

1 SB172  
2 189582-1  
3 By Senator Whatley  
4 RFD: Judiciary  
5 First Read: 16-JAN-18

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8 SYNOPSIS: Existing law does not specify the time frame  
9 in which the Alabama State Law Enforcement Agency  
10 may suspend the driver's license of a person  
11 convicted of certain criminal offenses or who is  
12 otherwise ineligible for driving privileges.

13 This bill would require the Alabama State  
14 Law Enforcement Agency to suspend the driver's  
15 license of a person convicted of certain criminal  
16 offenses or who is otherwise ineligible for driving  
17 privileges within a specified time frame of receipt  
18 of a record of the requisite conviction or upon  
19 receipt of evidence sufficient to determine  
20 ineligibility for driving privileges.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 To amend Sections 13A-12-290 and 32-5A-195, Code of  
27 Alabama 1975, relating to the cancellation, suspension, or

1 revocation of a driver's license; to require the Alabama State  
2 Law Enforcement Agency to suspend the driver's license of a  
3 person convicted of certain criminal offenses within a  
4 specified time frame.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 13A-12-290 and 32-5A-195, Code  
7 of Alabama 1975, are amended to read as follows:

8 "§13A-12-290.

9 "In addition to any other penalty provided by law,  
10 the Alabama State Law Enforcement Agency shall suspend for a  
11 period of six months the driver's license of any person,  
12 including, but not limited to, a juvenile, child, or youthful  
13 offender, convicted or adjudicated of, or subjected to a  
14 finding of delinquency based on, the crimes specified in  
15 Section 13A-12-291. If, at the time of conviction,  
16 adjudication, or finding of delinquency, the individual did  
17 not have a driver's license or the driver's license had been  
18 suspended or revoked, there shall be a delay in the issuance  
19 or reinstatement of the driver's license for six months after  
20 the individual applies for issuance or reinstatement. If the  
21 individual is ordered by a court to enter as a resident of an  
22 in-patient drug or alcohol rehabilitation facility, the  
23 suspension required by this section shall be effective  
24 immediately. If the individual voluntarily enters an  
25 in-patient drug or alcohol rehabilitation facility as a  
26 resident and the court approves the treatment either before or  
27 after treatment, the time in the treatment program shall be

1 credited against any period of suspension required by this  
2 section. If ordered by a court to enter a facility, the  
3 individual shall surrender his or her driver's license to the  
4 court and the court shall destroy the license. The individual  
5 shall receive credit for the time actually spent in a facility  
6 if he or she is released by the facility because the treatment  
7 is complete or the facility certifies that completion is not  
8 necessary. The Alabama State Law Enforcement Agency shall be  
9 notified by the court within ~~10~~ 5 days by mail, fax, or  
10 electronic means of the status of the individual's license.  
11 The Secretary of the Alabama State Law Enforcement Agency may  
12 not suspend the license of a driver under this subsection  
13 after 60 days from the date of the conviction requiring  
14 suspension. However, the conviction shall be added to the  
15 individual's driving record.

16 "§32-5A-195.

17 "(a) The Secretary of the Alabama State Law  
18 Enforcement Agency ~~is authorized to~~ may cancel any driver's  
19 license upon determining that the licensee was not entitled to  
20 the issuance thereof or that the licensee failed to give the  
21 correct or required information in his or her application.  
22 Upon such cancellation, the licensee must surrender the  
23 license so cancelled. If the licensee refuses to surrender the  
24 license, he or she shall be guilty of a misdemeanor.

25 "(b) The privilege of driving a motor vehicle on the  
26 highways of this state given to a nonresident shall be subject  
27 to suspension or revocation by the Secretary of the Alabama

1 State Law Enforcement Agency in like manner and for like cause  
2 as a driver's license issued may be suspended or revoked.

3 "(c) The Secretary of the State Alabama Law  
4 Enforcement Agency is further authorized, upon receiving a  
5 record of the conviction in this state of a nonresident driver  
6 of a motor vehicle of any offense, to forward a certified copy  
7 of such record to the motor vehicle administrator in the state  
8 where the person so convicted is a resident.

9 "(d) When a nonresident's operating privilege is  
10 suspended or revoked, the Secretary of the Alabama State Law  
11 Enforcement Agency shall forward a certified copy of the  
12 record of such action to the motor vehicle administrator in  
13 the state where such person resides.

14 "(e) The Secretary of the Alabama State Law  
15 Enforcement Agency is authorized to suspend or revoke the  
16 license of any resident of this state or the privilege of a  
17 nonresident to drive a motor vehicle in this state upon  
18 receiving notice of the conviction of such person in another  
19 state of any offense therein which, if committed in this  
20 state, would be grounds for the suspension or revocation of  
21 the license of a driver.

22 "(f) The Secretary of the Alabama State Law  
23 Enforcement Agency may give such effect to conduct of a  
24 resident in another state as is provided by the laws of this  
25 state had such conduct occurred in this state.

26 "(g) Whenever any person is convicted of any offense  
27 for which this chapter makes mandatory the revocation of the

1 license of such person by the agency, the court in which the  
2 conviction is had shall require the surrender to it of any  
3 driver's license then held by the person convicted and the  
4 court shall forward the same together with a record of such  
5 conviction to the Secretary of the Alabama State Law  
6 Enforcement Agency.

7 "(h) Every court having jurisdiction over offenses  
8 committed under this article or any other law of this state or  
9 municipal ordinance adopted by a local authority regulating  
10 the operation of motor vehicles on highways, shall forward to  
11 the Secretary of the Alabama State Law Enforcement Agency  
12 within five days a record of the conviction of any person in  
13 the court for a violation of any laws other than regulations  
14 governing standing or parking, and may recommend the  
15 suspension of the driver's license of the person so convicted.

16 "(i) For the purposes of this article, the term  
17 conviction shall mean a final conviction. Also, for the  
18 purposes of this article, an unvacated forfeiture of bail or  
19 collateral deposited to secure a defendant's appearance in  
20 court, a plea of nolo contendere accepted by the court, the  
21 payment of a fine, a plea of guilty, or a finding of guilt of  
22 a traffic violation charge shall be equivalent to a conviction  
23 regardless of whether the penalty is rebated, suspended, or  
24 probated.

25 "(j) (1) The Secretary of the Alabama State Law  
26 Enforcement Agency shall revoke the license of any driver upon

1 ~~receiving~~ within 60 days of receipt of a record of the  
2 driver's conviction of any of the following offenses:

3 "~~(1)~~a. Manslaughter or homicide by vehicle resulting  
4 from the operation of a motor vehicle, including a person who  
5 is adjudicated as a youthful offender based on an underlying  
6 charge of manslaughter or homicide by vehicle, but there shall  
7 be no disclosure, other than to courts and law enforcement  
8 agencies by any entity or person of any information,  
9 documents, or records relating to the youthful offender's  
10 arrest, conviction, or adjudication of or finding of  
11 delinquency related to the manslaughter or homicide by  
12 vehicle.

13 "~~(2)~~b. Upon a first conviction of driving or being  
14 in actual physical control of any vehicle while under the  
15 influence of alcohol or under the influence of a controlled  
16 substance to a degree which renders him or her incapable of  
17 safely driving or under the combined influence of alcohol and  
18 a controlled substance to a degree which renders him or her  
19 incapable of safely driving, such revocation shall take place  
20 only when ordered by the court rendering the conviction.

21 "~~(3)~~c. Upon a second or subsequent conviction within  
22 a five-year period, of driving or being in actual physical  
23 control of any vehicle while under the influence of alcohol or  
24 under the influence of a controlled substance to a degree  
25 which renders him or her incapable of safely driving or under  
26 the combined influence of alcohol and a controlled substance

1 to a degree which renders him or her incapable of safely  
2 driving.

3 ~~"(4)d.~~ Any felony in the commission of which a motor  
4 vehicle is used.

5 ~~"(5)e.~~ Failure to stop, render aid, or identify  
6 himself or herself as required under the laws of this state in  
7 the event of a motor vehicle accident resulting in the death  
8 or personal injury of another.

9 ~~"(6)f.~~ Perjury or the making of a false affidavit or  
10 statement under oath to the Secretary of the Alabama State Law  
11 Enforcement Agency under this article or under any other law  
12 relating to the ownership or operation of motor vehicles.

13 ~~"(7)g.~~ Conviction upon three charges of reckless  
14 driving committed within a period of 12 months.

15 ~~"(8)h.~~ Unauthorized use of a motor vehicle belonging  
16 to another which act does not amount to a felony.

17 "(2) The Secretary of the Alabama State Law  
18 Enforcement Agency may not suspend the license of a driver  
19 under this subsection after 60 days from the date of the  
20 conviction requiring suspension. However, the conviction shall  
21 be added to the individual's driving record.

22 "(k) (1) The Secretary of the Alabama State Law  
23 Enforcement Agency ~~is authorized to~~ may suspend the license of  
24 a driver without preliminary hearing ~~upon~~ within 60 days of a  
25 showing by its records or other sufficient evidence that the  
26 licensee:



1           "~~(1)~~ a. Has committed an offense for which mandatory  
2 revocation of license is required upon conviction;

3           "~~(2)~~ b. Has been convicted with such frequency of  
4 serious offenses against traffic regulations governing the  
5 movement of vehicles as to indicate a disrespect for traffic  
6 laws and a disregard for the safety of other persons on the  
7 highways;

8           "~~(3)~~ c. Is an habitually reckless or negligent driver  
9 of a motor vehicle, such fact being established by a record of  
10 accidents or by other evidence;

11           "~~(4)~~ d. Is incompetent to drive a motor vehicle;

12           "~~(5)~~ e. Has permitted an unlawful or fraudulent use  
13 of such license;

14           "~~(6)~~ f. Has committed an offense in another state  
15 which if committed in this state would be grounds for  
16 suspension or revocation;

17           "~~(7)~~ g. Has been convicted of fleeing or attempting  
18 to elude a police officer; or

19           "~~(8)~~ h. Has been convicted of racing on the highways.

