

# THE MISSISSIPPI IMPLIED CONSENT LAW HIGHLIGHTS

**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 a person's ability to operate a motor vehicle;
- (c) has eight one-hundredths percent (.08%) or more for persons who are above the legal age to purchase alcoholic beverage under state law or two one-hundredths percent (.02%) or more for persons who are below the legal age... in the... blood... as shown by a chemical analysis of such person's breath, blood, or urine...;
- (d) is under the influence of any drug or controlled substance, the possession of which is unlawful under the Mississippi Controlled Substances Law;
- (e) has an alcohol concentration of four one-hundredths percent (.04%) or more... for persons operating a commercial vehicle.

## **PENALTIES** – (with chemical test or where chemical test results are not available)

- (1) **FIRST OFFENSE** - shall be fined not less than \$250 nor more than \$1000, or imprisoned for not more than 48 hours in jail, or both; and the court shall order such person to attend and complete MASEP. The court may substitute attendance at a victim impact panel instead of 48 hours in jail.

**LICENSE SUSPENSION:** Not less than 90 days and until MASEP is successfully completed with the period of suspension not to exceed 1 year.

**FIRST OFFENSE HARDSHIP:** The circuit court... may reduce the suspension of driving privileges... 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.

- (2) **SECOND OFFENSE** - within 5 years shall be fined no less than \$600 nor more than \$1500, and shall be imprisoned not less than 5 days nor more than 1 year and sentenced to community service work for not less than 10 days nor more than 1 year. **Minimum penalties shall not be suspended or reduced.**

**LICENSE SUSPENSION:** Two year license suspension. Shall receive an in-depth diagnostic assessment and if successfully completes an alcohol/drug treatment program certified by the Department of Mental Health such person shall be eligible for reinstatement of his driving privileges 1 year after such person's driver's license is suspended.

**IMPOUNDMENT, IMMOBILIZATION OR INTERLOCK FOR SECOND OR SUBSEQUENT CONVICTION** ...the court shall order either the impoundment or immobilization of all vehicles registered to the person convicted for the entire length of license suspension...provided, however, that if other licensed drivers living in the household are dependent upon the vehicle...the court may order the installation of an ignition interlock system...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 of six months to occur upon reinstatement of the persons drivers license if the court determines it is a vehicle to which the person has access and which should be subject to ignition interlock. **Costs of impoundment, immobilization and interlock shall be paid by the person convicted.**

- (3) **THIRD OR SUBSEQUENT OFFENSE** - within 5 years shall be a felony offense. Shall be fined not less than \$2000 nor more than \$5000, and shall be imprisoned not less than 1 year nor more than 5 years in the State Penitentiary. **Minimum penalties shall not be suspended or reduced.**

**LICENSE SUSPENSION:** Five year license suspension. Shall receive an in-depth diagnostic assessment and if successfully completes an alcohol/drug treatment program certified by the Department of Mental Health such person shall be eligible for reinstatement of his driving privileges 3 years after such person's driver's license is suspended.



### **NON-REDUCTION OF DUI –**

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

### **OUT-OF-STATE CONVICTIONS –**

Convictions in other states for DUI alcohol or other substance occurring after July 1, 1992 shall be counted for purposes of determining if a violation... is a first, second, third, or subsequent offense.

### **VEHICLE SEIZURE –**

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.

### **SERIOUS INJURY/DEATH**

Operating a motor vehicle while under the influence of alcohol or other drugs, and negligently causing serious injury or death to another, will be a felony with up to 25 years in the State Penitentiary.

### **DRIVING WHILE LICENSE OR PRIVILEGE IS CANCELED, REVOKED, OR SUSPENDED**

Upon conviction shall be punished by not less than 48 hours nor more than 6 months imprisonment and fined not less than \$200 nor more than \$500. License suspended for an additional 6 months. Additional suspension begins at end of original suspension to run consecutively.

### **DUI-REFUSED TEST OR REFUSED TEST EVIDENCE**

**DUI** - shall be punished consistent with the penalties above for persons submitting to the test.

**REFUSED TEST** - in addition to the judicial suspension there is an administrative license suspension of 90 days for first offense; 1 year for any repeat offense under [63-11-30].

### **UNDER AGE CONVICTIONS: ZERO TOLERANCE FOR MINORS**

Persons below the legal age to purchase alcohol who refuse the breath test or have a BAC of .08 or greater shall be treated as an adult offender with full penalties

Separate provisions and penalties apply when a person under the age of 21 has a Blood Alcohol Content (BAC) of .02% or more, but lower than .08%. **(SEE ZERO TOLERANCE HIGHLIGHTS)**.