

By: Representative Horan

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1612

1 AN ACT TO BRING FORWARD SECTIONS 63-11-1, 63-11-3, 63-11-7,
2 63-11-8, 63-11-9, 63-11-11, 63-11-13, 63-11-15, 63-11-17,
3 63-11-19, 63-11-21, 63-11-25, 63-11-26, 63-11-27, 63-11-30,
4 63-11-31, 63-11-31.1, 63-11-32, 63-11-33, 63-11-37, 63-11-39,
5 63-11-40, 63-11-41, 63-11-45 AND 63-11-47, MISSISSIPPI CODE OF
6 1972, WHICH PROVIDES FOR IMPLIED CONSENT LAWS, FOR PURPOSES OF
7 AMENDMENT; TO BRING FORWARD SECTIONS 63-11-5 AND 63-11-23,
8 MISSISSIPPI CODE OF 1972, TO CLARIFY CERTAIN LANGUAGE; TO BRING
9 FORWARD SECTIONS 63-1-216, 63-1-217, 63-1-218, 63-1-219, 63-1-220,
10 63-1-224 AND 63-1-225, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR
11 DISQUALIFICATION AND SUSPENSION OF COMMERCIAL DRIVER'S LICENSE,
12 FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTIONS 99-19-72, AND
13 99-19-73, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR MONETARY
14 ASSESSMENTS AND FEES FOR VIOLATIONS OF IMPLIED CONSENT LAWS; AND
15 FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 63-11-1, Mississippi Code of 1972, is
18 brought forward as follows:

19 63-11-1. This chapter may be cited as the Mississippi
20 Implied Consent Law.

21 **SECTION 2.** Section 63-11-3, Mississippi Code of 1972, is
22 brought forward as follows:



63-11-3. The following words and phrases shall have the meaning ascribed herein, unless the context clearly indicates otherwise:

(a) "Driving privilege" or "privilege" means both the driver's license of those licensed in Mississippi and the driving privilege of unlicensed residents and the privilege of nonresidents, licensed or not, the purpose of this section being to make unlicensed and nonresident drivers subject to the same penalties as licensed residents.

(b) "Community service" means work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(c) "Chemical test" means an analysis of a person's blood, breath, urine or other bodily substance for the determination of the presence of alcohol or any other substance which may impair a person's mental or physical ability.

(d) "Refusal to take breath, urine and/or blood test" means an individual declining to take a chemical test, and/or the failure to provide an adequate breath sample as required by the Implied Consent Law when requested by a law enforcement officer.

(e) "Alcohol concentration" means either grams of alcohol per one hundred (100) milliliters of blood or grams of alcohol per two hundred ten (210) liters of breath.

(f) "Qualified person to withdraw blood" means any person who has been trained to withdraw blood in the course of



their employment duties including, but not limited to, laboratory personnel, phlebotomist, emergency medical personnel, nurses and doctors.

(g) "Victim impact panel" means a two-hour seminar in which victims of DUI accidents relate their experiences following the accident to persons convicted under the Implied Consent Law. Paneling programs shall be based on a model developed by Mothers Against Drunk Driving (MADD) victim panel or equivalent program approved by the court.

(h) "Booked" means the administrative step taken after the arrested person is brought to the police station, which involves entry of the person's name, the crime for which the arrest was made, and other relevant facts on the police docket, and which may also include photographing, fingerprinting, and the like.

SECTION 3. Section 63-11-5, Mississippi Code of 1972, is brought forward as follows:

63-11-5. (1) (a) Any person who operates a motor vehicle upon the public highways, public roads or streets of this state shall be deemed to have given his consent, subject to the provisions of this chapter, to a chemical test or tests of his breath, blood or urine for the purpose of determining alcohol concentration. A person shall give his consent to a chemical test or tests of his breath, blood or urine for the purpose of



determining the presence in his body of any other substance which would impair a person's ability to operate a motor vehicle.

(b) The test or tests shall be administered at the direction of any authorized officer, when such officer has reasonable grounds and probable cause to believe that the person was driving or had under his actual physical control a motor vehicle upon the public streets or highways of this state while under the influence of intoxicating liquor or any other substance which had impaired such person's ability to operate a motor vehicle.

(2) (a) A breath analysis test must be administered by a person who has met all the educational and training requirements of the appropriate course of study prescribed by the Board on Law Enforcement Officer Standards and Training; however, sheriffs and elected chiefs of police are exempt from the educational and training requirement. A breath analysis test must not be given to any person within fifteen (15) minutes of consumption of any substance by mouth.

(b) For purposes of this section, the term "authorized officer" means any highway patrol officer, commercial motor carrier inspector, sheriff or his duly commissioned deputies, police officer in any incorporated municipality, national park ranger, officer of a state-supported institution of higher learning campus police force if such officer is exercising this authority in regard to a violation that occurred on campus



97 property, or security officer appointed and commissioned pursuant
98 to the Pearl River Valley Water Supply District Security Officer
99 Law of 1978 if such officer is exercising this authority in regard
100 to a violation that occurred within the limits of the Pearl River
101 Valley Water Supply District.

102 (3) If the officer has reasonable grounds and probable cause
103 to believe such person to have been driving a motor vehicle upon
104 the public highways, public roads or streets of this state while
105 under the influence of intoxicating liquor or any other substance
106 that has impaired the person's ability to operate a motor vehicle,
107 the officer shall inform the person that his failure to submit to
108 such chemical test or tests of his breath, blood or urine shall
109 result in the suspension of his privilege to operate a motor
110 vehicle upon the public streets, roads or highways of this state
111 for a period of ninety (90) days if the person has not previously
112 been convicted of a violation of Section 63-11-30, or for a period
113 of one (1) year if the person has a prior conviction under Section
114 63-11-30.

115 (4) The traffic ticket, citation or affidavit issued to a
116 person arrested for a violation of this chapter shall conform to
117 the requirements of Section 63-9-21(3)(b) and, if filed
118 electronically, shall conform to Section 63-9-21(8).

119 (5) Any person arrested under the provisions of this chapter
120 shall be informed that he has the right to telephone for the



purpose of requesting legal or medical assistance immediately after being booked for a violation under this chapter.

(6) The Commissioner of Public Safety and the Mississippi Forensics Laboratory created pursuant to Section 45-1-17 are authorized to adopt procedures, rules and regulations applicable to the Implied Consent Law.

SECTION 4. Section 63-11-7, Mississippi Code of 1972, is brought forward as follows:

63-11-7. If any person be unconscious or dead as a result of an accident, or unconscious at the time of arrest or apprehension or when the test is to be administered, or is otherwise in a condition rendering him incapable of refusal, such person shall be subjected to a blood test for the purpose of determining the alcoholic content of his blood as provided in this chapter, if the arresting officer has reasonable grounds to believe the person to have been driving a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor. The results of such test or tests, however, shall not be used in evidence against such person in any court or before any regulatory body without the consent of the person so tested, or, if deceased, such person's legal representative. However, refusal of release of evidence so obtained by such officer or agency will in criminal actions against such person result in the suspension of his or her driver's license for a period of ninety (90) days as provided in this chapter for



conscious and capable persons who have refused to submit to such test. Blood may only be withdrawn under the provisions of Section 63-11-9. It is the intent of this chapter that blood samples taken under this section shall be used exclusively for statistical evaluation of accident causes with safeguards established to protect the identity of such victims and to extend the rights of privileged communications to those engaged in taking, handling and evaluating such statistical evidence.

SECTION 5. Section 63-11-8, Mississippi Code of 1972, is brought forward as follows:

63-11-8. (1) The operator of any motor vehicle involved in an accident that results in a death shall be tested for the purpose of determining the alcohol content or drug content of such operator's blood, breath or urine. Any blood withdrawal required by this section shall be administered by any qualified person and shall be administered within two (2) hours after such accident, if possible. The exact time of the accident, to the extent possible, and the exact time of the blood withdrawal shall be recorded.

(2) If any investigating law enforcement officer has reasonable grounds to believe that a person is the operator of a motor vehicle involved in an accident that has resulted in a death, it shall be such officer's duty to see that a chemical test is administered as required by this section.



169 (3) The results of a test administered pursuant to this
170 section may be used as evidence in any court or administrative
171 hearing without the consent of the person so tested.

172 (4) No person may refuse to submit to a chemical test
173 required under the provisions of this section.

174 (5) Analysis of blood or urine to determine alcohol or drug
175 content pursuant to this section shall be conducted by the
176 Mississippi Forensics Laboratory or a laboratory whose methods and
177 procedures have been approved by the Mississippi Forensics
178 Laboratory.

179 **SECTION 6.** Section 63-11-9, Mississippi Code of 1972, is
180 brought forward as follows:

181 63-11-9. Under Section 63-11-7, any qualified person acting
182 at the request of a law enforcement officer may withdraw blood for
183 the purpose of determining the alcoholic content therein. This
184 limitation shall not apply to the taking of breath or urine
185 specimens.

186 **SECTION 7.** Section 63-11-11, Mississippi Code of 1972, is
187 brought forward as follows:

188 63-11-11. If the test given under the provisions of this
189 chapter is a chemical test of urine, the person tested shall be
190 given such privacy in the taking of the urine specimen as will
191 ensure the accuracy of the specimen and, at the same time,
192 maintain the dignity of the individual involved.



193 **SECTION 8.** Section 63-11-13, Mississippi Code of 1972, is
194 brought forward as follows:

195 63-11-13. The person tested may, at his own expense, have a
196 physician, registered nurse, clinical laboratory technologist or
197 clinical laboratory technician or any other qualified person of
198 his choosing administer a test, approved by the Mississippi
199 Forensics Laboratory created pursuant to Section 45-1-17, in
200 addition to any other test, for the purpose of determining the
201 amount of alcohol in his blood at the time alleged as shown by
202 chemical analysis of his blood, breath or urine. The failure or
203 inability to obtain an additional test by such arrested person
204 shall not preclude the admissibility in evidence of the test taken
205 at the direction of a law enforcement officer.

