

**Mississippi Department of Public Safety
Crime Laboratory / Highway Safety Patrol
Implied Consent
Evidential Breath Alcohol Testing Training**



Evidential Breath Alcohol Testing Training



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Foreword

The MS Crime Laboratory (MCL), pursuant to MS Code 63-11-5 and 63-11-19 Implied Consent is authorized to approve satisfactory training of person's, required to certify the location of evidential breath alcohol instruments, the certification of the calibration of those instruments, and training of those persons conducting evidential breath alcohol testing in the state of Mississippi.

This manual is for the instruction, training and certification of those person's whose duties are described above. This training will also include verbal instructions and demonstration by qualified MS DPS personnel and/or designated agents.

It is MCL's intention that use of this manual will provide an environment for learning, educating, training and referencing by MS DPS personnel and/or designated agents.

This material does not supercede current state statute or implied consent policies and procedures. This material will be updated and modified when necessary or required.

Training Objectives

- Understanding of the terminology and functions of the breath analyzing instrument
- Perform a breath test procedure
- Identify forms pertaining to evidentiary breath test analysis and properly distribute those forms

Permits (Eligibility under MS. Code 63-11-19)

- MHP
- Sheriff or His Deputies
- City Policeman
- Officer of a State-Supported Institution of Higher Learning-Campus Police
- Pearl River Valley Supply District Security Officer (Ross Barnett Reservoir Policeman)
- National Park Ranger
- Military Policeman Stationed on U.S. Military Base within this State.
- Conversation Officer with Dept. of Wildlife, Fisheries and Parks.
- A Marine Law Enforcement Employed by the Department of Marine Resources.

Not Required to Have Minimum Standards Number for Breath Permit

- Park Ranger
- Choctaw Indians
- Military Officers
- Sheriffs
- Elected Police Chiefs

Note: Department of Corrections Officers are not issued breath alcohol permits.

Requirements to Receive a Breath Alcohol Permit (IP-51):

- Minimum standards number
- Submit application
- Attend Intoxilyzer 8000 Class
- Score at least 80% on written exam
- Complete and turn in a breath test performed on the Intoxilyzer 8000

Glossary

Alcohol Ethyl alcohol and may include isopropyl alcohol and methyl alcohol.

BrAC Breath Alcohol Concentration, measured as grams of alcohol per 210 liters of breath (g/210L).

Calibration Check The verification of evidentiary breath alcohol instruments accuracy using a certified dry gas standard and obtaining a result within ± 0.005 of the expected value.

Certifier of Calibration A person who has received specialized training in the operation and the calibration check of evidentiary breath alcohol instruments and is certified to perform calibration checks.

CMI, Inc. Company that manufactures the Intoxilyzer 8000 evidential breath alcohol test instrument.

Dry Gas Ethanol Standard A cylinder containing a known concentration of ethanol used to check the calibration of the Intoxilyzer 8000.

Evidentiary Breath Alcohol Instrument An instrument used for making a chemical analysis of breath and giving a resultant alcohol concentration for evidential purposes. Such instrument is listed in section 1700.200 in this chapter.

Implied Consent Any person who operates a motor vehicle upon the public highways, public roads and streets of this state shall be deemed to have given his consent, subject to the provisions of Mississippi Code 1972, Annotated, to a chemical test or tests of his breath for the purpose of determining alcohol concentration.

Intoxilyzer 8000 An automated, microprocessor controlled instrument utilizing infrared spectrophotometry used for evidentiary breath alcohol analysis.

Lot An entire batch of breath alcohol reference standard solution or dry gas ethanol standard.

Mouth Alcohol Residual alcohol in the mouth which typically dissipates in less than ten minutes.

NCIC The National Crime Information Center.

N.I.S.T. National Institute of Standards and Technology.

NO 0.020 AGREEMENT Operational message printed when consecutive subject tests differ by more than 0.020.

Observation Period A period during which the person being tested has been observed to determine that he has not ingested alcohol or other fluids, regurgitated, vomited, eaten, smoked, or placed anything into his mouth in the 20 minutes immediately prior to the collection of a breath sample.

Radio Frequency Interference (RFI Detect) The alcohol instrument detects interfering radio frequency and stops the testing procedure if RFI is detected.

Introduction

Evidential Breath Alcohol Testing Training

Since 1904 research data have shown that moderate to heavy drinkers are incapable of safely operating machinery, specifically motor vehicles. A cause and effect relationship exists between consumption of alcohol and the probability of a vehicle crash:

- In 2008 Mississippi had a total of 783 motor vehicle fatalities of these 297 (38%) were alcohol-related deaths according to the National Highway Traffic Safety Administration (NHTSA).

References

Beaty, R., & Cowan, M. Eds. Texas Breath Alcohol Testing Program: Operator Manual. 2001.

CMI, inc. 316 East Ninth Street Owensboro, Ky. 42303.

Garriott, James C. Ed. Medicolegal Aspects of Alcohol. Third Edition. 1996. Lawyers & Judges Publishing Company, Inc. Tucson, AZ.

Kalin, Jack R. and Ezell, Anna L. Eds. Forensic Ethanol Analysis and Interpretation. FTCB, April 1997, rev. May 1998.

Alcohol

Alcohols are organic compounds comprised of the atoms carbon, hydrogen and oxygen. The three most common are methanol, ethanol, and isopropanol. Alcohols are volatile compounds with low boiling points. Alcohols are miscible (infinitely soluble) in water. The different chemical structures of the alcohols play a role in how they are metabolized and their degree of toxicity.

Methanol

Referred to as methyl alcohol, “wood alcohol” - Consumption of small amounts can have life threatening implications. This toxicity is due to the chemicals formed when methanol is chemically changed, or metabolized by the body.

Isopropanol

Referred to as isopropyl alcohol – known as “rubbing alcohol” - Consumption of small amounts can have life threatening implications. This toxicity is due to the chemicals formed when isopropanol is chemically changed, or metabolized by the body.

Ethanol

Referred to as ethyl alcohol, grain alcohol, spirits, or simply alcohol - This is the type of alcohol that is consumed by an individual. Ethanol is a drug that affects human behavior and performance.

Throughout this manual, the terms, *alcohol*, *ethyl alcohol* and *ethanol* will be used interchangeably.

At room temperature, ethyl alcohol, a clear, and colorless liquid having a slight odor, is miscible (meaning that the alcohol and water will mix in all proportions). Ethanol is also used as a solvent, an antiseptic or as an additive in certain fuels. Alcohol is found in some medications and mouthwashes. Regardless of the source, whiskey, or cold medication, the effects of alcohol on the human body are the same.

Most of the substances consumed by humans can be classified either as a food, a drug, or a poison. Ethanol can be considered all three.

- It's a **food** because the body uses it to produce energy.
- It's a **drug** because of its **depressant** effect upon the central nervous system.
- It's a **poison** because even small amounts damage and irritate tissue. Larger doses can cause coma and death.

What is one drink of alcohol defined as?

One drink is approximately ½ ounce of ethanol.

Therefore:

1 – 12oz beer

1 – 5-6 oz wine

1 – 1 oz of spirits (whiskeys or liquors)



All of these equal to about ½ ounce of ethanol making them each “One Drink”.

An individual’s rate of metabolism is fairly constant; however, elimination rates can vary from person to person. The range of reported elimination rates varies from approximately 0.012-0.030 g/210 L per hour. The higher rates usually occur in alcohol abusers or alcohol dependent persons.

Proof system

In the United States, the ethanol concentration of distilled beverages is defined by the proof system. Proof is twice the percentage of the alcohol content by volume.

$$\text{Proof} = 2 \times \% \text{ alcohol by volume}$$

$$\text{For example: } 100 \text{ proof} = 2 \times 50\%$$

Effects of Ethanol on the Body

Ethanol is a central nervous system depressant (CNS) with actions similar to narcotic drugs like morphine and heroin. The CNS, composed of the brain and the spinal cord, is the site where alcohol exerts its effects.

Generally, the desired effect (reduced inhibitions, increased self-confidence, and euphoria) of ethanol requires higher and higher doses which, in turn, affect all parts of the body. The concentration of ethanol in the blood is directly proportional to the effect on the brain and the CNS. Judgment is altered as individuals under the influence take risks they would not normally take. Motor skills (judgment, logic, reasoning, attention, vision, perception, tracking, and information processing) needed to safely operate a motor vehicle are directly affected by ethanol. The most serious toxic effect would be the depression of the respiration system which could lead to death.

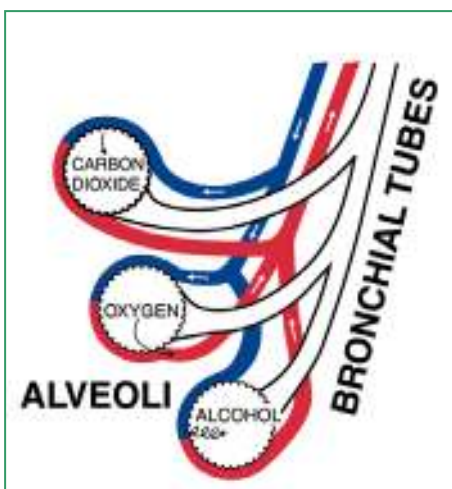
Ethanol can enter the body by injection, inhalation, or ingestion. Injection of ethyl alcohol can be extremely dangerous; however, inhalation of ethanol vapor does not lead to any significant accumulation of alcohol in the body. The most common route of human entry is ingestion or drinking of an alcoholic beverage. Ethyl alcohol is readily absorbed into the various tissues and organs of the body by the process of simple diffusion across mucous membranes. Ethanol is absorbed, not digested.

Immediately after a sip of an alcoholic beverage, the breath would indicate a presence of alcohol in the mouth. If analyzed, this breath sample would not be an accurate reflection of the alcohol concentration in the person's body. This is referred to as residual alcohol or mouth alcohol.

Residual alcohol diminishes rapidly normally within 15 minutes. Proper testing procedures combined with current evidential breath alcohol testing devices eliminate residual alcohol from the test result.

Currently, there is no way to change the rate of elimination of ethanol from the body. Hot coffee, a cold shower, or vigorous exercise cannot alter the rate of elimination. Elimination of ethanol can only occur through time. The body needs sufficient time to metabolize and excrete the consumed alcohol.

When alcohol is present in the body, a portion of that alcohol will be eliminated in the breath because the ethanol can readily pass through the thin alveolar membrane and be exhaled in the breath. The concentration of the alcohol in the alveolar breath is proportional to the amount of ethanol in the body.



Alcohol and Other Drugs

When ethyl alcohol is consumed in combination with other chemical agents, illicit, prescribed, or over-the-counter drugs, the symptoms of alcohol intoxication may be altered. This may explain the situation where an individual appears very intoxicated, but the alcohol test results are low.

Combining ethanol with other drugs can produce two types of effects: additive or synergistic. When one dose of a drug is combined with one dose of ethanol and the effect is equal to no more than the sum of the effects of the two drugs, the effect is said to be additive. A synergistic situation occurs when a drug is combined with ethanol and the end result is greater than the sum of the individual effects. There is no known drug that can lessen the effects of ethanol on a person's driving performance.

Impairment Without Ethanol

Ethyl alcohol is not the only agent that can produce the effects already described. Certain illnesses, diseases, or other drugs are able to produce symptoms similar to ethanol intoxication. Untreated diabetics or trauma victims may exhibit symptoms similar to ethanol intoxication.

Acetone, like ethanol, can cause impairment and may be mistaken for alcohol intoxication. Acetone can be present in an individual due to a prolonged fast, a low carbohydrate diet, untreated diabetes, or trauma victims. Modern evidential breath alcohol testing instruments can distinguish between acetone and ethyl alcohol, eliminating the possibility of acetone affecting the alcohol result.

Instrument Theory

Theory of Breath Alcohol

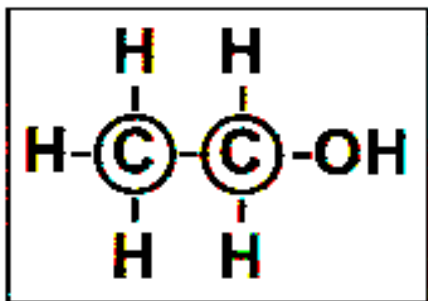
The basis of infrared breath analysis is the absorption of infrared energy by alcohol molecules in a breath specimen. The fundamental principal/theory is: *All things will absorb electromagnetic radiation in a unique and consistent manner.*

Since no two substances have the same molecular structure, it is possible to analyze or detect the presence of a substance based on the absorption capacity at various wavelengths of the infrared spectrum. This is done by using an instrument known as an infrared spectrophotometer or IR spec. The basis of infrared breath analysis is the absorption of infrared energy by alcohol molecules in a breath specimen.

Determination of Alcohol Concentration

The Intoxilyzer 8000 uses a law of chemistry and physics known as the Lambert-Beer Law to determine the alcohol concentration in a breath sample. This law states that the amount of energy absorbed by a particular substance is proportional to the number of absorbing molecules in the sample. The amount of infrared energy absorbed in a breath sample is proportional to the amount of alcohol present in a breath sample introduced into the instrument sample chamber. The Intoxilyzer reports the measured alcohol concentration in grams of alcohol per 210 liters of breath.

Ethanol Molecule



The ethanol molecule is composed of carbon, hydrogen and oxygen atoms that are held together by chemical bonds. These chemical bonds will absorb infrared energy in a specific manner. The specific wavelengths absorbed and the absorption pattern are unique to a given molecule, like a fingerprint of ethanol. The amount of infrared energy absorbed is proportional to the amount of ethanol present in a breath sample.

Ethanol Specificity – Intoxilyzer

The Intoxilyzer 8000 uses dual wavelength detectors of infrared energy to analyze for ethanol. Other substances, such as acetone, absorb infrared energy at some of the same wavelengths as ethanol; however, the absorption patterns of the two molecules are different. When the Intoxilyzer 8000 detects these differing absorption patterns, it will invalidate the test due to the presence of an interfering substance and print “Interferent Detect”.

Introduction to a Breath Test

Starting a Breath Test

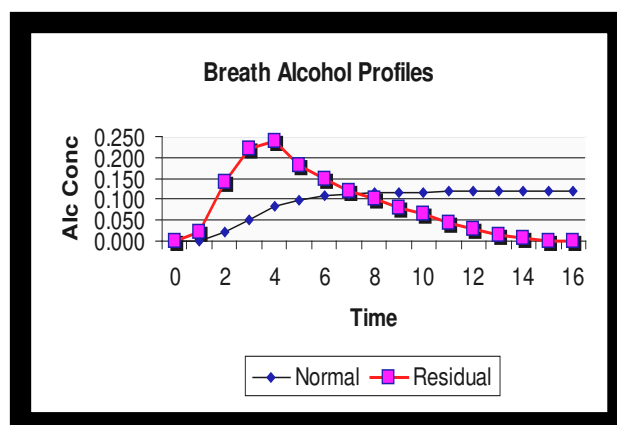
A breath test is initiated by pushing the START TEST BUTTON. If the instrument is in the STANDBY MODE press the START TEST BUTTON. When the instrument displays READY MODE press the START TEST BUTTON to initiate a breath test. The instrument will automatically conduct a systems diagnostics. The display will prompt the operator to swipe / scan his ID card or press enter. After the operator has completed the data entry, the instrument will begin the breath test sequence.

Data Entry

The Intoxilyzer 8000 is equipped with a key-board, magnetic card reader and 2-D Bar code scanner. Operator and test subject information can be entered into the instrument using any of these options.

Breath Sample Requirements

To satisfy the requirement that the breath sample be essentially alveolar, the Intoxilyzer 8000 has four requirements for each breath sample. First, the subject must blow with **sufficient flow** to sound the tone in the instrument. Second, this flow must be maintained continuously for a **minimum time**. Third, there must be a **minimum volume**. Fourth the **slope detector**, which monitors the rate of change in the alcohol concentration of the breath sample, must be satisfied.



Dry Gas Ethanol Standard

The dry gas ethanol standard is a 105 liter non-refillable cylinder containing a known ethanol concentration used to check the calibration of the breath alcohol instrument. These dry gas standards are certified by the manufacture with N.I.S.T. traceable ethanol standards. The Intoxilyzer 8000 analyzes a dry gas ethanol standard sample at the beginning and the end of each breath test sequence. The instrument delivers the dry gas ethanol standard to the sample chamber.

If the concentration of the ethanol standard does not come within the expected range the instrument will not allow a test to be completed.

There is an external pressure gauge on the regulator that allows for visual inspection of the tank pressure. A full cylinder will have between 1000 and 1100 psi.



Application to Conduct Breath Analysis (IP-51E)

DEPARTMENT OF PUBLIC SAFETY
MISSISSIPPI HIGHWAY SAFETY PATROL
IMPLIED CONSENT BRANCH

APPLICATION FOR PERMIT TO CONDUCT BREATH ANALYSIS

COMPLETE NAME: _____ SOCIAL SECURITY #: _____
U.S. CITIZEN: _____ BADGE #: _____ MS. RESIDENT: _____
EMPLOYED BY: _____ AGENCY CODE: _____ PHONE NUMBER: _____
BUSINESS ADDRESS: _____
COUNTY: _____ MS HWY PATROL DISTRICT NO: _____
JOB CLASSIFICATION: _____
ARE YOU CERTIFIED BY MINIMUM STANDARDS AS A LAW ENFORCEMENT OFFICER: _____
MINIMUM STANDARD NUMBER: _____
PERMIT RENEWAL: _____ NEW APPLICATION: _____
TRAINING REQUESTED ON INTOXILYZER MODEL 8000: _____
(PIN) PERSONAL IDENTIFICATION NUMBER: _____
PART TIME OR RESERVE: _____
BUI ONLY: _____
APPLICANT'S SIGNATURE: _____ DATE: _____



I CERTIFY THAT THE ABOVE NAMED APPLICANT IS EMPLOYED BY THE ABOVE SAID DEPARTMENT AS A SWORN LAW ENFORCEMENT OFFICER AND IS CERTIFIED AS SUCH BY THE MINIMUM STANDARD OF THE STATE OF MISSISSIPPI.

SIGNATURE OF AGENCY HEAD: _____
DEPARTMENT: _____
DATE: _____

Approved By: Mississippi Crime Laboratory & Commissioner of Public Safety

DPS/IP-11E (02/07)

OPERATOR CARD

The Operator has an Operator Card/Permit which is IP-51E.

This Operator Card is also the “Permit to Conduct Breath Analysis,” which is good for two (2) years.



The operator is required to obtain a valid Operator Card to operate the Mississippi Intoxilyzer 8000. When the Operator Card/Permit expires, the card will no longer operate the instrument and a new card needs to be issued.

From the OPERATOR CARD, IP-51E, the operator has three choices in which to enter his/her identification information:

- MAGNETIC STRIP (located on back of the IP-51E)
- 2D-BARCODE (located on back of the IP-51E)
- ENTERING THE INFORMATION IN BY HAND FROM THE KEYBOARD

Also, the operator has these same three choices in which to enter driver license information.

By using the Operator Card to enter operator information, the operator will check the information for correctness. If the information is incorrect, make change(s) as needed and contact the Implied Consent Record Office for correction(s) to be made.

Note: a replacement card will be issued as needed

Obtaining a Breath Test

After a minimum **20** minute observation period, a breath alcohol test can be performed.

The display may indicate “**Standby Mode**”. Press the **Start Test Button**, the instrument will enter the “**Ready Mode**”.

From the “**Ready Mode**”, the operator presses the **Green Start Test Button** to start a test.

From the display, an operator can follow the instructions to acquire a breath test.

Below are steps to obtain a breath test.



Starting from the “**Ready Mode**”.

Depress the START TEST BUTTON.

Operators that travel within the state (MHP) and operate instruments at another Agency, your Operator Agency Code will need to be changed. This is the Agency Code that appears on IP-12 or IP-14.

- **To advance to the next question in the data entry part of the testing sequence, press the ENTER button on the keyboard.**
- **To scroll through the drop-down menus in the data entry part of the testing sequence, use the pgUp or pgDn keys.**

Please swipe/scan ID Or press enter

Operator card IP-51E

Operator PIN #?

After the PIN is entered the Intoxilyzer will go through a series of questions about the operator, the operator agency, and the traffic (DUI) stop.

The Intoxilyzer will then prompt you to **swipe/scan DL or press enter.**

The Intoxilyzer will go through a series of questions about the subject, the DL, and the vehicle. Make sure to check the information on the display with the Drivers License. If corrections are needed, make those changes.

You will enter the time the observation began.

The warning will be given next. To move through the warning use the PgUp or PgDn keys.

The instrument will go through a series of questions about the court and then give the option of reviewing the data.

This will then start the analytical part of the testing sequence:

Air Blank

Diagnostics

Air Blank

Rslt:0.00

Reference

Cal Check

Air Blank

Rslt:0.00

Please Blow Until Tone Stops (Attach a new mouth Piece)

1st breath sample

(It is recommended that the mouth piece be removed after each breath sample.)

Air Blank

Rslt:0.00

Time (Remaining time between breath test)

Air Blank Rslt:0.00

Please Blow Until Tone Stops (Attach a new mouth Piece)

2nd breath sample

(It is recommended that the mouth piece be removed after each breath sample.)

Air Blank Rslt:0.00

Reference

Cal Check

Air Blank Rslt:0.00

Diagnostics

A tone will sound while the person is providing a breath sample.

A “/ “ will appear while the person is blowing followed by a “ – “ when the person has met the requirements of the instrument.

A “* “ indicates the sample requirements have been met and the person has stopped blowing.

With a negative or less than per se test violation the following actions by the instrument are performed:

Committed to? (jail)

Please wait printing forms..... IP-01E.

With a Positive test on a per se violation the following actions by the instrument are performed:

You have the right to make a telephone call for legal or medical assistance after being booked.

Warning given Y/N

N {if N – No will return to the beginning of warning} Press **Y** then **Enter**

Committed to?

License attached Y/N

N **OR** Press **Y** then Enter. If the answer is Y the instrument will begin to print the appropriate forms.

Why not?

Enter reason License is not attached or press enter.

Printing Forms..... IP-01E and IP-12E

With a Refusal the instrument will perform the following;

Refused breath test? N

IF the subject refuses to take the test, you need to change to Y.

Review data Y/N? N

For a correction on the above information press “Y” and enter.

The instrument will go through a series of questions about the court and then give the option of reviewing the data.

The Intoxilyzer will ask if the operator a series of questions about the indicators of impairment, answer Y or N.

You have the right to make a telephone call for legal or medical assistance after being booked.

Warning given Y/N

N {if N – No will return to the beginning of warning} Press Y then **Enter**

Committed to?

License attached Y/N N **OR** Press **Y** then Enter. If the answer is Y the instrument will begin to print the appropriate forms.

Why not? Enter reason License is not attached or press enter.

Printing Forms..... IP-01E and IP-14E

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) SMITH you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."

WARNING GIVEN: Y

Time of Observation Start: 13:00 Test Date: 09/27/2011 Start Test Time: 14:11

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36886 SN: 80-000651
Instrument Location: Lafayette S.O. Location Number: 070
Standard Lot #: AG112601 Standard Expiration: 05/06/2013

Sub Name: SMITH,JOHN,Q
Address: 123 WAVE HILL
City: IUKA State: MS Zip Code: 39703
Sub DOB: 02/02/1980 Sub Sex: M
Driver License Number: 4567876 SSN: 666-77-8888

Operator's Name: MILLS,TERRY,J

Test	BrAC(g/210L)	Time
Air Blank	0.000	14:18
Diagnostics	OK	14:18
Air Blank	0.000	14:18
Cal Check	0.083	14:19
Air Blank	0.000	14:19
Subject Test	0.098	14:20
Air Blank	0.000	14:20
Air Blank	0.000	14:21
Subject Test	0.101	14:21
Air Blank	0.000	14:22
Cal Check	0.083	14:22
Air Blank	0.000	14:23
Diagnostics	OK	14:23



BrAC g/210L
SMITH 0.09

Calibration of instrument certified to meet acceptable standards of accuracy. This certificate approved by the Mississippi State Crime Laboratory pursuant to Implied Consent Act, Sec. 63-11-19, Mississippi Code of 1972, Annotated.

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: N Violation: Y
Enforcement Agency: LAFAYETTE MHP
County and City where violation occurred: LAFAYETTE , OXFORD
Judge / Clerk: J KING LAFAYETTE JUSTICE COURT
Address: 123 NORTH AVE
Committed to: LAFAYETTE

Operator's Signature: _____ Citation/Ticket No: 232323
MILLS,TERRY,J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

COURT COPY

DPS/IP-01E (02/07)

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

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"Mr. (Mrs. or Ms.) SMITH you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
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Test	BrAC(g/210L)	Time
Air Blank	0.000	14:18
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Cal Check	0.083	14:19
Air Blank	0.000	14:19
Subject Test	0.098	14:20
Air Blank	0.000	14:20
Air Blank	0.000	14:21
Subject Test	0.101	14:21
Air Blank	0.000	14:22
Cal Check	0.083	14:22
Air Blank	0.000	14:23
Diagnostics	OK	14:23



BrAC g/210L
SMITH 0.09

Calibration of instrument certified to meet acceptable standards of accuracy. This certificate approved by the Mississippi State Crime Laboratory pursuant to Implied Consent Act, Sec. 63-11-19, Mississippi Code of 1972, Annotated.

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: N Violation: Y
Enforcement Agency: LAFAYETTE MHP
County and City where violation occurred: LAFAYETTE , OXFORD
Judge / Clerk: J KING LAFAYETTE JUSTICE COURT
Address: 123 NORTH AVE
Committed to: LAFAYETTE

Operator's Signature: _____ Citation/Ticket No: 232323
MILLS,TERRY,J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

TESTING OFFICER COPY

DPS/IP-01E (02/07)

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT HEREIN, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE:

LOCATION				AGENCY CODE	TRUCK NUMBER
JACKSON AVE				9036	232323
HIGHWAY/SHEET				4270	
DAY	DATE	TIME OF STOP	TIME OF TEST		
TUE	09/27/2011	13:00	14:11		
NAME (LAST, FIRST, MIDDLE)					
SMITH, JOHN, Q					
ADDRESS					
123 WAVE HILL					
CITY				STATE	ZIP CODE
JURA				MS	39703
DRIVER LICENSE NUMBER		STATE	BIRTH DATE	SEX	RACE
4567876		MS	02/02/1980	M	B
SOCIAL SECURITY		EXPIRATION		WEIGHT	
666-77-8888		02/02/2013		222	
EDUCATION	CED. LICENSE	CLASS	RESTRICTIONS	ENDORSEMENTS	
6-1	H	R	2	4	
VEHICLE LICENSE NUMBER		STATE	YEAR	MAKE	MODEL
006 SVX		MS	2007	FORD	F-150
					PASSENGER

LAFAYETTE JUSTICE COURT

ADDRESS 123 NORTH AVE

CITY OXFORD

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?

II

Was driver transporting hazardous material at time of arrest?

II

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY Receipt for Driver License and Temporary Driving Permit .02 or Greater BrAC

BrAC

0.09

This form is valid as a driver permit for a period of thirty (30) days from the date it was issued. Anyone using this form thirty (30) days after issuance may be driving under suspension. All law enforcement officers may determine if the holder is driving under suspension by contacting the nearest Mississippi Highway Safety Patrol or any Mississippi Justice Information Center terminal.

This receipt and permit is issued to individuals who have taken a breath test to determine Alcohol Content and the results indicated a Breath Alcohol Content as specified under the Implied Consent Law and Section 63-1-83, Mississippi Code 1972, Annotated.

VIOLATOR'S SUSPENSION NOTICE

This form is valid as a driver permit for a period of thirty (30) days from the date of arrest. You have the right to request a trial within thirty (30) days to the court of original jurisdiction. If you request a trial within thirty (30) days and such trial is not commenced within thirty (30) days, then the court shall determine if the delay in the trial is your fault or that of counsel. If the court finds that the delay is not your fault or that of your counsel, then the court shall issue an order to the Commissioner of Public Safety extending your driving privileges pending the outcome of your case as provided under Section 63-11-23 (2), Mississippi Code.

If you do not request a trial before the expiration of this permit, your license will be suspended. The period of suspension is for ninety (90) days if you are operating a non-commercial vehicle and could be from one (1) year to ten (10) years if operating a commercial vehicle. This suspension is in addition to any other suspension imposed upon conviction for driving under the influence.

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: LAFAYETTE MHP

Badge No. E-25

STAPLE DRIVER LICENSE HERE

IS LICENSE ATTACHED

II

IF NO, WHY NOT ON PERSON

SWORN TO AND SUBSCRIBED BEFORE ME.

this the _____ day of _____, 20_____

Notary Public or court Clerk

WITHIN 24 HOURS MAIL TO:

Statistical Branch

Dept. D

P.O. Box 358

Jackson, Mississippi 39205

DO NOT FOLD

IP-12B 01/04

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT HEREIN, BEING DULY SWORN,
UPON OATH DENIES DEFENSE AND SAYS AT THE FOLLOWING LOCATION, TIME & DATE:

AGENCY CODE 9036				TICKET NUMBER 232322	
LOCATION JACKSON, AVE					HIGHWAY/THRU 427B
DAY TUE	DATE 09/27/2011	TIME OF STOP 13:00		TIME OF TEST 14:11	
NAME (LAST, FIRST, MIDDLE) SMITH, JOHN, Q					
ADDRESS 123 WAVE HILL					
CITY JUKA				STATE MS	ZIP CODE 39703
DRIVER LICENSE NUMBER 4567876		STATE MS	BIRTH DATE 02/02/1980		SEX M
SOCIAL SECURITY 666-77-8888		EXPIRATION 02/02/2013		WEIGHT 222	
SEX M	DOB 0-1	CLASS R	RESTRICTIONS 2		ENDORSEMENTS 4
VEHICLE LICENSE NUMBER 006 STE		STATE MS	YEAR 2007	MAKE POND	MODEL F-150
					VEHICLE TYPE PASSENGER

LAFAYETTE JUSTICE COURT

ADDRESS 123 NORTH AVE

CITY DEPOED

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY Receipt for Driver License and Temporary Driving Permit .02 or Greater BrAC

BrAC

0.09

This form is valid as a driver permit for a period of thirty (30) days from the date it was issued. Anyone using this form thirty (30) days after issuance may be driving under suspension. All law enforcement officers may determine if the holder is driving under suspension by contacting the nearest Mississippi Highway Safety Patrol or any Mississippi Justice Information Center terminal.

This receipt and permit is issued to individuals who have taken a breath test to determine Alcohol Content and the results indicated a Breath Alcohol Content as specified under the Implied Consent Law and Section 63-1-83, Mississippi Code 1972, Annotated.

VIOLATOR'S SUSPENSION NOTICE

This form is valid as a driver permit for a period of thirty (30) days from the date of arrest. You have the right to request a trial within thirty (30) days to the court of original jurisdiction. If you request a trial within thirty (30) days and such trial is not commenced within thirty (30) days, then the court shall determine if the delay in the trial is your fault or that of counsel. If the court finds that the delay is not your fault or that of your counsel, then the court shall issue an order to the Commissioner of Public Safety extending your driving privileges pending the outcome of your case as provided under Section 63-11-23 (2), Mississippi Code.

If you do not request a trial before the expiration of this permit, your license will be suspended. The period of suspension is for ninety (90) days if you are operating a non-commercial vehicle and could be from one (1) year to ten (10) years if operating a commercial vehicle. This suspension is in addition to any other suspension imposed upon conviction for driving under the influence.

Arresting Officer's Name: HILL, PERRY, J

Signature of

Arresting Officer:

Enforcement Agency: LAFAYETTE MSP

Badge No. 8-25

PLEASE PRINT INFORMATION
IN THE DESIGNATED BELOW, THE APPLICANT HEREIN, BEING SOLELY AWARE,
UPON OATH DOES AFFIRM AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE:

AGENCY CODE 9036				TICKET NUMBER 232323	
LOCATION JACKSON AVE					HIGHWAY/ROUTE 4270
DAY TUE	DATE 09/27/2011	TIME OF STOP 13:00	TIME OF TEST 14:11		
NAME (LAST, FIRST, MIDDLE) BRUSH, JOHN, Q					
ADDRESS 123 WAVE HILL					
CITY JUKA				STATE MS	ZIP CODE 39703
DRIVER LICENSE NUMBER 4567876		STATE MS	BIRTH DATE 02/02/1980		SEX M
SOCIAL SECURITY 666-77-8888		EXPIRATION 02/02/2013		WEIGHT 222	
HEIGHT 6-1	CHI. TRENSE M	CLASS R	RESTRICTIONS 2		ENDORSEMENTS 4
VEHICLE LICENSE NUMBER 006 STK		STATE MS	YEAR 2007	MAKE FORD	VEHICLE TYPE PASSENGER

LAFAYETTE JUSTICE COURT

ADDRESS 123 NORTH AVE

CITY OXFORD

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
R

Was driver transporting hazardous material at time of arrest?
R

STATE OF MISSISSIPPI – DEPARTMENT OF PUBLIC SAFETY
Receipt for Driver License and Temporary Driving Permit
.02 or Greater BrAC

BrAC

0.09

This form is valid as a driver permit for a period of thirty (30) days from the date it was issued. Anyone using this form thirty (30) days after issuance may be driving under suspension. All law enforcement officers may determine if the holder is driving under suspension by contacting the nearest Mississippi Highway Safety Patrol or any Mississippi Justice Information Center terminal.

This receipt and permit is issued to individuals who have taken a breath test to determine Alcohol Content and the results indicated a Breath Alcohol Content as specified under the Implied Consent Law and Section 63-1-83, Mississippi Code 1972, Annotated.

VIOLATOR'S SUSPENSION NOTICE

This form is valid as a driver permit for a period of thirty (30) days from the date of arrest. You have the right to request a trial within thirty (30) days to the court of original jurisdiction. If you request a trial within thirty (30) days and such trial is not commenced within thirty (30) days, then the court shall determine if the delay in the trial is your fault or that of counsel. If the court finds that the delay is not your fault or that of your counsel, then the court shall issue an order to the Commissioner of Public Safety extending your driving privileges pending the outcome of your case as provided under Section 63-11-23 (2), Mississippi Code.

If you do not request a trial before the expiration of this permit, your license will be suspended. The period of suspension is for ninety (90) days if you are operating a non-commercial vehicle and could be from one (1) year to ten (10) years if operating a commercial vehicle. This suspension is in addition to any other suspension imposed upon conviction for driving under the influence.

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: LAFAYETTE MHP

Badge No. E-25

OFFICER COPY

IP-12E 01/04

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) SMITH you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 13:00 Test Date: 09/27/2011 Start Test Time: 13:53

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36886 SN: 80-000651
Instrument Location: JPD.Precinct 4 Location Number: 048
Standard Lot #: AG112601 Standard Expiration: 05/06/2013

Sub Name: SMITH,JANE,Q
Address: 123 OCEAN DRIVE
City: BILOXI State: MS Zip Code: 39530
Sub DOB: 02/02/1980 Sub Sex: F
Driver License Number: 80022222 SSN: 333-44-5955

Operator's Name: HATHCOCK,WINDY,

Test	BrAC(g/210L)	Time
Air Blank	0.000	14:01
Diagnostics	OK	14:01
Air Blank	0.000	14:02
Cal Check	0.083	14:02
Air Blank	0.000	14:03



BrAC g/210L
Subject Test Refused

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: Y Violation: Y
Enforcement Agency: JACKSON PD
County and City where violation occurred: HINDS , JACKSON
Judge / Clerk: J D DAVIS JACKSON MUNICIPAL COURT
Address: 123 NORTH DRIVE
Committed to: HINDS DOC

Operator's Signature: _____ Citation/Ticket No: 232323
HATHCOCK,WINDY,

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

COURT COPY

DPS/IP-01E (02/07)

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) SMITH you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."

WARNING GIVEN: Y

Time of Observation Start: 13:00 Test Date: 09/27/2011 Start Test Time: 13:53

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36886 SN: 80-000651
Instrument Location: JPD.Precinct 4 Location Number: 048
Standard Lot #: AG112601 Standard Expiration: 05/06/2013

Sub Name: SMITH, JANE, Q
Address: 123 OCEAN DRIVE
City: BILOXI State: MS Zip Code: 39530
Sub DOB: 02/02/1980 Sub Sex: F
Driver License Number: 80022222 SSN: 333-44-5555

Operator's Name: HATHCOCK, WINDY,

Test	BrAC(g/210L)	Time
Air Blank	0.000	14:01
Diagnostics	OK	14:01
Air Blank	0.000	14:02
Cal Check	0.083	14:02
Air Blank	0.000	14:03



BrAC g/210L
Subject Test Refused

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: Y Violation: Y
Enforcement Agency: JACKSON PD
County and City where violation occurred: HINDS, JACKSON
Judge / Clerk: J D DAVIS JACKSON MUNICIPAL COURT
Address: 123 NORTH DRIVE
Committed to: HINDS DOC

Operator's Signature: _____ Citation/Ticket No: 232323
HATHCOCK, WINDY,

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

TESTING OFFICER COPY

DPS/IP-01E (02/07)

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE ATTANT HEREIN, BEING DULY SWORN,
UPON OATH/DOWN DEPOSE AND SAY AS THE FOLLOWING LOCATION, TIME, & DATE:

LOCATION:				AGENCY CODE:	TICKET NUMBER:
RECORD - BT:				2504	232323
DAY:				TIME OF STOP:	HIGHWAY/ROUTE:
TUE				13:00	4055
DATE: 09/27/2011					
TIME OF TEST: 13:53					
NAME (LAST, FIRST, MIDDLE):					
SMITH, JANE, Q					
ADDRESS:					
123 OCEAN DRIVE					
CITY:				STATE:	ZIP CODE:
BILOXI				MS	39530
DRIVER LICENSE NUMBER:		STATE:	BIRTH DATE:	SEX:	RACE:
80022222		MS	02/02/1980	F	W
SIRIAL SECURITY:		EXPIRATION:		WEIGHT:	
333-44-5555		02/02/2014		120	
HEIGHT:	CDL LICENSE:	CLASS:	RESTRICTIONS:	ENDORSEMENTS:	
5-8	N	R	1	2	
VEHICLE LICENSE NUMBER:		STATE:	YEAR:	MAKE:	MODEL:
007 INCL		MS	2007	CHEV	TBL-BLZ
					PASSENGER

JACKSON MUNICIPAL COURT

ADDRESS 123 NORTH DRIVE

CITY JACKSON

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?

N

Was driver transporting hazardous material at time of arrest?

N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Y Urine Test Y

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-1-84 in accordance w/section 63-1-83 Mississippi Code 1972 as annotated.

OFFICER'S STATEMENT

I, the undersigned law enforcement officer state; (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972.

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech Y

Driving off roadway N

Other N

Smell of Intoxicating Beverage Present Y

Weaving in Roadway N

Coordination Impaired Y

Pupils Dilated Y

Arresting Officer's Name: HATHCOCK, WENDY,

Signature of

Arresting Officer:

Enforcement Agency: JACKSON PD

Badge No. 3-88

STAPLE DRIVER LICENSE HERE

IS LICENSE ATTACHED

Y

IF NO, WHY

SWORN TO AND SUBSCRIBED BEFORE ME,

this the _____ day of _____, 20_____

Notary Public or court Clerk

WITHIN 24 HOURS MAIL TO:

Statistical Branch

Dept. D

P.O. Box #58

Jackson, Mississippi 39205

DO NOT FOLD

IP-14E 01/04

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE ATTANT HEREIN, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE

AGENCY CODE 2504				LICENSE NUMBER 232323	
LOCATION SECOND ST					HIGHWAY/ROUTE 4055
DAY TIME	DATE 09/27/2011	TIME OF STOP 13:00		TIME OF TEST 13:53	
NAME (LAST, FIRST, MIDDLE) SMITH, JANE, Q					
ADDRESS 123 DEAN DRIVE					
CITY BILOXI				STATE MS	ZIP CODE 39530
DRIVER LICENSE NUMBER 00022222		STATE MS	BIRTH DATE 02/02/1980		SEX F
SOCIAL SECURITY 333-44-5555		EXPIRATION 02/02/2014		WEIGHT 120	
HEIGHT 5-8	CDL LICENSE N	CLASS R	RESTRICTIONS 1		ENDORSEMENTS 2
VEHICLE LICENSE NUMBER 007 MCL		STATE MS	YEAR 2007	MAKE CHEV	MODEL TRL BLZ
					VEHICLE TYPE PASSENGER

JACKSON MUNICIPAL COURT

ADDRESS 123 NORTH DRIVE

CITY JACKSON

Was driver operating a commercial vehicle that requires a class A, B, or C license at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI – DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Urine Test

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station or Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-1-84 in accordance w/section 63-1-83 Mississippi Code, 1972 as annotated.

OFFICER'S STATEMENT

I the undersigned law enforcement officer state, (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech Y Smell of Intoxicating Beverage Present Y Coordination Impaired Y
Driving off roadway N Weaving in Roadway N Eyes Dilated Y
Other N

Arresting Officer's Name: HAYCOCK, WINDY,

Signature of

Arresting Officer:

Enforcement Agency: JACKSON PD

Badge No. J-88

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT (HIFTIN, BEING DULY SWORN,
UPON OATH DEES (DEPONT) ANDWAY AT THE FOLLOWING LOCATION, TIME, & DATE:

LOCATION				AGENCY CODE	TICKET NUMBER
SECOND ST				2504	232323
DATE				TIME OF STOP	TIME OF TEXT
TUE 09/27/2011				13:50	13:53
NAME (LAST, FIRST, MIDDLE)					
SMITH, JANE, Q					
ADDRESS					
123 OCEAN DRIVE					
CITY				STATE	ZIP CODE
BILLOXI				MS	39530
DRIVER LICENSE NUMBER		STATE	BIRTH DATE	SEX	RACE
80022222		MS	02/02/1980	F	W
SOCIAL SECURITY		EXPIRATION		WEIGHT	
333-44-5555		02/02/2014		120	
HEIGHT	CDL LICENSE	CLASS	RESTRICTIONS		ENDORSEMENTS
5-0	M	R	1		2
VEHICLE LICENSE NUMBER		STATE	YEAR	MAKE	MODEL
007 MCL		MS	2007	CHEV	TRL BLE
					PASSENGER

JACKSON MUNICIPAL COURT

ADDRESS 123 NORTH DRIVE

CITY JACKSON

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Urine Test

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-1-84 in accordance w/section 63-1-83 Mississippi Code 1972 as annotated.

OFFICER'S STATEMENT

I the undersigned law enforcement officer state; (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech Y

Smell of Intoxicating Beverages Present Y

Coordination Impaired Y

Driving off roadway N

Weaving in Roadway N

Eyes Dilated Y

Other N

Arresting Officer's Name: HATHCOCK, WINDY,

Signature of

Arresting Officer:

Enforcement Agency: JACKSON PD

Badge No. J-88

OFFICER COPY

IP-14E 01/04

Refusal

There are three ways to get a refusal on the Intoxilyzer.

- **Straight refusal**
 - If a suspect refuses to provide any sample at the beginning of the test this is a refusal.
- **No sample given**
 - If a suspect says they will perform the test and once asked to provide a sample refuses, this is a refusal.
- **Insufficient sample**
 - If a suspect provides one of the breath samples, but not both of the breath samples, this is a refusal.
 - If a suspect initiates the tone on the instrument but does not complete a breath sample, this is a refusal.

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) HAWKINS you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 12:14 Test Date: 10/16/2012 Start Test Time: 12:42

Intoxilyzer - Alcohol Analyzer Model 8500 LPS#: 36854 SN: 80-000493
Instrument Location: Panola S.O. Location Number: 003
Standard Lot #: AG106204 Standard Expiration: 03/03/2013

Sub Name: HAWKINS, TUCKER,
Address: 3535 WEST AVE
City: GUNTOWN State: MS Zip Code: 38377
Sub DOB: 06/06/1990 Sub Sex: M
Driver License Number: 888090900 SSN:

Operator's Name: MILLS, TERRY, J



BrAC g/210L
Insufficient Sample

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: N Violation: Y
Enforcement Agency: PANOLA MHP
County and City where violation occurred: PANOLA, S- COURTLAND
Judge / Clerk: DAVIS PANOLA JUSTICE COURT
Address: 777 LUCKY DRIVE
Committed to: PANOLA JAIL

Operator's Signature: _____ Citation/Ticket No: 5556777
MILLS, TERRY, J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

COURT COPY

DPS/IP-01E (02/07)

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) HAWKINS you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 12:14 Test Date: 10/16/2012 Start Test Time: 12:42

Intoxilyzer - Alcohol Analyzer Model 8000 LPS#: 36854 SN: 80-000493
Instrument Location: Panola S.O. Location Number: 003
Standard Lot #: AG106204 Standard Expiration: 03/03/2013

Sub Name: HAWKINS, TUCKER,
Address: 3535 WEST AVE
City: GUNTOWN State: MS Zip Code: 38377
Sub DOB: 06/06/1990 Sub Sex: M
Driver License Number: 888090900 SSN:

Operator's Name: MILLS, TERRY, J



BrAC g/210L
Insufficient Sample

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: N Violation: Y
Enforcement Agency: PANOLA MHP
County and City where violation occurred: PANOLA, S- COURTLAND
Judge / Clerk: DAVIS PANOLA JUSTICE COURT
Address: 777 LUCKY DRIVE
Committed to: PANOLA JAIL

Operator's Signature: _____ Citation/Ticket No: 5556777
MILLS, TERRY, J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

TESTING OFFICER COPY

DPS/IP-01E (02/07)

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT HEREBY, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE.

AGENCY CODE 9054				TICKET NUMBER 5556777	
LOCATION LONG CREEK BOTTOM				HIGHWAY/STREET 4051	
DAY TUE	DATE 10/16/2012	TIME OF STOP 12:00	TIME OF TEST 12:42		
NAME (LAST, FIRST, MIDDLE) HARKINS, TUCKER,					
ADDRESS 3535 WEST AVE					
CITY GUNTOWN				STATE MS	ZIP CODE 38377
DRIVER LICENSE NUMBER 888090900		STATE MS	BIRTH DATE 06/06/1990	SEX M	RACE W
SOCIAL SECURITY		EXPIRATION 06/06/2024		WEIGHT 190	
HEIGHT 5-2	CDL LICENSE N	CLASS R	RESTRICTIONS	ENDORSEMENTS N	
VEHICLE LICENSE NUMBER DRVFAT		STATE MS	YEAR 2001	MAKE FORD	MODEL F-150
					VEHICLE TYPE PASSENGER

PANOLA JUSTICE COURT

ADDRESS 777 LUCKY DRIVE

CITY SARDIS

Was driver operating a commercial vehicle that required a
class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Urine Test

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-11-84 in accordance w/section 63-1-83 Mississippi Code 1972 as annotated.

