

By: Representative Robinson (84th)

To: Wildlife, Fisheries and
ParksHOUSE BILL NO. 929
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 49-4-31, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A LAW ENFORCEMENT OFFICER TO REQUEST THAT A PERSON
3 INVOLVED IN A HUNTING ACCIDENT IN WHICH HIS USE OF A WEAPON
4 RESULTS IN INJURY OR DEATH TO SUBMIT TO A CHEMICAL TEST FOR
5 DETERMINING THE PRESENCE OF ALCOHOL; TO PROVIDE THAT A PERSON WHO
6 HUNTS IN THIS STATE IS DEEMED TO GIVE IMPLIED CONSENT TO SUCH
7 TESTS IF THE PERSON IS INVOLVED IN A HUNTING ACCIDENT IN WHICH THE
8 USE OF A WEAPON RESULTS IN SERIOUS INJURY OR DEATH TO ANOTHER
9 PERSON; TO REQUIRE SUCH TESTS TO MEET THE REQUIREMENTS UNDER THE
10 IMPLIED CONSENT LAW; TO PROVIDE FOR SUSPENSION OF THE HUNTING
11 LICENSE IF THE PERSON IS INTOXICATED; TO AMEND SECTION 63-11-19,
12 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
13 THIS ACT; AND FOR RELATED PURPOSES.

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

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

17 49-4-31. (1) Upon notification by a duly authorized law
18 enforcement officer of a death or injury that occurred by use of a
19 weapon by any person engaged in hunting, a hunter safety officer
20 of the department shall immediately initiate an investigation of
21 the incident and shall submit a report to the executive director
22 of the department. The executive director shall submit the report
23 to the commission. If the commission determines there is probable
24 cause to believe that the incident occurred as a result of
25 culpable negligence on the part of the person causing the death or
26 injury, the commission shall notify the district attorney of the
27 circuit court district in which the incident occurred.

28 (2) A law enforcement officer may request that the person
29 who causes serious bodily injury or death to another person by use
30 of a weapon submit to a chemical test for determining the presence
31 of alcohol or other drugs.

32 **SECTION 2.** (1) Any person who exercises the privilege of
33 hunting in this state shall be deemed to have given implied
34 consent to a chemical test of his blood, breath, urine or other
35 bodily substance for the purpose of determining the presence of
36 alcohol or any other drug if the person is involved in a hunting
37 incident in which his use of a weapon caused an injury or death to
38 a person.

39 (2) For the chemical analysis of the person's blood, breath,
40 urine or other bodily substance to be considered valid under this
41 section, the analysis must have been performed according to the
42 requirements established in Section 63-11-19.

43 (3) When a person undergoes a chemical test at the request
44 of a law enforcement officer, only a physician, registered nurse,
45 laboratory technician, emergency medical technician, or other
46 qualified person may draw blood for the purpose of determining the
47 alcohol or drug content therein. This limitation shall not apply
48 to the taking of breath or urine specimens. No physician,
49 registered nurse, laboratory technician, emergency medical
50 technician or other qualified person shall incur any civil
51 liability as a result of the medically proper taking of the blood
52 specimens when requested by a law enforcement officer.

53 **SECTION 3.** (1) A person involved in a hunting incident in
54 which his use of a weapon caused a serious bodily injury or death
55 to another person and who has an alcohol concentration of eight
56 one-hundredths percent (.08%) or more based on specified levels in
57 Section 63-11-30, or is under the influence of any drug or
58 controlled substance, shall have his hunting privileges revoked or
59 suspended for two (2) years, in addition to any other punishment
60 imposed. The chemical test must have been administered within
61 three (3) hours after the hunting incident.

62 (2) If a person refuses to submit to the test at the request
63 of a law enforcement officer, then none shall be given. The
64 hunting privileges of a person who refuses the test shall be

65 suspended for four (4) years. The law enforcement officer shall
66 inform the person that his refusal to submit to a test is
67 admissible in court and that his hunting privileges will be
68 revoked or suspended for four (4) years.

69 (3) The results of such tests and the refusal to submit to a
70 test shall be admissible in any civil or criminal action arising
71 out of the hunting incident in which the person was involved.

72 (4) Any person whose hunting privileges are revoked or
73 suspended under this section shall be required to complete an
74 approved hunter education course before hunting privileges may be
75 restored.

76 **SECTION 4.** (1) Hunting incident reports shall be exempt
77 from disclosure or dissemination under the Mississippi Public
78 Records Act of 1983 in accordance with the provisions of Section
79 45-29-1.

80 (2) Upon written request of any person involved in the
81 hunting incident, the representative of his estate, the surviving
82 spouse or surviving next of kin, the commission may disclose to
83 the requesting party or the requestor's legal counsel or insurance
84 representative any information contained in the report.

85 (3) The commission shall charge a minimum reproduction fee
86 of Ten Dollars (\$10.00) plus any other costs associated with the
87 request for the report.

88 **SECTION 5.** Section 63-11-19, Mississippi Code of 1972, is
89 amended as follows:

90 63-11-19. A chemical analysis of the person's breath, blood
91 or urine, to be considered valid under the provisions of this
92 section, shall have been performed according to methods approved
93 by the State Crime Laboratory created pursuant to Section 45-1-17
94 and the Commissioner of Public Safety and performed by an
95 individual possessing a valid permit issued by the State Crime
96 Laboratory for making such analysis. The State Crime Laboratory
97 and the Commissioner of Public Safety are authorized to approve

98 satisfactory techniques or methods, to ascertain the
99 qualifications and competence of individuals to conduct such
100 analyses, and to issue permits which shall be subject to
101 termination or revocation at the discretion of the State Crime
102 Laboratory. The State Crime Laboratory shall not approve the
103 permit required herein for any law enforcement officer other than
104 a member of the State Highway Patrol, a sheriff or his deputies, a
105 city policeman, an officer of a state-supported institution of
106 higher learning campus police force, a security officer appointed
107 and commissioned pursuant to the Pearl River Valley Water Supply
108 District Security Officer Law of 1978, a national park ranger, a
109 national park ranger technician, a military policeman stationed at
110 a United States military base located within this state other than
111 a military policeman of the Army or Air National Guard or of
112 Reserve Units of the Army, Air Force, Navy or Marine Corps, a
113 marine law enforcement officer employed by the Department of
114 Marine Resources, or a conservation officer employed by the
115 Mississippi Department of Wildlife, Fisheries and Parks. The
116 permit given * * * a marine law enforcement officer shall
117 authorize such officer to administer tests only for violations of
118 Sections 59-23-1 through 59-23-7. The permit given a conservation
119 officer shall authorize such officer to administer tests only for
120 violations of Sections 59-23-1 through 59-23-7 and for hunting
121 related incidents resulting in injury or death to any person by
122 discharge of a weapon as provided under Section 49-4-31.

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

128 **SECTION 6.** This act shall take effect and be in force from
129 and after July 1, 2006.