

By: Senator(s) Butler

To: Judiciary, Division B

SENATE BILL NO. 2280
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 63-1-9, MISSISSIPPI CODE OF 1972, TO
2 INCREASE FROM SIX MONTHS TO ONE YEAR THE MINIMUM PERIOD OF TIME
3 THAT AN APPLICANT FOR AN INTERMEDIATE DRIVER'S LICENSE MUST HOLD A
4 TEMPORARY DRIVING PERMIT; TO AMEND SECTION 63-1-10, MISSISSIPPI
5 CODE OF 1972, TO REQUIRE PUBLIC SCHOOLS TO SUBMIT TO THE
6 DEPARTMENT OF PUBLIC SAFETY DOCUMENTATION VERIFYING THAT AN
7 APPLICANT FOR A DRIVER'S LICENSE, INTERMEDIATE LICENSE OR
8 TEMPORARY LEARNING PERMIT UNDER THE AGE OF 18 IS ENROLLED IN
9 SCHOOL OR EXCUSED DUE TO ACCEPTABLE CIRCUMSTANCES IF THE APPLICANT
10 HAS NOT YET GRADUATED OR EARNED A GENERAL EDUCATIONAL DEVELOPMENT
11 (GED) CERTIFICATE AND TO ENCOURAGE NONPUBLIC SCHOOLS TO SUBMIT THE
12 DOCUMENTATION ON BEHALF OF AN APPLICANT; TO AMEND SECTION 63-1-21,
13 MISSISSIPPI CODE OF 1972, TO REVISE THE HOURS DURING WHICH AN
14 INTERMEDIATE DRIVER'S LICENSEE MAY DRIVE UNSUPERVISED; TO AMEND
15 SECTION 63-1-47, MISSISSIPPI CODE OF 1972, TO REQUIRE APPLICATIONS
16 BY OPERATORS UNDER EIGHTEEN YEARS OF AGE TO BE ACCOMPANIED BY
17 DOCUMENTATION AUTHORIZING THE RELEASE OF ATTENDANCE RECORDS TO THE
18 DEPARTMENT OF PUBLIC SAFETY; TO CREATE A NEW SECTION TO PROHIBIT
19 THOSE DRIVERS HOLDING AN INTERMEDIATE LICENSE OR TEMPORARY
20 LEARNING OR DRIVING PERMIT FROM SENDING OR RECEIVING WRITTEN
21 MESSAGES WHILE DRIVING; TO PROVIDE EXEMPTIONS FROM THE
22 PROHIBITION; TO PROVIDE PENALTIES FOR VIOLATIONS OF THE
23 PROHIBITION; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** Section 63-1-9, Mississippi Code of 1972, is
26 amended as follows:

27 63-1-9. (1) No driver's license, intermediate license or
28 temporary learning permit shall be issued pursuant to this
29 article:

30 (a) To any person under the age of eighteen (18) years
31 except as provided in this article.

32 (b) To any person whose license to operate a motor
33 vehicle on the highways of Mississippi has been previously revoked
34 or suspended by this state or any other state or territory of the
35 United States or the District of Columbia, if the revocation or
36 suspension period has not expired.



37 (c) To any person who is an habitual drunkard or who is
38 addicted to the use of other narcotic drugs.

39 (d) To any person who would not be able by reason of
40 physical or mental disability, in the opinion of the commissioner
41 or other person authorized to grant an operator's license, to
42 operate a motor vehicle on the highways with safety. However,
43 persons who have one (1) arm or leg, or have arms or legs
44 deformed, and are driving a car provided with mechanical devices
45 whereby the person is able to drive in a safe manner over the
46 highways, if otherwise qualified, shall receive an operator's
47 license the same as other persons. Moreover, deafness shall not
48 be a bar to obtaining a license.

49 (e) To any person who is under the age of seventeen
50 (17) years to drive any motor vehicle while in use as a school bus
51 for the transportation of pupils to or from school, or to drive
52 any motor vehicle while in use as a public or common carrier of
53 persons or property.

54 (f) To any person as an operator who has previously
55 been adjudged to be afflicted with and suffering from any mental
56 disability and who has not at time of application been restored to
57 mental competency.

58 (g) To any unmarried person under the age of eighteen
59 (18) years who does not at the time of application present a
60 diploma or other certificate of high school graduation or a
61 general educational development certificate issued to the person
62 in this state or any other state; or on whose behalf documentation
63 has not been received by the Department of Public Safety from that
64 person or a school official verifying that the person:

65 (i) Is enrolled and making satisfactory progress
66 in a course leading to a general educational development
67 certificate;

68 (ii) Is enrolled in school in this state or any
69 other state;



70 (iii) Is enrolled in a "nonpublic school," as such
71 term is defined in Section 37-13-91(2)(i); or

72 (iv) Is unable to attend any school program due to
73 circumstances deemed acceptable as set out in Section 63-1-10.