OFFICER'S STATEMENT

I the undersigned law enforcement officer state; (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech Y Smell of Intoxicating Beverage Present Y Coordination Impaired Y
Driving off roadway N Weaving in Roadway N Eyes Dilated Y
Other N

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: PANOLA MHP

Badge No. K-25

IS LICENSE ATTACHED

N

IF NO, WHY NOT ON PERSON

SWORN TO AND SUBSCRIBED BEFORE ME,
this the _____ day of _____, 20____

Notary Public or court Clerk
WITHIN 24 HOURS MAIL TO:
Statistical Branch
Dept. D
P.O. Box 368
Jackson, Mississippi 39205

DO NOT FOLD

IP-14E 01/04

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT HEREBY, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME & DATE

AGENCY CODE 9054				TICKET NUMBER 5556777	
LOCATION LONG CREEK BOTTOM				HIGHWAY/STREET 4051	
DAY TUE	DATE 10/16/2013	TIME OF STOP 12:00	TIME OF TEST 12:42		
NAME (LAST, FIRST, MIDDLE) HAWKINS, TUCKER,					
ADDRESS 3535 WEST AVE					
CITY GUNTOWN				STATE MS	ZIP CODE 38377
DRIVER LICENSE NUMBER 888090900		STATE MS	BIRTH DATE 06/06/1990	SEX M	RACE W
SOCIAL SECURITY		EXPIRATION 06/06/2024		WEIGHT 150	
HEIGHT 6-2	CDL LICENSE N	CLASS R	RESTRICTIONS	ENDORSEMENTS N	
VEHICLE LICENSE NUMBER DRVFAT		STATE MS	YEAR 2001	MAKE FORD	MODEL F-150
					VEHICLE TYPE PASSENGER

PANOLA JUSTICE COURT

ADDRESS 777 LUCKY DRIVE

CITY SARDIS

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Urine Test

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-1-84 in accordance w/section 63-1-83 Mississippi Code 1972 as annotated.

OFFICER'S STATEMENT

I the undersigned law enforcement officer state: (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle, (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech Y

Driving off roadway N

Other N

Smell of Intoxicating Beverage Present Y

Weaving in Roadway N

Coordination Impaired Y

Eyes Dilated Y

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: PANOLA MHP

Badge No. 8-25

IP-14E 01/04

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT HERIN, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE:

AGENCY CODE 9054				TICKET NUMBER 5556777	
LOCATION LONG CREEK BOTTOM				HIGHWAY STREET 4051	
DAY TUE	DATE 10/16/2012	TIME OF STOP 12:00	TIME OF TEST 12:42		
NAME (LAST, FIRST, MIDDLE) HAWKINS, TUCKER,					
ADDRESS 3535 WEST AVE					
CITY GUNTOWN				STATE MS	ZIP CODE 38377
DRIVER LICENSE NUMBER 888090900		STATE MS	BIRTH DATE 06/06/1990	SEX M	RACE M
SOCIAL SECURITY		EXPIRATION 06/06/2024		WEIGHT 190	
HEIGHT 6-2	CDL LICENSE N	CLASS R	RESTRICTIONS		ENDORSEMENTS M
VEHICLE LICENSE NUMBER DRVPAST		STATE MS	YEAR 2001	MAKE FORD	MODEL F-150
					VEHICLE TYPE PASSENGER

PANOLA JUSTICE COURT

ADDRESS 777 LOCKY DRIVE

CITY SARDIS

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Urine Test

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-1-84 in accordance w/section 63-1-83 Mississippi Code 1972 as annotated.

OFFICER'S STATEMENT

I the undersigned law enforcement officer state; (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech **Y**

Smell of Intoxicating Beverage Present **Y**

Coordination Impaired **Y**

Driving off roadway **N**

Weaving in Roadway **N**

Eyes Dilated **Y**

Other **N**

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: PANOLA MHP

Badge No. E-25

OFFICER COPY

IP-14E 01/04

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) LOGAN you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 12:40 Test Date: 10/16/2012 Start Test Time: 12:58

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36854 SN: 80-000493
Instrument Location: Panola S.O. Location Number: 003
Standard Lot #: AG106204 Standard Expiration: 03/03/2013

Sub Name: LOGAN, CHARLIE, TRACE
Address: 888 NORTH STREET
City: CRENSHAW State: MS Zip Code: 43445
Sub DOB: 06/06/1990 Sub Sex: M
Driver License Number: 222333999 SSN: 112-22-3333
Operator's Name: MILLS, TERRY, J



BrAC g/210L
No Sample Given

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: Y Violation: Y
Enforcement Agency: PANOLA MHP
County and City where violation occurred: PANOLA, EAST OF SARDIS
Judge / Clerk: DAVIS PANOLA JUSTICE COURT
Address: 777 LUCKY STREET
Committed to: PANOLA JAIL

Operator's Signature: _____ Citation/Ticket No: 2234566
MILLS, TERRY, J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

COURT COPY

DPS/IP-01E (02/07)

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) LOGAN you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 12:40 Test Date: 10/16/2012 Start Test Time: 12:58

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36854 SN: 80-000493
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City: CRENSHAW State: MS Zip Code: 43445
Sub DOB: 06/06/1990 Sub Sex: M
Driver License Number: 222333999 SSN: 112-22-3333

Operator's Name: MILLS, TERRY, J



BrAC g/210L
No Sample Given

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: Y Violation: Y
Enforcement Agency: PANOLA MHP
County and City where violation occurred: PANOLA, EAST OF SARDIS
Judge / Clerk: DAVIS PANOLA JUSTICE COURT
Address: 777 LUCKY STREET
Committed to: PANOLA JAIL

Operator's Signature: _____ Citation/Ticket No: 2234566
MILLS, TERRY, J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

TESTING OFFICER COPY

DPS/IP-01E (02/07)

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE ATTANT HEREIN, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE

AGENCY CODE 9054				TICKET NUMBER 2334566	
LOCATION SPILLWAY ROAD				HIGHWAY STREET 3315	
DAY	DATE	TIME OF STOP	TIME OF TEST		
TUE	10/16/2012	11:59	12:58		
NAME (LAST, FIRST, MIDDLE)					
LOGAN, CHARLIE, TRACE					
ADDRESS					
888 NORTH STREET					
CITY				STATE	ZIP CODE
CRENSHAW				MS	43445
DRIVER LICENSE NUMBER		STATE	BIRTH DATE	SEX	RACE
222333999		MS	06/06/1990	M	W
SOCIAL SECURITY		EXPIRATION		WEIGHT	
112-22-3333		06/06/2024		260	
HEIGHT	CDL LICENSE	CLASS	RESTRICTIONS	ENDORSEMENTS	
5-5	Y	R	01	03	
VEHICLE LICENSE NUMBER		STATE	YEAR	MAKE	MODEL
R00NNIN		MS	1977	CHEV	CORVETTE
					VEHICLE TYPE
					PASSENGER

PANOLA JUSTICE COURT

ADDRESS 777 LUCKY STREET

CITY SARDIS

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI – DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test Y Blood Test Urine Test

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

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OFFICER'S STATEMENT

I the undersigned law enforcement officer state; (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-11-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-20 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech Y Smell of Intoxicating Beverage Present Y Coordination Impaired Y
Driving off roadway Y Weaving in Roadway N Eyes Dilated Y
Other RAN STOP SIGN

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: PANOLA MHP

Badge No. E-25

STAPLE DRIVER LICENSE HERE

IS LICENSE ATTACHED

Y

IF NO, WHY

SWORN TO AND SUBSCRIBED BEFORE ME,
this the _____ day of _____, 20____

Notary Public or court Clerk

WITHIN 24 HOURS MAIL TO:

Statistical Branch

Dept. D

P. O. Box 954

Jackson, Mississippi 39205

DO NOT FOLD

IP-14E 01/04

PLEASE PRINT INFORMATION

IN THE DESIGNATED BELOW, THE AFFIANT HERIN, BEING DULY SWORN,
UPON OATH DOES DEPOSE AND SAY AT THE FOLLOWING LOCATION, TIME, & DATE:

LOCATION				AGENCY CODE	TICKET NUMBER
SPILLMAY ROAD				9054	2234566
HIGHWAY/STREET				3335	
DAY	DATE	TIME OF STOP	TIME OF TEST		
TUE	10/16/2012	11:59	12:58		
NAME (LAST, FIRST, MIDDLE)					
LOGAN, CHARLIE, TRACE					
ADDRESS					
888 NORTH STREET					
CITY				STATE	ZIP CODE
CHICKENSHAW				MS	43445
DRIVER LICENSE NUMBER		STATE	BIRTH DATE	SEX	RACE
222333999		MS	06/06/1990	M	M
SOCIAL SECURITY		EXPIRATION		WEIGHT	
112-22-3333		06/06/2024		260	
HEIGHT	CDL LICENSE	CLASS	RESTRICTIONS	ENDORSEMENTS	
5-5	Y	R	03	03	
VEHICLE LICENSE NUMBER		STATE	YEAR	MAKE	MODEL
BUNNEN		MS	1977	CHEV	CORVETTE
					VEHICLE TYPE
					PASSENGER

PANOLA JUSTICE COURT

ADDRESS: 777 LUCKY STREET

CITY: SARDIS

Was driver operating a commercial vehicle that required a class A, B, or C CDL at time of arrest?
N

Was driver transporting hazardous material at time of arrest?
N

STATE OF MISSISSIPPI - DEPARTMENT OF PUBLIC SAFETY

Receipt for Driver License and Temporary Driving Permit

CHEMICAL TEST REFUSAL

Breath Test ☒ Blood Test ☐ Urine Test ☐

Person using this form as a driving permit forty-five (45) days after date of arrest, should have this license status checked through any Mississippi Highway Patrol Station of Mississippi Justice Information Center terminal to determine if subject is driving while license is suspended.

This receipt and permit is issued to individuals who have refused a chemical test to determine Breath Alcohol Content as required in Section 63-11-5 in accordance w/section 63-11-21 or 63-1-84 in accordance w/section 63-1-83 Mississippi Code 1972 as annotated.

OFFICER'S STATEMENT

I the undersigned law enforcement officer state; (a) that he refused to submit to the test upon request as provided in Section 63-11-5 or 63-1-84 of the Mississippi Code, 1972 Annotated; (b) that the person was informed that if he refused to take the test his license/privilege to drive would be suspended or denied for a period of ninety (90) days or for a period of one year in the event of any previous conviction of such person under Section 63-11-30 of the Mississippi Code, 1972

Annotated, if operating a non-commercial vehicle, or for one (1) year of life if operating a commercial vehicle; (c) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor as indicated below:

Slurred Speech ☒

Driving off roadway ☒

Other RAN STOP SIGN

Smell of Intoxicating Beverage Present ☒

Weaving in Roadway ☒

Coordination Impaired ☒

Eyes Dilated ☒

Arresting Officer's Name: MILLS, TERRY, J

Signature of

Arresting Officer:

Enforcement Agency: PANOLA MHP

Badge No. E-25

IP-14E 01/04

Operational Messages

If an improper environmental testing condition, an improper instrument testing condition, or an operational mistake is detected at any point during the test sequence, the Intoxilyzer 8000 will stop the breath test sequence. The reason for the sequence not being completed will be displayed and printed; no results will be printed.

- **Improper Sample**

Sample is introduced at the wrong time, such as during an air blank.

- Can be prevented by never allowing the suspect to handle or hold the breath hose.
- If this occurs, repeat the test as soon as you are able.

- **Range Exceeded or Invalid Sample**

This message occurs when there is residual or mouth alcohol present

- Can be prevented by making sure the 20 minute observation period is observed, making sure the suspect has nothing in his mouth or puts nothing in his mouth, as well as making sure the suspect doesn't belch, regurgitate, or bring anything up from his stomach.
- If this occurs, repeat the 20 minute observation period and retest.
 - Note: the DL will be locked out for 20 minutes, therefore forcing a 20 minute observation period.

- **Ambient Fail or Improper Sample**

This message occurs when alcohol or other substances are in the air that can be detected by the instrument.

- Can be prevented by making sure the subject does not have an overbearing alcoholic smell, you can air out the room by placing a fan right outside the room to get the air circulating, and setting the suspect outside the room until it is time for him to take the test.
- If this occurs, wait until the room is cleared and repeat the test as soon as you are able.

- **RFI Detect**

Radio transmissions are too close to the instrument during testing.

- Can be prevented by making sure that your radio or cell phone are not used during the testing sequence.
- If this occurs, repeat the test as soon as you are able.

- **Sequence Aborted**

- This occurs when the start test button is depressed after the test sequence has began. This is done to stop the current test.
- If this occurs, repeat the test as soon as you are able.

- **Interferent Detect**

- This message occurs when interfering substances are detected in the breath sample, such as an individual that is a diabetic or on certain diets.
- If this occurs, seek medical attention for the individual or retest the individual again.

- **No 0.02 Agreement**

If Breath Sample #1 and Breath Sample #2 is greater than 0.02 then No 0.02 Agreement is printed.

- Example: if breath sample #1 is 0.010
breath sample #2 is 0.040
the difference is 0.030, your results will be a *No 0.02 Agreement*.
- Example: if breath sample #1 is 0.016
breath sample #2 is 0.026
the difference is 0.010, your results will be *0.01 g/210L*.
- Can be prevented changing the mouth piece in between each breath sample and also paying close attention to the indicators on the display of the instrument.
- If this occurs, repeat the 20 minute observation period and retest.
 - Note: the DL will be locked out for 20 minutes, therefore forcing a 20 minute observation period.

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) SMITH you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 13:30 Test Date: 09/27/2011 Start Test Time: 14:29

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36886 SN: 80-000651
Instrument Location: Biloxi P.D. Location Number: 007
Standard Lot #: AG112601 Standard Expiration: 05/06/2013

Sub Name: SMITH, JAMES, T
Address: 321 BARR ROAD
City: GULFPORT State: MS Zip Code: 39502
Sub DOB: 02/02/1990 Sub Sex: M
Driver License Number: 80055511 SSN: 222-44-8888

Operator's Name: MILLS, TERRY, J



BrAC g/210L
No .020 agreement

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: N Violation: Y
Enforcement Agency: BILOXI PD
County and City where violation occurred: HARRISON, BILOXI
Judge / Clerk: DD DAVIS BILOXI MUNICIPAL COURT
Address: 321 COURTHOUSE RD
Committed to:

Operator's Signature: _____ Citation/Ticket No: 662222
MILLS, TERRY, J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

COURT COPY

DPS/IP-01E (02/07)

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"Mr. (Mrs. or Ms.) SMITH you have the right to refuse the Intoxilyzer test which is being offered to determine your breath alcohol content. Should you elect to refuse, your driver's license and/or driving privilege to operate a motor vehicle upon the public streets and highways of this state shall be suspended for ninety (90) days if it is the first offense, or for one (1) year if you have been previously convicted of a violation of Section 63-11-30, Mississippi Code of 1972."
WARNING GIVEN: Y

Time of Observation Start: 11:30 Test Date: 09/27/2011 Start Test Time: 14:29

Intoxilyzer - Alcohol Analyzer Model 8000 DPS#: 36886 SN: 80-000651
Instrument Location: Biloxi P.D. Location Number: 007
Standard Lot #: AG112601 Standard Expiration: 05/06/2013

Sub Name: SMITH, JAMES, T
Address: 321 BARR ROAD
City: GULFPORT State: MS Zip Code: 39502
Sub DOB: 02/02/1990 Sub Sex: M
Driver License Number: 80055511 SSN: 222-44-8888

Operator's Name: MILLS, TERRY, J



BrAC g/210L
No .020 agreement

OPERATOR MUST READ THE FOLLOWING TO THE SUBJECT:

"You have the right to make a telephone call for legal or medical assistance after being booked."

Driver: Y Accident: N Violation: Y
Enforcement Agency: BILOXI PD
County and City where violation occurred: HARRISON, BILOXI
Judge / Clerk: DD DAVIS BILOXI MUNICIPAL COURT
Address: 321 COURTHOUSE RD
Committed to:

Operator's Signature: _____ Citation/Ticket No: 662222
MILLS, TERRY, J

Approved by: Mississippi Crime Laboratory & Commissioner of Public Safety

TESTING OFFICER COPY

DPS/IP-01E (02/07)

Printers

There are several different types of external printers used with the Intoxilyzer 8000. Some of the brands are Samsung, Brother, and Lexmark. While the State provides the agency with the printers, it is the responsibility of that agency to keep up with the expendables, paper and toner cartridges.

If you are having a problem getting your paperwork to print out, here are a few troubleshooting tips to try.

