

By: Senator(s) Hamilton, Dickerson

To: Judiciary

SENATE BILL NO. 2822

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. No county, municipality or
27 sheriff's department shall be required to impound a motor vehicle
28 under this subsection. The court may order a person convicted to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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