

2015 Changes in DUI Law

All the following changes take effect on July 1, 2015:

Mississippi Code §99-15-26

Nonadjudications

(d) No person having previously qualified under the provisions of this section shall be eligible to qualify for release in accordance with this section for a repeat offense. A person shall not be eligible to qualify for release in accordance with this section if charged with the offense of trafficking of a controlled substance as provided in Section 41-29-139 (f) or if charged with an offense under the Mississippi Implied Consent Law. Violations under the Mississippi Implied Consent Law can only be nonadjudicated under the provisions of Section 63-11-30.

Mississippi Code §63-11-30:

DUI: 1st Offense

Thirty (30) days after receipt of court abstract, DPS must suspend DL for 90 days unless the person has surrendered his DL. The person must then obtain an interlock restricted DL (§63-11-31). The person will be ineligible for a non-restricted DL for 90 days.

*Hardship is abolished.

*A qualifying 1st offense may be Nonadjudicated (see below).

*CDLs are suspended pursuant to § 63-1-216 (and do NOT qualify for Nonadjudication).

DUI: 2nd Offense

2nd offense results in a 1 year DL suspension 30 days after receipts of court abstract fr/DPS. The person may also surrender their DL to be voided and obtain an ignition interlock DL & device. They must either have had a suspended DL for 1 year or driven exclusively under an ignition interlock restricted DL for 1 year.

*CDLs governed by § 63-1-216.

Ignition Interlock under this section

If the court orders installation and use of an ignition interlock device as provided in §63-11-31 for **every vehicle operated by a person** convicted or nonadjudicated under this section, the device shall be installed as provided in Section 63-11-31.

Nonadjudication

“Nonadjudication” means that the court withholds adjudication of guilt, either at the conclusion of a trial on the merits, or upon the entry of a plea of guilty by a defendant. Must be conditioned upon successful completion of any conditions imposed by court.

The court may rule that the qualifying 1st offense be nonadjudicated. A person is eligible for nonadjudication only 1 time **under any provision of a law that authorizes nonadjudication.** Qualifying offenses include one where a breath test was not refused unless the court provides written findings why nonadjudication is being allowed where a breath test was refused.

The court shall order the person to:

- (1.) Pay all the nonadjudication fees (\$250) imposed under §63-11-31 ;
- (2.) Pay all fines, penalties and assessments that would have been imposed for conviction;
- (3.) Attend and complete MASEP;
- (4.) a. Install an ignition interlock device on every vehicle driven by the person, obtain and ignition interlock restricted DL, and maintain that DL for 120 days; or
 - b. Suffer a one-hundred-twenty day suspension of the person’s driver’s license, whether the license is an in-state or out-of-state driver’s license

Other conditions to be imposed by the court may include:

- (i) alcohol or drug screening, or both;
- (ii) Proof the person has not committed any other traffic violations while under court supervision;
- (iii) Proof of immobilization or impoundment of vehicles owned by the offender; and
- (iv) Attendance at a victim-impact panel.

The court may enter an order of nonadjudication only if the court finds, after hearing, that the offender has successfully completed all conditions imposed by law and previous orders of the court. The court shall retain jurisdiction over cases involving nonadjudication for a period of not more than two (2) years.

The clerk shall forward a record of every nonadjudicated case to DPS, who will maintain a confidential registry of all cases that are nonadjudicated. Judges, clerks, & prosecutors involved in DUI violations shall have access to the confidential registry (as well as DPS Driver Services). The Mississippi Alcohol Safety Education Program shall have access to the confidential registry for research purposes only.

Mississippi Code §63-11-31

Ignition Interlock as provided by §63-11-31

“Ignition interlock” device means a device approved by DPS that connects to a vehicles ignition system to a breath-alcohol analyzer and prevents a vehicle ignition from starting if the driver’s BAC exceeds the calibrated setting on the device.

Interlock restricted DL means a DL bearing a restriction that limits the person to operation of vehicle equipped with an ignition interlock device.

A person who can exercise driving only under an interlock restricted DL: (i.) must have an ignition interlock device installed and operating on all vehicles driven by the person; (ii) if the person does not obtain an ignition restricted DL w/i 30 days after receipt of conviction, DPS must suspend the persons driving privileges, and (iii) must not be charged under Section 63-11-30 for driving under the influence of any drug or controlled substance under the Mississippi Controlled Substances Law .

For a second or subsequent DUI violation, all vehicles owned by the person must be either impounded or immobilized.

Jurisdiction

Jurisdiction of any offense under this section shall lie in the court that originally ordered installation of the ignition-interlock device for a violation of Section 63-11-30.

Commercial Driver’s License

Commercial driver’s licenses are ineligible for nonadjudication and/or expunction on a DUI 1st offense. All DUI offenses with CDLs are governed by §63-1-216.

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