

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 117**

**By Senator(s) Dearing**

**AMEND by inserting after line 40 the following:**

SECTION \*. Section 63-9-11, Mississippi Code of 1972, is amended as follows:

63-9-11. (1) It is a misdemeanor for any person to violate any of the provisions of Chapter 3, 5, or 7 of this title, unless such violation is by such chapters or other law of this state declared to be a felony.

(2) Every person convicted of a misdemeanor for a violation of any of the provisions of such chapters for which another penalty is not provided shall for first conviction thereof be punished by a fine of not more than One Hundred Dollars (\$100.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year thereafter such person shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) or by imprisonment for not more than twenty (20) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

(3) Whenever, in a misdemeanor case, a person is convicted of violating any of the provisions of Chapter 3, 5 or 7 of this title, the court imposing sentence may order the defendant to

attend and participate in a court-approved traffic safety violator school, in addition to any other penalty authorized by law.

(4) If a person pleads not guilty to a misdemeanor offense under any of the provisions of Chapter 3, 5 or 7 of this title but is convicted, and the person has not received a prior conviction under said chapters within three (3) years of the date of the alleged offense, the court shall suspend the sentence for such offense to allow the defendant ninety (90) days to successfully complete a court-approved traffic safety violator school at his own cost. Upon successful completion by the defendant of the course, the court shall set the conviction aside, dismiss the prosecution and direct that the case be closed. The court on its own motion shall expunge the record of the conviction, and the only record maintained thereafter shall be the nonpublic record required under Section 63-9-17, Mississippi Code of 1972, solely for use by the courts in determining an offender's eligibility under this section as a first-time offender.

(5) If all of the conditions set forth in paragraphs (a) through (f) of this subsection are met, the court may withhold acceptance of the plea and defer sentencing in order to allow the defendant ninety (90) days to successfully complete a court-approved traffic safety violator school at his own cost, whereupon the court shall dismiss the prosecution and direct that the case be closed. The only record maintained thereafter shall be the nonpublic record required under Section 63-9-17, Mississippi Code of 1972, solely for use by the courts in determining eligibility as a first-time offender under this section:

(a) The person, except as provided in paragraph (f), enters a plea in person or in writing of nolo contendere or guilty and presents to the court an oral request or a written request, in person or by mail postmarked on or before the appearance date on the citation, to attend a court-approved traffic safety violator school.

(b) The court enters judgment on the defendant's plea

of nolo contendere or guilty at the time the plea is made, but defers the imposition or the execution of the whole or any part of the sentence for ninety (90) days.

(c) The defendant has a valid Mississippi driver's license or permit.

(d) The defendant's public and nonpublic driving record as maintained by the Department of Public Safety does not indicate successful completion of a driver's education, training or improvement course under this section within the three (3) years of the date of the alleged offense.

(e) The defendant files an affidavit with the court stating that this is his first conviction in more than three (3) years, he is not in the process of taking a course under this section and he has not completed a course under this section that is not yet reflected on his driving record.

(f) The offense charged is for a misdemeanor offense under Chapter 3, 5 or 7 of this title.

(6) An out-of-state resident may be allowed to complete a substantially similar program in his home state, province or country provided paragraphs (a), (b), (d), (e) and (f) of subsection (5) of this section are satisfied, and provided that the defendant has a valid driver's license or permit from that home jurisdiction.

SECTION 2. Section 63-9-17, Mississippi Code of 1972, is amended as follows:

63-9-17. (1) Every court shall keep a full record of the proceedings of every case in which a person is charged with any violation of law regulating the operation of vehicles on the highways, streets or roads of this state.

(2) Unless otherwise sooner required by law, within forty-five (45) days after the conviction of a person upon a charge of violating any law regulating the operation of vehicles on the highways, streets or roads of this state, every \* \* \* court in which such conviction was had shall prepare and immediately forward to the Department of Public Safety an abstract of the

record of said court covering the case in which said person was so convicted, which abstract must be certified by the person so authorized to prepare the same to be true and correct.

(3) Said abstract must be made upon a form approved by the Department of Public Safety, and shall include the name and address of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, and if the fine was satisfied by prepayment or appearance bond forfeiture, and the amount of the fine or forfeiture, as the case may be.

(4) Every \* \* \* court shall also forward a like report to the Department of Public Safety upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(5) Every court shall also forward a like report to the Department of Public Safety upon the satisfactory completion by any defendant of a court-approved traffic safety violator school under subsection (4) or (5) of Section 63-9-11, Mississippi Code of 1972, and the department shall make and maintain a private, nonpublic record to be kept for a period of three (3) years. The record shall be solely for the use of the courts in determining eligibility under Section 63-9-11, Mississippi Code of 1972, as a first-time offender, and shall not constitute a criminal record for the purpose of private or administrative inquiry. Reports forwarded to the Department of Public Safety under this subsection shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(6) The failure by refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

(7) The Department of Public Safety shall keep copies of all abstracts received hereunder for a period of three (3) years at its main office and the same shall be open to public inspection during reasonable business hours.

**FURTHER AMEND THE TITLE ON LINE 5 BY INSERTING AFTER THE  
SEMICOLON THE FOLLOWING:**

TO AMEND SECTION 63-9-11, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
SENTENCING OF A FIRST-TIME TRAFFIC VIOLATOR TO A SAFE-DRIVING  
SCHOOL AND TO PROVIDE THAT A FIRST TRAFFIC VIOLATION WILL NOT BE  
ENTERED ON THE DRIVING RECORD OF ANY INDIVIDUAL; TO AMEND SECTION  
63-9-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY;