

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 292: DUI suspension; clarify how the 120 days are counted.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

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

10 **SECTION 1.** Section 63-11-23, Mississippi Code of 1972, is
11 amended as follows:

12 63-11-23. (1) **Administrative license suspension for test**
13 **refusal.** The Commissioner of Public Safety, or his authorized
14 agent, shall review the sworn report by a law enforcement officer
15 as provided in Section 63-11-21.

16 (a) If upon review the Commissioner of Public Safety,
17 or his authorized agent, finds (i) that the law enforcement
18 officer had reasonable grounds and probable cause to believe the
19 person had been operating a motor vehicle upon the public
20 highways, public roads * * * or streets of this state while under
21 the influence of intoxicating liquor or any other substance that
22 may impair a person's mental or physical ability; (ii) that the
23 person refused to submit to the chemical test of the person's



24 breath, blood or urine upon request of the officer; and (iii) that
25 the person was informed that his license and driving privileges
26 would be suspended or denied if he refused to submit to the
27 chemical test of his breath, blood or urine, then the Commissioner
28 of Public Safety, or his authorized agent, shall give notice to
29 the licensee that his license or permit to drive, or any
30 nonresident operating privilege, shall be suspended thirty (30)
31 days after the date of the notice for a period of ninety (90) days
32 if the person has not previously been convicted of or
33 nonadjudicated for a violation of Section 63-11-30, or, for a
34 period of one (1) year if the person was previously convicted or
35 nonadjudicated under Section 63-11-30. If the commissioner or his
36 authorized agent determines that the license or permit should not
37 be suspended, he shall return the license or permit to the
38 licensee.

39 (b) The notice of suspension shall be in writing and
40 conform to Section 63-1-52.

41 (c) A person may continue to drive on either an
42 interlock-restricted license or under a drug-testing program if so
43 ordered by a court in the course of a criminal proceeding for a
44 violation of Section 63-11-30.

45 (2) **Extension or suspension of privilege to drive; request**
46 **for trial.** (a) If the chemical testing of a person's breath
47 indicates the blood alcohol concentration was eight one-hundredths
48 percent (.08%) or more for persons who are above the legal age to



49 purchase alcoholic beverages under state law, or two
50 one-hundredths percent (.02%) or more for persons who are below
51 the legal age to purchase alcoholic beverages under state law,
52 based upon grams of alcohol per one hundred (100) milliliters of
53 blood or grams of alcohol per two hundred ten (210) liters of
54 breath as shown by a chemical analysis of the person's blood,
55 breath, or urine, the arresting officer shall seize the license
56 and give the driver a receipt for his license on forms prescribed
57 by the Commissioner of Public Safety and shall promptly forward
58 the license together with a sworn report to the Commissioner of
59 Public Safety. The receipt given a person shall be valid as a
60 permit to operate a motor vehicle for thirty (30) days in order
61 that the defendant may be processed through the court having
62 original jurisdiction and a final disposition had.

63 (b) If the defendant requests a trial within thirty
64 (30) days and trial is not commenced within thirty (30) days, then
65 the court shall determine if the delay in the trial is the fault
66 of the defendant or his counsel. If the court finds that it is
67 not the fault of the defendant or his counsel, then the court
68 shall order the defendant's privileges to operate a motor vehicle
69 to be extended until the defendant is convicted upon final order
70 of the court.

71 (c) If a receipt or permit to drive issued under this
72 subsection expires without a trial having been requested as
73 provided in this subsection, then the Commissioner of Public



74 Safety, or his authorized agent, shall suspend the license or
75 permit to drive or any nonresident operating privilege for the
76 applicable period of time as provided in subsection (1) of this
77 section.

78 (3) **Offenders driving without a license.** If the person is a
79 resident without a license or permit to operate a motor vehicle in
80 this state, the Commissioner of Public Safety, or his authorized
81 agent, shall deny to the person the issuance of a license or
82 permit for a period of one (1) year beginning thirty (30) days
83 after the date of notice of the suspension.

84 (4) **Appeal.** It shall be the duty of the municipal
85 prosecuting attorney, county prosecuting attorney, an attorney
86 employed under the provisions of Section 19-3-49, or if there is
87 not a prosecuting attorney for the municipality or county, the
88 duty of the district attorney to represent the state in any
89 hearing on a de novo appeal held under the provisions of Section
90 63-11-25, Section 63-11-37 or Section 63-11-30.

91 (5) **Suspension subsequent to conviction.** Unless the person
92 obtains an interlock-restricted license or the court orders the
93 person to exercise the privilege to operate a motor vehicle only
94 under an interlock-restricted license or while participating in a
95 court-ordered drug-testing program, thirty (30) days after receipt
96 of the court abstract documenting a person's conviction under
97 Section 63-11-30, the Department of Public Safety shall suspend



98 the driver's license and privileges of the person to operate a
99 motor vehicle as follows:

100 (a) When sentenced under Section 63-11-30(2):

101 (i) For a first offense: one hundred twenty (120)
102 days;

103 (ii) For a second offense: one (1) year;

104 (iii) For a third offense: for the full period of
105 the person's sentence; upon release from incarceration, the person
106 will be eligible for only an interlock-restricted license for
107 three (3) years;

108 (iv) For a fourth or subsequent offense: for the
109 full period of the person's sentence; upon release from
110 incarceration, the person will be eligible for only an
111 interlock-restricted license for ten (10) years and will further
112 be subject to court-ordered drug testing if the original offense
113 involved operating a motor vehicle under the influence of a drug
114 other than alcohol.

