person shall be fined not less than Two  
68 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars  
69 (\$1,000.00), or imprisoned for not more than forty-eight (48)  
70 hours in jail or both; and the court shall order such person to  
71 attend and complete an alcohol safety education program as  
72 provided in Section 63-11-32. The court may substitute attendance  
73 at a victim impact panel instead of forty-eight (48) hours in  
74 jail. In addition, the Department of Public Safety, the  
75 Commissioner of Public Safety or his duly authorized agent shall,  
76 after conviction and upon receipt of the court abstract, suspend  
77 the driver's license and driving privileges of such person for a  
78 period of not less than ninety (90) days and until such person  
79 attends and successfully completes an alcohol safety education  
80 program as herein provided; provided, however, in no event shall  
81 such period of suspension exceed one (1) year. Commercial driving  
82 privileges shall be suspended as provided in Section 63-1-83.

83           The circuit court having jurisdiction in the county in which  
84 the conviction was had or the circuit court of the person's county  
85 of residence may reduce the suspension of driving privileges under  
86 Section 63-11-30(2)(a) if the denial of which would constitute a  
87 hardship on the offender, except that no court may issue such an  
88 order reducing the suspension of driving privileges under this  
89 subsection until thirty (30) days have elapsed from the effective  
90 date of the suspension. Hardships shall only apply to first  
91 offenses under Section 63-11-30(1), and shall not apply to second,  
92 third or subsequent convictions of any person violating subsection  
93 (1) of this section. A reduction of suspension on the basis of  
94 hardship shall not be available to any person who refused to  
95 submit to a chemical test upon the request of a law enforcement

96 officer as provided in Section 63-11-5 or to a person who violates  
97 Section 1 of this act. When the petition is filed, such person  
98 shall pay to the circuit clerk of the court where the petition is  
99 filed a fee of Fifty Dollars (\$50.00), which shall be deposited  
100 into the State General Fund to the credit of a special fund hereby  
101 created in the State Treasury to be used for alcohol or drug abuse  
102 treatment and education, upon appropriation by the Legislature.  
103 This fee shall be in addition to any other court costs or fees  
104 required for the filing of petitions.

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

113 The order entered under the provisions of this subsection  
114 shall contain the specific grounds upon which hardship was  
115 determined, and shall order the petitioner to attend and complete  
116 an alcohol safety education program as provided in Section  
117 63-11-32. A certified copy of such order shall be delivered to  
118 the Commissioner of Public Safety by the clerk of the court within  
119 five (5) days of the entry of the order. The certified copy of  
120 such order shall contain information which will identify the  
121 petitioner, including, but not limited to, the name, mailing  
122 address, street address, social security number and driver's  
123 license number of the petitioner.

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

- 129                   (i) Continue his employment;
- 130                   (ii) Continue attending school or an educational
- 131 institution; or
- 132                   (iii) Obtain necessary medical care.

133           Proof of the hardship shall be established by clear and

134 convincing evidence which shall be supported by independent

135 documentation.

136           (b) Except as otherwise provided in subsection (3),

137 upon any second conviction of any person violating subsection (1)

138 of this section, the offenses being committed within a period of

139 five (5) years, such person shall be fined not less than Six

140 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred

141 Dollars (\$1,500.00), shall be imprisoned not less than five (5)

142 days nor more than one (1) year and sentenced to community service

143 work for not less than ten (10) days nor more than one (1) year.

144 The minimum penalties shall not be suspended or reduced by the

145 court and no prosecutor shall offer any suspension or sentence

146 reduction as part of a plea bargain. Except as may otherwise be

147 provided by paragraph (d) of this subsection, the Commissioner of

148 Public Safety shall suspend the driver's license of such person

149 for two (2) years. Suspension of a commercial driver's license

150 shall be governed by Section 63-1-83. Upon any second conviction

151 as described in this paragraph, the court shall ascertain whether

152 the defendant is married, and if the defendant is married shall

153 obtain the name and address of the defendant's spouse; the clerk

154 of the court shall submit this information to the Department of

155 Public Safety. Further, the commissioner shall notify in writing,

156 by certified mail, return receipt requested, the owner of the

157 vehicle and the spouse, if any, of the person convicted of the

158 second violation of the possibility of forfeiture of the vehicle

159 if such person is convicted of a third violation of subsection (1)

160 of this section. The owner of the vehicle and the spouse shall be

161 considered notified under this paragraph if the notice is

162 deposited in the United States mail and any claim that the notice  
163 was not in fact received by the addressee shall not affect a  
164 subsequent forfeiture proceeding.

