

By: Representative Roberson

To: Judiciary B

HOUSE BILL NO. 292
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 63-11-23 AND 63-11-30, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE A TIMELINE FOR THE 120-DAY SUSPENSION FOR
3 DUI VIOLATIONS TO PROVIDE AN AGGRAVATED DUI PENALTY FOR PERSONS
4 WHO ARE UNDER THE LEGAL AGE FOR PURCHASING ALCOHOLIC BEVERAGES;
5 AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

42 (2) **Extension or suspension of privilege to drive; request**
43 **for trial.** (a) If the chemical testing of a person's breath
44 indicates the blood alcohol concentration was eight one-hundredths



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

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

68 (c) If a receipt or permit to drive issued under this
69 subsection expires without a trial having been requested as



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

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

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

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



95 the driver's license and privileges of the person to operate a
96 motor vehicle as follows:

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

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

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

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

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

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

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

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

117 (iii) For a third offense occurring within five
118 (5) years, suspend or deny the driving privilege for two (2) years



119 or until the person reaches the age of twenty-one (21), whichever
120 is longer.

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

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

125 (c) The first day of any one-hundred-twenty-day period
126 shall begin twenty-one (21) days after entry of judgement of
127 conviction or order of nonadjudication.

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

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

136 63-11-30. (1) It is unlawful for a person to drive or
137 otherwise operate a vehicle within this state if the person:

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

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

141 (c) Is under the influence of any drug or controlled
142 substance, the possession of which is unlawful under the

143 Mississippi Controlled Substances Law; or



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

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

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

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

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

159 (a) **First offense DUI.** (i) Upon conviction of any
160 person for the first offense of violating subsection (1) of this
161 section where chemical tests under Section 63-11-5 were given, or
162 where chemical test results are not available, the person shall be
163 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
164 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
165 than forty-eight (48) hours in jail, or both; the court shall
166 order the person to attend and complete an alcohol safety
167 education program as provided in Section 63-11-32 within six (6)



168 months of sentencing. The court may substitute attendance at a
169 victim impact panel instead of forty-eight (48) hours in jail.

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

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

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

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

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



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

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

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

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

214 (d) **Fourth and subsequent offense DUI.** (i) For any
215 fourth or subsequent conviction of a violation of subsection (1)
216 of this section, without regard to the time period within which
217 the violations occurred, the person shall be guilty of a felony



218 and fined not less than Three Thousand Dollars (\$3,000.00) nor
219 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
220 less than two (2) years nor more than ten (10) years in the
221 custody of the Department of Corrections.

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

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

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

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

240 (3) **Zero tolerance for minors.** (a) This subsection shall
241 be known and may be cited as Zero Tolerance for Minors. The
242 provisions of this subsection shall apply only when a person under



243 the age of twenty-one (21) years has a blood alcohol concentration
244 of two one-hundredths percent (.02%) or more, but lower than eight
245 one-hundredths percent (.08%). If the person's blood alcohol
246 concentration is eight one-hundredths percent (.08%) or more, the
247 provisions of subsection (2) shall apply.

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

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

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

265 (d) A person under the age of twenty-one (21) years who
266 is convicted of a third or subsequent violation of subsection (1)
267 of this section, the offenses being committed within a period of



268 five (5) years, shall be fined not more than One Thousand Dollars
269 (\$1,000.00).

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

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

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

284 (5) **Aggravated DUI.** (a) (i) Except as otherwise provided
285 in subparagraph (ii) of this paragraph (a), every person who
286 operates any motor vehicle in violation of the provisions of
287 subsection (1) of this section and who in a negligent manner
288 causes the death of another or mutilates, disfigures, permanently
289 disables or destroys the tongue, eye, lip, nose or any other limb,
290 organ or member of another shall, upon conviction, be guilty of a
291 separate felony for each victim who suffers death, mutilation,
292 disfigurement or other injury and shall be committed to the



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

303 (ii) Every person who is below the legal age to
304 purchase alcoholic beverages under state law and has an alcohol
305 concentration in the person's blood, based upon grams of alcohol
306 per one hundred (100) milliliters of blood, or grams of alcohol
307 per two hundred ten (210) liters of breath, as shown by a chemical
308 analysis of the person's breath, blood or urine administered as
309 authorized by this chapter, of eight one-hundredths percent
310 (0.08%) or more and who in a negligent manner causes the death of
311 another or mutilates, disfigures, permanently disables or destroys
312 the tongue, eye, lip, nose or any other limb, organ or member of
313 another shall, upon conviction, be guilty of a separate felony for
314 each victim who suffers death, mutilation, disfigurement or other
315 injury and shall be committed to the custody of the State
316 Department of Corrections for a period of time not less than five
317 (5) years and not to exceed twenty-five (25) years for each death,



318 mutilation, disfigurement or other injury, and the imprisonment
319 for the second or each subsequent conviction, in the discretion of
320 the court, shall commence either at the termination of the
321 imprisonment for the preceding conviction or run concurrently with
322 the preceding conviction. Any such person charged with causing
323 the death of another as described in this subparagraph shall be
324 required to post bail before being released after arrest.