- **“Red Light” on the printer**
 - Check the paper drawer, make sure it is completely closed
 - Check to make sure it has paper in it
 - Check for a paper jam
 - Make sure using correct paper, which is 20# paper. Heavy paper or recycled paper does not work well in most printers
- **Paperwork comes out light or nothing appears when printed**
 - Take out the ink cartridge and bump it several times with hand then reprint test
 - Replace ink cartridge
- **The Intoxilyzer 8000 goes straight back to “Ready Mode” at completion of test**
 - Make sure printer is turned on
 - Check the connection between the Intoxilyzer 8000 and the printer
 - Call the Mississippi Crime Laboratory and have someone come to the location

Reprint Test

- **To do a reprint**
 - Press “Esc” key twice
 - Scan, swipe, or enter your Operator ID, IP-51E
 - 1: R PRINT comes up on the display
 - Press Enter and the last test ran will print out
 - Finally, press “Esc” again to exit out of the menu

If for any reason your test is lost, destroyed, or simply did not print out and you couldn't get it to reprint, your test results can be printed by the Mississippi Crime Laboratory, Implied Consent Section. Simply send us a written request with the following information: Test location, date, violator's name, operator's name, and where you want this information sent back to you. You can send this requested by fax or email. Fax number is 601-987-1655.

Contact Information

Maury Phillips, IC section chief
mphillips@mcl.ms.gov
601-420-9095

Fax Number: **601-420-9189**

- North
 - James Stewart, jstewart@mcl.ms.gov
 - 662-934-5358 cell
 - 662-563-6462 office
 - Bernard Smith, MHP Intox trainer northern districts
 - esmith@dps.ms.gov
 - 662-418-7517 cell
- South
 - Lindsay Mustain, lmustain@mcl.ms.gov
 - 228-234-0922 cell
 - 228-396-7789 office
- Central
 - Wendy Hathcock, whathcock@mcl.ms.gov
 - 601-420-9020 office
 - Emily J. Harper, ejochimsen@mcl.ms.gov
 - 601-420-9024 office
 - Leno Holmes, MHP Intox trainer central districts
 - lholfmes@dsp.ms.gov
 - 601-270-8291 cell
- Cards (IP-51E)
 - Diana Joiner, djoiner@mcl.ms.gov
 - 601-420-9021 office

Appendix A

INTOXILYZER 8000 Implied Consent Policies and Procedures

1702.100

GLOSSARY

Alcohol Ethyl alcohol and may include isopropyl alcohol and methyl alcohol.

BrAC Breath Alcohol Concentration, measured as grams of alcohol per 210 liters of breath.

Breath Alcohol Reference Standard Solution A water-alcohol solution compounded for use in a simulator which, when equilibrated with air, yields a predictable alcohol concentration.

Calibration Check The verification of evidentiary breath alcohol instruments accuracy using a certified dry gas standard and obtaining a result within ± 0.005 of the expected value.

Certifier of Calibration A person who has received specialized training in the operation and the calibration check of evidentiary breath alcohol instruments and is certified to perform calibration checks.

CMI, Inc. Company at 316 East Ninth Street, Owensboro, Kentucky 42303, that manufactures the Intoxilyzer 8000 evidential breath alcohol test instrument.

Dry Gas Ethanol Standard A cylinder containing a known concentration of ethanol used to check the calibration of the Intoxilyzer 8000.

Evidentiary Breath Alcohol Instrument An instrument used for making a chemical analysis of breath and giving a resultant alcohol concentration for evidential purposes. Such instrument is listed in section 1700.200 in this chapter.

Guth Laboratories, Inc. Company at 590 North Street Harrisburg, PA 17111, that manufactures breath alcohol reference standard solutions and 34C Simulator.

Implied Consent Any person who operates a motor vehicle upon the public highways, public roads and streets of this state shall be deemed to have given his consent, subject to the provisions of Mississippi Code 1972, Annotated, to a chemical test or tests of his breath for the purpose of determining alcohol concentration.

Intoxilyzer 8000 An automated, microprocessor controlled instrument utilizing infrared spectrophotometry used for evidentiary breath alcohol analysis.

Lot An entire batch of breath alcohol reference standard solution or dry gas ethanol standard.

Mouth Alcohol Residual alcohol in the mouth which typically dissipates in less than ten minutes.

NCIC The National Crime Information Center.

N.I.S.T. National Institute of Standards and Technology.

NO 0.020 AGREEMENT Operational message printed when consecutive subject tests differ by more than 0.020.

Observation Period A period during which the person being tested has been observed to determine that he has not ingested alcohol or other fluids, regurgitated, vomited, eaten, smoked, or placed anything into his mouth in the 20 minutes immediately prior to the collection of a breath sample.

Recirculation A method where the simulator is attached to the Intoxilyzer so that during calibration or calibration checks the vapor of the breath alcohol reference standard solution is circulated from the simulator through the Intoxilyzer and back to the simulator in a closed loop.

Radio Frequency Interference (RFI Detect) The alcohol instrument detects interfering radio frequency and stops the testing procedure if RFI is detected.

Simulator A specially designed constant temperature water-alcohol solution bath instrument devised for the purpose of providing a standard alcohol-air mixture that simulates breath.

1702.200

EVIDENTIARY BREATH ALCOHOL INSTRUMENT

The Department of Public Safety has adopted the Intoxilyzer 5000 with the cooled detection option and the Intoxilyzer 8000 Mississippi Version both of which are manufactured by CMI, Inc. as the only accepted evidentiary instruments for use in breath alcohol testing in the State of Mississippi pertaining to Implied Consent laws in Mississippi Code. The following policies and procedures apply to the Intoxilyzer 8000 Mississippi Version.

1702.300

INTOXILYZER 8000 INSTRUMENT CERTIFICATION

Pursuant to Mississippi Code section 63-11-1 and section 63-11-19 all Intoxilyzer 8000 instruments used for evidentiary breath alcohol testing shall have a Certificate of Calibration and Operation (IP-54E) on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee.

1702.400

INTOXILYZER LOCATIONS

An agency may submit a request in writing to be considered by the Implied Consent Section of the Mississippi Crime Laboratory as an Intoxilyzer 8000 location. Criteria to be used in the selection of Intoxilyzer 8000 locations are specified in section 1702.500 of this chapter. If an Agency desires to purchase its own instrument the Mississippi Code of 1972, Annotated, Section 63-11-47 will apply. Each location must meet all criteria for location certification. The Implied Consent Section of the

Mississippi Crime Laboratory will evaluate each agency's request based upon established criteria for Intoxilyzer locations as specified in section 1702.500 of this chapter and will approve or disapprove the proposed location and will be notified in writing.

1702.500

INTOXILYZER LOCATION CERTIFICATION

Pursuant to Mississippi Code section 63-11-1 and section 63-11-19 all Intoxilyzer 8000 locations will be certified using the Intoxilyzer Location Certification form IP-65E which is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee. All certified locations must follow any and all directives concerning use and care of the Intoxilyzer 8000 instruments in order to maintain Intoxilyzer Location Certification. In order for an agency to be selected and approved as an Intoxilyzer location it must meet all the following criteria.

1. Designate and maintain a secure location for instrument installation.
2. Provide adequate work space and secure storage for expendables such as printer paper and mouth pieces.
3. Insure that supplies left at location for the Intoxilyzer 8000 are to be used only for that instrument.
4. Instrument **MUST** be maintained in a clean area away from eating, drinking, and smoking.
5. Provide grounded electrical outlet meeting Intoxilyzer 8000 instrument specifications.
6. Location will provide a phone line and /or NCIC line for communication only.
7. Allow all qualified individuals with permits issued under Mississippi Code Section 63-11-19 access to instrument for the purpose of conducting breath alcohol testing.
8. Average 2 or more tests a month per calendar year to maintain certification.
9. Allow MHP and MCL personnel access to instruments for routine inspections, Calibration Checks, or any needed service.
10. Assume responsibility for repair costs resulting from abuse of instrument.
11. Instrument must pass IP-60E checklist at location.
12. Supply paper and toner cartridges for the external printer provided with the Intoxilyzer 8000.13. The location must comply with any and all Implied Consent directives issued by the Mississippi Crime Laboratory Implied Consent Section.
14. Use of the Intoxilyzer 8000 shall be restricted to the enforcement of DUI and BUI Laws of Mississippi Code of 1972.

If the location fails to meet these requirements, the location will be notified in writing of the areas needing improvement. If the deficiencies are not corrected, the instrument will be removed from service in that location and the Instrument Location Certification suspended or revoked. The Intoxilyzer Location Certification can be re-instated if the appropriate corrections are implemented and maintained. Instrument Location Certifications are issued or revoked at the discretion of the Implied Consent Section of the Mississippi Crime Laboratory.

1702.600

BREATH ALCOHOL SIMULATOR

The calibration and of the Intoxilyzer 8000 are performed using a certified Breath Alcohol Simulator containing a certified breath alcohol reference standard solution. The simulators are to be certified yearly or as required by repair or service. The certification is reported on the Implied Consent Simulator Certification form IP-62 and is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee.

1702.700

CERTIFIED BREATH ALCOHOL STANDARDS

Breath alcohol reference standard solutions are purchased in the concentrations utilized in the Calibration of the Intoxilyzer 8000. These solutions are certified by the manufacture to be consistent for each concentration throughout the lot. The Mississippi Crime Laboratory analyzes random samples of each lot# of breath alcohol reference standard solutions to ascertain the concentration value for use in the Calibration of the Intoxilyzer 8000. The analysis of the breath alcohol reference standard solutions is performed using Gas Chromatography. The result of analysis is reported on the Implied Consent Certificate of Analysis form IP-61 Implied Consent Section of the Mississippi Crime Laboratory or designee.

1702.800

DRY GAS ETHANOL STANDARD

Dry gas ethanol standards are purchased from manufactures that certify the ethanol concentration using N.I.S.T. traceable standards. Each lot of dry gas ethanol standard comes with a manufacture's certificate of analysis. This certificate is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee. These dry gas standards are used to check the calibration of the Intoxilyzer 8000.

1702.900

INTOXILYZER CALIBRATION CHECK

Mississippi Code 63-11-19 requires that calibration checks be performed at least once a quarter on breath alcohol instruments. The calibration checks of Intoxilyzer 8000 instruments are performed when an instrument is installed or removed from a location, when a dry gas ethanol standard is changed and with each breath test. The monthly calibration checks are performed by the Implied Consent Section of the Mississippi Crime Laboratory or designee. These are recorded on form IP-16E. Certifiers of calibration perform the calibration checks on instruments; a) when they are installed, b) removed from a location if possible and c) when a dry gas ethanol standard is changed. These calibration checks are recorded on form IP-03E. The calibration checks performed with each breath test are automatically performed by the instrument during the breath test sequence. These calibration check results are recorded on each breath test on form IP-01E.

RELEASE OF INFORMATION

Records of two (2) calibration checks, the calibration check immediately before and the calibration check immediately after the subject test in question will be supplied upon request. The request must be made in writing giving the test subjects name, the date of test, the testing location, and the serial number of the instrument used to perform test. The Implied Consent Section of the Mississippi Crime Laboratory will adhere to U. S. Copyright laws as to release of any copyrighted materials.

RECORDS MAINTENANCE

All official records for the Intoxilyzer 8000 of the State of Mississippi will be maintained by the Implied Consent Section of the Mississippi Crime Laboratory or designee. The records will be maintained in either an electronic file or paper file.

PERMITS TO CONDUCT BREATH ALCOHOL TESTS

Pursuant to Mississippi Code of 1972 Annotated, Sections 63-11-5 and 63-11-19, operators conducting a chemical test of an individual's breath to ascertain alcohol level shall hold a valid permit issued by the Mississippi Crime Laboratory or designee in order to conduct such tests. The Permit to Conduct Breath Analysis (IP-51E) for determination of alcohol level shall be valid for twenty-four (24) months. No permit will be issued to any law enforcement officer who has not met minimum standards pursuant to Mississippi Code of 1972 Annotated, Section 63-11-5 and Section 45-6-1, et seq; "... provided, however, that sheriffs and elected chiefs of police shall be exempt from such educational and training requirements".

OPERATOR TRAINING

Pursuant to Mississippi Code of 1972 Annotated, Sections 63-11-5 and 63-11-19 in order to receive a permit to conduct breath alcohol tests, an individual must successfully complete the training program for Intoxilyzer 8000 operator certification. This training program is taught by persons of the Implied Consent Section of the Mississippi Crime Laboratory or designee who have been certified in the operation and calibration check of the Intoxilyzer 8000 by the Mississippi Crime Laboratory. All training material for the Intoxilyzer 8000 must be approved by the Implied Consent Section Chief of the Mississippi Crime Laboratory.

RENEWAL OF OPERATOR PERMIT

Prior to the expiration of a valid Permit to Conduct Breath Analysis IP-51E, the operator must renew his permit in order to continue to conduct chemical tests of an individual's breath to determine alcohol level. The permit renewal is issued by the Implied Consent Section of the Mississippi Crime Laboratory or designee. If an operator fails to renew the Permit to Conduct Breath Analysis before the expiration date, the Permit is no longer valid. Before the operator can be reissued a Permit to Conduct Breath Analysis and resume conducting breath analysis he must demonstrate his ability to perform a breath test on the Intoxilyzer 8000 to the Operator Trainer of the Implied Consent Section of the Mississippi Crime Laboratory or designee. If this is not done within 6 months of the expiration of the Permit to Conduct Breath Analysis the operator must complete the training program for the Intoxilyzer 8000 operator certification as described in section 1702.104 of the Mississippi Crime Laboratory Implied Consent Policies and Procedures. 1702.106

IMPLIED CONSENT FORMS

IP-01E BREATH TEST REPORT
 IP-03E INTOXILYZER 8000 CALIBRATION CERTIFICATE
 IP-04E REMOVAL OF INSTRUMENT
 IP-11E PERMIT APPLICATION
 IP-12E RECEIPT FOR DRIVER LICENSE (.02 BrAC or greater)
 IP-14E RECEIPT FOR DRIVER LICENSE (refusal)
 IP-16E REMOTE CALIBRATION CERTIFICATION
 IP-51E PERMIT TO CONDUCT BREATH ANALYSIS
 IP-54E CERTIFICATE OF CALIBRATION AND OPERATION
 IP-55E IMPLIED CONSENT INTOXILYZER 8000 SERVICE RECORD
 IP-60E INTOXILYZER INSTALLATION CHECKLIST
 IP-61 IMPLIED CONSENT CERTIFICATE OF ANALYSIS (alcohol reference solution)
 IP-62 IMPLIED CONSENT SIMULATOR CERTIFICATION
 IP-64E INSTRUMENT LOCATION CERTIFICATION CHECKLIST
 IP-65E INTOXILYZER LOCATION CERTIFICATION

Appendix B

MS Code, 1972 Annotated

November 20,2003

MS Implied Consent Law Title 63, Chapter 11

63-11-1.

Short title. This chapter may be cited as the Mississippi Implied Consent Law. Sources: Codes, 1942, §8175-01; Laws, 1971, ch. 515, § 1, eff from and after April 1, 1972.

63-11-3.

Definitions. The following words and phrases shall have the meaning ascribed herein, unless the context clearly indicates otherwise:

(a) "Driving privilege" or "privilege" means both the driver's license of those licensed in Mississippi and the driving privilege of unlicensed residents and the privilege of nonresidents, licensed or not, the purpose of this section being to make unlicensed and nonresident drivers subject to the same penalties as licensed residents.

(b) "Community service" means work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(c) "Chemical test" means an analysis of a person's blood, breath, urine or other bodily substance for the determination of the presence of alcohol or any other substance which may impair a person's mental or physical ability.

(d) "Refusal to take breath, urine and/or blood test" means an individual declining to take a chemical test, and/or the failure to provide an adequate breath sample as required by the Implied Consent Law when requested by a law enforcement officer.

(e) "Alcohol concentration" means either grams of alcohol per one hundred (100) milliliters of blood or grams of alcohol per two hundred ten (210) liters of breath.

(f) "Qualified person to withdraw blood" means any person who has been trained to withdraw blood in the course of their employment duties including but not limited to laboratory personnel, phlebotomist, emergency medical personnel, nurses and doctors.

(g) "Victim impact panel" means a two-hour seminar in which victims of DUI accidents relate their experiences following the accident to persons convicted under the Implied Consent Law. Paneling programs shall be based on a model developed by Mothers Against Drunk Driving (MADD) victim panel or equivalent program approved by the court.

