

1 SB16
2 196250-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/25/2019

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8 SYNOPSIS: This bill would prohibit the Alabama State
9 Law Enforcement Agency from suspending the driver's
10 license of an individual for failure to pay a fine,
11 penalty, fee, or court costs associated with a
12 conviction of certain traffic offenses if the court
13 determines a driver to be indigent.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 Relating to suspension of driver's licenses; to
20 amend Section 32-5A-195, Code of Alabama 1975, to prohibit the
21 Alabama State Law Enforcement Agency from suspending the
22 driver's license of an individual for failure to pay a fine,
23 penalty, fee, or court costs associated with a conviction of
24 certain traffic violations if the court determines a driver to
25 be indigent.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 32-5A-195, Code of Alabama 1975,
2 is amended to read as follows:

3 "§32-5A-195.

4 "(a) The Secretary of the Alabama State Law
5 Enforcement Agency ~~is authorized to~~ may cancel any driver's
6 license upon determining that the licensee was not entitled to
7 the issuance thereof or that the licensee failed to give the
8 correct or required information in his or her application.
9 Upon ~~such~~ cancellation, the licensee must surrender the
10 cancelled license ~~so cancelled~~. If the licensee refuses to
11 surrender the license, he or she shall be guilty of a
12 misdemeanor.

13 "(b) The privilege of driving a motor vehicle on the
14 highways of this state given to a nonresident shall be subject
15 to suspension or revocation by the Secretary of the Alabama
16 State Law Enforcement Agency in like manner and for like cause
17 as ~~a~~ an Alabama driver's license ~~issued~~ may be suspended or
18 revoked.

19 "(c) The Secretary of the Alabama State Law
20 Enforcement Agency is further authorized, upon receiving a
21 record of the conviction in this state of a nonresident driver
22 of a motor vehicle of any offense, to forward a certified copy
23 of ~~such~~ the record to the motor vehicle administrator in the
24 state where the person so convicted is a resident.

25 "(d) When a nonresident's operating privilege is
26 suspended or revoked, the Secretary of the Alabama State Law
27 Enforcement Agency shall forward a certified copy of the

1 record of such action to the motor vehicle administrator in
2 the state where ~~such~~ the person resides.

3 "(e) The Secretary of the Alabama State Law
4 Enforcement Agency is authorized to suspend or revoke the
5 license of any resident of this state or the privilege of a
6 nonresident to drive a motor vehicle in this state upon
7 receiving notice of the conviction of ~~such~~ the person in
8 another state of any offense therein which, if committed in
9 this state, would be grounds for the suspension or revocation
10 of the license of a driver.

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

15 "(g) Whenever any person is convicted of any offense
16 for which this chapter makes mandatory the revocation of the
17 license of such person by the agency, the court in which the
18 conviction is had shall require the surrender to it of any
19 driver's license then held by the person convicted and the
20 court shall forward the same together with a record of such
21 conviction to the Secretary of the Alabama State Law
22 Enforcement Agency.

23 "(h) Every court having jurisdiction over offenses
24 committed under this article or any other law of this state or
25 municipal ordinance adopted by a local authority regulating
26 the operation of motor vehicles on highways, shall forward to
27 the Secretary of the Alabama State Law Enforcement Agency

1 within five days a record of the conviction of any person in
2 the court for a violation of any laws other than regulations
3 governing standing or parking, and may recommend the
4 suspension of the driver's license of the person so convicted.

5 "(i) For the purposes of this article, the term
6 conviction shall mean a final conviction. Also, for the
7 purposes of this article, an unvacated forfeiture of bail or
8 collateral deposited to secure a defendant's appearance in
9 court, a plea of nolo contendere accepted by the court, the
10 payment of a fine, a plea of guilty, or a finding of guilt of
11 a traffic violation charge shall be equivalent to a conviction
12 regardless of whether the penalty is rebated, suspended, or
13 probated.

