

1 HB129
2 208734-1
3 By Representative Pringle
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

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8 SYNOPSIS: Under existing law, an individual who is
9 convicted or adjudicated for minor in possession of
10 alcohol is subject to driver's license suspension.

11 This bill would provide that an individual's
12 driver's license may not be suspended for a
13 conviction or adjudication of minor in possession
14 of alcohol.

15 Under existing law, an individual who is
16 required to pay child support and does not pay
17 child support may have his or her driver's license
18 suspended for failure to pay child support.

19 This bill would provide that an individual's
20 driver's license may not be suspended for failure
21 to pay child support if federal law no longer
22 requires such, or if the state obtains an exemption
23 from the United States Secretary of Health and
24 Human Services.

25 Under existing law, an individual's driver's
26 license will be suspended for failure to appear in
27 court.

1 This bill would provide that an individual's
2 driver's license may not be suspended for failure
3 to appear in court.

4 Under existing law, if a court orders an
5 individual to pay a fine or restitution as a result
6 of a traffic infraction and he or she fails to pay,
7 his or her driver's license will be suspended.

8 This bill would provide that an individual's
9 driver's license may not be suspended for failure
10 to pay a fine or restitution.

11 Under existing law, an individual who is
12 convicted or adjudicated for drug related offenses
13 is subject to driver's license suspension.

14 This bill would provide that an individual's
15 driver's license may not be suspended for a
16 conviction or adjudication of a drug related
17 offense.

18 This bill would also provide that the
19 Governor may notify the United States Secretary of
20 Transportation of her opposition of driver's
21 license suspension for certain drug convictions.

22 This bill would also repeal existing
23 statutes relating to suspension of a driver's
24 license for drug crime convictions or adjudications
25 and for failure to attend school.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to driver's license suspensions; to amend
5 Sections 28-3A-25, as last amended by Act 2019-492, 2019
6 Regular Session, 30-3-170 and 30-3-179, Code of Alabama 1975,
7 to provide for the elimination of the suspension of an
8 individual's driver's license in certain circumstances; to
9 provide that the Department of Human Resources may only seek
10 the suspension of a driver's license for failure to pay child
11 support to the extent required by federal law; to provide that
12 the Governor may notify the United States Secretary of
13 Transportation of her opposition of a driver's license
14 suspension for certain drug convictions; and to repeal
15 Sections 13A-12-290, 13A-12-291, 13A-12-292, 13A-12-293,
16 13A-12-294, 16-28-40, 16-28-41, 16-28-42, 16-28-43, 16-28-44,
17 and 16-28-45, Code of Alabama 1975.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 28-3A-25, as last amended by Act
20 2019-492, 2019 Regular Session, Code of Alabama 1975, is
21 amended to read as follows:

22 "§28-3A-25.

23 "(a) It shall be unlawful:

24 "(1) For any manufacturer, importer, or wholesaler,
25 or the servants, agents, or employees of the same, to sell,
26 trade, or barter in alcoholic beverages between the hours of

1 nine o'clock p.m. of any Saturday and two o'clock a.m. of the
2 following Monday, except as otherwise provided in this title.

3 "(2) For any wholesaler or the servants, agents, or
4 employees of the wholesaler to sell alcoholic beverages, to
5 other than wholesale or retail licensees or others within this
6 state lawfully authorized to sell alcoholic beverages, or to
7 sell for export.

8 "(3) For any person, licensee, or the board, either
9 directly or by the servants, agents, or employees of the same,
10 or for any servant, agent, or employee of the same, to sell,
11 deliver, furnish, or give away alcoholic beverages to any
12 person under the legal drinking age, as defined in Section
13 28-1-5, or to permit any person under the legal drinking age,
14 as defined in Section 28-1-5, to drink, consume, or possess
15 any alcoholic beverages on any licensee's premises.

16 "(4) For any person to consume alcoholic beverages
17 on the premises of any state liquor store or any off-premises
18 licensee, or to allow alcoholic beverages to be consumed on
19 the premises of any state liquor store or any off-premises
20 licensee, except as specifically allowed by law for the
21 tasting of alcoholic beverages.

22 "(5) For any licensee to fail to keep for a period
23 of at least three years, complete and truthful records
24 covering the operation of his or her license and particularly
25 showing the date of all purchases of alcoholic beverages, the
26 actual price paid therefor, and the name of the vendor, or to
27 refuse the board or any authorized employee of the board

1 access to the records or the opportunity to make copies of the
2 records when the request is made during business hours.

