

By: Senator(s) Barrett

To: Judiciary, Division B

SENATE BILL NO. 2606

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

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

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

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

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



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

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

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

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



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

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



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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

138 63-11-30. (1) It is unlawful for a person to drive or
139 otherwise operate a vehicle within this state if the person:

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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



317 injury and shall be committed to the custody of the State
318 Department of Corrections for a period of time not less than five
319 (5) years and not to exceed twenty-five (25) years for each death,
320 mutilation, disfigurement or other injury, and the imprisonment
321 for the second or each subsequent conviction, in the discretion of
322 the court, shall commence either at the termination of the
323 imprisonment for the preceding conviction or run concurrently with
324 the preceding conviction. Any such person charged with causing
325 the death of another as described in this subparagraph shall be
326 required to post bail before being released after arrest. Any
327 person who was below the legal age to purchase alcoholic beverages
328 under state law and was convicted before July 1, 2025, of
329 aggravated DUI with a blood alcohol concentration as described in
330 this subparagraph of less than eight one-hundredths percent
331 (.08%), or who was charged before July 1, 2025, with aggravated
332 DUI with a blood alcohol concentration as described in this
333 subparagraph of less than eight one-hundredths percent (.08%) and
334 convicted on or after July 1, 2025, shall upon petition to the
335 sentencing court be granted a new trial pursuant to this
336 subparagraph.

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



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

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

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

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



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

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

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



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

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

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

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

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



416 63-11-31 for every vehicle operated by a person convicted or
417 nonadjudicated under this section, each device shall be installed,
418 maintained and removed as provided in Section 63-11-31.

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

432 (a) 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 first conviction shall be guilty of a misdemeanor
435 and, upon conviction, shall be fined not more than One Thousand
436 Dollars (\$1,000.00) or shall be imprisoned for not more than
437 twelve (12) months, or both;

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



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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

563 (d) The court may enter an order of nonadjudication
564 only if the court finds, after a hearing or after ex parte



565 examination of reliable documentation of compliance, that the
566 offender has successfully completed all conditions imposed by law
567 and previous orders of the court. The court shall retain
568 jurisdiction over cases involving nonadjudication for a period of
569 not more than two (2) years.

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

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

585 (iii) The Driver Services Bureau of the department
586 shall have access to the confidential registry for the purpose of
587 determining whether a person is eligible for a form of license not
588 restricted to operating a vehicle equipped with an
589 ignition-interlock device.



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

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

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

600 63-11-31. (1) (a) The provisions of this section are
601 supplemental to the provisions of Section 63-11-30.

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

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

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

612 (c) A person who can exercise the privilege of driving
613 only under an interlock-restricted license must have an



614 ignition-interlock device installed and operating on all motor
615 vehicles owned or operated by the person.

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

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

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

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

633 (ii) A person nonadjudicated under Section
634 63-11-30 shall be assessed by the court, in addition to the
635 criminal fines, penalties and assessments provided by law for
636 violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars
637 (\$250.00) to be deposited in the Interlock Device Fund in the



638 State Treasury unless the person is determined by the court to be
639 indigent.

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

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

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

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

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

657 (iv) Obtain an ignition-interlock driver's
658 license.

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



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

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

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

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

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



686 the person subject to the restriction does not operate the
687 vehicle.

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

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

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

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

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



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

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

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

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

731 (i) Temporary Assistance for Needy Families
732 (TANF);

733 (ii) Medicaid assistance;



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

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

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

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

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

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



759 to install an ignition-interlock device in all vehicles operated
760 by the person.

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

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

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



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

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

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

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

792 (d) A certificate of liability insurance or proof of
793 financial responsibility; and

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

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

801 2. Failure to take or pass any required
802 retest; or

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



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

810 (iii) Both subparagraphs (i) and (ii) of this
811 paragraph (e) if applicable.

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

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

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

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

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



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

836 **SECTION 4.** This act shall take effect and be in force from
837 and after July 1, 2024.

