

By: Representative Clark

To: Transportation;
Judiciary B

HOUSE BILL NO. 295

1 AN ACT TO AUTHORIZE THE ISSUANCE OF A HARDSHIP DRIVER'S
 2 LICENSE TO A PERSON WHOSE LICENSE HAS BEEN SUSPENDED AS A RESULT
 3 OF BEING OUT OF COMPLIANCE WITH AN ORDER FOR SUPPORT; TO REQUIRE A
 4 PERSON TO ESTABLISH PROOF OF HARDSHIP; TO AMEND SECTION 63-1-43,
 5 MISSISSIPPI CODE OF 1972, TO ESTABLISH A FEE FOR A HARDSHIP
 6 LICENSE AND PROVIDE THAT A PERSON HOLDING A HARDSHIP LICENSE MAY
 7 ONLY DRIVE TO WORK AND RELIGIOUS SERVICES; TO AMEND SECTION
 8 63-1-47, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TERM OF A
 9 HARDSHIP LICENSE SHALL BE FOUR YEARS; TO AMEND SECTIONS 63-1-5 and
 10 93-11-157, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE
 11 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) Whenever a person's driver's license has
 14 been suspended under Section 93-11-157 or 93-11-163 for being out
 15 of compliance with an order for support, such person may petition
 16 the chancery court in which the licensee resides or the Chancery
 17 Court of the First Judicial District of Hinds County, Mississippi,
 18 for an order authorizing such person to be issued a hardship
 19 license.

20 (2) (a) The court may grant the person hardship driving
 21 privileges if it finds reasonable cause to believe that suspension



22 of full driving privileges would hinder the person's ability to
23 continue his or her employment.

24 (b) Proof of the hardship shall be established by clear
25 and convincing evidence, which shall be supported by independent
26 documentation, and must include a recommendation letter from the
27 Mississippi Department of Human Services stating they have reason
28 to believe the person should receive a hardship license.

29 (3) Upon receiving a court order that grants a person
30 hardship driving privileges, the person shall take the order and a
31 hardship driver's license application form, prescribed by the
32 Mississippi Department of Public Safety, to a driver's licensing
33 location to be issued a hardship driver's license.

34 (4) The hardship driver's license issued under this section
35 shall be developed by the Mississippi Department of Public Safety
36 and shall look substantially different from a regular driver's
37 license.

38 (5) A hardship license cannot be issued to an applicant to
39 operate a commercial motor vehicle.

40 (6) (a) The Mississippi Department of Human Services shall
41 adopt regulations to carry out the provisions of subsection (2)(b)
42 of this section.

43 (b) The Mississippi Department of Public Safety shall
44 adopt regulations as necessary to carry out the provisions of this
45 section.



46 **SECTION 2.** Section 63-1-43, Mississippi Code of 1972, is
47 amended as follows:

48 63-1-43. (1) The commissioner shall charge and collect the
49 following fees:

50 (a) Fees to which the card stock fee authorized in
51 Section 45-1-21 shall be added:

52 Class R original or renewal four-year license	
53 authorized in Section 63-1-5.....	\$18.00
54 Class R original or renewal eight-year license	
55 authorized in Section 63-1-5.....	\$36.00
56 Class D original or renewal four-year license	
57 authorized in Section 63-1-47.....	\$23.00
58 Class D original or renewal eight-year license	
59 authorized in Section 63-1-47.....	\$46.00
60 Four-year Identification Card authorized in	
61 Section 45-35-7.....	\$11.00
62 Eight-year Identification Card authorized in	
63 Section 45-35-7.....	\$22.00
64 Eight-year Identification Card for the blind	
65 authorized in Section 45-35-7.....	\$11.00
66 Four-year Disability Identification Card authorized in	
67 Section 45-35-53.....	\$11.00
68 Regular Learner's Permit authorized in Section 63-1-21.....	\$ 1.00
69 Duplicate Identification Card or Disability	
70 Identification Card.....	\$ 5.00



