

By: Senator(s) Fillingane

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2179

1 AN ACT TO AMEND SECTION 45-1-3, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE COMMISSIONER OF PUBLIC SAFETY TO LEASE OR SUBLEASE
3 REAL PROPERTY OR BUILDINGS OWNED OR OCCUPIED BY THE DEPARTMENT TO
4 THIRD PARTIES; TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO
5 BE KNOWN AS THE "DEPARTMENT OF PUBLIC SAFETY LEASING FUND"; TO
6 AMEND SECTION 45-3-51, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LAW
7 ENFORCEMENT OFFICERS OF THE MISSISSIPPI DEPARTMENT OF PUBLIC
8 SAFETY TO RETAIN A SIDEARM UPON RETIREMENT; TO AUTHORIZE A
9 BENEFICIARY OF A LAW ENFORCEMENT OFFICER OF THE MISSISSIPPI
10 DEPARTMENT OF PUBLIC SAFETY TO RETAIN THE SIDEARM OF SUCH OFFICER
11 OR AGENT; TO AMEND SECTION 45-9-131, MISSISSIPPI CODE OF 1972, TO
12 PROVIDE THAT THIS SECTION, WHICH GOVERNS THE PURCHASE OF A SIDEARM
13 BY CERTAIN PERSONS, SHALL NOT APPLY TO A LAW ENFORCEMENT OFFICER
14 WHO WAS EMPLOYED BY THE DEPARTMENT OF PUBLIC SAFETY; TO ESTABLISH
15 THE STATE MEDICAL EXAMINER TASK FORCE; TO PROVIDE FOR THE
16 MEMBERSHIP OF THE TASK FORCE; TO ESTABLISH THE PROCEDURE OF THE
17 TASK FORCE; TO REQUIRE THAT THE TASK FORCE WILL REPORT ITS
18 FINDINGS AND ANY RECOMMENDATIONS TO THE LEGISLATURE; TO AMEND
19 SECTION 63-11-30, MISSISSIPPI CODE OF 1972, TO REQUIRE A PERSON IN
20 A NONADJUDICATION PROGRAM FOR AN OFFENSE UNDER THIS SECTION TO
21 OBTAIN AND MAINTAIN A RESTRICTED LICENSE FOR THE DURATION OF THE
22 PROGRAM IN ORDER TO OPERATE A VEHICLE; TO AMEND SECTION 97-3-54.7,
23 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF THE
24 DEPARTMENT OF PUBLIC SAFETY TO FILE A PETITION FOR FORFEITURE; TO
25 AUTHORIZE THE STATE TO RETAIN FORFEITED PROPERTY UNDER THIS
26 SECTION; TO AMEND SECTION 41-61-55, MISSISSIPPI CODE OF 1972, TO
27 CONFORM; TO BRING FORWARD SECTION 77-7-345, MISSISSIPPI CODE OF
28 1972, WHICH IS THE PROVISION OF LAW AUTHORIZING THE COMMISSIONER
29 OF PUBLIC SAFETY TO CREATE BY RULE A VOLUNTARY PROGRAM OF
30 COMMERCIAL MOTOR VEHICLE INSPECTION, FOR THE PURPOSES OF POSSIBLE
31 AMENDMENT; AND FOR RELATED PURPOSES.

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



33 **SECTION 1.** Section 45-1-3, Mississippi Code of 1972, is
34 amended as follows:

35 45-1-3. (1) When not otherwise specifically provided, the
36 commissioner is authorized to make and promulgate reasonable rules
37 and regulations to be coordinated, and carry out the general
38 provisions of the Highway Safety Patrol and Driver's License Law
39 of 1938.

40 (2) The commissioner shall have the authority to administer
41 oaths.

42 (3) The commissioner shall have the authority to enter into
43 a lease or sublease with a third party covering any real property
44 or buildings owned or occupied by the department.

45 **SECTION 2.** (1) The proceeds of the leases or subleases
46 entered under Section 45-1-3(3) shall be deposited in a special
47 fund that is hereby created in the State Treasury to be known as
48 the "Department of Public Safety Leasing Fund."