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

168 (c) Except as otherwise provided in subsection (3), for  
169 any third or subsequent conviction of any person violating  
170 subsection (1) of this section, the offenses being committed  
171 within a period of five (5) years, such person shall be guilty of  
172 a felony and fined not less than Two Thousand Dollars (\$2,000.00)  
173 nor more than Five Thousand Dollars (\$5,000.00), shall serve not  
174 less than one (1) year nor more than five (5) years in the custody  
175 of the Department of Corrections; provided, however, that for any  
176 such offense which does not result in serious injury or death to  
177 any person, any sentence of incarceration may be served in the  
178 county jail rather than in the State Penitentiary at the  
179 discretion of the circuit court judge. The minimum penalties  
180 shall not be suspended or reduced by the court and no prosecutor  
181 shall offer any suspension or sentence reduction as part of a plea  
182 bargain. The law enforcement agency shall seize the vehicle  
183 operated by any person charged with a third or subsequent  
184 violation of subsection (1) of this section, if such convicted  
185 person was driving the vehicle at the time the offense was  
186 committed. Such vehicle may be forfeited in the manner provided  
187 by Sections 63-11-49 through 63-11-53. Except as may otherwise be  
188 provided by paragraph (e) of this subsection, the Commissioner of  
189 Public Safety shall suspend the driver's license of such person  
190 for five (5) years. The suspension of a commercial driver's  
191 license shall be governed by Section 63-1-83.

192 (d) Except as otherwise provided in subsection (3), any  
193 person convicted of a second violation of subsection (1) of this  
194 section shall receive an in-depth diagnostic assessment, and if as

195 a result of such assessment is determined to be in need of  
196 treatment of his alcohol and/or drug abuse problem, such person  
197 shall successfully complete treatment of his alcohol and/or drug  
198 abuse problem at a program site certified by the Department of  
199 Mental Health. Such person shall be eligible for reinstatement of  
200 his driving privileges upon the successful completion of such  
201 treatment after a period of one (1) year after such person's  
202 driver's license is suspended. Each person who receives a  
203 diagnostic assessment shall pay a fee representing the cost of  
204 such assessment. Each person who participates in a treatment  
205 program shall pay a fee representing the cost of such treatment.

206 (e) Except as otherwise provided in subsection (3), any  
207 person convicted of a third or subsequent violation of subsection  
208 (1) of this section shall receive an in-depth diagnostic  
209 assessment, and if as a result of such assessment is determined to  
210 be in need of treatment of his alcohol and/or drug abuse problem,  
211 such person shall enter an alcohol and/or drug abuse program  
212 approved by the Department of Mental Health for treatment of such  
213 person's alcohol and/or drug abuse problem. If such person  
214 successfully completes such treatment, such person shall be  
215 eligible for reinstatement of his driving privileges after a  
216 period of three (3) years after such person's driver's license is  
217 suspended.

218 (f) The Department of Public Safety shall promulgate  
219 rules and regulations for the use of interlock ignition devices as  
220 provided in Section 63-11-31 and consistent with the provisions  
221 therein. Such rules and regulations shall provide for the  
222 calibration of such devices and shall provide that the cost of the  
223 use of such systems shall be borne by the offender. The  
224 Department of Public Safety shall approve which vendors of such  
225 devices shall be used to furnish such systems.

226 (3) (a) This subsection shall be known and may be cited as  
227 Zero Tolerance for Minors. The provisions of this subsection

228 shall apply only when a person under the age of twenty-one (21)  
229 years has a blood alcohol concentration of two one-hundredths  
230 percent (.02%) or more, but lower than eight one-hundredths  
231 percent (.08%). If such person's blood alcohol concentration is  
232 eight one-hundredths percent (.08%) or more, the provisions of  
233 subsection (2) shall apply.

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

244 The court in the county in which the conviction was had or  
245 the circuit court of the person's county of residence may reduce  
246 the suspension of driving privileges under Section 63-11-30(2)(a)  
247 if the denial of which would constitute a hardship on the  
248 offender, except that no court may issue such an order reducing  
249 the suspension of driving privileges under this subsection until  
250 thirty (30) days have elapsed from the effective date of the  
251 suspension. Hardships shall only apply to first offenses under  
252 Section 63-11-30(1), and shall not apply to second, third or  
253 subsequent convictions of any person violating subsection (1) of  
254 this section. A reduction of suspension on the basis of hardship  
255 shall not be available to any person who refused to submit to a  
256 chemical test upon the request of a law enforcement officer as  
257 provided in Section 63-11-5. When the petition is filed, such  
258 person shall pay to the circuit clerk of the court where the  
259 petition is filed a fee of Fifty Dollars (\$50.00), which shall be  
260 deposited into the State General Fund to the credit of a special



261 fund hereby created in the State Treasury to be used for alcohol  
262 or drug abuse treatment and education, upon appropriation by the  
263 Legislature. This fee shall be in addition to any other court  
264 costs or fees required for the filing of petitions.

