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Chapter No. 481
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SENATE BILL NO. 2472

Originated in Senate Secretary

SENATE BILL NO. 2472

AN ACT TO CREATE "NATHAN'S LAW"; TO AMEND SECTION 63-3-615, MISSISSIPPI CODE OF 1972, TO CLARIFY THE OFFENSE OF PASSING A SCHOOL BUS WHEN STOPPED TO LOAD OR UNLOAD STUDENTS AND TO REVISE THE PENALTY THEREFOR; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO DEVELOP CURRICULUM GUIDELINES FOR SCHOOL BUS SAFETY; TO AMEND SECTION 63-1-73, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE USE OF WIRELESS COMMUNICATION DEVICES BY BUS DRIVERS; TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 63-1-33, MISSISSIPPI CODE OF 1972, TO REVISE THE DRIVER'S LICENSE EXAMINATION REQUIREMENTS TO ENSURE COVERAGE THEREON OF SCHOOL BUS SAFETY ISSUES; TO AUTHORIZE CAMERAS ON SCHOOL BUS STOP ARMS; TO AUTHORIZE THE DEPARTMENTS OF TRANSPORTATION AND EDUCATION TO CONDUCT A PUBLIC EDUCATION CAMPAIGN ON SCHOOL BUS SAFETY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 63-3-615, Mississippi Code of 1972, is amended as follows:

63-3-615. (1) (a) The driver of a vehicle upon a street or highway upon meeting or overtaking any school bus that has stopped on the street or highway for the purpose of receiving or discharging any school children shall come to a complete stop at least ten (10) feet from the school bus before reaching the school bus when there is in operation on the school bus the flashing red lights provided in Section 63-7-23, or when a retractable, hand-operated stop sign is extended; the driver * * * shall not proceed until the children have crossed the street or highway and the school bus has resumed motion or the flashing red lights are no longer actuated and the hand-operated stop sign is retracted.

(b) The driver of a vehicle upon a highway that has four (4) lanes or more, whether or not there is a median or turn lane, need not stop upon meeting or passing a school bus that is on a different roadway or when upon a controlled-access highway if

the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(2) (a) Except as provided in paragraph (b), any person violating the provisions of subsection (1) of this section shall be guilty of a misdemeanor and upon a first conviction thereof shall be fined not less than Three Hundred Fifty Dollars ($350.00) nor more than Seven Hundred Fifty Dollars ($750.00), or imprisoned for not more than one (1) year, or both. For a second or subsequent offense, the offenses being committed within a period of five (5) years, the person shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Seven Hundred Fifty Dollars ($750.00) nor more than One Thousand Five Hundred Dollars ($1,500.00), or imprisoned for not more than one (1) year, or both. In addition, the Commissioner of Public Safety or his duly authorized designee, after conviction for a second or subsequent offense and upon receipt of the court abstract, shall suspend the driver's license and driving privileges of the person for a period of ninety (90) days.

(b) A conviction under this section for a violation resulting in any injury to a child who is in the process of boarding or exiting a school bus shall be a violation of Section 97-3-7, and a violator shall be punished under subsection (2) of that section.

(3) This section shall be applicable only in the event the school bus shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than four (4) inches in height.

(4) If the driver of any vehicle is witnessed by a law enforcement officer or the driver of a school bus to have violated this section and the identity of the driver of the vehicle is not otherwise apparent, it shall be a rebuttable inference that the person in whose name the vehicle is registered committed the

violation. If charges are filed against multiple owners of a motor vehicle, only one (1) of the owners may be convicted and court costs may be assessed against only one (1) of the owners. If the vehicle that is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the inference of guilt by providing the law enforcement officer or prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation.

SECTION 2. Section 63-1-73, Mississippi Code of 1972, is amended as follows:

63-1-73. (1) For purposes of this section, the following terms shall have the meanings ascribed in this subsection, unless the context clearly indicates otherwise:

(a) "Cellular telephone" means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular radiophones.

(b) "Personal digital assistant" means a wireless electronic communication device that provides for data communication other than by voice.

(c) The term "E911" shall have the meaning ascribed in Section 19-5-303.

(d) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 USC Section 332, including a cellular telephone or personal digital assistant.

