

By: Representative Roberson

To: Judiciary B

HOUSE BILL NO. 253
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 63-11-23 AND 63-11-30, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE 120-DAY SUSPENSION FOR DUI
3 VIOLATIONS BEGINS ON THE DATE THE JUDGE SIGNS THE ORDER FOR
4 SUSPENSION; TO PROVIDE AN AGGRAVATED DUI PENALTY FOR PERSONS WHO
5 ARE UNDER THE LEGAL AGE FOR PURCHASING ALCOHOLIC BEVERAGES; TO
6 BRING FORWARD SECTION 63-11-31, MISSISSIPPI CODE OF 1972, WHICH
7 REGULATES IGNITION INTERLOCK FOR DUI VIOLATIONS, FOR PURPOSES OF
8 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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

16 (a) If upon review the Commissioner of Public Safety,
17 or his authorized agent, finds (i) that the law enforcement
18 officer had reasonable grounds and probable cause to believe the
19 person had been operating a motor vehicle upon the public
20 highways, public roads * * * or streets of this state while under
21 the influence of intoxicating liquor or any other substance that



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

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

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

45 (2) **Extension or suspension of privilege to drive; request**
46 **for trial.** (a) If the chemical testing of a person's breath



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

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



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

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

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

91 (5) **Suspension subsequent to conviction.** Unless the person
92 obtains an interlock-restricted license or the court orders the
93 person to exercise the privilege to operate a motor vehicle only
94 under an interlock-restricted license or while participating in a
95 court-ordered drug-testing program, thirty (30) days after receipt



96 of the court abstract documenting a person's conviction under
97 Section 63-11-30, the Department of Public Safety shall suspend
98 the driver's license and privileges of the person to operate a
99 motor vehicle as follows:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

139 63-11-30. (1) It is unlawful for a person to drive or
140 otherwise operate a vehicle within this state if the person:

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

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



144 (c) Is under the influence of any drug or controlled
145 substance, the possession of which is unlawful under the
146 Mississippi Controlled Substances Law; or

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

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

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

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

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

162 (a) **First offense DUI.** (i) Upon conviction of any
163 person for the first offense of violating subsection (1) of this
164 section where chemical tests under Section 63-11-5 were given, or
165 where chemical test results are not available, the person shall be
166 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
167 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
168 than forty-eight (48) hours in jail, or both; the court shall



169 order the person to attend and complete an alcohol safety
170 education program as provided in Section 63-11-32 within six (6)
171 months of sentencing. The court may substitute attendance at a
172 victim impact panel instead of forty-eight (48) hours in jail.

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

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

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

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



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

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

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

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

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

217 (d) **Fourth and subsequent offense DUI.** (i) For any
218 fourth or subsequent conviction of a violation of subsection (1)



219 of this section, without regard to the time period within which
220 the violations occurred, the person shall be guilty of a felony
221 and fined not less than Three Thousand Dollars (\$3,000.00) nor
222 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
223 less than two (2) years nor more than ten (10) years in the
224 custody of the Department of Corrections.

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

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

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

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



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

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

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

263 (c) A person under the age of twenty-one (21) years who
264 is convicted of a second violation of subsection (1) of this
265 section, the offenses being committed within a period of five (5)
266 years, shall be fined not more than Five Hundred Dollars
267 (\$500.00).



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

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

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

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

287 (5) **Aggravated DUI.** (a) (i) Except as otherwise provided
288 in subparagraph (ii) of this paragraph (a), every person who
289 operates any motor vehicle in violation of the provisions of
290 subsection (1) of this section and who in a negligent manner
291 causes the death of another or mutilates, disfigures, permanently
292 disables or destroys the tongue, eye, lip, nose or any other limb,



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

306 (ii) Every person who is below the legal age to
307 purchase alcoholic beverages under state law and has an alcohol
308 concentration in the person's blood, based upon grams of alcohol
309 per one hundred (100) milliliters of blood, or grams of alcohol
310 per two hundred ten (210) liters of breath, as shown by a chemical
311 analysis of the person's breath, blood or urine administered as
312 authorized by this chapter, of eight one-hundredths percent
313 (0.08%) or more and who in a negligent manner causes the death of
314 another or mutilates, disfigures, permanently disables or destroys
315 the tongue, eye, lip, nose of any other limb, organ or member of
316 another shall, upon conviction, be guilty of a separate felony for
317 each victim who suffers death, mutilation, disfigurement or other



