

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 615

BY: Committee

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

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

14 * * *

15 63-11-23. (1) **Administrative license suspension for test**
16 **refusal.** The Commissioner of Public Safety, or his authorized
17 agent, shall review the sworn report by a law enforcement officer
18 as provided in Section 63-11-21.

19 (a) If upon review the Commissioner of Public Safety,
20 or his authorized agent, finds (i) that the law enforcement
21 officer had reasonable grounds and probable cause to believe the



22 person had been operating a motor vehicle upon the public
23 highways, public roads * * * or streets of this state while under
24 the influence of intoxicating liquor or any other substance that
25 may impair a person's mental or physical ability; (ii) that the
26 person refused to submit to the chemical test of the person's
27 breath, blood or urine upon request of the officer; and (iii) that
28 the person was informed that his license and driving privileges
29 would be suspended or denied if he refused to submit to the
30 chemical test of his breath, blood or urine, then the Commissioner
31 of Public Safety, or his authorized agent, shall give notice to
32 the licensee that his license or permit to drive, or any
33 nonresident operating privilege, shall be suspended thirty (30)
34 days after the date of the notice for a period of ninety (90) days
35 if the person has not previously been convicted of or
36 nonadjudicated for a violation of Section 63-11-30, or, for a
37 period of one (1) year if the person was previously convicted or
38 nonadjudicated under Section 63-11-30. If the commissioner or his
39 authorized agent determines that the license or permit should not
40 be suspended, he shall return the license or permit to the
41 licensee.

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

44 (c) A person may continue to drive on either an
45 interlock-restricted license or under a drug-testing program if so



46 ordered by a court in the course of a criminal proceeding for a
47 violation of Section 63-11-30.

48 (2) **Extension or suspension of privilege to drive; request**
49 **for trial.** (a) If the chemical testing of a person's breath
50 indicates the blood alcohol concentration was eight one-hundredths
51 percent (.08%) or more for persons who are above the legal age to
52 purchase alcoholic beverages under state law, or two
53 one-hundredths percent (.02%) or more for persons who are below
54 the legal age to purchase alcoholic beverages under state law,
55 based upon grams of alcohol per one hundred (100) milliliters of
56 blood or grams of alcohol per two hundred ten (210) liters of
57 breath as shown by a chemical analysis of the person's blood,
58 breath, or urine, the arresting officer shall seize the license
59 and give the driver a receipt for his license on forms prescribed
60 by the Commissioner of Public Safety and shall promptly forward
61 the license together with a sworn report to the Commissioner of
62 Public Safety. The receipt given a person shall be valid as a
63 permit to operate a motor vehicle for thirty (30) days in order
64 that the defendant may be processed through the court having
65 original jurisdiction and a final disposition had.

66 (b) If the defendant requests a trial within thirty
67 (30) days and trial is not commenced within thirty (30) days, then
68 the court shall determine if the delay in the trial is the fault
69 of the defendant or his counsel. If the court finds that it is
70 not the fault of the defendant or his counsel, then the court



71 shall order the defendant's privileges to operate a motor vehicle
72 to be extended until the defendant is convicted upon final order
73 of the court.

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

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

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

94 (5) **Suspension subsequent to conviction.** Unless the person
95 obtains an interlock-restricted license or the court orders the



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

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

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

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

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

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

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



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

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

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

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

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

131 (c) The first day of any one-hundred-twenty-day period
132 shall begin to run on the date the judge signs an order for
133 suspension.

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

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

142 63-11-30. (1) It is unlawful for a person to drive or
143 otherwise operate a vehicle within this state if the person:

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



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

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

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

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

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

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

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

165 (a) **First offense DUI.** (i) Upon conviction of any
166 person for the first offense of violating subsection (1) of this
167 section where chemical tests under Section 63-11-5 were given, or
168 where chemical test results are not available, the person shall be
169 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more



170 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
171 than forty-eight (48) hours in jail, or both; the court shall
172 order the person to attend and complete an alcohol safety
173 education program as provided in Section 63-11-32 within six (6)
174 months of sentencing. The court may substitute attendance at a
175 victim impact panel instead of forty-eight (48) hours in jail.