71	Intermediate license authorized in Section 63-1-21.....	\$ 5.00
72	Duplicate Class R or Class D license	
73	authorized in Section 63-1-37.....	\$ 5.00
74	Class A, B or C Commercial driver's license	
75	authorized in Section 63-1-208.....	\$48.00
76	CDL Learner's Permit authorized in Section 63-1-208.....	\$10.00
77	Duplicate CDL or CDL learner's permit.....	\$ 5.00
78	Ignition-Interlock-Restricted License	
79	authorized in Section 63-11-31.....	\$50.00
80	(b) Driver services fees to which the card stock fee	
81	authorized in Section 45-1-21 is not added:	
82	Temporary Motorcycle Permit.....	\$ 1.00
83	Four-year or eight-year Motorcycle Endorsement.....	\$ 5.00
84	Late Renewal Fee.....	\$ 1.00
85	Four-year Identification Card upon medical reason for	
86	surrender of a driver's license as authorized in	
87	Section 45-35-7 (one (1) time only).....	No fee
88	Hazardous Materials Background Check (federal).....	\$63.00
89	Hazardous Materials Background Check (state).....	\$37.00
90	CDL Application Fee.....	\$25.00
91	CDL Endorsements:	
92	Tanker Endorsement.....	\$ 5.00
93	Doubles/Triples Endorsement.....	\$ 5.00
94	Passenger Endorsement.....	\$ 5.00
95	Hazardous Materials Endorsement.....	\$ 5.00



96 School Bus Endorsement.....\$ 5.00
97 Hardship License authorized in Section 1 of this act.....\$25.00

98 (c) In addition to the fees required in this section,
99 an applicant may contribute an additional One Dollar (\$1.00) which
100 shall be deposited into the Statewide Litter Prevention Fund. The
101 applicant shall be informed that he may contribute an additional
102 One Dollar (\$1.00) which shall be deposited into the Statewide
103 Litter Prevention Fund and shall be expended solely for the
104 purpose of funding litter prevention projects or litter education
105 programs, as recommended by the Statewide Litter Prevention
106 Program of Keep Mississippi Beautiful, Inc.

107 (2) All originals and renewals of operators' licenses shall
108 be in compliance with Section 63-1-47.

109 **SECTION 3.** Section 63-1-47, Mississippi Code of 1972, is
110 amended as follows:

111 63-1-47. (1) (a) Except as otherwise provided in this
112 section, each applicant for an original or renewal Class R or
113 Class D license issued pursuant to this article, who is entitled
114 to issuance of same, shall be issued a four-year license or an
115 eight-year license, at the option of the applicant, which will
116 expire at midnight on the licensee's birthday and may be renewed
117 any time within six (6) months before the expiration of the
118 license upon application and payment of the required fee, unless
119 required to be reexamined.



120 (b) The term of an intermediate license issued under
121 this article shall be one (1) year.

122 (c) The term of an ignition-interlock-restricted
123 license issued under this article shall be four (4) years.

124 (d) The term of a hardship license issued under Section
125 1 of this act shall be four (4) years.

126 (2) Any commercial driver's license issued under Article 5
127 of this chapter shall be issued for a five-year term to expire at
128 midnight on the licensee's birthday.

129 (3) (a) All applications by an operator under eighteen (18)
130 years of age must be accompanied by documentation that the
131 applicant is in compliance with the education requirements of
132 Section 63-1-9(1)(g), and the documentation used in establishing
133 compliance must be dated no more than thirty (30) days before the
134 date of application.

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

141 (c) The commissioner shall suspend the driver's
142 license, intermediate license or regular learner's permit of a
143 student under eighteen (18) years of age who has been reported by
144 the Department of Education as required by Section 63-1-10.1, and



145 shall give notice of the suspension to the licensee as provided in
146 Section 63-1-52(4). A school superintendent or designee may
147 request that the driver's license, intermediate license or regular
148 learner's permit that has been suspended under the provisions of
149 this subsection be reinstated after the student has successfully
150 completed nine (9) weeks of school attendance without an unlawful
151 absence.