206 **SECTION 9.** Section 63-11-15, Mississippi Code of 1972, is
207 brought forward as follows:

208 63-11-15. Upon the written request of the person tested, or
209 his attorney, full information concerning the test taken at the
210 direction of the law enforcement officer shall be made available
211 to him or to his attorney.

212 **SECTION 10.** Section 63-11-17, Mississippi Code of 1972, is
213 brought forward as follows:

214 63-11-17. No qualified person, hospital, clinic or funeral
215 home shall incur any civil or criminal liability as the result of
216 the proper administration of a test or chemical analysis of a
217 person's breath, blood or urine when requested in writing by a law



enforcement officer to administer such a test or perform such chemical analysis.

SECTION 11. Section 63-11-19, Mississippi Code of 1972, is brought forward as follows:

63-11-19. A chemical analysis of the person's breath, blood or urine, to be considered valid under the provisions of this section, shall have been performed according to methods approved by the Mississippi Forensics Laboratory created pursuant to Section 45-1-17 and the Commissioner of Public Safety and performed by an individual possessing a valid permit issued by the Mississippi Forensics Laboratory for making such analysis. The Mississippi Forensics Laboratory and the Commissioner of Public Safety are authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the Mississippi Forensics Laboratory. The Mississippi Forensics Laboratory shall not approve the permit required herein for any law enforcement officer other than a member of the State Highway Patrol, a sheriff or his deputies, a city policeman, an officer of a state-supported institution of higher learning campus police force, a security officer appointed and commissioned pursuant to the Pearl River Valley Water Supply District Security Officer Law of 1978, a national park ranger, a national park ranger technician, a military policeman stationed at a United States



military base located within this state other than a military policeman of the Army or Air National Guard or of Reserve Units of the Army, Air Force, Navy or Marine Corps, a marine law enforcement officer employed by the Department of Marine Resources, or a conservation officer employed by the Mississippi Department of Wildlife, Fisheries and Parks. The permit given a marine law enforcement officer shall authorize such officer to administer tests only for violations of Sections 59-23-1 through 59-23-7. The permit given a conservation officer shall authorize such officer to administer tests only for violations of Sections 59-23-1 through 59-23-7 and for hunting related incidents resulting in injury or death to any person by discharge of a weapon as provided under Section 49-4-31.

The Mississippi Forensics Laboratory shall make periodic, but not less frequently than quarterly, tests of the methods, machines or devices used in making chemical analysis of a person's breath as shall be necessary to ensure the accuracy thereof, and shall issue its certificate to verify the accuracy of the same.

Without compromising accepted law enforcement standards and methodologies, the Mississippi Forensics Laboratory shall approve for use at least one (1) model of a breath alcohol content instrument that is readily available to law enforcement agencies throughout the state.

SECTION 12. Section 63-11-21, Mississippi Code of 1972, is brought forward as follows:



63-11-21. If a person refuses upon the request of a law enforcement officer to submit to a chemical test of his breath designated by the law enforcement agency as provided in Section 63-11-5, none shall be given, but the officer shall at that point demand the driver's license of the person, who shall deliver his driver's license into the hands of the officer. If a person refuses to submit to a chemical test under the provisions of this chapter, the person shall be informed by the law enforcement officer that the refusal to submit to the test shall subject him to suspension of the privilege to operate a motor vehicle. The officer shall give the driver a receipt for his license on forms prescribed and furnished by the Commissioner of Public Safety. The officer shall forward the driver's license together with a sworn report to the Commissioner of Public Safety stating that he had reasonable grounds and probable cause to believe the person had been operating a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor or any other substance which may impair a person's mental or physical ability, stating the grounds, and that the person had refused to submit to the chemical test of his breath upon request of the law enforcement officer.

SECTION 13. Section 63-11-23, Mississippi Code of 1972, is brought forward as follows:

63-11-23. (1) **Administrative license suspension for test refusal.** The Commissioner of Public Safety, or his authorized



agent, shall review the sworn report by a law enforcement officer as provided in Section 63-11-21.

(a) If upon review the Commissioner of Public Safety, or his authorized agent, finds (i) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been operating a motor vehicle upon the public highways, public roads or streets of this state while under the influence of intoxicating liquor or any other substance that may impair a person's mental or physical ability; (ii) that the person refused to submit to the chemical test of the person's breath, blood or urine upon request of the officer; and (iii) that the person was informed that his license and driving privileges would be suspended or denied if he refused to submit to the chemical test of his breath, blood or urine, then the Commissioner of Public Safety, or his authorized agent, shall give notice to the licensee that his license or permit to drive, or any nonresident operating privilege, shall be suspended thirty (30) days after the date of the notice for a period of ninety (90) days if the person has not previously been convicted of or nonadjudicated for a violation of Section 63-11-30, or, for a period of one (1) year if the person was previously convicted or nonadjudicated under Section 63-11-30. If the commissioner or his authorized agent determines that the license or permit should not be suspended, he shall return the license or permit to the licensee.



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

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

(2) **Extension or suspension of privilege to drive; request for trial.** (a) If the chemical testing of a person's breath indicates the blood alcohol concentration was eight one-hundredths percent (.08%) or more for persons who are above the legal age to purchase alcoholic beverages under state law, or two one-hundredths percent (.02%) or more for persons who are below the legal age to purchase alcoholic beverages under state law, based upon grams of alcohol per one hundred (100) milliliters of blood or grams of alcohol per two hundred ten (210) liters of breath as shown by a chemical analysis of the person's blood, breath, or urine, the arresting officer shall seize the license and give the driver a receipt for his license on forms prescribed by the Commissioner of Public Safety and shall promptly forward the license together with a sworn report to the Commissioner of Public Safety. The receipt given a person shall be valid as a permit to operate a motor vehicle for thirty (30) days in order that the defendant may be processed through the court having original jurisdiction and a final disposition had.



341 (b) If the defendant requests a trial within thirty
342 (30) days and trial is not commenced within thirty (30) days, then
343 the court shall determine if the delay in the trial is the fault
344 of the defendant or his counsel. If the court finds that it is
345 not the fault of the defendant or his counsel, then the court
346 shall order the defendant's privileges to operate a motor vehicle
347 to be extended until the defendant is convicted upon final order
348 of the court.

349 (c) If a receipt or permit to drive issued under this
350 subsection expires without a trial having been requested as
351 provided in this subsection, then the Commissioner of Public
352 Safety, or his authorized agent, shall suspend the license or
353 permit to drive or any nonresident operating privilege for the
354 applicable period of time as provided in subsection (1) of this
355 section.

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

362 (4) **Appeal.** It shall be the duty of the municipal
363 prosecuting attorney, county prosecuting attorney, an attorney
364 employed under the provisions of Section 19-3-49, or if there is
365 not a prosecuting attorney for the municipality or county, the



duty of the district attorney to represent the state in any hearing on a de novo appeal held under the provisions of Section 63-11-25, Section 63-11-37 or Section 63-11-30.

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

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

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

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

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

(iv) For a fourth or subsequent offense: for the full period of the person's sentence; upon release from incarceration, the person will be eligible for only an interlock-restricted license for ten (10) years and will further be subject to court-ordered drug testing if the original offense



391 involved operating a motor vehicle under the influence of a drug
392 other than alcohol.

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

395 (i) For a first offense: one hundred twenty (120)
396 days;

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

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

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

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

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

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



415 **SECTION 14.** Section 63-11-25, Mississippi Code of 1972, is
416 brought forward as follows:

417 63-11-25. If the forfeiture, suspension or denial of
418 issuance is sustained by the Commissioner of Public Safety, or his
419 duly authorized agent pursuant to subsection (1) of Section
420 63-11-23, upon such hearing, the person aggrieved may file within
421 ten (10) days after the rendition of such decision a petition in
422 the circuit or county court having original jurisdiction of the
423 violation for review of such decision and such hearing upon review
424 shall proceed as a trial de novo before the court without a jury.
425 The petition shall be served upon the Attorney General and the
426 Commissioner of Public Safety. Provided further, that no such
427 party shall be allowed to exercise the driving privilege while any
428 such appeal is pending.

429 **SECTION 15.** Section 63-11-26, Mississippi Code of 1972, is
430 brought forward as follows:

431 63-11-26. When the Commissioner of Public Safety, or his
432 authorized agent, shall suspend the driver's license or permit to
433 drive of a person or shall deny the issuance of a license or
434 permit to a person as provided in Section 63-11-30, the person
435 shall not be entitled to any judicial review of or appeal from the
436 actions of the commissioner. A final conviction under said
437 section shall finally adjudicate the privilege of such convicted
438 person to operate a motor vehicle upon the public highways, public
439 roads and streets of this state.



SECTION 16. Section 63-11-27, Mississippi Code of 1972, is brought forward as follows:

63-11-27. When it has been finally determined under the procedures of Sections 63-11-21 through 63-11-25, that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the commissioner, or his duly authorized agent, shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

SECTION 17. Section 63-11-30, Mississippi Code of 1972, is brought forward as follows:

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

(a) Is under the influence of intoxicating liquor;

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



514 person shall be guilty of a felony and fined not less than Two
515 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
516 (\$5,000.00), and shall serve not less than one (1) year nor more
517 than five (5) years in the custody of the Department of
518 Corrections. For any offense that does not result in serious
519 injury or death to any person, the sentence of incarceration may
520 be served in the county jail rather than in the State Penitentiary
521 at the discretion of the circuit court judge. The minimum
522 penalties shall not be suspended or reduced by the court and no
523 prosecutor shall offer any suspension or sentence reduction as
524 part of a plea bargain.

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

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

529 (d) **Fourth and subsequent offense DUI.** (i) For any
530 fourth or subsequent conviction of a violation of subsection (1)
531 of this section, without regard to the time period within which
532 the violations occurred, the person shall be guilty of a felony
533 and fined not less than Three Thousand Dollars (\$3,000.00) nor
534 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
535 less than two (2) years nor more than ten (10) years in the
536 custody of the Department of Corrections.

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



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

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

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

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



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

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

575 (c) A person under the age of twenty-one (21) years who
576 is convicted of a second violation of subsection (1) of this
577 section, the offenses being committed within a period of five (5)
578 years, shall be fined not more than Five Hundred Dollars
579 (\$500.00).