318 injury and shall be committed to the custody of the State
319 Department of Corrections for a period of time not less than five
320 (5) years and not to exceed twenty-five (25) years for each death,
321 mutilation, disfigurement or other injury, and the imprisonment
322 for the second or each subsequent conviction, in the discretion of
323 the court, shall commence either at the termination of the
324 imprisonment for the preceding conviction or run concurrently with
325 the preceding conviction. Any such person charged with causing
326 the death of another as described in this subparagraph shall be
327 required to post bail before being released after arrest. Any
328 person who was below the legal age to purchase alcoholic beverages
329 under state law and was convicted before July 1, 2023, of
330 aggravated DUI with a blood alcohol concentration as described in
331 this subparagraph of less than eight one-hundredths percent
332 (.08%), or who was charged before July 1, 2023, with aggravated
333 DUI with a blood alcohol concentration as described in this
334 subparagraph of less than eight one-hundredths percent (.08%) and
335 convicted on or after July 1, 2023, shall upon petition to the
336 sentencing court be granted a new trial pursuant to this
337 subparagraph.

338 (b) A holder of a commercial driver's license who is
339 convicted of operating a commercial motor vehicle with an alcohol
340 concentration of eight one-hundredths percent (.08%) or more shall
341 be guilty of a felony and shall be committed to the custody of the



342 Department of Corrections for not less than two (2) years and not
343 more than ten (10) years.

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

351 (6) **DUI citations.** (a) Upon conviction of a violation of
352 subsection (1) of this section, the trial judge shall sign in the
353 place provided on the traffic ticket, citation or affidavit
354 stating that the person arrested either employed an attorney or
355 waived his right to an attorney after having been properly
356 advised. If the person arrested employed an attorney, the name,
357 address and telephone number of the attorney shall be written on
358 the ticket, citation or affidavit. The court clerk must
359 immediately send a copy of the traffic ticket, citation or
360 affidavit, and any other pertinent documents concerning the
361 conviction or other order of the court, to the Department of
362 Public Safety as provided in Section 63-11-37.

363 (b) A copy of the traffic ticket, citation or affidavit
364 and any other pertinent documents, having been attested as true
365 and correct by the Commissioner of Public Safety, or his designee,
366 shall be sufficient proof of the conviction for purposes of



367 determining the enhanced penalty for any subsequent convictions of
368 violations of subsection (1) of this section. The Department of
369 Public Safety shall maintain a central database for verification
370 of prior offenses and convictions.

371 (7) **Out-of-state prior convictions.** Convictions in another
372 state, territory or possession of the United States, or under the
373 law of a federally recognized Native American tribe, of violations
374 for driving or operating a vehicle while under the influence of an
375 intoxicating liquor or while under the influence of any other
376 substance that has impaired the person's ability to operate a
377 motor vehicle occurring within five (5) years before an offense
378 shall be counted for the purposes of determining if a violation of
379 subsection (1) of this section is a second, third, fourth or
380 subsequent offense and the penalty that shall be imposed upon
381 conviction for a violation of subsection (1) of this section.

382 (8) **Charging of subsequent offenses.** (a) For the purposes
383 of determining how to impose the sentence for a second, third,
384 fourth or subsequent conviction under this section, the affidavit
385 or indictment shall not be required to enumerate previous
386 convictions. It shall only be necessary that the affidavit or
387 indictment states the number of times that the defendant has been
388 convicted and sentenced within the past five (5) years for a
389 second or third offense, or without a time limitation for a fourth
390 or subsequent offense, under this section to determine if an
391 enhanced penalty shall be imposed. The amount of fine and



392 imprisonment imposed in previous convictions shall not be
393 considered in calculating offenses to determine a second, third,
394 fourth or subsequent offense of this section.

395 (b) Before a defendant enters a plea of guilty to an
396 offense under this section, law enforcement must submit
397 certification to the prosecutor that the defendant's driving
398 record, the confidential registry and National Crime Information
399 Center record have been searched for all prior convictions,
400 nonadjudications, pretrial diversions and arrests for driving or
401 operating a vehicle while under the influence of an intoxicating
402 liquor or while under the influence of any other substance that
403 has impaired the person's ability to operate a motor vehicle. The
404 results of the search must be included in the certification.

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

410 (10) **License suspensions and restrictions to run**
411 **consecutively.** Suspension or restriction of driving privileges
412 for any person convicted of or nonadjudicated for violations of
413 subsection (1) of this section shall run consecutively to and not
414 concurrently with any other administrative license suspension.

415 (11) **Ignition interlock.** If the court orders installation
416 and use of an ignition-interlock device as provided in Section



417 63-11-31 for every vehicle operated by a person convicted or
418 nonadjudicated under this section, each device shall be installed,
419 maintained and removed as provided in Section 63-11-31.