(h) "Booked" means the administrative step taken after the arrested person is brought to the police station, which involves entry of the person's name, the crime for which the arrest was made, and other relevant facts on the police docket, and which may also include photographing, fingerprinting, and the like.

63-11-5.

Implied consent to chemical tests; administration of tests; warnings; form of traffic tickets, citations or affidavits; advice regarding right to request legal or medical assistance; rules and regulations.

(1) Any person who operates a motor vehicle upon the public highways, public roads and streets of this state shall be deemed to have given his consent, subject to the provisions of this chapter, to a chemical test or tests of his breath for the purpose of determining alcohol concentration. A person shall give his consent to a chemical test or tests of his breath, blood or urine for the purpose of determining the presence in his body of any other substance which would impair a person's ability to operate a motor vehicle. The test or tests shall be administered at the direction of any highway patrol officer, any sheriff or his duly commissioned deputies, any police officer in any incorporated municipality, any national park ranger, any officer of a state-supported institution of higher learning campus police force if such officer is exercising this authority in regard to a violation that occurred on campus property, or any security officer appointed and commissioned pursuant to the Pearl River Valley Water Supply District Security Officer Law of 1978 if such officer is exercising this authority in regard to a violation that occurred within the limits of the Pearl River Valley Water Supply District, when such officer has reasonable grounds and probable cause to believe that the person was driving or had under his actual physical control a motor vehicle upon the public streets or highways of this state while under the influence of intoxicating liquor or any other substance which had impaired such person's ability to operate a motor vehicle. No such test shall be administered by any person who has not met all the educational and training requirements of the appropriate course of study prescribed by the Board on Law Enforcement Officers Standards and Training; provided, however, that sheriffs and elected chiefs of police shall be exempt from such educational and training requirement. No such tests shall be given by any officer or any agency to any person within fifteen (15) minutes of consumption of any substance by mouth.

(2) If the officer has reasonable grounds and probable cause to believe such person to have been driving a motor vehicle upon the public highways, public roads, and streets of this state while under the influence of intoxicating liquor, such officer shall inform such person that his failure to submit to such chemical test or tests of his breath shall result in the suspension of his privilege to operate a motor vehicle upon the public streets and highways of this state for a period of ninety (90) days in the event such person has not previously been convicted of a violation of Section 63-11-30, or, for a period of one (1) year in the event of any previous conviction of such person under Section 63-11-30.

(3) The traffic ticket, citation or affidavit issued to a person arrested for a violation of this chapter shall conform to the requirements of Section 63-9-21(3)(b).

(4) Any person arrested under the provisions of this chapter shall be informed that he has the right to telephone for the purpose of requesting legal or medical assistance immediately after being booked for a violation under this chapter.

(5) The Commissioner of Public Safety and the State Crime Laboratory created pursuant to Section 45-1-17 are hereby authorized from and after the passage of this section to adopt procedures, rules and regulations, applicable to the Implied Consent Law.

Sources: Codes, 1942, § 8175-09; Laws, 1971, ch. 515, § 9; Laws, 1981, ch. 491, § 1; Laws, 1983, ch. 466, § 2; Laws, 1988, ch. 568, § 1; Laws, 1991, ch. 480, § 4; Laws, 1991, ch. 577, § 1; Laws, 1992, ch. 525, § 1; Laws, 1993, ch. 354, § 1; Laws, 1996, ch. 527, § 4; Laws, 1998, ch. 551, § 1, eff from and after passage (approved April 14, 1998).

63-11-7.

Authorization of blood test for dead or unconscious accident victims; use of test results.

If any person be unconscious or dead as a result of an accident, or unconscious at the time of arrest or apprehension or when the test is to be administered, or is otherwise in a condition rendering him incapable of refusal, such person shall be subjected to a blood test for the purpose of determining the alcoholic content of his blood as provided in this chapter, if the arresting officer has reasonable grounds to believe the person to have been driving a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor. The results of such test or tests, however, shall not be used in evidence against such person in any court or before any regulatory body without the consent of the person so tested, or, if deceased, such person's legal representative. However, refusal of release of evidence so obtained by such officer or agency will in criminal actions against such person result in the suspension of his or her driver's license for a period of ninety days as provided in this chapter for conscious and capable persons who have refused to submit to such test. Blood may only be withdrawn under the provisions of section 63-11-9. It is the intent of this chapter that blood samples taken under this section shall be used exclusively for statistical evaluation of accident causes with safeguards established to protect the identity of such victims and to extend the rights of privileged communications to those engaged in taking, handling and evaluating such statistical evidence.

Sources: Codes, 1942, § 8175-10; Laws, 1971, ch. 515, § 10, eff from and after April 1, 1972.

63-11-8.

Testing of motor vehicle operator involved in accident resulting in death.

(1) The operator of any motor vehicle involved in an accident that results in a death shall be tested for the purpose of determining the alcohol content or drug content of such operator's blood, breath or urine. Any blood withdrawal required by this section shall be administered by any qualified person and shall be administered within two (2) hours after such accident, if possible. The exact time of the accident, to the extent possible, and the exact time of the blood withdrawal shall be recorded.

(2) If any investigating law enforcement officer has reasonable grounds to believe that a person is the operator of a motor vehicle involved in an accident that has resulted in a death, it shall be such officer's duty to see that a chemical test is administered as required by this section.

(3) The results of a test administered pursuant to this section may be used as evidence in any court or administrative hearing without the consent of the person so tested.

(4) No person may refuse to submit to a chemical test required under the provisions of this section.

(5) Analysis of blood or urine to determine alcohol or drug content pursuant to this section shall be conducted by the Mississippi Crime Laboratory or a laboratory whose methods and procedures have been approved by the Mississippi Crime Laboratory.

Sources: Laws, 1995, ch. 540, § 4; Laws, 1996, ch. 527, § 5, eff from and after July 2, 1996.

63-11-9.

Administration of blood test under § 63-11-7.

Under Section 63-11-7, any qualified person acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath or urine specimens.

Sources: Codes, 1942, § 8175-17; Laws, 1971, ch. 515, § 17; Laws, 1996, ch. 527, § 6, eff from and after July 2, 1996.

63-11-11.

Taking of urine specimens.

If the test given under the provisions of this chapter is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will insure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

Sources: Codes, 1942, § 8175-19; Laws, 1971, ch. 515, § 19, eff from and after April 1, 1972.

63-11-13.

Right of accused to have test administered by person of his choice; effect of failure to obtain additional test.

The person tested may, at his own expense, have a physician, registered nurse, clinical laboratory technologist or clinical laboratory technician or any other qualified person of his choosing administer a test, approved by the state crime laboratory created pursuant to section 45-1-17, in addition to any other test, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath or urine. The failure or inability to obtain an additional test by such arrested person shall not preclude the admissibility in evidence of the test taken at the direction of a law enforcement officer.

Sources: Codes, 1942, § 8175-18; Laws, 1971, ch. 515, § 18; Laws, 1981, ch. 491, § 2, eff from and after July 1, 1981.

63-11-15.

Availability of information concerning test directed by law enforcement officer to accused or his attorney.

Upon the written request of the person tested, or his attorney, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him or to his attorney.

Sources: Codes, 1942, § 8175-20; Laws, 1971, ch. 515, § 20, eff from and after April 1, 1972.

63-11-17.

Liability for administering test or analysis.

No qualified person, hospital, clinic or funeral home shall incur any civil or criminal liability as the result of the proper administration of a test or chemical analysis of a person's breath, blood or urine when requested in writing by a law enforcement officer to administer such a test or perform such chemical analysis.

Sources: Codes, 1942, § 8175-21; Laws, 1971, ch. 515, § 21; Laws, 1973, ch. 354, § 1; Laws, 1996, ch. 527, § 7, eff from and after July 2, 1996.

63-11-19.

Requirements as to methods of testing and qualifications of test administrators; certification of administrators; testing and certification of accuracy of methods, machines or devices.

A chemical analysis of the person's breath, blood or urine, to be considered valid under the provisions of this section, shall have been performed according to methods approved by the State Crime Laboratory created pursuant to Section 45-1-17 and the Commissioner of Public Safety and performed by an individual possessing a valid permit issued by the State Crime Laboratory for making such analysis. The State Crime Laboratory and the Commissioner of Public Safety are authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the State Crime Laboratory. The State Crime Laboratory shall not approve the permit required herein for any law enforcement officer other than a member of the State Highway Patrol, a sheriff or his deputies, a city policeman, an officer of a state-supported institution of higher learning campus police force, a security officer appointed and commissioned pursuant to the Pearl River Valley Water Supply District Security Officer Law of 1978, a national park ranger, a national park ranger technician, a military policeman stationed at a United States military base located within this state other than a military policeman of the Army or Air National Guard or of Reserve Units of the Army, Air Force, Navy or Marine Corps, a marine law enforcement officer employed by the Department of Marine Resources, or a conservation officer employed by the Mississippi Department of Wildlife, Fisheries and Parks. The permit given a conservation officer or a marine law enforcement officer shall authorize such officer to administer tests only for violations of Sections 59-23-1 through 59-23-7.

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

Sources: Codes, 1942, § 8175-16; Laws, 1971, ch. 515, § 16; Laws, 1978, ch. 526, § 1; Laws, 1981, ch. 491, § 3; Laws, 1988, ch. 568, § 2; Laws, 1991, ch. 577, § 2; Laws, 1995, ch. 620, § 5; Laws, 1999, ch. 585, § 6, eff from and after July 1, 1999.

63-11-21.

Actions by law enforcement officer upon refusal of driver to submit to test generally.

If a person refuses upon the request of a law enforcement officer to submit to a chemical test of his breath designated by the law enforcement agency as provided in Section 63-11-5, none shall be given, but the officer shall at that point demand the driver's license of the person, who shall deliver his driver's license into the hands of the officer. If a person refuses to submit to a chemical test under the provisions of this chapter, the person shall be informed by the law enforcement officer that the refusal to submit to the test shall subject him to arrest and punishment consistent with the penalties prescribed in Section 63-11-30 for persons submitting to the test. The officer shall give the driver a receipt for his license on forms prescribed and furnished by the Commissioner of Public Safety. The officer shall forward the driver's license together with a sworn report to the Commissioner of Public Safety stating that he had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor, or any other substance which may impair a person's mental or physical ability, stating such grounds, and that the person had refused to submit to the chemical test of his breath upon request of the law enforcement officer.

Sources: Codes, 1942, § 8175-11; Laws, 1971, ch. 515, § 11; Laws, 1981, ch. 491, § 4; Laws, 1983, ch. 466, § 3; Laws, 1991, ch. 480, § 5; Laws, 1996, ch. 527, § 8, eff from and after July 2, 1996.

63-11-23. Review of report of law enforcement officer by Commissioner of Public Safety; notice of suspension; seizure of license where test indicates blood alcohol concentration above specified level; temporary permit to drive; denial of permit; representation of state in proceedings.

(1) The Commissioner of Public Safety, or his authorized agent, shall review the sworn report by a law enforcement officer as provided in Section 63-11-21. If upon such review the Commissioner of Public Safety, or his authorized agent, finds (a) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been driving a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor or any other substance which may impair a person's mental or physical ability; (b) that he refused to submit to the test upon request of the officer; and (c) that the person was informed that his license and/or driving privileges would be suspended or denied if he refused to submit to the chemical test, then the Commissioner of Public Safety, or his authorized agent, shall give notice to the licensee that his license or permit to drive, or any nonresident operating privilege, shall be suspended thirty (30) days after the date of such notice for a period of ninety (90) days in the event such person has not previously been convicted of a violation of Section 63-11-30, or, for a period of one (1) year in the event of any previous conviction of such person under Section 63-11-30. In the event the commissioner or his authorized agent determines that the license should not be suspended, he shall return the license or permit to the licensee.

The notice of suspension shall be in writing and given in the manner provided in Section 63-1-52(2) (a).

(2) If the chemical testing of a person's breath indicates the blood alcohol concentration was eight one-hundredths percent (.08%) or more for persons who are above the legal age to purchase alcoholic beverages under state law, or two one-hundredths percent (.02%) or more for persons who are below the legal age to purchase alcoholic beverages under state law, 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 such person's blood, or breath, or urine, the arresting officer shall seize the license and give the driver a receipt for his license on forms prescribed by the Commissioner of Public Safety and shall promptly forward the license together with a sworn report to the Commissioner of Public Safety. The receipt given a person as provided herein shall be valid as a permit to operate a motor vehicle for a period of thirty (30) days in order that the defendant be processed through the court having original jurisdiction and a final disposition had. If the defendant requests a trial within thirty (30) days and such trial is not commenced within thirty (30) days, then the court shall determine if the delay in the trial is the fault of the defendant or his counsel. If the court finds that such is not the fault of the defendant or his counsel, then the court shall order the defendant's driving privileges to be extended until such time as the defendant is convicted. If a receipt or permit to drive issued pursuant to the provisions of this subsection expires without a trial having been requested as provided for in this subsection, then the Commissioner of Public Safety or his authorized agent shall suspend the license or permit to drive or any nonresident operating privilege for the applicable period of time as provided for in subsection (1) of this section.

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

(4) It shall be the duty of the county prosecuting attorney, an attorney employed under the provisions of Section 19-3-49, or in the event there is no such prosecuting attorney for the county, the duty of the district attorney to represent the state in any hearing held under the provisions of Section 63-11-25, under the provisions of Section 63-11-37(2) or under the provisions of Section 63-11-30(2)(a).

Sources: Codes, 1942, § 8175-12; Laws, 1971, ch. 515, § 12; Laws, 1981, ch. 491, § 5; Laws, 1983, ch. 466, § 4; Laws, 1989, ch. 482, § 25; Laws, 1991, ch. 412, § 2; Laws, 1996, ch. 527, § 9; Laws, 1998, ch. 505, § 1; Laws, 2000, ch. 542, § 2; Laws, 2002, ch. 367, § 2, eff from and after July 1, 2002.

63-11-25. Appeals from forfeiture, suspension or denial of license by commissioner generally; exercise of driving privilege suspended during pendency of appeal.

If the forfeiture, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to subsection (1) of Section 63-11-23, upon such hearing, the person aggrieved may file within ten (10) days after the rendition of such decision a petition in the circuit or county court having original jurisdiction of the violation for review of such decision and such hearing upon review shall proceed as a trial de novo before the court without a jury. Provided further, that no such party shall be allowed to exercise the driving privilege while any such appeal is pending.

Sources: Codes, 1942, § 8175-13; Laws, 1971, ch. 515, § 13; Laws, 1983, ch. 466, § 5; Laws, 1996, ch. 527, § 10, eff from and after July 2, 1996.

63-11-26.

Actions which foreclose judicial review.

When the commissioner of public safety, or his authorized agent, shall suspend the driver's license or permit to drive of a person or shall deny the issuance of a license or permit to a person as provided in section 63-11-30, the person shall not be entitled to any judicial review of or appeal from the actions of the commissioner. A final conviction under said section shall finally adjudicate the privilege of such convicted person to operate a motor vehicle upon the public highways, public roads and streets of this state.

Sources: Laws, 1981, ch. 491, § 9; Laws, 1983, ch. 466, § 6, eff from and after July 1, 1983.

63-11-27. Notification of authorities in home state of suspension of nonresident drivers privilege.

When it has been finally determined under the procedures of sections 63-11-21 to 63-11-25, that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the commissioner, or his duly authorized agent, shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

Sources: Codes, 1942, § 8175-14; Laws, 1971, ch. 515, § 14, eff from and after April 1, 1972.

63-11-29. Repealed.

Repealed by Laws, 1983, ch. 466, § 15, eff from and after July 1, 1983.

[Codes, 1942, §§ 8175-02, 8175-03; Laws, 1971, ch. 515, §§ 2, 3]

63-11-30. Operation of vehicle while under influence of intoxicating liquor, drugs or controlled substances, or other substances impairing ability to operate vehicle or with blood alcohol concentrations

above specified levels; penalties generally; granting of hardship driving privileges; penalties for violations resulting in death, disfigurement, etc., of another; penalties for multiple offenses; concurrent running of suspensions.

