

By: Representatives Gunn, Brown (20th),
Formby, Snowden, Turner

To: Judiciary B

HOUSE BILL NO. 481
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT PERSONS CONVICTED OF DUI WILL ONLY BE ALLOWED TO
3 OPERATE A VEHICLE EQUIPPED WITH AN IGNITION-INTERLOCK DEVICE; TO
4 PROVIDE A DRIVER'S LICENSE THEREFOR; TO REMOVE HARDSHIP
5 PROVISIONS; TO PROVIDE FOR NONADJUDICATION; TO REQUIRE MANDATORY
6 PROBATION; TO PROVIDE FOR THE EXPUNCTION OF CERTAIN CONVICTIONS;
7 TO AMEND SECTION 63-11-31, MISSISSIPPI CODE OF 1972, TO REVISE
8 IGNITION INTERLOCK; TO AMEND SECTION 63-1-21, MISSISSIPPI CODE OF
9 1972, TO PROVIDE FOR THE IGNITION-INTERLOCK-RESTRICTED DRIVER'S
10 LICENSE; TO AMEND SECTION 63-1-43, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE A FEE FOR SUCH LICENSE AND TO CREATE THE
12 IGNITION-INTERLOCK DEVICE FUND; TO AMEND SECTION 63-1-47,
13 MISSISSIPPI CODE OF 1972, TO SPECIFY THE TERM AND RENEWAL OF SUCH
14 LICENSE; TO AMEND SECTIONS 63-11-21 AND 63-11-23, MISSISSIPPI CODE
15 OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 63-11-30, Mississippi Code of 1972, is
18 amended as follows:

19 63-11-30. (1) It is unlawful for any person to drive or
20 otherwise operate a vehicle within this state who (a) is under the
21 influence of intoxicating liquor; (b) is under the influence of
22 any other substance * * * that has impaired * * * the person's
23 ability to operate a motor vehicle; (c) has an alcohol
24 concentration of eight one-hundredths percent (.08%) or more for



25 persons who are above the legal age to purchase alcoholic
26 beverages under state law, or two one-hundredths percent (.02%) or
27 more for persons who are below the legal age to purchase alcoholic
28 beverages under state law, in the person's blood based upon grams
29 of alcohol per one hundred (100) milliliters of blood or grams of
30 alcohol per two hundred ten (210) liters of breath as shown by a
31 chemical analysis of * * * the person's breath, blood or urine
32 administered as authorized by this chapter; (d) is under the
33 influence of any drug or controlled substance, the possession of
34 which is unlawful under the Mississippi Controlled Substances Law;
35 or (e) has an alcohol concentration of four one-hundredths percent
36 (.04%) or more in the person's blood, based upon grams of alcohol
37 per one hundred (100) milliliters of blood or grams of alcohol per
38 two hundred ten (210) liters of breath as shown by a chemical
39 analysis of * * * the person's blood, breath or urine,
40 administered as authorized by this chapter for persons operating a
41 commercial motor vehicle.

42 (2) (a) **First offense DUI.** (i) Except as otherwise
43 provided in subparagraph (iii) of this subsection (2)(a) and
44 subsection (3) of this section, upon conviction of any person for
45 the first offense of violating subsection (1) of this section
46 where chemical tests provided for under Section 63-11-5 were
47 given, or where chemical test results are not available, * * * the
48 person shall be fined not less than Two Hundred Fifty Dollars
49 (\$250.00) nor more than One Thousand Dollars (\$1,000.00), or



50 imprisoned for not more than forty-eight (48) hours in jail, or
51 both; and the court shall order * * * the person to attend and
52 complete an alcohol safety education program as provided in
53 Section 63-11-32. The court may substitute attendance at a victim
54 impact panel instead of forty-eight (48) hours in jail. In
55 addition, the Department of Public Safety, or the Commissioner of
56 Public Safety or his duly authorized agent shall, after conviction
57 and upon receipt of the court abstract, suspend the driver's
58 license and driving privileges of * * * the person for a period
59 of * * * ninety (90) days and until such person attends and
60 successfully completes an alcohol safety education program as
61 provided herein or, in the discretion of the court, * * * thirty
62 (30) days and the person's driving privilege shall be exercised
63 only under an ignition-interlock-restricted driver's license for
64 ninety (90) days following the mandatory thirty-day license
65 suspension. The person shall not be eligible for any other form
66 of license until * * * the person attends and successfully
67 completes an alcohol safety education program as * * * provided in
68 Section 63-11-32.

69 (ii) Commercial driving privileges shall be
70 suspended as provided in Section 63-1-216.

71 * * *

72 (iii) * * * A qualifying first offense under
73 subsection (1) of this section may be nonadjudicated by the court.
74 The court shall follow the procedure in Section 99-15-26 for all



75 nonadjudications. A person is eligible for nonadjudication only
76 one (1) time. A qualifying first offense is one where a breath
77 test was not refused unless the court provides written findings as
78 to why nonadjudication is being allowed where a breath test was
79 refused. The person shall not be eligible for any other form of
80 license until the person attends and successfully completes an
81 alcohol safety education program as provided in Section 63-11-32.
82 The judge shall forward a record of every nonadjudicated case to
83 the Department of Public Safety and the Department of Public
84 Safety shall maintain a confidential registry of all cases that
85 are nonadjudicated as provided in this subparagraph (iii). Judges
86 and prosecutors involved in the trial of implied consent
87 violations shall have access to the confidential registry for the
88 purpose of determining whether a person has previously been the
89 subject of a nonadjudicated case and is therefore ineligible for
90 another nonadjudication. A record of nonadjudication shall be
91 maintained for five (5) years.

92 (iv) The court may enter an order of
93 nonadjudication concerning a nonresident first offender, taking
94 into consideration the available resources and programs in the
95 offender's home jurisdiction and the ability of the court to
96 monitor the person's compliance with conditions imposed by the
97 court.

