

By: Senator(s) Hill

To: Judiciary, Division B

SENATE BILL NO. 2887

1 AN ACT TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REQUIREMENT THAT THE CRIME OF AGGRAVATED DUI BE
3 COMMITTED IN A NEGLIGENT MANNER; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 63-11-30, Mississippi Code of 1972, is
6 amended as follows:

7 63-11-30. (1) It is unlawful for a person to drive or
8 otherwise operate a vehicle within this state if the person:

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

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

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

15 (d) Has an alcohol concentration in the person's blood,
16 based upon grams of alcohol per one hundred (100) milliliters of
17 blood, or grams of alcohol per two hundred ten (210) liters of



18 breath, as shown by a chemical analysis of the person's breath,
19 blood or urine administered as authorized by this chapter, of:

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

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

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

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

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

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



43 (iii) A qualifying first offense may be
44 nonadjudicated by the court under subsection (14) of this section.
45 The holder of a commercial driver's license or a commercial
46 learning permit at the time of the offense is ineligible for
47 nonadjudication.

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

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

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

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



67 (c) **Third offense DUI.** (i) For a third conviction of
68 a person for violating subsection (1) of this section, the
69 offenses being committed within a period of five (5) years, the
70 person shall be guilty of a felony and fined not less than Two
71 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
72 (\$5,000.00), and shall serve not less than one (1) year nor more
73 than five (5) years in the custody of the Department of
74 Corrections. For any offense that does not result in serious
75 injury or death to any person, the sentence of incarceration may
76 be served in the county jail rather than in the State Penitentiary
77 at the discretion of the circuit court judge. The minimum
78 penalties shall not be suspended or reduced by the court and no
79 prosecutor shall offer any suspension or sentence reduction as
80 part of a plea bargain.

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

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

85 (d) **Fourth and subsequent offense DUI.** (i) For any
86 fourth or subsequent conviction of a violation of subsection (1)
87 of this section, without regard to the time period within which
88 the violations occurred, the person shall be guilty of a felony
89 and fined not less than Three Thousand Dollars (\$3,000.00) nor
90 more than Ten Thousand Dollars (\$10,000.00), and shall serve not



less than two (2) years nor more than ten (10) years in the custody of the Department of Corrections.

(ii) The suspension of commercial driving 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.

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

(ii) Upon conviction of any person under the age of twenty-one (21) years for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined Two Hundred Fifty Dollars (\$250.00); 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. The court may also require attendance at a victim impact panel.

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

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



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

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

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

(5) **Aggravated DUI.** (a) (i) Except as otherwise provided in subparagraph (ii) of this paragraph (a), every person who operates any motor vehicle in violation of the provisions of subsection (1) of this section and * * * 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 of not less than five (5) years and not to exceed twenty-five (25) years for each



166 death, mutilation, disfigurement or other injury, and the
167 imprisonment for the second or each subsequent conviction, in the
168 discretion of the court, shall commence either at the termination
169 of the imprisonment for the preceding conviction or run
170 concurrently with the preceding conviction. Any person charged
171 with causing the death of another as described in this subsection
172 shall be required to post bail before being released after arrest.

173 (ii) Every person who is below the legal age to
174 purchase alcoholic beverages under state law and has an alcohol
175 concentration in the person's blood, based upon grams of alcohol
176 per one hundred (100) milliliters of blood, or grams of alcohol
177 per two hundred ten (210) liters of breath, as shown by a chemical
178 analysis of the person's breath, blood or urine administered as
179 authorized by this chapter, of eight one-hundredths percent
180 (0.08%) or more and * * * causes the death of another or
181 mutilates, disfigures, permanently disables or destroys the
182 tongue, eye, lip, nose or any other limb, organ or member of
183 another shall, upon conviction, be guilty of a separate felony for
184 each victim who suffers death, mutilation, disfigurement or other
185 injury and shall be committed to the custody of the State
186 Department of Corrections for a period of time not less than five
187 (5) years and not to exceed twenty-five (25) years for each death,
188 mutilation, disfigurement or other injury, and the imprisonment
189 for the second or each subsequent conviction, in the discretion of
190 the court, shall commence either at the termination of the



191 imprisonment for the preceding conviction or run concurrently with
192 the preceding conviction. Any such person charged with causing
193 the death of another as described in this subparagraph shall be
194 required to post bail before being released after arrest.

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

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

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



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

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

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

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



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

(b) Before a defendant enters a plea of guilty to an offense under this section, law enforcement must submit certification to the prosecutor that the defendant's driving record, the confidential registry and National Crime Information Center record have been searched for all prior convictions, nonadjudications, pretrial diversions and arrests 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. The results of the search must be included in the certification.

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



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

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

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

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



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

296 (b) A person who commits a violation of this subsection
297 which does not result in the serious injury or death of a child
298 and which is a second conviction shall be guilty of a misdemeanor
299 and, upon conviction, shall be fined not less than One Thousand
300 Dollars (\$1,000.00) nor more than Five Thousand Dollars
301 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

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

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



315 (13) **Expunction.** (a) Any person convicted under subsection
316 (2) or (3) of this section of a first offense of driving under the
317 influence and who was not the holder of a commercial driver's
318 license or a commercial learning permit at the time of the offense
319 may petition the circuit court of the county in which the
320 conviction was had for an order to expunge the record of the
321 conviction at least five (5) years after successful completion of
322 all terms and conditions of the sentence imposed for the
323 conviction. Expunction under this subsection will only be
324 available to a person:

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

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

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

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

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

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

338 (b) A person is eligible for only one (1) expunction
339 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;



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

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

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

(i) The court shall order the person to:

1. Pay the nonadjudication fee imposed under Section 63-11-31 if applicable;
2. Pay all fines, penalties and assessments that would have been imposed for conviction;



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

391 4. a. If the court determines that the
392 person violated this section with respect to alcohol or
393 intoxicating liquor, the person must install an ignition-interlock
394 device on every motor vehicle operated by the person, obtain an
395 interlock-restricted license, and maintain that license for one
396 hundred twenty (120) days or suffer a one-hundred-twenty-day
397 suspension of the person's regular driver's license, during which
398 time the person must not operate any vehicle.

399 b. If the court determines that the
400 person violated this section by operating a vehicle when under the
401 influence of a substance other than alcohol that has impaired the
402 person's ability to operate a motor vehicle, including any drug or
403 controlled substance which is unlawful to possess under the
404 Mississippi Controlled Substances Law, the person must submit to a
405 one-hundred-twenty-day period of a nonadjudication program that
406 includes court-ordered drug testing at the person's own expense
407 not less often than every thirty (30) days, during which time the
408 person may drive if compliant with the terms of the program, or
409 suffer a one-hundred-twenty-day suspension of the person's regular
410 driver's license, during which time the person will not operate
411 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



437 as a first offender for a violation of this section; or 3. is
438 ineligible for expunction of a conviction of a violation of this
439 section.

440 (iii) The Driver Services Bureau of the department
441 shall have access to the confidential registry for the purpose of
442 determining whether a person is eligible for a form of license not
443 restricted to operating a vehicle equipped with an
444 ignition-interlock device.

445 (iv) The Mississippi Alcohol Safety Education
446 Program shall have secure online access to the confidential
447 registry for research purposes only.

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

453 **SECTION 2.** This act shall take effect and be in force from
454 and after July 1, 2025.