20           "(2) The Secretary of the Alabama State Law  
21 Enforcement Agency may not suspend the license of a driver  
22 under this subsection after 60 days from the date of the  
23 conviction requiring suspension or the last act requiring  
24 suspension under this subsection.

25           "(1) Upon suspending the license of any person as  
26 provided in this section, the Secretary of the Alabama State  
27 Law Enforcement Agency shall immediately notify the licensee

1 in writing and upon his or her request shall afford him or her  
2 an opportunity for a hearing as early as practicable, not to  
3 exceed 30 days after receipt of the request in the county  
4 where the licensee resides unless the Secretary of the Alabama  
5 State Law Enforcement Agency and the licensee agree that the  
6 hearing may be held in some other county. The hearing shall be  
7 before the Secretary of the Alabama State Law Enforcement  
8 Agency or his or her duly authorized agent. Upon such hearing,  
9 the Secretary of the Alabama State Law Enforcement Agency or  
10 his or her duly authorized agent may administer oaths and may  
11 issue subpoenas for the attendance of witnesses in the  
12 production of relevant books and papers and may require a  
13 reexamination of the licensee. Upon such hearing, the  
14 Secretary of the Alabama State Law Enforcement Agency or his  
15 or her duly authorized agent shall either rescind its order of  
16 suspension or, upon a showing of good cause, may continue,  
17 modify, or extend the suspension of the licensee or revoke the  
18 license. If the license has been suspended as a result of the  
19 licensee's driving while under the influence of alcohol, the  
20 Secretary of the Alabama State Law Enforcement Agency or his  
21 or her agent conducting the hearing shall take into account,  
22 among other relevant factors, the licensee's successful  
23 completion of any duly established "highway intoxication  
24 seminar," "DWI counterattack course," or similar educational  
25 program designed for problem drinking drivers. If the hearing  
26 is conducted by a duly authorized agent instead of by the  
27 Secretary of the Alabama State Law Enforcement Agency himself

1 or herself, the action of such agent must be approved by the  
2 Secretary of the Alabama Law Enforcement Agency.

3 "(m) The Secretary of the Alabama State Law  
4 Enforcement Agency shall not suspend a driver's license or  
5 privilege to drive a motor vehicle upon the public highways  
6 for a period of more than one year, except as permitted under  
7 Section 32-6-19.

8 "(n) At the end of the period of suspension a  
9 license surrendered to the Secretary of the Alabama State Law  
10 Enforcement Agency under subsection (o), the license shall be  
11 returned to the licensee.

12 "(o) The Secretary of the Alabama State Law  
13 Enforcement Agency, upon cancelling, suspending, or revoking a  
14 license, shall require that such license be surrendered to and  
15 be retained by the Secretary of the Alabama State Law  
16 Enforcement Agency. Any person whose license has been  
17 cancelled, suspended, or revoked shall immediately return his  
18 or her license to the Secretary of the Alabama State Law  
19 Enforcement Agency. If the licensee refuses to surrender the  
20 license, he or she shall be guilty of a misdemeanor.

21 "(p) Any resident or nonresident whose driver's  
22 license or privilege to operate a motor vehicle in this state  
23 has been suspended or revoked as provided in this section  
24 shall not operate a motor vehicle in this state under a  
25 license or permit issued by any other jurisdiction or  
26 otherwise during such suspension or after such revocation

1 until a new license is obtained when and as permitted under  
2 this article.

3 "(q) Any person denied a license or whose license  
4 has been cancelled, suspended, or revoked by the Secretary of  
5 the Alabama State Law Enforcement Agency except where such  
6 cancellation or revocation is mandatory under the provisions  
7 of this article shall have the right to file a petition within  
8 30 days thereafter for a hearing in the matter in the circuit  
9 court in the county where the person resides. In the case of  
10 cancellation, suspension, or revocation of a nonresident's  
11 operating privilege in the county in which the main office of  
12 the Secretary of the Alabama State Law Enforcement Agency is  
13 located, the court is vested with jurisdiction and it shall be  
14 its duty to set the matter for hearing upon 30 days' written  
15 notice to the secretary and to take testimony and examine into  
16 the facts of the case and to determine whether the petitioner  
17 is entitled to a license or is subject to suspension,  
18 cancellation, or revocation of license under this section."

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