152 (4) (a) Any original or renewal license issued under this
153 chapter to a person who is not a United States citizen shall
154 expire four (4) years from the date of issuance or on the
155 expiration date of the applicant's authorized stay in the United
156 States, whichever is the lesser period of time, and may be
157 renewed, if the person is otherwise qualified to renew the
158 license, within thirty (30) days of expiration. The fee for any
159 such license and for renewal shall be as prescribed in Section
160 63-1-43.

161 (b) Any applicant for an original or renewal license
162 under this subsection (4) must present valid documentary evidence
163 documenting that the applicant:

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

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

167 (iii) Has conditional permanent residence status
168 in the United States;



169 (iv) Has an approved application for asylum in the
170 United States or has entered into the United States in refugee
171 status;

172 (v) Has a valid, unexpired nonimmigrant visa or
173 nonimmigrant visa status for entry into or lawful presence in the
174 United States;

175 (vi) Has a pending application for asylum in the
176 United States;

177 (vii) Has a pending or approved application for
178 temporary protected status in the United States;

179 (viii) Has approved deferred-action status;

180 (ix) Has a pending application for adjustment of
181 status to that of an alien lawfully admitted for permanent
182 residence in the United States or conditional permanent resident
183 status in the United States; or

184 (x) Has a valid employment authorization card
185 issued by the United States Department of Homeland Security.

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

188 63-1-5. (1) (a) No person shall drive or operate a motor
189 vehicle or an autocycle as defined in Section 63-3-103 upon the
190 highways of the State of Mississippi without first securing an
191 operator's license to drive on the highways of the state, unless
192 specifically exempted by Section 63-1-7.

193 (b) The types of operator's licenses are:



194 (i) Class R;
195 (ii) Class D;
196 (iii) Class A, B or C commercial license governed
197 by Article 5 of this chapter;
198 (iv) Intermediate license; * * *
199 (v) Interlock-restricted license as prescribed in
200 Section 63-11-31 * * *; and
201 (vi) Hardship license as prescribed in Section 1
202 of this act.

203 (2) (a) Every person who makes application for an original
204 license or a renewal license to operate any single vehicle with a
205 gross weight rating of less than twenty-six thousand one (26,001)
206 pounds or any vehicle towing a vehicle with a gross vehicle weight
207 rating not in excess of ten thousand (10,000) pounds other than
208 vehicles included in Class C, vehicles which require a special
209 endorsement, or to operate a vehicle as a common carrier by motor
210 vehicle, taxicab, passenger coach, dray, contract carrier or
211 private commercial carrier as defined in Section 27-19-3, other
212 than those vehicles for which a Class A, B or C license is
213 required under Article 5 of this chapter, may, in lieu of the
214 Class R regular driver's license, apply for and obtain a Class D
215 driver's license. The fee for the issuance of a Class D driver's
216 license shall be as set forth in Section 63-1-43 and the Class D
217 license shall be valid for the term prescribed in Section 63-1-47.
218 Except as required under Article 5 of this chapter, no driver of a



219 pickup truck shall be required to have a Class D or a commercial
220 license regardless of the purpose for which the pickup truck is
221 used.

222 (b) Persons operating vehicles listed in paragraph (a)
223 of this subsection for private purposes or in emergencies need not
224 obtain a Class D license.

225 (3) An interlock-restricted license allows a person to drive
226 only a motor vehicle equipped with an ignition-interlock device.

227 (4) A person who violates this section is guilty of a
228 misdemeanor and, upon conviction, may be punished by imprisonment
229 for not less than two (2) days nor more than six (6) months, by a
230 fine of not less than Two Hundred Dollars (\$200.00) nor more than
231 Five Hundred Dollars (\$500.00), or both.

