

1 SB110
2 126482-1
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 01-MAR-11

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8 SYNOPSIS: Under existing law, a person who drives a
9 motor vehicle while his or her driver's license or
10 driving privilege is cancelled, denied, suspended,
11 or revoked is guilty of a misdemeanor punishable by
12 a minimum fine of \$100 up to a maximum of \$500 and
13 imprisonment of no more than 180 days.

14 Existing law further provides that a person
15 operating a motor vehicle while his or her driver's
16 license or driving privilege is suspended as a
17 consequence of a DUI-related offense shall have his
18 or her car impounded.

19 This bill would provide that a person
20 convicted for a third or subsequent time for
21 operating a motor vehicle while his or her license
22 or driving privilege is cancelled, denied,
23 suspended, or revoked when his or her license or
24 driving privilege was cancelled, denied, suspended,
25 or revoked as a consequence of a DUI-related
26 offense would be guilty of a Class A misdemeanor

1 with a minimum mandatory sentence of 30 days in
2 jail.

3 Amendment 621 of the Constitution of Alabama
4 of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of
6 Alabama of 1901, as amended, prohibits a general
7 law whose purpose or effect would be to require a
8 new or increased expenditure of local funds from
9 becoming effective with regard to a local
10 governmental entity without enactment by a 2/3 vote
11 unless: it comes within one of a number of
12 specified exceptions; it is approved by the
13 affected entity; or the Legislature appropriates
14 funds, or provides a local source of revenue, to
15 the entity for the purpose.

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 32-6-19 of the Code of Alabama
2 1975, relating to violations for driving while license or
3 driving privilege is cancelled, denied, suspended, or revoked;
4 to provide that a person convicted for a third or subsequent
5 time when his or her license or driving privilege was
6 cancelled, denied, suspended, or revoked as a consequence of a
7 DUI-related offense would be guilty of a Class A misdemeanor
8 with a minimum mandatory sentence of 30 days in jail; and in
9 connection therewith would have as its purpose or effect the
10 requirement of a new or increased expenditure of local funds
11 within the meaning of Amendment 621 of the Constitution of
12 Alabama of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 32-6-19 of the Code of Alabama
17 1975, is amended to read as follows:

18 "§32-6-19.

19 "(a) (1) Any Except as otherwise provided in
20 subdivision (4), any person whose driver's or chauffeur's
21 license issued in this or another state or whose driving
22 privilege as a nonresident has been cancelled, denied,
23 suspended, or revoked as provided in this article and who
24 drives any motor vehicle upon the highways of this state while
25 his or her license or privilege is cancelled, denied,
26 suspended, or revoked shall be guilty of a misdemeanor and
27 upon conviction shall be punished by a fine of not less than

1 one hundred dollars (\$100) nor more than five hundred dollars
2 (\$500), and in addition thereto may be imprisoned for not more
3 than 180 days. In addition to all fines, fees, costs, and
4 punishments prescribed by law, there shall be imposed or
5 assessed an additional penalty of fifty dollars (\$50) to be
6 placed in the Traffic Safety Trust Fund and the Peace Officers
7 Standards and Training Fund. Also, at the discretion of the
8 Director of Public Safety, the person's license may be revoked
9 for an additional revocation period of six months.

10 "(2) The additional penalty of fifty dollars (\$50)
11 shall be assessed in all criminal and quasi-criminal
12 proceedings in municipal, district, and circuit courts,
13 including, but not limited to, final bond forfeitures,
14 municipal ordinances violations, wherein the defendant is
15 adjudged guilty or pleads guilty and in all juvenile
16 delinquency and youthful offender adjudications.

17 "(3) If the fifty dollar (\$50) penalty required by
18 subdivision (1) is not imposed by the court, the clerk of the
19 court shall automatically assess it upon conviction.

20 "(4) A person who has his or her license or driving
21 privilege cancelled, denied, suspended, or revoked as a
22 consequence of a DUI-related offense and who drives any motor
23 vehicle upon the highways of this state while his or her
24 license or driving privilege is cancelled, denied, suspended,
25 or revoked shall be guilty of a Class A misdemeanor with a
26 minimum mandatory sentence of 30 days in jail for a third or
27 subsequent conviction of this subsection.

1 "(b) Notwithstanding any provision of law, any
2 person who operates a motor vehicle upon the highways of this
3 state while his or her driver's license or driving privilege
4 is revoked for any reason under the laws of this state or
5 similar laws of any other state or territory, or while his or
6 her driver's license or driving privilege is suspended as a
7 consequence of a DUI-related offense, including, but not
8 limited to, being adjudicated delinquent or a youthful
9 offender based on a DUI-related offense, or while his or her
10 driver's license or driving privilege is suspended as a result
11 of failure to comply with the implied consent law of this
12 state or laws of another state, or who has been adjudicated a
13 delinquent child or a youthful offender based on an offense
14 that if the person had been an adult would have been a
15 conviction of driving under the influence of a controlled
16 substance or alcohol or failure to comply with the implied
17 consent law, shall be immediately removed from the vehicle.
18 The vehicle, regardless of ownership or possessory interest of
19 the operator or person present in the vehicle, except when the
20 owner of the vehicle or another family member of the owner is
21 present in the vehicle and presents a valid driver's license,
22 shall be impounded by any duly sworn law enforcement officer.
23 If there is an emergency or medical necessity jeopardizing
24 life or limb, the law enforcement officer may elect not to
25 impound the vehicle.

26 "(c) (1) The law enforcement officer making the
27 impoundment shall direct an approved towing service to tow the

1 vehicle to the garage of the towing service, storage lot, or
2 other place of safety and maintain custody and control of the
3 vehicle until the registered owner or authorized agent of the
4 registered owner claims the vehicle by paying all reasonable
5 and customary towing and storage fees for the services of the
6 towing company. The vehicle shall then be released to the
7 registered owner or an agent of the owner.

8 "(2) Any towing service or towing company removing
9 the vehicle at the direction of the law enforcement officer in
10 accordance with this section shall have a lien on the motor
11 vehicle for all reasonable and customary fees relating to the
12 towing and storage of the motor vehicle. This lien shall be
13 subject and subordinate to all prior security interests and
14 other liens affecting the vehicle whether evidenced on the
15 certificate of title or otherwise. Notice of any sale or other
16 proceedings relative to this lien shall be given to the
17 holders of all prior security interest or other liens by
18 official service of process at least 15 days prior to any sale
19 or other proceedings."

20 Section 2. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.