MISSISSIPPI LEGISLATURE REGULAR SESSION 2019

By: Representative Clark

To: Transportation;
Judiciary B

HOUSE BILL NO. 310

AN ACT TO AUTHORIZE THE ISSUANCE OF A HARDSHIP DRIVER'S LICENSE TO A PERSON WHOSE LICENSE HAS BEEN SUSPENDED AS A RESULT OF BEING OUT OF COMPLIANCE WITH AN ORDER FOR SUPPORT; TO REQUIRE A PERSON TO ESTABLISH PROOF OF HARDSHIP; TO AMEND SECTION 63-1-43, MISSISSIPPI CODE OF 1972, TO ESTABLISH A FEE FOR A HARDSHIP LICENSE AND PROVIDE THAT A PERSON HOLDING A HARDSHIP LICENSE MAY ONLY DRIVE TO WORK AND RELIGIOUS SERVICES; TO AMEND SECTION 63-1-47, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TERM OF A HARDSHIP LICENSE SHALL BE FOUR YEARS; TO AMEND SECTIONS 63-1-5 and 93-11-157, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Whenever a person's driver's license has been suspended under Section 93-11-157 or 93-11-163 for being out of compliance with an order for support, such person may petition the chancery court in which the licensee resides or the Chancery Court of the First Judicial District of Hinds County, Mississippi, for an order authorizing such person to be issued a hardship license.

(2) (a) The court may grant the person hardship driving privileges if it finds reasonable cause to believe that suspension

of full driving privileges would hinder the person's ability to continue his or her employment.

(b) Proof of the hardship shall be established by clear and convincing evidence, which shall be supported by independent documentation, and must include a recommendation letter from the Mississippi Department of Human Services stating they have reason to believe the person should receive a hardship license.

(3) Upon receiving a court order that grants a person hardship driving privileges, the person shall take the order and a hardship driver's license application form, prescribed by the Mississippi Department of Public Safety, to a driver's licensing location to be issued a hardship driver's license.

(4) The hardship driver's license issued under this section shall be developed by the Mississippi Department of Public Safety and shall look substantially different from a regular driver's license.

(5) A hardship license cannot be issued to an applicant to operate a commercial motor vehicle.

(6) (a) The Mississippi Department of Human Services shall adopt regulations to carry out the provisions of subsection (2)(b) of this section.

(b) The Mississippi Department of Public Safety shall adopt regulations as necessary to carry out the provisions of this section.

SECTION 2. Section 63-1-43, Mississippi Code of 1972, is amended as follows:

63-1-43. (1) The commissioner shall charge and collect the following fees:

(a) Fees to which the card stock fee authorized in Section 45-1-21 shall be added:

Class R original or renewal four-year license authorized in Section 63-1-5.....$18.00

Class R original or renewal eight-year license authorized in Section 63-1-5.....$36.00

Class D original or renewal four-year license authorized in Section 63-1-47.....$23.00

Class D original or renewal eight-year license authorized in Section 63-1-47.....$46.00

Four-year Identification Card authorized in Section 45-35-7.....$11.00

Eight-year Identification Card authorized in Section 45-35-7.....$22.00

Eight-year Identification Card for the blind authorized in Section 45-35-7.....$11.00

Four-year Disability Identification Card authorized in Section 45-35-53.....$11.00

Regular Learner's Permit authorized in Section 63-1-21.....$ 1.00

Duplicate Identification Card or Disability Identification Card.....$ 5.00

Intermediate license authorized in Section 63-1-21.....$ 5.00

Duplicate Class R or Class D license

authorized in Section 63-1-37.....$ 5.00

Class A, B or C Commercial driver's license

authorized in Section 63-1-208.....$48.00

CDL Learner's Permit authorized in Section 63-1-208.....$10.00

Duplicate CDL or CDL learner's permit.....$ 5.00

Ignition-Interlock-Restricted License

authorized in Section 63-11-31.....$50.00

(b) Driver services fees to which the card stock fee authorized in Section 45-1-21 is not added:

Temporary Motorcycle Permit.....$ 1.00

Four-year or eight-year Motorcycle Endorsement.....$ 5.00

Late Renewal Fee.....$ 1.00

Four-year Identification Card upon medical reason for

surrender of a driver's license as authorized in

Section 45-35-7 (one (1) time only).....No fee

Hazardous Materials Background Check (federal).....$63.00

Hazardous Materials Background Check (state).....$37.00

CDL Application Fee.....$25.00

CDL Endorsements:

Tanker Endorsement.....$ 5.00

Doubles/Triples Endorsement.....$ 5.00

Passenger Endorsement.....$ 5.00

Hazardous Materials Endorsement.....$ 5.00

School Bus Endorsement.....$ 5.00

Hardship License authorized in Section 1 of this act.....$25.00

(c) In addition to the fees required in this section, an applicant may contribute an additional One Dollar ($1.00) which shall be deposited into the Statewide Litter Prevention Fund. The applicant shall be informed that he may contribute an additional One Dollar ($1.00) which shall be deposited into the Statewide Litter Prevention Fund and shall be expended solely for the purpose of funding litter prevention projects or litter education programs, as recommended by the Statewide Litter Prevention Program of Keep Mississippi Beautiful, Inc.

(2) All originals and renewals of operators' licenses shall be in compliance with Section 63-1-47.

SECTION 3. Section 63-1-47, Mississippi Code of 1972, is amended as follows:

63-1-47. (1) (a) Except as otherwise provided in this section, each applicant for an original or renewal Class R or Class D license issued pursuant to this article, who is entitled to issuance of same, shall be issued a four-year license or an eight-year license, at the option of the applicant, which will expire at midnight on the licensee's birthday and may be renewed any time within six (6) months before the expiration of the license upon application and payment of the required fee, unless required to be reexamined.

(b) The term of an intermediate license issued under this article shall be one (1) year.

(c) The term of an iginition-interlock-restricted license issued under this article shall be four (4) years.

(d) The term of a hardship license issued under Section 1 of this act shall be four (4) years.

(2) Any commercial driver's license issued under Article 5 of this chapter shall be issued for a five-year term to expire at midnight on the licensee's birthday.

(3) (a) All applications by an operator under eighteen (18) years of age must be accompanied by documentation that the applicant is in compliance with the education requirements of Section 63-1-9(1)(g), and the documentation used in establishing compliance must be dated no more than thirty (30) days before the date of application.

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

(c) The commissioner shall suspend the driver's license, intermediate license or regular learner's permit of a student under eighteen (18) years of age who has been reported by the Department of Education as required by Section 63-1-10.1, and

shall give notice of the suspension to the licensee as provided in Section 63-1-52(4). A school superintendent or designee may request that the driver's license, intermediate license or regular learner's permit that has been suspended under the provisions of this subsection be reinstated after the student has successfully completed nine (9) weeks of school attendance without an unlawful absence.

(4) (a) Any original or renewal license issued under this chapter to a person who is not a United States citizen shall expire four (4) years from the date of issuance or on the expiration date of the applicant's authorized stay in the United States, whichever is the lesser period of time, and may be renewed, if the person is otherwise qualified to renew the license, within thirty (30) days of expiration. The fee for any such license and for renewal shall be as prescribed in Section 63-1-43.

(b) Any applicant for an original or renewal license under this subsection (4) must present valid documentary evidence documenting that the applicant:

(i) Is a citizen or national of the United States;

(ii) Is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) Has conditional permanent residence status in the United States;

(iv) Has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into or lawful presence in the United States;

(vi) Has a pending application for asylum in the United States;

(vii) Has a pending or approved application for temporary protected status in the United States;

(viii) Has approved deferred-action status;

(ix) Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; or

(x) Has a valid employment authorization card issued by the United States Department of Homeland Security.

SECTION 4. Section 63-1-5, Mississippi Code of 1972, is amended as follows:

63-1-5. (1) (a) No person shall drive or operate a motor vehicle or an autocycle as defined in Section 63-3-103 upon the highways of the State of Mississippi without first securing an operator's license to drive on the highways of the state, unless specifically exempted by Section 63-1-7.