(1) It is unlawful for any person to drive or otherwise operate a vehicle within this state who (a) is under the influence of intoxicating liquor; (b) is under the influence of any other substance which has impaired such person's ability to operate a motor vehicle; (c) has an alcohol concentration of eight one-hundredths percent (.08%) or more for persons who are above the legal age to purchase alcoholic beverages under state law, or two one-hundredths percent (.02%) or more for persons who are below the legal age to purchase alcoholic beverages under state law, 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 such person's breath, blood or urine administered as authorized by this chapter; (d) is under the influence of any drug or controlled substance, the possession of which is unlawful under the Mississippi Controlled Substances Law; or (e) has an alcohol concentration of four one-hundredths percent (.04%) or more 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 such person's blood, breath or urine, administered as authorized by this chapter for persons operating a commercial motor vehicle.

(2) (a) Except as otherwise provided in subsection (3), 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, such 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; and the court shall order such person to attend and complete an alcohol safety education program as provided in Section 63-11-32. The court may substitute attendance at a victim impact panel instead of forty-eight (48) hours in jail. In addition, the Department of Public Safety, the Commissioner of Public Safety or his duly authorized agent shall, after conviction and upon receipt of the court abstract, suspend the driver's license and driving privileges of such person for a period of not less than ninety (90) days and until such person attends and successfully completes an alcohol safety education program as herein provided; provided, however, in no event shall such period of suspension exceed one (1) year. Commercial driving privileges shall be suspended as provided in Section 63-1-83.

The circuit court having jurisdiction in the county in which the conviction was had or the circuit court of the person's county of residence may reduce the suspension of driving privileges under Section 63-11-30(2) (a) if the denial of which would constitute a hardship on the offender, except that no court may issue such an order reducing the suspension of driving privileges under this subsection until thirty (30) days have elapsed from the effective date of the suspension. Hardships shall only apply to first offenses under Section 63-11-30(1), and shall not apply to second, third or subsequent convictions of any person violating subsection (1) of this section. A reduction of suspension on the basis of hardship shall not be available to any person who refused to submit to a chemical test upon the request of a law enforcement officer as provided in Section 63-11-5. When the petition is filed, such person shall pay to the circuit clerk of the court where the petition is filed a fee of Fifty Dollars (\$50.00), which shall be deposited into the State General Fund to the credit of a special fund hereby created in the State Treasury to be used for alcohol or drug abuse treatment and education, upon appropriation by the Legislature. This fee shall be in addition to any other court costs or fees required for the filing of petitions.

The petition filed under the provisions of this subsection shall contain the specific facts which the petitioner alleges to constitute a hardship and the driver's license number of the petitioner. A hearing may be held on any petition filed under this subsection only after ten (10) days' prior written notice to the

Commissioner of Public Safety, or his designated agent, or the attorney designated to represent the state. At such hearing, the court may enter an order reducing the period of suspension.

The order entered under the provisions of this subsection shall contain the specific grounds upon which hardship was determined, and shall order the petitioner to attend and complete an alcohol safety education program as provided in Section 63-11-32. A certified copy of such order shall be delivered to the Commissioner of Public Safety by the clerk of the court within five (5) days of the entry of the order. The certified copy of such order shall contain information which will identify the petitioner, including, but not limited to, the name, mailing address, street address, social security number and driver's license number of the petitioner.

At any time following at least thirty (30) days of suspension for a first offense violation of this section, the court may grant the person hardship driving privileges upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

- (i) Continue his employment;
- (ii) Continue attending school or an educational institution; or
- (iii) Obtain necessary medical care.

Proof of the hardship shall be established by clear and convincing evidence which shall be supported by independent documentation.

(b) 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, such 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. Except as may otherwise be provided by paragraph (d) of this subsection, the Commissioner of Public Safety shall suspend the driver's license of such person for two (2) years. Suspension of a commercial driver's license shall be governed by Section 63-1-83. Upon any second conviction as described in this paragraph, the court shall ascertain whether the defendant is married, and if the defendant is married shall obtain the name and address of the defendant's spouse; the clerk of the court shall submit this information to the Department of Public Safety. Further, the commissioner shall notify in writing, by certified mail, return receipt requested, the owner of the vehicle and the spouse, if any, of the person convicted of the second violation of the possibility of forfeiture of the vehicle if such person is convicted of a third violation of subsection (1) of this section. The owner of the vehicle and the spouse shall be considered notified under this paragraph if the notice is deposited in the United States mail and any claim that the notice was not in fact received by the addressee shall not affect a subsequent forfeiture proceeding. For any second or subsequent conviction of any person under this section, the person shall also be subject to the penalties set forth in Section 63-11-31.

(c) Except as otherwise provided in subsection (3), for any third or subsequent conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, such 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), shall be imprisoned not less than one (1) year nor more than five (5) years in the State Penitentiary. 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 law enforcement agency shall seize the vehicle operated by any person charged with a third or subsequent violation of subsection (1) of this section, if such convicted person was driving the vehicle at the time the

offense was committed. Such vehicle may be forfeited in the manner provided by Sections 63-11-49 through 63-11-53. Except as may otherwise be provided by paragraph (e) of this subsection, the Commissioner of Public Safety shall suspend the driver's license of such person for five (5) years. The suspension of a commercial driver's license shall be governed by Section 63-1-83.

(d) Except as otherwise provided in subsection (3), any person convicted of a second violation of subsection (1) of this section shall receive an in-depth diagnostic assessment, and if as a result of such assessment is determined to be in need of treatment of his alcohol and/or drug abuse problem, such person shall successfully complete treatment of his alcohol and/or drug abuse problem at a program site certified by the Department of Mental Health. Such person shall be eligible for reinstatement of his driving privileges upon the successful completion of such treatment after a period of one (1) year after such person's driver's license is suspended. 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.

(e) Except as otherwise provided in subsection (3), any person convicted of a third or subsequent violation of subsection (1) of this section shall receive an in-depth diagnostic assessment, and if as a result of such assessment is determined to be in need of treatment of his alcohol and/or drug abuse problem, such person shall enter an alcohol and/or drug abuse program approved by the Department of Mental Health for treatment of such person's alcohol and/or drug abuse problem. If such person successfully completes such treatment, such person shall be eligible for reinstatement of his driving privileges after a period of three (3) years after such person's driver's license is suspended.

(f) The Department of Public Safety shall promulgate rules and regulations for the use of interlock ignition devices as provided in Section 63-11-31 and consistent with the provisions therein. Such rules and regulations shall provide for the calibration of such devices and shall provide that the cost of the use of such systems shall be borne by the offender. The Department of Public Safety shall approve which vendors of such devices shall be used to furnish such systems.

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

(b) 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, such person shall have his driver's license suspended for ninety (90) days and shall be fined Two Hundred Fifty Dollars (\$250.00); and the court shall order such person to attend and complete an alcohol safety education program as provided in Section 63-11-32. The court may also require attendance at a victim impact panel.

The circuit court having jurisdiction in the county in which the conviction was had or the circuit court of the person's county of residence may reduce the suspension of driving privileges under Section 63-11-30(2) (a) if the denial of which would constitute a hardship on the offender, except that no court may issue such an order reducing the suspension of driving privileges under this subsection until thirty (30) days have elapsed from the effective date of the suspension. Hardships shall only apply to first offenses under Section 63-11-30(1), and shall not apply to second, third or subsequent convictions of any person violating subsection (1) of this section. A reduction of suspension on the basis of hardship shall not be available to any person who refused to submit to a chemical test upon the request of a law enforcement

officer as provided in Section 63-11-5. When the petition is filed, such person shall pay to the circuit clerk of the court where the petition is filed a fee of Fifty Dollars (\$50.00), which shall be deposited into the State General Fund to the credit of a special fund hereby created in the State Treasury to be used for alcohol or drug abuse treatment and education, upon appropriation by the Legislature. This fee shall be in addition to any other court costs or fees required for the filing of petitions.

The petition filed under the provisions of this subsection shall contain the specific facts which the petitioner alleges to constitute a hardship and the driver's license number of the petitioner. A hearing may be held on any petition filed under this subsection only after ten (10) days' prior written notice to the Commissioner of Public Safety, or his designated agent, or the attorney designated to represent the state. At such hearing, the court may enter an order reducing the period of suspension.

The order entered under the provisions of this subsection shall contain the specific grounds upon which hardship was determined, and shall order the petitioner to attend and complete an alcohol safety education program as provided in Section 63-11-32. A certified copy of such order shall be delivered to the Commissioner of Public Safety by the clerk of the court within five (5) days of the entry of the order. The certified copy of such order shall contain information which will identify the petitioner, including, but not limited to, the name, mailing address, street address, social security number and driver's license number of the petitioner.

At any time following at least thirty (30) days of suspension for a first offense violation of this section, the court may grant the person hardship driving privileges upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

- (i) Continue his employment;
- (ii) Continue attending school or an educational institution; or
- (iii) Obtain necessary medical care.

Proof of the hardship shall be established by clear and convincing evidence which shall be supported by independent documentation.

(c) Upon any second conviction of any person under the age of twenty-one (21) years violating subsection (1) of this section, the offenses being committed within a period of five (5) years, such person shall be fined not more than Five Hundred Dollars (\$500.00) and shall have his driver's license suspended for one (1) year.

(d) For any third or subsequent conviction of any person under the age of twenty-one (21) years violating subsection (1) of this section, the offenses being committed within a period of five (5) years, such person shall be fined not more than One Thousand Dollars (\$1,000.00) and shall have his driver's license suspended until he 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 that his driver's license is suspended reduced if such person receives an in-depth diagnostic assessment, and as a result of such assessment is determined to be in need of treatment of his alcohol and/or drug abuse problem and successfully completes treatment of his alcohol and/or drug abuse problem at a program site certified by the Department of Mental Health. Such person shall be eligible for reinstatement of his driving privileges upon the successful completion of such treatment after a period of six (6) months after such person's driver's license is suspended. 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 and/or drug abuse program at a site certified by the Department of Mental Health.

(g) The court shall have the discretion to rule that a first offense of this subsection by a person under the age of twenty-one (21) years shall be nonadjudicated. Such person shall be eligible for nonadjudication only once. The Department of Public Safety shall maintain a confidential registry of all cases which are nonadjudicated as provided in this paragraph. A judge who rules that a case is nonadjudicated shall forward such ruling to the Department of Public Safety. Judges and prosecutors involved in implied consent violations shall have access to the confidential registry for the purpose of determining nonadjudication eligibility. A record of a person who has been nonadjudicated shall be maintained for five (5) years or until such person reaches the age of twenty-one (21) years. Any person whose confidential record has been disclosed in violation of this paragraph shall have a civil cause of action against the person and/or agency responsible for such disclosure.

(4) 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 his 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 such test in any prosecution, shall suffer an additional suspension of driving privileges as follows:

The Commissioner of Public Safety or his authorized agent shall suspend the driver's license or permit to drive or deny the issuance of a license or permit to such person as provided for first, second and third or subsequent offenders in subsection (2) of this section. Such suspension shall be in addition to any suspension imposed pursuant to subsection (1) of Section 63-11-23. The minimum suspension imposed under this subsection shall not be reduced and no prosecutor is authorized to offer a reduction of such suspension as part of a plea bargain.

(5) 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 felony 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.

(6) 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 judge shall cause a copy of the traffic ticket, citation or affidavit, and any other pertinent documents concerning the conviction, to be sent to the Commissioner 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) Convictions in other states 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 after July 1, 1992, shall be counted for the purposes of

determining if a violation of subsection (1) of this section is a first, second, third or subsequent offense and the penalty that shall be imposed upon conviction for a violation of subsection (1) of this section.

(8) For the purposes of determining how to impose the sentence for a second, third or subsequent conviction under this section, the indictment shall not be required to enumerate previous convictions. It shall only be necessary that the 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) 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 such license until the person reaches the age of eighteen (18) years.

(10) Suspension of driving privileges for any person convicted of violations of Section 63-11-30(1) shall run consecutively.

(11) The court may order the use of any ignition interlock device as provided in Section 63-11-31.

Sources: Laws, 1981, ch. 491, § 6; Laws, 1983, ch. 466, §§ 7, 13; Laws, 1989, ch. 565, § 1; Laws, 1991, ch. 480, § 6; Laws, 1992, ch. 500, § 1; Laws, 1994, ch. 340, § 4; Laws, 1995, ch. 540, § 1; Laws, 1996, ch. 527, § 11; Laws, 1998, ch. 505, § 2; Laws, 2000, ch. 542, § 3; Laws, 2002, ch. 367, § 1, eff from and after July 1, 2002.

63-11-31. Impoundment or immobilization of all vehicles registered to person convicted of DUI; installation of ignition interlock system.

(1) In addition to the penalties authorized for any second or subsequent convictions of Section 63-11-30, the court shall order either the impoundment or immobilization of all vehicles registered to the person convicted for the entire length of license suspension to commence upon conviction and persist during the entire driver's license suspension period. However, a county, municipality, sheriff's department or the Department of Public Safety shall not 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.

(2) (a) If other licensed drivers living in the household are dependent upon the vehicle subject to impoundment or immobilization for necessary transportation, the court may order the installation of an ignition interlock system on the vehicle in lieu of impoundment or immobilization. Additionally, the court shall order the installation of an ignition interlock system on all vehicles registered to the person for a minimum period of six (6) months to occur upon reinstatement of the person's driver's license if the court determines it is a vehicle to which the person has access and which should be subject to ignition interlock. The cost associated with impoundment, immobilization or ignition interlock shall be paid by the person convicted. For the purpose of this section, "ignition interlock device" means a device which 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.

(b) A person may not tamper with, or in any way attempt to circumvent the immobilization or impoundment of vehicles ordered by the court. 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.

(c) When a court orders a person to operate only a motor vehicle which is equipped with a functioning ignition interlock device, the court shall establish a specific calibration setting no lower than two one-hundredths percent (.02%) nor more than four one-hundredths percent (.04%) blood alcohol concentration at which the ignition interlock device will prevent the motor vehicle from being started.

(d) Upon ordering use of an ignition interlock device, the court shall:

(i) State on the record the requirement for and the period of use of the device, and so notify the Department of Public Safety;

(ii) Direct that the records of the department reflect that the person may not operate a motor vehicle that is not equipped with an ignition interlock device;

(iii) Direct the department to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person may operate only a motor vehicle equipped with an ignition interlock device;

(iv) Require proof of the installation of the device and periodic reporting by the person for verification of the proper operation of the device;

(v) Require the person to have the system monitored for proper use and accuracy by an entity approved by the department at least semiannually, or more frequently as the circumstances may require;

(vi) Require the person to pay the reasonable cost of leasing or buying, monitoring, and maintaining the device, and may establish a payment schedule therefore.

(e) (i) 1. A person prohibited under this section 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.

2. A person may not attempt to start or 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 under this section from operating a motor vehicle that is not equipped with an ignition interlock device.

3. 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.

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

(ii) A violation of this paragraph (e) 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.

(iii) A person shall not be in violation of this paragraph (e) if:

1. 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 court order does not operate the vehicle; or

2. The court finds that a person is required to operate a motor vehicle in the course and scope of the person's employment. If the vehicle is owned by the person's employer, the person may operate that vehicle during regular working hours for the purposes of employment without installation of an ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is kept with the vehicle at all times. This employment exemption does not apply if the business entity that owns the vehicle is owned or controlled by the person who is prohibited from operating the motor vehicle not equipped with an ignition interlock device.

(f) (i) A judge may also order that the vehicle owned or operated by a person or a family member of any person who committed a violation of Section 63-11-30 be equipped with an ignition interlock device for all or a portion of the time the driver's license of the operator of such vehicle is suspended or restricted pursuant to this section, if:

1. The operator of the vehicle used to violate Section 63-11-30 has at least one (1) prior conviction for driving a motor vehicle when such person's privilege to do so is cancelled, suspended or revoked as provided by Section 63-11-30; or
2. The driver's license of the operator of such vehicle was cancelled, suspended or revoked at the time of the violation of Section 63-11-30.