580 (d) A person under the age of twenty-one (21) years who
581 is convicted of a third or subsequent violation of subsection (1)
582 of this section, the offenses being committed within a period of
583 five (5) years, shall be fined not more than One Thousand Dollars
584 (\$1,000.00).

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



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

591 (4) **DUI test refusal.** In addition to the other penalties
592 provided in this section, every person refusing a law enforcement
593 officer's request to submit to a chemical test of the person's
594 breath as provided in this chapter, or who was unconscious at the
595 time of a chemical test and refused to consent to the introduction
596 of the results of the test in any prosecution, shall suffer an
597 additional administrative suspension of driving privileges as set
598 forth in Section 63-11-23.

599 (5) **Aggravated DUI.** (a) (i) Except as otherwise provided
600 in subparagraph (ii) of this paragraph (a), every person who
601 operates any motor vehicle in violation of the provisions of
602 subsection (1) of this section and who in a negligent manner
603 causes the death of another or mutilates, disfigures, permanently
604 disables or destroys the tongue, eye, lip, nose or any other limb,
605 organ or member of another shall, upon conviction, be guilty of a
606 separate felony for each victim who suffers death, mutilation,
607 disfigurement or other injury and shall be committed to the
608 custody of the State Department of Corrections for a period of
609 time of not less than five (5) years and not to exceed twenty-five
610 (25) years for each death, mutilation, disfigurement or other
611 injury, and the imprisonment for the second or each subsequent



conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with the preceding conviction. Any person charged with causing the death of another as described in this subsection shall be required to post bail before being released after arrest.

(ii) Every person who is below the legal age to purchase alcoholic beverages under state law and has an alcohol concentration in the person's blood, based upon grams of alcohol per one hundred (100) milliliters of blood, or grams of alcohol per two hundred ten (210) liters of breath, as shown by a chemical analysis of the person's breath, blood or urine administered as authorized by this chapter, of eight one-hundredths percent (0.08%) or more and who in a negligent manner causes the death of another or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other limb, organ or member of another shall, upon conviction, be guilty of a separate felony for each victim who suffers death, mutilation, disfigurement or other injury and shall be committed to the custody of the State Department of Corrections for a period of time not less than five (5) years and not to exceed twenty-five (25) years for each death, mutilation, disfigurement or other injury, and the imprisonment for the second or each subsequent conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with



the preceding conviction. Any such person charged with causing the death of another as described in this subparagraph shall be required to post bail before being released after arrest.

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

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

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



affidavit, and any other pertinent documents concerning the conviction or other order of the court, to the Department of Public Safety as provided in Section 63-11-37.

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

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

(8) **Charging of subsequent offenses.** (a) For the purposes of determining how to impose the sentence for a second, third, fourth or subsequent conviction under this section, the affidavit



687 or indictment shall not be required to enumerate previous
688 convictions. It shall only be necessary that the affidavit or
689 indictment states the number of times that the defendant has been
690 convicted and sentenced within the past five (5) years for a
691 second or third offense, or without a time limitation for a fourth
692 or subsequent offense, under this section to determine if an
693 enhanced penalty shall be imposed. The amount of fine and
694 imprisonment imposed in previous convictions shall not be
695 considered in calculating offenses to determine a second, third,
696 fourth or subsequent offense of this section.

697 (b) Before a defendant enters a plea of guilty to an
698 offense under this section, law enforcement must submit
699 certification to the prosecutor that the defendant's driving
700 record, the confidential registry and National Crime Information
701 Center record have been searched for all prior convictions,
702 nonadjudications, pretrial diversions and arrests for driving or
703 operating a vehicle while under the influence of an intoxicating
704 liquor or while under the influence of any other substance that
705 has impaired the person's ability to operate a motor vehicle. The
706 results of the search must be included in the certification.

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



712 (10) **License suspensions and restrictions to run**
713 **consecutively.** Suspension or restriction of driving privileges
714 for any person convicted of or nonadjudicated for violations of
715 subsection (1) of this section shall run consecutively to and not
716 concurrently with any other administrative license suspension.

717 (11) **Ignition interlock.** If the court orders installation
718 and use of an ignition-interlock device as provided in Section
719 63-11-31 for every vehicle operated by a person convicted or
720 nonadjudicated under this section, each device shall be installed,
721 maintained and removed as provided in Section 63-11-31.

722 (12) **DUI child endangerment.** A person over the age of
723 twenty-one (21) who violates subsection (1) of this section while
724 transporting in a motor vehicle a child under the age of sixteen
725 (16) years is guilty of the separate offense of endangering a
726 child by driving under the influence of alcohol or any other
727 substance which has impaired the person's ability to operate a
728 motor vehicle. The offense of endangering a child by driving
729 under the influence of alcohol or any other substance which has
730 impaired the person's ability to operate a motor vehicle shall not
731 be merged with an offense of violating subsection (1) of this
732 section for the purposes of prosecution and sentencing. An
733 offender who is convicted of a violation of this subsection shall
734 be punished as follows:

735 (a) A person who commits a violation of this subsection
736 which does not result in the serious injury or death of a child



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

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

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

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

(13) **Expunction.** (a) Any person convicted under subsection (2) or (3) of this section of a first offense of driving under the



influence and who was not the holder of a commercial driver's license or a commercial learning permit at the time of the offense may petition the circuit court of the county in which the conviction was had for an order to expunge the record of the conviction at least five (5) years after successful completion of all terms and conditions of the sentence imposed for the conviction. Expunction under this subsection will only be available to a person:

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

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

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

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

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

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

(b) A person is eligible for only one (1) expunction under this subsection, and the Department of Public Safety shall maintain a permanent confidential registry of all cases of expunction under this subsection for the sole purpose of



determining a person's eligibility for expunction, for nonadjudication, or as a first offender under this section.

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

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

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

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

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



810 (iii) Who has not previously been convicted of and
811 does not have pending any former or subsequent charges under this
812 section; and

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

815 (c) Nonadjudication may be initiated upon the filing of
816 a petition for nonadjudication or at any stage of the proceedings
817 in the discretion of the court; the court may withhold
818 adjudication of guilt, defer sentencing, and upon the agreement of
819 the offender to participate in a nonadjudication program, enter an
820 order imposing requirements on the offender for a period of court
821 supervision before the order of nonadjudication is entered.
822 Failure to successfully complete a nonadjudication program
823 subjects the person to adjudication of the charges against him and
824 to imposition of all penalties previously withheld due to entrance
825 into a nonadjudication program. The court shall immediately
826 inform the commissioner of the conviction as required in Section
827 63-11-37.

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

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

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



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

836 4. a. If the court determines that the
837 person violated this section with respect to alcohol or
838 intoxicating liquor, the person must install an ignition-interlock
839 device on every motor vehicle operated by the person, obtain an
840 interlock-restricted license, and maintain that license for one
841 hundred twenty (120) days or suffer a one-hundred-twenty-day
842 suspension of the person's regular driver's license, during which
843 time the person must not operate any vehicle.

844 b. If the court determines that the
845 person violated this section by operating a vehicle when under the
846 influence of a substance other than alcohol that has impaired the
847 person's ability to operate a motor vehicle, including any drug or
848 controlled substance which is unlawful to possess under the
849 Mississippi Controlled Substances Law, the person must submit to a
850 one-hundred-twenty-day period of a nonadjudication program that
851 includes court-ordered drug testing at the person's own expense
852 not less often than every thirty (30) days, during which time the
853 person may drive if compliant with the terms of the program, or
854 suffer a one-hundred-twenty-day suspension of the person's regular
855 driver's license, during which time the person will not operate
856 any vehicle.



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

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

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

(ii) Judges, clerks and prosecutors involved in the trial of implied consent violations and law enforcement officers involved in the issuance of citations for implied consent violations shall have secure online access to the confidential registry for the purpose of determining whether a person has previously been the subject of a nonadjudicated case and 1. is therefore ineligible for another nonadjudication; 2. is ineligible



882 as a first offender for a violation of this section; or 3. is
883 ineligible for expunction of a conviction of a violation of this
884 section.

885 (iii) The Driver Services Bureau of the department
886 shall have access to the confidential registry for the purpose of
887 determining whether a person is eligible for a form of license not
888 restricted to operating a vehicle equipped with an
889 ignition-interlock device.

890 (iv) The Mississippi Alcohol Safety Education
891 Program shall have secure online access to the confidential
892 registry for research purposes only.

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

898 **SECTION 18.** Section 63-11-31, Mississippi Code of 1972, is
899 brought forward as follows:

900 63-11-31. (1) (a) The provisions of this section are
901 supplemental to the provisions of Section 63-11-30.

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



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

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

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

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

918 (2) (a) (i) The cost of installation and operation of an
919 ignition-interlock device shall be borne by the person to whom an
920 interlock-restricted driver's license is issued, and the costs of
921 court-ordered drug testing shall be borne by the person so
922 ordered, unless the person is determined by the court to be
923 indigent.

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

927 (b) (i) A person convicted under Section 63-11-30
928 shall be assessed by the court, in addition to the criminal fines,
929 penalties and assessments provided by law for violations of
930 Section 63-11-30, a fee of Fifty Dollars (\$50.00), to be deposited



931 in the Interlock Device Fund in the State Treasury unless the
932 person is determined by the court to be indigent.

933 (ii) A person nonadjudicated under Section
934 63-11-30 shall be assessed by the court, in addition to the
935 criminal fines, penalties and assessments provided by law for
936 violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars
937 (\$250.00) to be deposited in the Interlock Device Fund in the
938 State Treasury unless the person is determined by the court to be
939 indigent.

940 (3) (a) The Department of Public Safety shall promulgate
941 rules and regulations for the use of an ignition-interlock device.
942 The Department of Public Safety shall approve which vendors shall
943 be used to furnish the systems, may assess fees to the vendors,
944 and shall prescribe the maximum costs to the offender for
945 installation, removal, monthly operation, periodic inspections,
946 calibrations and repairs.

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

949 (i) Provide proof of the installation of the
950 device and periodic reporting for verification of the proper
951 operation of the device;

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



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

957 (iv) Obtain an ignition-interlock driver's
958 license.

