

Senate Amendments to House Bill No. 544

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 **SECTION 1.** Section 63-11-23, Mississippi Code of 1972, is
15 amended as follows:

16 * * *

17 63-11-23. (1) **Administrative license suspension for test**
18 **refusal.** The Commissioner of Public Safety, or his authorized
19 agent, shall review the sworn report by a law enforcement officer
20 as provided in Section 63-11-21.

21 (a) If upon review the Commissioner of Public Safety,
22 or his authorized agent, finds (i) that the law enforcement
23 officer had reasonable grounds and probable cause to believe the
24 person had been operating a motor vehicle upon the public
25 highways, public roads * * * or streets of this state while under
26 the influence of intoxicating liquor or any other substance that
27 may impair a person's mental or physical ability; (ii) that the
28 person refused to submit to the chemical test of the person's
29 breath, blood or urine upon request of the officer; and (iii) that
30 the person was informed that his license and driving privileges

31 would be suspended or denied if he refused to submit to the
32 chemical test of his breath, blood or urine, then the Commissioner
33 of Public Safety, or his authorized agent, shall give notice to
34 the licensee that his license or permit to drive, or any
35 nonresident operating privilege, shall be suspended thirty (30)
36 days after the date of the notice for a period of ninety (90) days
37 if the person has not previously been convicted of or
38 nonadjudicated for a violation of Section 63-11-30, or, for a
39 period of one (1) year if the person was previously convicted or
40 nonadjudicated under Section 63-11-30. If the commissioner or his
41 authorized agent determines that the license or permit should not
42 be suspended, he shall return the license or permit to the
43 licensee.

44 (b) The notice of suspension shall be in writing and
45 conform to Section 63-1-52.

46 (c) A person may continue to drive on either an
47 interlock-restricted license or under a drug-testing program if so
48 ordered by a court in the course of a criminal proceeding for a
49 violation of Section 63-11-30.

50 (2) **Extension or suspension of privilege to drive; request**
51 **for trial.** (a) If the chemical testing of a person's breath
52 indicates the blood alcohol concentration was eight one-hundredths
53 percent (.08%) or more for persons who are above the legal age to
54 purchase alcoholic beverages under state law, or two
55 one-hundredths percent (.02%) or more for persons who are below
56 the legal age to purchase alcoholic beverages under state law,

57 based upon grams of alcohol per one hundred (100) milliliters of
58 blood or grams of alcohol per two hundred ten (210) liters of
59 breath as shown by a chemical analysis of the person's blood,
60 breath, or urine, the arresting officer shall seize the license
61 and give the driver a receipt for his license on forms prescribed
62 by the Commissioner of Public Safety and shall promptly forward
63 the license together with a sworn report to the Commissioner of
64 Public Safety. The receipt given a person shall be valid as a
65 permit to operate a motor vehicle for thirty (30) days in order
66 that the defendant may be processed through the court having
67 original jurisdiction and a final disposition had.

68 (b) If the defendant requests a trial within thirty
69 (30) days and trial is not commenced within thirty (30) days, then
70 the court shall determine if the delay in the trial is the fault
71 of the defendant or his counsel. If the court finds that it is
72 not the fault of the defendant or his counsel, then the court
73 shall order the defendant's privileges to operate a motor vehicle
74 to be extended until the defendant is convicted upon final order
75 of the court.

76 (c) If a receipt or permit to drive issued under this
77 subsection expires without a trial having been requested as
78 provided in this subsection, then the Commissioner of Public
79 Safety, or his authorized agent, shall suspend the license or
80 permit to drive or any nonresident operating privilege for the
81 applicable period of time as provided in subsection (1) of this
82 section.

83 (3) **Offenders driving without a license.** If the person is a
84 resident without a license or permit to operate a motor vehicle in
85 this state, the Commissioner of Public Safety, or his authorized
86 agent, shall deny to the person the issuance of a license or
87 permit for a period of one (1) year beginning thirty (30) days
88 after the date of notice of the suspension.

89 (4) **Appeal.** It shall be the duty of the municipal
90 prosecuting attorney, county prosecuting attorney, an attorney
91 employed under the provisions of Section 19-3-49, or if there is
92 not a prosecuting attorney for the municipality or county, the
93 duty of the district attorney to represent the state in any
94 hearing on a de novo appeal held under the provisions of Section
95 63-11-25, Section 63-11-37 or Section 63-11-30.

