

By: Representative Evans

To: Judiciary B

HOUSE BILL NO. 1626

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 ALTERNATIVE PENALTY FOR AGGRAVATED DUI
5 FOR PERSONS UNDER A CERTAIN AGE; 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 to run on the date the judge signs an order for
127 suspension.

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 of not less than
317 five (5) years and not to exceed twenty-five (25) years for each



318 death, mutilation, disfigurement or other injury, and the
319 imprisonment for the second or each subsequent conviction, in the
320 discretion of the court, shall commence either at the termination
321 of the imprisonment for the preceding conviction or run
322 concurrently with the preceding conviction. Any such person
323 charged with causing the death of another as described in this
324 subparagraph shall be required to post bail before being released
325 after arrest. Any person who was below the legal age to purchase
326 alcoholic beverages under state law and who was convicted of
327 aggravated DUI before July 1, 2024, shall upon petition to the
328 convicting court be granted a new trial.

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

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



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

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

362 (7) **Out-of-state prior convictions.** Convictions in another
363 state, territory or possession of the United States, or under the
364 law of a federally recognized Native American tribe, of violations
365 for driving or operating a vehicle while under the influence of an
366 intoxicating liquor or while under the influence of any other



367 substance that has impaired the person's ability to operate a
368 motor vehicle occurring within five (5) years before an offense
369 shall be counted for the purposes of determining if a violation of
370 subsection (1) of this section is a second, third, fourth or
371 subsequent offense and the penalty that shall be imposed upon
372 conviction for a violation of subsection (1) of this section.

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

386 (b) Before a defendant enters a plea of guilty to an
387 offense under this section, law enforcement must submit
388 certification to the prosecutor that the defendant's driving
389 record, the confidential registry and National Crime Information
390 Center record have been searched for all prior convictions,
391 nonadjudications, pretrial diversions and arrests for driving or



392 operating a vehicle while under the influence of an intoxicating
393 liquor or while under the influence of any other substance that
394 has impaired the person's ability to operate a motor vehicle. The
395 results of the search must be included in the certification.

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

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

406 (11) **Ignition interlock.** If the court orders installation
407 and use of an ignition-interlock device as provided in Section
408 63-11-31 for every vehicle operated by a person convicted or
409 nonadjudicated under this section, each device shall be installed,
410 maintained and removed as provided in Section 63-11-31.

411 (12) **DUI child endangerment.** A person over the age of
412 twenty-one (21) who violates subsection (1) of this section while
413 transporting in a motor vehicle a child under the age of sixteen
414 (16) years is guilty of the separate offense of endangering a
415 child by driving under the influence of alcohol or any other
416 substance which has impaired the person's ability to operate a



417 motor vehicle. The offense of endangering a child by driving
418 under the influence of alcohol or any other substance which has
419 impaired the person's ability to operate a motor vehicle shall not
420 be merged with an offense of violating subsection (1) of this
421 section for the purposes of prosecution and sentencing. An
422 offender who is convicted of a violation of this subsection shall
423 be punished as follows:

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

430 (b) A person who commits a violation of this subsection
431 which does not result in the serious injury or death of a child
432 and which is a second conviction shall be guilty of a misdemeanor
433 and, upon conviction, shall be fined not less than One Thousand
434 Dollars (\$1,000.00) nor more than Five Thousand Dollars
435 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

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



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

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

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

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

463 (iii) Whose blood alcohol concentration tested
464 below sixteen one-hundredths percent (.16%) if test results are
465 available;



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

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

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

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

478 (c) The court in its order of expunction shall state in
479 writing the justification for which the expunction was granted and
480 forward the order to the Department of Public Safety within five
481 (5) days of the entry of the order.

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

489 (b) A person is eligible for nonadjudication of an
490 offense under this Section 63-11-30 only one (1) time under any



491 provision of a law that authorizes nonadjudication and only for an
492 offender:

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

496 (ii) Who was not the holder of a commercial
497 driver's license or a commercial learning permit at the time of
498 the offense;

499 (iii) Who has not previously been convicted of and
500 does not have pending any former or subsequent charges under this
501 section; and

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

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



515 inform the commissioner of the conviction as required in Section
516 63-11-37.

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

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

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

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

525 4. a. If the court determines that the
526 person violated this section with respect to alcohol or
527 intoxicating liquor, the person must install an ignition-interlock
528 device on every motor vehicle operated by the person, obtain an
529 interlock-restricted license, and maintain that license for one
530 hundred twenty (120) days or suffer a one-hundred-twenty-day
531 suspension of the person's regular driver's license, during which
532 time the person must not operate any vehicle. For purposes of
533 this subparagraph 4, the first day of the one-hundred-twenty-day
534 period shall begin the date the judge signs an order to maintain
535 such license or suspend such license.

536 b. If the court determines that the
537 person violated this section by operating a vehicle when under the
538 influence of a substance other than alcohol that has impaired the
539 person's ability to operate a motor vehicle, including any drug or



540 controlled substance which is unlawful to possess under the
541 Mississippi Controlled Substances Law, the person must submit to a
542 one-hundred-twenty-day period of a nonadjudication program that
543 includes court-ordered drug testing at the person's own expense
544 not less often than every thirty (30) days, during which time the
545 person may drive if compliant with the terms of the program, or
546 suffer a one-hundred-twenty-day suspension of the person's regular
547 driver's license, during which time the person will not operate
548 any vehicle.

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

555 (d) The court may enter an order of nonadjudication
556 only if the court finds, after a hearing or after ex parte
557 examination of reliable documentation of compliance, that the
558 offender has successfully completed all conditions imposed by law
559 and previous orders of the court. The court shall retain
560 jurisdiction over cases involving nonadjudication for a period of
561 not more than two (2) years.

562 (e) (i) The clerk shall immediately forward a record
563 of every person placed in a nonadjudication program and of every
564 nonadjudication order to the Department of Public Safety for



565 inclusion in the permanent confidential registry of all cases that
566 are nonadjudicated under this subsection (14).

567 (ii) Judges, clerks and prosecutors involved in
568 the trial of implied consent violations and law enforcement
569 officers involved in the issuance of citations for implied consent
570 violations shall have secure online access to the confidential
571 registry for the purpose of determining whether a person has
572 previously been the subject of a nonadjudicated case and 1. is
573 therefore ineligible for another nonadjudication; 2. is ineligible
574 as a first offender for a violation of this section; or 3. is
575 ineligible for expunction of a conviction of a violation of this
576 section.

577 (iii) The Driver Services Bureau of the department
578 shall have access to the confidential registry for the purpose of
579 determining whether a person is eligible for a form of license not
580 restricted to operating a vehicle equipped with an
581 ignition-interlock device.

582 (iv) The Mississippi Alcohol Safety Education
583 Program shall have secure online access to the confidential
584 registry for research purposes only.

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



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