115 (b) When sentenced under Section 63-11-30(3) (Zero
116 Tolerance for Minors):

117 (i) For a first offense: one hundred twenty (120)
118 days;

119 (ii) For a second offense: one (1) year;

120 (iii) For a third offense occurring within five
121 (5) years, suspend or deny the driving privilege for two (2) years



122 or until the person reaches the age of twenty-one (21), whichever
123 is longer.

124 (6) **Suspensions.** (a) Notices of suspension given under
125 this section shall be in writing and conform to Section 63-1-52.

126 (b) Suspensions under this and any other chapter shall
127 run consecutively and not concurrently.

128 (c) The first day of any one-hundred-twenty-day period
129 shall begin on the date the judge signs an order for suspension.

130 (7) **License reinstatement.** A person is eligible for an
131 unrestricted license when the person has completed an alcohol
132 safety education program as provided in Section 63-11-32, has
133 satisfied all other conditions of law and of the person's sentence
134 or nonadjudication, and is not otherwise barred from obtaining an
135 unrestricted license.

136 **SECTION 2.** Section 63-11-30, Mississippi Code of 1972, is
137 amended as follows:

138 63-11-30. (1) It is unlawful for a person to drive or
139 otherwise operate a vehicle within this state if the person:

140 (a) Is under the influence of intoxicating liquor;

141 (b) Is under the influence of any other substance that
142 has impaired the person's ability to operate a motor vehicle;

143 (c) Is under the influence of any drug or controlled
144 substance, the possession of which is unlawful under the
145 Mississippi Controlled Substances Law; or



146 (d) Has an alcohol concentration in the person's blood,
147 based upon grams of alcohol per one hundred (100) milliliters of
148 blood, or grams of alcohol per two hundred ten (210) liters of
149 breath, as shown by a chemical analysis of the person's breath,
150 blood or urine administered as authorized by this chapter, of:

151 (i) Eight one-hundredths percent (.08%) or more
152 for a person who is above the legal age to purchase alcoholic
153 beverages under state law;

154 (ii) Two one-hundredths percent (.02%) or more for
155 a person who is below the legal age to purchase alcoholic
156 beverages under state law; or

157 (iii) Four one-hundredths percent (.04%) or more
158 for a person operating a commercial motor vehicle.

159 (2) Except as otherwise provided in subsection (3) of this
160 section (Zero Tolerance for Minors):

161 (a) **First offense DUI.** (i) Upon conviction of any
162 person for the first offense of violating subsection (1) of this
163 section where chemical tests under Section 63-11-5 were given, or
164 where chemical test results are not available, the person shall be
165 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
166 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
167 than forty-eight (48) hours in jail, or both; the court shall
168 order the person to attend and complete an alcohol safety
169 education program as provided in Section 63-11-32 within six (6)



170 months of sentencing. The court may substitute attendance at a
171 victim impact panel instead of forty-eight (48) hours in jail.

172 (ii) Suspension of commercial driving privileges
173 is governed by Section 63-1-216.

174 (iii) A qualifying first offense may be
175 nonadjudicated by the court under subsection (14) of this section.
176 The holder of a commercial driver's license or a commercial
177 learning permit at the time of the offense is ineligible for
178 nonadjudication.

179 (iv) Eligibility for an interlock-restricted
180 license is governed by Section 63-11-31 and suspension of regular
181 driving privileges is governed by Section 63-11-23.

182 (b) **Second offense DUI.** (i) Upon any second
183 conviction of any person violating subsection (1) of this section,
184 the offenses being committed within a period of five (5) years,
185 the person shall be guilty of a misdemeanor, fined not less than
186 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
187 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
188 five (5) days nor more than six (6) months and sentenced to
189 community service work for not less than ten (10) days nor more
190 than six (6) months. The minimum penalties shall not be suspended
191 or reduced by the court and no prosecutor shall offer any
192 suspension or sentence reduction as part of a plea bargain.

193 (ii) Suspension of commercial driving privileges
194 is governed by Section 63-1-216.



195 (iii) Eligibility for an interlock-restricted
196 license is governed by Section 63-11-31 and suspension of regular
197 driving privileges is governed by Section 63-11-23.

198 (c) **Third offense DUI.** (i) For a third conviction of
199 a person for violating subsection (1) of this section, the
200 offenses being committed within a period of five (5) years, the
201 person shall be guilty of a felony and fined not less than Two
202 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
203 (\$5,000.00), and shall serve not less than one (1) year nor more
204 than five (5) years in the custody of the Department of
205 Corrections. For any offense that does not result in serious
206 injury or death to any person, the sentence of incarceration may
207 be served in the county jail rather than in the State Penitentiary
208 at the discretion of the circuit court judge. The minimum
209 penalties shall not be suspended or reduced by the court and no
210 prosecutor shall offer any suspension or sentence reduction as
211 part of a plea bargain.

212 (ii) The suspension of commercial driving
213 privileges is governed by Section 63-1-216.

214 (iii) The suspension of regular driving privileges
215 is governed by Section 63-11-23.

216 (d) **Fourth and subsequent offense DUI.** (i) For any
217 fourth or subsequent conviction of a violation of subsection (1)
218 of this section, without regard to the time period within which
219 the violations occurred, the person shall be guilty of a felony



220 and fined not less than Three Thousand Dollars (\$3,000.00) nor
221 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
222 less than two (2) years nor more than ten (10) years in the
223 custody of the Department of Corrections.

224 (ii) The suspension of commercial driving
225 privileges is governed by Section 63-1-216.

226 (iii) A person convicted of a fourth or subsequent
227 offense is ineligible to exercise the privilege to operate a motor
228 vehicle that is not equipped with an ignition-interlock device for
229 ten (10) years.

230 (e) Any person convicted of a second or subsequent
231 violation of subsection (1) of this section shall receive an
232 in-depth diagnostic assessment, and if as a result of the
233 assessment is determined to be in need of treatment for alcohol or
234 drug abuse, the person must successfully complete treatment at a
235 program site certified by the Department of Mental Health. Each
236 person who receives a diagnostic assessment shall pay a fee
237 representing the cost of the assessment. Each person who
238 participates in a treatment program shall pay a fee representing
239 the cost of treatment.

240 (f) The use of ignition-interlock devices is governed
241 by Section 63-11-31.

242 (3) **Zero tolerance for minors.** (a) This subsection shall
243 be known and may be cited as Zero Tolerance for Minors. The
244 provisions of this subsection shall apply only when a person under



245 the age of twenty-one (21) years has a blood alcohol concentration
246 of two one-hundredths percent (.02%) or more, but lower than eight
247 one-hundredths percent (.08%). If the person's blood alcohol
248 concentration is eight one-hundredths percent (.08%) or more, the
249 provisions of subsection (2) shall apply.

250 (b) (i) A person under the age of twenty-one (21) is
251 eligible for nonadjudication of a qualifying first offense by the
252 court pursuant to subsection (14) of this section.

253 (ii) Upon conviction of any person under the age
254 of twenty-one (21) years for the first offense of violating
255 subsection (1) of this section where chemical tests provided for
256 under Section 63-11-5 were given, or where chemical test results
257 are not available, the person shall be fined Two Hundred Fifty
258 Dollars (\$250.00); the court shall order the person to attend and
259 complete an alcohol safety education program as provided in
260 Section 63-11-32 within six (6) months. The court may also
261 require attendance at a victim impact panel.

262 (c) A person under the age of twenty-one (21) years who
263 is convicted of a second violation of subsection (1) of this
264 section, the offenses being committed within a period of five (5)
265 years, shall be fined not more than Five Hundred Dollars
266 (\$500.00).

267 (d) A person under the age of twenty-one (21) years who
268 is convicted of a third or subsequent violation of subsection (1)
269 of this section, the offenses being committed within a period of



270 five (5) years, shall be fined not more than One Thousand Dollars
271 (\$1,000.00).

272 (e) License suspension is governed by Section 63-11-23
273 and ignition interlock is governed by Section 63-11-31.

274 (f) Any person under the age of twenty-one (21) years
275 convicted of a third or subsequent violation of subsection (1) of
276 this section must complete treatment of an alcohol or drug abuse
277 program at a site certified by the Department of Mental Health.

278 (4) **DUI test refusal.** In addition to the other penalties
279 provided in this section, every person refusing a law enforcement
280 officer's request to submit to a chemical test of the person's
281 breath as provided in this chapter, or who was unconscious at the
282 time of a chemical test and refused to consent to the introduction
283 of the results of the test in any prosecution, shall suffer an
284 additional administrative suspension of driving privileges as set
285 forth in Section 63-11-23.

286 (5) **Aggravated DUI.** (a) (i) Except as otherwise provided
287 in subparagraph (ii) of this paragraph (a), every person who
288 operates any motor vehicle in violation of the provisions of
289 subsection (1) of this section and who in a negligent manner
290 causes the death of another or mutilates, disfigures, permanently
291 disables or destroys the tongue, eye, lip, nose or any other limb,
292 organ or member of another shall, upon conviction, be guilty of a
293 separate felony for each victim who suffers death, mutilation,
294 disfigurement or other injury and shall be committed to the



295 custody of the State Department of Corrections for a period of
296 time of not less than five (5) years and not to exceed twenty-five
297 (25) years for each death, mutilation, disfigurement or other
298 injury, and the imprisonment for the second or each subsequent
299 conviction, in the discretion of the court, shall commence either
300 at the termination of the imprisonment for the preceding
301 conviction or run concurrently with the preceding conviction. Any
302 person charged with causing the death of another as described in
303 this subsection shall be required to post bail before being
304 released after arrest.

305 (ii) Every person who is below the legal age to
306 purchase alcoholic beverages under state law and has an alcohol
307 concentration in the person's blood, based upon grams of alcohol
308 per one hundred (100) milliliters of blood, or grams of alcohol
309 per two hundred ten (210) liters of breath, as shown by a chemical
310 analysis of the person's breath, blood or urine administered as
311 authorized by this chapter, of eight one-hundredths percent
312 (0.08%) or more and who in a negligent manner causes the death of
313 another or mutilates, disfigures, permanently disables or destroys
314 the tongue, eye, lip, nose of any other limb, organ or member of
315 another shall, upon conviction, be guilty of a separate felony for
316 each victim who suffers death, mutilation, disfigurement or other
317 injury and shall be committed to the custody of the State
318 Department of Corrections for a period of time not less than five
319 (5) years and not to exceed twenty-five (25) years for each death,



320 mutilation, disfigurement or other injury, and the imprisonment
321 for the second or each subsequent conviction, in the discretion of
322 the court, shall commence either at the termination of the
323 imprisonment for the preceding conviction or run concurrently with
324 the preceding conviction. Any such person charged with causing
325 the death of another as described in this subparagraph shall be
326 required to post bail before being released after arrest.

327 (b) A holder of a commercial driver's license who is
328 convicted of operating a commercial motor vehicle with an alcohol
329 concentration of eight one-hundredths percent (.08%) or more shall
330 be guilty of a felony and shall be committed to the custody of the
331 Department of Corrections for not less than two (2) years and not
332 more than ten (10) years.

333 (c) The court shall order an ignition-interlock
334 restriction on the offender's privilege to drive as a condition of
335 probation or post-release supervision not to exceed five (5) years
336 unless a longer restriction is required under other law. The
337 ignition-interlock restriction shall not be applied to commercial
338 license privileges until the driver serves the full
339 disqualification period required by Section 63-1-216.

340 (6) **DUI citations.** (a) Upon conviction of a violation of
341 subsection (1) of this section, the trial judge shall sign in the
342 place provided on the traffic ticket, citation or affidavit
343 stating that the person arrested either employed an attorney or
344 waived his right to an attorney after having been properly



345 advised. If the person arrested employed an attorney, the name,
346 address and telephone number of the attorney shall be written on
347 the ticket, citation or affidavit. The court clerk must
348 immediately send a copy of the traffic ticket, citation or
349 affidavit, and any other pertinent documents concerning the
350 conviction or other order of the court, to the Department of
351 Public Safety as provided in Section 63-11-37.

352 (b) A copy of the traffic ticket, citation or affidavit
353 and any other pertinent documents, having been attested as true
354 and correct by the Commissioner of Public Safety, or his designee,
355 shall be sufficient proof of the conviction for purposes of
356 determining the enhanced penalty for any subsequent convictions of
357 violations of subsection (1) of this section. The Department of
358 Public Safety shall maintain a central database for verification
359 of prior offenses and convictions.

360 (7) **Out-of-state prior convictions.** Convictions in another
361 state, territory or possession of the United States, or under the
362 law of a federally recognized Native American tribe, of violations
363 for driving or operating a vehicle while under the influence of an
364 intoxicating liquor or while under the influence of any other
365 substance that has impaired the person's ability to operate a
366 motor vehicle occurring within five (5) years before an offense
367 shall be counted for the purposes of determining if a violation of
368 subsection (1) of this section is a second, third, fourth or



369 subsequent offense and the penalty that shall be imposed upon
370 conviction for a violation of subsection (1) of this section.

371 (8) **Charging of subsequent offenses.** (a) For the purposes
372 of determining how to impose the sentence for a second, third,
373 fourth or subsequent conviction under this section, the affidavit
374 or indictment shall not be required to enumerate previous
375 convictions. It shall only be necessary that the affidavit or
376 indictment states the number of times that the defendant has been
377 convicted and sentenced within the past five (5) years for a
378 second or third offense, or without a time limitation for a fourth
379 or subsequent offense, under this section to determine if an
380 enhanced penalty shall be imposed. The amount of fine and
381 imprisonment imposed in previous convictions shall not be
382 considered in calculating offenses to determine a second, third,
383 fourth or subsequent offense of this section.

384 (b) Before a defendant enters a plea of guilty to an
385 offense under this section, law enforcement must submit
386 certification to the prosecutor that the defendant's driving
387 record, the confidential registry and National Crime Information
388 Center record have been searched for all prior convictions,
389 nonadjudications, pretrial diversions and arrests for driving or
390 operating a vehicle while under the influence of an intoxicating
391 liquor or while under the influence of any other substance that
392 has impaired the person's ability to operate a motor vehicle. The
393 results of the search must be included in the certification.



394 (9) **License eligibility for underage offenders.** A person
395 who is under the legal age to obtain a license to operate a motor
396 vehicle at the time of the offense and who is convicted under this
397 section shall not be eligible to receive a driver's license until
398 the person reaches the age of eighteen (18) years.

399 (10) **License suspensions and restrictions to run**
400 **consecutively.** Suspension or restriction of driving privileges
401 for any person convicted of or nonadjudicated for violations of
402 subsection (1) of this section shall run consecutively to and not
403 concurrently with any other administrative license suspension.

404 (11) **Ignition interlock.** If the court orders installation
405 and use of an ignition-interlock device as provided in Section
406 63-11-31 for every vehicle operated by a person convicted or
407 nonadjudicated under this section, each device shall be installed,
408 maintained and removed as provided in Section 63-11-31.