96 (5) **Suspension subsequent to conviction.** Unless the person
97 obtains an interlock-restricted license or the court orders the
98 person to exercise the privilege to operate a motor vehicle only
99 under an interlock-restricted license or while participating in a
100 court-ordered drug-testing program, thirty (30) days after receipt
101 of the court abstract documenting a person's conviction under
102 Section 63-11-30, the Department of Public Safety shall suspend
103 the driver's license and privileges of the person to operate a
104 motor vehicle as follows:

105 (a) When sentenced under Section 63-11-30(2):

106 (i) For a first offense: one hundred twenty (120)
107 days;

108 (ii) For a second offense: one (1) year;

109 (iii) For a third offense: for the full period of
110 the person's sentence; upon release from incarceration, the person
111 will be eligible for only an interlock-restricted license for
112 three (3) years;

113 (iv) For a fourth or subsequent offense: for the
114 full period of the person's sentence; upon release from
115 incarceration, the person will be eligible for only an
116 interlock-restricted license for ten (10) years and will further
117 be subject to court-ordered drug testing if the original offense
118 involved operating a motor vehicle under the influence of a drug
119 other than alcohol.

120 (b) When sentenced under Section 63-11-30(3) (Zero
121 Tolerance for Minors):

122 (i) For a first offense: one hundred twenty (120)
123 days;

124 (ii) For a second offense: one (1) year;

125 (iii) For a third offense occurring within five
126 (5) years, suspend or deny the driving privilege for two (2) years
127 or until the person reaches the age of twenty-one (21), whichever
128 is longer.

129 (6) **Suspensions.** (a) Notices of suspension given under
130 this section shall be in writing and conform to Section 63-1-52.

131 (b) Suspensions under this and any other chapter shall
132 run consecutively and not concurrently.

133 (c) The first day of any one-hundred-twenty-day period
134 is the date the judge signs an order for suspension.

135 (7) **License reinstatement.** A person is eligible for an
136 unrestricted license when the person has completed an alcohol
137 safety education program as provided in Section 63-11-32, has
138 satisfied all other conditions of law and of the person's sentence
139 or nonadjudication, and is not otherwise barred from obtaining an
140 unrestricted license.

141 **SECTION 2.** Section 63-11-30, Mississippi Code of 1972, is
142 amended as follows:

143 63-11-30. (1) It is unlawful for a person to drive or
144 otherwise operate a vehicle within this state if the person:

145 (a) Is under the influence of intoxicating liquor;

146 (b) Is under the influence of any other substance that
147 has impaired the person's ability to operate a motor vehicle;

148 (c) Is under the influence of any drug or controlled
149 substance, the possession of which is unlawful under the
150 Mississippi Controlled Substances Law; or

151 (d) Has an alcohol concentration in the person's blood,
152 based upon grams of alcohol per one hundred (100) milliliters of
153 blood, or grams of alcohol per two hundred ten (210) liters of
154 breath, as shown by a chemical analysis of the person's breath,
155 blood or urine administered as authorized by this chapter, of:

156 (i) Eight one-hundredths percent (.08%) or more
157 for a person who is above the legal age to purchase alcoholic
158 beverages under state law;

159 (ii) Two one-hundredths percent (.02%) or more for
160 a person who is below the legal age to purchase alcoholic
161 beverages under state law; or

162 (iii) Four one-hundredths percent (.04%) or more
163 for a person operating a commercial motor vehicle.

164 (2) Except as otherwise provided in subsection (3) of this
165 section (Zero Tolerance for Minors):

166 (a) **First offense DUI.** (i) Upon conviction of any
167 person for the first offense of violating subsection (1) of this
168 section where chemical tests under Section 63-11-5 were given, or
169 where chemical test results are not available, the person shall be
170 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
171 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
172 than forty-eight (48) hours in jail, or both; the court shall
173 order the person to attend and complete an alcohol safety
174 education program as provided in Section 63-11-32 within six (6)
175 months of sentencing. The court may substitute attendance at a
176 victim impact panel instead of forty-eight (48) hours in jail.