49 (2) Unexpended amounts remaining in the special fund created
50 in subsection (1) of this section at the end of a fiscal year
51 shall not lapse into the State General Fund, and any interest
52 earned on amounts in such special fund shall be deposited to the
53 credit of the special fund.

54 (3) The funds shall be disbursed solely upon the order of
55 the Commissioner of Public Safety for general public safety
56 purposes and needs of the Department of Public Safety.



57 **SECTION 3.** Section 45-3-51, Mississippi Code of 1972, is
58 amended as follows:

59 45-3-51. * * * Each person employed as a law enforcement
60 officer or agent by the Mississippi Department of Public Safety
61 who retires under the Highway Safety Patrol Retirement System or
62 the Public Employees' Retirement System, for superannuation or for
63 reason of disability or a beneficiary of such * * * law
64 enforcement officer or agent, who is killed in the line of duty
65 shall be allowed to retain, as his personal property, one (1)
66 sidearm which was issued under authority of Section 45-3-19 or
67 41-29-159. Likewise, a beneficiary of any law enforcement officer
68 killed in the line of duty shall be allowed to retain the
69 officer's sidearm.

70 **SECTION 4.** Section 45-9-131, Mississippi Code of 1972, is
71 amended as follows:

72 45-9-131. (1) Upon approval of the governing authority of
73 the municipality or county, a member of any municipal or county
74 law enforcement agency who retires under any state retirement
75 system may be allowed to purchase, as his or her personal
76 property, one (1) sidearm which was issued to the law enforcement
77 officer by the law enforcement agency from which he or she retired
78 or by whom he or she was employed at the time of death.

79 (2) Upon approval of the director of a state agency, board
80 or commission, a law enforcement officer employed by a state
81 agency, board or commission who retires under any state retirement



82 system may be allowed to purchase, as his or her personal
83 property, one (1) sidearm which was issued to the law enforcement
84 officer by a state agency, board or commission.

85 (3) The next of kin of a law enforcement officer who is
86 killed in the line of duty is authorized to purchase the sidearm
87 that was issued to the officer. The amount to be paid for any
88 firearm purchased under the authority of this subsection shall be
89 an agreed upon price as determined by the appropriate governmental
90 authority who employed the officer.

91 (4) The amount to be paid for any firearm purchased under
92 the authority of this section, except for any firearm purchased
93 under subsection (3) of this section, shall be the fair market
94 value of the firearm as determined by the appropriate governmental
95 authority who employed the officer.

96 (5) The provisions of this section shall not apply to a law
97 enforcement officer employed by the Department of Public Safety.

98 **SECTION 5.** (1) There is established the State Medical
99 Examiner Task Force. The members of the task force shall be as
100 follows:

101 (a) State Health Officer or his or her designee;

102 (b) Dean of the University of Mississippi Medical
103 Center School of Medicine or his or her designee;

104 (c) The Commissioner of Public Safety or his or her
105 designee;

106 (d) The Attorney General or his or her designee;



107 (e) The President of the Mississippi Coroner and
108 Medical Examiners Association or his or her designee;

109 (f) The President of the Mississippi Prosecutors
110 Association or his or her designee;

111 (g) The President of the Mississippi Public Defenders
112 Association or his or her designee;

113 (h) The President of the Mississippi Association of
114 Chiefs of Police or his or her designee; and

115 (i) The President of the Mississippi Sheriffs'
116 Association or his or her designee.

117 (2) The chairman of the task force shall be elected by the
118 members of the committee annually and shall not serve more than
119 two (2) consecutive years as chairman. The chair shall call the
120 meetings of the task force. The members of the task force shall
121 serve without compensation.

122 (3) The task force shall meet not less than annually, and
123 task force members shall be furnished written or electronic notice
124 of the meetings at least thirty (30) days before the date of the
125 meeting.

126 (4) The task force shall meet within sixty (60) days of the
127 effective date of this act.