74 (h) To any person under the age of eighteen (18) years
75 who has been convicted under Section 63-11-30.

76 (2) All permits and licenses issued on or before July 31,
77 2009, shall be valid according to the terms upon which issued.
78 From and after August 1, 2009:

79 (a) A temporary driving permit may be issued to any
80 person who is at least fifteen (15) years of age who otherwise
81 meets the requirements of this article.

82 (b) An intermediate license may be issued to any person
83 who is at least sixteen (16) years of age who otherwise meets the
84 requirements of this article and who has held a temporary driving
85 permit for at least one (1) year without any conviction under
86 Section 63-11-30 or of a moving violation. Any conviction under
87 Section 63-11-30 or of a moving violation shall restart the
88 one-year requirement for the holding of a temporary driving permit
89 before an applicant can qualify for an intermediate license.

90 (c) A driver's license may be issued to any person who
91 is at least sixteen and one-half (16-1/2) years of age who
92 otherwise meets the requirements of this article and who has held
93 an intermediate license for at least six (6) months without any
94 conviction under Section 63-11-30 or of a moving violation. Any
95 conviction under Section 63-11-30 or of a moving violation shall
96 restart the six-month requirement for the holding of an
97 intermediate license before an applicant can qualify for a
98 driver's license. However, a person who is at least seventeen
99 (17) years of age who has been issued a temporary driving permit
100 and who has never been convicted under Section 63-11-30 or of a
101 moving violation shall not be required to have held an
102 intermediate license.



103 (d) An applicant for a Mississippi driver's license
104 who, at the time of application, is at least sixteen and one-half
105 (16-1/2) years of age and who has held a valid motor vehicle
106 driver's license issued by another state for at least six (6)
107 months shall not be required to hold a temporary driving permit or
108 an intermediate license before being issued a driver's license.

109 (3) The commissioner shall ensure that the temporary driving
110 permit, intermediate license and driver's license issued under
111 this article are clear, distinct and easily distinguishable from
112 one another.

113 **SECTION 2.** Section 63-1-10, Mississippi Code of 1972, is
114 amended as follows:

115 63-1-10. (1) Upon the written request of a parent or
116 guardian of any applicant for a license under eighteen (18) years
117 of age, the school district in which the applicant is enrolled
118 shall submit * * * documentation to the Department of Public
119 Safety verifying that the applicant is in compliance with Section
120 63-1-9(1)(g). The verification shall be signed by the school
121 principal * * * or his designee, or, in the case of a home study
122 program, the parent, or the adult education supervisor of the
123 General Educational Development Program or his designee. If the
124 student is enrolled in a nonpublic school, the school principal or
125 his designee is encouraged to submit the verification on behalf of
126 the student. Documentation of the applicant's enrollment status
127 shall be submitted on a form designed by the State Department of
128 Education that includes the written signed and notarized parent or
129 guardian's consent authorizing the release of the applicant's
130 attendance records to the Department of Public Safety, as approved
131 by the Department of Public Safety, in a manner that insures the
132 authenticity of the form and the information or signature
133 contained thereon, including via facsimile. * * * The forms
134 required under this section to provide documentation shall be made
135 available to all public high schools, private schools accredited



136 by the State Board of * * * Education, * * * adult education
137 supervisors at school board offices and, upon request, to others
138 through the Department of Public Safety.

139 (2) Whenever an applicant or licensee who is under eighteen
140 (18) years of age is unable to attend any school program due to
141 acceptable circumstances, the school where the student last
142 attended shall transmit documentation to * * * the department to
143 excuse such student from the provisions of Section 63-1-9(1)(g).
144 The school principal or his designee shall determine whether
145 nonattendance or absences are excused pursuant to Section
146 37-13-91. For purposes of this section, suspension or expulsion
147 from school or incarceration in a correctional institution is not
148 an acceptable circumstance for a person being unable to attend
149 school.

150 (3) Any person denied a license for failure to satisfy the
151 education requirements of Section 63-1-9(1)(g) shall have the
152 right to file a request within thirty (30) days thereafter for a
153 hearing before the Department of Public Safety to determine
154 whether the person is entitled to a license or is subject to the
155 cancellation of his license under the provisions of this section.
156 The hearing shall be held within ten (10) days of the receipt by
157 the department of the request. Appeal from the decision of the
158 department may be taken under Section 63-1-31.