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

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

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

186 (b) **Second offense DUI.** (i) Upon any second
187 conviction of any person violating subsection (1) of this section,
188 the offenses being committed within a period of five (5) years,
189 the person shall be guilty of a misdemeanor, fined not less than
190 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
191 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
192 five (5) days nor more than six (6) months and sentenced to
193 community service work for not less than ten (10) days nor more
194 than six (6) months. The minimum penalties shall not be suspended



195 or reduced by the court and no prosecutor shall offer any
196 suspension or sentence reduction as part of a plea bargain.

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

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

202 (c) **Third offense DUI.** (i) For a third conviction of
203 a person for violating subsection (1) of this section, the
204 offenses being committed within a period of five (5) years, the
205 person shall be guilty of a felony and fined not less than Two
206 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
207 (\$5,000.00), and shall serve not less than one (1) year nor more
208 than five (5) years in the custody of the Department of
209 Corrections. For any offense that does not result in serious
210 injury or death to any person, the sentence of incarceration may
211 be served in the county jail rather than in the State Penitentiary
212 at the discretion of the circuit court judge. The minimum
213 penalties shall not be suspended or reduced by the court and no
214 prosecutor shall offer any suspension or sentence reduction as
215 part of a plea bargain.

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

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



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

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

230 (iii) A person convicted of a fourth or subsequent
231 offense is ineligible to exercise the privilege to operate a motor
232 vehicle that is not equipped with an ignition-interlock device for
233 ten (10) years.

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



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

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

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

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

266 (c) A person under the age of twenty-one (21) years who
267 is convicted of a second violation of subsection (1) of this
268 section, the offenses being committed within a period of five (5)



269 years, shall be fined not more than Five Hundred Dollars
270 (\$500.00).

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

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

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

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

290 (5) **Aggravated DUI.** (a) Every person who operates any
291 motor vehicle in violation of the provisions of subsection (1) of
292 this section and who in a negligent manner causes the death of
293 another or mutilates, disfigures, permanently disables or destroys



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

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

313 (c) The court shall order an ignition-interlock
314 restriction on the offender's privilege to drive as a condition of
315 probation or post-release supervision not to exceed five (5) years
316 unless a longer restriction is required under other law. The
317 ignition-interlock restriction shall not be applied to commercial



318 license privileges until the driver serves the full
319 disqualification period required by Section 63-1-216.

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

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

340 (7) **Out-of-state prior convictions.** Convictions in another
341 state, territory or possession of the United States, or under the
342 law of a federally recognized Native American tribe, of violations



343 for driving or operating a vehicle while under the influence of an
344 intoxicating liquor or while under the influence of any other
345 substance that has impaired the person's ability to operate a
346 motor vehicle occurring within five (5) years before an offense
347 shall be counted for the purposes of determining if a violation of
348 subsection (1) of this section is a second, third, fourth or
349 subsequent offense and the penalty that shall be imposed upon
350 conviction for a violation of subsection (1) of this section.

351 (8) **Charging of subsequent offenses.** (a) For the purposes
352 of determining how to impose the sentence for a second, third,
353 fourth or subsequent conviction under this section, the affidavit
354 or indictment shall not be required to enumerate previous
355 convictions. It shall only be necessary that the affidavit or
356 indictment states the number of times that the defendant has been
357 convicted and sentenced within the past five (5) years for a
358 second or third offense, or without a time limitation for a fourth
359 or subsequent offense, under this section to determine if an
360 enhanced penalty shall be imposed. The amount of fine and
361 imprisonment imposed in previous convictions shall not be
362 considered in calculating offenses to determine a second, third,
363 fourth or subsequent offense of this section.