420 (12) **DUI child endangerment.** A person over the age of
421 twenty-one (21) who violates subsection (1) of this section while
422 transporting in a motor vehicle a child under the age of sixteen
423 (16) years is guilty of the separate offense of endangering a
424 child by driving under the influence of alcohol or any other
425 substance which has impaired the person's ability to operate a
426 motor vehicle. The offense of endangering a child by driving
427 under the influence of alcohol or any other substance which has
428 impaired the person's ability to operate a motor vehicle shall not
429 be merged with an offense of violating subsection (1) of this
430 section for the purposes of prosecution and sentencing. An
431 offender who is convicted of a violation of this subsection shall
432 be punished as follows:

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

439 (b) A person who commits a violation of this subsection
440 which does not result in the serious injury or death of a child
441 and which is a second conviction shall be guilty of a misdemeanor



442 and, upon conviction, shall be fined not less than One Thousand
443 Dollars (\$1,000.00) nor more than Five Thousand Dollars
444 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

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

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

458 (13) **Expunction.** (a) Any person convicted under subsection
459 (2) or (3) of this section of a first offense of driving under the
460 influence and who was not the holder of a commercial driver's
461 license or a commercial learning permit at the time of the offense
462 may petition the circuit court of the county in which the
463 conviction was had for an order to expunge the record of the
464 conviction at least five (5) years after successful completion of
465 all terms and conditions of the sentence imposed for the



466 conviction. Expunction under this subsection will only be
467 available to a person:

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

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

472 (iii) Whose blood alcohol concentration tested
473 below sixteen one-hundredths percent (.16%) if test results are
474 available;

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

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

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

481 (b) A person is eligible for only one (1) expunction
482 under this subsection, and the Department of Public Safety shall
483 maintain a permanent confidential registry of all cases of
484 expunction under this subsection for the sole purpose of
485 determining a person's eligibility for expunction, for
486 nonadjudication, or as a first offender under this section.

487 (c) The court in its order of expunction shall state in
488 writing the justification for which the expunction was granted and
489 forward the order to the Department of Public Safety within five
490 (5) days of the entry of the order.



491 (14) **Nonadjudication.** (a) For the purposes of this
492 chapter, "nonadjudication" means that the court withholds
493 adjudication of guilt and sentencing, either at the conclusion of
494 a trial on the merits or upon the entry of a plea of guilt by a
495 defendant, and places the defendant in a nonadjudication program
496 conditioned upon the successful completion of the requirements
497 imposed by the court under this subsection.

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

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

505 (ii) Who was not the holder of a commercial
506 driver's license or a commercial learning permit at the time of
507 the offense;

508 (iii) Who has not previously been convicted of and
509 does not have pending any former or subsequent charges under this
510 section; and

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

513 (c) Nonadjudication may be initiated upon the filing of
514 a petition for nonadjudication or at any stage of the proceedings
515 in the discretion of the court; the court may withhold



516 adjudication of guilt, defer sentencing, and upon the agreement of
517 the offender to participate in a nonadjudication program, enter an
518 order imposing requirements on the offender for a period of court
519 supervision before the order of nonadjudication is entered.
520 Failure to successfully complete a nonadjudication program
521 subjects the person to adjudication of the charges against him and
522 to imposition of all penalties previously withheld due to entrance
523 into a nonadjudication program. The court shall immediately
524 inform the commissioner of the conviction as required in Section
525 63-11-37.

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

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

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

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

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



541 time the person must not operate any vehicle. The first date to
542 begin counting the one-hundred-twenty-day periods described in
543 this subparagraph 4 shall be the same date that the judge signs
544 the order to maintain a license or suspend a license, whichever is
545 applicable.

546 b. If the court determines that the
547 person violated this section by operating a vehicle when under the
548 influence of a substance other than alcohol that has impaired the
549 person's ability to operate a motor vehicle, including any drug or
550 controlled substance which is unlawful to possess under the
551 Mississippi Controlled Substances Law, the person must submit to a
552 one-hundred-twenty-day period of a nonadjudication program that
553 includes court-ordered drug testing at the person's own expense
554 not less often than every thirty (30) days, during which time the
555 person may drive if compliant with the terms of the program, or
556 suffer a one-hundred-twenty-day suspension of the person's regular
557 driver's license, during which time the person will not operate
558 any vehicle.