159 **SECTION 3.** Section 63-1-21, Mississippi Code of 1972, is
160 amended as follows:

161 63-1-21. (1) Every applicant for a new or original driver's
162 or operator's license, except persons holding an out-of-state
163 license, shall first obtain a temporary driving permit upon the
164 payment of a fee of One Dollar (\$1.00) to the Department of Public
165 Safety and upon the successful completion of the examination
166 provided for in Section 63-1-33 and the payment of the fee for
167 such examination provided for in Section 63-1-43.



168 (2) A temporary driving permit entitles the holder, provided
169 the permit is in his immediate possession, to drive a motor
170 vehicle other than a motorcycle on the highways of the State of
171 Mississippi only when accompanied by a licensed operator who is at
172 least twenty-one (21) years of age and who is actually occupying
173 the seat beside the driver. A temporary driving permit may be
174 issued to any applicant who is at least fifteen (15) years of age.
175 A temporary driving permit shall be valid for a period of one (1)
176 year from the date of issue.

177 (3) An intermediate license allows unsupervised driving from
178 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to
179 11:30 p.m. Friday and Saturday, and allows unsupervised driving
180 any time for a person traveling directly to or from work. At all
181 other times the intermediate licensee must be supervised by a
182 parent, guardian or other person age twenty-one (21) years or
183 older who holds a valid driver's license under this article and
184 who is actually occupying the seat beside the driver.

185 (4) The fee for issuance of an intermediate license shall be
186 Five Dollars (\$5.00).

187 Except as otherwise provided by Section 63-1-6, every
188 applicant for a restricted motorcycle operator's license or a
189 motorcycle endorsement shall first obtain a temporary motorcycle
190 driving permit upon the payment of a fee of One Dollar (\$1.00) to
191 the Department of Public Safety, and upon the successful
192 completion of the examination provided for in Section 63-1-33, and
193 payment of the fee for said examination provided for in Section
194 63-1-43. All applicants for such temporary permit shall:

195 (a) Be at least fifteen (15) years of age;

196 (b) Operate a motorcycle only under the direct
197 supervision of a person at least twenty-one (21) years of age who
198 possesses either a valid driver's or operator's license with a
199 motorcycle endorsement or a valid restricted motorcycle operator's
200 license;



201 (c) Be prohibited from transporting a passenger on a
202 motorcycle;

203 (d) Be prohibited from operating a motorcycle upon any
204 controlled access highway; and

205 (e) Be prohibited from operating a motorcycle during
206 the hours of 6:00 p.m. through 6:00 a.m. Temporary motorcycle
207 driving permits shall be valid for the same period of time and may
208 be renewed upon the same conditions as temporary driving permits
209 issued for vehicles other than motorcycles.

210 (5) The Department of Public Safety may accept bank credit
211 cards and debit cards in payment of fees for identification card
212 renewals that are processed by electronic means and, if authorized
213 by general law, may charge an additional fee for the use of the
214 credit cards and debit cards.

215 **SECTION 4.** Section 63-1-47, Mississippi Code of 1972, is
216 amended as follows:

217 63-1-47. (1) Except as otherwise provided in this section,
218 each applicant for an original license issued pursuant to this
219 article, who is entitled to issuance of same, * * * shall be
220 issued a four-year license which will expire at midnight on the
221 licensee's birthday.

222 (a) Except as otherwise provided in this section, all
223 renewal licenses * * * shall be for four-year periods and may be
224 renewed any time within six (6) months before the expiration of
225 the license upon application and payment of the required fee,
226 unless required to be reexamined.

227 (b) From and after January 1, 1990, no commercial
228 driver's license shall be issued under the provisions of this
229 article for any commercial motor vehicle, the lawful operation of
230 which requires the driver to obtain a Class A, B or C commercial
231 driver's license under Article 2 of this chapter; however, from
232 time to time, the holder of a commercial license may apply for a
233 commercial driver's license under Article 2 of this chapter; and,



234 if he fails to pass the required test for such license, he shall
235 be entitled to an extension of his license that shall be valid for
236 one hundred twenty (120) days or until he again is tested under
237 Article 2 of this chapter, whichever occurs first. The extension
238 shall entitle the license holder to operate all vehicles which
239 such license authorized him to operate prior to taking the
240 required test. The first extension shall be without charge;
241 however, a fee of Fifteen Dollars (\$15.00) shall be imposed for
242 any subsequent extension. No extension shall be valid past March
243 31, 1992.