98 (b) **Second offense DUI.** (i) Except as otherwise
99 provided in subsection (3), upon any second conviction of any



100 person violating subsection (1) of this section, the offenses
101 being committed within a period of five (5) years, * * * the
102 person shall be fined not less than Six Hundred Dollars (\$600.00)
103 nor more than One Thousand Five Hundred Dollars (\$1,500.00), shall
104 be imprisoned not less than five (5) days nor more than one (1)
105 year and sentenced to community service work for not less than ten
106 (10) days nor more than one (1) year. The minimum penalties shall
107 not be suspended or reduced by the court and no prosecutor shall
108 offer any suspension or sentence reduction as part of a plea
109 bargain. * * * Upon notification of conviction, the Commissioner
110 of Public Safety shall suspend the driver's license of * * * the
111 person for * * * forty-five (45) days. The person's driving
112 privilege shall not be restored except by means of an
113 ignition-interlock-restricted driver's license for one (1) year
114 following the mandatory forty-five-day suspension. The person
115 shall not be eligible for any other form of license until the
116 person attends and successfully completes an alcohol safety
117 education program as provided in Section 63-11-32.

118 (ii) Suspension of a commercial driver's license
119 shall be governed by Section 63-1-216. * * *

120 * * *

121 (c) **Third offense DUI.** (i) Except as otherwise
122 provided in subsection (3), for any third * * * conviction of any
123 person violating subsection (1) of this section, the offenses
124 being committed within a period of five (5) years, * * * the



125 person shall be guilty of a felony and fined not less than Two
126 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
127 (\$5,000.00), and shall serve not less than one (1) year nor more
128 than five (5) years in the custody of the Department of
129 Corrections * * *. For any * * * offense * * * that does not
130 result in serious injury or death to any person, * * * the
131 sentence of incarceration may be served in the county jail rather
132 than in the State Penitentiary at the discretion of the circuit
133 court judge. The minimum penalties shall not be suspended or
134 reduced by the court and no prosecutor shall offer any suspension
135 or sentence reduction as part of a plea bargain. * * * Except as
136 may otherwise be provided by paragraph (e) of this subsection, the
137 Commissioner of Public Safety shall suspend the driver's license
138 of such person for * * * two (2) years. The person will not be
139 eligible for restoration of the driving privilege except by means
140 of an ignition-interlock-restricted driver's license for three (3)
141 years following release from incarceration and following the
142 mandatory two-year driver's license suspension.

143 (ii) The suspension of a commercial driver's
144 license shall be governed by Section 63-1-216.

145 (d) **Fourth or subsequent offense DUI.** Except as
146 otherwise provided in subsection (3), * * * for any fourth or
147 subsequent conviction of any person violating subsection (1) of
148 this section * * *, without regard to the period of time over
149 which the offenses were committed, the person shall be guilty of a



150 felony and fined not less than Three Thousand Dollars (\$3,000.00)
151 nor more than Ten Thousand Dollars (\$10,000.00) and shall serve
152 not less than two (2) nor more than ten (10) years in the custody
153 of the Department of Corrections. The Commissioner of Public
154 Safety shall suspend the driver's license of the person for five
155 (5) years which shall begin upon the person's release from the
156 custody of the Department of Corrections.

157 * * *

158 (* * * e) Except as otherwise provided in subsection
159 (3), any person convicted of a second or subsequent violation of
160 subsection (1) of this section shall receive an in-depth
161 diagnostic assessment, and if as a result of * * * the assessment
162 is determined to be in need of treatment * * * for alcohol * * *
163 or drug abuse * * *, * * * the person shall successfully complete
164 treatment * * * at a program site certified by the Department of
165 Mental Health. * * * Each person who receives a diagnostic
166 assessment shall pay a fee representing the cost of * * * the
167 assessment. Each person who participates in a treatment program
168 shall pay a fee representing the cost of * * * treatment.

169 (f) The Department of Public Safety shall promulgate
170 rules and regulations for the use of * * * ignition-interlock
171 devices as provided in Section 63-11-31 and consistent with the
172 provisions therein. * * * The rules and regulations shall provide
173 that installation of the device shall occur at the residence of
174 the offender and for the calibration of * * * the devices and



175 shall provide that the cost of the use of * * * the systems shall
176 be borne by the offender. The Department of Public Safety shall
177 approve which vendors * * * shall be used to furnish * * * the
178 systems and may assess fees to such vendors. The maximum costs to
179 the offender as prescribed in the department's rules and
180 regulations shall not exceed One Hundred Fifty Dollars (\$150.00)
181 for installation and Two Dollars and Fifty Cents (\$2.50) per day
182 for the user fee, and the department shall also prescribe maximum
183 fees for periodic inspections, calibrations and repairs.

184 (3) **Zero Tolerance for Minors.** (a) This subsection shall
185 be known and may be cited as Zero Tolerance for Minors. The
186 provisions of this subsection shall apply only when a person under
187 the age of twenty-one (21) years has a blood alcohol concentration
188 of two one-hundredths percent (.02%) or more, but lower than eight
189 one-hundredths percent (.08%). If such person's blood alcohol
190 concentration is eight one-hundredths percent (.08%) or more, the
191 provisions of subsection (2) shall apply.

192 (b) Upon conviction of any person under the age of
193 twenty-one (21) years for the first offense of violating
194 subsection (1) of this section where chemical tests provided for
195 under Section 63-11-5 were given, or where chemical test results
196 are not available, such person shall have his driver's license
197 suspended for ninety (90) days and shall be fined Two Hundred
198 Fifty Dollars (\$250.00); and the court shall order such person to
199 attend and complete an alcohol safety education program as



200 provided in Section 63-11-32. The court may also require
201 attendance at a victim impact panel.

202 The court in the county in which the conviction was had or
203 the circuit court of the person's county of residence may reduce
204 the suspension of driving privileges under subsection (2)(a) of
205 this section if the denial of which would constitute a hardship on
206 the offender, except that no court may issue such an order
207 reducing the suspension of driving privileges under this
208 subsection until thirty (30) days have elapsed from the effective
209 date of the suspension. Hardships shall only apply to first
210 offenses under subsection (1) of this section, and shall not apply
211 to second, third or subsequent convictions of any person violating
212 subsection (1) of this section. A reduction of suspension on the
213 basis of hardship shall not be available to any person who refused
214 to submit to a chemical test upon the request of a law enforcement
215 officer as provided in Section 63-11-5. When the petition is
216 filed, such person shall pay to the circuit clerk of the court
217 where the petition is filed a fee of Fifty Dollars (\$50.00), which
218 shall be deposited into the State General Fund to the credit of a
219 special fund hereby created in the State Treasury to be used for
220 alcohol or drug abuse treatment and education, upon appropriation
221 by the Legislature. This fee shall be in addition to any other
222 court costs or fees required for the filing of petitions.