232 **SECTION 5.** Section 93-11-157, Mississippi Code of 1972, is
233 amended as follows:

234 93-11-157. (1) The division shall review the information
235 received under Section 93-11-155 and any other information
236 available to the division, and shall determine if a licensee is
237 out of compliance with an order for support. If a licensee is out
238 of compliance with the order for support, the division shall
239 notify the licensee by first class mail that ninety (90) days
240 after the licensee receives the notice of being out of compliance
241 with the order, the licensing entity will be notified to
242 immediately suspend the licensee's license unless the licensee
243 pays the arrearage owing, according to the accounting records of



244 the Mississippi Department of Human Services or the attorney
245 representing the party to whom support is due, as the case may be,
246 or enters into a stipulated agreement and agreed judgment
247 establishing a schedule for the payment of the arrearage. The
248 licensee shall be presumed to have received the notice five (5)
249 days after it is deposited in the mail.

250 (2) Upon receiving the notice provided in subsection (1) of
251 this section the licensee may:

252 (a) Request a review with the division; however, the
253 issues the licensee may raise at the review are limited to whether
254 the licensee is the person required to pay under the order for
255 support and whether the licensee is out of compliance with the
256 order for support; or

257 (b) Request to participate in negotiations with the
258 division for the purpose of establishing a payment schedule for
259 the arrearage.

260 (3) The division director or the designees of the division
261 director may and, upon request of a licensee, shall negotiate with
262 a licensee to establish a payment schedule for the arrearage.
263 Payments made under the payment schedule shall be in addition to
264 the licensee's ongoing obligation under the latest entered
265 periodic order for support.

266 (4) Should the division and the licensee reach an agreement
267 on a payment schedule for the arrearage, the division director may
268 submit to the court a stipulated agreement and agreed judgment



269 containing the payment schedule which, upon the court's approval,
270 is enforceable as any order of the court. If the court does not
271 approve the stipulated agreement and agreed judgment, the court
272 may require a hearing on a case-by-case basis for the judicial
273 review of the payment schedule agreement.

274 (5) If the licensee and the division do not reach an
275 agreement on a payment schedule for the arrearage, the licensee
276 may move the court to establish a payment schedule. However, this
277 action does not stay the license suspension.

278 (6) The notice given to a licensee that the licensee's
279 license will be suspended in ninety (90) days must clearly state
280 the remedies and procedures that are available to a licensee under
281 this section.

282 (7) If at the end of the ninety (90) days the licensee has
283 an arrearage according to the accounting records of the
284 Mississippi Department of Human Services or the attorney
285 representing the party to whom support is due, as the case may be,
286 and the licensee has not entered into a stipulated agreement and
287 agreed judgment establishing a payment schedule for the arrearage,
288 the division shall immediately notify all applicable licensing
289 entities in writing to suspend the licensee's license, and the
290 licensing entities shall immediately suspend the license and shall
291 within three (3) business days notify the licensee and the
292 licensee's employer, where known, of the license suspension and
293 the date of such suspension by certified mail return receipt



294 requested. Within forty-eight (48) hours of receipt of a request
295 in writing delivered personally, by mail or by electronic means,
296 the department shall furnish to the licensee, licensee's attorney
297 or other authorized representative a copy of the department's
298 accounting records of the licensee's payment history. A licensing
299 entity shall immediately reinstate the suspended license upon the
300 division's notification of the licensing entities in writing that
301 the licensee no longer has an arrearage or that the licensee has
302 entered into a stipulated agreement and agreed judgment.