177 (ii) Suspension of commercial driving privileges
178 is governed by Section 63-1-216.

179 (iii) A qualifying first offense may be
180 nonadjudicated by the court under subsection (14) of this section.
181 The holder of a commercial driver's license or a commercial
182 learning permit at the time of the offense is ineligible for
183 nonadjudication unless, at the time of the offense, the license

184 holder was operating a vehicle for which a commercial driver's
185 license was not required.

186 (iv) Eligibility for an interlock-restricted
187 license is governed by Section 63-11-31 and suspension of regular
188 driving privileges is governed by Section 63-11-23.

189 (b) **Second offense DUI.** (i) Upon any second
190 conviction of any person violating subsection (1) of this section,
191 the offenses being committed within a period of five (5) years,
192 the person shall be guilty of a misdemeanor, fined not less than
193 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
194 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
195 five (5) days nor more than six (6) months and sentenced to
196 community service work for not less than ten (10) days nor more
197 than six (6) months. The minimum penalties shall not be suspended
198 or reduced by the court and no prosecutor shall offer any
199 suspension or sentence reduction as part of a plea bargain.

200 (ii) Suspension of commercial driving privileges
201 is governed by Section 63-1-216.

202 (iii) Eligibility for an interlock-restricted
203 license is governed by Section 63-11-31 and suspension of regular
204 driving privileges is governed by Section 63-11-23.

205 (c) **Third offense DUI.** (i) For a third conviction of
206 a person for violating subsection (1) of this section, the
207 offenses being committed within a period of five (5) years, the
208 person shall be guilty of a felony and fined not less than Two
209 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars

210 (\$5,000.00), and shall serve not less than one (1) year nor more
211 than five (5) years in the custody of the Department of
212 Corrections. For any offense that does not result in serious
213 injury or death to any person, the sentence of incarceration may
214 be served in the county jail rather than in the State Penitentiary
215 at the discretion of the circuit court judge. The minimum
216 penalties shall not be suspended or reduced by the court and no
217 prosecutor shall offer any suspension or sentence reduction as
218 part of a plea bargain.

219 (ii) The suspension of commercial driving
220 privileges is governed by Section 63-1-216.

221 (iii) The suspension of regular driving privileges
222 is governed by Section 63-11-23.

223 (d) **Fourth and subsequent offense DUI.** (i) For any
224 fourth or subsequent conviction of a violation of subsection (1)
225 of this section, without regard to the time period within which
226 the violations occurred, the person shall be guilty of a felony
227 and fined not less than Three Thousand Dollars (\$3,000.00) nor
228 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
229 less than two (2) years nor more than ten (10) years in the
230 custody of the Department of Corrections.

231 (ii) The suspension of commercial driving
232 privileges is governed by Section 63-1-216.

233 (iii) A person convicted of a fourth or subsequent
234 offense is ineligible to exercise the privilege to operate a motor

235 vehicle that is not equipped with an ignition-interlock device for
236 ten (10) years.

237 (e) Any person convicted of a second or subsequent
238 violation of subsection (1) of this section shall receive an
239 in-depth diagnostic assessment, and if as a result of the
240 assessment is determined to be in need of treatment for alcohol or
241 drug abuse, the person must successfully complete treatment at a
242 program site certified by the Department of Mental Health. Each
243 person who receives a diagnostic assessment shall pay a fee
244 representing the cost of the assessment. Each person who
245 participates in a treatment program shall pay a fee representing
246 the cost of treatment.

247 (f) The use of ignition-interlock devices is governed
248 by Section 63-11-31.

249 (3) **Zero Tolerance for Minors.** (a) This subsection shall
250 be known and may be cited as Zero Tolerance for Minors. The
251 provisions of this subsection shall apply only when a person under
252 the age of twenty-one (21) years has a blood alcohol concentration
253 of two one-hundredths percent (.02%) or more, but lower than eight
254 one-hundredths percent (.08%). If the person's blood alcohol
255 concentration is eight one-hundredths percent (.08%) or more, the
256 provisions of subsection (2) shall apply.

257 (b) (i) A person under the age of twenty-one (21) is
258 eligible for nonadjudication of a qualifying first offense by the
259 court pursuant to subsection (14) of this section.