223 The petition filed under the provisions of this subsection
224 shall contain the specific facts which the petitioner alleges to



225 constitute a hardship and the driver's license number of the
226 petitioner. A hearing may be held on any petition filed under
227 this subsection only after ten (10) days' prior written notice to
228 the Commissioner of Public Safety, or his designated agent, or the
229 attorney designated to represent the state. At such hearing, the
230 court may enter an order reducing the period of suspension.

231 The order entered under the provisions of this subsection
232 shall contain the specific grounds upon which hardship was
233 determined, and shall order the petitioner to attend and complete
234 an alcohol safety education program as provided in Section
235 63-11-32. A certified copy of such order shall be delivered to
236 the Commissioner of Public Safety by the clerk of the court within
237 five (5) days of the entry of the order. The certified copy of
238 such order shall contain information which will identify the
239 petitioner, including, but not limited to, the name, mailing
240 address, street address, social security number and driver's
241 license number of the petitioner.

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

- 247 (i) Continue his employment;
- 248 (ii) Continue attending school or an educational
249 institution; or



250 (iii) Obtain necessary medical care.

251 Proof of the hardship shall be established by clear and
252 convincing evidence which shall be supported by independent
253 documentation.

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

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

267 (e) Any person under the age of twenty-one (21) years
268 convicted of a second violation of subsection (1) of this section,
269 may have the period that his driver's license is suspended reduced
270 if such person receives an in-depth diagnostic assessment, and as
271 a result of such assessment is determined to be in need of
272 treatment of his alcohol and/or drug abuse problem and
273 successfully completes treatment of his alcohol and/or drug abuse
274 problem at a program site certified by the Department of Mental



275 Health. Such person shall be eligible for reinstatement of his
276 driving privileges upon the successful completion of such
277 treatment after a period of six (6) months after such person's
278 driver's license is suspended. Each person who receives a
279 diagnostic assessment shall pay a fee representing the cost of
280 such assessment. Each person who participates in a treatment
281 program shall pay a fee representing the cost of such treatment.

282 (f) Any person under the age of twenty-one (21) years
283 convicted of a third or subsequent violation of subsection (1) of
284 this section shall complete treatment of an alcohol and/or drug
285 abuse program at a site certified by the Department of Mental
286 Health.

287 (g) The court shall have the discretion to rule that a
288 first offense of this subsection by a person under the age of
289 twenty-one (21) years shall be nonadjudicated. Such person shall
290 be eligible for nonadjudication only once. The Department of
291 Public Safety shall maintain a confidential registry of all cases
292 which are nonadjudicated as provided in this paragraph. A judge
293 who rules that a case is nonadjudicated shall forward such ruling
294 to the Department of Public Safety. Judges and prosecutors
295 involved in implied consent violations shall have access to the
296 confidential registry for the purpose of determining
297 nonadjudication eligibility. A record of a person who has been
298 nonadjudicated shall be maintained for five (5) years or until
299 such person reaches the age of twenty-one (21) years. Any person



300 whose confidential record has been disclosed in violation of this
301 paragraph shall have a civil cause of action against the person
302 and/or agency responsible for such disclosure.

303 (4) **DUI test refusal.** In addition to the other penalties
304 provided in this section, every person refusing a law enforcement
305 officer's request to submit to a chemical test of his breath as
306 provided in this chapter, or who was unconscious at the time of a
307 chemical test and refused to consent to the introduction of the
308 results of * * * the test in any prosecution, shall suffer an
309 additional suspension of driving privileges as follows:

310 The Commissioner of Public Safety or his authorized agent
311 shall suspend the driver's license or permit to drive or deny the
312 issuance of a license or permit to * * * the person as provided
313 for first, second and third or subsequent offenders in subsection
314 (2) of this section. * * * The suspension shall be in addition to
315 any suspension imposed pursuant to subsection (1) of Section
316 63-11-23. The minimum suspension imposed under this subsection
317 shall not be reduced and no prosecutor is authorized to offer a
318 reduction of * * * the suspension as part of a plea bargain.

319 (5) **Aggravated DUI.** Every person who operates any motor
320 vehicle in violation of the provisions of subsection (1) of this
321 section and who in a negligent manner causes the death of another
322 or mutilates, disfigures, permanently disables or destroys the
323 tongue, eye, lip, nose or any other limb, organ or member of
324 another shall, upon conviction, be guilty of a separate felony for



325 each such death, mutilation, disfigurement or other injury and
326 shall be committed to the custody of the State Department of
327 Corrections for a period of time of not less than five (5) years
328 and not to exceed twenty-five (25) years for each such death,
329 mutilation, disfigurement or other injury, and the imprisonment
330 for the second or each subsequent conviction, in the discretion of
331 the court, shall commence either at the termination of the
332 imprisonment for the preceding conviction or run concurrently with
333 the preceding conviction. Any person charged with causing the
334 death of another as described in this subsection shall be required
335 to post bail before being released after arrest.

336 (6) **DUI citations.** Upon conviction of any violation of
337 subsection (1) of this section, the trial judge shall sign in the
338 place provided on the traffic ticket, citation or affidavit
339 stating that the person arrested either employed an attorney or
340 waived his right to an attorney after having been properly
341 advised. If the person arrested employed an attorney, the name,
342 address and telephone number of the attorney shall be written on
343 the ticket, citation or affidavit. The judge shall cause a copy
344 of the traffic ticket, citation or affidavit, and any other
345 pertinent documents concerning the conviction, to be sent to the
346 Commissioner of Public Safety. A copy of the traffic ticket,
347 citation or affidavit and any other pertinent documents, having
348 been attested as true and correct by the Commissioner of Public
349 Safety, or his designee, shall be sufficient proof of the



350 conviction for purposes of determining the enhanced penalty for
351 any subsequent convictions of violations of subsection (1) of this
352 section.