128 (5) The task force shall provide findings and
129 recommendations to the Legislature including, but not limited to,
130 the following:



131 (a) Identify needs and means to improve the
132 investigation of deaths affecting the public interest while using
133 best practices;

134 (b) Identify State Medical Examiner resources; and

135 (c) Provide recommendations to enhance efficiency of
136 the Mississippi State Medical Examiner Office.

137 (6) The task force shall report its findings and
138 recommendations to the Legislature annually not later than
139 December 1 each year.

140 **SECTION 6.** Section 63-11-30, Mississippi Code of 1972, is
141 amended as follows:

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

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

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

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

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



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

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

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

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

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

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

178 (iii) A qualifying first offense may be
179 nonadjudicated by the court under subsection (14) of this section.



180 The holder of a commercial driver's license or a commercial
181 learning permit at the time of the offense is ineligible for
182 nonadjudication.

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

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

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

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

202 (c) **Third offense DUI.** (i) For a third conviction of
203 a person for violating subsection (1) of this section, the
204 offenses being committed within a period of five (5) years, the



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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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



303 of the imprisonment for the preceding conviction or run
304 concurrently with the preceding conviction. Any person charged
305 with causing the death of another as described in this subsection
306 shall be required to post bail before being released after arrest.

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

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

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



328 immediately send a copy of the traffic ticket, citation or
329 affidavit, and any other pertinent documents concerning the
330 conviction or other order of the court, to the Department of
331 Public Safety as provided in Section 63-11-37.

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

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

351 (8) **Charging of subsequent offenses.** (a) For the purposes
352 of determining how to impose the sentence for a second, third,



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

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

374 (9) **License eligibility for underage offenders.** A person
375 who is under the legal age to obtain a license to operate a motor
376 vehicle at the time of the offense and who is convicted under this



377 section shall not be eligible to receive a driver's license until
378 the person reaches the age of eighteen (18) years.

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

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

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



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

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

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

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



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

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

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

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

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

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

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

450 (b) A person is eligible for only one (1) expunction
451 under this subsection, and the Department of Public Safety shall



452 maintain a permanent confidential registry of all cases of
453 expunction under this subsection for the sole purpose of
454 determining a person's eligibility for expunction, for
455 nonadjudication, or as a first offender under this section.

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

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

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

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

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



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

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

482 (c) Nonadjudication may be initiated upon the filing of
483 a petition for nonadjudication or at any stage of the proceedings
484 in the discretion of the court; the court may withhold
485 adjudication of guilt, defer sentencing, and upon the agreement of
486 the offender to participate in a nonadjudication program, enter an
487 order imposing requirements on the offender for a period of court
488 supervision before the order of nonadjudication is entered.
489 Failure to successfully complete a nonadjudication program
490 subjects the person to adjudication of the charges against him and
491 to imposition of all penalties previously withheld due to entrance
492 into a nonadjudication program. The court shall immediately
493 inform the commissioner of the conviction as required in Section
494 63-11-37.

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

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

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



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

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

511 b. If the court determines that the
512 person violated this section by operating a vehicle when under the
513 influence of a substance other than alcohol that has impaired the
514 person's ability to operate a motor vehicle, including any drug or
515 controlled substance which is unlawful to possess under the
516 Mississippi Controlled Substances Law, the person must submit to a
517 one-hundred-twenty-day period of a nonadjudication program that
518 includes court-ordered drug testing at the person's own expense
519 not less often than every thirty (30) days, during which time the
520 person may drive if the person is compliant with the terms of the
521 program, obtains a restricted license, and maintains the
522 restricted license for the one-hundred-twenty-day period, or
523 suffer a one-hundred-twenty-day suspension of the person's regular



524 driver's license, during which time the person will not operate
525 any vehicle.