364 (b) Before a defendant enters a plea of guilty to an
365 offense under this section, law enforcement must submit
366 certification to the prosecutor that the defendant's driving
367 record, the confidential registry and National Crime Information



368 Center record have been searched for all prior convictions,
369 nonadjudications, pretrial diversions and arrests for driving or
370 operating a vehicle while under the influence of an intoxicating
371 liquor or while under the influence of any other substance that
372 has impaired the person's ability to operate a motor vehicle. The
373 results of the search must be included in the certification.

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

379 (10) **License suspensions and restrictions to run**
380 **consecutively.** Suspension or restriction of driving privileges
381 for any person convicted of or nonadjudicated for violations of
382 subsection (1) of this section shall run consecutively to and not
383 concurrently with any other administrative license suspension.

384 (11) **Ignition interlock.** If the court orders installation
385 and use of an ignition-interlock device as provided in Section
386 63-11-31 for every vehicle operated by a person convicted or
387 nonadjudicated under this section, each device shall be installed,
388 maintained and removed as provided in Section 63-11-31.

389 (12) **DUI child endangerment.** A person over the age of
390 twenty-one (21) who violates subsection (1) of this section while
391 transporting in a motor vehicle a child under the age of sixteen
392 (16) years is guilty of the separate offense of endangering a



393 child by driving under the influence of alcohol or any other
394 substance which has impaired the person's ability to operate a
395 motor vehicle. The offense of endangering a child by driving
396 under the influence of alcohol or any other substance which has
397 impaired the person's ability to operate a motor vehicle shall not
398 be merged with an offense of violating subsection (1) of this
399 section for the purposes of prosecution and sentencing. An
400 offender who is convicted of a violation of this subsection shall
401 be punished as follows:

402 (a) A person who commits a violation of this subsection
403 which does not result in the serious injury or death of a child
404 and which is a first conviction shall be guilty of a misdemeanor
405 and, upon conviction, shall be fined not more than One Thousand
406 Dollars (\$1,000.00) or shall be imprisoned for not more than
407 twelve (12) months, or both;

408 (b) 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 second conviction shall be guilty of a misdemeanor
411 and, upon conviction, shall be fined not less than One Thousand
412 Dollars (\$1,000.00) nor more than Five Thousand Dollars
413 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

414 (c) 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 third or subsequent conviction shall be guilty of a
417 felony and, upon conviction, shall be fined not less than Ten



418 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
419 than one (1) year nor more than five (5) years, or both; and

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

427 (13) **Expunction.** (a) Any person convicted under subsection
428 (2) or (3) of this section of a first offense of driving under the
429 influence and who was not the holder of a commercial driver's
430 license or a commercial learning permit at the time of the offense
431 may petition the circuit court of the county in which the
432 conviction was had for an order to expunge the record of the
433 conviction at least five (5) years after successful completion of
434 all terms and conditions of the sentence imposed for the
435 conviction. Expunction under this subsection will only be
436 available to a person:

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

439 * * *

440 (* * * ii) Who has not been convicted of and does
441 not have pending any other offense of driving under the influence;



442 (* * *iii) Who has provided the court with
443 justification as to why the conviction should be expunged; and

444 (* * *iv) Who has not previously had a
445 nonadjudication or expunction of a violation of this section.

446 (b) A person is eligible for only one (1) expunction
447 under this subsection, and the Department of Public Safety shall
448 maintain a permanent confidential registry of all cases of
449 expunction under this subsection for the sole purpose of
450 determining a person's eligibility for expunction, for
451 nonadjudication, or as a first offender under this section.

452 (c) The court in its order of expunction shall state in
453 writing the justification for which the expunction was granted and
454 forward the order to the Department of Public Safety within five
455 (5) days of the entry of the order.

456 (14) **Nonadjudication.** (a) For the purposes of this
457 chapter, "nonadjudication" means that the court withholds
458 adjudication of guilt and sentencing, either at the conclusion of
459 a trial on the merits or upon the entry of a plea of guilt by a
460 defendant, and places the defendant in a nonadjudication program
461 conditioned upon the successful completion of the requirements
462 imposed by the court under this subsection.