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

962 (ii) A person prohibited from operating a motor
963 vehicle that is not equipped with an ignition-interlock device may
964 not solicit or have another person attempt to start or start a
965 motor vehicle equipped with such a device.

966 (iii) A person may not start or attempt to start a
967 motor vehicle equipped with an ignition-interlock device for the
968 purpose of providing an operable motor vehicle to a person who is
969 prohibited from operating a motor vehicle that is not equipped
970 with an ignition-interlock device.

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

974 (v) A person may not knowingly provide a motor
975 vehicle not equipped with a functioning ignition-interlock device
976 to another person who the provider of the vehicle knows or should
977 know is prohibited from operating a motor vehicle not equipped
978 with an ignition-interlock device.



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

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

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

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

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

(6) (a) In addition to the penalties authorized for any second or subsequent conviction under Section 63-11-30, the court shall order that all vehicles owned by the offender that are not equipped with an ignition-interlock device must be either



1004 impounded or immobilized pending further order of the court
1005 lifting the offender's driving restriction. However, no county,
1006 municipality, sheriff's department or the Department of Public
1007 Safety shall be required to keep, store, maintain, serve as a
1008 bailee or otherwise exercise custody over a motor vehicle
1009 impounded under the provisions of this section. The cost
1010 associated with any impoundment or immobilization shall be paid by
1011 the person convicted without regard to ability to pay.

1012 (b) A person may not tamper with, or in any way attempt
1013 to circumvent, vehicle immobilization or impoundment ordered by
1014 the court under this section. A violation of this paragraph (b)
1015 is a misdemeanor and, upon conviction, the violator shall be fined
1016 an amount not less than Two Hundred Fifty Dollars (\$250.00) nor
1017 more than One Thousand Dollars (\$1,000.00) or imprisoned for not
1018 more than six (6) months, or both.

1019 (7) (a) The Department of Public Safety shall promulgate
1020 rules and regulations for the use of monies in the Interlock
1021 Device Fund to offset the cost of interlock device installation
1022 and operation by and court-ordered drug testing of indigent
1023 offenders.

1024 (b) The court shall determine a defendant's indigence
1025 based upon whether the defendant has access to adequate resources
1026 to pay the ignition-interlock fee and the costs of installation
1027 and maintenance of an ignition-interlock device, or the costs of
1028 court-ordered drug testing or both, and may further base the



1029 determination of indigence on proof of enrollment in one or more
1030 of the following types of public assistance:

1031 (i) Temporary Assistance for Needy Families
1032 (TANF);

1033 (ii) Medicaid assistance;

1034 (iii) The Supplemental Nutritional Assistance
1035 Program (SNAP), also known as "food stamps";

1036 (iv) Supplemental security income (SSI);

1037 (v) Participation in a federal food distribution
1038 program;

1039 (vi) Federal housing assistance;

1040 (vii) Unemployment compensation; or

1041 (viii) Other criteria determined appropriate by
1042 the court.

1043 (c) No more than ten percent (10%) of the money in the
1044 Interlock Device Fund in any fiscal year shall be expended by the
1045 department for the purpose of administering the fund.

1046 (d) The Commissioner of the Department of Public Safety
1047 must promulgate regulations for the program and for vendors,
1048 including at a minimum:

1049 (i) That the offender must pay the cost of the
1050 testing program or, if the court finds the offender to be
1051 indigent, that the cost be paid from the Interlock Device Fund.

1052 (ii) How indigent funds will be accessed by the
1053 vendors, and the maximum cost to the offender or the fund.



1054 (e) (i) Money in the Interlock Device Fund will be
1055 appropriated to the department to cover part of the costs of
1056 court-ordered drug testing and installing, removing and leasing
1057 ignition-interlock devices for indigent people who are required,
1058 because of a conviction or nonadjudication under Section 63-11-30,
1059 to install an ignition-interlock device in all vehicles operated
1060 by the person.

1061 (ii) If money is available in the Interlock Device
1062 Fund, the department shall pay to the vendor, for one (1) vehicle
1063 per offender, up to Fifty Dollars (\$50.00) for the cost of
1064 installation, up to Fifty Dollars (\$50.00) for the cost of
1065 removal, and up to Thirty Dollars (\$30.00) monthly for verified
1066 active usage of the ignition-interlock device. The department
1067 shall not pay any amount above what an offender would be required
1068 to pay for the installation, removal or usage of an
1069 ignition-interlock device.

1070 (iii) If money is available in the Interlock
1071 Device Fund, the department shall pay to the vendor an amount not
1072 to exceed that promulgated by the Forensics Laboratory for
1073 court-ordered drug testing. The department shall not pay any
1074 amount above what an offender would be required to pay
1075 individually.

1076 (8) In order to reinstate a form of driver's license that is
1077 not restricted to operation of an ignition-interlock equipped
1078 vehicle, the person must submit proof to the Department of Public



1079 Safety to substantiate the person's eligibility for an
1080 unrestricted license, which may be a court order indicating
1081 completion of sentence or final order of nonadjudication; in the
1082 absence of a court order, the proof may consist of the following
1083 or such other proof as the commissioner may set forth by
1084 regulation duly adopted under the Administrative Procedures Act:

1085 (a) Proof of successful completion of an alcohol safety
1086 program as provided in Section 63-11-32 if so ordered by the
1087 court;

1088 (b) Payment of the reinstatement fee required under
1089 Section 63-1-46(1)(a);

1090 (c) Payment of the driver's license fee required under
1091 Section 63-1-43;

1092 (d) A certificate of liability insurance or proof of
1093 financial responsibility; and

1094 (e) (i) For those driving under an
1095 interlock-restricted license, a declaration from the vendor, in a
1096 form provided or approved by the Department of Public Safety,
1097 certifying that there have been none of the following incidents in
1098 the last thirty (30) days:

1099 1. An attempt to start the vehicle with a
1100 breath alcohol concentration of 0.04 or more;

1101 2. Failure to take or pass any required
1102 retest; or



1103 3. Failure of the person to appear at the
1104 ignition-interlock device vendor when required for maintenance,
1105 repair, calibration, monitoring, inspection, or replacement of the
1106 device; or

1107 (ii) For a person who violated Section 63-11-30
1108 with respect to drugs other than alcohol, proof of successful
1109 compliance with all court-ordered drug testing; or

1110 (iii) Both subparagraphs (i) and (ii) of this
1111 paragraph (e) if applicable.

1112 (9) The court may extend the interlock-restricted period if
1113 the person had a violation in the last thirty (30) days.

1114 (10) The court that originally ordered installation of the
1115 ignition-interlock device for a violation of Section 63-11-30 and
1116 a court in the municipality or county in which the violation
1117 occurred have jurisdiction over an offense under this section.

1118 (11) A person who voluntarily obtains an
1119 interlock-restricted license may convert at any time to any other
1120 form of license for which the person is qualified.

1121 (12) (a) The Department of Public Safety shall require all
1122 manufacturers of ignition-interlock devices to report
1123 ignition-interlock data in a consistent and uniform format as
1124 prescribed by the Department of Public Safety. Ignition-interlock
1125 vendors must also use the uniform format when sharing data with
1126 courts ordering an ignition interlock, with alcohol safety
1127 education programs, or with other treatment providers.



1128 (b) The Department of Public Safety shall require all
1129 vendors of drug testing programs approved under Section 63-11-31.1
1130 to report test results in a consistent and uniform format as
1131 prescribed by the Forensics Laboratory. Vendors must report test
1132 results to the court on a monthly basis, except that a positive
1133 test or failure of the testing participant to submit to
1134 verification must be reported to the court within five (5) days of
1135 verification of the positive test or the failure to submit.

1136 **SECTION 19.** Section 63-11-31.1, Mississippi Code of 1972, is
1137 brought forward as follows:

1138 63-11-31.1. (1) The Mississippi Forensics Laboratory shall
1139 promulgate rules and regulations for court-ordered drug testing of
1140 DUI/other drug violators and shall approve which vendors are
1141 eligible to be utilized by the trial courts when ordering
1142 defendants to undergo drug testing as a condition of continuing to
1143 exercise the privilege to drive. The Forensics Laboratory may
1144 assess fees to the vendors, and shall prescribe the maximum costs
1145 to the offender for drug testing. The Forensics Laboratory may
1146 seek the advice of the State Intervention Court Advisory Committee
1147 in fulfilling these duties.

1148 (2) The Forensics Laboratory must evaluate proposals made by
1149 prospective vendors for acceptability, including, without
1150 limitation, the following factors:

1151 (a) A description of the method used for assessment;



1152 (b) The frequency with which the offender will be
1153 tested;

1154 (c) The procedure used by the vendor to ensure the
1155 accuracy of the test results;

1156 (d) The length of time allowed the offender to provide
1157 a biological sample after being given notice;

1158 (e) The frequency with which the vendor will make
1159 reports to the court;

1160 (f) The list of approved sites for the collection of
1161 biological samples for testing.

1162 (3) The Forensics Laboratory must promulgate regulations for
1163 the program and for vendors, including at a minimum:

1164 (a) That the offender must pay the cost of the testing
1165 program or, if the court finds the offender to be indigent, that
1166 the cost be paid from the Interlock Device Fund.

1167 (b) How indigent funds will be accessed by the vendors,
1168 and the maximum cost to the offender or the fund.

1169 (4) The Forensics Laboratory will provide the list of
1170 approved vendors, subject to continuous updating, to the
1171 Mississippi Judicial College for dissemination to the trial
1172 courts.

1173 **SECTION 20.** Section 63-11-32, Mississippi Code of 1972, is
1174 brought forward as follows:

1175 63-11-32. (1) The State Department of Public Safety in
1176 conjunction with the Governor's Highway Safety Program, the State



1177 Board of Health, or any other state agency or institution shall
1178 develop and implement a driver improvement program for persons
1179 identified as first offenders convicted of driving while under the
1180 influence of intoxicating liquor or another substance which had
1181 impaired such person's ability to operate a motor vehicle,
1182 including provision for referral to rehabilitation facilities.

1183 (2) The program shall consist of a minimum of ten (10) hours
1184 of instruction. Each person who participates shall pay a nominal
1185 fee to defray a portion of the cost of the program.