409 (12) **DUI child endangerment.** A person over the age of
410 twenty-one (21) who violates subsection (1) of this section while
411 transporting in a motor vehicle a child under the age of sixteen
412 (16) years is guilty of the separate offense of endangering a
413 child by driving under the influence of alcohol or any other
414 substance which has impaired the person's ability to operate a
415 motor vehicle. The offense of endangering a child by driving
416 under the influence of alcohol or any other substance which has
417 impaired the person's ability to operate a motor vehicle shall not
418 be merged with an offense of violating subsection (1) of this



419 section for the purposes of prosecution and sentencing. An
420 offender who is convicted of a violation of this subsection shall
421 be punished as follows:

422 (a) A person who commits a violation of this subsection
423 which does not result in the serious injury or death of a child
424 and which is a first conviction shall be guilty of a misdemeanor
425 and, upon conviction, shall be fined not more than One Thousand
426 Dollars (\$1,000.00) or shall be imprisoned for not more than
427 twelve (12) months, or both;

428 (b) A person who commits a violation of this subsection
429 which does not result in the serious injury or death of a child
430 and which is a second conviction shall be guilty of a misdemeanor
431 and, upon conviction, shall be fined not less than One Thousand
432 Dollars (\$1,000.00) nor more than Five Thousand Dollars
433 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

434 (c) A person who commits a violation of this subsection
435 which does not result in the serious injury or death of a child
436 and which is a third or subsequent conviction shall be guilty of a
437 felony and, upon conviction, shall be fined not less than Ten
438 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
439 than one (1) year nor more than five (5) years, or both; and

440 (d) A person who commits a violation of this subsection
441 which results in the serious injury or death of a child, without
442 regard to whether the offense was a first, second, third or
443 subsequent offense, shall be guilty of a felony and, upon



444 conviction, shall be punished by a fine of not less than Ten
445 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
446 than five (5) years nor more than twenty-five (25) years.

447 (13) **Expunction.** (a) Any person convicted under subsection
448 (2) or (3) of this section of a first offense of driving under the
449 influence and who was not the holder of a commercial driver's
450 license or a commercial learning permit at the time of the offense
451 may petition the circuit court of the county in which the
452 conviction was had for an order to expunge the record of the
453 conviction at least five (5) years after successful completion of
454 all terms and conditions of the sentence imposed for the
455 conviction. Expunction under this subsection will only be
456 available to a person:

457 (i) Who has successfully completed all terms and
458 conditions of the sentence imposed for the conviction;

459 (ii) Who did not refuse to submit to a test of his
460 blood or breath;

461 (iii) Whose blood alcohol concentration tested
462 below sixteen one-hundredths percent (.16%) if test results are
463 available;

464 (iv) Who has not been convicted of and does not
465 have pending any other offense of driving under the influence;

466 (v) Who has provided the court with justification
467 as to why the conviction should be expunged; and



468 (vi) Who has not previously had a nonadjudication
469 or expunction of a violation of this section.

470 (b) A person is eligible for only one (1) expunction
471 under this subsection, and the Department of Public Safety shall
472 maintain a permanent confidential registry of all cases of
473 expunction under this subsection for the sole purpose of
474 determining a person's eligibility for expunction, for
475 nonadjudication, or as a first offender under this section.

476 (c) The court in its order of expunction shall state in
477 writing the justification for which the expunction was granted and
478 forward the order to the Department of Public Safety within five
479 (5) days of the entry of the order.

480 (14) **Nonadjudication.** (a) For the purposes of this
481 chapter, "nonadjudication" means that the court withholds
482 adjudication of guilt and sentencing, either at the conclusion of
483 a trial on the merits or upon the entry of a plea of guilt by a
484 defendant, and places the defendant in a nonadjudication program
485 conditioned upon the successful completion of the requirements
486 imposed by the court under this subsection.

487 (b) A person is eligible for nonadjudication of an
488 offense under this Section 63-11-30 only one (1) time under any
489 provision of a law that authorizes nonadjudication and only for an
490 offender:



491 (i) Who has successfully completed all terms and
492 conditions imposed by the court after placement of the defendant
493 in a nonadjudication program;

494 (ii) Who was not the holder of a commercial
495 driver's license or a commercial learning permit at the time of
496 the offense;

497 (iii) Who has not previously been convicted of and
498 does not have pending any former or subsequent charges under this
499 section; and

500 (iv) Who has provided the court with justification
501 as to why nonadjudication is appropriate.

502 (c) Nonadjudication may be initiated upon the filing of
503 a petition for nonadjudication or at any stage of the proceedings
504 in the discretion of the court; the court may withhold
505 adjudication of guilt, defer sentencing, and upon the agreement of
506 the offender to participate in a nonadjudication program, enter an
507 order imposing requirements on the offender for a period of court
508 supervision before the order of nonadjudication is entered.
509 Failure to successfully complete a nonadjudication program
510 subjects the person to adjudication of the charges against him and
511 to imposition of all penalties previously withheld due to entrance
512 into a nonadjudication program. The court shall immediately
513 inform the commissioner of the conviction as required in Section
514 63-11-37.

515 (i) The court shall order the person to:



516 1. Pay the nonadjudication fee imposed under
517 Section 63-11-31 if applicable;

518 2. Pay all fines, penalties and assessments
519 that would have been imposed for conviction;

520 3. Attend and complete an alcohol safety
521 education program as provided in Section 63-11-32 within six (6)
522 months of the date of the order;

523 4. a. If the court determines that the
524 person violated this section with respect to alcohol or
525 intoxicating liquor, the person must install an ignition-interlock
526 device on every motor vehicle operated by the person, obtain an
527 interlock-restricted license, and maintain that license for one
528 hundred twenty (120) days or suffer a one-hundred-twenty-day
529 suspension of the person's regular driver's license, during which
530 time the person must not operate any vehicle. The first date to
531 begin counting the one-hundred-twenty-day period described in this
532 item 4 shall be the same date that the judge signs the order
533 adjudicating the defendant guilty, whichever is applicable.