14 "(j) The Secretary of the Alabama State Law
15 Enforcement Agency shall revoke the license of any driver upon
16 receiving a record of the driver's conviction of any of the
17 following offenses:

18 "(1) Manslaughter or homicide by vehicle resulting
19 from the operation of a motor vehicle, including a person who
20 is adjudicated as a youthful offender based on an underlying
21 charge of manslaughter or homicide by vehicle, but there shall
22 be no disclosure, other than to courts and law enforcement
23 agencies by any entity or person of any information,
24 documents, or records relating to the youthful offender's
25 arrest, conviction, or adjudication of or finding of
26 delinquency related to the manslaughter or homicide by
27 vehicle.

1 "(2) Upon a first conviction of driving or being in
2 actual physical control of any vehicle while under the
3 influence of alcohol, ~~or~~ under the influence of a controlled
4 substance to a degree which renders him or her incapable of
5 safely driving, ~~or~~ under the combined influence of alcohol and
6 a controlled substance to a degree which renders him or her
7 incapable of safely driving, ~~such~~ the revocation shall take
8 place only when ordered by the court rendering the conviction.

9 "(3) Upon a second or subsequent conviction within a
10 ~~five-year~~ 10-year period, of driving or being in actual
11 physical control of any vehicle while under the influence of
12 alcohol, ~~or~~ under the influence of a controlled substance to a
13 degree which renders him or her incapable of safely driving, ~~or~~
14 or under the combined influence of alcohol and a controlled
15 substance to a degree which renders him or her incapable of
16 safely driving.

17 "(4) Any felony in the commission of which a motor
18 vehicle is used.

19 "(5) Failure to stop, render aid, or identify
20 himself or herself as required under the laws of this state in
21 the event of a motor vehicle accident resulting in the death
22 or personal injury of another.

23 "(6) Perjury or the making of a false affidavit or
24 statement under oath to the Secretary of the Alabama State Law
25 Enforcement Agency under this article or under any other law
26 relating to the ownership or operation of motor vehicles.

1 "(7) Conviction upon three charges of reckless
2 driving committed within a period of 12 months.

3 "(8) Unauthorized use of a motor vehicle belonging
4 to another which act does not amount to a felony.

5 "(k) The Secretary of the Alabama State Law
6 Enforcement Agency is authorized to suspend the license of a
7 driver without preliminary hearing upon a showing by its
8 records or other sufficient evidence that the licensee:

9 "(1) Has committed an offense for which mandatory
10 revocation of license is required upon conviction7.

11 "(2) Has been convicted with such frequency of
12 serious offenses against traffic regulations governing the
13 movement of vehicles as to indicate a disrespect for traffic
14 laws and a disregard for the safety of other persons on the
15 highways7.

16 "(3) Is an habitually reckless or negligent driver
17 of a motor vehicle, such fact being established by a record of
18 accidents or by other evidence7.

19 "(4) Is incompetent to drive a motor vehicle7.

20 "(5) Has permitted an unlawful or fraudulent use of
21 ~~such a~~ license7.

22 "(6) Has committed an offense in another state which
23 if committed in this state would be grounds for suspension or
24 revocation7.

25 "(7) Has been convicted of fleeing or attempting to
26 elude a police officer7-or.

27 "(8) Has been convicted of racing on the highways.

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

1 program designed for problem drinking drivers. If the hearing
2 is conducted by a duly authorized agent instead of by the
3 Secretary of the Alabama State Law Enforcement Agency himself
4 or herself, the action of such agent must be approved by the
5 Secretary of the Alabama State Law Enforcement Agency.

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

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

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

24 "(p) Any resident or nonresident whose driver's
25 license or privilege to operate a motor vehicle in this state
26 has been suspended or revoked as provided in this section
27 shall not operate a motor vehicle in this state under a

1 license or permit issued by any other jurisdiction or
2 otherwise during ~~such~~ the suspension or after ~~such~~ the
3 revocation until a new license is obtained when and as
4 permitted under this article.

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

23 "(r) The Alabama State Law Enforcement Agency may
24 not suspend or revoke the driver's license of a person solely
25 on the grounds that the person failed to pay a fine, penalty,
26 fee, or court cost associated with a conviction of a traffic

1 offense if the court determines the driver to be indigent,
2 except for a violation described in subsection (j) or (k)."

3 Section 2. 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.