1186 (3) Such assessments as are collected under subsection (2)
1187 of Section 99-19-73 shall be deposited in a special fund hereby
1188 created in the State Treasury and designated the "Mississippi
1189 Alcohol Safety Education Program Fund." Monies deposited in such
1190 fund shall be expended by the Board of Trustees of State
1191 Institutions of Higher Learning as authorized and appropriated by
1192 the Legislature to defray the costs of the Mississippi Alcohol
1193 Safety Education Program operated pursuant to the provisions of
1194 this section. Any revenue in the fund which is not encumbered at
1195 the end of the fiscal year shall lapse to the General Fund.

1196 (4) Such assessments as are collected under subsection (2)
1197 of Section 99-19-73 shall be deposited in a special fund hereby
1198 created in the State Treasury and designated the "Federal-State
1199 Alcohol Program Fund." Monies deposited in such fund shall be
1200 expended by the Department of Public Safety as authorized and
1201 appropriated by the Legislature to defray the costs of alcohol and



1202 traffic safety programs. Any revenue in the fund which is not
1203 encumbered at the end of the fiscal year shall lapse to the
1204 General Fund.

1205 (5) Such assessments as are collected under subsection (2)
1206 of Section 99-19-73 shall be deposited in a special fund hereby
1207 created in the State Treasury and designated the "Mississippi
1208 Forensics Laboratory Implied Consent Law Fund." Monies deposited
1209 in such fund shall be expended by the Department of Public Safety
1210 as authorized and appropriated by the Legislature to defray the
1211 costs of equipment replacement and operational support of the
1212 Mississippi Forensics Laboratory relating to enforcement of the
1213 Implied Consent Law. Any revenue in the fund which is not
1214 encumbered at the end of the fiscal year shall not lapse to the
1215 General Fund but shall remain in the fund.

1216 **SECTION 21.** Section 63-11-33, Mississippi Code of 1972, is
1217 brought forward as follows:

1218 **[Effective until July 1, 2020, this section will read as**
1219 **follows:]**

1220 63-11-33. There is created in the State Treasury a special
1221 fund to be known as the Interlock Device Fund. The purpose of the
1222 fund shall be to provide funding for the Driver's License Bureau
1223 of the Department of Public Safety and also to provide funding
1224 assistance for ignition interlock devices for persons determined
1225 to be unable to afford the installation and maintenance of an
1226 ignition interlock device. Monies from the fund shall be



1227 distributed by the State Treasurer upon warrants issued by the
1228 Department of Public Safety. The fund shall be a continuing fund,
1229 not subject to fiscal-year limitations, and shall consist of:

1230 (a) Monies appropriated by the Legislature for the
1231 purposes of funding the Driver's License Bureau;

1232 (b) The interest accruing to the fund;

1233 (c) Monies paid by a person for deposit into the fund
1234 under Section 63-11-31; and

1235 (d) Monies received from such other sources as may be
1236 provided by law.

1237 **[Effective from and after July 1, 2020, this section will**
1238 **read:]**

1239 63-11-33. There is created in the State Treasury a special
1240 fund to be known as the Interlock Device Fund. The purpose of the
1241 fund shall be to provide funding for the Driver's License Bureau
1242 of the Department of Public Safety and also to provide funding
1243 assistance for ignition interlock devices and court-ordered drug
1244 testing for persons determined to be unable to afford the
1245 installation and maintenance of an ignition interlock device or
1246 costs of drug testing. Monies from the fund shall be distributed
1247 by the State Treasurer upon warrants issued by the Department of
1248 Public Safety. The fund shall be a continuing fund, not subject
1249 to fiscal-year limitations, and shall consist of:

1250 (a) Monies appropriated by the Legislature for the
1251 purposes of funding the Driver's License Bureau;



1252 (b) The interest accruing to the fund;
1253 (c) Monies paid by a person for deposit into the fund
1254 under Section 63-11-31; and
1255 (d) Monies received from such other sources as may be
1256 provided by law.

1257 **SECTION 22.** Section 63-11-37, Mississippi Code of 1972, is
1258 brought forward as follows:

1259 63-11-37. (1) It shall be the duty of the trial judge, upon
1260 conviction of a person under Section 63-11-30, to mail or
1261 otherwise deliver in a method prescribed by the commissioner a
1262 true and correct copy of the traffic ticket, citation or affidavit
1263 evidencing the arrest that resulted in the conviction and a
1264 certified copy of the abstract of the court record within five (5)
1265 days to the Commissioner of Public Safety at Jackson, Mississippi.
1266 The trial judge in municipal and justice courts shall show on the
1267 docket and the trial judge in courts of record shall show on the
1268 minutes:

1269 (a) Whether a chemical test was given and the results
1270 of the test, if any; and

1271 (b) Whether conviction was based in whole or in part on
1272 the results of such a test.

1273 (2) The abstract of the court record shall show the date of
1274 the conviction, the results of the test if there was one, and the
1275 penalty, so that a record of same may be made by the Department of
1276 Public Safety.



(3) For the purposes of Section 63-11-30, a bond forfeiture shall operate as and be considered as a conviction.

(4) A trial court clerk who fails to provide a true and correct copy of the traffic ticket, citation or affidavit evidencing the arrest that resulted in the conviction and a copy of the abstract of the court record within five (5) days of the availability of that information as required in subsection (1) of this section is guilty of a civil violation and shall be fined One Hundred Dollars (\$100.00), for which civil fine the clerk bears sole and personal responsibility. Each instance of failure is a separate violation.

SECTION 23. Section 63-11-39, Mississippi Code of 1972, is brought forward as follows:

63-11-39. The court having jurisdiction or the prosecutor shall not reduce any charge under this chapter to a lesser charge.

SECTION 24. Section 63-11-40, Mississippi Code of 1972, is brought forward as follows:

63-11-40. Any person whose driver's license, or driving privilege has been cancelled, suspended or revoked under the provisions of this chapter and who drives any motor vehicle upon the highways, streets or public roads of this state, while such license or privilege is cancelled, suspended or revoked, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than forty-eight (48) hours nor more



1301 than six (6) months, and fined not less than Two Hundred Dollars
1302 (\$200.00) nor more than Five Hundred Dollars (\$500.00).

1303 The Commissioner of Public Safety shall suspend the driver's
1304 license or driving privilege of any person convicted under the
1305 provisions of this section for an additional six (6) months. Such
1306 suspension shall begin at the end of the original cancellation,
1307 suspension or revocation and run consecutively.

1308 **SECTION 25.** Section 63-11-41, Mississippi Code of 1972, is
1309 brought forward as follows:

1310 63-11-41. If a person under arrest refuses to submit to a
1311 chemical test under the provisions of this chapter, evidence of
1312 refusal shall be admissible in any criminal action under this
1313 chapter.

1314 **SECTION 26.** Section 63-11-45, Mississippi Code of 1972, is
1315 brought forward as follows:

1316 63-11-45. No coverage otherwise afforded under any policy of
1317 insurance shall be denied on the ground that any person has
1318 refused any test provided for by this chapter nor on the basis of
1319 the results of any such test. Any provision to such effect in any
1320 insurance policy hereinafter issued shall be void.

1321 **SECTION 27.** Section 63-11-47, Mississippi Code of 1972, is
1322 brought forward as follows:

1323 63-11-47. The Commissioner of Public Safety, acting in
1324 concert with the Mississippi Forensics Laboratory created pursuant
1325 to Section 45-1-17, is hereby expressly authorized and directed to



1326 determine the equipment and supplies which are adequate and
1327 necessary from both a medical and law enforcement standpoint for
1328 administration of this chapter. The Commissioner of Public
1329 Safety, upon receiving such recommendation from the Mississippi
1330 Forensics Laboratory, shall recommend an equipment standard for
1331 such equipment to the Department of Finance and Administration.
1332 The Department of Finance and Administration, using such a uniform
1333 standard for said equipment, shall advertise its intention of
1334 purchasing said equipment by one (1) publication in at least one
1335 (1) newspaper having general circulation in the State of
1336 Mississippi at least ten (10) days before the purchase of such
1337 equipment and supplies, and the advertisement shall clearly and
1338 distinctly describe the articles to be purchased, and shall
1339 receive sealed bids thereon which shall be opened in public at a
1340 time and place to be specified in the advertisement.

1341 The Department of Finance and Administration shall accept the
1342 lowest and best bid for said equipment and supplies; in its
1343 discretion, it may reject any and all bids submitted. The lowest
1344 and best bid for said equipment and supplies accepted by the
1345 Department of Finance and Administration shall be the
1346 state-approved price of said equipment for purchase by the state,
1347 county and city governments.

1348 Title to all such testing equipment in the state purchased
1349 hereunder shall remain in the Commissioner of Public Safety
1350 regardless of what entity pays the purchase price.



1351 The state, counties and municipalities may purchase in the
1352 name of the Commissioner of Public Safety such equipment and
1353 supplies from other vendors of said equipment and supplies
1354 necessary to implement this chapter, provided they purchase of the
1355 same quality and standard as certified to the Department of
1356 Finance and Administration and approved by the department.
1357 However, such equipment and supplies shall not be purchased by the
1358 state, counties and municipalities unless it is at a price
1359 equivalent to or lower than that approved by the Department of
1360 Finance and Administration, pursuant to the bid procedure as
1361 outlined herein.

