

By: Representatives Cockerham, Hale, Boyd

To: Judiciary B

HOUSE BILL NO. 1135
(As Passed the House)

1 AN ACT TO AMEND SECTION 17-25-11, MISSISSIPPI CODE OF 1972,
2 TO ALLOW A CERTIFIED LAW ENFORCEMENT OFFICER OR CERTIFIED
3 PART-TIME LAW ENFORCEMENT OFFICER, WHO IS EMPLOYED BY A COUNTY OR
4 MUNICIPALITY, TO USE HIS OR HER OFFICIAL VEHICLE WHILE PERFORMING
5 PRIVATE SECURITY SERVICES IN OFF-DUTY HOURS; TO AMEND SECTION
6 21-19-49, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
7 SECTION; TO PROVIDE THAT ANY LAW ENFORCEMENT OFFICER OF THIS STATE
8 OR ANY POLITICAL SUBDIVISION THEREOF WHO IS DEEMED BASED UPON THE
9 RESULTS OF A URINE TEST OF USING DRUGS IN VIOLATION OF THE
10 EMPLOYER'S POLICIES OR STATE LAW SHALL BE AFFORDED THE OPPORTUNITY
11 TO UNDERGO A SECOND MORE SCIENTIFICALLY RELIABLE TEST BEFORE SUCH
12 EMPLOYEE IS TERMINATED OR SUSPENDED WITHOUT PAY; AND FOR RELATED
13 PURPOSES.

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

15 **SECTION 1.** Section 17-25-11, Mississippi Code of 1972, is
16 amended as follows:

17 17-25-11. (1) Certified law enforcement officers or
18 certified part-time law enforcement officers, as defined in
19 Section 45-6-3, who are employed by a county or municipality may
20 wear the official uniform and may utilize the official firearm,
21 and the official vehicle issued by the employing jurisdiction
22 while in the performance of private security services in off-duty
23 hours. The governing authority of a municipality must approve of



24 such use of the uniform and official weapon and vehicle by
25 municipal law enforcement officers by act spread upon the minutes
26 of such board and approved by the chief executive. The sheriff of
27 a county must approve such use of the uniform and official weapon
28 and vehicle by deputy sheriffs. Approval shall be on an
29 employee-by-employee basis and not by general order. Any
30 proceedings regarding application or approval and the minutes
31 regarding same shall be a public record.

32 Every sheriff may employ a deputy who is certified in another
33 state as a law enforcement officer if such officer is still in
34 good standing in the state in which he or she was certified. The
35 sheriff may exclude or adjust the requirements for additional
36 state training as such sheriff finds necessary based on the
37 officer's previous training.

38 (2) Each governing board and chief executive or sheriff
39 shall determine before the use of the official uniform * * *,
40 weapon and vehicle is approved that the proposed employment is not
41 likely to bring disrepute to the employing jurisdiction or its law
42 enforcement agency, the officer at issue, or law enforcement
43 generally, and that the use of the official uniform * * *, weapon
44 and vehicle in the discharge of the officer's private security
45 endeavor promotes the public interest.

46 (3) Acts and omissions of an officer in discharge of private
47 security employment shall be deemed to be the acts and omissions
48 of the person or entity employing the officer for such private



49 security services, and not the acts and omissions of the
50 jurisdiction whose uniform * * *, weapon and vehicle are approved
51 for such private security use. An employer employing the officer
52 for private security services shall hold harmless the jurisdiction
53 by which the officer is employed and fully indemnify the
54 jurisdiction for any expense or loss, including attorney's fees,
55 which results from any action taken against the jurisdiction
56 arising out of the acts or omissions of the officer in discharge
57 of private security services while wearing the official uniform or
58 using the official weapon or vehicle. Neither the state nor any
59 subdivision thereof shall be liable for acts or omissions of an
60 officer in the discharge of the private security employment
61 duties.

62 (4) Certified police officers performing private jobs during
63 their off-duty hours are required to notify the appropriate law
64 enforcement agency of the place of employment, the hours to be
65 worked, and the type of employment.

66 (5) The official uniform * * *, weapon and vehicle may be
67 worn and utilized only at locations which are within the
68 jurisdiction of the governmental entity whose uniform * * *,
69 weapon and vehicle are involved.

70 **SECTION 2.** Section 21-19-49, Mississippi Code of 1972, is
71 amended as follows:

72 21-19-49. (1) The governing authority of any municipality
73 or the board of supervisors of any county are hereby authorized



74 and empowered to appropriate money or dedicate and convey
75 municipally-owned buildings and property or county-owned buildings
76 and property, as the case may be, to the school district or
77 districts situated within that municipality or county for the
78 purpose of erecting, purchasing or otherwise providing the school
79 building or a site for such school building of such school
80 district, in cases where the governing authority or board of
81 supervisors are of the opinion that the location of such school
82 building within the corporate limits of the municipality or the
83 county, or in close proximity thereto, will be of special benefit
84 to the inhabitants of the municipality or county.

85 (2) Municipalities, municipal police departments and the
86 sheriffs' departments may contract with the school board of any
87 school district to provide additional Law Enforcement Officers
88 Training Academy-certified police protection to said school
89 district on such terms and for such reimbursement as the school
90 district and the entity may agree in their discretion.

91 (3) The governing authority of any municipality or the board
92 of supervisors of any county may allow off-duty municipal or
93 county law enforcement officers who are hired individually for
94 security purposes by the school district or districts within that
95 municipality or county to use municipal or county law enforcement
96 uniforms and equipment, which includes vehicles, during such
97 off-duty employment.



(4) The governing authority of any municipality, in its discretion, may donate funds, equipment or in-kind services to any school district located within the boundaries of the municipality to assist the voluntary character development or public service programs of that school district.

SECTION 3. (1) Any law enforcement officer, as defined by Section 45-6-3, of this state or any political subdivision thereof who is deemed based upon the results of a urine test of using drugs in violation of the employer's policies or state law shall be afforded the opportunity to undergo a second more scientifically reliable test before such employee is terminated or suspended without pay.

(2) (a) In the event a law enforcement officer is required as a condition of employment to take a urine test for drug use and the results of such test is positive, the officer may be relieved of duty and placed on administrative leave with pay.

(b) The officer shall have two (2) days after being officially notified in writing of such results to contest the test results.

(c) If said officer does not contest the test results within the two-day period, the employer may move forward with appropriate disciplinary action.

(d) If the officer contests the test results, the officer shall have five (5) days to appear at a certified



laboratory and voluntarily submit to the taking of a hair sample,
for the purpose of a hair follicle test for drug analysis.

(i) The hair follicle test shall initially be at
the expense of the officer, however, if the test result is
negative the officer shall be reimbursed the cost of the test by
the employer.

(ii) If the test result is positive the officer
shall bare the cost of the test.

(e) If the hair follicle test result is negative for
the drug(s) enumerated in the urine test report and thereby does
not support the findings of the urine test, then the urine test
results shall be declared a false positive, and the officer shall
be immediately placed back into his or her previous position of
employment."

SECTION 4. This act shall take effect and be in force from
and after its passage.

