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Chapter No. 478
15/HR40/R931SG
Ed Job

HOUSE BILL NO. 555

Originated in House

Arbunton

Clerk

HOUSE BILL NO. 555

AN ACT TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972, TO REVISE CONDITIONS FOR DISMISSAL OF CERTAIN ACTIONS; TO CLARIFY WHICH PROVISIONS OF LAW CONTROL NONADJUDICATION FOR VIOLATIONS UNDER THE MISSISSIPPI IMPLIED CONSENT LAW; TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS OF THE IMPLIED CONSENT LAW; TO AMEND SECTION 63-11-31, MISSISSIPPI CODE OF 1972, TO EXCLUDE PERSONS WHO HAVE BEEN CONVICTED FOR CONTROLLED SUBSTANCES DUI FROM EXERCISING THE PRIVILEGE OF DRIVING UNDER AN INTERLOCK-RESTRICTED LICENSE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 99-15-26, Mississippi Code of 1972, is amended as follows:

99-15-26. (1) (a) In all criminal cases, felony and misdemeanor, other than crimes against the person, a crime of violence as defined in Section 97-3-2 or a violation of Section 97-11-31, the circuit or county court shall be empowered, upon the entry of a plea of guilty by a criminal defendant made on or after July 1, 2014, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.

(b) In all misdemeanor criminal cases, other than crimes against the person, the justice or municipal court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.

(c) Notwithstanding * * * paragraph (a) of this subsection (1), in all criminal cases charging a misdemeanor of domestic violence as defined in Section 99-3-7(5) * * *, a circuit, county, justice or municipal court shall be empowered, upon the entry of a plea of guilty by the criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.

(d) No person having previously qualified under the provisions of this section shall be eligible to qualify for release in accordance with this section for a repeat offense. A person shall not be eligible to qualify for release in accordance with this section if charged with the offense of trafficking of a controlled substance as provided in Section 41-29-139(f) or if charged with an offense under the Mississippi Implied Consent Law. Violations under the Mississippi Implied Consent Law can only be nonadjudicated under the provisions of Section 63-11-30.

(2) (a) Conditions which the circuit, county, justice or municipal court may impose under subsection (1) of this section shall consist of:

(i) Reasonable restitution to the victim of the crime.

(ii) Performance of not more than nine hundred sixty (960) hours of public service work approved by the court.

(iii) Payment of a fine not to exceed the statutory limit.

(iv) Successful completion of drug, alcohol, psychological or psychiatric treatment, successful completion of a program designed to bring about the cessation of domestic abuse, or any combination thereof, if the court deems treatment necessary.

(v) The circuit or county court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed five (5) years. The justice or municipal court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed two (2) years.

(b) Conditions which the circuit or county court may impose under subsection (1) of this section also include successful completion of a regimented inmate discipline program.

(3) When the court has imposed upon the defendant the conditions set out in this section, the court shall release the bail bond, if any.

(4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.

(5) Upon petition therefor, the court shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

* * *

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

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

(a) Is under the influence of intoxicating liquor;

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

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

(d) Has an alcohol concentration in the person's blood, based upon grams of alcohol per one hundred (100) milliliters of blood, or grams of alcohol per two hundred ten (210) liters of

breath, as shown by a chemical analysis of the person's breath, blood or urine administered as authorized by this chapter, of:

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

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

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

(2) (a) **First offense DUI.** (i) Except as otherwise provided in subsection (3) of this section, upon conviction of any person for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned for not more than forty-eight (48) hours in jail, or both; the court shall order the person to attend and complete an alcohol safety education program as provided in Section 63-11-32 within one (1) year. The court may substitute attendance at a victim impact panel instead of forty-eight (48) hours in jail. * * * Thirty (30) days after receipt of the court abstract, the Department of Public Safety shall suspend the driver's license and driving privileges of the person for ninety (90) days unless

the person has surrendered his driver's license to be voided and obtained a new driver's license that is restricted to operation of vehicles equipped with an ignition-interlock device that complies with Section 63-11-31; the person will not be eligible for an unrestricted license for ninety (90) days and until the person has attended and successfully completed an alcohol safety education program as provided in Section 63-11-32.

(ii) Commercial driving privileges shall be suspended as provided in Section 63-1-216 for a violation of subsection (1) of this section.