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

273 The order entered under the provisions of this subsection  
274 shall contain the specific grounds upon which hardship was  
275 determined, and shall order the petitioner to attend and complete  
276 an alcohol safety education program as provided in Section  
277 63-11-32. A certified copy of such order shall be delivered to  
278 the Commissioner of Public Safety by the clerk of the court within  
279 five (5) days of the entry of the order. The certified copy of  
280 such order shall contain information which will identify the  
281 petitioner, including, but not limited to, the name, mailing  
282 address, street address, social security number and driver's  
283 license number of the petitioner.

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

- 289 (i) Continue his employment;
- 290 (ii) Continue attending school or an educational  
291 institution; or
- 292 (iii) Obtain necessary medical care.

293 Proof of the hardship shall be established by clear and  
294 convincing evidence which shall be supported by independent  
295 documentation.

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

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

309 (e) Any person under the age of twenty-one (21) years  
310 convicted of a second violation of subsection (1) of this section,  
311 may have the period that his driver's license is suspended reduced  
312 if such person receives an in-depth diagnostic assessment, and as  
313 a result of such assessment is determined to be in need of  
314 treatment of his alcohol and/or drug abuse problem and  
315 successfully completes treatment of his alcohol and/or drug abuse  
316 problem at a program site certified by the Department of Mental  
317 Health. Such person shall be eligible for reinstatement of his  
318 driving privileges upon the successful completion of such  
319 treatment after a period of six (6) months after such person's  
320 driver's license is suspended. Each person who receives a  
321 diagnostic assessment shall pay a fee representing the cost of  
322 such assessment. Each person who participates in a treatment  
323 program shall pay a fee representing the cost of such treatment.

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

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

329 (g) The court shall have the discretion to rule that a  
330 first offense of this subsection by a person under the age of  
331 twenty-one (21) years shall be nonadjudicated. Such person shall  
332 be eligible for nonadjudication only once. The Department of  
333 Public Safety shall maintain a confidential registry of all cases  
334 which are nonadjudicated as provided in this paragraph. A judge  
335 who rules that a case is nonadjudicated shall forward such ruling  
336 to the Department of Public Safety. Judges and prosecutors  
337 involved in implied consent violations shall have access to the  
338 confidential registry for the purpose of determining  
339 nonadjudication eligibility. A record of a person who has been  
340 nonadjudicated shall be maintained for five (5) years or until  
341 such person reaches the age of twenty-one (21) years. Any person  
342 whose confidential record has been disclosed in violation of this  
343 paragraph shall have a civil cause of action against the person  
344 and/or agency responsible for such disclosure.

345 (4) In addition to the other penalties provided in this  
346 section, every person refusing a law enforcement officer's request  
347 to submit to a chemical test of his breath as provided in this  
348 chapter, or who was unconscious at the time of a chemical test and  
349 refused to consent to the introduction of the results of such test  
350 in any prosecution, shall suffer an additional suspension of  
351 driving privileges as follows:

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

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

361 (5) Every person who operates any motor vehicle in violation  
362 of the provisions of subsection (1) of this section and who in a  
363 negligent manner causes the death of another or mutilates,  
364 disfigures, permanently disables or destroys the tongue, eye, lip,  
365 nose or any other limb, organ or member of another shall, upon  
366 conviction, be guilty of a separate felony for each such death,  
367 mutilation, disfigurement or other injury and shall be committed  
368 to the custody of the State Department of Corrections for a period  
369 of time of not less than five (5) years and not to exceed  
370 twenty-five (25) years for each such death, mutilation,  
371 disfigurement or other injury, and the imprisonment for the second  
372 or each subsequent conviction, in the discretion of the court,  
373 shall commence either at the termination of the imprisonment for  
374 the preceding conviction or run concurrently with the preceding  
375 conviction. Any person charged with causing the death of another  
376 as described in this subsection shall be required to post bail  
377 before being released after arrest.

378 (6) Upon conviction of any violation of subsection (1) of  
379 this section, the trial judge shall sign in the place provided on  
380 the traffic ticket, citation or affidavit stating that the person  
381 arrested either employed an attorney or waived his right to an  
382 attorney after having been properly advised. If the person  
383 arrested employed an attorney, the name, address and telephone  
384 number of the attorney shall be written on the ticket, citation or  
385 affidavit. The judge shall cause a copy of the traffic ticket,  
386 citation or affidavit, and any other pertinent documents  
387 concerning the conviction, to be sent to the Commissioner of  
388 Public Safety. A copy of the traffic ticket, citation or  
389 affidavit and any other pertinent documents, having been attested  
390 as true and correct by the Commissioner of Public Safety, or his  
391 designee, shall be sufficient proof of the conviction for purposes

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

394 (7) Convictions in other states of violations for driving or  
395 operating a vehicle while under the influence of an intoxicating  
396 liquor or while under the influence of any other substance that  
397 has impaired the person's ability to operate a motor vehicle  
398 occurring after July 1, 1992, shall be counted for the purposes of  
399 determining if a violation of subsection (1) of this section is a  
400 first, second, third or subsequent offense and the penalty that  
401 shall be imposed upon conviction for a violation of subsection (1)  
402 of this section.

