

1 HB411
2 115657-1
3 By Representatives Hammon, Davis, Grimes, Oden, Hurst,
4 Greeson, Barton, McMillan, McClendon, Clouse, Faust, Williams
5 (P), Mask, Shiver, Hubbard, Allen, Love, McClurkin, Bentley,
6 McCutcheon, Ball, Drake, Sanderford, Treadaway, Letson, White,
7 Irons, Bridges, Gipson, Fields, Beck, Williams (J), Canfield,
8 Moore (P), Hill, Morrow, Ford, Spicer, Laird and Collier
9 RFD: Judiciary
10 First Read: 21-JAN-10

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8 SYNOPSIS: Under existing law, each person who drives
9 a motor vehicle on a public highway in this state
10 must be properly licensed to drive the vehicle.

11 This bill would provide that a motor vehicle
12 operated by a driver who does not have a driver's
13 license and proof of legal entry into the United
14 States may be impounded.

15 This bill would provide that a motor vehicle
16 that is operated on the highway of this state may
17 be impounded if there is no proof that the motor
18 vehicle is covered by a liability insurance policy,
19 motor vehicle liability bond, or a deposit of cash.

20 This bill would provide that an officer may
21 not impound a vehicle if he or she can verify the
22 driver is properly licensed by other means or if
23 the license had expired within 90 days of the stop.

24 This bill would require each lien holder of
25 the vehicle to be notified within 48 hours of the
26 impoundment.

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

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

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 To amend Sections 32-6-18 and 32-7A-4 of the Code of
27 Alabama 1975, relating to penalties for driving a motor

1 vehicle on the public highways of this state without a
2 driver's license; to provide that a motor vehicle operated by
3 a driver who does not have a driver's license and proof of
4 legal entry into the United States may be impounded; to
5 provide that a motor vehicle that is operated on the highways
6 of this state may be impounded if there is no proof that the
7 motor vehicle is covered by a liability insurance policy,
8 motor vehicle liability bond, or deposit of cash; to provide
9 that an officer may not impound a vehicle if he or she can
10 verify the driver is properly licensed by other means or if
11 the license had expired within 90 days of the stop; to require
12 each lien holder of the vehicle to be notified within 48 hours
13 of the impoundment; and in connection therewith would have as
14 its purpose or effect the requirement of a new or increased
15 expenditure of local funds within the meaning of Amendment 621
16 of the Constitution of Alabama of 1901.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 32-6-18 and 32-7A-4 of the Code
19 of Alabama 1975, are amended to read as follows:

20 "§32-6-18.

21 "(a) (1) Any person of whom a driver's license is
22 required, who drives a motor vehicle on a public highway in
23 this state without first having complied with this article or
24 the rules and regulations promulgated hereunder shall be
25 guilty of a misdemeanor, and, upon conviction shall be
26 punished by a fine of not less than ten dollars (\$10) nor more
27 than one hundred dollars (\$100), to be fixed in the discretion

1 of the judge trying the case. In addition to all fines, fees,
2 costs, and punishments prescribed by law, there shall be
3 imposed or assessed an additional penalty of fifty dollars
4 (\$50). This additional penalty of fifty dollars (\$50) imposed
5 pursuant to this subsection shall be assessed in all criminal
6 and quasi-criminal proceedings in municipal, district, and
7 circuit courts, including, but not limited to, final bond
8 forfeitures, municipal ordinance violations wherein the
9 defendant is adjudged guilty or pleads guilty, and in all
10 juvenile delinquency and youthful offender adjudications.

11 "(2) Notwithstanding any provision of law, when an
12 officer has legally stopped a vehicle on the roadways of
13 Alabama whose driver is without a valid driver's license and
14 insurance, or certificate of self-insurance issued by the
15 director pursuant to Section 32-7-34, and the driver cannot
16 produce a valid document showing legal entry into the United
17 States, that motor vehicle may be impounded until a hearing is
18 held on the violation of this article.

19 "(3) Notwithstanding the foregoing, the vehicle may
20 not be impounded if the law enforcement officer is reasonably
21 able, by other means, to verify that the driver is properly
22 licensed. Prior to impounding a vehicle, the officer shall
23 make a reasonable attempt to verify the license status of a
24 driver who claims to be properly licensed, but who is unable
25 to produce the license on demand of the officer. The vehicle
26 may not be impounded if the license of the driver expired
27 within the preceding 90 days and the driver would otherwise

1 have been properly licensed. If the vehicle is impounded, each
2 lien holder, lessee, lessor, and owner of the vehicle shall be
3 notified within 72 hours of the impoundment by any private
4 entity that tows or stores the vehicle; if the notice is not
5 provided, the charges for storage of the vehicle may not
6 exceed the usual and customary fees for 72 hours of storage
7 for a vehicle.

8 "(b) Any person who willfully makes a false
9 statement under oath in an application for driver's license or
10 for a renewal thereof shall be guilty of perjury and shall be
11 punished as now provided by law.

