MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Porter

To: Transportation; Judiciary B

HOUSE BILL NO. 779

AN ACT TO AMEND SECTIONS 93-11-153, 63-1-46, 63-1-51 AND 63-1-216, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE SUSPENSION OF A PERSON'S DRIVER'S LICENSE FOR BEING OUT OF COMPLIANCE WITH AN ORDER OF SUPPORT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 93-11-153, Mississippi Code of 1972, is amended as follows:

93-11-153. As used in Sections 93-11-151 through 93-11-163, the following words and terms shall have the meanings ascribed herein:

(a) "Licensing entity" or "entity" means any entity specified in Title 73, Professions and Vocations, of the Mississippi Code, and includes the Mississippi Department of Public Safety with respect to driver's licenses, the Mississippi *** * *** Department of Revenue with respect to licenses for the sale of alcoholic beverages and other licenses or registration authorizing a person to engage in a business, the Mississippi Department of Wildlife, Fisheries and Parks with respect to hunting and fishing licenses, and any other state

agency that issues a license authorizing a person to engage in a business, occupation or profession. For the purposes of this article, the Supreme Court shall be considered to be the licensing entity for attorneys. "Licensing entity" and "entity" do not include the Mississippi Department of Public Safety with respect to driver's licenses.

(b) "License" means a license, certificate, permit, credential, registration, or any other authorization issued by a licensing entity that allows a person to engage in a business, occupation or profession, * * * to sell alcoholic beverages, or to hunt and fish, but does not mean a driver's license.

(c) "Licensee" means any person holding a license issued by a licensing entity other than a driver's license.

(d) "Order for support" means any judgment or order that provides for payments of a sum certain for the support of a child, whether it is temporary or final, and includes, but is not limited to, an order for reimbursement for public assistance or an order for making periodic payments on a support arrearage, or a sum certain due for a support arrearage.

(e) "Out of compliance with an order for support" means that the obligor is at least thirty (30) days in arrears or delinquent in making payments in full for current support, or in making periodic payments on a support arrearage.

(f) "Department" means the Mississippi Department of Human Services.

(g) "Division" means the division within the department that is charged with the state administration of Title IV-D of the Social Security Act.

(h) "Delinquency" means any payments of a sum certain ordered by any court to be paid by a noncustodial parent for the support of a child that have remained unpaid for at least thirty (30) days after payment is due. Delinquency shall also include payments of a sum certain ordered by any court to be paid for maintenance of a spouse that have remained unpaid for at least thirty (30) days.

SECTION 2. Section 63-1-46, Mississippi Code of 1972, is amended as follows:

63-1-46. (1) (a) Except as otherwise provided in this section, a fee of One Hundred Dollars ($100.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended, revoked or cancelled.

(b) The funds received under the provisions of this subsection shall be distributed as follows:

(i) Twenty-five Dollars ($25.00) shall be deposited into the State General Fund in accordance with Section 45-1-23;

(ii) Twenty-five Dollars ($25.00) shall be paid to the Board of Trustees of the Public Employees' Retirement System

for funding the Mississippi Highway Safety Patrol Retirement System as provided under Section 25-13-7;

(iii) Twenty-five Dollars ($25.00) shall be deposited into the special fund created in Section 63-1-45(3) for purchases of equipment by the Mississippi Highway Safety Patrol; and

(iv) Twenty-five Dollars ($25.00) shall be deposited into the Interlock Device Fund created in Section 63-11-33.

(2) (a) A fee of One Hundred Seventy-five Dollars ($175.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended or revoked under the provisions of the Mississippi Implied Consent Law.

(b) The funds received under the provisions of this subsection shall be distributed as follows:

(i) One Hundred Dollars ($100.00) shall be deposited into the State General Fund in accordance with Section 45-1-23;

(ii) Twenty-five Dollars ($25.00) shall be paid to the Board of Trustees of the Public Employees' Retirement System for funding the Mississippi Highway Safety Patrol Retirement System as provided under Section 25-13-7;

(iii) Twenty-five Dollars ($25.00) shall be deposited into the special fund created in Section 63-1-45(3) for

purchases of equipment by the Mississippi Highway Safety Patrol; and

(iv) Twenty-five Dollars ($25.00) shall be deposited into the Interlock Device Fund created in Section 63-11-33.

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(*** * ***3) A fee of Twenty-five Dollars ($25.00) will be charged for the reinstatement of a license that was suspended due to payment by a draft or other instrument that is dishonored by the payor.

(*** * ***4) All reinstatement fees charged under this section shall be in addition to the fees prescribed in Section 63-1-43.