403 (8) For the purposes of determining how to impose the  
404 sentence for a second, third or subsequent conviction under this  
405 section, the indictment shall not be required to enumerate  
406 previous convictions. It shall only be necessary that the  
407 indictment state the number of times that the defendant has been  
408 convicted and sentenced within the past five (5) years under this  
409 section to determine if an enhanced penalty shall be imposed. The  
410 amount of fine and imprisonment imposed in previous convictions  
411 shall not be considered in calculating offenses to determine a  
412 second, third or subsequent offense of this section.

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

417 (10) Suspension of driving privileges for any person  
418 convicted of violations of Section 63-11-30(1) shall run  
419 consecutively.

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

422 **SECTION 3.** Section 63-11-31, Mississippi Code of 1972, is  
423 amended as follows:

424           63-11-31. (1) In addition to the penalties authorized for  
425 any second or subsequent convictions of Section 63-11-30 or a  
426 violation of Section 1 of this act, the court shall order either  
427 the impoundment or immobilization of all vehicles registered to  
428 the person convicted for the entire length of license suspension  
429 to commence upon conviction and persist during the entire  
430 driver's license suspension period. However, a county,  
431 municipality, sheriff's department or the Department of Public  
432 Safety shall not be required to keep, store, maintain, serve as a  
433 bailee or otherwise exercise custody over a motor vehicle  
434 impounded under the provisions of this section.

435           (2) (a) If other licensed drivers living in the household  
436 are dependent upon the vehicle subject to impoundment or  
437 immobilization for necessary transportation, the court may order  
438 the installation of an ignition interlock system on the vehicle in  
439 lieu of impoundment or immobilization. Additionally, the court  
440 shall order the installation of an ignition interlock system on  
441 all vehicles registered to the person for a minimum period of six  
442 (6) months to occur upon reinstatement of the person's driver's  
443 license if the court determines it is a vehicle to which the  
444 person has access and which should be subject to ignition  
445 interlock. The cost associated with impoundment, immobilization  
446 or ignition interlock shall be paid by the person convicted. For  
447 the purpose of this section, "ignition interlock device" means a  
448 device which connects a motor vehicle ignition system to a  
449 breath-alcohol analyzer and prevents a motor vehicle ignition from  
450 starting if the driver's blood alcohol level exceeds the  
451 calibrated setting on the device.

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

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

459 (c) When a court orders a person to operate only a  
460 motor vehicle which is equipped with a functioning ignition  
461 interlock device, the court shall establish a specific calibration  
462 setting no lower than two one-hundredths percent (.02%) nor more  
463 than four one-hundredths percent (.04%) blood alcohol  
464 concentration at which the ignition interlock device will prevent  
465 the motor vehicle from being started.

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

468 (i) State on the record the requirement for and  
469 the period of use of the device, and so notify the Department of  
470 Public Safety;

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

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

478 (iv) Require proof of the installation of the  
479 device and periodic reporting by the person for verification of  
480 the proper operation of the device;

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

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

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

490 ignition interlock device may not solicit or have another person  
491 attempt to start or start a motor vehicle equipped with such a  
492 device.

493                   2. A person may not attempt to start or start  
494 a motor vehicle equipped with an ignition interlock device for the  
495 purpose of providing an operable motor vehicle to a person who is  
496 prohibited under this section from operating a motor vehicle that  
497 is not equipped with an ignition interlock device.

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

501                   4. A person may not knowingly provide a motor  
502 vehicle not equipped with a functioning ignition interlock device  
503 to another person who the provider of such vehicle knows or should  
504 know is prohibited from operating a motor vehicle not equipped  
505 with an ignition interlock device.

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

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

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

517                   2. The court finds that a person is required  
518 to operate a motor vehicle in the course and scope of the person's  
519 employment. If the vehicle is owned by the person's employer, the  
520 person may operate that vehicle during regular working hours for  
521 the purposes of employment without installation of an ignition  
522 interlock device if the employer has been notified of such driving



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

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

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

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

542 (ii) The provisions of this paragraph (f) shall  
543 not apply if the vehicle used to commit the violation of Section  
544 63-11-30, was, at the time of such violation, rented or stolen.

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

547 **SECTION 4.** This act shall take effect and be in force from  
548 and after July 1, 2007.