

By: Representative Willis

To: Drug Policy

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1361

1 AN ACT TO AMEND SECTION 63-11-5, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY WHO MAY ADMINISTER A DUI TEST; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** Section 63-11-5, Mississippi Code of 1972, is  
5 amended as follows:

6 63-11-5. (1) (a) Any person who operates a motor vehicle  
7 upon the public highways, public roads and streets of this state  
8 shall be deemed to have given his consent, subject to the  
9 provisions of this chapter, to a chemical test or tests of his  
10 breath for the purpose of determining alcohol concentration. A  
11 person shall give his consent to a chemical test or tests of his  
12 breath, blood or urine for the purpose of determining the presence  
13 in his body of any other substance which would impair a person's  
14 ability to operate a motor vehicle.

15 (b) The test or tests shall be administered at the  
16 direction of any \* \* \* authorized officer, \* \* \* when such officer  
17 has reasonable grounds and probable cause to believe that the  
18 person was driving or had under his actual physical control a



19 motor vehicle upon the public streets or highways of this state  
20 while under the influence of intoxicating liquor or any other  
21 substance which had impaired such person's ability to operate a  
22 motor vehicle.

23           (c) No such test shall be administered by any person  
24 who has not met all the educational and training requirements of  
25 the appropriate course of study prescribed by the Board on Law  
26 Enforcement Officers Standards and Training; provided, however,  
27 that sheriffs and elected chiefs of police shall be exempt from  
28 such educational and training requirement. No such tests shall be  
29 given by any officer or any agency to any person within fifteen  
30 (15) minutes of consumption of any substance by mouth.

31           (d) For purposes of this subsection (1), the term  
32 "authorized officer" means any highway patrol officer, sheriff or  
33 his duly commissioned deputies, police officer in any incorporated  
34 municipality, national park ranger, officer of a state-supported  
35 institution of higher learning campus police force if such officer  
36 is exercising this authority in regard to a violation that  
37 occurred on campus property, or security officer appointed and  
38 commissioned pursuant to the Pearl River Valley Water Supply  
39 District Security Officer Law of 1978 if such officer is  
40 exercising this authority in regard to a violation that occurred  
41 within the limits of the Pearl River Valley Water Supply District.

42           (2) If the officer has reasonable grounds and probable cause  
43 to believe such person to have been driving a motor vehicle upon



44 the public highways, public roads, and streets of this state while  
45 under the influence of intoxicating liquor, such officer shall  
46 inform such person that his failure to submit to such chemical  
47 test or tests of his breath shall result in the suspension of his  
48 privilege to operate a motor vehicle upon the public streets and  
49 highways of this state for a period of ninety (90) days in the  
50 event such person has not previously been convicted of a violation  
51 of Section 63-11-30, or, for a period of one (1) year in the event  
52 of any previous conviction of such person under Section 63-11-30.

53 (3) The traffic ticket, citation or affidavit issued to a  
54 person arrested for a violation of this chapter shall conform to  
55 the requirements of Section 63-9-21(3)(b), and, if filed  
56 electronically, shall conform to Section 63-9-21(8).

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

61 (5) The Commissioner of Public Safety and the Mississippi  
62 Forensics Laboratory created pursuant to Section 45-1-17 are \* \* \*  
63 authorized \* \* \* to adopt procedures, rules and regulations \* \* \*  
64 applicable to the Implied Consent Law.

65 **SECTION 2.** This act shall take effect and be in force from  
66 and after July 1, 2016.