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

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

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

544 (ii) Judges, clerks and prosecutors involved in
545 the trial of implied consent violations and law enforcement
546 officers involved in the issuance of citations for implied consent
547 violations shall have secure online access to the confidential
548 registry for the purpose of determining whether a person has



549 previously been the subject of a nonadjudicated case and 1. is
550 therefore ineligible for another nonadjudication; 2. is ineligible
551 as a first offender for a violation of this section; or 3. is
552 ineligible for expunction of a conviction of a violation of this
553 section.

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

559 (iv) The Mississippi Alcohol Safety Education
560 Program shall have secure online access to the confidential
561 registry for research purposes only.

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

567 **SECTION 7.** Section 97-3-54.7, Mississippi Code of 1972, is
568 amended as follows:

569 97-3-54.7. (1) In addition to any other civil or criminal
570 penalties provided by law, any property used in the commission of
571 a violation of this act shall be forfeited as provided herein.



572 (a) The following property shall be subject to
573 forfeiture if used or intended for use as an instrumentality in or
574 used in furtherance of a violation of this act:

575 (i) Conveyances, including aircraft, vehicles or
576 vessels;

577 (ii) Books, records, telecommunication equipment,
578 or computers;

579 (iii) Money or weapons;

580 (iv) Everything of value furnished, or intended to
581 be furnished, in exchange for an act in violation and all proceeds
582 traceable to the exchange;

583 (v) Negotiable instruments and securities;

584 (vi) Any property, real or personal, directly or
585 indirectly acquired or received in a violation or as an inducement
586 to violate;

587 (vii) Any property traceable to proceeds from a
588 violation; and

589 (viii) Any real property, including any right,
590 title and interest in the whole of or any part of any lot or tract
591 of land used in furtherance of a violation of this act.

592 (b) (i) No property used by any person as a common
593 carrier in the transaction of business as a common carrier is
594 subject to forfeiture under this section unless it appears that
595 the owner or other person in charge of the property is a
596 consenting party or privy to a violation of this act;



597 (ii) No property is subject to forfeiture under
598 this section by reason of any act or omission proved by the owner
599 thereof to have been committed or omitted without his knowledge or
600 consent; if the confiscating authority has reason to believe that
601 the property is a leased or rented property, then the confiscating
602 authority shall notify the owner of the property within five (5)
603 days of the confiscation or within five (5) days of forming reason
604 to believe that the property is a leased or rented property;

605 (iii) Forfeiture of a property encumbered by a
606 bona fide security interest is subject to the interest of the
607 secured party if he neither had knowledge of nor consented to the
608 act or omission.

609 (2) No property shall be forfeited under the provisions of
610 this section, to the extent of the interest of an owner, by reason
611 of any act or omission established by him to have been committed
612 or omitted without his knowledge or consent.

613 (3) Seizure without process may be made if the seizure is
614 incident to an arrest or a search under a search warrant or an
615 inspection under an administrative inspection warrant.

616 (4) (a) When any property is seized under this section,
617 proceedings shall be instituted within a reasonable period of time
618 from the date of seizure or the subject property shall be
619 immediately returned to the party from whom seized.

620 (b) A petition for forfeiture shall be filed by the
621 Attorney General, the Commissioner of the Department of Public



622 Safety or a district attorney in the name of the State of
623 Mississippi, the county, or the municipality, and may be filed in
624 the county in which the seizure is made, the county in which the
625 criminal prosecution is brought, or the county in which the owner
626 of the seized property is found. Forfeiture proceedings may be
627 brought in the circuit court or the county court if a county court
628 exists in the county and the value of the seized property is
629 within the jurisdictional limits of the county court as set forth
630 in Section 9-9-21. A copy of the petition shall be served upon
631 the following persons by service of process in the same manner as
632 in civil cases:

633 (i) The owner of the property, if address is
634 known;

635 (ii) Any secured party who has registered his lien
636 or filed a financing statement as provided by law, if the identity
637 of the secured party can be ascertained by the entity filing the
638 petition by making a good faith effort to ascertain the identity
639 of the secured party;

640 (iii) Any other bona fide lienholder or secured
641 party or other person holding an interest in the property in the
642 nature of a security interest of whom the seizing law enforcement
643 agency has actual knowledge; and

644 (iv) Any person in possession of property subject
645 to forfeiture at the time that it was seized.