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



565 (d) The court may enter an order of nonadjudication
566 only if the court finds, after a hearing or after ex parte
567 examination of reliable documentation of compliance, that the
568 offender has successfully completed all conditions imposed by law
569 and previous orders of the court. The court shall retain
570 jurisdiction over cases involving nonadjudication for a period of
571 not more than two (2) years.

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

577 (ii) Judges, clerks and prosecutors involved in
578 the trial of implied consent violations and law enforcement
579 officers involved in the issuance of citations for implied consent
580 violations shall have secure online access to the confidential
581 registry for the purpose of determining whether a person has
582 previously been the subject of a nonadjudicated case and 1. is
583 therefore ineligible for another nonadjudication; 2. is ineligible
584 as a first offender for a violation of this section; or 3. is
585 ineligible for expunction of a conviction of a violation of this
586 section.

587 (iii) The Driver Services Bureau of the department
588 shall have access to the confidential registry for the purpose of
589 determining whether a person is eligible for a form of license not



590 restricted to operating a vehicle equipped with an
591 ignition-interlock device.

592 (iv) The Mississippi Alcohol Safety Education
593 Program shall have secure online access to the confidential
594 registry for research purposes only.

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

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

602 63-11-31. (1) (a) The provisions of this section are
603 supplemental to the provisions of Section 63-11-30.

604 (b) (i) "Ignition-interlock device" means a device
605 approved by the Department of Public Safety that connects a motor
606 vehicle ignition system to a breath-alcohol analyzer and prevents
607 a motor vehicle ignition from starting if the driver's blood
608 alcohol level exceeds the calibrated setting on the device.

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

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



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

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

620 (2) (a) (i) The cost of installation and operation of an
621 ignition-interlock device shall be borne by the person to whom an
622 interlock-restricted driver's license is issued, and the costs of
623 court-ordered drug testing shall be borne by the person so
624 ordered, unless the person is determined by the court to be
625 indigent.

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

629 (b) (i) A person convicted under Section 63-11-30
630 shall be assessed by the court, in addition to the criminal fines,
631 penalties and assessments provided by law for violations of
632 Section 63-11-30, a fee of Fifty Dollars (\$50.00), to be deposited
633 in the Interlock Device Fund in the State Treasury unless the
634 person is determined by the court to be indigent.

635 (ii) A person nonadjudicated under Section
636 63-11-30 shall be assessed by the court, in addition to the
637 criminal fines, penalties and assessments provided by law for
638 violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars



639 (\$250.00) to be deposited in the Interlock Device Fund in the
640 State Treasury unless the person is determined by the court to be
641 indigent.

642 (3) (a) The Department of Public Safety shall promulgate
643 rules and regulations for the use of an ignition-interlock device.
644 The Department of Public Safety shall approve which vendors shall
645 be used to furnish the systems, may assess fees to the vendors,
646 and shall prescribe the maximum costs to the offender for
647 installation, removal, monthly operation, periodic inspections,
648 calibrations and repairs.

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

651 (i) Provide proof of the installation of the
652 device and periodic reporting for verification of the proper
653 operation of the device;

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

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

659 (iv) Obtain an ignition-interlock driver's
660 license.

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



664 (ii) A person prohibited from operating a motor
665 vehicle that is not equipped with an ignition-interlock device may
666 not solicit or have another person attempt to start or start a
667 motor vehicle equipped with such a device.

668 (iii) A person may not start or attempt to start a
669 motor vehicle equipped with an ignition-interlock device for the
670 purpose of providing an operable motor vehicle to a person who is
671 prohibited from operating a motor vehicle that is not equipped
672 with an ignition-interlock device.

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

676 (v) A person may not knowingly provide a motor
677 vehicle not equipped with a functioning ignition-interlock device
678 to another person who the provider of the vehicle knows or should
679 know is prohibited from operating a motor vehicle not equipped
680 with an ignition-interlock device.

681 (b) A violation of this subsection (4) is a misdemeanor
682 and upon conviction the violator shall be fined an amount not less
683 than Two Hundred Fifty Dollars (\$250.00) nor more than One
684 Thousand Dollars (\$1,000.00) or imprisoned for not more than six
685 (6) months, or both, unless the starting of a motor vehicle
686 equipped with an ignition-interlock device is done for the purpose
687 of safety or mechanical repair of the device or the vehicle, and



688 the person subject to the restriction does not operate the
689 vehicle.