SECTION 3. Section 63-1-51, Mississippi Code of 1972, is amended as follows:

63-1-51. (1) It shall be the duty of the court clerk, upon conviction of any person holding a license issued pursuant to this article where the penalty for a traffic violation is as much as Ten Dollars ($10.00), to mail a copy of abstract of the court record or provide an electronically or computer generated copy of abstract of the court record immediately to the commissioner at Jackson, Mississippi, showing the date of conviction, penalty, etc., so that a record of same may be made by the Department of Public Safety. The commissioner shall forthwith revoke the license of any person for a period of one (1) year upon receiving

a duly certified record of each person's convictions of any of the following offenses when such conviction has become final:

(a) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(b) Any felony in the commission of which a motor vehicle is used;

(c) Failure to stop and render aid as required under the laws of this state in event of a motor vehicle accident resulting in the death or personal injury of another;

(d) Perjury or the willful making of a false affidavit or statement under oath to the department under this article or under any other law relating to the ownership or operation of motor vehicles; or

(e) Conviction, or forfeiture of bail not vacated, upon three (3) charges of reckless driving committed within a period of twelve (12) months.

(2) The commissioner shall revoke the license issued pursuant to this article of any person convicted of negligent homicide, in addition to any penalty now provided by law.

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

63-1-216. (1) (a) A person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if the person's license or permit to drive has been administratively

suspended under Section 63-11-23 or the person has been convicted of a first violation of:

(i) Operating, attempting to operate, or being in actual physical control of a commercial motor vehicle on a highway with an alcohol concentration of four one-hundredths percent (0.04%) or more, or under the influence as provided in Section 63-11-30;

(ii) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(iii) Using a motor vehicle in the commission of any offense under state or federal law that is punishable by imprisonment for a term exceeding one (1) year;

(iv) Refusal to submit to a test to determine the operator's alcohol concentration, as provided in Title 63, Chapter 11, Mississippi Code of 1972;

(v) Operating, attempting to operate, or being in actual physical control of a motor vehicle on a highway with an alcohol concentration of eight one-hundredths percent (0.08%) or more, or under the influence of intoxicating liquor or other substance, as provided in Section 63-11-30;

(vi) Operating, attempting to operate, or being in actual physical control of a motor vehicle on a highway when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which

renders the person incapable of driving safely as provided in Section 63-11-30;

(vii) Operating or attempting to operate a commercial motor vehicle while the license is revoked, suspended, cancelled, or disqualified;

(viii) Operating a commercial motor vehicle in a negligent manner resulting in a fatal injury.

(b) A person shall be disqualified from driving a commercial motor vehicle for three (3) years if convicted of a violation listed in subsection (1) of this section, if the violation occurred while transporting a hazardous material required to be placarded.

(c) A person shall be disqualified from driving a commercial motor vehicle for life if convicted of two (2) or more violations or a combination of them listed in subsection (1) of this section arising from two (2) or more separate occurrences.

(d) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, arising from separate incidents occurring within a three-year period. A disqualification for three (3) serious traffic violations must be imposed consecutively to any other previous period of disqualification.

(e) A person shall be disqualified from driving a commercial motor vehicle for life if the person uses a motor vehicle in the commission of any offense under state or federal law that is punishable by imprisonment for a term exceeding one (1) year involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug and for which the person was convicted.

(f) A person who is disqualified from driving a commercial motor vehicle shall surrender the person's Mississippi commercial driver's license no later than the effective date of the disqualification. Upon receipt of the person's commercial driver's license, that person, if otherwise eligible, may apply for a non-CDL, and upon payment of sufficient fees receive the driver's license.

(g) The commissioner shall adopt rules establishing guidelines, including conditions, under which a disqualification for life under this section, except for a disqualification issued pursuant to paragraph (e) of this subsection, may be reduced to a period of not less than ten (10) years.

(h) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(i) A person shall be disqualified from driving a commercial motor vehicle for a period of one hundred twenty (120) days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in a separate incident.

(j) A person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(k) A person who is simultaneously subject to a disqualification issued by the administrator of the Federal Motor Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and a disqualification under any other provision of this section shall serve those disqualification periods concurrently.

(2) (a) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for one (1) year, if:

(i) The person is convicted of a first violation of operating, attempting to operate or being in actual physical control of a commercial motor vehicle on a highway with an alcohol concentration of four one-hundredths percent (0.04%) or more, or under the influence, as provided in Section 63-11-30; and

(ii) The person's commercial driver's license is issued by a state or country that does not issue commercial

driver's licenses and disqualify persons in accordance with 49 CFR, Parts 383 and 384.

(b) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for three (3) years if the person is convicted of violating subsection (1) of this section, and the violation occurred while the person was transporting a hazardous material required to be placarded.

(c) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for life if the person is convicted a second time of violating subsection (1) of this section, and both convictions arise out of separate occurrences.

(d) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for sixty (60) days if the person is convicted of two (2) serious traffic violations, or for one hundred twenty (120) days if the person is convicted of three (3) serious traffic violations, arising from separate incidents occurring within a three-year period.

(e) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for life if the person uses a commercial motor vehicle in the commission of any offense under state or federal law that is punishable by imprisonment for a term exceeding one (1) year, involving the manufacture, distribution, or dispensing of a regulated drug, or

possession with intent to manufacture, distribute, or dispense a regulated drug, and for which the person was convicted.

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SECTION 5. This act shall take effect and be in force from and after July 1, 2021.