646 (5) If the property is a motor vehicle susceptible of
647 titling under the Mississippi Motor Vehicle Title Law and if there
648 is any reasonable cause to believe that the vehicle has been
649 titled, inquiry of the Department of Revenue shall be made as to
650 what the records of the Department of Revenue show as to who is
651 the record owner of the vehicle and who, if anyone, holds any lien
652 or security interest that affects the vehicle.

653 (6) If the property is a motor vehicle and is not titled in
654 the State of Mississippi, then an attempt shall be made to
655 ascertain the name and address of the person in whose name the
656 vehicle is licensed, and if the vehicle is licensed in a state
657 which has in effect a certificate of title law, inquiry of the
658 appropriate agency of that state shall be made as to what the
659 records of the agency show as to who is the record owner of the
660 vehicle and who, if anyone, holds any lien, security interest or
661 other instrument in the nature of a security device that affects
662 the vehicle.

663 (7) If the property is of a nature that a financing
664 statement is required by the laws of this state to be filed to
665 perfect a security interest affecting the property and if there is
666 any reasonable cause to believe that a financing statement
667 covering the security interest has been filed under the laws of
668 this state, inquiry of the appropriate office designated in
669 Section 75-9-501, shall be made as to what the records show as to



670 who is the record owner of the property and who, if anyone, has
671 filed a financing statement affecting the property.

672 (8) If the property is an aircraft or part thereof and if
673 there is any reasonable cause to believe that an instrument in the
674 nature of a security device affects the property, inquiry of the
675 Mississippi Department of Transportation shall be made as to what
676 the records of the Federal Aviation Administration show as to who
677 is the record owner of the property and who, if anyone, holds an
678 instrument in the nature of a security device which affects the
679 property.

680 (9) If the answer to an inquiry states that the record owner
681 of the property is any person other than the person who was in
682 possession of it when it was seized, or states that any person
683 holds any lien, encumbrance, security interest, other interest in
684 the nature of a security interest, mortgage or deed of trust that
685 affects the property, the record owner and also any lienholder,
686 secured party, other person who holds an interest in the property
687 in the nature of a security interest, or holder of an encumbrance,
688 mortgage or deed of trust that affects the property is to be named
689 in the petition of forfeiture and is to be served with process in
690 the same manner as in civil cases.

691 (10) If the owner of the property cannot be found and served
692 with a copy of the petition of forfeiture, or if no person was in
693 possession of the property subject to forfeiture at the time that
694 it was seized and the owner of the property is unknown, there



695 shall be filed with the clerk of the court in which the proceeding
696 is pending an affidavit to such effect, whereupon the clerk of the
697 court shall publish notice of the hearing addressed to "the
698 Unknown Owner of _____," filling in the blank space with
699 a reasonably detailed description of the property subject to
700 forfeiture. Service by publication shall contain the other
701 requisites prescribed in Section 11-33-41, and shall be served as
702 provided in Section 11-33-37, for publication of notice for
703 attachments at law.

704 (11) No proceedings instituted pursuant to the provisions of
705 this section shall proceed to hearing unless the judge conducting
706 the hearing is satisfied that this section has been complied with.
707 Any answer received from an inquiry required by this section shall
708 be introduced into evidence at the hearing.

709 (12) (a) An owner of a property that has been seized shall
710 file an answer within thirty (30) days after the completion of
711 service of process. If an answer is not filed, the court shall
712 hear evidence that the property is subject to forfeiture and
713 forfeit the property to the seizing law enforcement agency. If an
714 answer is filed, a time for hearing on forfeiture shall be set
715 within thirty (30) days of filing the answer or at the succeeding
716 term of court if court would not be in session within thirty (30)
717 days after filing the answer. The court may postpone the
718 forfeiture hearing to a date past the time any criminal action is
719 pending against the owner upon request of any party.