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



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

470 (ii) Who was not the holder of a commercial
471 driver's license or a commercial learning permit at the time of
472 the offense;

473 (iii) Who has not previously been convicted of and
474 does not have pending any former or subsequent charges under this
475 section; and

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

478 (c) Nonadjudication may be initiated upon the filing of
479 a petition for nonadjudication or at any stage of the proceedings
480 in the discretion of the court; the court may withhold
481 adjudication of guilt, defer sentencing, and upon the agreement of
482 the offender to participate in a nonadjudication program, enter an
483 order imposing requirements on the offender for a period of court
484 supervision before the order of nonadjudication is entered.
485 Failure to successfully complete a nonadjudication program
486 subjects the person to adjudication of the charges against him and
487 to imposition of all penalties previously withheld due to entrance
488 into a nonadjudication program. The court shall immediately
489 inform the commissioner of the conviction as required in Section
490 63-11-37.

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



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

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

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

499 4. a. If the court determines that the
500 person violated this section with respect to alcohol or
501 intoxicating liquor, the person must install an ignition-interlock
502 device on every motor vehicle operated by the person, obtain an
503 interlock-restricted license, and maintain that license for one
504 hundred twenty (120) days or suffer a one-hundred-twenty-day
505 suspension of the person's regular driver's license, during which
506 time the person must not operate any vehicle. For purposes of
507 this subparagraph 4., the first day of the one-hundred-twenty-day
508 period shall begin the date the judge signs an order to maintain
509 such license or suspend such license.

510 b. If the court determines that the
511 person violated this section by operating a vehicle when under the
512 influence of a substance other than alcohol that has impaired the
513 person's ability to operate a motor vehicle, including any drug or
514 controlled substance which is unlawful to possess under the
515 Mississippi Controlled Substances Law, the person must submit to a
516 one-hundred-twenty-day period of a nonadjudication program that



517 includes court-ordered drug testing at the person's own expense
518 not less often than every thirty (30) days, during which time the
519 person may drive if compliant with the terms of the program, or
520 suffer a one-hundred-twenty-day suspension of the person's regular
521 driver's license, during which time the person will not operate
522 any vehicle.

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

529 (d) The court may enter an order of nonadjudication
530 only if the court finds, after a hearing or after ex parte
531 examination of reliable documentation of compliance, that the
532 offender has successfully completed all conditions imposed by law
533 and previous orders of the court. The court shall retain
534 jurisdiction over cases involving nonadjudication for a period of
535 not more than two (2) years.

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



541 (ii) Judges, clerks and prosecutors involved in
542 the trial of implied consent violations and law enforcement
543 officers involved in the issuance of citations for implied consent
544 violations shall have secure online access to the confidential
545 registry for the purpose of determining whether a person has
546 previously been the subject of a nonadjudicated case and 1. is
547 therefore ineligible for another nonadjudication; 2. is ineligible
548 as a first offender for a violation of this section; or 3. is
549 ineligible for expunction of a conviction of a violation of this
550 section.

551 (iii) The Driver Services Bureau of the department
552 shall have access to the confidential registry for the purpose of
553 determining whether a person is eligible for a form of license not
554 restricted to operating a vehicle equipped with an
555 ignition-interlock device.

556 (iv) The Mississippi Alcohol Safety Education
557 Program shall have secure online access to the confidential
558 registry for research purposes only.

559 **SECTION 3.** Section 63-11-31, Mississippi Code of 1972, is
560 brought forward as follows:

561 63-11-31. (1) (a) The provisions of this section are
562 supplemental to the provisions of Section 63-11-30.

563 (b) (i) "Ignition-interlock device" means a device
564 approved by the Department of Public Safety that connects a motor
565 vehicle ignition system to a breath-alcohol analyzer and prevents



566 a motor vehicle ignition from starting if the driver's blood
567 alcohol level exceeds the calibrated setting on the device.