260 (ii) Upon conviction of any person under the age
261 of twenty-one (21) years for the first offense of violating
262 subsection (1) of this section where chemical tests provided for
263 under Section 63-11-5 were given, or where chemical test results
264 are not available, the person shall be fined Two Hundred Fifty
265 Dollars (\$250.00); the court shall order the person to attend and
266 complete an alcohol safety education program as provided in
267 Section 63-11-32 within six (6) months. The court may also
268 require attendance at a victim impact panel.

269 (c) A person under the age of twenty-one (21) years who
270 is convicted of a second violation of subsection (1) of this
271 section, the offenses being committed within a period of five (5)
272 years, shall be fined not more than Five Hundred Dollars
273 (\$500.00).

274 (d) A person under the age of twenty-one (21) years who
275 is convicted of a third or subsequent violation of subsection (1)
276 of this section, the offenses being committed within a period of
277 five (5) years, shall be fined not more than One Thousand Dollars
278 (\$1,000.00).

279 (e) License suspension is governed by Section 63-11-23
280 and ignition interlock is governed by Section 63-11-31.

281 (f) Any person under the age of twenty-one (21) years
282 convicted of a third or subsequent violation of subsection (1) of
283 this section must complete treatment of an alcohol or drug abuse
284 program at a site certified by the Department of Mental Health.

285 (4) **DUI test refusal.** In addition to the other penalties
286 provided in this section, every person refusing a law enforcement
287 officer's request to submit to a chemical test of the person's
288 breath as provided in this chapter, or who was unconscious at the
289 time of a chemical test and refused to consent to the introduction
290 of the results of the test in any prosecution, shall suffer an
291 additional administrative suspension of driving privileges as set
292 forth in Section 63-11-23.

293 (5) **Aggravated DUI.** (a) Every person who operates any
294 motor vehicle in violation of the provisions of subsection (1) of
295 this section and who in a negligent manner causes the death of
296 another or mutilates, disfigures, permanently disables or destroys
297 the tongue, eye, lip, nose or any other limb, organ or member of
298 another shall, upon conviction, be guilty of a separate felony for
299 each victim who suffers death, mutilation, disfigurement or other
300 injury and shall be committed to the custody of the State
301 Department of Corrections for a period of time of not less than
302 five (5) years and not to exceed twenty-five (25) years for each
303 death, mutilation, disfigurement or other injury, and the
304 imprisonment for the second or each subsequent conviction, in the
305 discretion of the court, shall commence either at the termination
306 of the imprisonment for the preceding conviction or run
307 concurrently with the preceding conviction. Any person charged
308 with causing the death of another as described in this subsection
309 shall be required to post bail before being released after arrest.

310 (b) A holder of a commercial driver's license who is
311 convicted of operating a commercial motor vehicle with an alcohol
312 concentration of eight one-hundredths percent (.08%) or more shall
313 be guilty of a felony and shall be committed to the custody of the
314 Department of Corrections for not less than two (2) years and not
315 more than ten (10) years.

316 (c) The court shall order an ignition-interlock
317 restriction on the offender's privilege to drive as a condition of
318 probation or post-release supervision not to exceed five (5) years
319 unless a longer restriction is required under other law. The
320 ignition-interlock restriction shall not be applied to commercial
321 license privileges until the driver serves the full
322 disqualification period required by Section 63-1-216.

323 (6) **DUI citations.** (a) Upon conviction of a violation of
324 subsection (1) of this section, the trial judge shall sign in the
325 place provided on the traffic ticket, citation or affidavit
326 stating that the person arrested either employed an attorney or
327 waived his right to an attorney after having been properly
328 advised. If the person arrested employed an attorney, the name,
329 address and telephone number of the attorney shall be written on
330 the ticket, citation or affidavit. The court clerk must
331 immediately send a copy of the traffic ticket, citation or
332 affidavit, and any other pertinent documents concerning the
333 conviction or other order of the court, to the Department of
334 Public Safety as provided in Section 63-11-37.

335 (b) A copy of the traffic ticket, citation or affidavit
336 and any other pertinent documents, having been attested as true
337 and correct by the Commissioner of Public Safety, or his designee,
338 shall be sufficient proof of the conviction for purposes of
339 determining the enhanced penalty for any subsequent convictions of
340 violations of subsection (1) of this section. The Department of
341 Public Safety shall maintain a central database for verification
342 of prior offenses and convictions.