720 (b) If the owner of the property has filed an answer
721 denying that the property is subject to forfeiture, then the
722 burden is on the petitioner to prove that the property is subject
723 to forfeiture. However, if an answer has not been filed by the
724 owner of the property, the petition for forfeiture may be
725 introduced into evidence and is prima facie evidence that the
726 property is subject to forfeiture. The burden of proof placed
727 upon the petitioner in regard to property forfeited under the
728 provisions of this chapter shall be by a preponderance of the
729 evidence.

730 (c) At the hearing any claimant of any right, title or
731 interest in the property may prove his lien, encumbrance, security
732 interest, other interest in the nature of a security interest,
733 mortgage or deed of trust to be bona fide and created without
734 knowledge or consent that the property was to be used so as to
735 cause the property to be subject to forfeiture.

736 (d) If it is found that the property is subject to
737 forfeiture, then the judge shall forfeit the property. However,
738 if proof at the hearing discloses that the interest of any bona
739 fide lienholder, secured party, other person holding an interest
740 in the property in the nature of a security interest, or any
741 holder of a bona fide encumbrance, mortgage or deed of trust is
742 greater than or equal to the present value of the property, the
743 court shall order the property released to him. If the interest
744 is less than the present value of the property and if the proof



745 shows that the property is subject to forfeiture, the court shall
746 order the property forfeited.

747 (13) Unless otherwise provided herein, all personal property
748 which is forfeited under this section shall be liquidated and,
749 after deduction of court costs and the expense of liquidation, the
750 proceeds shall be divided as follows:

751 (a) If only one (1) law enforcement agency participates
752 in the underlying criminal case out of which the forfeiture
753 arises, fifty percent (50%) of the proceeds shall be forwarded to
754 the State Treasurer and deposited in the Victims of Human
755 Trafficking and Commercial Sexual Exploitation Fund, and fifty
756 percent (50%) shall be deposited and credited to the budget of the
757 participating law enforcement agency.

758 (b) If more than one (1) law enforcement agency
759 participates in the underlying criminal case out of which the
760 forfeiture arises, fifty percent (50%) of the proceeds shall be
761 forwarded to the State Treasurer and deposited in the Victims of
762 Human Trafficking and Commercial Sexual Exploitation Fund,
763 twenty-five percent (25%) of the proceeds shall be deposited and
764 credited to the budget of the law enforcement agency whose
765 officers initiated the criminal case and twenty-five percent (25%)
766 shall be divided equitably between or among the other
767 participating law enforcement agencies, and shall be deposited and
768 credited to the budgets of the participating law enforcement
769 agencies. In the event that the other participating law



770 enforcement agencies cannot agree on the division of their
771 twenty-five percent (25%), a petition shall be filed by any one of
772 them in the court in which the civil forfeiture case is brought
773 and the court shall make an equitable division.

774 (14) All money forfeited under this section shall be
775 divided, deposited and credited in the same manner as provided in
776 subsection (13).

777 (15) All real estate forfeited under the provisions of this
778 section shall be sold to the highest and best bidder at a public
779 auction for cash, the auction to be conducted by the chief law
780 enforcement officer of the initiating law enforcement agency, or
781 his designee, at such place, on such notice and in accordance with
782 the same procedure, as far as practicable, as is required in the
783 case of sales of land under execution at law. The proceeds of the
784 sale shall first be applied to the cost and expense in
785 administering and conducting the sale, then to the satisfaction of
786 all mortgages, deeds of trust, liens and encumbrances of record on
787 the property. The remaining proceeds shall be divided, forwarded
788 and deposited in the same manner as provided in subsection (13).