568 (ii) "Interlock-restricted license" means a
569 driver's license bearing a restriction that limits the person to
570 operation of vehicles equipped with an ignition-interlock device.

571 (iii) "Court-ordered drug-testing program" means a
572 program that qualifies under Section 63-11-31.1.

573 (c) A person who can exercise the privilege of driving
574 only under an interlock-restricted license must have an
575 ignition-interlock device installed and operating on all motor
576 vehicles owned or operated by the person.

577 (d) A person who installs an ignition-interlock device
578 may obtain an interlock-restricted license.

579 (2) (a) (i) The cost of installation and operation of an
580 ignition-interlock device shall be borne by the person to whom an
581 interlock-restricted driver's license is issued, and the costs of
582 court-ordered drug testing shall be borne by the person so
583 ordered, unless the person is determined by the court to be
584 indigent.

585 (ii) The cost of participating in a court-ordered
586 drug-testing program shall be borne by the person, unless the
587 person is determined by the court to be indigent.

588 (b) (i) A person convicted under Section 63-11-30
589 shall be assessed by the court, in addition to the criminal fines,
590 penalties and assessments provided by law for violations of



591 Section 63-11-30, a fee of Fifty Dollars (\$50.00), to be deposited
592 in the Interlock Device Fund in the State Treasury unless the
593 person is determined by the court to be indigent.

594 (ii) A person nonadjudicated under Section
595 63-11-30 shall be assessed by the court, in addition to the
596 criminal fines, penalties and assessments provided by law for
597 violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars
598 (\$250.00) to be deposited in the Interlock Device Fund in the
599 State Treasury unless the person is determined by the court to be
600 indigent.

601 (3) (a) The Department of Public Safety shall promulgate
602 rules and regulations for the use of an ignition-interlock device.
603 The Department of Public Safety shall approve which vendors shall
604 be used to furnish the systems, may assess fees to the vendors,
605 and shall prescribe the maximum costs to the offender for
606 installation, removal, monthly operation, periodic inspections,
607 calibrations and repairs.

608 (b) A person who has an ignition-interlock device
609 installed in a vehicle shall:

610 (i) Provide proof of the installation of the
611 device and periodic reporting for verification of the proper
612 operation of the device;

613 (ii) Have the system monitored for proper use and
614 accuracy as required by departmental regulation;



615 (iii) Pay the reasonable cost of leasing or
616 buying, monitoring, and maintaining the device unless the person
617 is determined to be indigent; and

618 (iv) Obtain an ignition-interlock driver's
619 license.

620 (4) (a) (i) A person who is limited to driving only under
621 an interlock-restricted driver's license shall not operate a
622 vehicle that is not equipped with an ignition-interlock device.

623 (ii) A person prohibited from operating a motor
624 vehicle that is not equipped with an ignition-interlock device may
625 not solicit or have another person attempt to start or start a
626 motor vehicle equipped with such a device.

627 (iii) A person may not start or attempt to start a
628 motor vehicle equipped with an ignition-interlock device for the
629 purpose of providing an operable motor vehicle to a person who is
630 prohibited from operating a motor vehicle that is not equipped
631 with an ignition-interlock device.

632 (iv) A person may not tamper with, or in any way
633 attempt to circumvent, the operation of an ignition-interlock
634 device that has been installed in a motor vehicle.

635 (v) A person may not knowingly provide a motor
636 vehicle not equipped with a functioning ignition-interlock device
637 to another person who the provider of the vehicle knows or should
638 know is prohibited from operating a motor vehicle not equipped
639 with an ignition-interlock device.



640 (b) A violation of this subsection (4) is a misdemeanor
641 and upon conviction the violator shall be fined an amount not less
642 than Two Hundred Fifty Dollars (\$250.00) nor more than One
643 Thousand Dollars (\$1,000.00) or imprisoned for not more than six
644 (6) months, or both, unless the starting of a motor vehicle
645 equipped with an ignition-interlock device is done for the purpose
646 of safety or mechanical repair of the device or the vehicle, and
647 the person subject to the restriction does not operate the
648 vehicle.