343 (7) **Out-of-state prior convictions.** Convictions of
344 violations for driving or operating a vehicle while under the
345 influence of an intoxicating liquor or while under the influence
346 of any other substance that has impaired the person's ability to
347 operate a motor vehicle that were obtained against the defendant
348 in another state, territory or possession of the United States, or
349 under the law of a federally recognized Native American
350 tribe, * * * shall be counted for the purposes of
351 determining * * * the penalty to be imposed upon conviction for a
352 violation of subsection (1) of this section and whether the
353 violation is: (a) a second * * * or third * * * offense * * *, if
354 occurring within five (5) years before the offense under
355 consideration; or (b) is a fourth or subsequent offense, without
356 regard to the time period within which the violations occurred.

357 (8) **Charging of subsequent offenses.** (a) For the purposes
358 of determining how to impose the sentence for a second, third,
359 fourth or subsequent conviction under this section, the affidavit
360 or indictment shall not be required to enumerate previous

361 convictions. It shall only be necessary that the affidavit or
362 indictment states the number of times that the defendant has been
363 convicted and sentenced within the past five (5) years for a
364 second or third offense, or without a time limitation for a fourth
365 or subsequent offense, under this section to determine if an
366 enhanced penalty shall be imposed. The amount of fine and
367 imprisonment imposed in previous convictions shall not be
368 considered in calculating offenses to determine a second, third,
369 fourth or subsequent offense of this section.

370 (b) Before a defendant enters a plea of guilty to an
371 offense under this section, law enforcement must submit
372 certification to the prosecutor that the defendant's driving
373 record, the confidential registry and National Crime Information
374 Center record have been searched for all prior convictions,
375 nonadjudications, pretrial diversions and arrests for driving or
376 operating a vehicle while under the influence of an intoxicating
377 liquor or while under the influence of any other substance that
378 has impaired the person's ability to operate a motor vehicle. The
379 results of the search must be included in the certification.

380 (9) **License eligibility for underage offenders.** A person
381 who is under the legal age to obtain a license to operate a motor
382 vehicle at the time of the offense and who is convicted under this
383 section shall not be eligible to receive a driver's license until
384 the person reaches the age of eighteen (18) years.

385 (10) **License suspensions and restrictions to run**
386 **consecutively.** Suspension or restriction of driving privileges

387 for any person convicted of or nonadjudicated for violations of
388 subsection (1) of this section shall run consecutively to and not
389 concurrently with any other administrative license suspension.

390 (11) **Ignition interlock.** If the court orders installation
391 and use of an ignition-interlock device as provided in Section
392 63-11-31 for every vehicle operated by a person convicted or
393 nonadjudicated under this section, each device shall be installed,
394 maintained and removed as provided in Section 63-11-31.

395 (12) **DUI child endangerment.** A person over the age of
396 twenty-one (21) who violates subsection (1) of this section while
397 transporting in a motor vehicle a child under the age of sixteen
398 (16) years is guilty of the separate offense of endangering a
399 child by driving under the influence of alcohol or any other
400 substance which has impaired the person's ability to operate a
401 motor vehicle. The offense of endangering a child by driving
402 under the influence of alcohol or any other substance which has
403 impaired the person's ability to operate a motor vehicle shall not
404 be merged with an offense of violating subsection (1) of this
405 section for the purposes of prosecution and sentencing. An
406 offender who is convicted of a violation of this subsection shall
407 be punished as follows:

408 (a) A person who commits a violation of this subsection
409 which does not result in the serious injury or death of a child
410 and which is a first conviction shall be guilty of a misdemeanor
411 and, upon conviction, shall be fined not more than One Thousand

412 Dollars (\$1,000.00) or shall be imprisoned for not more than
413 twelve (12) months, or both;

414 (b) A person who commits a violation of this subsection
415 which does not result in the serious injury or death of a child
416 and which is a second conviction shall be guilty of a misdemeanor
417 and, upon conviction, shall be fined not less than One Thousand
418 Dollars (\$1,000.00) nor more than Five Thousand Dollars
419 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

420 (c) A person who commits a violation of this subsection
421 which does not result in the serious injury or death of a child
422 and which is a third or subsequent conviction shall be guilty of a
423 felony and, upon conviction, shall be fined not less than Ten
424 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
425 than one (1) year nor more than five (5) years, or both; and

426 (d) A person who commits a violation of this subsection
427 which results in the serious injury or death of a child, without
428 regard to whether the offense was a first, second, third or
429 subsequent offense, shall be guilty of a felony and, upon
430 conviction, shall be punished by a fine of not less than Ten
431 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
432 than five (5) years nor more than twenty-five (25) years.