353 (7) **Out-of-state prior convictions.** Convictions in other
354 states of violations for driving or operating a vehicle while
355 under the influence of an intoxicating liquor or while under the
356 influence of any other substance that has impaired the person's
357 ability to operate a motor vehicle occurring after July 1, 1992,
358 shall be counted for the purposes of determining if a violation of
359 subsection (1) of this section is a * * * second, third or
360 subsequent offense and the penalty that shall be imposed upon
361 conviction for a violation of subsection (1) of this section.

362 (8) **Charging of subsequent offenses.** For the purposes of
363 determining how to impose the sentence for a second, third or
364 subsequent conviction under this section, the indictment shall not
365 be required to enumerate previous convictions. It shall only be
366 necessary that the indictment state the number of times that the
367 defendant has been convicted and sentenced within the past five
368 (5) years under this section to determine if an enhanced penalty
369 shall be imposed. The amount of fine and imprisonment imposed in
370 previous convictions shall not be considered in calculating
371 offenses to determine a second, third or subsequent offense of
372 this section.

373 (9) **License eligibility for underage offenders.** Any person
374 under the legal age to obtain a license to operate a motor vehicle



375 convicted under this section shall not be eligible to
376 receive * * * a driver's license until the person reaches the age
377 of eighteen (18) years.

378 (10) **License suspensions to run consecutively.** Suspension
379 of driving privileges for any person convicted of violations of
380 subsection (1) of this section shall run consecutively.

381 (11) **Ignition interlock.** The court may order the use of any
382 ignition-interlock device as provided in Section 63-11-31. The
383 court shall make specific findings that an ignition-interlock
384 device has been ordered.

385 (12) **DUI child endangerment.** A person who violates
386 subsection (1) of this section while transporting in a motor
387 vehicle a child under the age of sixteen (16) years is guilty of
388 the separate offense of endangering a child by driving under the
389 influence of alcohol or any other substance which has
390 impaired * * * the person's ability to operate a motor vehicle.
391 The offense of endangering a child by driving under the influence
392 of alcohol or any other substance which has impaired * * * the
393 person's ability to operate a motor vehicle shall not be merged
394 with an offense of violating subsection (1) of this section for
395 the purposes of prosecution and sentencing. An offender who is
396 convicted of a violation of this subsection shall be punished as
397 follows:

398 (a) A person who commits a violation of this subsection
399 which does not result in the serious injury or death of a child



400 and which is a first conviction shall be guilty of a misdemeanor
401 and, upon conviction, shall be fined not more than One Thousand
402 Dollars (\$1,000.00) or shall be imprisoned for not more than
403 twelve (12) months, or both;

404 (b) A person who commits a violation of this subsection
405 which does not result in the serious injury or death of a child
406 and which is a second conviction shall be guilty of a misdemeanor
407 and, upon conviction, shall be fined not less than One Thousand
408 Dollars (\$1,000.00) nor more than Five Thousand Dollars
409 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

410 (c) A person who commits a violation of this subsection
411 which does not result in the serious injury or death of a child
412 and which is a third or subsequent conviction shall be guilty of a
413 felony and, upon conviction, shall be fined not less than Ten
414 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
415 than one (1) year nor more than five (5) years, or both; and

416 (d) A person who commits a violation of this subsection
417 which results in the serious injury or death of a child, without
418 regard to whether * * * the offense was a first, second, third or
419 subsequent offense shall be guilty of a felony and, upon
420 conviction, shall be punished by a fine of not less than Ten
421 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
422 than five (5) years nor more than twenty-five (25) years.

423 (13) (a) Any person who, on or before June 30, 2014, was
424 convicted under subsection (2) of this section of a first offense



425 of driving under the influence may petition the circuit court of
426 the county in which the conviction was had for an order to expunge
427 the record of the conviction. Expunction under this subsection
428 will only be available to a person:

429 (i) Who has successfully completed all terms and
430 conditions of the sentence imposed for the conviction;

431 (ii) Who did not refuse to submit to a test of his
432 blood or breath;

433 (iii) Whose blood alcohol concentration tested
434 below sixteen one-hundredths percent (.16%) if test results are
435 available;

436 (iv) Who has not been convicted of or have pending
437 any other offense of driving under the influence; and

438 (v) Who has provided the court with justification
439 as to why the conviction should be expunged.

440 (b) A person is eligible for only one (1) expunction
441 under this subsection, and the Department of Public Safety shall
442 maintain a confidential registry of all cases of expunction under
443 this subsection for the sole purpose of determining a person's
444 eligibility as a first-offender under this section.

445 (c) The court in its order of expunction shall state in
446 writing the justification for which the expunction was granted and
447 forward the order to the Department of Public Safety within five
448 (5) days of the entry of the order.



449 **SECTION 2.** Section 63-11-31, Mississippi Code of 1972, is
450 amended as follows:

451 63-11-31. (1) * * * For the * * * purposes of this section,
452 "ignition-interlock device" means a device * * * that connects a
453 motor vehicle ignition system to a breath-alcohol analyzer and
454 prevents a motor vehicle ignition from starting if the driver's
455 blood alcohol level exceeds the calibrated setting on the device.

456 (2) (a) The cost of installation of an ignition-interlock
457 device shall be borne by the person to whom is issued an
458 ignition-interlock-restricted driver's license unless a court
459 determines that the person is indigent.

460 (b) * * * Anyone convicted under Section 63-11-30 shall
461 be assessed by the court, in addition to the criminal fines,
462 penalties and assessments provided by law for violations of
463 Section 63-11-30, a fee of not less than Thirty Dollars (\$30.00)
464 nor more than One Hundred Dollars (\$100.00), to be deposited in
465 the Ignition-Interlock Device Fund in the State Treasury. Anyone
466 who receives a nonadjudication under Section 63-11-30 shall be
467 assessed by the court, a fee of Two Hundred Fifty Dollars
468 (\$250.00) to be deposited in the Ignition-Interlock Device Fund in
469 the State Treasury.