789 (16) (a) Any state, county or municipal law enforcement
790 agency may maintain, repair, use and operate for official purposes
791 all property described in subsection (1)(a)(i) of this section
792 that has been forfeited to the agency if it is free from any
793 interest of a bona fide lienholder, secured party or other party
794 who holds an interest in the property in the nature of a security



795 interest. The state, county or municipal law enforcement agency
796 may purchase the interest of a bona fide lienholder, secured party
797 or other party who holds an interest so that the property can be
798 released for its use. If the property is a motor vehicle
799 susceptible of titling under the Mississippi Motor Vehicle Title
800 Law, the law enforcement agency shall be deemed to be the
801 purchaser, and the certificate of title shall be issued to it as
802 required by subsection (9) of this section.

803 (b) (i) If a vehicle is forfeited to or transferred to
804 a sheriff's department, then the sheriff may transfer the vehicle
805 to the county for official or governmental use as the board of
806 supervisors may direct.

807 (ii) If a vehicle is forfeited to or transferred
808 to a police department, then the police chief may transfer the
809 vehicle to the municipality for official or governmental use as
810 the governing authority of the municipality may direct.

811 (c) If a motor vehicle forfeited to a state, county or
812 municipal law enforcement agency becomes obsolete or is no longer
813 needed for official or governmental purposes, it may be disposed
814 of in accordance with Section 19-7-5 or in the manner provided by
815 law for disposing of municipal property.

816 (17) The forfeiture procedure set forth in this section is
817 the sole remedy of any claimant, and no court shall have
818 jurisdiction to interfere therewith by replevin, injunction,
819 supersedeas or in any other manner.



820 **SECTION 8.** Section 41-61-55, Mississippi Code of 1972, is
821 amended as follows:

822 41-61-55. (1) There is hereby created the position of State
823 Medical Examiner, under the supervision of the Commissioner of
824 Public Safety and within the Office of Forensic Laboratories. The
825 State Medical Examiner shall be appointed by the Commissioner of
826 Public Safety subject to review by the dean of the University of
827 Mississippi Medical Center School of Medicine and the State Health
828 Officer. The State Medical Examiner may be discharged only for
829 good cause by the Commissioner of Public Safety.

830 (2) The State Medical Examiner must obtain a license to
831 practice medicine in Mississippi and be certified in forensic
832 pathology by the American Board of Pathology. The State Medical
833 Examiner may also be designated as the Chief Medical Examiner.

834 * * *

835 **SECTION 9.** Section 77-7-345, Mississippi Code of 1972, is
836 brought forward as follows:

837 77-7-345. (1) When not otherwise specifically provided, the
838 Commissioner of Public Safety is authorized to make and promulgate
839 reasonable rules and regulations to provide a voluntary program
840 for inspection of commercial motor vehicles.

841 (2) For the purposes of this section, "commercial motor
842 vehicle" has the meaning ascribed in Section 63-1-203.

843 (3) The regulations, if promulgated, will:



844 (a) Create a voluntary program for inspection of any
845 combination of truck, truck tractor, trailer, semi-trailer or pole
846 trailer, including each segment of a combined vehicle, that is
847 used upon the highways or streets as a commercial motor vehicle
848 for compliance with all applicable federal and state motor carrier
849 safety regulations;

850 (b) Require that inspectors have access to the vehicle
851 maintenance log;

852 (c) Prescribe a method of documentation to be displayed
853 on the vehicle that is readily visible to an observer in the form
854 of a decal or sticker, and require that the form of documentation
855 prescribed must be kept on the vehicle;

856 (d) Require that inspection occur on an annual basis
857 for participation in the program;

858 (e) Provide that inspection is not mandatory;

859 (f) Impose a reasonable inspection fee, which shall be
860 deposited to the credit of the operating fund of the Commercial
861 Transportation Enforcement Division of the Mississippi Department
862 of Public Safety; and

863 (g) Specify that officers of the Commercial
864 Transportation Enforcement Division will retain all responsibility
865 and authority to monitor and enforce violations under Section
866 77-7-335.

867 (4) This section shall stand repealed on July 1, 2024.



868 **SECTION 10.** Sections 1 and 2 of this act shall take effect
869 and be in force from and after the passage of this act. Sections
870 3 through 9 of this act shall take effect and be in force from and
871 after July 1, 2024.

