

## Senate Amendments to House Bill No. 604

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:

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

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

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

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

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

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

44 (2) **Extension or suspension of privilege to drive; request**  
45 **for trial.** (a) If the chemical testing of a person's breath  
46 indicates the blood alcohol concentration was eight one-hundredths  
47 percent (.08%) or more for persons who are above the legal age to  
48 purchase alcoholic beverages under state law, or two  
49 one-hundredths percent (.02%) or more for persons who are below  
50 the legal age to purchase alcoholic beverages under state law,  
51 based upon grams of alcohol per one hundred (100) milliliters of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 (c) The first day of any one-hundred-twenty-day  
128 suspension shall begin to run:

129                   (i) On the date ordered by the judge, and such  
130 date shall not be less than thirty (30) days from the judge's  
131 execution of the court order; or

132                   (ii) On the date determined by the Department of  
133 Public Safety where the court order is silent as to a beginning  
134 date.

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, as  
142 amended by Senate Bill No. 2095, 2022 Regular Session, is amended  
143 as follows:

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

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

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

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

152                   (d) Has an alcohol concentration in the person's blood,  
153 based upon grams of alcohol per one hundred (100) milliliters of  
154 blood, or grams of alcohol per two hundred ten (210) liters of

155 breath, as shown by a chemical analysis of the person's breath,  
156 blood or urine administered as authorized by this chapter, of:

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

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

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

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

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

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

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

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

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

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

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

204 (c) **Third offense DUI.** (i) For a third conviction of  
205 a person for violating subsection (1) of this section, the



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

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

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

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

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

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

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

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

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

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

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

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

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

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

280 (f) Any person under the age of twenty-one (21) years  
281 convicted of a third or subsequent violation of subsection (1) of

282 this section must complete treatment of an alcohol or drug abuse  
283 program at a site certified by the Department of Mental Health.

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

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

307 with causing the death of another as described in this subsection  
308 shall be required to post bail before being released after arrest.

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

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

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

332 conviction or other order of the court, to the Department of  
333 Public Safety as provided in Section 63-11-37.

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

342 (7) **Out-of-state prior convictions.** Convictions in another  
343 state, territory or possession of the United States, or under the  
344 law of a federally recognized Native American tribe, of violations  
345 for driving or operating a vehicle while under the influence of an  
346 intoxicating liquor or while under the influence of any other  
347 substance that has impaired the person's ability to operate a  
348 motor vehicle occurring within five (5) years before an offense  
349 shall be counted for the purposes of determining if a violation of  
350 subsection (1) of this section is a second, third, fourth or  
351 subsequent offense and the penalty that shall be imposed upon  
352 conviction for a violation of subsection (1) of this section.

353 (8) **Charging of subsequent offenses.** (a) For the purposes  
354 of determining how to impose the sentence for a second, third,  
355 fourth or subsequent conviction under this section, the affidavit  
356 or indictment shall not be required to enumerate previous  
357 convictions. It shall only be necessary that the affidavit or

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

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

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

381 (10) **License suspensions and restrictions to run**  
382 **consecutively.** Suspension or restriction of driving privileges  
383 for any person convicted of or nonadjudicated for violations of

384 subsection (1) of this section shall run consecutively to and not  
385 concurrently with any other administrative license suspension.

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

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

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



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

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

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

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

436 all terms and conditions of the sentence imposed for the  
437 conviction. Expunction under this subsection will only be  
438 available to a person:

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

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

443 (iii) Whose blood alcohol concentration tested  
444 below sixteen one-hundredths percent (.16%) if test results are  
445 available;

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

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

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

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

458 (c) The court in its order of expunction shall state in  
459 writing the justification for which the expunction was granted and  
460 forward the order to the Department of Public Safety within five  
461 (5) days of the entry of the order.

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

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

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

476                   (ii) Who was not the holder of a commercial  
477 driver's license or a commercial learning permit at the time of  
478 the offense;

479                   (iii) Who has not previously been convicted of and  
480 does not have pending any former or subsequent charges under this  
481 section; and

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

484           (c) Nonadjudication may be initiated upon the filing of  
485 a petition for nonadjudication or at any stage of the proceedings  
486 in the discretion of the court; the court may withhold  
487 adjudication of guilt, defer sentencing, and upon the agreement of

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

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

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

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

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

505 4. a. If the court determines that the  
506 person violated this section with respect to alcohol or  
507 intoxicating liquor, the person must install an ignition-interlock  
508 device on every motor vehicle operated by the person, obtain an  
509 interlock-restricted license, and maintain that license for one  
510 hundred twenty (120) days or suffer a one-hundred-twenty-day  
511 suspension of the person's regular driver's license, during which  
512 time the person must not operate any vehicle. For purposes of

513 this item 4, the first day of the one-hundred-twenty-day  
514 suspension shall begin to run:

515 A. On the date ordered by the  
516 judge, and such date shall not be less than thirty (30) days from  
517 the judge's execution of the court order; or

518 B. On the date determined by the  
519 Department of Public Safety where the court order is silent as to  
520 a beginning date.

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

534 (ii) Other conditions that may be imposed by the  
535 court include, but are not limited to, alcohol or drug screening,  
536 or both, proof that the person has not committed any other traffic  
537 violations while under court supervision, proof of immobilization

538 or impoundment of vehicles owned by the offender if required, and  
539 attendance at a victim-impact panel.

540 (d) The court may enter an order of nonadjudication  
541 only if the court finds, after a hearing or after ex parte  
542 examination of reliable documentation of compliance, that the  
543 offender has successfully completed all conditions imposed by law  
544 and previous orders of the court. The court shall retain  
545 jurisdiction over cases involving nonadjudication for a period of  
546 not more than two (2) years.

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

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

562 (iii) The Driver Services Bureau of the department  
563 shall have access to the confidential registry for the purpose of

564 determining whether a person is eligible for a form of license not  
565 restricted to operating a vehicle equipped with an  
566 ignition-interlock device.

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

570 (15) The provisions of this section are fully applicable to  
571 any person who is under the influence of medical cannabis that is  
572 lawful under the Mississippi Medical Cannabis Act and in  
573 compliance with rules and regulations adopted thereunder which has  
574 impaired the person's ability to operate a motor vehicle.

575 **SECTION 3.** This act shall take effect and be in force from  
576 and after July 1, 2022.

**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 ORDERED BY THE JUDGE; TO AMEND SECTION 63-11-30,  
4 MISSISSIPPI CODE OF 1972, AS AMENDED BY SENATE BILL NO. 2095, 2022  
5 REGULAR SESSION, TO PROVIDE THAT THE 120-DAY SUSPENSION FOR DUI  
6 VIOLATIONS BEGINS ON THE DATE ORDERED BY THE JUDGE; AND FOR  
7 RELATED PURPOSES.

SS36\HB604A.3J

Eugene S. Clarke  
Secretary of the Senate