(iii) A qualifying first offense under subsection (1) of this section may be nonadjudicated by the court under subsection (14) of this section. The holder of a commercial driver's license or a commercial learning permit is ineligible for nonadjudication.

(b) **Second offense DUI.** (i) Except as otherwise provided in subsection (3), upon any second conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be fined not less than Six Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00), shall be imprisoned not less than five (5) days nor more than one (1) year and sentenced to community service work for not less than ten (10) days nor more than one (1) year. The minimum penalties shall not be suspended or reduced by the court and no prosecutor shall offer

any suspension or sentence reduction as part of a plea bargain.

* * * Thirty (30) days after receipt of the court abstract, the Department of Public Safety shall suspend the driver's license of the person for one (1) year unless the person has surrendered his driver's license to be voided and obtained a new driver's license that is restricted to operation of vehicles equipped with an ignition-interlock device that complies with Section 63-11-31; the person will not be eligible for an unrestricted license until the person has either been subject to a full one-year suspension of license or has exercised the driving privilege solely under an interlock-restricted driver's license for one (1) full year.

(ii) Suspension of commercial driving privileges shall be governed by Section 63-1-216.

(c) **Third and subsequent offense DUI.** (i) Except as otherwise provided in subsection (3), for any third conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be guilty of a felony and fined not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00), and shall serve not less than one (1) year nor more than five (5) years in the custody of the Department of Corrections. For any offense that does not result in serious injury or death to any person, the sentence of incarceration may be served in the county jail rather than in the State Penitentiary at the discretion of the circuit court judge. The minimum

penalties shall not be suspended or reduced by the court and no prosecutor shall offer any suspension or sentence reduction as part of a plea bargain. The person may exercise the privilege to drive only under a driver's license that is restricted to operation of vehicles equipped with an ignition-interlock device that complies with Section 63-11-31 for three (3) years following release from incarceration and will not be eligible for an unrestricted driver's license for three (3) years.

(ii) The suspension of commercial driving privileges shall be governed by Section 63-1-216.

(d) Except as otherwise provided in subsection (3), any person convicted of a second or subsequent violation of subsection (1) of this section shall receive an in-depth diagnostic assessment, and if as a result of the assessment is determined to be in need of treatment for alcohol or drug abuse, the person shall successfully complete treatment at a program site certified by the Department of Mental Health. Each person who receives a diagnostic assessment shall pay a fee representing the cost of the assessment. Each person who participates in a treatment program shall pay a fee representing the cost of treatment.

(e) The use of ignition-interlock devices shall be as provided in Section 63-11-31.

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

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

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

(ii) Upon conviction of any person under the age of twenty-one (21) years for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined Two Hundred Fifty Dollars (\$250.00); the court shall order the person to attend and complete an alcohol safety education program as provided in Section 63-11-32 within one (1) year. * * * Thirty (30) days after receipt of the court abstract, the Department of Public Safety shall suspend the driver's license and driving privileges of the person for ninety (90) days unless the person has surrendered his driver's license to be voided and obtained a new driver's license that is restricted to operation of vehicles equipped with an ignition-interlock device that complies with Section 63-11-31; the person will not be eligible for any other form of license for ninety (90) days. The court may also require attendance at a victim impact panel.

(c) A person under the age of twenty-one (21) years who is convicted of a second violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than Five Hundred Dollars (\$500.00). * * * Thirty (30) days after receipt of the court abstract, the Department of Public Safety shall suspend the driver's license of the person for one (1) year unless the person has surrendered his driver's license to be voided and obtained a new driver's license that is restricted to operation of vehicles equipped with an ignition-interlock device that complies with Section 63-11-31; the person will not be eligible for an unrestricted license until the person has either been subject to a full one-year suspension or has exercised the driving privilege solely under an interlock-restricted license for one (1) full year.

(d) A person under the age of twenty-one (21) years who is convicted of a third or subsequent violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than One Thousand Dollars (\$1,000.00) and, upon receipt of the court abstract, the Department of Public Safety shall suspend the driver's license of the person until the person reaches the age of twenty-one (21) or for two (2) years, whichever is longer.

