

By: Representative Robinson (84th)

To: Wildlife, Fisheries and
Parks

HOUSE BILL NO. 929

1 AN ACT TO AMEND SECTION 49-4-31, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT HUNTING ACCIDENT REPORTS SUBMITTED TO THE EXECUTIVE
3 DIRECTOR OF THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS SHALL
4 BE EXEMPT FROM DISCLOSURE UNDER THE PUBLIC RECORDS ACT BUT MAY BE
5 DISCLOSED TO THE PERSON INVOLVED IN THE ACCIDENT OR TO HIS NEXT OF
6 KIN OR LEGAL REPRESENTATIVE UPON REQUEST AND PAYMENT OF A FEE; TO
7 PROVIDE THAT A PERSON WHO HUNTS WHILE IN POSSESSION OF CERTAIN
8 WEAPONS SHALL BE DEEMED TO HAVE GIVEN HIS CONSENT TO A CHEMICAL
9 ANALYSIS OF HIS BLOOD, BREATH OR URINE FOR THE PURPOSE OF
10 DETERMINING THE PRESENCE OF ALCOHOL OR DRUGS; TO PROVIDE THAT SUCH
11 CHEMICAL ANALYSIS SHALL BE PERFORMED IN THE MANNER APPROVED BY AND
12 BY PERSONS CERTIFIED BY THE STATE CRIME LABORATORY AND THE
13 COMMISSIONER OF PUBLIC SAFETY; TO GRANT CIVIL AND CRIMINAL
14 IMMUNITY TO A PERSON WHO PERFORMS A CHEMICAL ANALYSIS TO DETERMINE
15 THE PRESENCE OF ALCOHOL OR DRUGS IN SUCH CASES; TO PROVIDE THAT
16 THE RESULTS OF SUCH CHEMICAL ANALYSIS SHALL BE ADMISSIBLE IN
17 EVIDENCE IN CIVIL OR CRIMINAL PROCEEDINGS; TO PROVIDE THAT
18 CONVICTION OF ANY PERSON WHO IS FOUND TO HAVE A CERTAIN AMOUNT OF
19 ALCOHOL IN HIS BLOOD, BREATH OR URINE WHILE HUNTING WITH CERTAIN
20 WEAPONS AND DURING WHICH DEATH OR INJURY RESULTS SHALL RESULT IN
21 SUCH PERSON'S HUNTING PRIVILEGES BEING SUSPENDED; TO REQUIRE SUCH
22 PERSONS WHOSE PRIVILEGES TO HUNT HAVE BEEN SUSPENDED TO COMPLETE
23 AN APPROVED HUNTER EDUCATION COURSE BEFORE HIS HUNTING PRIVILEGES
24 MAY BE REINSTATED; TO AMEND SECTION 63-11-19, MISSISSIPPI CODE OF
25 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR
26 RELATED PURPOSES.

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

28 **SECTION 1.** Section 49-4-31, Mississippi Code of 1972, is
29 amended as follows:

30 49-4-31. (1) (a) Upon notification by a duly authorized
31 law enforcement officer of a death or injury that occurred by use
32 of a firearm, bow or any other device that serves to launch a
33 projectile by any person engaged in hunting, a hunter safety
34 officer of the department shall immediately initiate an
35 investigation of the incident and shall submit a report to the
36 executive director of the department. The executive director
37 shall submit the report to the commission. If the commission
38 determines there is probable cause to believe that the accident
39 occurred as a result of culpable negligence on the part of the

40 person causing the death or injury, the commission shall notify
41 the district attorney of the circuit court district in which the
42 incident occurred.

43 (b) Hunting accident/incident reports shall not be a
44 public record nor made available for public distribution, except
45 as otherwise provided by law.

46 (c) The commission, upon written request of any person
47 involved in a hunting accident or upon written request of the
48 representative of his or her estate, his or her surviving spouse,
49 or one or more of his or her surviving next of kin, may disclose
50 to such requester or his or her legal counsel or representative of
51 his insurer any information contained in such report.

52 (d) The commission, upon written request for such
53 report, shall charge a minimum reproduction fee of Ten Dollars
54 (\$10.00), plus any other costs associated with such reproduction.

55 (2) (a) Any person who exercises the privilege of hunting
56 in this state, as defined in Section 49-7-49, while in possession
57 of or using a firearm, bow or any other device that serves to
58 launch a projectile, shall be deemed to have given implied consent
59 to a chemical test or tests of his or her blood, breath, urine or
60 other bodily substances for the purpose of determining the
61 presence of alcohol or any other drug, if the person is involved
62 in any hunting related incident causing injury or death to any
63 person by the discharge of a firearm, bow or any other device that
64 serves to launch a projectile.

65 (b) For the chemical analysis of the person's blood,
66 urine, breath or other bodily substance to be considered valid
67 under this subsection, such analysis shall have been performed
68 according to methods approved as provided under Section 63-11-19,
69 by the State Crime Laboratory and the Commissioner of Public
70 Safety and/or on a machine which was operated with all the
71 electronic and operating components prescribed by its manufacturer
72 properly attached and in good working order and by an individual

73 possessing a valid permit issued by the State Crime Laboratory for
74 this purpose. The State Crime Laboratory and the Commissioner of
75 Public Safety shall approve satisfactory techniques or methods to
76 ascertain the qualifications and competence of individuals to
77 conduct analyses and to issue permits as provided under Section
78 63-11-19, along with requirements for properly operating and
79 maintaining any testing instruments, and to issue certificates
80 certifying that instruments have met those requirements, which
81 certificates and permits shall be subject to termination or
82 revocation at the discretion of the State Crime Laboratory.