1362 **SECTION 28.** Section 63-1-216, Mississippi Code of 1972, is
1363 brought forward as follows:

1364 63-1-216. (1) (a) A person shall be disqualified from
1365 driving a commercial motor vehicle for a period of one (1) year if
1366 the person's license or permit to drive has been administratively
1367 suspended under Section 63-11-23 or the person has been convicted
1368 of a first violation of:

1369 (i) Operating, attempting to operate, or being in
1370 actual physical control of a commercial motor vehicle on a highway
1371 with an alcohol concentration of four one-hundredths percent
1372 (0.04%) or more, or under the influence as provided in Section
1373 63-11-30;



1374 (ii) Failure to stop and render aid as required
1375 under the laws of this state in the event of a motor vehicle
1376 accident resulting in the death or personal injury of another;
1377 (iii) Using a motor vehicle in the commission of
1378 any offense under state or federal law that is punishable by
1379 imprisonment for a term exceeding one (1) year;
1380 (iv) Refusal to submit to a test to determine the
1381 operator's alcohol concentration, as provided in Title 63, Chapter
1382 11, Mississippi Code of 1972;
1383 (v) Operating, attempting to operate, or being in
1384 actual physical control of a motor vehicle on a highway with an
1385 alcohol concentration of eight one-hundredths percent (0.08%) or
1386 more, or under the influence of intoxicating liquor or other
1387 substance, as provided in Section 63-11-30;
1388 (vi) Operating, attempting to operate, or being in
1389 actual physical control of a motor vehicle on a highway when the
1390 person is under the influence of any other drug or under the
1391 combined influence of alcohol and any other drug to a degree which
1392 renders the person incapable of driving safely as provided in
1393 Section 63-11-30;
1394 (vii) Operating or attempting to operate a
1395 commercial motor vehicle while the license is revoked, suspended,
1396 cancelled, or disqualified;
1397 (viii) Operating a commercial motor vehicle in a
1398 negligent manner resulting in a fatal injury.



1399 (b) A person shall be disqualified from driving a
1400 commercial motor vehicle for three (3) years if convicted of a
1401 violation listed in subsection (1) of this section, if the
1402 violation occurred while transporting a hazardous material
1403 required to be placarded.

1404 (c) A person shall be disqualified from driving a
1405 commercial motor vehicle for life if convicted of two (2) or more
1406 violations or a combination of them listed in subsection (1) of
1407 this section arising from two (2) or more separate occurrences.

1408 (d) A person shall be disqualified from driving a
1409 commercial motor vehicle for a period of sixty (60) days if
1410 convicted of two (2) serious traffic violations, or one hundred
1411 twenty (120) days if convicted of three (3) serious traffic
1412 violations, arising from separate incidents occurring within a
1413 three-year period. A disqualification for three (3) serious
1414 traffic violations must be imposed consecutively to any other
1415 previous period of disqualification.

1416 (e) A person shall be disqualified from driving a
1417 commercial motor vehicle for life if the person uses a motor
1418 vehicle in the commission of any offense under state or federal
1419 law that is punishable by imprisonment for a term exceeding one
1420 (1) year involving the manufacture, distribution, or dispensing of
1421 a regulated drug, or possession with intent to manufacture,
1422 distribute, or dispense a regulated drug and for which the person
1423 was convicted.



1424 (f) A person who is disqualified from driving a
1425 commercial motor vehicle shall surrender the person's Mississippi
1426 commercial driver's license no later than the effective date of
1427 the disqualification. Upon receipt of the person's commercial
1428 driver's license, that person, if otherwise eligible, may apply
1429 for a non-CDL, and upon payment of sufficient fees receive the
1430 driver's license.

1431 (g) The commissioner shall adopt rules establishing
1432 guidelines, including conditions, under which a disqualification
1433 for life under this section, except for a disqualification issued
1434 pursuant to paragraph (e) of this subsection, may be reduced to a
1435 period of not less than ten (10) years.

1436 (h) A person shall be disqualified from driving a
1437 commercial motor vehicle for a period of sixty (60) days if the
1438 driver is convicted of a first violation of a railroad-highway
1439 grade crossing violation.

1440 (i) A person shall be disqualified from driving a
1441 commercial motor vehicle for a period of one hundred twenty (120)
1442 days if, during any three-year period, the driver is convicted of
1443 a second railroad-highway grade crossing violation in a separate
1444 incident.

1445 (j) A person shall be disqualified from driving a
1446 commercial motor vehicle for a period of one (1) year if, during
1447 any three-year period, the driver is convicted of a third or



1448 subsequent railroad-highway grade crossing violation in separate
1449 incidents.

1450 (k) A person who is simultaneously subject to a
1451 disqualification issued by the administrator of the Federal Motor
1452 Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and
1453 a disqualification under any other provision of this section shall
1454 serve those disqualification periods concurrently.

1455 (2) (a) A person's privilege to operate a commercial motor
1456 vehicle in the State of Mississippi shall be suspended for one (1)
1457 year, if:

1458 (i) The person is convicted of a first violation
1459 of operating, attempting to operate or being in actual physical
1460 control of a commercial motor vehicle on a highway with an alcohol
1461 concentration of four one-hundredths percent (0.04%) or more, or
1462 under the influence, as provided in Section 63-11-30; and

1463 (ii) The person's commercial driver's license is
1464 issued by a state or country that does not issue commercial
1465 driver's licenses and disqualify persons in accordance with 49
1466 CFR, Parts 383 and 384.

1467 (b) A person's privilege to operate a commercial motor
1468 vehicle in the State of Mississippi shall be suspended for three
1469 (3) years if the person is convicted of violating subsection (1)
1470 of this section, and the violation occurred while the person was
1471 transporting a hazardous material required to be placarded.



1472 (c) A person's privilege to operate a commercial motor
1473 vehicle in the State of Mississippi shall be suspended for life if
1474 the person is convicted a second time of violating subsection (1)
1475 of this section, and both convictions arise out of separate
1476 occurrences.

1477 (d) A person's privilege to operate a commercial motor
1478 vehicle in the State of Mississippi shall be suspended for sixty
1479 (60) days if the person is convicted of two (2) serious traffic
1480 violations, or for one hundred twenty (120) days if the person is
1481 convicted of three (3) serious traffic violations, arising from
1482 separate incidents occurring within a three-year period.

1483 (e) A person's privilege to operate a commercial motor
1484 vehicle in the State of Mississippi shall be suspended for life if
1485 the person uses a commercial motor vehicle in the commission of
1486 any offense under state or federal law that is punishable by
1487 imprisonment for a term exceeding one (1) year, involving the
1488 manufacture, distribution, or dispensing of a regulated drug, or
1489 possession with intent to manufacture, distribute, or dispense a
1490 regulated drug, and for which the person was convicted.

1491 (f) In addition to the reasons specified in this
1492 section for suspension of the commercial driver's license, the
1493 commissioner shall be authorized to suspend the commercial
1494 driver's license of any person for being out of compliance with an
1495 order for support, as defined in Section 93-11-153. The procedure
1496 for suspension of a commercial driver's license for being out of



1497 compliance with an order for support, and the procedure for the
1498 reissuance or reinstatement of a commercial driver's license
1499 suspended for that purpose, and the payment of any fees for the
1500 reissuance or reinstatement of a commercial driver's license
1501 suspended for that purpose, shall be governed by Section 93-11-157
1502 or 93-11-163, as the case may be. If there is any conflict
1503 between any provision of Section 93-11-157 or 93-11-163 and any
1504 provision of this article, the provisions of Section 93-11-157 or
1505 93-11-163, as the case may be, shall control.

1506 (3) A person shall be disqualified from driving a commercial
1507 motor vehicle for life if the person is convicted of any crime
1508 under the Mississippi Human Trafficking Act in Section 97-3-54 et
1509 seq. or any felony involving a severe form of trafficking in
1510 persons, as defined by 22 USC 7102(11).

1511 **SECTION 29.** Section 63-1-217, Mississippi Code of 1972, is
1512 brought forward as follows:

1513 63-1-217. A suspension of a person's operating privilege or
1514 license and a disqualification imposed under Section 63-1-216
1515 imposed for the same violation, shall run concurrently.

1516 **SECTION 30.** Section 63-1-218, Mississippi Code of 1972, is
1517 brought forward as follows:

1518 63-1-218. (1) A disqualification from driving a commercial
1519 motor vehicle shall be effective on not less than ten (10) days'
1520 notice.



1521 (2) If requested, a hearing on the disqualification shall be
1522 conducted, under Section 63-1-53. The scope of the hearing shall
1523 be limited to verification of the conviction.

1524 (3) A person aggrieved by a decision resulting from a
1525 hearing under this section may have the decision reviewed on the
1526 record. The appeal shall be to the Circuit Court of the First
1527 Judicial District of Hinds County or, in the discretion of the
1528 licensee, to the circuit court of the county in which the licensee
1529 resides or has a principal place of business.

1530 **SECTION 31.** Section 63-1-219, Mississippi Code of 1972, is
1531 brought forward as follows:

1532 63-1-219. (1) Any person convicted for violating an
1533 out-of-service order shall be disqualified as follows except as
1534 provided in subsection (2) of this section:

1535 (a) A person shall be disqualified from driving a
1536 commercial motor vehicle for a period of ninety (90) days if
1537 convicted of a first violation of an out-of-service order.

1538 (b) A person shall be disqualified for a period of one
1539 (1) year if convicted of a second violation of an out-of-service
1540 order during any ten-year period, arising from separate incidents.

1541 (c) A person shall be disqualified for a period of
1542 three (3) years if convicted of a third or subsequent violation of
1543 an out-of-service order during any ten-year period, arising from
1544 separate incidents.



1545 (2) Any person convicted for violating an out-of-service
1546 order while transporting hazardous materials or while operating a
1547 commercial motor vehicle designed or used to transport sixteen
1548 (16) or more passengers, including the driver, shall be
1549 disqualified as follows:

1550 (a) A person shall be disqualified for a period of one
1551 hundred eighty (180) days if convicted of a first violation of an
1552 out-of-service order.

1553 (b) A person shall be disqualified for a period of
1554 three (3) years if convicted of a second or subsequent violation
1555 of an out-of-service order during any ten-year period, arising
1556 from separate incidents.

1557 **SECTION 32.** Section 63-1-220, Mississippi Code of 1972, is
1558 brought forward as follows:

1559 63-1-220. (1) Notwithstanding any other provision of law to
1560 the contrary, any driver who violates or fails to comply with an
1561 out-of-service order is subject to a penalty of One Thousand Five
1562 Hundred Dollars (\$1,500.00), in addition to disqualification under
1563 this article.

1564 (2) Any employer who violates an out-of-service order, or
1565 who knowingly requires or permits a driver to violate or fail to
1566 comply with an out-of-service order, is subject to a penalty of
1567 Four Thousand Dollars (\$4,000.00).

