

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 912

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

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

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

24 (3) Whenever, in a misdemeanor case, a person is convicted

25 of violating any of the provisions of Chapter 3, 5 or 7 of this
26 title, the court imposing sentence may order the defendant to
27 attend and participate in not less than four (4) hours of a
28 court-approved traffic safety violator school, in addition to any
29 other penalty authorized by law.

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

46 (5) If all of the conditions set forth in paragraphs (a)
47 through (f) of this subsection are met, the court may withhold
48 acceptance of the plea and defer sentencing in order to allow the
49 defendant ninety (90) days to successfully complete not less than
50 four (4) hours of a court-approved traffic safety violator school
51 at his own cost, whereupon the court shall dismiss the prosecution
52 and direct that the case be closed. The only record maintained
53 thereafter shall be the nonpublic record required under Section
54 63-9-17, Mississippi Code of 1972, solely for use by the courts in
55 determining eligibility as a first-time offender under this
56 section:

57 (a) The person, except as provided in paragraph (f),
58 enters a plea in person or in writing of nolo contendere or guilty
59 and presents to the court an oral request or a written request, in

60 person or by mail postmarked on or before the appearance date on
61 the citation, to attend not less than four (4) hours of a
62 court-approved traffic safety violator school.

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

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

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

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

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

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

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

89 63-9-17. (1) Every court shall keep a full record of the
90 proceedings of every case in which a person is charged with any
91 violation of law regulating the operation of vehicles on the
92 highways, streets or roads of this state.

93 (2) Unless otherwise sooner required by law, within
94 forty-five (45) days after the conviction of a person upon a

95 charge of violating any law regulating the operation of vehicles
96 on the highways, streets or roads of this state, every * * * court
97 in which such conviction was had shall prepare and immediately
98 forward to the Department of Public Safety an abstract of the
99 record of said court covering the case in which said person was so
100 convicted, which abstract must be certified by the person so
101 authorized to prepare the same to be true and correct.

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

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

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

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

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

134 (8) No law enforcement personnel or officer of the court
135 shall personally benefit in his jurisdiction, be it county,
136 district or municipality, from a defendant's sentence to a traffic
137 safety violator school. Violation of this prohibition shall
138 result in termination of employment.

139 **SECTION 3.** This act shall take effect and be in force from
140 and after January 1, 2003.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.