MISSISSIPPI LEGISLATURE REGULAR SESSION 2015

By: Representative Bain

To: Transportation;
Judiciary B

HOUSE BILL NO. 1321

AN ACT TO PROVIDE A FEE FOR THE USE OF ELECTRONIC CITATIONS FOR CERTAIN OFFENSES; TO AMEND SECTION 63-9-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) As used in this section, "electronic citation" means the process of transmitting traffic, misdemeanor, municipal ordinance, conservation, or other citations and law enforcement data via electronic means to a circuit court clerk.

(2) To defray the expense of establishing and maintaining electronic citations, each clerk of court shall charge and collect an electronic citation fee of Five Dollars ($5.00). The fee shall be paid by the defendant in any traffic, misdemeanor, municipal ordinance, or conservation citation issued upon a plea of guilty, judgment of guilty or grant of supervision. This fee shall be in addition to all other fees and charges and assessable as costs and shall not be subject to disbursement under this act. Sixty percent (60%) of the fee shall be deposited into the Court Clerk Electronic Citation Fund which each clerk shall establish within

sixty (60) days after the effective date of this act and forty percent (40%) of the fee shall be disbursed to the arresting agency to defray expenses related to the establishment and maintenance of electronic citations. The clerk shall be the custodian, ex officio, of the Court Clerk Electronic Citation Fund and shall use the fund to perform the duties required by the office for establishing and maintaining electronic citations. The clerk of court shall not charge and collect an electronic citation fee if the board of supervisors or municipal governing authorities have by ordinance elected not to be subject to the provisions of this section. Any funds collected under this section before such an ordinance takes effect shall be disbursed to the Department of Public Safety for expenses related to the establishment and maintenance of electronic citations.

SECTION 2. Section 63-9-21, Mississippi Code of 1972, is amended as follows:

63-9-21. (1) This section shall be known as the Uniform Traffic Ticket Law.

(2) All traffic tickets, except traffic tickets filed electronically as provided under subsection (8) of this section, shall be printed in the original and at least two (2) copies and such other copies as may be prescribed by the Commissioner of Public Safety. All traffic tickets shall be uniform as prescribed by the Commissioner of Public Safety and the Attorney General, except as otherwise provided in subsection (3)(b) and except that

the Commissioner of Public Safety and the Attorney General may alter the form and content of traffic tickets to meet the varying requirements of the different law enforcement agencies. The Commissioner of Public Safety and the Attorney General shall prescribe a separate traffic ticket, consistent with the provisions of subsection (3)(b) of this section, to be used exclusively for violations of the Mississippi Implied Consent Law.

(3) (a) Every traffic ticket issued by any sheriff, deputy sheriff, constable, county patrol officer, municipal police officer or State Highway Patrol officer for any violation of traffic or motor vehicle laws shall be issued on the uniform traffic ticket or uniform implied consent violation ticket consisting of an original and at least two (2) copies and such other copies as may be prescribed by the Commissioner of Public Safety.

(b) The traffic ticket, citation or affidavit issued to a person arrested for a violation of the Mississippi Implied Consent Law shall contain a place for the trial judge hearing the case or accepting the guilty plea, as the case may be, to sign, stating that the person arrested either employed an attorney or waived his right to an attorney after having been properly advised of his right to have an attorney. If the person arrested employed an attorney, the name, address and telephone number of the attorney shall be entered or written on the ticket, citation or affidavit.

(c) Every traffic ticket shall show, among other necessary information, the name of the issuing officer, the name of the court in which the cause is to be heard, and the date and time the person is to appear to answer the charge. The ticket shall include information that will constitute a complaint charging the offense for which the ticket was issued, and when duly sworn to and filed with a court of competent jurisdiction, prosecution may proceed thereunder.

(d) The traffic ticket shall contain a space to include the current address and current telephone number of the person being charged. It shall not contain a space to include the social security number of the person being charged.

(4) All traffic tickets, except traffic tickets filed electronically under subsection (8) of this section, shall be bound in book form, shall be consecutively numbered and each traffic ticket shall be accounted for to the officer issuing such book. The traffic ticket books shall be issued to sheriffs, deputy sheriffs, constables and county patrol officers by the chancery clerk of their respective counties, to each municipal police officer by the clerk of the municipal court, and to each State Highway Patrol officer by the Commissioner of Public Safety.

(5) The chancery clerk, clerk of the municipal court and the Commissioner of Public Safety shall keep a record of all traffic ticket books issued and to whom issued, accounting for all books printed and issued. All traffic tickets submitted electronically

shall be filed automatically with the Commissioner of Public Safety and either the clerk of the municipal court or clerk of the justice court using the system of electronic submission for the purpose of maintaining a record of account as prescribed by this subsection (5).

(6) The original traffic ticket, unless the traffic ticket is filed electronically as provided under subsection (8) of this section, shall be delivered by the officer issuing the traffic ticket to the clerk of the court to which it is returnable to be retained in that court's records and the number noted on the docket. However, if a ticket is issued and the person is incarcerated based upon the conduct for which the ticket was issued, the ticket shall be filed with the clerk of the court to which it is returnable no later than 5:00 p.m. on the next business day, excluding weekends and holidays, after the date and time of the person's incarceration; however, failure to timely file the traffic ticket shall not be grounds for dismissal of the traffic ticket and shall not prevent the person's release from incarceration. The officer issuing the traffic ticket shall also give the accused a copy of the traffic ticket. The clerk of the court shall file a copy with the Commissioner of Public Safety within forty-five (45) days after judgment is rendered showing such information about the judgment as may be required by the commissioner or, in cases in which no judgment has been rendered, within one hundred twenty (120) days after issuance of the ticket.

Other copies that are prescribed by the commissioner pursuant to this section shall be filed or retained as may be designated by the commissioner. All copies shall be retained for at least two (2) years.

(7) Failure to comply with the provisions of this section shall constitute a misdemeanor and, upon conviction, shall be punishable by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00).

(8) (a) Law enforcement officers and agencies may file traffic tickets, including tickets issued for a violation of the Mississippi Implied Consent Law, by computer or electronic means if the ticket conforms in all substantive respects, including layout and content, as provided under subsections (2) or (3)(b) of this section and subject to the provisions of Section 1 of House Bill No. , 2015 Regular Session. The provisions of subsection (4) of this section requiring tickets bound in book form do not apply to a ticket that is produced by computer or electronic means. Information concerning tickets produced by computer or electronic means shall be available for public inspection in substantially the same manner as provided for the uniform tickets described in subsection (2) of this section.

(b) The defendant shall be provided with a paper copy of the ticket. A law enforcement officer who files a ticket electronically shall be considered to have certified the ticket

and has the same rights, responsibilities and liabilities as with all other tickets issued pursuant to this section.

SECTION 3. This act shall take effect and be in force from and after July 1, 2015.