

By: Representative Mitchell

To: Transportation

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 convicted of violating any of the provisions of Chapter 3, 5 or 7
29 of this title, the court imposing sentence may order the defendant



30 to attend and participate in not less than four (4) hours of a
31 court-approved traffic safety violator school, in addition to any
32 other penalty authorized by law.

33 (b) No employee of the sentencing court shall
34 personally benefit from a defendant's sentence to a traffic safety
35 violator school. Violation of this prohibition shall result in
36 termination of employment.

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

52 (5) If all of the conditions set forth in paragraphs (a)
53 through (f) of this subsection are met, the court may withhold
54 acceptance of the plea and defer sentencing in order to allow the
55 defendant ninety (90) days to successfully complete not less than
56 four (4) hours of a court-approved traffic safety violator school
57 at his own cost, then the court shall dismiss the prosecution and
58 direct that the case be closed. The only record maintained shall
59 be the nonpublic record required under Section 63-9-17, solely for
60 use by the courts in determining eligibility as a first-time
61 offender under this section:



62 (a) Except as provided in paragraph (f), the person
63 enters a plea in person or in writing of nolo contendere or guilty
64 and presents to the court an oral request or a written request by
65 mail postmarked on or before the appearance date on the citation,
66 to attend not less than four (4) hours of a court-approved traffic
67 safety violator school.

68 (b) The court enters judgment on the defendant's plea
69 of nolo contendere or guilty at the time the plea is made, but
70 defers the imposition or the execution of the whole or any part of
71 the sentence for ninety (90) days.

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

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

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

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

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

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 any defendant of a court-approved traffic safety violator school under Section 63-9-11(4) or 63-9-11(5), 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



127 shall be exempt from the provisions of the Mississippi Public
128 Records Act of 1983.

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

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

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

