

By: Representative Wilkes

To: Judiciary B

HOUSE BILL NO. 1052

1 AN ACT TO AMEND SECTION 63-9-11, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT INTERNET COURSES MAY BE APPROVED BY COURTS FOR
3 TRAFFIC SAFETY VIOLATOR COURSES REGARDLESS OF THE AGE OF THE
4 DEFENDANT TO QUALIFY FOR NONADJUDICATION OF CERTAIN TRAFFIC
5 OFFENSES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 63-9-11, Mississippi Code of 1972, is
8 amended as follows:

9 63-9-11. (1) It is a misdemeanor for any person to violate
10 any of the provisions of Chapter 3, 5 or 7 of this title, unless
11 such violation is by such chapters or other law of this state
12 declared to be a felony.

13 (2) Every person convicted of a misdemeanor for a violation
14 of any of the provisions of such chapters for which another
15 penalty is not provided shall for first conviction thereof be
16 punished by a fine of not more than One Hundred Dollars (\$100.00)
17 or by imprisonment for not more than ten (10) days; for a second
18 such conviction within one (1) year thereafter such person shall
19 be punished by a fine of not more than Two Hundred Dollars



20 (\$200.00) or by imprisonment for not more than twenty (20) days or
21 by both such fine and imprisonment; upon a third or subsequent
22 conviction within one (1) year after the first conviction such
23 person shall be punished by a fine of not more than Five Hundred
24 Dollars (\$500.00) or by imprisonment for not more than six (6)
25 months or by both such fine and imprisonment.

26 (3) (a) Whenever a person not covered under Section 63-1-55
27 is charged with a misdemeanor violation of any of the provisions
28 of Chapter 3, 5 or 7 of this title, the person shall be eligible
29 to participate in not less than four (4) hours of a traffic safety
30 violator course and thereby have no record of the violation on the
31 person's driving record if the person meets all the following
32 conditions:

33 (i) The defendant has a valid Mississippi driver's
34 license or permit.

35 (ii) The defendant has not had a conviction of a
36 violation under Chapter 3, 5 or 7 of this title within three (3)
37 years before the current offense; any conviction entered before
38 October 1, 2002, does not constitute a prior offense for the
39 purposes of this subsection (3).

40 (iii) The defendant's public and nonpublic driving
41 record as maintained by the Department of Public Safety does not
42 indicate successful completion of a traffic safety violator course
43 under this section in the three-year period before the offense.



44 (iv) The defendant files an affidavit with the
45 court stating that this is the defendant's first conviction in
46 more than three (3) years or since October 1, 2002, whichever is
47 the lesser period of time; the defendant is not in the process of
48 taking a course under this section; and the defendant has not
49 completed a course under this section that is not yet reflected on
50 the defendant's public or nonpublic driving record.

51 (v) The offense charged is for a misdemeanor
52 offense under Chapter 3, 5 or 7 of this title.

53 (vi) The defendant pays the applicable fine, costs
54 and any assessments required by law to be paid upon conviction of
55 such an offense.

56 (vii) The defendant pays to the court an
57 additional fee of Ten Dollars (\$10.00) to elect to proceed under
58 the provisions of this subsection (3).

59 (b) (i) 1. An eligible defendant may enter a plea of
60 nolo contendere or guilty in person or in writing and present to
61 the court, in person or by mail postmarked on or before the
62 appearance date on the citation, an oral or written request to
63 participate in a course under this subsection (3).

64 2. The court shall withhold acceptance of the
65 plea and defer sentencing in order to allow the eligible defendant
66 ninety (90) days to successfully complete not less than four (4)
67 hours of a court-approved traffic safety violator course at the
68 cost of the defendant. Upon proof of successful completion



69 entered with the court, the court shall dismiss the prosecution
70 and direct that the case be closed. The only record maintained
71 thereafter shall be the nonpublic record required under Section
72 63-9-17 solely for use by the courts in determining eligibility
73 under this subsection (3).

74 (ii) If a person pleads not guilty to a
75 misdemeanor offense under any of the provisions of Chapter 3, 5 or
76 7 of this title but is convicted, and the person meets all the
77 requirements under paragraph (a) of this subsection, upon request
78 of the defendant the court shall suspend the sentence for such
79 offense to allow the defendant forty-five (45) days to
80 successfully complete not less than four (4) hours of a
81 court-approved traffic safety violator course at his own cost.
82 Upon successful completion by the defendant of the course, the
83 court shall set the conviction aside, dismiss the prosecution and
84 direct that the case be closed. The court on its own motion shall
85 expunge the record of the conviction, and the only record
86 maintained thereafter shall be the nonpublic record required under
87 Section 63-9-17 solely for use by the courts in determining an
88 offender's eligibility under this subsection (3).

89 (c) An out-of-state resident shall be allowed to
90 complete a substantially similar program in his home state,
91 province or country provided the requirements of this subsection
92 (3) are met, except that the necessary valid driver's license or
93 permit shall be one issued by the home jurisdiction.



94 * * *

95 (* * *d) A court shall inform a defendant making
96 inquiry or entering a personal appearance of the provisions of
97 this subsection (3).

98 (* * *e) The Department of Public Safety shall cause
99 notice of the provisions of this subsection (3) to be available on
100 its official web site.

101 (* * *f) Failure of a defendant to elect to come under
102 the provisions of this subsection (3) for whatever reason, in and
103 of itself, shall not invalidate a conviction.

104 (* * *g) No employee of the sentencing court shall
105 personally benefit from a defendant's attendance of a traffic
106 safety violator course. Violation of this prohibition shall
107 result in termination of employment.

108 (* * *h) The additional fee of Ten Dollars (\$10.00)
109 imposed under this subsection (3) shall be forwarded by the court
110 clerk to the State Treasurer for deposit into a special fund
111 created in the State Treasury. Monies in the special fund may be
112 expended by the Department of Public Safety, upon legislative
113 appropriation, to defray the costs incurred by the department in
114 maintaining the nonpublic record of persons who are eligible for
115 participation under the provisions of this subsection (3).

116 (4) The provisions of subsection (3) of this section shall
117 not be applicable to violation of any of the provisions of Chapter
118 3, 5 or 7 of this title committed by the holder of a commercial



119 driver's license issued under the Mississippi Commercial Driver's
120 License Law, regardless of whether the violation occurred while
121 operating a commercial motor vehicle or some other motor vehicle.

122 (5) For the purposes of subsection (3) of this section, the
123 court-approved traffic safety violator course may be an
124 Internet-based course regardless of the age of the defendant. For
125 purposes of this section, "Internet-based course" means only an
126 Internet-based course approved by the Mississippi Department of
127 Public Safety.

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2018.