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

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

338 (6) **DUI citations.** (a) Upon conviction of a violation of
339 subsection (1) of this section, the trial judge shall sign in the
340 place provided on the traffic ticket, citation or affidavit
341 stating that the person arrested either employed an attorney or
342 waived his right to an attorney after having been properly



343 advised. If the person arrested employed an attorney, the name,
344 address and telephone number of the attorney shall be written on
345 the ticket, citation or affidavit. The court clerk must
346 immediately send a copy of the traffic ticket, citation or
347 affidavit, and any other pertinent documents concerning the
348 conviction or other order of the court, to the Department of
349 Public Safety as provided in Section 63-11-37.

350 (b) A copy of the traffic ticket, citation or affidavit
351 and any other pertinent documents, having been attested as true
352 and correct by the Commissioner of Public Safety, or his designee,
353 shall be sufficient proof of the conviction for purposes of
354 determining the enhanced penalty for any subsequent convictions of
355 violations of subsection (1) of this section. The Department of
356 Public Safety shall maintain a central database for verification
357 of prior offenses and convictions.

358 (7) **Out-of-state prior convictions.** Convictions in another
359 state, territory or possession of the United States, or under the
360 law of a federally recognized Native American tribe, of violations
361 for driving or operating a vehicle while under the influence of an
362 intoxicating liquor or while under the influence of any other
363 substance that has impaired the person's ability to operate a
364 motor vehicle occurring within five (5) years before an offense
365 shall be counted for the purposes of determining if a violation of
366 subsection (1) of this section is a second, third, fourth or



367 subsequent offense and the penalty that shall be imposed upon
368 conviction for a violation of subsection (1) of this section.

369 (8) **Charging of subsequent offenses.** (a) For the purposes
370 of determining how to impose the sentence for a second, third,
371 fourth or subsequent conviction under this section, the affidavit
372 or indictment shall not be required to enumerate previous
373 convictions. It shall only be necessary that the affidavit or
374 indictment states the number of times that the defendant has been
375 convicted and sentenced within the past five (5) years for a
376 second or third offense, or without a time limitation for a fourth
377 or subsequent offense, under this section to determine if an
378 enhanced penalty shall be imposed. The amount of fine and
379 imprisonment imposed in previous convictions shall not be
380 considered in calculating offenses to determine a second, third,
381 fourth or subsequent offense of this section.

382 (b) Before a defendant enters a plea of guilty to an
383 offense under this section, law enforcement must submit
384 certification to the prosecutor that the defendant's driving
385 record, the confidential registry and National Crime Information
386 Center record have been searched for all prior convictions,
387 nonadjudications, pretrial diversions and arrests for driving or
388 operating a vehicle while under the influence of an intoxicating
389 liquor or while under the influence of any other substance that
390 has impaired the person's ability to operate a motor vehicle. The
391 results of the search must be included in the certification.



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

397 (10) **License suspensions and restrictions to run**
398 **consecutively.** Suspension or restriction of driving privileges
399 for any person convicted of or nonadjudicated for violations of
400 subsection (1) of this section shall run consecutively to and not
401 concurrently with any other administrative license suspension.

402 (11) **Ignition interlock.** If the court orders installation
403 and use of an ignition-interlock device as provided in Section
404 63-11-31 for every vehicle operated by a person convicted or
405 nonadjudicated under this section, each device shall be installed,
406 maintained and removed as provided in Section 63-11-31.

407 (12) **DUI child endangerment.** A person over the age of
408 twenty-one (21) who violates subsection (1) of this section while
409 transporting in a motor vehicle a child under the age of sixteen
410 (16) years is guilty of the separate offense of endangering a
411 child by driving under the influence of alcohol or any other
412 substance which has impaired the person's ability to operate a
413 motor vehicle. The offense of endangering a child by driving
414 under the influence of alcohol or any other substance which has
415 impaired the person's ability to operate a motor vehicle shall not
416 be merged with an offense of violating subsection (1) of this



417 section for the purposes of prosecution and sentencing. An
418 offender who is convicted of a violation of this subsection shall
419 be punished as follows:

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

426 (b) A person who commits a violation of this subsection
427 which does not result in the serious injury or death of a child
428 and which is a second conviction shall be guilty of a misdemeanor
429 and, upon conviction, shall be fined not less than One Thousand
430 Dollars (\$1,000.00) nor more than Five Thousand Dollars
431 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

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

438 (d) A person who commits a violation of this subsection
439 which results in the serious injury or death of a child, without
440 regard to whether the offense was a first, second, third or
441 subsequent offense, shall be guilty of a felony and, upon



442 conviction, shall be punished by a fine of not less than Ten
443 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
444 than five (5) years nor more than twenty-five (25) years.

