

By: Representative Busby

To: Judiciary B

HOUSE BILL NO. 833

1 AN ACT TO AMEND SECTION 63-11-23, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE PROVISIONS OF LAW FOR ADMINISTRATIVE LICENSE
3 SUSPENSION EXEMPTING SUSPENSION FOR CERTAIN PERSONS PARTICIPATING
4 IN A COURT-ORDERED DRUG-TESTING PROGRAM; AND FOR RELATED PURPOSES.

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

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

8 63-11-23. (1) **Administrative license suspension for test**
9 **refusal.** The Commissioner of Public Safety, or his authorized
10 agent, shall review the sworn report by a law enforcement officer
11 as provided in Section 63-11-21.

12 (a) If upon review the Commissioner of Public Safety,
13 or his authorized agent, finds (i) that the law enforcement
14 officer had reasonable grounds and probable cause to believe the
15 person had been operating a motor vehicle upon the public
16 highways, public roads * * * or streets of this state while under
17 the influence of intoxicating liquor or any other substance that
18 may impair a person's mental or physical ability; (ii) that the
19 person refused to submit to the chemical test of the person's



20 breath, blood or urine upon request of the officer; and (iii) that
21 the person was informed that his license and driving privileges
22 would be suspended or denied if he refused to submit to the
23 chemical test of his breath, blood or urine, then the Commissioner
24 of Public Safety, or his authorized agent, shall give notice to
25 the licensee that his license or permit to drive, or any
26 nonresident operating privilege, shall be suspended thirty (30)
27 days after the date of the notice for a period of ninety (90) days
28 if the person has not previously been convicted of or
29 nonadjudicated for a violation of Section 63-11-30, or, for a
30 period of one (1) year if the person was previously convicted or
31 nonadjudicated under Section 63-11-30. If the commissioner or his
32 authorized agent determines that the license or permit should not
33 be suspended, he shall return the license or permit to the
34 licensee.

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

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

41 (2) **Extension or suspension of privilege to drive; request**
42 **for trial.** (a) If the chemical testing of a person's breath
43 indicates the blood alcohol concentration was eight one-hundredths
44 percent (.08%) or more for persons who are above the legal age to



45 purchase alcoholic beverages under state law, or two
46 one-hundredths percent (.02%) or more for persons who are below
47 the legal age to purchase alcoholic beverages under state law,
48 based upon grams of alcohol per one hundred (100) milliliters of
49 blood or grams of alcohol per two hundred ten (210) liters of
50 breath as shown by a chemical analysis of the person's blood,
51 breath, or urine, the arresting officer shall seize the license
52 and give the driver a receipt for his license on forms prescribed
53 by the Commissioner of Public Safety and shall promptly forward
54 the license together with a sworn report to the Commissioner of
55 Public Safety. The receipt given a person shall be valid as a
56 permit to operate a motor vehicle for thirty (30) days in order
57 that the defendant may be processed through the court having
58 original jurisdiction and a final disposition had.

59 (b) If the defendant requests a trial within thirty
60 (30) days and trial is not commenced within thirty (30) days, then
61 the court shall determine if the delay in the trial is the fault
62 of the defendant or his counsel. If the court finds that it is
63 not the fault of the defendant or his counsel, then the court
64 shall order the defendant's privileges to operate a motor vehicle
65 to be extended until the defendant is convicted upon final order
66 of the court.

67 (c) If a receipt or permit to drive issued under this
68 subsection expires without a trial having been requested as
69 provided in this subsection, then the Commissioner of Public



70 Safety, or his authorized agent, shall suspend the license or
71 permit to drive or any nonresident operating privilege for the
72 applicable period of time as provided in subsection (1) of this
73 section.

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

80 (4) **Appeal.** It shall be the duty of the municipal
81 prosecuting attorney, county prosecuting attorney, an attorney
82 employed under the provisions of Section 19-3-49, or if there is
83 not a prosecuting attorney for the municipality or county, the
84 duty of the district attorney to represent the state in any
85 hearing on a de novo appeal held under the provisions of Section
86 63-11-25, Section 63-11-37 or Section 63-11-30.

87 (5) **Suspension subsequent to conviction.** Unless the person
88 obtains an interlock-restricted license or the court orders the
89 person to exercise the privilege to operate a motor vehicle only
90 under an interlock-restricted license * * * documenting a person's
91 conviction under Section 63-11-30, the Department of Public Safety
92 shall suspend the driver's license and privileges of the person to
93 operate a motor vehicle as follows:

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



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

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

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

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

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

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

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

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

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



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

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

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2021.