534 b. If the court does not enter an order
535 for installation of an ignition-interlock device under item a of
536 this item 4, the court shall order the person to comply with any
537 other condition placed upon the person which shall include a
538 requirement designed to monitor the blood alcohol content of the
539 person while operating a motor vehicle or at other times as



540 specified by the court for a period of one hundred and twenty
541 (120) days.

542 * * *c. If the court determines that
543 the person violated this section by operating a vehicle when under
544 the influence of a substance other than alcohol that has impaired
545 the person's ability to operate a motor vehicle, including any
546 drug or controlled substance which is unlawful to possess under
547 the Mississippi Controlled Substances Law, the person must submit
548 to a one-hundred-twenty-day period of a nonadjudication program
549 that includes court-ordered drug testing at the person's own
550 expense not less often than every thirty (30) days, during which
551 time the person may drive if compliant with the terms of the
552 program, or suffer a one-hundred-twenty-day suspension of the
553 person's regular driver's license, during which time the person
554 will not operate any vehicle.

555 (ii) Other conditions that may be imposed by the
556 court include, but are not limited to, alcohol or drug screening,
557 or both, proof that the person has not committed any other traffic
558 violations while under court supervision, proof of immobilization
559 or impoundment of vehicles owned by the offender if required, and
560 attendance at a victim-impact panel.

561 (d) The court may enter an order of nonadjudication
562 only if the court finds, after a hearing or after ex parte
563 examination of reliable documentation of compliance, that the
564 offender has successfully completed all conditions imposed by law



565 and previous orders of the court. The court shall retain
566 jurisdiction over cases involving nonadjudication for a period of
567 not more than two (2) years.

568 (e) (i) The clerk shall immediately forward a record
569 of every person placed in a nonadjudication program and of every
570 nonadjudication order to the Department of Public Safety for
571 inclusion in the permanent confidential registry of all cases that
572 are nonadjudicated under this subsection (14).

573 (ii) Judges, clerks and prosecutors involved in
574 the trial of implied consent violations and law enforcement
575 officers involved in the issuance of citations for implied consent
576 violations shall have secure online access to the confidential
577 registry for the purpose of determining whether a person has
578 previously been the subject of a nonadjudicated case and 1. is
579 therefore ineligible for another nonadjudication; 2. is ineligible
580 as a first offender for a violation of this section; or 3. is
581 ineligible for expunction of a conviction of a violation of this
582 section.

583 (iii) The Driver Services Bureau of the department
584 shall have access to the confidential registry for the purpose of
585 determining whether a person is eligible for a form of license not
586 restricted to operating a vehicle equipped with an
587 ignition-interlock device.



588 (iv) The Mississippi Alcohol Safety Education
589 Program shall have secure online access to the confidential
590 registry for research purposes only.

591 (15) The provisions of this section are fully applicable to
592 any person who is under the influence of medical cannabis that is
593 lawful under the Mississippi Medical Cannabis Act and in
594 compliance with rules and regulations adopted thereunder which has
595 impaired the person's ability to operate a motor vehicle.

596 **SECTION 3.** Section 63-11-31, Mississippi Code of 1972, is
597 brought forward as follows:

598 63-11-31. (1) (a) The provisions of this section are
599 supplemental to the provisions of Section 63-11-30.

600 (b) (i) "Ignition-interlock device" means a device
601 approved by the Department of Public Safety that connects a motor
602 vehicle ignition system to a breath-alcohol analyzer and prevents
603 a motor vehicle ignition from starting if the driver's blood
604 alcohol level exceeds the calibrated setting on the device.

605 (ii) "Interlock-restricted license" means a
606 driver's license bearing a restriction that limits the person to
607 operation of vehicles equipped with an ignition-interlock device.

608 (iii) "Court-ordered drug-testing program" means a
609 program that qualifies under Section 63-11-31.1.

610 (c) A person who can exercise the privilege of driving
611 only under an interlock-restricted license must have an



612 ignition-interlock device installed and operating on all motor
613 vehicles owned or operated by the person.

614 (d) A person who installs an ignition-interlock device
615 may obtain an interlock-restricted license.

616 (2) (a) (i) The cost of installation and operation of an
617 ignition-interlock device shall be borne by the person to whom an
618 interlock-restricted driver's license is issued, and the costs of
619 court-ordered drug testing shall be borne by the person so
620 ordered, unless the person is determined by the court to be
621 indigent.

622 (ii) The cost of participating in a court-ordered
623 drug-testing program shall be borne by the person, unless the
624 person is determined by the court to be indigent.

625 (b) (i) A person convicted under Section 63-11-30
626 shall be assessed by the court, in addition to the criminal fines,
627 penalties and assessments provided by law for violations of
628 Section 63-11-30, a fee of Fifty Dollars (\$50.00), to be deposited
629 in the Interlock Device Fund in the State Treasury unless the
630 person is determined by the court to be indigent.