(e) Any person under the age of twenty-one (21) years convicted of a second violation of subsection (1) of this section,

may have the period of driver's license suspension reduced to six (6) months if the person receives an in-depth diagnostic assessment, and as a result of the assessment is determined to be in need of treatment for alcohol or drug abuse and successfully completes treatment for alcohol or drug abuse at a program site certified by the Department of Mental Health. Each person who receives a diagnostic assessment shall pay a fee representing the cost of such assessment. Each person who participates in a treatment program shall pay a fee representing the cost of such treatment.

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

(4) **DUI test refusal.** In addition to the other penalties provided in this section, every person refusing a law enforcement officer's request to submit to a chemical test of the person's breath as provided in this chapter, or who was unconscious at the time of a chemical test and refused to consent to the introduction of the results of the test in any prosecution, shall suffer an additional administrative suspension of driving privileges as set forth in Section 63-11-23 unless the person surrenders his driver's license to be voided and obtains a new driver's license that is restricted to operation of vehicles equipped with an ignition_interlock device that complies with Section 63-11-31; the

person will be limited to exercise of the driving privilege only under an interlock-restricted driver's license for twice the period imposed for administrative driver's license suspension under Section 63-11-23. Any other license restriction or suspension imposed upon the person under this chapter will run consecutively and not concurrently with the administrative suspension for test refusal imposed under this section or Section 63-11-23.

(5) **Aggravated DUI.** (a) Every person who operates any motor vehicle in violation of the provisions of subsection (1) of this section and who in a negligent manner causes the death of another or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other limb, organ or member of another shall, upon conviction, be guilty of a separate felony for each victim who suffers death, mutilation, disfigurement or other injury and shall be committed to the custody of the State Department of Corrections for a period of time of not less than five (5) years and not to exceed twenty-five (25) years for each death, mutilation, disfigurement or other injury, and the imprisonment for the second or each subsequent conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with the preceding conviction. Any person charged with causing the death of another as described in this subsection shall be required to post bail before being released after arrest.

(b) The court may order an ignition-interlock restriction on the offender's privilege to drive as a condition of probation or post-release supervision not to exceed four (4) years.

(6) **DUI citations.** Upon conviction of any violation of subsection (1) of this section, the trial judge shall sign in the place provided on the traffic ticket, citation or affidavit stating that the person arrested either employed an attorney or waived his right to an attorney after having been properly advised. If the person arrested employed an attorney, the name, address and telephone number of the attorney shall be written on the ticket, citation or affidavit. The court clerk shall send a copy of the traffic ticket, citation or affidavit, and any other pertinent documents concerning the conviction or other order of the court, to the Department of Public Safety. A copy of the traffic ticket, citation or affidavit and any other pertinent documents, having been attested as true and correct by the Commissioner of Public Safety, or his designee, shall be sufficient proof of the conviction for purposes of determining the enhanced penalty for any subsequent convictions of violations of subsection (1) of this section.

(7) **Out-of-state prior convictions.** Convictions in another state, territory or possession of the United States, or under the law of a federally recognized Native American tribe, of violations for driving or operating a vehicle while under the influence of an

intoxicating liquor or while under the influence of any other substance that has impaired the person's ability to operate a motor vehicle occurring within five (5) years before an offense shall be counted for the purposes of determining if a violation of subsection (1) of this section is a second, third or subsequent offense and the penalty that shall be imposed upon conviction for a violation of subsection (1) of this section.

(8) **Charging of subsequent offenses.** For the purposes of determining how to impose the sentence for a second, third or subsequent conviction under this section, the affidavit or indictment shall not be required to enumerate previous convictions. It shall only be necessary that the affidavit or indictment state the number of times that the defendant has been convicted and sentenced within the past five (5) years under this section to determine if an enhanced penalty shall be imposed. The amount of fine and imprisonment imposed in previous convictions shall not be considered in calculating offenses to determine a second, third or subsequent offense of this section.

(9) **License eligibility for underage offenders.** Any person under the legal age to obtain a license to operate a motor vehicle convicted under this section shall not be eligible to receive a driver's license until the person reaches the age of eighteen (18) years.

(10) **License suspensions and restrictions to run consecutively.** Suspension or restriction of driving privileges

for any person convicted of or nonadjudicated for violations of subsection (1) of this section shall run consecutively and not concurrently.