649 (5) In order to obtain an interlock-restricted license, a
650 person must:

651 (a) Be otherwise qualified to operate a motor vehicle,
652 and will be subject to all other restrictions on the privilege to
653 drive provided by law;

654 (b) Submit proof that an ignition-interlock device is
655 installed and operating on all motor vehicles operated by the
656 person; and

657 (c) Pay the fee set forth in Section 63-1-43 to obtain
658 the license without regard to indigence; no license reinstatement
659 fee under Section 63-1-46 shall be charged for a person obtaining
660 an interlock-restricted license.

661 (6) (a) In addition to the penalties authorized for any
662 second or subsequent conviction under Section 63-11-30, the court
663 shall order that all vehicles owned by the offender that are not
664 equipped with an ignition-interlock device must be either



665 impounded or immobilized pending further order of the court
666 lifting the offender's driving restriction. However, no county,
667 municipality, sheriff's department or the Department of Public
668 Safety shall be required to keep, store, maintain, serve as a
669 bailee or otherwise exercise custody over a motor vehicle
670 impounded under the provisions of this section. The cost
671 associated with any impoundment or immobilization shall be paid by
672 the person convicted without regard to ability to pay.

673 (b) A person may not tamper with, or in any way attempt
674 to circumvent, vehicle immobilization or impoundment ordered by
675 the court under this section. A violation of this paragraph (b)
676 is a misdemeanor and, upon conviction, the violator shall be fined
677 an amount not less than Two Hundred Fifty Dollars (\$250.00) nor
678 more than One Thousand Dollars (\$1,000.00) or imprisoned for not
679 more than six (6) months, or both.

680 (7) (a) The Department of Public Safety shall promulgate
681 rules and regulations for the use of monies in the Interlock
682 Device Fund to offset the cost of interlock device installation
683 and operation by and court-ordered drug testing of indigent
684 offenders.

685 (b) The court shall determine a defendant's indigence
686 based upon whether the defendant has access to adequate resources
687 to pay the ignition-interlock fee and the costs of installation
688 and maintenance of an ignition-interlock device, or the costs of
689 court-ordered drug testing or both, and may further base the



690 determination of indigence on proof of enrollment in one or more
691 of the following types of public assistance:

692 (i) Temporary Assistance for Needy Families
693 (TANF);

694 (ii) Medicaid assistance;

695 (iii) The Supplemental Nutritional Assistance
696 Program (SNAP), also known as "food stamps";

697 (iv) Supplemental security income (SSI);

698 (v) Participation in a federal food distribution
699 program;

700 (vi) Federal housing assistance;

701 (vii) Unemployment compensation; or

702 (viii) Other criteria determined appropriate by
703 the court.

704 (c) No more than ten percent (10%) of the money in the
705 Interlock Device Fund in any fiscal year shall be expended by the
706 department for the purpose of administering the fund.

707 (d) The Commissioner of the Department of Public Safety
708 must promulgate regulations for the program and for vendors,
709 including at a minimum:

710 (i) That the offender must pay the cost of the
711 testing program or, if the court finds the offender to be
712 indigent, that the cost be paid from the Interlock Device Fund.

713 (ii) How indigent funds will be accessed by the
714 vendors, and the maximum cost to the offender or the fund.



715 (e) (i) Money in the Interlock Device Fund will be
716 appropriated to the department to cover part of the costs of
717 court-ordered drug testing and installing, removing and leasing
718 ignition-interlock devices for indigent people who are required,
719 because of a conviction or nonadjudication under Section 63-11-30,
720 to install an ignition-interlock device in all vehicles operated
721 by the person.