(2) (a) A person who is authorized to drive under an intermediate license, a temporary learning permit or a temporary driving permit shall not operate a motor vehicle on a highway while using a wireless communication device to send or receive a written message while the motor vehicle is in motion.

(b) A person shall not use a wireless communication device while operating a passenger bus with a minor passenger on the bus, except for an emergency or in the case of a school bus driver for official school business or in an emergency.

(3) This section does not apply to any of the following:

(a) Law enforcement and safety personnel;

(b) Drivers of authorized emergency vehicles;

(c) * * * A person who is reporting reckless or negligent behavior;

(d) * * * A person who believes that the person or another person is in physical danger * * *;

(e) Written messages sent or received while the vehicle is parked; * * *

(f) The use of a wireless communication device for the sole purpose of communicating with any of the following regarding an emergency situation:

(i) An emergency response or E911 operator;

(ii) A hospital, physician's office or health clinic;

(iii) A provider of ambulance services;

(iv) A provider of fire fighting services;

(v) A law enforcement agency;

(g) The use of technology utilizing a cellular connection to a vehicle to relay vehicle operational information between the vehicle and a call center or repair facility; and

(h) A vehicle navigation system utilizing a cellular connection to update databases and provide real-time traffic information.

(4) (a) A violation of this section is a misdemeanor, and upon conviction, is punishable by a fine not to exceed Five Hundred Dollars ($500.00).

(b) If the person violates this section at the time that he is involved in a motor vehicle accident, then the

violation is punishable by a fine not to exceed One Thousand Dollars ($1,000.00).

(c) A law enforcement officer investigating a motor vehicle accident in which a person is cited for violating subsection (2)(b) or (c) of this section * * * shall indicate on the written accident report * * * the use of a wireless communication device in violation of this section * * * at the time of the accident.

SECTION 3. Section 97-3-7, Mississippi Code of 1972, is amended as follows:

97-3-7. (1) A person is guilty of simple assault if he (a) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or (b) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (c) attempts by physical menace to put another in fear of imminent serious bodily harm; and, upon conviction, he shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or both. However, a person convicted of simple assault (a) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker or family protection specialist or family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such

statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment; (b) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or (c) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult, as defined in Section 43-47-5, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than five (5) years, or both.

(2) A person is guilty of aggravated assault if he (a) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; * * * (b) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (c) causes any injury to a child who is in the process of boarding or exiting a school bus in the course of a violation of Section 63-3-615; and, upon conviction, he shall be punished by imprisonment in the county jail for not more than one (1) year or in the Penitentiary for not more than twenty (20) years. However, a person convicted of aggravated assault (a) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist,

family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment; (b) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or (c) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult, as defined in Section 43-47-5, shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than thirty (30) years, or both.

(3) A person is guilty of simple domestic violence who commits simple assault as described in subsection (1) of this section against a current or former spouse or a child of that person, a person living as a spouse or who formerly lived as a

spouse with the defendant or a child of that person, other persons related by consanguinity or affinity who reside with or formerly resided with the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child and, upon conviction, the defendant shall be punished as provided under subsection (1) of this section; however, upon a third or subsequent conviction of simple domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years. In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.

(4) A person is guilty of aggravated domestic violence who commits aggravated assault as described in subsection (2) of this section against, or who strangles, or attempts to strangle, a current or former spouse or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, other persons related by consanguinity or affinity who reside with or formerly resided with the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child. Upon conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for not less than two (2) years; however, upon a third or subsequent conviction of aggravated domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment of not less than

ten (10) nor more than twenty (20) years. In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred. Reasonable discipline of a child, such as spanking, is not an offense under this subsection (4). A person convicted of aggravated domestic violence shall not be eligible for parole under the provisions of Section 47-7-3(1)(c) until he shall have served one (1) year of his sentence.

For the purposes of this section, "strangle" means to restrict the flow of oxygen or blood by intentionally applying pressure on the neck or throat of another person by any means or to intentionally block the nose or mouth of another person by any means.

(5) "Dating relationship" means a social relationship as defined in Section 93-21-3.