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

(12) **DUI child endangerment.** A person over the age of twenty-one (21) who violates subsection (1) of this section while transporting in a motor vehicle a child under the age of sixteen (16) years is guilty of the separate offense of endangering a child by driving under the influence of alcohol or any other substance which has impaired the person's ability to operate a motor vehicle. The offense of endangering a child by driving under the influence of alcohol or any other substance which has impaired the person's ability to operate a motor vehicle shall not be merged with an offense of violating subsection (1) of this section for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished as follows:

(a) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a first conviction shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand

Dollars (\$1,000.00) or shall be imprisoned for not more than twelve (12) months, or both;

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

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

(d) A person who commits a violation of this subsection which results in the serious injury or death of a child, without regard to whether the offense was a first, second, third or subsequent offense, shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Ten Thousand Dollars (\$10,000.00) and shall be imprisoned for not less than five (5) years nor more than twenty-five (25) years.

(13) **Expunction.** (a) Any person convicted under subsection (2) or (3) of this section of a first offense of driving under the influence and who was not the holder of a commercial driver's license or a commercial learning permit may petition the circuit

court of the county in which the conviction was had for an order to expunge the record of the conviction at least five (5) years after successful completion of all terms and conditions of the sentence imposed for the conviction. Expunction under this subsection will only be available to a person:

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

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

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

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

(v) Who has provided the court with justification as to why the conviction should be expunged.

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

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

(14) **Nonadjudication.** (a) For the purposes of this chapter, "nonadjudication" means that the court withholds adjudication of guilt, either at the conclusion of a trial on the merits, or upon the entry of a plea of guilt by a defendant. Nonadjudication must be conditioned upon the successful completion of any conditions imposed by the court under this subsection.

(b) The court may rule that a * * * first offense under subsection (1) or (3) of this section be nonadjudicated. A person is eligible for nonadjudication only one (1) time under any provision of a law that authorizes nonadjudication. * * *

(c) Nonadjudication may be initiated upon the filing of a petition for nonadjudication or at any stage of the proceedings before conviction in the discretion of the court; the court may withhold adjudication of guilt, defer sentencing, and enter an order imposing requirements on the offender.

(i) The court shall order the person to:

1. Pay the nonadjudication fee imposed under Section 63-11-31;

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

3. Attend and complete an alcohol safety education program as provided in Section 63-11-32;

4. a. Install an ignition-interlock device on every motor vehicle driven by the person, obtain an

interlock-restricted license, and maintain that license for one hundred twenty (120) days * * *; or

b. Suffer a one-hundred-twenty-day suspension of the person's driver's license, whether the license is an in-state or out-of-state driver's license.

* * *

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

(d) The court may enter an order of nonadjudication only if the court finds, after a hearing, that the offender has successfully completed all conditions imposed by law and previous orders of the court. The court shall retain jurisdiction over cases involving nonadjudication for a period of not more than two (2) years.

(e) The clerk shall forward a record of every nonadjudicated case to the Department of Public Safety which shall maintain a confidential registry of all cases that are nonadjudicated as provided in this subsection (14). Judges, clerks and prosecutors involved in the trial of implied consent violations shall have access to the confidential registry for the purpose of determining whether a person has previously been the

subject of a nonadjudicated case and is therefore ineligible for another nonadjudication. The Driver Services Bureau of the department shall have access to the confidential registry for the purpose of determining whether a person is eligible for a form of license not restricted to operating a vehicle equipped with an ignition-interlock device. The Mississippi Alcohol Safety Education Program shall have access to the confidential registry for research purposes only.

SECTION 3. Section 63-11-31, Mississippi Code of 1972, is amended as follows:

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

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

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

(c) A person who can exercise the privilege of driving only under an interlock-restricted license:

(i) Must have an ignition-interlock device installed and operating on all motor vehicles driven by the person; * * *

(ii) If the person does not obtain an interlock-restricted license within * * * thirty (30) days after the department receives the court abstract of a conviction or other order affecting the person's privilege to drive under Section 63-11-30:

1. The Department of Public Safety must suspend the person's driving privilege; notice of the suspension shall be given as provided in Section 63-1-52; and

2. For a second or subsequent violation of Section 63-11-30, all motor vehicles owned by the person must be either impounded or immobilized as provided in subsection (6) of this section * * *; and

(iii) Must not be charged under Section 63-11-30 for driving under the influence of any drug or controlled substance under the Mississippi Controlled Substances Law.

