

1 SB211
2 106161-2
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 12-JAN-10

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8 SYNOPSIS: Under existing law, a person who drives a
9 motor vehicle while his or her driver's license is
10 cancelled, denied, suspended, or revoked is guilty
11 of a misdemeanor punishable by a minimum fine of
12 \$100 up to a maximum of \$500 and imprisonment of no
13 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 is suspended as a consequence of a
17 DUI-related offense shall have his or her car
18 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 is cancelled, denied, suspended, or revoked when
23 his or her license was cancelled, denied,
24 suspended, or revoked as a consequence of a
25 DUI-related offense would be guilty of a Class A
26 misdemeanor with a minimum mandatory sentence of 30
27 days in jail.

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

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26 To amend Section 32-6-19 of the Code of Alabama
27 1975, relating to violations for driving while license is

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 32-6-19 of the Code of Alabama
14 1975, is amended to read as follows:

15 "§32-6-19.

16 "(a) (1) Any Except as otherwise provided in
17 subdivision (4), any person whose driver's or chauffeur's
18 license issued in this or another state or whose driving
19 privilege as a nonresident has been cancelled, denied,
20 suspended, or revoked as provided in this article and who
21 drives any motor vehicle upon the highways of this state while
22 his or her license or privilege is cancelled, denied,
23 suspended, or revoked shall be guilty of a misdemeanor and
24 upon conviction shall be punished by a fine of not less than
25 one hundred dollars (\$100) nor more than five hundred dollars
26 (\$500), and in addition thereto may be imprisoned for not more
27 than 180 days. In addition to all fines, fees, costs, and

1 punishments prescribed by law, there shall be imposed or
2 assessed an additional penalty of fifty dollars (\$50) to be
3 placed in the Traffic Safety Trust Fund and the Peace Officers
4 Standards and Training Fund. Also, at the discretion of the
5 Director of Public Safety, the person's license may be revoked
6 for an additional revocation period of six months.

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

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

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

24 "(b) Notwithstanding any provision of law, any
25 person who operates a motor vehicle upon the highways of this
26 state while his or her driver's license or driving privilege
27 is revoked for any reason under the laws of this state or

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

22 "(c) (1) The law enforcement officer making the
23 impoundment shall direct an approved towing service to tow the
24 vehicle to the garage of the towing service, storage lot, or
25 other place of safety and maintain custody and control of the
26 vehicle until the registered owner or authorized agent of the
27 registered owner claims the vehicle by paying all reasonable

1 and customary towing and storage fees for the services of the
2 towing company. The vehicle shall then be released to the
3 registered owner or an agent of the owner.

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

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

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