433 (13) **Expunction.** (a) Any person convicted under subsection
434 (2) or (3) of this section of a first offense of driving under the
435 influence and who, at the time of the offense, was not * * *
436 driving a vehicle for which a commercial driver's license or a
437 commercial learning permit * * * was required may petition the

438 circuit court of the county in which the conviction was had for an
439 order to expunge the record of the conviction at least five (5)
440 years after successful completion of all terms and conditions of
441 the sentence imposed for the conviction. Expunction under this
442 subsection will only be available to a person:

443 (i) Who has successfully completed all terms and
444 conditions of the sentence imposed for the conviction;

445 (ii) Who did not refuse to submit to a test of his
446 blood or breath;

447 (iii) Whose blood alcohol concentration tested
448 below sixteen one-hundredths percent (.16%) if test results are
449 available;

450 (iv) Who has not been convicted of and does not
451 have pending any other offense of driving under the influence;

452 (v) Who has provided the court with justification
453 as to why the conviction should be expunged; and

454 (vi) Who has not previously had a nonadjudication
455 or expunction of a violation of this section.

456 (b) A person is eligible for only one (1) expunction
457 under this subsection, and the Department of Public Safety shall
458 maintain a permanent confidential registry of all cases of
459 expunction under this subsection for the sole purpose of
460 determining a person's eligibility for expunction, for
461 nonadjudication, or as a first offender under this section.

462 (c) The court in its order of expunction shall state in
463 writing the justification for which the expunction was granted and

464 forward the order to the Department of Public Safety within five
465 (5) days of the entry of the order.

466 (14) **Nonadjudication.** (a) For the purposes of this
467 chapter, "nonadjudication" means that the court withholds
468 adjudication of guilt and sentencing, either at the conclusion of
469 a trial on the merits or upon the entry of a plea of guilt by a
470 defendant, and places the defendant in a nonadjudication program
471 conditioned upon the successful completion of the requirements
472 imposed by the court under this subsection.

473 (b) A person is eligible for nonadjudication of an
474 offense under this Section 63-11-30 only one (1) time under any
475 provision of a law that authorizes nonadjudication and only for an
476 offender:

477 (i) Who has successfully completed all terms and
478 conditions imposed by the court after placement of the defendant
479 in a nonadjudication program;

480 (ii) Who, at the time of the offense, was
481 not * * * driving a vehicle for which a commercial driver's
482 license or a commercial learning permit * * * was required;

483 (iii) Who has not previously been convicted of and
484 does not have pending any former or subsequent charges under this
485 section; and

486 (iv) Who has provided the court with justification
487 as to why nonadjudication is appropriate.

488 (c) Nonadjudication may be initiated upon the filing of
489 a petition for nonadjudication or at any stage of the proceedings

490 in the discretion of the court; the court may withhold
491 adjudication of guilt, defer sentencing, and upon the agreement of
492 the offender to participate in a nonadjudication program, enter an
493 order imposing requirements on the offender for a period of court
494 supervision before the order of nonadjudication is entered.
495 Failure to successfully complete a nonadjudication program
496 subjects the person to adjudication of the charges against him and
497 to imposition of all penalties previously withheld due to entrance
498 into a nonadjudication program. The court shall immediately
499 inform the commissioner of the conviction as required in Section
500 63-11-37.