3 "(6) For any licensee or the servants, agents, or
4 employees of the same to refuse the board, any of its
5 authorized employees, or any duly commissioned law enforcement
6 officer the right to completely inspect the entire licensed
7 premises at any time the premises are open for business.

8 "(7) For any person to knowingly sell any alcoholic
9 beverages to any person engaged in the business of illegally
10 selling alcoholic beverages.

11 "(8) For any person to manufacture, transport, or
12 import alcoholic beverages into this state, except in
13 accordance with the reasonable rules of the board. This
14 subdivision shall not prohibit the transportation of alcoholic
15 beverages through the state or any dry county so long as the
16 beverages are not for delivery therein, if the transportation
17 is done in accordance with the reasonable rules of the board.

18 "(9) For any person to fortify, adulterate,
19 contaminate, or in any manner change the character or purity
20 of alcoholic beverages from that as originally marketed by the
21 manufacturer, except that a retail licensee may mix a chaser
22 or other ingredients necessary to prepare a cocktail or mixed
23 drink or may make infusions for on-premises consumption in
24 accordance with Section 28-3A-20.3.

25 "(10) For any person licensed to sell alcoholic
26 beverages to offer to give any thing of value as a premium for
27 the return of caps, stoppers, corks, stamps, or labels taken

1 from any bottle, case, barrel, or package containing the
2 alcoholic beverages, or to offer to give any thing of value as
3 a premium or present to induce the purchase of the alcoholic
4 beverages, or for any other purpose whatsoever in connection
5 with the sale of the alcoholic beverages. This subdivision
6 shall not apply to the return of any ~~moneys~~ monies
7 specifically deposited for the return of the original
8 containers to the owners of the containers.

9 "(11) For any licensee or transporter for hire,
10 servant, agent, or employee of the same, to transport any
11 alcoholic beverages except in the original container, and for
12 any transporter for hire to transport any alcoholic beverages
13 within the state, unless the transporter holds a permit issued
14 by the board.

15 "(12) For any manufacturer, importer, or wholesaler,
16 servant, agent, or employee of the same, to deliver any
17 alcoholic beverages, except in vehicles bearing such
18 information on each side of the vehicle as required by the
19 board.

20 "(13) For any person to sell alcoholic beverages
21 within any dry county or county where the electors have voted
22 against the sales, except in wet municipalities or as
23 authorized by Section 28-3A-18.

24 "(14) For any person, firm, corporation,
25 partnership, or association of persons as the terms are
26 defined in Section 28-3-1, including any civic center
27 authority, racing commission, fair authority, airport

1 authority, public or quasi-public board, agency, or
2 commission, any agent thereof, or otherwise, who or which has
3 not been properly licensed under the appropriate provisions of
4 this chapter to sell, offer for sale, or have in possession
5 for sale, any alcoholic beverages. Any alcoholic beverages so
6 possessed, maintained, or kept shall be contraband and subject
7 to condemnation and confiscation as provided by law.

8 "(15) For any manufacturer, distiller, producer,
9 importer, or distributor of alcoholic beverages to employ and
10 maintain any person, who is not a full-time bona fide
11 employee, as a resident sales agent, broker, or other like
12 representative, for the purpose of promoting a sale, purchase,
13 or acquisition of alcoholic beverages to or by the state or
14 the board, or for any person who is not a full-time bona fide
15 employee to act as an agent, broker, or representative of any
16 manufacturer, distributor, producer, importer, or distiller
17 for that purpose.

18 "(16) For any person to sell, give away, or
19 otherwise dispose of taxable alcoholic beverages within this
20 state on which the required taxes have not been paid as
21 required by law.

22 "(17) For any wholesaler or retailer, or the
23 servant, agent, or employee of the same, to sell, distribute,
24 deliver, or to receive or store for sale or distribution
25 within this state any alcoholic beverages unless there first
26 has been issued by the board a manufacturer's license to the
27 manufacturer of the alcoholic beverages or its designated

1 representative or an importer license to the importer of the
2 alcoholic beverages.

3 "(18) For any person under the legal drinking age,
4 as defined in Section 28-1-5, to attempt to purchase, to
5 purchase, consume, possess, or transport any alcoholic
6 beverages within the state; provided, however, it shall not be
7 unlawful for a person under the legal drinking age, as defined
8 in Section 28-1-5, to be an employee of a wholesale licensee
9 or an off-premises retail licensee of the board to handle,
10 transport, or sell any beer or table wine if the person under
11 the legal drinking age is acting within the line and scope of
12 his or her employment while so acting. There must be an adult
13 licensee, servant, agent, or employee of the same present at
14 all times a licensed establishment is open for business.