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

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

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

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

702 (6) (a) In addition to the penalties authorized for any
703 second or subsequent conviction under Section 63-11-30, the court
704 shall order that all vehicles owned by the offender that are not
705 equipped with an ignition-interlock device must be either
706 impounded or immobilized pending further order of the court
707 lifting the offender's driving restriction. However, no county,
708 municipality, sheriff's department or the Department of Public
709 Safety shall be required to keep, store, maintain, serve as a
710 bailee or otherwise exercise custody over a motor vehicle
711 impounded under the provisions of this section. The cost



712 associated with any impoundment or immobilization shall be paid by
713 the person convicted without regard to ability to pay.

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

721 (7) (a) The Department of Public Safety shall promulgate
722 rules and regulations for the use of monies in the Interlock
723 Device Fund to offset the cost of interlock device installation
724 and operation by and court-ordered drug testing of indigent
725 offenders.

726 (b) The court shall determine a defendant's indigence
727 based upon whether the defendant has access to adequate resources
728 to pay the ignition-interlock fee and the costs of installation
729 and maintenance of an ignition-interlock device, or the costs of
730 court-ordered drug testing or both, and may further base the
731 determination of indigence on proof of enrollment in one or more
732 of the following types of public assistance:

733 (i) Temporary Assistance for Needy Families
734 (TANF);

735 (ii) Medicaid assistance;



736 (iii) The Supplemental Nutritional Assistance
737 Program (SNAP), also known as "food stamps";
738 (iv) Supplemental security income (SSI);
739 (v) Participation in a federal food distribution
740 program;
741 (vi) Federal housing assistance;
742 (vii) Unemployment compensation; or
743 (viii) Other criteria determined appropriate by
744 the court.

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

748 (d) The Commissioner of the Department of Public Safety
749 must promulgate regulations for the program and for vendors,
750 including at a minimum:

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

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

756 (e) (i) Money in the Interlock Device Fund will be
757 appropriated to the department to cover part of the costs of
758 court-ordered drug testing and installing, removing and leasing
759 ignition-interlock devices for indigent people who are required,
760 because of a conviction or nonadjudication under Section 63-11-30,



761 to install an ignition-interlock device in all vehicles operated
762 by the person.

763 (ii) If money is available in the Interlock Device
764 Fund, the department shall pay to the vendor, for one (1) vehicle
765 per offender, up to Fifty Dollars (\$50.00) for the cost of
766 installation, up to Fifty Dollars (\$50.00) for the cost of
767 removal, and up to Thirty Dollars (\$30.00) monthly for verified
768 active usage of the ignition-interlock device. The department
769 shall not pay any amount above what an offender would be required
770 to pay for the installation, removal or usage of an
771 ignition-interlock device.

772 (iii) If money is available in the Interlock
773 Device Fund, the department shall pay to the vendor an amount not
774 to exceed that promulgated by the Forensics Laboratory for
775 court-ordered drug testing. The department shall not pay any
776 amount above what an offender would be required to pay
777 individually.

778 (8) In order to reinstate a form of driver's license that is
779 not restricted to operation of an ignition-interlock equipped
780 vehicle, the person must submit proof to the Department of Public
781 Safety to substantiate the person's eligibility for an
782 unrestricted license, which may be a court order indicating
783 completion of sentence or final order of nonadjudication; in the
784 absence of a court order, the proof may consist of the following



785 or such other proof as the commissioner may set forth by
786 regulation duly adopted under the Administrative Procedures Act:

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

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

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

794 (d) A certificate of liability insurance or proof of
795 financial responsibility; and

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

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

803 2. Failure to take or pass any required
804 retest; or

805 3. Failure of the person to appear at the
806 ignition-interlock device vendor when required for maintenance,
807 repair, calibration, monitoring, inspection, or replacement of the
808 device; or



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

812 (iii) Both subparagraphs (i) and (ii) of this
813 paragraph (e) if applicable.

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

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

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

823 (12) (a) The Department of Public Safety shall require all
824 manufacturers of ignition-interlock devices to report
825 ignition-interlock data in a consistent and uniform format as
826 prescribed by the Department of Public Safety. Ignition-interlock
827 vendors must also use the uniform format when sharing data with
828 courts ordering an ignition interlock, with alcohol safety
829 education programs, or with other treatment providers.

830 (b) The Department of Public Safety shall require all
831 vendors of drug testing programs approved under Section 63-11-31.1
832 to report test results in a consistent and uniform format as
833 prescribed by the Forensics Laboratory. Vendors must report test



834 results to the court on a monthly basis, except that a positive
835 test or failure of the testing participant to submit to
836 verification must be reported to the court within five (5) days of
837 verification of the positive test or the failure to submit.

838 **SECTION 4.** This act shall take effect and be in force from
839 and after July 1, 2023, and shall stand repealed on June 30, 2023.

