

By: Representative Staples

To: Transportation

HOUSE BILL NO. 1023

1 AN ACT TO AMEND SECTION 63-33-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE BURDEN OF PROOF RESTS WITH THE DRIVER OF A MOTOR
3 VEHICLE WHO IS CITED FOR TEXTING WHILE DRIVING TO PROVE THEY WERE
4 USING THEIR PHONE IN A LAWFUL MANNER; TO INCREASE THE CIVIL
5 PENALTY FOR TEXTING WHILE DRIVING TO FIVE HUNDRED DOLLARS; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 63-33-1, Mississippi Code of 1972, is
9 amended as follows:

10 63-33-1. (1) For purposes of this section, the following
11 terms shall have the meanings ascribed in this subsection, unless
12 the context clearly indicates otherwise:

13 (a) "Hand-held mobile telephone" means a mobile
14 telephone or other portable electronic communication device with
15 which a user engages in a call or writes, sends or reads a text
16 message using at least one hand. The term "hand-held mobile
17 telephone" shall not include a voice-operated or hands-free
18 device;



19 (b) "Motor vehicle" means a vehicle driven or drawn by
20 mechanical power and manufactured primarily for use on public
21 highways;

22 (c) "Social networking site" means any web-based
23 service that allows individuals to construct a profile within a
24 founded system, articulate a list of other users with whom they
25 share a connection, and communicate with other users of the site;

26 (d) "Text message" includes a text-based message,
27 instant message, electronic message, and email, but shall not
28 include an emergency, traffic or weather alert or a message
29 related to the operation or navigation of the motor vehicle;

30 (e) "Voice operated or hands-free device" means a
31 device that allows the user to write, send, or read a text message
32 without the use of either hand except to activate, deactivate, or
33 initiate a feature or function; and

34 (f) "Writing," "sending" and "reading," with respect to
35 a text message, means the manual entry, sending, or retrieval of a
36 text message, respectively, to communicate with any person or
37 device.

38 (2) (a) An operator of a moving motor vehicle is prohibited
39 from writing, sending, or reading a text message and from
40 accessing, reading or posting to a social networking site using a
41 hand-held mobile telephone while driving said motor vehicle.

42 (b) If a person is cited for a violation of this
43 subsection (2) and asserts as a defense that he or she was not



44 using his or her mobile telephone in a manner that would violate
45 this subsection (2), the burden of proof rests with such person to
46 prove he or she was using his or her mobile telephone in a lawful
47 manner.

48 (3) A violation of this section is a civil violation, and
49 upon being found in violation, is punishable by a civil penalty
50 of * * * Five Hundred Dollars (\$500.00). No state assessments
51 shall be imposed or collected for a violation under this section.

52 (4) The Department of Public Safety shall keep and maintain
53 records of citations issued under this section, including the age
54 and race of the vehicle operator, whether there was an additional
55 traffic violation by the vehicle operator, and whether there was a
56 crash or any damage to a vehicle or passenger at the time of the
57 citation.

58 (5) All on duty law enforcement officers of this state, upon
59 witnessing a person committing a violation of this section, shall
60 be required to cite such person with a violation of this section.
61 It is the intent of the Legislature that all persons who are
62 witnessed violating this section by an on duty law enforcement
63 officer shall be cited in accordance with this section.

64 (* * *6) This section shall stand repealed on July 1, 2018.

65 **SECTION 2.** This act shall take effect and be in force from
66 and after July 1, 2017.