631 (ii) A person nonadjudicated under Section
632 63-11-30 shall be assessed by the court, in addition to the
633 criminal fines, penalties and assessments provided by law for
634 violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars
635 (\$250.00) to be deposited in the Interlock Device Fund in the



636 State Treasury unless the person is determined by the court to be
637 indigent.

638 (3) (a) The Department of Public Safety shall promulgate
639 rules and regulations for the use of an ignition-interlock device.
640 The Department of Public Safety shall approve which vendors shall
641 be used to furnish the systems, may assess fees to the vendors,
642 and shall prescribe the maximum costs to the offender for
643 installation, removal, monthly operation, periodic inspections,
644 calibrations and repairs.

645 (b) A person who has an ignition-interlock device
646 installed in a vehicle shall:

647 (i) Provide proof of the installation of the
648 device and periodic reporting for verification of the proper
649 operation of the device;

650 (ii) Have the system monitored for proper use and
651 accuracy as required by departmental regulation;

652 (iii) Pay the reasonable cost of leasing or
653 buying, monitoring, and maintaining the device unless the person
654 is determined to be indigent; and

655 (iv) Obtain an ignition-interlock driver's
656 license.

657 (4) (a) (i) A person who is limited to driving only under
658 an interlock-restricted driver's license shall not operate a
659 vehicle that is not equipped with an ignition-interlock device.



660 (ii) A person prohibited from operating a motor
661 vehicle that is not equipped with an ignition-interlock device may
662 not solicit or have another person attempt to start or start a
663 motor vehicle equipped with such a device.

664 (iii) A person may not start or attempt to start a
665 motor vehicle equipped with an ignition-interlock device for the
666 purpose of providing an operable motor vehicle to a person who is
667 prohibited from operating a motor vehicle that is not equipped
668 with an ignition-interlock device.

669 (iv) A person may not tamper with, or in any way
670 attempt to circumvent, the operation of an ignition-interlock
671 device that has been installed in a motor vehicle.

672 (v) A person may not knowingly provide a motor
673 vehicle not equipped with a functioning ignition-interlock device
674 to another person who the provider of the vehicle knows or should
675 know is prohibited from operating a motor vehicle not equipped
676 with an ignition-interlock device.

677 (b) A violation of this subsection (4) is a misdemeanor
678 and upon conviction the violator shall be fined an amount not less
679 than Two Hundred Fifty Dollars (\$250.00) nor more than One
680 Thousand Dollars (\$1,000.00) or imprisoned for not more than six
681 (6) months, or both, unless the starting of a motor vehicle
682 equipped with an ignition-interlock device is done for the purpose
683 of safety or mechanical repair of the device or the vehicle, and



684 the person subject to the restriction does not operate the
685 vehicle.

686 (5) In order to obtain an interlock-restricted license, a
687 person must:

688 (a) Be otherwise qualified to operate a motor vehicle,
689 and will be subject to all other restrictions on the privilege to
690 drive provided by law;

691 (b) Submit proof that an ignition-interlock device is
692 installed and operating on all motor vehicles operated by the
693 person; and

694 (c) Pay the fee set forth in Section 63-1-43 to obtain
695 the license without regard to indigence; no license reinstatement
696 fee under Section 63-1-46 shall be charged for a person obtaining
697 an interlock-restricted license.

698 (6) (a) In addition to the penalties authorized for any
699 second or subsequent conviction under Section 63-11-30, the court
700 shall order that all vehicles owned by the offender that are not
701 equipped with an ignition-interlock device must be either
702 impounded or immobilized pending further order of the court
703 lifting the offender's driving restriction. However, no county,
704 municipality, sheriff's department or the Department of Public
705 Safety shall be required to keep, store, maintain, serve as a
706 bailee or otherwise exercise custody over a motor vehicle
707 impounded under the provisions of this section. The cost



708 associated with any impoundment or immobilization shall be paid by
709 the person convicted without regard to ability to pay.

710 (b) A person may not tamper with, or in any way attempt
711 to circumvent, vehicle immobilization or impoundment ordered by
712 the court under this section. A violation of this paragraph (b)
713 is a misdemeanor and, upon conviction, the violator shall be fined
714 an amount not less than Two Hundred Fifty Dollars (\$250.00) nor
715 more than One Thousand Dollars (\$1,000.00) or imprisoned for not
716 more than six (6) months, or both.

717 (7) (a) The Department of Public Safety shall promulgate
718 rules and regulations for the use of monies in the Interlock
719 Device Fund to offset the cost of interlock device installation
720 and operation by and court-ordered drug testing of indigent
721 offenders.

722 (b) The court shall determine a defendant's indigence
723 based upon whether the defendant has access to adequate resources
724 to pay the ignition-interlock fee and the costs of installation
725 and maintenance of an ignition-interlock device, or the costs of
726 court-ordered drug testing or both, and may further base the
727 determination of indigence on proof of enrollment in one or more
728 of the following types of public assistance:

729 (i) Temporary Assistance for Needy Families
730 (TANF);

731 (ii) Medicaid assistance;



732 (iii) The Supplemental Nutritional Assistance
733 Program (SNAP), also known as "food stamps";
734 (iv) Supplemental security income (SSI);
735 (v) Participation in a federal food distribution
736 program;
737 (vi) Federal housing assistance;
738 (vii) Unemployment compensation; or
739 (viii) Other criteria determined appropriate by
740 the court.

741 (c) No more than ten percent (10%) of the money in the
742 Interlock Device Fund in any fiscal year shall be expended by the
743 department for the purpose of administering the fund.