(d) A person who installs an ignition-interlock device and obtains an interlock-restricted license before conviction or nonadjudication shall be given credit for the time period the ignition-interlock device has been in use at the time of sentencing or nonadjudication.

(2) (a) The cost of installation and operation of an ignition-interlock device shall be borne by the person to whom an interlock-restricted driver's license is issued unless the person is determined to be indigent.

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

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

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

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

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

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

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

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

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

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

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

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

(b) A violation of this subsection (4) is a misdemeanor and upon conviction the violator shall be fined an amount not less

than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both, unless the starting of a motor vehicle equipped with an ignition_interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the restriction does not operate the vehicle.

(5) (a) In order to obtain an interlock_restricted license, a person must:

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

(ii) Submit proof that an ignition_interlock device is installed and operating on all motor vehicles driven by the person; and

(iii) Pay the fee set forth in Section 63-1-43 to obtain the license.

(b) (i) If the person's privilege to drive has been suspended due to the person's violation of Section 63-11-30, the person must also pay the reinstatement fee set forth in Section 63-1-46(2)(a).

(ii) If the person obtains an interlock_restricted license before suspension of the driving privilege is imposed, the reinstatement fee will not be assessed.

(6) (a) In addition to the penalties authorized for any second or subsequent conviction under Section 63-11-30, the court

shall order that all vehicles owned by the offender that are not equipped with an ignition-interlock device must be either impounded or immobilized pending further order of the court lifting the offender's driving restriction. However, no county, municipality, sheriff's department or the Department of Public Safety shall be required to keep, store, maintain, serve as a bailee or otherwise exercise custody over a motor vehicle impounded under the provisions of this section. The cost associated with any impoundment or immobilization shall be paid by the person convicted without regard to ability to pay.

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

(7) (a) The Department of Public Safety shall promulgate rules and regulations for the use of monies in the Interlock Device Fund to offset the cost of device installation and operation by indigent offenders.

(b) Indigence shall be determined based on proof of enrollment in one or more of the following types of public assistance:

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

(ii) Medicaid assistance;

(iii) The Supplemental Nutritional Assistance Program (SNAP), also known as "food stamps";

(iv) Supplemental security income (SSI);

(v) Participation in a federal food distribution program;

(vi) Federal housing assistance;

(vii) Unemployment compensation; or

(viii) Other criteria approved by the department.

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

(d) (i) Money in the Interlock Device Fund will be appropriated to the department to cover part of the costs of installing, removing and leasing ignition-interlock devices for indigent people who are required, pursuant to a conviction or nonadjudication under Section 63-11-30, to install an ignition-interlock device in all vehicles driven by the person.

(ii) If money is available in the Interlock Device Fund, the department shall pay to the vendor, for one (1) vehicle per offender, up to Fifty Dollars (\$50.00) for the cost of installation, up to Fifty Dollars (\$50.00) for the cost of removal, and up to Thirty Dollars (\$30.00) monthly for verified

active usage of the ignition-interlock device. The department shall not pay any amount above what an offender would be required to pay for the installation, removal or usage of an ignition-interlock device.

(8) In order to reinstate a form of driver's license that is not restricted to operation of an ignition-interlock equipped vehicle, the person must:

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

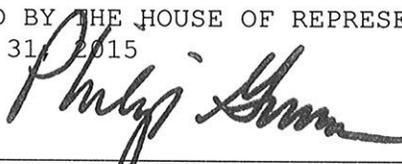
(b) Pay the reinstatement fee required under Section 63-1-46(1)(a);

(c) Pay the driver's license fee required under Section 63-1-43.

(9) Jurisdiction of an offense under this section shall lie in the court that originally ordered installation of the ignition-interlock device for a violation of Section 63-11-30.

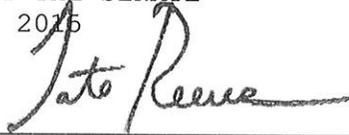
SECTION 4. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2015



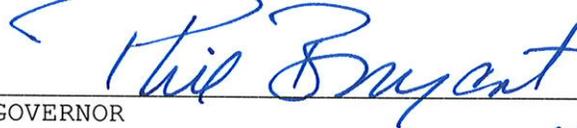
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 1, 2015



PRESIDENT OF THE SENATE

~~APPROVED BY THE GOVERNOR~~



GOVERNOR

4/22/15
5:09pm