501 (i) The court shall order the person to:

502 1. Pay the nonadjudication fee imposed under
503 Section 63-11-31 if applicable;

504 2. Pay all fines, penalties and assessments
505 that would have been imposed for conviction;

506 3. Attend and complete an alcohol safety
507 education program as provided in Section 63-11-32 within six (6)
508 months of the date of the order;

509 4. a. If the court determines that the
510 person violated this section with respect to alcohol or
511 intoxicating liquor, the person must install an ignition-interlock
512 device on every motor vehicle operated by the person, obtain an
513 interlock-restricted license, and maintain that license for one
514 hundred twenty (120) days or suffer a one-hundred-twenty-day
515 suspension of the person's regular driver's license, during which

516 time the person must not operate any vehicle. For purposes of
517 this item 4, the first day of the one-hundred-twenty day period is
518 the date the judge signs an order to maintain or suspend the
519 interlock-restricted license.

520 b. If the court determines that the
521 person violated this section by operating a vehicle when under the
522 influence of a substance other than alcohol that has impaired the
523 person's ability to operate a motor vehicle, including any drug or
524 controlled substance which is unlawful to possess under the
525 Mississippi Controlled Substances Law, the person must submit to a
526 one-hundred-twenty-day period of a nonadjudication program that
527 includes court-ordered drug testing at the person's own expense
528 not less often than every thirty (30) days, during which time the
529 person may drive if compliant with the terms of the program, or
530 suffer a one-hundred-twenty-day suspension of the person's regular
531 driver's license, during which time the person will not operate
532 any vehicle.

533 (ii) Other conditions that may be imposed by the
534 court include, but are not limited to, alcohol or drug screening,
535 or both, proof that the person has not committed any other traffic
536 violations while under court supervision, proof of immobilization
537 or impoundment of vehicles owned by the offender if required, and
538 attendance at a victim-impact panel.

539 (d) The court may enter an order of nonadjudication
540 only if the court finds, after a hearing or after ex parte
541 examination of reliable documentation of compliance, that the

542 offender has successfully completed all conditions imposed by law
543 and previous orders of the court. The court shall retain
544 jurisdiction over cases involving nonadjudication for a period of
545 not more than two (2) years.

546 (e) (i) The clerk shall immediately forward a record
547 of every person placed in a nonadjudication program and of every
548 nonadjudication order to the Department of Public Safety for
549 inclusion in the permanent confidential registry of all cases that
550 are nonadjudicated under this subsection (14).

551 (ii) Judges, clerks and prosecutors involved in
552 the trial of implied consent violations and law enforcement
553 officers involved in the issuance of citations for implied consent
554 violations shall have secure online access to the confidential
555 registry for the purpose of determining whether a person has
556 previously been the subject of a nonadjudicated case and 1. is
557 therefore ineligible for another nonadjudication; 2. is ineligible
558 as a first offender for a violation of this section; or 3. is
559 ineligible for expunction of a conviction of a violation of this
560 section.

561 (iii) The Driver Services Bureau of the department
562 shall have access to the confidential registry for the purpose of
563 determining whether a person is eligible for a form of license not
564 restricted to operating a vehicle equipped with an
565 ignition-interlock device.

566 (iv) The Mississippi Alcohol Safety Education
567 Program shall have secure online access to the confidential
568 registry for research purposes only.

569 **SECTION 3.** This act shall take effect and be in force from
570 and after July 1, 2020.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 63-11-23, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE 120-DAY SUSPENSION FOR DUI VIOLATIONS BEGINS
3 ON THE DATE THE JUDGE SIGNS THE ORDER FOR SUSPENSION; TO AMEND
4 SECTION 63-11-30, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
5 120-DAY SUSPENSION FOR DUI VIOLATIONS BEGINS ON THE DATE THE JUDGE
6 SIGNS THE ORDER FOR SUSPENSION, TO CLARIFY THE STATUS OF
7 OUT-OF-STATE DUI CONVICTIONS FOR PURPOSES OF ENHANCEMENT OF
8 PENALTY FOR FOURTH AND SUBSEQUENT DUI VIOLATIONS, AND TO PERMIT
9 NONADJUDICATION OF A FIRST OFFENSE OF DRIVING UNDER THE INFLUENCE
10 BY THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE WHO WAS NOT
11 OPERATING A COMMERCIAL VEHICLE AT THE TIME OF THE OFFENSE; AND FOR
12 RELATED PURPOSES.

SS26\HB544A.J

Eugene S. Clarke
Secretary of the Senate