

By: Representatives Rushing, Cummings

To: Transportation

HOUSE BILL NO. 1351

1 AN ACT TO AMEND SECTION 63-11-31, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A COUNTY, MUNICIPALITY OR SHERIFF'S DEPARTMENT
3 SHALL NOT BE REQUIRED TO KEEP, STORE OR OTHERWISE EXERCISE CUSTODY
4 OVER A MOTOR VEHICLE IMPOUNDED FOR A VIOLATION OF THE IMPLIED
5 CONSENT LAW; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 63-11-31, Mississippi Code of 1972, is
8 amended as follows:

9 63-11-31. (1) (a) In addition to the penalties authorized
10 for any second or subsequent convictions of Section 63-11-30, the
11 court shall order either the impoundment or immobilization of all
12 vehicles registered to the person convicted for the entire length
13 of license suspension to occur during the driver's license
14 suspension period; provided, however, that if other licensed
15 drivers living in the household are dependent upon the vehicle
16 subject to impoundment or immobilization for necessary
17 transportation, the court may order the installation of an
18 ignition interlock system on the vehicle in lieu of impoundment or
19 immobilization. Additionally, the court shall order the
20 installation of an ignition interlock system on all vehicles
21 registered to the person for a minimum period of six (6) months to
22 occur upon reinstatement of the person's driver's license if the
23 court determines it is a vehicle to which the person has access
24 and which should be subject to ignition interlock. The cost
25 associated with impoundment, immobilization or ignition interlock
26 shall be paid by the person convicted. However, no county,
27 municipality or sheriff's department shall be required to keep,
28 store, maintain, serve as a bailee or otherwise exercise custody

29 over a motor vehicle impounded under the provisions of this
30 section. For the purpose of this section, "ignition interlock
31 device" means a device which connects a motor vehicle ignition
32 system to a breath-alcohol analyzer and prevents a motor vehicle
33 ignition from starting if the driver's blood alcohol level exceeds
34 the calibrated setting on the device.

35 (b) A person may not tamper with, or in any way attempt
36 to circumvent the immobilization or impoundment of vehicles
37 ordered by the court. A violation of this paragraph (b) is a
38 misdemeanor and upon conviction the violator shall be fined an
39 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more
40 than One Thousand Dollars (\$1,000.00) or imprisoned for not more
41 than one (1) year or both.

42 (c) When a court orders a person to operate only a
43 motor vehicle which is equipped with a functioning ignition
44 interlock device, the court shall establish a specific calibration
45 setting no lower than two one-hundredths percent (.02%) nor more
46 than four one-hundredths percent (.04%) blood alcohol
47 concentration at which the ignition interlock device will prevent
48 the motor vehicle from being started.

49 (d) Upon ordering use of an ignition interlock device,
50 the court shall:

51 (i) State on the record the requirement for and
52 the period of use of the device, and so notify the Department of
53 Public Safety;

54 (ii) Direct that the records of the department
55 reflect that the person may not operate a motor vehicle that is
56 not equipped with an ignition interlock device;

57 (iii) Direct the department to attach or imprint a
58 notation on the driver's license of any person restricted under
59 this section stating that the person may operate only a motor
60 vehicle equipped with an ignition interlock device;

61 (iv) Require proof of the installation of the
62 device and periodic reporting by the person for verification of
63 the proper operation of the device;

64 (v) Require the person to have the system
65 monitored for proper use and accuracy by an entity approved by the
66 department at least semiannually, or more frequently as the
67 circumstances may require;

68 (vi) Require the person to pay the reasonable cost
69 of leasing or buying, monitoring, and maintaining the device, and
70 may establish a payment schedule therefor.

71 (e) (i) 1. A person prohibited under this section
72 from operating a motor vehicle that is not equipped with an
73 ignition interlock device may not solicit or have another person
74 attempt to start or start a motor vehicle equipped with such a
75 device.

76 2. A person may not attempt to start or start
77 a motor vehicle equipped with an ignition interlock device for the
78 purpose of providing an operable motor vehicle to a person who is
79 prohibited under this section from operating a motor vehicle that
80 is not equipped with an ignition interlock device.

81 3. A person may not tamper with, or in any
82 way attempt to circumvent, the operation of an ignition interlock
83 device that has been installed in a motor vehicle.

84 4. A person may not knowingly provide a motor
85 vehicle not equipped with a functioning ignition interlock device
86 to another person who the provider of such vehicle knows or should
87 know is prohibited from operating a motor vehicle not equipped
88 with an ignition interlock device.

89 (ii) A violation of this paragraph (e) is a
90 misdemeanor and upon conviction the violator shall be fined an
91 amount not less than Two Hundred Fifty Dollars (\$250.00) nor more
92 than One Thousand Dollars (\$1,000.00) or imprisoned for not more
93 than one (1) year, or both.

94 (iii) A person shall not be in violation of this
95 paragraph (e) if:

96 1. The starting of a motor vehicle equipped
97 with an ignition interlock device is done for the purpose of
98 safety or mechanical repair of the device or the vehicle, and the
99 person subject to the court order does not operate the vehicle; or

100 2. The court finds that a person is required
101 to operate a motor vehicle in the course and scope of the person's
102 employment. If the vehicle is owned by the person's employer, the
103 person may operate that vehicle during regular working hours for
104 the purposes of employment without installation of an ignition
105 interlock device if the employer has been notified of such driving
106 privilege restriction and if proof of that notification is kept
107 with the vehicle at all times. This employment exemption does not
108 apply if the business entity that owns the vehicle is owned or
109 controlled by the person who is prohibited from operating the
110 motor vehicle not equipped with an ignition interlock device.

111 (f) (i) In addition to the circumstances under which a
112 judge may order the use of an ignition interlock device set out in
113 subsection (1)(a) of this section, a judge may order that the
114 vehicle owned or operated by a person or a family member of any
115 person who committed a violation of Section 63-11-30 be equipped
116 with an ignition interlock device for all or a portion of the time
117 the driver's license of the operator of such vehicle is suspended
118 or restricted pursuant to this section, if:

119 1. The operator of the vehicle used to
120 violate Section 63-11-30 has at least one (1) prior conviction for
121 driving a motor vehicle when such person's privilege to do so is
122 cancelled, suspended or revoked as provided by Section 63-11-30;
123 or

124 2. The driver's license of the operator of
125 such vehicle was cancelled, suspended or revoked at the time of
126 the violation of Section 63-11-30.

127 (ii) The provisions of this paragraph (f) shall
128 not apply if the vehicle used to commit the violation of Section
129 63-11-30, was, at the time of such violation, rented or stolen.

130 (2) The provisions of this section are supplemental to the
131 provisions of Section 63-11-30.

132 SECTION 2. This act shall take effect and be in force from
133 and after July 1, 2001.