303 (8) Within thirty (30) days after a licensing entity
304 suspends the licensee's license at the direction of the division
305 under subsection (7) of this section, the licensee may appeal the
306 license suspension to the chancery court of the county in which
307 the licensee resides or to the Chancery Court of the First
308 Judicial District of Hinds County, Mississippi, upon giving bond
309 with sufficient sureties in the amount of Two Hundred Dollars
310 (\$200.00), approved by the clerk of the chancery court and
311 conditioned to pay any costs that may be adjudged against the
312 licensee. Notice of appeal shall be filed in the office of the
313 clerk of the chancery court. If there is an appeal, the appeal
314 may, in the discretion of and on motion to the chancery court, act
315 as a supersedeas of the license suspension. The department shall
316 be the appellee in the appeal, and the licensing entity shall not
317 be a party in the appeal. The chancery court shall dispose of the
318 appeal and enter its decision within thirty (30) days of the



319 filing of the appeal. The hearing on the appeal may, in the
320 discretion of the chancellor, be tried in vacation. The decision
321 of the chancery court may be appealed to the Supreme Court in the
322 manner provided by the rules of the Supreme Court. In the
323 discretion of and on motion to the chancery court, no person shall
324 be allowed to practice any business, occupation or profession or
325 take any other action under the authority of any license the
326 suspension of which has been affirmed by the chancery court while
327 an appeal to the Supreme Court from the decision of the chancery
328 court is pending.

329 (9) If a licensee who has entered a stipulated agreement and
330 agreed judgment for the payment of an arrearage under this section
331 subsequently is out of compliance with an order for support, the
332 division shall immediately notify the licensing entity to suspend
333 the licensee's license, and the licensing entity shall immediately
334 suspend the license without a hearing and shall within three (3)
335 business days notify the licensee in writing of the license
336 suspension. In the case of a license suspension under the
337 provisions of this subsection, the procedures provided for under
338 subsections (1) and (2) of this section are not required; however,
339 the appeal provisions of subsection (8) of this section still
340 apply. After suspension of the license, if the licensee
341 subsequently enters into a stipulated agreement and agreed
342 judgment or the licensee otherwise informs the division of
343 compliance with the order for support, the division shall within



344 seven (7) days notify in writing the licensing entity that the
345 licensee is in compliance. Upon receipt of that notice from the
346 division, a licensing entity shall immediately reinstate the
347 license of the licensee and shall within three (3) business days
348 notify the licensee of the reinstatement.

349 (10) Nothing in this section prohibits a licensee from
350 filing a motion for the modification of an order for support or
351 for any other applicable relief. However, no such action shall
352 stay the license suspension procedure, except as may be allowed
353 under subsection (8) of this section.

354 (11) If a license is suspended under the provisions of this
355 section, the licensing entity is not required to refund any fees
356 paid by a licensee in connection with obtaining or renewing a
357 license.

358 (12) The requirement of a licensing entity to suspend a
359 license under this section does not affect the power of the
360 licensing entity to deny, suspend, revoke or terminate a license
361 for any other reason.

362 (13) The procedure for suspension of a license for being out
363 of compliance with an order for support, and the procedure for the
364 reissuance or reinstatement of a license suspended for that
365 purpose, shall be governed by this section and not by the general
366 licensing and disciplinary provisions applicable to a licensing
367 entity, except as provided in Section 1 of this act. Actions
368 taken by a licensing entity in suspending a license when required



369 by this section are not actions from which an appeal may be taken
370 under the general licensing and disciplinary provisions applicable
371 to the licensing entity. Any appeal of a license suspension that
372 is required by this section shall be taken in accordance with the
373 appeal procedure specified in subsection (8) of this section
374 rather than any procedure specified in the general licensing and
375 disciplinary provisions applicable to the licensing entity. If
376 there is any conflict between any provision of this section and
377 any provision of the general licensing and disciplinary provisions
378 applicable to a licensing entity, the provisions of this section
379 shall control.

380 (14) No license shall be suspended under this section until
381 ninety (90) days after July 1, 1996. This ninety-day period shall
382 be a one-time amnesty period in which any person who may be
383 subject to license suspension under this article may comply with
384 an order of support in order to avoid the suspension of any
385 license.

386 (15) Any individual who fails to comply with a subpoena or
387 warrant relating to paternity or child support proceedings after
388 receiving appropriate notice may be subject to suspension or
389 withholding of issuance of a license under this section.

390 **SECTION 6.** This act shall take effect and be in force from
391 and after July 1, 2018.