1568 (3) The fine imposed for a speeding violation of a
1569 commercial motor vehicle operating in excess of fifteen (15) miles



1570 per hour over the legally posted speed limit on any highway shall
1571 be one and one-half (1-1/2) times the fine imposed for a speeding
1572 violation in other vehicles.

1573 **SECTION 33.** Section 63-1-224, Mississippi Code of 1972, is
1574 brought forward as follows:

1575 63-1-224. (1) A person who holds a commercial driver's
1576 license and drives a motor vehicle within this state or a person
1577 who drives a commercial motor vehicle within this state for which
1578 a commercial learner's permit or a commercial driver's license is
1579 required under this article is deemed to have given his consent to
1580 a chemical test or tests of his breath for the purpose of
1581 determining the alcohol content of his blood. A person may give
1582 his consent to a chemical test or tests of his blood or urine for
1583 the purpose of determining the presence in his body of any other
1584 substance which would impair a person's ability to drive a motor
1585 vehicle.

1586 (2) The tests shall be administered, and all procedures and
1587 proceedings relating thereto shall be performed, as nearly as
1588 practicable, in accordance with the provisions of the Mississippi
1589 Implied Consent Law. However, from and after April 1, 1992,
1590 refusal of any such person to submit to such test or a test given
1591 which indicates that such person was driving such motor vehicle
1592 within this state with any measurable or detectable amount of
1593 alcohol in his system or while under the influence of a controlled
1594 substance shall require such person to be immediately placed out



1595 of service for twenty-four (24) hours and shall require suspension
1596 of the commercial driver's license of such person for the
1597 applicable period of time prescribed in this article.

1598 **SECTION 34.** Section 63-1-225, Mississippi Code of 1972, is
1599 brought forward as follows:

1600 63-1-225. Except as otherwise specifically provided by this
1601 article, any violation of this article for which the only penalty
1602 under this article is the requirement that the commissioner
1603 suspend the commercial learner's permit or commercial driver's
1604 license of a person shall not, for the purposes of this article,
1605 constitute a criminal offense. However, if a violation of this
1606 article also constitutes a criminal offense under the provisions
1607 of some other law, then any criminal penalty which may be imposed
1608 for violation of such criminal law shall be in addition to
1609 suspension of a person's license under this article.

1610 If violation of any law of this state other than a violation
1611 of this article requires that the driver's license or driving
1612 privileges of a person be suspended, cancelled or revoked, then
1613 any suspension, cancellation or revocation imposed for violation
1614 of such law shall also result in suspension, revocation or
1615 cancellation of the person's commercial learner's permit or
1616 commercial driver's license under the provisions of this article
1617 for the same period of time and to run concurrently therewith.

1618 If any person is disqualified under the provisions of this
1619 article and the violation is not an offense for which a person's



1620 driver's license or driving privilege is suspended, revoked or
1621 cancelled under the provisions of some law other than the
1622 provisions of this article, then the person may apply for and
1623 obtain, upon meeting all qualifications as required by law, any
1624 type of driver's license other than a commercial driver's license
1625 or commercial learner's permit issued under the provisions of this
1626 article.

1627 **SECTION 35.** Section 99-19-72, Mississippi Code of 1972, is
1628 brought forward as follows:

1629 99-19-72. (1) A filing fee of One Hundred Fifty Dollars
1630 (\$150.00) is hereby levied on each petition to expunge an offense
1631 under Section 99-19-71 to be collected by the circuit clerk and
1632 distributed as follows:

1633 (a) One Hundred Dollars (\$100.00) to be deposited into
1634 the Judicial System Operation Fund;

1635 (b) Forty Dollars (\$40.00) to be deposited into the
1636 District Attorneys Operation Fund; and

1637 (c) Ten Dollars (\$10.00) to be retained by the circuit
1638 clerk collecting the fee for administration purposes.

1639 (2) From and after July 1, 2016, the expenses of district
1640 attorneys shall be defrayed by appropriation from the State
1641 General Fund and all user charges and fees authorized by
1642 paragraphs (a) and (b) of subsection (1) of this section shall be
1643 deposited into the State General Fund as authorized by law and as
1644 determined by the State Fiscal Officer, and charges and fees



1645 authorized by paragraph (c) of subsection (1) of this section
1646 shall be retained by the circuit clerks for expenditures
1647 authorized by law.

1648 **SECTION 36.** Section 99-19-73, Mississippi Code of 1972, is
1649 brought forward as follows:

1650 99-19-73. (1) **Traffic violations.** In addition to any
1651 monetary penalties and any other penalties imposed by law, there
1652 shall be imposed and collected the following state assessment from
1653 each person upon whom a court imposes a fine or other penalty for
1654 any violation in Title 63, Mississippi Code of 1972, except
1655 offenses relating to the Mississippi Implied Consent Law (Section
1656 63-11-1 et seq.) and offenses relating to vehicular parking or
1657 registration:

1658	FUND	AMOUNT
1659	State Court Education Fund.....	[Deleted]
1660	State Prosecutor Education Fund.....	[Deleted]
1661	Vulnerable Persons Training,	
1662	Investigation and Prosecution Trust Fund.....	[Deleted]
1663	Child Support Prosecution Trust Fund.....	[Deleted]
1664	Driver Training Penalty Assessment Fund.....	[Deleted]
1665	Law Enforcement Officers Training Fund.....	[Deleted]
1666	Spinal Cord and Head Injury Trust Fund	
1667	(for all moving violations).....	[Deleted]
1668	Emergency Medical Services Operating Fund.....	[Deleted]
1669	Mississippi Leadership Council on Aging Fund.....	[Deleted]



1670 Law Enforcement Officers and Fire Fighters
1671 Death Benefits Trust Fund.....[Deleted]
1672 Law Enforcement Officers and Fire Fighters
1673 Disability Benefits Trust Fund.....[Deleted]
1674 State Prosecutor Compensation Fund for the purpose
1675 of providing additional compensation for
1676 district attorneys and their legal assistants.....[Deleted]
1677 Crisis Intervention Mental Health Fund.....[Deleted]
1678 Intervention Court Fund.....[Deleted]
1679 Judicial Performance Fund.....[Deleted]
1680 Capital Defense Counsel Fund.....[Deleted]
1681 Indigent Appeals Fund.....[Deleted]
1682 Capital Post-Conviction Counsel Fund.....[Deleted]
1683 Victims of Domestic Violence Fund.....[Deleted]
1684 Public Defenders Education Fund.....[Deleted]
1685 Domestic Violence Training Fund.....[Deleted]
1686 Attorney General's Cyber Crime Unit.....[Deleted]
1687 Children's Safe Center Fund.....[Deleted]
1688 DuBard School for Language Disorders Fund.....[Deleted]
1689 Children's Advocacy Centers Fund.....[Deleted]
1690 Judicial System Operation Fund.....[Deleted]
1691 GENERAL FUND.....\$ 90.50
1692 (2) **Implied Consent Law violations.** In addition to any
1693 monetary penalties and any other penalties imposed by law, there
1694 shall be imposed and collected the following state assessment from



1695 each person upon whom a court imposes a fine or any other penalty
1696 for any violation of the Mississippi Implied Consent Law (Section
1697 63-11-1 et seq.):

1698	FUND	AMOUNT
1699	Crime Victims' Compensation Fund.....	[Deleted]
1700	State Court Education Fund.....	[Deleted]
1701	State Prosecutor Education Fund.....	[Deleted]
1702	Vulnerable Persons Training,	
1703	Investigation and Prosecution Trust Fund.....	[Deleted]
1704	Child Support Prosecution Trust Fund.....	[Deleted]
1705	Driver Training Penalty Assessment Fund.....	[Deleted]
1706	Law Enforcement Officers Training Fund.....	[Deleted]
1707	Emergency Medical Services Operating Fund.....	[Deleted]
1708	Mississippi Alcohol Safety Education Program Fund.....	[Deleted]
1709	Federal-State Alcohol Program Fund.....	[Deleted]
1710	Mississippi Forensics Laboratory	
1711	Implied Consent Law Fund.....	[Deleted]
1712	Spinal Cord and Head Injury Trust Fund.....	[Deleted]
1713	Capital Defense Counsel Fund.....	[Deleted]
1714	Indigent Appeals Fund.....	[Deleted]
1715	Capital Post-Conviction Counsel Fund.....	[Deleted]
1716	Victims of Domestic Violence Fund.....	[Deleted]
1717	Law Enforcement Officers and Fire Fighters	
1718	Death Benefits Trust Fund.....	[Deleted]
1719	Law Enforcement Officers and Fire Fighters	



1720 Disability Benefits Trust Fund.....[Deleted]
1721 State Prosecutor Compensation Fund for the purpose
1722 of providing additional compensation for
1723 district attorneys and their legal assistants.....[Deleted]
1724 Crisis Intervention Mental Health Fund.....[Deleted]
1725 Intervention Court Fund.....[Deleted]
1726 Statewide Victims' Information and
1727 Notification System Fund.....[Deleted]
1728 Public Defenders Education Fund.....[Deleted]
1729 Domestic Violence Training Fund.....[Deleted]
1730 Attorney General's Cyber Crime Unit.....[Deleted]
1731 GENERAL FUND.....\$ 243.50

1732 (3) **Game and Fish Law violations.** In addition to any
1733 monetary penalties and any other penalties imposed by law, there
1734 shall be imposed and collected the following state assessment from
1735 each person upon whom a court imposes a fine or other penalty for
1736 any violation of the game and fish statutes or regulations of this
1737 state:

1738	FUND	AMOUNT
1739	State Court Education Fund.....	[Deleted]
1740	State Prosecutor Education Fund.....	[Deleted]
1741	Vulnerable Persons Training,	
1742	Investigation and Prosecution Trust Fund.....	[Deleted]
1743	Law Enforcement Officers Training Fund.....	[Deleted]
1744	Hunter Education and Training Program Fund.....	[Deleted]