470 (3) (a) * * * The specific calibration setting for an
471 ignition-interlock device shall be no * * * more than * * * three
472 one-hundredths percent (0.03%) blood alcohol concentration for
473 persons twenty-one (21) years of age or older and no more than two



474 one-hundredths percent (0.02%) blood alcohol concentration for
475 persons under twenty-one (21) years of age * * *, over which
476 concentration the ignition-interlock device will prevent the motor
477 vehicle from being started.

478 * * *

479 (b) A person who has an ignition-interlock device
480 installed in a vehicle shall:

481 (* * * i) * * * Provide proof of the installation
482 of the device and periodic reporting * * * for verification of the
483 proper operation of the device;

484 (* * * ii) * * * Have the system monitored for
485 proper use and accuracy by an entity approved by the department at
486 least semiannually, or more frequently as the circumstances may
487 require;

488 (* * * iii) * * * Pay the reasonable cost of
489 leasing or buying, monitoring, and maintaining the device * * *.

490 * * * (4) (a) (i) A person who is limited to driving only
491 under an ignition-interlock-restricted driver's license shall not
492 operate a vehicle that is not equipped with an ignition-interlock
493 device.

494 (ii) A person prohibited * * * from operating a
495 motor vehicle that is not equipped with an ignition-interlock
496 device may not solicit or have another person attempt to start or
497 start a motor vehicle equipped with such a device.



498 * * *(iii) A person may not start or attempt to
499 start * * * a motor vehicle equipped with an ignition_interlock
500 device for the purpose of providing an operable motor vehicle to a
501 person who is prohibited * * * from operating a motor vehicle that
502 is not equipped with an ignition_interlock device.

503 * * *(iv) A person may not tamper with, or in any
504 way attempt to circumvent, the operation of an ignition_interlock
505 device that has been installed in a motor vehicle.

506 * * *(v) A person may not knowingly provide a
507 motor vehicle not equipped with a functioning ignition_interlock
508 device to another person who the provider of * * * the vehicle
509 knows or should know is prohibited from operating a motor vehicle
510 not equipped with an ignition_interlock device.

511 (* * *b) A violation of this * * * subsection (4) is a
512 misdemeanor and upon conviction the violator shall be fined an
513 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more
514 than One Thousand Dollars (\$1,000.00) or imprisoned for not more
515 than one (1) year, or both.

516 (* * *c) A person shall not be in violation of
517 this * * * subsection (4) if:

518 * * *(i) The starting of a motor vehicle equipped
519 with an ignition_interlock device is done for the purpose of
520 safety or mechanical repair of the device or the vehicle, and the
521 person subject to the * * * restriction does not operate the
522 vehicle; or



523 * * * (ii) The court finds that a person is
524 required to operate a motor vehicle in the course and scope of the
525 person's employment. If the vehicle is owned by the person's
526 employer, the person may operate that vehicle during regular
527 working hours for the purposes of employment without installation
528 of an ignition_interlock device if the employer has been notified
529 of * * * the driving privilege restriction and if proof of that
530 notification is kept with the vehicle at all times. This
531 employment exemption does not apply if the business entity that
532 owns the vehicle is owned or controlled by the person who is
533 prohibited from operating the motor vehicle not equipped with an
534 ignition_interlock device.

535 (* * * 5) (* * * a) A judge may also order that the vehicle
536 owned or operated by a person or a family member of any person who
537 committed a violation of Section 63-11-30 be equipped with an
538 ignition_interlock device for all or a portion of the time the
539 driver's license of the operator of such vehicle is suspended or
540 restricted pursuant to this section, if:

541 * * * (i) The operator of the vehicle used to
542 violate Section 63-11-30 has at least one (1) prior conviction for
543 driving a motor vehicle when * * * the person's privilege to do so
544 is cancelled, suspended or revoked as provided by Section
545 63-11-30; or



546 * * * (ii) The driver's license of the operator
547 of * * * the vehicle was cancelled, suspended or revoked at the
548 time of the violation of Section 63-11-30.

549 (* * * b) The provisions of this * * * subsection
550 (* * * 5) shall not apply if the vehicle used to commit the
551 violation of Section 63-11-30, was, at the time of * * * the
552 violation, rented or stolen.

553 (* * * 6) The provisions of this section are supplemental to
554 the provisions of Section 63-11-30.

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

557 63-1-21. (1) To obtain a new or original driver's or
558 operator's license, every applicant other than a person holding an
559 out-of-state license shall first obtain a temporary driving permit
560 by paying a fee of One Dollar (\$1.00) to the Department of Public
561 Safety, successfully completing the examination provided for in
562 Section 63-1-33, and paying the examination fee provided for in
563 Section 63-1-43.

564 (2) A temporary driving permit entitles the holder, provided
565 the permit is in his immediate possession, to drive a motor
566 vehicle other than a motorcycle on the highways of the State of
567 Mississippi only when accompanied by a licensed operator who is at
568 least twenty-one (21) years of age and who is actually occupying
569 the seat beside the driver. A temporary driving permit may be
570 issued to any applicant who is at least fifteen (15) years of age.



571 A temporary driving permit shall be valid for a period of two (2)
572 years from the date of issue.

573 (3) (a) An intermediate license allows unsupervised driving
574 from 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m.
575 to 11:30 p.m. Friday and Saturday, and allows unsupervised driving
576 any time for a person traveling directly to or from work. At all
577 other times the intermediate licensee must be supervised by a
578 parent, guardian or other person age twenty-one (21) years or
579 older who holds a valid driver's license under this article and
580 who is actually occupying the seat beside the driver.

581 (b) The fee for issuance of an intermediate license
582 shall be Five Dollars (\$5.00).

583 (4) An ignition-interlock-restricted driver's license allows
584 a person to drive only a motor vehicle equipped with an
585 ignition-interlock device.