744 (d) The Commissioner of the Department of Public Safety
745 must promulgate regulations for the program and for vendors,
746 including at a minimum:

747 (i) That the offender must pay the cost of the
748 testing program or, if the court finds the offender to be
749 indigent, that the cost be paid from the Interlock Device Fund.

750 (ii) How indigent funds will be accessed by the
751 vendors, and the maximum cost to the offender or the fund.

752 (e) (i) Money in the Interlock Device Fund will be
753 appropriated to the department to cover part of the costs of
754 court-ordered drug testing and installing, removing and leasing
755 ignition-interlock devices for indigent people who are required,
756 because of a conviction or nonadjudication under Section 63-11-30,



757 to install an ignition-interlock device in all vehicles operated
758 by the person.

759 (ii) If money is available in the Interlock Device
760 Fund, the department shall pay to the vendor, for one (1) vehicle
761 per offender, up to Fifty Dollars (\$50.00) for the cost of
762 installation, up to Fifty Dollars (\$50.00) for the cost of
763 removal, and up to Thirty Dollars (\$30.00) monthly for verified
764 active usage of the ignition-interlock device. The department
765 shall not pay any amount above what an offender would be required
766 to pay for the installation, removal or usage of an
767 ignition-interlock device.

768 (iii) If money is available in the Interlock
769 Device Fund, the department shall pay to the vendor an amount not
770 to exceed that promulgated by the Forensics Laboratory for
771 court-ordered drug testing. The department shall not pay any
772 amount above what an offender would be required to pay
773 individually.

774 (8) In order to reinstate a form of driver's license that is
775 not restricted to operation of an ignition-interlock equipped
776 vehicle, the person must submit proof to the Department of Public
777 Safety to substantiate the person's eligibility for an
778 unrestricted license, which may be a court order indicating
779 completion of sentence or final order of nonadjudication; in the
780 absence of a court order, the proof may consist of the following



781 or such other proof as the commissioner may set forth by
782 regulation duly adopted under the Administrative Procedures Act:

783 (a) Proof of successful completion of an alcohol safety
784 program as provided in Section 63-11-32 if so ordered by the
785 court;

786 (b) Payment of the reinstatement fee required under
787 Section 63-1-46(1) (a);

788 (c) Payment of the driver's license fee required under
789 Section 63-1-43;

790 (d) A certificate of liability insurance or proof of
791 financial responsibility; and

792 (e) (i) For those driving under an
793 interlock-restricted license, a declaration from the vendor, in a
794 form provided or approved by the Department of Public Safety,
795 certifying that there have been none of the following incidents in
796 the last thirty (30) days:

797 1. An attempt to start the vehicle with a
798 breath alcohol concentration of 0.04 or more;

799 2. Failure to take or pass any required
800 retest; or

801 3. Failure of the person to appear at the
802 ignition-interlock device vendor when required for maintenance,
803 repair, calibration, monitoring, inspection, or replacement of the
804 device; or



805 (ii) For a person who violated Section 63-11-30
806 with respect to drugs other than alcohol, proof of successful
807 compliance with all court-ordered drug testing; or

808 (iii) Both subparagraphs (i) and (ii) of this
809 paragraph (e) if applicable.

810 (9) The court may extend the interlock-restricted period if
811 the person had a violation in the last thirty (30) days.

812 (10) The court that originally ordered installation of the
813 ignition-interlock device for a violation of Section 63-11-30 and
814 a court in the municipality or county in which the violation
815 occurred have jurisdiction over an offense under this section.

816 (11) A person who voluntarily obtains an
817 interlock-restricted license may convert at any time to any other
818 form of license for which the person is qualified.

819 (12) (a) The Department of Public Safety shall require all
820 manufacturers of ignition-interlock devices to report
821 ignition-interlock data in a consistent and uniform format as
822 prescribed by the Department of Public Safety. Ignition-interlock
823 vendors must also use the uniform format when sharing data with
824 courts ordering an ignition interlock, with alcohol safety
825 education programs, or with other treatment providers.

826 (b) The Department of Public Safety shall require all
827 vendors of drug testing programs approved under Section 63-11-31.1
828 to report test results in a consistent and uniform format as
829 prescribed by the Forensics Laboratory. Vendors must report test



830 results to the court on a monthly basis, except that a positive
831 test or failure of the testing participant to submit to
832 verification must be reported to the court within five (5) days of
833 verification of the positive test or the failure to submit.

834 **SECTION 4.** This act shall take effect and be in force from
835 and after July 1, 2024.

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

1 AN ACT TO AMEND SECTIONS 63-11-23 AND 63-11-30, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE 120-DAY SUSPENSION FOR DUI
3 VIOLATIONS BEGINS ON THE DATE THE JUDGE SIGNS THE ORDER FOR
4 SUSPENSION; TO PROVIDE AN AGGRAVATED DUI PENALTY FOR PERSONS WHO
5 ARE UNDER THE LEGAL AGE FOR PURCHASING ALCOHOLIC BEVERAGES; TO
6 BRING FORWARD SECTION 63-11-31, MISSISSIPPI CODE OF 1972, WHICH
7 REGULATES IGNITION INTERLOCK FOR DUI VIOLATIONS, FOR PURPOSES OF
8 AMENDMENT; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X (SIGNED)
Horan

X (SIGNED)
Fillingane

X (SIGNED)
Burch

X (SIGNED)
Sparks

X (SIGNED)
Owen

(NOT SIGNED)
Hickman