722 (ii) If money is available in the Interlock Device
723 Fund, the department shall pay to the vendor, for one (1) vehicle
724 per offender, up to Fifty Dollars (\$50.00) for the cost of
725 installation, up to Fifty Dollars (\$50.00) for the cost of
726 removal, and up to Thirty Dollars (\$30.00) monthly for verified
727 active usage of the ignition-interlock device. The department
728 shall not pay any amount above what an offender would be required
729 to pay for the installation, removal or usage of an
730 ignition-interlock device.

731 (iii) If money is available in the Interlock
732 Device Fund, the department shall pay to the vendor an amount not
733 to exceed that promulgated by the Forensics Laboratory for
734 court-ordered drug testing. The department shall not pay any
735 amount above what an offender would be required to pay
736 individually.

737 (8) In order to reinstate a form of driver's license that is
738 not restricted to operation of an ignition-interlock equipped
739 vehicle, the person must submit proof to the Department of Public



740 Safety to substantiate the person's eligibility for an
741 unrestricted license, which may be a court order indicating
742 completion of sentence or final order of nonadjudication; in the
743 absence of a court order, the proof may consist of the following
744 or such other proof as the commissioner may set forth by
745 regulation duly adopted under the Administrative Procedures Act:

746 (a) Proof of successful completion of an alcohol safety
747 program as provided in Section 63-11-32 if so ordered by the
748 court;

749 (b) Payment of the reinstatement fee required under
750 Section 63-1-46(1) (a);

751 (c) Payment of the driver's license fee required under
752 Section 63-1-43;

753 (d) A certificate of liability insurance or proof of
754 financial responsibility; and

755 (e) (i) For those driving under an
756 interlock-restricted license, a declaration from the vendor, in a
757 form provided or approved by the Department of Public Safety,
758 certifying that there have been none of the following incidents in
759 the last thirty (30) days:

760 1. An attempt to start the vehicle with a
761 breath alcohol concentration of 0.04 or more;

762 2. Failure to take or pass any required
763 retest; or



764 3. Failure of the person to appear at the
765 ignition-interlock device vendor when required for maintenance,
766 repair, calibration, monitoring, inspection, or replacement of the
767 device; or

768 (ii) For a person who violated Section 63-11-30
769 with respect to drugs other than alcohol, proof of successful
770 compliance with all court-ordered drug testing; or

771 (iii) Both subparagraphs (i) and (ii) of this
772 paragraph (e) if applicable.

773 (9) The court may extend the interlock-restricted period if
774 the person had a violation in the last thirty (30) days.

775 (10) The court that originally ordered installation of the
776 ignition-interlock device for a violation of Section 63-11-30 and
777 a court in the municipality or county in which the violation
778 occurred have jurisdiction over an offense under this section.

779 (11) A person who voluntarily obtains an
780 interlock-restricted license may convert at any time to any other
781 form of license for which the person is qualified.

782 (12) (a) The Department of Public Safety shall require all
783 manufacturers of ignition-interlock devices to report
784 ignition-interlock data in a consistent and uniform format as
785 prescribed by the Department of Public Safety. Ignition-interlock
786 vendors must also use the uniform format when sharing data with
787 courts ordering an ignition interlock, with alcohol safety
788 education programs, or with other treatment providers.



789 (b) The Department of Public Safety shall require all
790 vendors of drug testing programs approved under Section 63-11-31.1
791 to report test results in a consistent and uniform format as
792 prescribed by the Forensics Laboratory. Vendors must report test
793 results to the court on a monthly basis, except that a positive
794 test or failure of the testing participant to submit to
795 verification must be reported to the court within five (5) days of
796 verification of the positive test or the failure to submit.

797 **SECTION 4.** This act shall take effect and be in force from
798 and after July 1, 2021, and shall stand repealed on June 30, 2021.

**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 REVISE ELIGIBILITY FOR
7 EXPUNCTION OF A FIRST OFFENSE; TO BRING FORWARD SECTION 63-11-31,
8 MISSISSIPPI CODE OF 1972, WHICH REGULATES IGNITION INTERLOCK FOR
9 DUI VIOLATIONS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED
10 PURPOSES.