586 (* * *5) Except as otherwise provided by Section 63-1-6,
587 every applicant for a restricted motorcycle operator's license or
588 a motorcycle endorsement shall first obtain a temporary motorcycle
589 driving permit by paying a fee of One Dollar (\$1.00) to the
590 Department of Public Safety, successfully completing the
591 examination provided for in Section 63-1-33, and paying the
592 examination fee provided for in Section 63-1-43. All applicants
593 for a temporary motorcycle permit shall:

594 (a) Be at least fifteen (15) years of age;



595 (b) Operate a motorcycle only under the direct
596 supervision of a person at least twenty-one (21) years of age who
597 possesses either a valid driver's or operator's license with a
598 motorcycle endorsement or a valid restricted motorcycle operator's
599 license;

600 (c) Be prohibited from transporting a passenger on a
601 motorcycle;

602 (d) Be prohibited from operating a motorcycle upon any
603 controlled access highway; and

604 (e) Be prohibited from operating a motorcycle during
605 the hours of 6:00 p.m. through 6:00 a.m. Temporary motorcycle
606 driving permits shall be valid for the same period of time and may
607 be renewed upon the same conditions as temporary driving permits
608 issued for vehicles other than motorcycles.

609 **SECTION 4.** Section 63-1-43, Mississippi Code of 1972, is
610 amended as follows:

611 63-1-43. (1) The fee for receiving the application and
612 issuing the regular driver's or operator's license and the fee for
613 renewing the license shall be:

614 (a) Eighteen Dollars (\$18.00) plus the applicable
615 photograph fee for each applicant for a four-year license;

616 (b) Forty Dollars (\$40.00) plus the applicable
617 photograph fee for each applicant for an eight-year license;



618 (c) Three Dollars (\$3.00) plus the applicable
619 photograph fee for each applicant for a one-year license, except
620 as provided in paragraph (d) of this subsection;

621 (d) Eighteen Dollars (\$18.00) plus the applicable
622 photograph fee for a license for an applicant who is not a United
623 States citizen and who does not possess a social security number
624 issued by the United States government; * * *

625 (e) (i) Fifty Dollars (\$50.00) plus the applicable
626 photograph fee for an ignition-interlock-restricted driver's
627 license which shall be provided to the Department of Public Safety
628 to defray the costs associated with the department's duties and
629 responsibilities regarding ignition-interlock device usage.

630 (ii) There is created in the State Treasury a
631 special fund to be known as the Ignition-Interlock Device Fund.
632 The purpose of the fund shall be to provide funding for the
633 Driver's License Bureau of the Department of Public Safety and
634 also to provide funding assistance for ignition-interlock devices
635 for persons determined by the court to be unable to afford the
636 installation and maintenance of an ignition-interlock device.
637 Monies from the fund shall be distributed by the State Treasurer
638 upon warrants issued by the Department of Public Safety. The fund
639 shall be a continuing fund, not subject to fiscal year
640 limitations, and shall consist of:

641 1. Monies appropriated by the Legislature for
642 the purposes of funding the Driver's License Bureau;



643 2. The interest accruing to the fund;
644 3. Monies paid by a person for an
645 ignition-interlock device under Section 63-11-31(2) (a); and
646 4. Monies received from such other sources as
647 may be provided by law; and

648 (* * *f) In addition to the fees required in paragraph
649 (a) of this subsection, an applicant may contribute an additional
650 One Dollar (\$1.00) which shall be deposited into the Statewide
651 Litter Prevention Fund. The applicant shall be informed that he
652 may contribute an additional One Dollar (\$1.00) which shall be
653 deposited into the Statewide Litter Prevention Fund and shall be
654 expended solely for the purpose of funding litter prevention
655 projects or litter education programs, as recommended by the
656 Statewide Litter Prevention Program of Keep Mississippi Beautiful,
657 Inc.

658 All originals and renewals of regular operators' licenses
659 shall be in compliance with Section 63-1-47.

660 (2) The fee for receiving the application and issuing a
661 motorcycle endorsement shall be Five Dollars (\$5.00) when issued
662 as an endorsement to a four-year license, and Ten Dollars (\$10.00)
663 when issued as an endorsement to an eight-year license.
664 Motorcycle endorsements shall be valid for the same period of time
665 as the applicant's operator's license.



666 (3) The fee for receiving the application and issuing a
667 restricted motorcycle operator's license and the fee for renewing
668 such license shall be:

669 (a) Eleven Dollars (\$11.00) plus the applicable
670 photograph fee for a four-year license;

671 (b) Eight Dollars (\$8.00) plus the applicable
672 photograph fee for a one-year license; and

673 (c) Twenty-two Dollars (\$22.00) plus the applicable
674 photograph fee for an eight-year license.

675 All originals and renewals of restricted motorcycle licenses
676 shall be valid for the same period of time that an original
677 regular driver's license may be issued to such person in
678 compliance with Section 63-1-47.

679 (4) From and after January 1, 1990, every person who makes
680 application for an original license or a renewal license to
681 operate a vehicle as a common carrier by motor vehicle, taxicab,
682 passenger coach, dray, contract carrier or private commercial
683 carrier as such terms are defined in Section 27-19-3, except for
684 those vehicles for which a Class A, B or C license is required
685 under Article 5 of this chapter, shall, in lieu of the regular
686 driver's license above provided for, apply for and obtain a Class
687 D commercial driver's license. Except as otherwise provided in
688 subsection (5) of this section, the fee for the issuance of a
689 Class D commercial driver's license shall be Twenty-three Dollars
690 (\$23.00) plus the applicable photograph fee for a period of four



691 (4) years; however, except as required under Article 5 of this
692 chapter, no driver of a pickup truck shall be required to have a
693 commercial license regardless of the purpose for which the pickup
694 truck is used.

695 Except as otherwise provided in subsection (5) of this
696 section, all originals and renewals of commercial licenses issued
697 under this section shall be valid for a period of four (4) years,
698 in compliance with Section 63-1-47. Only persons who operate the
699 above-mentioned vehicles in the course of the regular and
700 customary business of the owner shall be required to obtain a
701 Class D commercial operator's license, and persons operating such
702 vehicles for private purposes or in emergencies shall not be
703 required to obtain such license.