(6) Every conviction of domestic violence may require as a condition of any suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

(7) When investigating allegations of a violation of subsection (3) or (4) of this section, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations.

(8) In any conviction of assault as described in any subsection of this section which arises from an incident of domestic violence, the sentencing order shall include the designation "domestic violence." The court shall forward a copy

of each sentencing order bearing the designation "domestic violence" to the Office of the Attorney General.

SECTION 4. The State Department of Education shall develop and issue curriculum guidelines to school districts relating to the implementation of a school bus safety curriculum for implementation in Kindergarten through Grade 3.

SECTION 5. Section 63-1-33, Mississippi Code of 1972, is amended as follows:

63-1-33. (1) Except as otherwise provided under subsection (6) of this section, it shall be the duty of the license examiner, when application is made for an operator's license or temporary driving permit, to test the applicant's ability to read and understand road signs and to give the required signals as adopted by the National Advisory Committee on Uniform Traffic Control Devices and the American Association of Motor Vehicle Administrators.

(2) Except as otherwise provided under subsection (6) of this section, the commissioner shall have prepared and administer a test composed of at least ten (10) questions relating to the safe operation of a motor vehicle and testing the applicant's knowledge of the proper operation of a motor vehicle. Every examination shall ensure adequate knowledge on the part of the applicant as to school bus safety requirements.

(3) Prior to the administration of the test, the license examiner shall inspect the horn, lights, brakes, inspection certificate and vehicle registration of the motor vehicle which the applicant expects to operate while being tested, and if he finds that any of the aforementioned items are deficient, no license or endorsement shall be issued to the applicant until same have been repaired.

(4) An applicant for a Mississippi driver's license who, at the time of application, holds a valid motor vehicle driver's

license issued by another state shall not be required to take a written test.

(5) Except as otherwise provided by Section 63-1-6, when application is made for an original motorcycle endorsement or a restricted motorcycle operator's license, the applicant shall be required to pass a written test which consists of questions relating to the safe operation of a motorcycle and a skill test similar to the "Motorcycle Operator Skill Test," which is endorsed by the American Association of Motor Vehicle Administrators. The commissioner may exempt any applicant from the skill test if the applicant presents a certificate showing successful completion of a course approved by the commissioner, which includes a similar examination of skills needed in the safe operation of a motorcycle.

(6) The Department of Public Safety may accept the certification of successful completion of an individual's training in the knowledge and skills needed for the proper and safe operation of a motor vehicle from a driver education and training program at a secondary school that meets the standards of the department, in lieu of the department administering the examination of the individual for the purpose of obtaining a driver's license. The commissioner and the State Board of Education shall jointly promulgate rules and regulations for the administration of this subsection.

SECTION 6. Every school district is authorized to mount a camera on any retractable, hand-operated stop sign that is a part of the equipment of a school bus.

SECTION 7. To the extent that state, federal or other funds are available or appropriated, the Department of Transportation and the Department of Education shall cooperate to conduct an information campaign to educate drivers concerning the provisions of this act and the importance of school bus safety.

SECTION 8. (1) There is created the Mississippi School Bus Safety Task Force which shall be composed of nine (9) members as follows:

(a) Three (3) members appointed by the Speaker of the House of Representatives, one (1) of whom shall be appointed from the membership of the House of Representatives;

(b) Three (3) members appointed by the Lieutenant Governor, one (1) of whom shall be appointed from the membership of the Senate; and

(c) Three (3) members appointed by the Governor.

(2) At its first meeting, the task force shall elect a chairman and vice chairman from its membership and shall adopt rules for transacting its business and keeping records. Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41; legislative members of the task force shall receive the expense allowance provided for in Section 5-1-47.

(3) The duties of the task force shall be to:

(a) Make a comprehensive study of school bus safety designs and technology related to safety and law enforcement.

(b) Examine and study approaches taken by other states in the implementation and costs of school bus safety.

(c) Research and develop recommendations relating to school bus safety.

(4) The task force shall publish its findings and recommendations with any proposed legislation in a report to the Governor and the Legislature to be made on or before December 31, 2011.

(5) The task force shall stand dissolved on January 1, 2012.

SECTION 9. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE SENATE
March 25, 2011

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 26, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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