244 (2) Any commercial driver's license issued under this
245 article before January 1, 1990, which expires after March 31,
246 1992, shall be void on April 1, 1992, for the operation of any
247 commercial vehicle requiring a commercial license to be issued
248 under Article 2 of this chapter; however, if the holder of any
249 such license applies for a commercial driver's license under
250 Article 2 of this chapter, passes the required tests for such
251 license, pays all applicable fees under Article 2 of this chapter
252 except the Forty Dollars (\$40.00) license fee, and otherwise meets
253 all requirements for the issuance of such license, then such
254 person shall be issued a license under Article 2 of this chapter
255 which shall expire on the expiration date of the commercial
256 driver's license being replaced.

257 (3) The fee for the issuance of an original and renewals of
258 a Class D commercial driver's license under this article to an
259 applicant who is not a United States citizen and who does not
260 possess a social security number issued by the United States
261 government and the period for which such license will be valid and
262 expire shall be as prescribed in Section 63-1-43.

263 (4) The Commissioner of Public Safety shall notify, by
264 United States mail addressed to the last known address of record
265 with the Department of Public Safety, all holders of a commercial
266 driver's license issued under this article before January 1, 1990,



267 and which expire after March 31, 1992, that such license will be
268 void on and after April 1, 1992, for the operation of any vehicle
269 for which a commercial driver's license is required to be issued
270 under Article 2 of this chapter.

271 (5) Any person holding a valid commercial driver's license
272 issued under this article before January 1, 1990, shall continue
273 thereafter, until expiration of such license, to be entitled to
274 operate all vehicles which such license authorized him to operate
275 immediately before January 1, 1990, except that from and after
276 April 1, 1992, such license shall not entitle the licensee to
277 operate a commercial motor vehicle the lawful operation of which
278 requires a commercial driver's license under Article 2 of this
279 chapter.

280 (6) (a) * * * All applications by an operator under * * *
281 eighteen (18) years of age must be accompanied by documentation
282 that the applicant is in compliance with the education
283 requirements of Section 63-1-9(1)(g), and the documentation used
284 in establishing compliance must be dated no more than thirty (30)
285 days prior to the date of application.

286 (b) All applications by an operator under eighteen (18)
287 years of age, if applicable, must be accompanied by documentation
288 signed and notarized by the parent or guardian of the applicant
289 and the appropriate school official, authorizing the release of
290 the applicant's attendance records to the Department of Public
291 Safety as required under Section 63-1-10.

292 (7) Any license issued under this article to a person who is
293 not a United States citizen and who does not possess a social
294 security number issued by the United States government shall
295 expire one (1) year from the date of issuance and may be renewed,
296 if such person is otherwise qualified to renew such license,
297 within thirty (30) days of expiration. The fee for any such
298 license and for renewal shall be as prescribed in Section 63-1-43.



299 **SECTION 5.** (1) For purposes of this section, the following
300 terms shall have the meanings ascribed in this subsection, unless
301 the context clearly indicates otherwise:

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

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

309 (2) A person who is authorized to drive under an
310 intermediate license, a temporary learning permit or a temporary
311 driving permit, shall not operate a motor vehicle on a highway
312 while using a cellular telephone or a personal digital assistant
313 to send or receive a written message while the motor vehicle is in
314 motion.

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

316 (a) When the person is reporting reckless or negligent
317 behavior;

318 (b) When the person believes that he or another person
319 is in physical danger, but only if that person is the driver of,
320 and sole occupant in, the motor vehicle;

321 (c) The sending or receiving of a written message while
322 the vehicle is parked; and

323 (d) The use of a cellular telephone or a personal
324 digital assistant for the sole purpose of communicating with any
325 of the following regarding an emergency situation:

326 (i) An emergency response operator.

327 (ii) A hospital, physician's office or health
328 clinic.

329 (iii) A provider of ambulance services.

330 (iv) A provider of fire fighting services.

331 (v) A law enforcement agency.



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

335 (b) If the person violates this act at the time that he
336 is involved in a motor vehicle accident, then the violation is
337 punishable by a fine not to exceed One Thousand Dollars
338 (\$1,000.00).

339 (c) If the person is cited for violating this act, and
340 the alleged violation occurred at the time the person was involved
341 in a motor vehicle accident, and a written accident report is
342 required, then the law enforcement officer investigating the
343 accident shall indicate on the written accident form that the use
344 of a cellular telephone or a personal digital assistant to send or
345 receive a written message occurred at the time of the accident.

346 **SECTION 6.** The provisions of Section 5 of this act shall be
347 codified in Chapter 1, Title 63, Mississippi Code of 1972.

348 **SECTION 7.** This act shall take effect and be in force from
349 and after July 1, 2009.