704 (5) The original and each renewal of a commercial driver's
705 license issued under this section to a person who is not a United
706 States citizen and who does not possess a social security number
707 issued by the United States government shall be issued for a
708 period of one (1) year for a fee of Eight Dollars (\$8.00) plus the
709 applicable photograph fee and shall expire one (1) year from the
710 date of issuance. Such person may renew a commercial license
711 issued under this section within thirty (30) days of expiration of
712 the license.

713 (6) The Commissioner of Public Safety, by rule or
714 regulation, shall establish a driver's license photograph fee
715 which shall be the actual cost of the photograph rounded off to



716 the next highest dollar. Monies collected for the photograph fee
717 shall be deposited into a special photograph fee account which the
718 Department of Public Safety shall use to pay the actual cost of
719 producing the photographs. Any monies collected in excess of the
720 actual costs of the photography shall be used by the department to
721 defray the cost of future photography and driver's license
722 technology initiatives.

723 **SECTION 5.** Section 63-1-47, Mississippi Code of 1972, is
724 amended as follows:

725 63-1-47. (1) Except as otherwise provided in this section,
726 each applicant for an original license issued pursuant to this
727 article, who is entitled to issuance of same, shall be issued a
728 four-year license or an eight-year license, at the option of the
729 applicant, which will expire at midnight on the licensee's
730 birthday.

731 (a) Except as otherwise provided in this section, all
732 renewal licenses shall be for a four-year period or an eight-year
733 period, at the option of the applicant, and may be renewed any
734 time within six (6) months before the expiration of the license
735 upon application and payment of the required fee, unless required
736 to be reexamined.

737 (b) From and after January 1, 1990, no commercial
738 driver's license shall be issued under the provisions of this
739 article for any commercial motor vehicle, the lawful operation of
740 which requires the driver to obtain a Class A, B or C commercial



741 driver's license under Article 5 of this chapter; however, from
742 time to time, the holder of a commercial license may apply for a
743 commercial driver's license under Article 5 of this chapter; and,
744 if he fails to pass the required test for such license, he shall
745 be entitled to an extension of his license that shall be valid for
746 one hundred twenty (120) days or until he again is tested under
747 Article 5 of this chapter, whichever occurs first. The extension
748 shall entitle the license holder to operate all vehicles which
749 such license authorized him to operate prior to taking the
750 required test. The first extension shall be without charge;
751 however, a fee of Fifteen Dollars (\$15.00) shall be imposed for
752 any subsequent extension. No extension shall be valid past March
753 31, 1992.

754 (2) Any commercial driver's license issued under this
755 article before January 1, 1990, which expires after March 31,
756 1992, shall be void on April 1, 1992, for the operation of any
757 commercial vehicle requiring a commercial license to be issued
758 under Article 5 of this chapter; however, if the holder of any
759 such license applies for a commercial driver's license under
760 Article 5 of this chapter, passes the required tests for such
761 license, pays all applicable fees under Article 5 of this chapter
762 except the Forty Dollars (\$40.00) license fee and otherwise meets
763 all requirements for the issuance of such license, then such
764 person shall be issued a license under Article 5 of this chapter



765 which shall expire on the expiration date of the commercial
766 driver's license being replaced.

767 (3) The fee for the issuance of an original and renewals of
768 a Class D commercial driver's license under this article to an
769 applicant who is not a United States citizen and who does not
770 possess a social security number issued by the United States
771 government and the period for which such license will be valid and
772 expire shall be as prescribed in Section 63-1-43.

773 (4) The Commissioner of Public Safety shall notify, by
774 United States mail addressed to the last-known address of record
775 with the Department of Public Safety, all holders of a commercial
776 driver's license issued under this article before January 1, 1990,
777 and which * * * expires after March 31, 1992, that such license
778 will be void on and after April 1, 1992, for the operation of any
779 vehicle for which a commercial driver's license is required to be
780 issued under Article 5 of this chapter.

781 (5) Any person holding a valid commercial driver's license
782 issued under this article before January 1, 1990, shall continue
783 thereafter, until expiration of such license, to be entitled to
784 operate all vehicles which such license authorized him to operate
785 immediately before January 1, 1990, except that from and after
786 April 1, 1992, such license shall not entitle the licensee to
787 operate a commercial motor vehicle the lawful operation of which
788 requires a commercial driver's license under Article 5 of this
789 chapter.



790 (6) (a) All applications by an operator under eighteen (18)
791 years of age must be accompanied by documentation that the
792 applicant is in compliance with the education requirements of
793 Section 63-1-9(1)(g), and the documentation used in establishing
794 compliance must be dated no more than thirty (30) days prior to
795 the date of application.

796 (b) All applications by an operator under eighteen (18)
797 years of age, if applicable, must be accompanied by documentation
798 signed and notarized by the parent or guardian of the applicant
799 and the appropriate school official, authorizing the release of
800 the applicant's attendance records to the Department of Public
801 Safety as required under Section 63-1-10.

802 (c) The commissioner shall suspend the driver's
803 license, intermediate license or temporary learning permit of a
804 student under eighteen (18) years of age who has been reported by
805 the Department of Education as required by Section 63-1-10.1, and
806 shall give notice of the suspension to the licensee as provided in
807 Section 63-1-52(4). A school superintendent or designee may
808 request that the driver's license, intermediate license or
809 temporary learning permit that has been suspended under the
810 provisions of this subsection be reinstated after the student has
811 successfully completed nine (9) weeks of school attendance without
812 an unlawful absence.

813 (7) (a) Any original or renewal license issued under this
814 article to a person who is not a United States citizen and who



815 does not possess a social security number issued by the United
816 States government shall expire four (4) years from the date of
817 issuance or on the expiration date of the applicant's authorized
818 stay in the United States, whichever is the lesser period of time,
819 and may be renewed, if the person is otherwise qualified to renew
820 the license, within thirty (30) days of expiration. The fee for
821 any such license and for renewal shall be as prescribed in Section
822 63-1-43.