445 (13) **Expunction.** (a) Any person convicted under subsection
446 (2) or (3) of this section of a first offense of driving under the
447 influence and who was not the holder of a commercial driver's
448 license or a commercial learning permit at the time of the offense
449 may petition the circuit court of the county in which the
450 conviction was had for an order to expunge the record of the
451 conviction at least five (5) years after successful completion of
452 all terms and conditions of the sentence imposed for the
453 conviction. Expunction under this subsection will only be
454 available to a person:

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

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

459 (iii) Whose blood alcohol concentration tested
460 below sixteen one-hundredths percent (.16%) if test results are
461 available;

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

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



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

468 (b) A person is eligible for only one (1) expunction
469 under this subsection, and the Department of Public Safety shall
470 maintain a permanent confidential registry of all cases of
471 expunction under this subsection for the sole purpose of
472 determining a person's eligibility for expunction, for
473 nonadjudication, or as a first offender under this section.

474 (c) The court in its order of expunction shall state in
475 writing the justification for which the expunction was granted and
476 forward the order to the Department of Public Safety within five
477 (5) days of the entry of the order.

478 (14) **Nonadjudication.** (a) For the purposes of this
479 chapter, "nonadjudication" means that the court withholds
480 adjudication of guilt and sentencing, either at the conclusion of
481 a trial on the merits or upon the entry of a plea of guilt by a
482 defendant, and places the defendant in a nonadjudication program
483 conditioned upon the successful completion of the requirements
484 imposed by the court under this subsection.

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



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

492 (ii) Who was not the holder of a commercial
493 driver's license or a commercial learning permit at the time of
494 the offense;

495 (iii) Who has not previously been convicted of and
496 does not have pending any former or subsequent charges under this
497 section; and

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

500 (c) Nonadjudication may be initiated upon the filing of
501 a petition for nonadjudication or at any stage of the proceedings
502 in the discretion of the court; the court may withhold
503 adjudication of guilt, defer sentencing, and upon the agreement of
504 the offender to participate in a nonadjudication program, enter an
505 order imposing requirements on the offender for a period of court
506 supervision before the order of nonadjudication is entered.
507 Failure to successfully complete a nonadjudication program
508 subjects the person to adjudication of the charges against him and
509 to imposition of all penalties previously withheld due to entrance
510 into a nonadjudication program. The court shall immediately
511 inform the commissioner of the conviction as required in Section
512 63-11-37.

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



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

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

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

521 4. a. If the court determines that the
522 person violated this section with respect to alcohol or
523 intoxicating liquor, the person must install an ignition-interlock
524 device on every motor vehicle operated by the person, obtain an
525 interlock-restricted license, and maintain that license for one
526 hundred twenty (120) days or suffer a one-hundred-twenty-day
527 suspension of the person's regular driver's license, during which
528 time the person must not operate any vehicle.

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



539 suffer a one-hundred-twenty-day suspension of the person's regular
540 driver's license, during which time the person will not operate
541 any vehicle.

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

548 (d) The court may enter an order of nonadjudication
549 only if the court finds, after a hearing or after ex parte
550 examination of reliable documentation of compliance, that the
551 offender has successfully completed all conditions imposed by law
552 and previous orders of the court. The court shall retain
553 jurisdiction over cases involving nonadjudication for a period of
554 not more than two (2) years.

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

560 (ii) Judges, clerks and prosecutors involved in
561 the trial of implied consent violations and law enforcement
562 officers involved in the issuance of citations for implied consent
563 violations shall have secure online access to the confidential



564 registry for the purpose of determining whether a person has
565 previously been the subject of a nonadjudicated case and 1. is
566 therefore ineligible for another nonadjudication; 2. is ineligible
567 as a first offender for a violation of this section; or 3. is
568 ineligible for expunction of a conviction of a violation of this
569 section.

570 (iii) The Driver Services Bureau of the department
571 shall have access to the confidential registry for the purpose of
572 determining whether a person is eligible for a form of license not
573 restricted to operating a vehicle equipped with an
574 ignition-interlock device.

575 (iv) The Mississippi Alcohol Safety Education
576 Program shall have secure online access to the confidential
577 registry for research purposes only.

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

583 **SECTION 3.** This act shall take effect and be in force from
584 and after July 1, 2024.