(b) The types of operator's licenses are:

(i) Class R;

(ii) Class D;

(iii) Class A, B or C commercial license governed by Article 5 of this chapter;

(iv) Intermediate license; *** * ***

(v) Interlock-restricted license as prescribed in Section 63-11-31 *** * ***; and

(vi) Hardship license as prescribed in Section 1 of this act.

(2) (a) Every person who makes application for an original license or a renewal license to operate any single vehicle with a gross weight rating of less than twenty-six thousand one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds other than vehicles included in Class C, vehicles which require a special endorsement, or to operate a vehicle as a common carrier by motor vehicle, taxicab, passenger coach, dray, contract carrier or private commercial carrier as defined in Section 27-19-3, other than those vehicles for which a Class A, B or C license is required under Article 5 of this chapter, may, in lieu of the Class R regular driver's license, apply for and obtain a Class D driver's license. The fee for the issuance of a Class D driver's license shall be as set forth in Section 63-1-43 and the Class D license shall be valid for the term prescribed in Section 63-1-47. Except as required under Article 5 of this chapter, no driver of a

pickup truck shall be required to have a Class D or a commercial license regardless of the purpose for which the pickup truck is used.

(b) Persons operating vehicles listed in paragraph (a) of this subsection for private purposes or in emergencies need not obtain a Class D license.

(3) An interlock-restricted license allows a person to drive only a motor vehicle equipped with an iginition-interlock device.

(4) A person who violates this section is guilty of a misdemeanor and, upon conviction, may be punished by imprisonment for not less than two (2) days nor more than six (6) months, by a fine of not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00), or both.

SECTION 5. Section 93-11-157, Mississippi Code of 1972, is amended as follows:

93-11-157. (1) The division shall review the information received under Section 93-11-155 and any other information available to the division, and shall determine if a licensee is out of compliance with an order for support. If a licensee is out of compliance with the order for support, the division shall notify the licensee by first class mail that ninety (90) days after the licensee receives the notice of being out of compliance with the order, the licensing entity will be notified to immediately suspend the licensee's license unless the licensee pays the arrearage owing, according to the accounting records of

the Mississippi Department of Human Services or the attorney representing the party to whom support is due, as the case may be, or enters into a stipulated agreement and agreed judgment establishing a schedule for the payment of the arrearage. The licensee shall be presumed to have received the notice five (5) days after it is deposited in the mail.

(2) Upon receiving the notice provided in subsection (1) of this section the licensee may:

(a) Request a review with the division; however, the issues the licensee may raise at the review are limited to whether the licensee is the person required to pay under the order for support and whether the licensee is out of compliance with the order for support; or

(b) Request to participate in negotiations with the division for the purpose of establishing a payment schedule for the arrearage.

(3) The division director or the designees of the division director may and, upon request of a licensee, shall negotiate with a licensee to establish a payment schedule for the arrearage. Payments made under the payment schedule shall be in addition to the licensee's ongoing obligation under the latest entered periodic order for support.

(4) Should the division and the licensee reach an agreement on a payment schedule for the arrearage, the division director may submit to the court a stipulated agreement and agreed judgment

containing the payment schedule which, upon the court's approval, is enforceable as any order of the court. If the court does not approve the stipulated agreement and agreed judgment, the court may require a hearing on a case-by-case basis for the judicial review of the payment schedule agreement.

(5) If the licensee and the division do not reach an agreement on a payment schedule for the arrearage, the licensee may move the court to establish a payment schedule. However, this action does not stay the license suspension.

(6) The notice given to a licensee that the licensee's license will be suspended in ninety (90) days must clearly state the remedies and procedures that are available to a licensee under this section.

(7) If at the end of the ninety (90) days the licensee has an arrearage according to the accounting records of the Mississippi Department of Human Services or the attorney representing the party to whom support is due, as the case may be, and the licensee has not entered into a stipulated agreement and agreed judgment establishing a payment schedule for the arrearage, the division shall immediately notify all applicable licensing entities in writing to suspend the licensee's license, and the licensing entities shall immediately suspend the license and shall within three (3) business days notify the licensee and the licensee's employer, where known, of the license suspension and the date of such suspension by certified mail return receipt

requested. Within forty-eight (48) hours of receipt of a request in writing delivered personally, by mail or by electronic means, the department shall furnish to the licensee, licensee's attorney or other authorized representative a copy of the department's accounting records of the licensee's payment history. A licensing entity shall immediately reinstate the suspended license upon the division's notification of the licensing entities in writing that the licensee no longer has an arrearage or that the licensee has entered into a stipulated agreement and agreed judgment.

