

By: Representative Mitchell

To: Transportation

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 912

1 AN ACT TO AMEND SECTION 63-9-11, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR SENTENCING OF A FIRST-TIME TRAFFIC VIOLATOR TO A
3 SAFE-DRIVING SCHOOL AND TO PROVIDE THAT A FIRST TRAFFIC VIOLATION
4 WILL NOT BE ENTERED ON THE DRIVING RECORD OF ANY INDIVIDUAL; TO
5 AMEND SECTION 63-9-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 63-9-11, Mississippi Code of 1972, is
9 amended as follows:

10 63-9-11. (1) It is a misdemeanor for any person to violate
11 any of the provisions of Chapter 3, 5 or 7 of this title, unless
12 such violation is by such chapters or other law of this state
13 declared to be a felony.

14 (2) Every person convicted of a misdemeanor for a violation
15 of any of the provisions of such chapters for which another
16 penalty is not provided shall for first conviction thereof be
17 punished by a fine of not more than One Hundred Dollars (\$100.00)
18 or by imprisonment for not more than ten (10) days; for a second
19 such conviction within one (1) year thereafter such person shall
20 be punished by a fine of not more than Two Hundred Dollars
21 (\$200.00) or by imprisonment for not more than twenty (20) days or
22 by both such fine and imprisonment; upon a third or subsequent
23 conviction within one (1) year after the first conviction such
24 person shall be punished by a fine of not more than Five Hundred
25 Dollars (\$500.00) or by imprisonment for not more than six (6)
26 months or by both such fine and imprisonment.

27 (3) (a) Whenever, in a misdemeanor case, a person is
28 charged with a violation of any of the provisions of Chapter 3, 5
29 or 7 of this title and the person pleads guilty or nolo



30 contendere, the court shall withhold acceptance of the plea and
31 defer sentencing if the defendant meets all of the conditions set
32 forth in paragraphs (a) through (f) of subsection (4) of this
33 section and requests to be allowed to complete a court-approved
34 traffic safety violator school at his own cost. If the defendant
35 successfully completes not less than four (4) hours of a
36 court-approved traffic safety violator school within ninety (90)
37 days and pays the applicable fine, costs and any assessments
38 required by law to be paid upon conviction of such an offense,
39 including an additional fee of Ten Dollars (\$10.00), the court
40 shall set the conviction aside, dismiss the prosecution and direct
41 that the case be closed. The court on its own motion shall
42 expunge the record of the conviction, and the only record
43 maintained thereafter shall be the nonpublic record required under
44 Section 63-9-17, solely for use by the courts in determining an
45 offender's eligibility under this section as a first-time
46 offender. The additional fee of Ten Dollars (\$10.00) imposed
47 under this section shall be forwarded by the court clerk to the
48 State Treasurer for deposit into a special fund created in the
49 State Treasury. Monies in the special fund may be expended by the
50 Department of Public Safety, upon Legislative appropriation, to
51 defray the costs incurred by the department in maintaining the
52 records of persons who are eligible for sentencing as first-time
53 violators under the provisions of subsections (3) and (4) of this
54 section.

55 (b) No employee of the sentencing court shall
56 personally benefit from a defendant's sentence to a traffic safety
57 violator school. Violation of this prohibition shall result in
58 termination of employment.

59 (4) In order for a defendant to be eligible under subsection
60 (3) of this section:

61 (a) The defendant must enter a plea in person or in
62 writing of nolo contendere or guilty and present to the court an



63 oral request or a written request by mail postmarked on or before
64 the appearance date on the citation, to attend not less than four
65 (4) hours of a court-approved traffic safety violator school;

66 (b) The court must enter judgment on the defendant's
67 plea of nolo contendere or guilty at the time the plea is made,
68 but shall defer the imposition or the execution of the whole or
69 any part of the sentence for ninety (90) days;

70 (c) The defendant has a valid Mississippi driver's
71 license or permit;

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

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

82 (f) The offense charged must be a misdemeanor offense
83 under Chapter 3, 5 or 7 of this title.

84 (5) An out-of-state resident may be allowed to complete a
85 substantially similar program in his home state, province or
86 country provided paragraphs (4)(a), (b), (d), (e) and (f) of this
87 section are satisfied, and provided that the defendant has a valid
88 driver's license or permit from that home jurisdiction.

89 (6) Subsections (3) through (5) of this section shall stand
90 repealed from and after July 1, 2003.

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

93 63-9-17. (1) Every court shall keep a full record of the
94 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 after the satisfactory completion by a defendant of a court-approved traffic safety violator school under Section 63-9-11(3) or 63-9-11(4), 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, 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



128 Records Act of 1983. This subsection shall stand repealed from
129 and after July 1, 2003.

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

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

138 **SECTION 3.** This act shall take effect and be in force from
139 and after July 1, 2002.