(ii) The provisions of this paragraph (f) shall not apply if the vehicle used to commit the violation of Section 63-11-30, was, at the time of such violation, rented or stolen.

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

Sources: Laws, 2000, ch. 542, § 1; Laws, 2001, ch. 477, § 1, eff from and after passage (approved Mar. 23, 2001.)

63-11-32. Development, implementation and funding of driver improvement program for first offenders convicted of driving while intoxicated or under influence of another substance which impairs ability to operate motor vehicle.

(1) The State Department of Public Safety in conjunction with the Governor's Highway Safety Program, the State Board of Health, or any other state agency or institution shall develop and implement a driver improvement program for persons identified as first offenders convicted of driving while under the influence of intoxicating liquor or another substance which had impaired such person's ability to operate a motor vehicle, including provision for referral to rehabilitation facilities.

(2) The program shall consist of a minimum of ten (10) hours of instruction. Each person who participates shall pay a nominal fee to defray a portion of the cost of the program.

(3) Such assessments as are collected under subsection (2) of Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "Mississippi Alcohol Safety Education Program Fund." Monies deposited in such fund shall be expended by the Board of Trustees of State Institutions of Higher Learning as authorized and appropriated by the Legislature to defray the costs of the Mississippi Alcohol Safety Education Program operated pursuant to the provisions of this section. Any revenue in the fund which is not encumbered at the end of the fiscal year shall lapse to the General Fund.

(4) Such assessments as are collected under subsection (2) of Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "Federal-State Alcohol Program Fund." Monies deposited in such fund shall be expended by the Department of Public Safety as authorized and appropriated by the Legislature to defray the costs of alcohol and traffic safety programs. Any revenue in the fund which is not encumbered at the end of the fiscal year shall lapse to the General Fund.

(5) Such assessments as are collected under subsection (2) of Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "Mississippi Crime Laboratory Implied Consent Law Fund." Monies deposited in such fund shall be expended by the Department of Public Safety as authorized and appropriated by the Legislature to defray the costs of equipment replacement and operational support of the Mississippi Crime Laboratory relating to enforcement of the Implied Consent Law. Any revenue in the fund which is not encumbered at the end of the fiscal year shall not lapse to the General Fund but shall remain in the fund.

Sources: Laws, 1973, ch. 408, § 1; Laws, 1979, ch. 305; Laws, 1981, ch. 491, § 7; Laws, 1983, ch. 466, § 8; Laws, 1990, ch. 329, § 11; Laws, 1991, ch. 356 § 2; Laws, 1996, ch. 527, § 12, eff from and after July 2, 1996.

63-11-33, 63-11-35. Repealed.

Repealed by Laws, 1981, ch. 491, § 16, eff from and after July 1, 1981.

[Codes, 1942, §§ 8175-04, 8175-06, 8175-07; Laws, 1971, ch. 515, §§ 4, 6, 7]

63-11-37. Contents and disposition of record of conviction under § 63-11-30.

63-11-37. Contents and disposition of record of conviction under § 63-11-30.

It shall be the duty of the trial judge, upon conviction of any person under Section 63-11-30, to mail a true and correct copy of the traffic ticket, citation or affidavit evidencing the arrest that resulted in the conviction and a copy of the abstract of the court record within five (5) days to the Commissioner of Public Safety at Jackson, Mississippi. The trial judge in municipal and justice courts shall show on the docket and the trial judge in courts of record shall show on the minutes:

(a) Whether or not a chemical test was given and the results of the test;

(b) Where conviction was based in whole or in part on the results of such a test.

The abstract of the court record shall show the date of the conviction, the results of the test if there was one and the penalty so that a record of same may be made by the Department of Public Safety.

For the purposes of Section 63-11-30, a bond forfeiture shall operate as and be considered as a conviction.

Sources: Codes, 1942, § 8175-08; Laws, 1971, ch. 515, § 8; Laws, 1981, ch. 491, § 8; Laws, 1983, ch. 466, § 9; Laws, 1985, ch. 346; Laws, 1991, ch. 480, § 7, eff from and after July 1, 1991.

63-11-39. Reduction of charges under chapter.

The court having jurisdiction or the prosecutor shall not reduce any charge under this chapter to a lesser charge.

Sources: Laws, 1992, ch. 500, § 5; Laws, 1996, ch. 527, § 13, eff from and after July 2, 1996.

63-11-40. Driving while driving license or privilege cancelled, suspended or revoked.

Any person whose driver's license, or driving privilege has been cancelled, suspended or revoked under the provisions of this chapter and who drives any motor vehicle upon the highways, streets or public roads of this state, while such license or privilege is cancelled, suspended or revoked, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than forty-eight (48) hours nor more than six (6) months, and fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). The commissioner of public safety shall suspend the driver's license or driving privilege of any person convicted under the provisions of this section for an additional six (6) months. Such suspension shall begin at the end of the original cancellation, suspension or revocation and run consecutively.

Sources: Laws, 1983, ch. 466, § 11, eff from and after July 1, 1983.

63-11-41. Admissibility in criminal prosecution of evidence of refusal to submit to chemical test.

If a person under arrest refuses to submit to a chemical test under the provisions of this chapter, evidence of refusal shall be admissible in any criminal action under this chapter.

Sources: Codes, 1942, § 8175-22; Laws, 1971, ch. 515, § 22, eff from and after April 1, 1972.

63-11-43. Repealed.

Repealed by Laws, 1991, ch. 573, § 141, eff from and after July 1, 1991.

[Codes, 1942, § 8175-23; Laws, 1971, ch. 515, § 23]

63-11-45. Denial of insurance coverage on ground of refusal to submit to test or upon basis of test results.

No coverage otherwise afforded under any policy of insurance shall be denied on the ground that any person has refused any test provided for by this chapter nor on the basis of the results of any such test. Any provision to such effect in any insurance policy hereinafter issued shall be void.

Sources: Codes, 1942, § 8175-25; Laws, 1971, ch. 515, § 29, eff from and after April 1, 1972.

63-11-47. Selection and purchase of equipment and supplies.

The commissioner of public safety, acting in concert with the state crime laboratory created pursuant to section 45-1-17, is hereby expressly authorized and directed to determine the equipment and supplies which are adequate and necessary from both a medical and law enforcement standpoint for administration of this chapter. The commissioner of public safety, upon receiving such recommendation from the state crime laboratory, shall recommend an equipment standard for such equipment to the state fiscal management board. The state fiscal management board, using such a uniform standard for said equipment, shall advertise its intention of purchasing said equipment by one (1) publication in at least one (1) newspaper having general circulation in the state of Mississippi at least ten (10) days before the purchase of such equipment and supplies, and the advertisement shall clearly and distinctly describe the articles to be purchased, and shall receive sealed bids thereon which shall be opened in public at a time and place to be specified in the advertisement.

The state fiscal management board shall accept the lowest and best bid for said equipment and supplies; in its discretion, it may reject any and all bids submitted. The lowest and best bid for said equipment and supplies accepted by the state fiscal management board shall be the state-approved price of said equipment for purchase by the state, county and city governments.

Title to all such testing equipment in the state purchased hereunder shall remain in the commissioner of public safety regardless of what entity pays the purchase price. The state, counties and municipalities may purchase in the name of the commissioner of public safety such equipment and supplies from other vendors of said equipment and supplies necessary to implement this chapter, provided they purchase of the same quality and standard as certified to the state fiscal management board and approved by the department. However, such equipment and supplies shall not be purchased by the state, counties and municipalities unless it is at a price equivalent to or lower than that approved by the state fiscal management board, pursuant to the bid procedure as outlined herein.

Sources: Codes, 1942, § 8175-26; Laws, 1971, ch. 515, § 30; Laws, 1981, ch. 491, § 13; Laws, 1984, ch. 488, § 263, eff from and after July 1, 1984.

63-11-49. Authorization for impoundment and forfeiture of vehicle seized under chapter; notice of intention to forfeit; forfeiture to spouse; request for judicial review.

(1) When a vehicle is seized under Section 63-11-30(2)(c) or (d), the arresting officer shall impound the vehicle and the vehicle shall be held as evidence until a court of competent jurisdiction makes a final disposition of the case and the vehicle may be forfeited by the administrative forfeiture procedures provided for in this section upon final disposition as provided in Section 63-11-30(2)(c).

(2) The attorney for the law enforcement agency shall provide notice of intention to forfeit the seized vehicle administratively, by certified mail, return receipt requested, to all persons who are required to be notified pursuant to Section 63-11-51.

(3) In the event that notice of intention to forfeit the seized vehicle administratively cannot be given as provided in subsection (2) of this section because of refusal, failure to claim, insufficient address or any other reason, the attorney for the law enforcement agency shall provide notice by publication in a newspaper of general circulation in the county in which the seizure occurred for once a week for three (3) consecutive weeks.

(4) Notice pursuant to subsections (2) and (3) of this section shall include the following information:

- (a) A description of the vehicle;
- (b) The approximate value of the vehicle;
- (c) The date and place of the seizure;
- (d) The connection between the vehicle and the violation of Section 63-11-30;
- (e) The instructions for filing a request for judicial review; and
- (f) A statement that the vehicle will be forfeited to the law enforcement agency if a request for judicial review is not timely filed.

(5) In the event that a spouse of the owner of the seized vehicle makes a showing to the department that the seized vehicle is the only source of transportation for the spouse, the chief law enforcement officer shall declare that the vehicle is thereby forfeited to such spouse. A written declaration of forfeiture of a vehicle pursuant to this subsection shall be sufficient cause for the title to the vehicle to be transferred to the spouse. The provisions of this subsection shall apply only to one (1) forfeiture per vehicle; if the vehicle is the subject of a subsequent forfeiture proceeding by virtue of a subsequent conviction of either

spouse, the spouse to whom the vehicle was forfeited pursuant to the first forfeiture proceeding may not utilize the remedy provided herein in another forfeiture proceeding.

(6) Persons claiming an interest in the seized vehicle may initiate judicial review of the seizure and proposed forfeiture by filing a request for judicial review with the attorney for the law enforcement agency within thirty (30) days after receipt of the certified letter or within thirty (30) days after the first publication of notice, whichever is applicable.

(7) If no request for judicial review is timely filed, the attorney for the law enforcement agency shall prepare a written declaration of forfeiture of the subject vehicle and the forfeited vehicle shall be disposed of in accordance with the provisions of Section 63-11-51.

(8) Upon receipt of a timely request for judicial review, the attorney for the law enforcement agency shall promptly file a petition for forfeiture and proceed as provided in Section 63-11-51.

Sources: Laws, 1992, ch. 500, § 2; Laws, 1996, ch. 527, § 14, eff from and after July 2, 1996.

63-11-51. Institution of forfeiture proceedings; filing and service of petition for forfeiture.

(1) Except as otherwise provided in Section 63-11-49, when a vehicle is seized under Section 63-11-30 (2)(c) or (d), proceedings under this section shall be instituted promptly upon final conviction.

(2) A petition for forfeiture shall be filed promptly in the name of the State of Mississippi, the county or the municipality and may be filed in the county in which the seizure is made, the county in which the criminal prosecution is brought or the county in which the owner of the seized vehicle is found. Forfeiture proceedings may be brought in the circuit court or the county court if a county court exists in the county and the value of the seized vehicle is within the jurisdictional limits of the county court as set forth in Section 9-9-21. A copy of such petition shall be served upon the following persons by service of process in the same manner as in civil cases:

(a) The owner of the vehicle, if address is known;

(b) Any secured party who has registered his lien or filed a financing statement as provided by law, if the identity of such secured party can be ascertained by the law enforcement agency by making a good faith effort to ascertain the identity of such secured party as described in subsections (3), (4), (5), (6) and (7) of this section;

(c) Any other bona fide lienholder or secured party or other person holding an interest in the vehicle in the nature of a security interest of whom the law enforcement agency has actual knowledge;

(d) Any person in possession of the vehicle subject to forfeiture at the time that it was seized.

(3) If the vehicle is susceptible of titling under the Mississippi Motor Vehicle Title Law and if there is any reasonable cause to believe that the vehicle has been titled, the law enforcement agency shall inquire of the State Tax Commission as to what the records of the State Tax Commission show regarding who is the record owner of the vehicle and who, if anyone, holds any lien or security interest which affects the vehicle.

(4) If the vehicle is not titled in the State of Mississippi, then the law enforcement agency shall attempt to ascertain the name and address of the person in whose name the vehicle is licensed, and if the vehicle is licensed in a state which has in effect a certificate of title law, the agency shall inquire of the appropriate

agency of that state as to what the records of the agency show regarding who is the record owner of the vehicle and who, if anyone, holds any lien, security interest or other instrument in the nature of a security device which affects the vehicle.

(5) In the event the answer to an inquiry states that the record owner of the vehicle is any person other than the person who was in possession of it when it was seized, or states that any person holds any lien, encumbrance, security interest, other interest in the nature of a security interest, which affects the vehicle, the law enforcement agency shall cause any record owner and also any lienholder, secured party, other person who holds an interest in the vehicle in the nature of a security interest, to be named in the petition for forfeiture and to be served with process in the same manner as in civil cases.

(6) If the owner of the vehicle cannot be found and served with a copy of the petition of forfeiture, the law enforcement agency shall file with the clerk of the court in which the proceeding is pending an affidavit to such effect, whereupon the clerk of the court shall publish notice of the hearing addressed to "the Unknown Owner of . . .," filling in the blank space with a reasonably detailed description of the vehicle subject to forfeiture. Service by publication shall contain the other requisites prescribed in Section 11-33-41, and shall be served as provided in Section 11-33-37 for publication of notice for attachments at law.

Sources: Laws, 1992, ch. 500, § 3; Laws, 1996, ch. 527, § 15, eff from and after July 2, 1996.

63-11-53. Disposition of forfeited vehicles; disposition of money derived from forfeited vehicles.

(1) All money derived from the seizure and forfeiture of vehicles under Section 63-11-30(2)(c) and (d) and Sections 63-11-49 and 63-11-51 by the Mississippi Highway Safety Patrol shall be forwarded to the State Treasurer and deposited in a special fund which is hereby created for use by the Department of Public Safety upon appropriation by the Legislature. Unexpended amounts remaining in such special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in such special fund shall be deposited to the credit of the special fund. All other law enforcement agencies shall establish a special fund which is to be used for law enforcement purposes to purchase equipment for the law enforcement agency, and any interest earned on the amount in such special fund shall be deposited to the credit of the special fund.

(2) Except as otherwise provided in subsection (3), all vehicles that have been forfeited shall be sold at a public auction for cash by the law enforcement agency, to the highest and best bidder after advertising the sale for at least once each week for three (3) consecutive weeks, the last notice to appear not more than ten (10) days nor less than five (5) days prior to such sale, in a newspaper having a general circulation in the county in which the vehicle was seized. Such notices shall contain a description of the vehicle to be sold and a statement of the time and place of sale. It shall not be necessary to the validity of such sale either to have the vehicle present at the place of sale or to have the name of the owner thereof stated in such notice. The proceeds of the sale shall be disposed of as follows:

(a) To any bona fide lienholder, secured party, or other party holding an interest in the vehicle in the nature of a security interest, to the extent of his interest; and

(b) The balance, if any, remaining after deduction of all storage, court costs and expenses of liquidation shall be deposited in the manner described in subsection (1) of this section.

(3) The law enforcement agency may maintain, repair, use and operate for official purposes all vehicles that have been forfeited if the vehicles are free from any interest of a bona fide lienholder, secured party

or other party who holds an interest in the nature of a security interest. The agency may purchase the interest of a bona fide lienholder, secured party or other party who holds an interest so that the vehicle can be released for its use. If the vehicle is susceptible of titling under the Mississippi Motor Vehicle Title Law, the agency shall be deemed to be the purchaser, and the certificate of title shall be issued to it as required by subsection (4) of this section.

(4) The State Tax Commission shall issue a certificate of title to any person who purchases vehicles under the provisions of this section when a certificate of title is required under the laws of this state.

Sources: Laws, 1992, ch. 500, § 4; Laws, 1996, ch. 527, § 16, eff from and after July 2, 1996.