

By: Representative Reeves

To: Judiciary A

HOUSE BILL NO. 97

1 AN ACT TO AMEND SECTION 63-11-5, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE LIST OF OFFICERS AUTHORIZED TO ADMINISTER CHEMICAL  
3 TESTS; AND FOR RELATED PURPOSES.

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

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

7 63-11-5. (1) Any person who operates a motor vehicle upon  
8 the public highways, public roads and streets of this state shall  
9 be deemed to have given his consent, subject to the provisions of  
10 this chapter, to a chemical test or tests of his breath for the  
11 purpose of determining alcohol concentration. A person shall give  
12 his consent to a chemical test or tests of his breath, blood or  
13 urine for the purpose of determining the presence in his body of  
14 any other substance which would impair a person's ability to  
15 operate a motor vehicle. The test or tests shall be administered  
16 at the direction of any highway patrol officer, any sheriff or his  
17 duly commissioned deputies, any police officer in any incorporated  
18 municipality, any national park ranger, any conservation officer  
19 employed by the Department of Wildlife, Fisheries and Parks, any  
20 Public Service Commission motor carrier inspector, any officer of  
21 a state-supported institution of higher learning campus police  
22 force if such officer is exercising this authority in regard to a  
23 violation that occurred on campus property, or any security  
24 officer appointed and commissioned pursuant to the Pearl River  
25 Valley Water Supply District Security Officer Law of 1978 if such  
26 officer is exercising this authority in regard to a violation that  
27 occurred within the limits of the Pearl River Valley Water Supply

28 District, when such officer has reasonable grounds and probable  
29 cause to believe that the person was driving or had under his  
30 actual physical control a motor vehicle upon the public streets or  
31 highways of this state while under the influence of intoxicating  
32 liquor or any other substance which had impaired such person's  
33 ability to operate a motor vehicle. No such test shall be  
34 administered by any person who has not met all the educational and  
35 training requirements of the appropriate course of study  
36 prescribed by the Board on Law Enforcement Officers Standards and  
37 Training; provided, however, that sheriffs and elected chiefs of  
38 police shall be exempt from such educational and training  
39 requirement. No such tests shall be given by any officer or any  
40 agency to any person within fifteen (15) minutes of consumption of  
41 any substance by mouth.

42 (2) If the officer has reasonable grounds and probable cause  
43 to believe such person to have been driving a motor vehicle upon  
44 the public highways, public roads, and streets of this state while  
45 under the influence of intoxicating liquor, such officer shall  
46 inform such person that his failure to submit to such chemical  
47 test or tests of his breath shall result in the suspension of his  
48 privilege to operate a motor vehicle upon the public streets and  
49 highways of this state for a period of ninety (90) days in the  
50 event such person has not previously been convicted of a violation  
51 of Section 63-11-30, or, for a period of one (1) year in the event  
52 of any previous conviction of such person under Section 63-11-30.

53 (3) The traffic ticket, citation or affidavit issued to a  
54 person arrested for a violation of this chapter shall conform to  
55 the requirements of Section 63-9-21(3)(b).

56 (4) Any person arrested under the provisions of this chapter  
57 shall be informed that he has the right to telephone for the  
58 purpose of requesting legal or medical assistance immediately  
59 after being booked for a violation under this chapter.

60           (5) The Commissioner of Public Safety and the State Crime  
61 Laboratory created pursuant to Section 45-1-17 are hereby  
62 authorized from and after the passage of this section to adopt  
63 procedures, rules and regulations, applicable to the Implied  
64 Consent Law.

65           **SECTION 2.** This act shall take effect and be in force from  
66 and after July 1, 2005.