12 "(c) Any person who willfully conceals or withholds
13 a material fact in an application for a driver's license or
14 renewal thereof with intent to obtain the license by fraud
15 shall be guilty of a misdemeanor and, upon conviction thereof,
16 shall be punished by a fine of not more than one hundred
17 dollars (\$100), and may be imprisoned at hard labor for the
18 county not to exceed 12 months, to be fixed in the discretion
19 of the court trying the case.

20 "(d) Any person who violates this article for which
21 no fixed punishment is prescribed or who violates any rule or
22 regulation promulgated as herein authorized shall be guilty of
23 a misdemeanor and, upon conviction thereof, shall be punished
24 by a fine of not more than one hundred dollars (\$100).

25 "(e) All fines, penalties, or forfeitures imposed
26 pursuant to this article for violations of state law or for
27 juvenile and youthful offender adjudications in district and

1 circuit court shall be forwarded immediately upon collection
2 by the officer of the court who collects the proceeds to the
3 State Comptroller. All moneys received by the State
4 Comptroller shall be deposited into the State Treasury to the
5 credit of the General Fund except the fifty dollar (\$50)
6 penalty which shall be distributed as follows:

7 "(1) Twenty-five dollars (\$25) shall be placed in
8 the Traffic Safety Trust Fund.

9 "(2) Twenty-five dollars (\$25) shall be placed in
10 the Peace Officers Standards and Training Commission Fund.

11 "(f) (1) All fines, penalties, or forfeitures imposed
12 in municipal ordinance cases shall be distributed to the
13 general fund of the respective municipality. All fines,
14 penalties, or forfeitures for municipal ordinance cases tried
15 originally in district and circuit court shall be distributed
16 pursuant to Section 12-19-154.

17 "(2) The additional fifty dollar (\$50) penalty shall
18 be forwarded immediately to the State Comptroller to be
19 deposited as follows:

20 "a. Twenty-five dollars (\$25) shall be deposited in
21 the Traffic Safety Trust Fund.

22 "b. Twenty-five dollars (\$25) shall be deposited in
23 the Peace Officers Standards and Training Commission Fund.

24 "(g) If the fifty dollar (\$50) penalty required by
25 subsection (a) is not imposed by the court, the clerk of the
26 court shall automatically assess it upon conviction.

27 "§32-7A-4.

1 "(a) No person shall operate, register, or maintain
2 registration of, and no owner shall permit another person to
3 operate, register, or maintain registration of, a motor
4 vehicle designed to be used on a public highway unless the
5 motor vehicle is covered by a liability insurance policy,
6 motor vehicle liability bond, certificate of self-insurance
7 issued by the director pursuant to Section 32-7-34, or deposit
8 of cash.

9 "(b) (1) The insurance policy shall be issued in
10 amounts no less than the minimum amounts set for bodily injury
11 or death and for destruction of property under Section
12 32-7-6(c).

13 "(2) The motor vehicle liability bond shall be in
14 the amount of not less than fifty thousand dollars (\$50,000).
15 The bond shall be conditioned on the payment of the amount of
16 any judgment rendered against the principal in the bond or any
17 person responsible for the operation of the principal's motor
18 vehicle with his or her express or implied consent, arising
19 from injury, death, or damage sustained through the use,
20 operation, maintenance, or control of the motor vehicle within
21 the State of Alabama.

22 "(3) The deposit of cash with the State Treasurer
23 shall be a sum of not less than fifty thousand dollars
24 (\$50,000).

25 "(c) Only an insurer authorized to do business in
26 this state shall issue a policy pursuant to this section for
27 any vehicle subject to registration under Chapter 12 of Title

1 40. Nothing herein shall deprive an insurer of any policy
2 defense available at common law.

3 "(d) A motor vehicle operated on the highways of
4 this state may be impounded if the driver cannot produce a
5 valid document showing legal entry into the United States or
6 if there is no proof that it is covered by a liability
7 insurance policy, motor vehicle liability bond, certificate of
8 self-insurance issued by the director pursuant to Section
9 32-7-34, or deposit of cash until a hearing is held on the
10 violation of this section.

11 "(e) Notwithstanding the foregoing, the vehicle may
12 not be impounded if the law enforcement officer is reasonably
13 able, by other means, to verify that the vehicle is properly
14 insured. Prior to impounding a vehicle, the officer shall make
15 a reasonable attempt to verify the vehicle is properly insured
16 as the driver claims, but the driver is unable to produce
17 proof of insurance on demand of the officer. If the vehicle is
18 impounded, each lien holder of the vehicle shall be notified
19 within 48 hours of the impoundment by any private entity that
20 tows or stores the vehicle; if the notice is not provided, the
21 charges for storage of the vehicle may not exceed the usual
22 and customary fees for 72 hours of storage for a vehicle."

23 Section 2. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621 because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

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