83 (c) When a person undergoes a chemical test at the
84 request of a law enforcement officer, only a physician, registered
85 nurse, laboratory technician, emergency medical technician or
86 other qualified person may draw blood for the purpose of
87 determining the alcoholic or drug content therein, provided that
88 this limitation shall not apply to the taking of breath or urine
89 specimens. No physician, registered nurse or other qualified
90 person or employer thereof shall incur any civil or criminal
91 liability as a result of the medically proper obtaining of such
92 blood specimens when requested by a law enforcement officer.

93 (d) Upon the trial of any civil or criminal action or
94 proceeding arising out of acts alleged to have been committed by
95 any person involved in any incident described in paragraph (b) of
96 this section, evidence of the amount of alcohol or drug in a
97 person's blood, urine, breath or other bodily substance, at the
98 alleged time, as determined by a chemical analysis of the person's
99 blood, urine, breath or other bodily substance, shall be
100 admissible.

101 (e) Any person who, while hunting in this state, as
102 defined in Section 49-7-49, while in possession of or using a
103 firearm, bow or any other device that serves to launch a
104 projectile, is involved in any hunting related incident causing
105 injury or death to any person by the discharge of a firearm, bow

106 or any other device that serves to launch a projectile, and who
107 within three (3) hours of such hunt has eight one-hundredths
108 percent (.08%) or more by weight volume of alcohol in the person's
109 blood based upon milligrams of alcohol per one hundred (100) cubic
110 centimeters of blood as shown by a chemical analysis of such
111 person' blood, breath or urine administered as authorized by this
112 subsection, or is under the influence of any drug, or both, in
113 addition to any other punishment imposed, shall have such person's
114 privileges to hunt revoked or suspended for a period of two (2)
115 years. Refusal, upon the request of a law enforcement officer, to
116 submit to a chemical test designated by the law enforcement
117 officer as provided in paragraph (b) of this section, shall result
118 in no test being given; however, evidence of such refusal shall be
119 admissible in any legal action and, in addition to any other
120 punishment imposed, such person's privileges to hunt in this state
121 shall be revoked or suspended for a period of four (4) years.

122 (f) Any person whose privileges to hunt in this state
123 have been revoked or suspended under this section shall be
124 required to complete an approved Mississippi Hunter Education
125 course during the revoked or suspended period before any
126 privileges to hunt may be reinstated.

127 **SECTION 2.** Section 63-11-19, Mississippi Code of 1972, is
128 amended as follows:

129 63-11-19. A chemical analysis of the person's breath, blood
130 or urine, to be considered valid under the provisions of this
131 section, shall have been performed according to methods approved
132 by the State Crime Laboratory created pursuant to Section 45-1-17
133 and the Commissioner of Public Safety and performed by an
134 individual possessing a valid permit issued by the State Crime
135 Laboratory for making such analysis. The State Crime Laboratory
136 and the Commissioner of Public Safety are authorized to approve
137 satisfactory techniques or methods, to ascertain the
138 qualifications and competence of individuals to conduct such

139 analyses, and to issue permits which shall be subject to
140 termination or revocation at the discretion of the State Crime
141 Laboratory. The State Crime Laboratory shall not approve the
142 permit required herein for any law enforcement officer other than
143 a member of the State Highway Patrol, a sheriff or his deputies, a
144 city policeman, an officer of a state-supported institution of
145 higher learning campus police force, a security officer appointed
146 and commissioned pursuant to the Pearl River Valley Water Supply
147 District Security Officer Law of 1978, a national park ranger, a
148 national park ranger technician, a military policeman stationed at
149 a United States military base located within this state other than
150 a military policeman of the Army or Air National Guard or of
151 Reserve Units of the Army, Air Force, Navy or Marine Corps, a
152 marine law enforcement officer employed by the Department of
153 Marine Resources, or a conservation officer employed by the
154 Mississippi Department of Wildlife, Fisheries and Parks. The
155 permit given * * * a marine law enforcement officer shall
156 authorize such officer to administer tests only for violations of
157 Sections 59-23-1 through 59-23-7. The permit given a conservation
158 officer shall authorize such officer to administer tests only for
159 violations of Sections 59-23-1 through 59-23-7 and for hunting
160 related incidents resulting in injury or death to any person by
161 discharge of a firearm, bow or any other device that serves to
162 launch a projectile as provided under Section 49-4-31.

163 The State Crime Laboratory shall make periodic, but not less
164 frequently than quarterly, tests of the methods, machines or
165 devices used in making chemical analysis of a person's breath as
166 shall be necessary to ensure the accuracy thereof, and shall issue
167 its certificate to verify the accuracy of the same.

168 **SECTION 3.** This act shall take effect and be in force from
169 and after July 1, 2006.