823 (b) Any applicant for an original or renewal license
824 under this subsection (7) must present valid documentary evidence
825 documenting that the applicant:

826 (i) Is a citizen or national of the United States;

827 (ii) Is an alien lawfully admitted for permanent
828 or temporary residence in the United States;

829 (iii) Has conditional permanent residence status
830 in the United States;

831 (iv) Has approved application for asylum in the
832 United States or has entered into the United States in refugee
833 status;

834 (v) Has a valid, unexpired nonimmigrant visa or
835 nonimmigrant visa status for entry into or lawful presence in the
836 United States;

837 (vi) Has a pending application for asylum in the
838 United States;



839 (vii) Has a pending or approved application for
840 temporary protected status in the United States;
841 (viii) Has approved deferred action status;
842 (ix) Has pending application for adjustment of
843 status to that of an alien lawfully admitted for permanent
844 residence in the United States or conditional permanent resident
845 status in the United States; or
846 (x) Has a valid employment authorization card
847 issued by the United States Department of Homeland Security.

848 (8) The term of an ignition-interlock-restricted driver's
849 license issued pursuant to this article shall be four (4) years.

850 **SECTION 6.** Section 63-11-21, Mississippi Code of 1972, is
851 amended as follows:

852 63-11-21. If a person refuses upon the request of a law
853 enforcement officer to submit to a chemical test of his breath
854 designated by the law enforcement agency as provided in Section
855 63-11-5, none shall be given, but the officer shall at that point
856 demand the driver's license of the person, who shall deliver his
857 driver's license into the hands of the officer. If a person
858 refuses to submit to a chemical test under the provisions of this
859 chapter, the person shall be informed by the law enforcement
860 officer that the refusal to submit to the test shall subject him
861 to * * * punishment consistent with the penalties prescribed * * *
862 for conviction under Section 63-11-30 * * * and Section 63-11-31.
863 The officer shall give the driver a receipt for his license on



864 forms prescribed and furnished by the Commissioner of Public
865 Safety. The officer shall forward the driver's license together
866 with a sworn report to the Commissioner of Public Safety stating
867 that he had reasonable grounds and probable cause to believe the
868 person had been driving a motor vehicle upon the public highways,
869 public roads and streets of this state while under the influence
870 of intoxicating liquor, or any other substance which may impair a
871 person's mental or physical ability, stating such grounds, and
872 that the person had refused to submit to the chemical test of his
873 breath upon request of the law enforcement officer.

874 **SECTION 7.** Section 63-11-23, Mississippi Code of 1972, is
875 amended as follows:

876 63-11-23. (1) The Commissioner of Public Safety, or his
877 authorized agent, shall review the sworn report by a law
878 enforcement officer as provided in Section 63-11-21. If
879 upon * * * review the Commissioner of Public Safety, or his
880 authorized agent, finds (a) that the law enforcement officer had
881 reasonable grounds and probable cause to believe the person had
882 been driving a motor vehicle upon the public highways, public
883 roads and streets of this state while under the influence of
884 intoxicating liquor or any other substance * * * that may impair a
885 person's mental or physical ability; (b) that he refused to submit
886 to the test upon request of the officer; and (c) that the person
887 was informed that his license and * * * driving privileges would
888 be suspended or denied if he refused to submit to the chemical



889 test, then the Commissioner of Public Safety, or his authorized
890 agent, shall give notice to the licensee that his license or
891 permit to drive, or any nonresident operating privilege, shall be
892 suspended thirty (30) days after the date of * * * the notice for
893 a period of ninety (90) days in the event * * * the person has not
894 previously been convicted of a violation of Section 63-11-30, or,
895 for a period of one (1) year in the event of any previous
896 conviction of * * * the person under Section 63-11-30. In the
897 event the commissioner or his authorized agent determines that the
898 license should not be suspended, he shall return the license or
899 permit to the licensee.

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

902 (2) If the chemical testing of a person's breath indicates
903 the blood alcohol concentration was eight one-hundredths percent
904 (.08%) or more for persons who are above the legal age to purchase
905 alcoholic beverages under state law, or two one-hundredths percent
906 (.02%) or more for persons who are below the legal age to purchase
907 alcoholic beverages under state law, based upon grams of alcohol
908 per one hundred (100) milliliters of blood or grams of alcohol per
909 two hundred ten (210) liters of breath as shown by a chemical
910 analysis of such person's blood, or breath, or urine, the
911 arresting officer shall seize the license and give the driver a
912 receipt for his license on forms prescribed by the Commissioner of
913 Public Safety and shall promptly forward the license together with



914 a sworn report to the Commissioner of Public Safety. The receipt
915 given a person as provided herein shall be valid as a permit to
916 operate a motor vehicle for a period of thirty (30) days in order
917 that the defendant be processed through the court having original
918 jurisdiction and a final disposition had. If the defendant
919 requests a trial within thirty (30) days and * * * trial is not
920 commenced within thirty (30) days, then the court shall determine
921 if the delay in the trial is the fault of the defendant or his
922 counsel. If the court finds that * * * it is not the fault of the
923 defendant or his counsel, then the court shall order the
924 defendant's driving privileges to be extended until * * * the
925 defendant is convicted. If a receipt or permit to drive issued
926 pursuant to the provisions of this subsection expires without a
927 trial having been requested as provided for in this subsection,
928 then the Commissioner of Public Safety or his authorized agent
929 shall suspend the license or permit to drive or any nonresident
930 operating privilege for the applicable period of time as provided
931 for in subsection (1) of this section.

932 (3) If the person is a resident without a license or permit
933 to operate a motor vehicle in this state, the Commissioner of
934 Public Safety, or his authorized agent, shall deny to the person
935 the issuance of a license or permit for a period of one (1) year
936 beginning thirty (30) days after the date of notice of such
937 suspension.



938 (4) It shall be the duty of the county prosecuting attorney,
939 an attorney employed under the provisions of Section 19-3-49, or
940 in the event there is no such prosecuting attorney for the county,
941 the duty of the district attorney to represent the state in any
942 hearing held under the provisions of Section 63-11-25, under the
943 provisions of Section 63-11-37(2) or under the provisions of
944 Section 63-11-30(2) (a) .

945 (5) The provisions of this section shall not apply to any
946 person who has been nonadjudicated under Section 63-11-30.

947 **SECTION 8.** This act shall take effect and be in force from
948 and after July 1, 2014.