1745 Law Enforcement Officers and Fire Fighters
1746 Death Benefits Trust Fund.....[Deleted]
1747 Law Enforcement Officers and Fire Fighters
1748 Disability Benefits Trust Fund.....[Deleted]
1749 State Prosecutor Compensation Fund for the purpose
1750 of providing additional compensation for district
1751 attorneys and their legal assistants.....[Deleted]
1752 Crisis Intervention Mental Health Fund.....[Deleted]
1753 Intervention Court Fund.....[Deleted]
1754 Capital Defense Counsel Fund.....[Deleted]
1755 Indigent Appeals Fund.....[Deleted]
1756 Capital Post-Conviction Counsel Fund.....[Deleted]
1757 Victims of Domestic Violence Fund.....[Deleted]
1758 Public Defenders Education Fund.....[Deleted]
1759 Domestic Violence Training Fund.....[Deleted]
1760 Attorney General's Cyber Crime Unit.....[Deleted]
1761 GENERAL FUND.....\$ 89.00
1762 (4) [Deleted]
1763 (5) **Speeding, reckless and careless driving violations.** In
1764 addition to any assessment imposed under subsection (1) or (2) of
1765 this section, there shall be imposed and collected the following
1766 state assessment from each person upon whom a court imposes a fine
1767 or other penalty for driving a vehicle on a road or highway:
1768 (a) At a speed that exceeds the posted speed limit by



1769 at least ten (10) miles per hour but not more than twenty (20)
1770 miles per hour.....\$10.00

1771 (b) At a speed that exceeds the posted speed limit by
1772 at least twenty (20) miles per hour but not more than thirty (30)
1773 miles per hour.....\$20.00

1774 (c) At a speed that exceeds the posted speed limit by
1775 thirty (30) miles per hour or more.....\$30.00

1776 (d) In violation of Section 63-3-1201, which is the
1777 offense of reckless driving.....\$10.00

1778 (e) In violation of Section 63-3-1213, which is the
1779 offense of careless driving.....\$10.00

1780 All assessments collected under this subsection shall be
1781 deposited into the State General Fund.

1782 (6) **Other misdemeanors.** In addition to any monetary
1783 penalties and any other penalties imposed by law, there shall be
1784 imposed and collected the following state assessment from each
1785 person upon whom a court imposes a fine or other penalty for any
1786 misdemeanor violation not specified in subsection (1), (2) or (3)
1787 of this section, except offenses relating to vehicular parking or
1788 registration:

1789	FUND	AMOUNT
1790	Crime Victims' Compensation Fund.....	[Deleted]
1791	State Court Education Fund.....	[Deleted]
1792	State Prosecutor Education Fund.....	[Deleted]
1793	Vulnerable Persons Training, Investigation	



1794 and Prosecution Trust Fund.....[Deleted]
1795 Child Support Prosecution Trust Fund.....[Deleted]
1796 Law Enforcement Officers Training Fund.....[Deleted]
1797 Capital Defense Counsel Fund.....[Deleted]
1798 Indigent Appeals Fund.....[Deleted]
1799 Capital Post-Conviction Counsel Fund.....[Deleted]
1800 Victims of Domestic Violence Fund.....[Deleted]
1801 State Crime Stoppers Fund.....[Deleted]
1802 Law Enforcement Officers and Fire Fighters
1803 Death Benefits Trust Fund.....[Deleted]
1804 Law Enforcement Officers and Fire Fighters
1805 Disability Benefits Trust Fund.....[Deleted]
1806 State Prosecutor Compensation Fund for the purpose
1807 of providing additional compensation for
1808 district attorneys and their legal assistants.....[Deleted]
1809 Crisis Intervention Mental Health Fund.....[Deleted]
1810 Intervention Court Fund.....[Deleted]
1811 Judicial Performance Fund.....[Deleted]
1812 Statewide Victims' Information and
1813 Notification System Fund.....[Deleted]
1814 Public Defenders Education Fund.....[Deleted]
1815 Domestic Violence Training Fund.....[Deleted]
1816 Attorney General's Cyber Crime Unit.....[Deleted]
1817 Information Exchange Network Fund.....[Deleted]
1818 Motorcycle Officer Training Fund.....[Deleted]



1819 Civil Legal Assistance Fund.....[Deleted]
 1820 Justice Court Collections Fund.....[Deleted]
 1821 Municipal Court Collections Fund.....[Deleted]
 1822 GENERAL FUND.....\$121.75
 1823 (7) **Other felonies.** In addition to any monetary penalties
 1824 and any other penalties imposed by law, there shall be imposed and
 1825 collected the following state assessment from each person upon
 1826 whom a court imposes a fine or other penalty for any felony
 1827 violation not specified in subsection (1), (2) or (3) of this
 1828 section:

1829 FUND	AMOUNT
1830 Crime Victims' Compensation Fund.....	[Deleted]
1831 State Court Education Fund.....	[Deleted]
1832 State Prosecutor Education Fund.....	[Deleted]
1833 Vulnerable Persons Training, Investigation	
1834 and Prosecution Trust Fund.....	[Deleted]
1835 Child Support Prosecution Trust Fund.....	[Deleted]
1836 Law Enforcement Officers Training Fund.....	[Deleted]
1837 Capital Defense Counsel Fund.....	[Deleted]
1838 Indigent Appeals Fund.....	[Deleted]
1839 Capital Post-Conviction Counsel Fund.....	[Deleted]
1840 Victims of Domestic Violence Fund.....	[Deleted]
1841 Criminal Justice Fund.....	[Deleted]
1842 Law Enforcement Officers and Fire Fighters	
1843 Death Benefits Trust Fund.....	[Deleted]



1844 Law Enforcement Officers and Fire Fighters
1845 Disability Benefits Trust Fund.....[Deleted]
1846 State Prosecutor Compensation Fund for the purpose
1847 of providing additional compensation for
1848 district attorneys and their legal assistants.....[Deleted]
1849 Crisis Intervention Mental Health Fund.....[Deleted]
1850 Intervention Court Fund.....[Deleted]
1851 Statewide Victims' Information and
1852 Notification System Fund.....[Deleted]
1853 Public Defenders Education Fund.....[Deleted]
1854 Domestic Violence Training Fund.....[Deleted]
1855 Attorney General's Cyber Crime Unit.....[Deleted]
1856 Forensics Laboratory DNA Identification System Fund.....[Deleted]
1857 GENERAL FUND.....\$ 280.50
1858 (8) **Additional assessments on certain violations:**
1859 (a) **Railroad crossing violations.** In addition to any
1860 monetary penalties and any other penalties imposed by law, there
1861 shall be imposed and collected the following state assessment in
1862 addition to all other state assessments due under this section
1863 from each person upon whom a court imposes a fine or other penalty
1864 for any violation involving railroad crossings under Section
1865 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:
1866 Operation Lifesaver Fund.....\$25.00
1867 (b) **Drug violations.** In addition to any monetary
1868 penalties and any other penalties imposed by law, there shall be



1869 imposed and collected the following state assessment in addition
1870 to all other state assessments due under this section from each
1871 person upon whom a court imposes a fine or other penalty for any
1872 violation of Section 41-29-139:

1873 Drug Evidence Disposition Fund.....\$25.00

1874 Mississippi Foster Care Fund.....\$2.00

1875 (c) **Motor vehicle liability insurance violations.** In
1876 addition to any monetary penalties and any other penalties imposed
1877 by law, there shall be imposed and collected the following state
1878 assessment in addition to all other state assessments due under
1879 this section from each person upon whom a court imposes a fine or
1880 other penalty for any violation of Section 63-15-4(4) or Section
1881 63-16-13(1):

1882 Uninsured Motorist Identification Fund:

1883 First offense.....\$200.00

1884 Second offense.....\$300.00

1885 Third or subsequent offense.....\$400.00

1886 (9) If a fine or other penalty imposed is suspended, in
1887 whole or in part, such suspension shall not affect the state
1888 assessment under this section. No state assessment imposed under
1889 the provisions of this section may be suspended or reduced by the
1890 court.

1891 (10) (a) After a determination by the court of the amount
1892 due, it shall be the duty of the clerk of the court to promptly
1893 collect all state assessments imposed under the provisions of this



1894 section. The state assessments imposed under the provisions of
1895 this section may not be paid by personal check.

1896 (b) It shall be the duty of the chancery clerk of each
1897 county to deposit all state assessments collected in the circuit,
1898 county and justice courts in the county on a monthly basis with
1899 the State Treasurer pursuant to appropriate procedures established
1900 by the State Auditor. The chancery clerk shall make a monthly
1901 lump-sum deposit of the total state assessments collected in the
1902 circuit, county and justice courts in the county under this
1903 section, and shall report to the Department of Finance and
1904 Administration the total number of violations under each
1905 subsection for which state assessments were collected in the
1906 circuit, county and justice courts in the county during that
1907 month.

1908 (c) It shall be the duty of the municipal clerk of each
1909 municipality to deposit all the state assessments collected in the
1910 municipal court in the municipality on a monthly basis with the
1911 State Treasurer pursuant to appropriate procedures established by
1912 the State Auditor. The municipal clerk shall make a monthly
1913 lump-sum deposit of the total state assessments collected in the
1914 municipal court in the municipality under this section, and shall
1915 report to the Department of Finance and Administration the total
1916 number of violations under each subsection for which state
1917 assessments were collected in the municipal court in the
1918 municipality during that month.



1919 (11) It shall be the duty of the Department of Finance and
1920 Administration to deposit on a monthly basis all state assessments
1921 into the State General Fund or proper special fund in the State
1922 Treasury. The Department of Finance and Administration shall
1923 issue regulations providing for the proper allocation of these
1924 funds.

1925 (12) The State Auditor shall establish by regulation
1926 procedures for refunds of state assessments, including refunds
1927 associated with assessments imposed before July 1, 1990, and
1928 refunds after appeals in which the defendant's conviction is
1929 reversed. The Auditor shall provide in the regulations for
1930 certification of eligibility for refunds and may require the
1931 defendant seeking a refund to submit a verified copy of a court
1932 order or abstract by which the defendant is entitled to a refund.
1933 All refunds of state assessments shall be made in accordance with
1934 the procedures established by the Auditor.

1935 **SECTION 37.** This act shall take effect and be in force from
1936 and after July 1, 2025, and shall stand repealed June 30, 2025.