(8) Within thirty (30) days after a licensing entity suspends the licensee's license at the direction of the division under subsection (7) of this section, the licensee may appeal the license suspension to the chancery court of the county in which the licensee resides or to the Chancery Court of the First Judicial District of Hinds County, Mississippi, upon giving bond with sufficient sureties in the amount of Two Hundred Dollars ($200.00), approved by the clerk of the chancery court and conditioned to pay any costs that may be adjudged against the licensee. Notice of appeal shall be filed in the office of the clerk of the chancery court. If there is an appeal, the appeal may, in the discretion of and on motion to the chancery court, act as a supersedeas of the license suspension. The department shall be the appellee in the appeal, and the licensing entity shall not be a party in the appeal. The chancery court shall dispose of the appeal and enter its decision within thirty (30) days of the

filing of the appeal. The hearing on the appeal may, in the discretion of the chancellor, be tried in vacation. The decision of the chancery court may be appealed to the Supreme Court in the manner provided by the rules of the Supreme Court. In the discretion of and on motion to the chancery court, no person shall be allowed to practice any business, occupation or profession or take any other action under the authority of any license the suspension of which has been affirmed by the chancery court while an appeal to the Supreme Court from the decision of the chancery court is pending.

(9) If a licensee who has entered a stipulated agreement and agreed judgment for the payment of an arrearage under this section subsequently is out of compliance with an order for support, the division shall immediately notify the licensing entity to suspend the licensee's license, and the licensing entity shall immediately suspend the license without a hearing and shall within three (3) business days notify the licensee in writing of the license suspension. In the case of a license suspension under the provisions of this subsection, the procedures provided for under subsections (1) and (2) of this section are not required; however, the appeal provisions of subsection (8) of this section still apply. After suspension of the license, if the licensee subsequently enters into a stipulated agreement and agreed judgment or the licensee otherwise informs the division of compliance with the order for support, the division shall within

seven (7) days notify in writing the licensing entity that the licensee is in compliance. Upon receipt of that notice from the division, a licensing entity shall immediately reinstate the license of the licensee and shall within three (3) business days notify the licensee of the reinstatement.

(10) Nothing in this section prohibits a licensee from filing a motion for the modification of an order for support or for any other applicable relief. However, no such action shall stay the license suspension procedure, except as may be allowed under subsection (8) of this section.

(11) If a license is suspended under the provisions of this section, the licensing entity is not required to refund any fees paid by a licensee in connection with obtaining or renewing a license.

(12) The requirement of a licensing entity to suspend a license under this section does not affect the power of the licensing entity to deny, suspend, revoke or terminate a license for any other reason.

(13) The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by this section and not by the general licensing and disciplinary provisions applicable to a licensing entity<u>, except as provided in Section 1 of this act</u>. Actions taken by a licensing entity in suspending a license when required

by this section are not actions from which an appeal may be taken under the general licensing and disciplinary provisions applicable to the licensing entity. Any appeal of a license suspension that is required by this section shall be taken in accordance with the appeal procedure specified in subsection (8) of this section rather than any procedure specified in the general licensing and disciplinary provisions applicable to the licensing entity. If there is any conflict between any provision of this section and any provision of the general licensing and disciplinary provisions applicable to a licensing entity, the provisions of this section shall control.

(14) No license shall be suspended under this section until ninety (90) days after July 1, 1996. This ninety-day period shall be a one-time amnesty period in which any person who may be subject to license suspension under this article may comply with an order of support in order to avoid the suspension of any license.

(15) Any individual who fails to comply with a subpoena or warrant relating to paternity or child support proceedings after receiving appropriate notice may be subject to suspension or withholding of issuance of a license under this section.

SECTION 6. This act shall take effect and be in force from and after July 1, 2019.