15 "(19) For any person, except where authorized by a
16 local act or general act of local application or pursuant to
17 Section 28-3-25, to buy, give away, sell, or serve for
18 consumption on or off the premises, or to drink or consume any
19 alcoholic beverages in any cafe, lunchroom, restaurant, hotel
20 dining room, or other public place on Sunday after the hour of
21 two o'clock a.m.

22 "(20) Except where authorized by a local act or
23 general act of local application or pursuant to Section
24 28-3-25, for the proprietor, keeper, or operator of any cafe,
25 lunchroom, restaurant, hotel dining room, or other public
26 place to knowingly permit any person to give away, sell, or
27 serve for consumption, on or off the premises, or to drink or

1 consume any alcoholic beverages on the premises of the cafe,
2 lunchroom, restaurant, hotel dining room, or other public
3 place on Sunday after the hour of two o'clock a.m.

4 "(21) For a person under the age of 21 years to
5 knowingly use or attempt to use a false, forged, deceptive, or
6 otherwise nongenuine driver's license to obtain or attempt to
7 obtain alcoholic beverages within this state.

8 "(b) (1) Any violation of subdivisions (1) through
9 (17) of subsection (a) shall be a misdemeanor punishable by a
10 fine of not less than one hundred dollars (\$100) nor more than
11 one thousand dollars (\$1,000), to which, at the discretion of
12 the court or judge trying the case, may be added imprisonment
13 in the county jail or at hard labor for the county for not
14 more than six months for the first conviction; and, on the
15 second conviction of a violation of the subdivisions, the
16 offense, in addition to the aforementioned fine, shall be
17 punishable by imprisonment or at hard labor for the county for
18 not less than three months nor more than six months to be
19 imposed by the court or judge trying the case; and, on the
20 third conviction and every subsequent conviction of a
21 violation of the subdivisions, the offense, in addition to a
22 fine within the limits ~~abovenamed~~ provided in this
23 subdivision, shall be punishable by imprisonment or at hard
24 labor for the county for not less than six months nor more
25 than 12 months.

26 "(2) Any violation of subdivision (18), (19), (20),
27 or (21) of subsection (a) shall be a misdemeanor punishable by

1 a fine of not less than fifty dollars (\$50) nor more than five
2 hundred dollars (\$500), to which, at the discretion of the
3 court or judge trying the case, may be added imprisonment in
4 the county jail or at hard labor for the county for not more
5 than three months.

6 ~~"(c) In addition to the penalties otherwise provided
7 for a violation of subdivisions (18) and (21) of subsection
8 (a), upon conviction, including convictions in juvenile court
9 or under the Youthful Offender Act, the offender's license to
10 operate a motor vehicle in this state shall be surrendered by
11 the offender to the judge adjudicating the case for a period
12 of not less than three months nor more than six months. The
13 judge shall forward a copy of the order suspending the license
14 to the Alabama State Law Enforcement Agency for enforcement
15 purposes."~~

16 Section 2. Sections 30-3-170 and 30-3-179, Code of
17 Alabama 1975, are amended to read as follows:

18 "§30-3-170.

19 "When used in this article, the following words
20 shall have the following meanings:

21 "(1) COURT. A court of competent jurisdiction or
22 administrative agency having the authority to issue and
23 enforce support orders.

24 "(2) DELINQUENT or DELINQUENCY. A support debt or
25 support obligation due and unpaid in an amount equal to or
26 greater than six months support payments as of the date of
27 service of a notice of intent to suspend or revoke a license.

1 "(3) DEPARTMENT. The Alabama Department of Human
2 Resources, including the county departments of human
3 resources.

4 "(4) LICENSE. Any license, certificate,
5 registration, or authorization issued by a licensing authority
6 which grants a person a right or privilege to engage in an
7 occupational, professional, sporting, or recreational
8 activity, ~~or to operate a motor vehicle.~~

9 "(5) LICENSEE. The holder of a license.

10 "(6) LICENSING AUTHORITY. Any department, division,
11 board, agency, or instrumentality of the State of Alabama or
12 its political subdivisions that issues a license.

13 "(7) OBLIGEE. Either of the following:

14 "a. A person to whom support benefits are ordered by
15 the court.

16 "b. A public agency of this or another state that
17 has the right to receive support payments or otherwise is
18 providing support enforcement services under Title IV-D of the
19 Social Security Act. The term shall include the department.

20 "(8) OBLIGOR. A person ordered by a court to make
21 periodic payments for the benefit and support of another
22 person or child.

23 "(9) SUPPORT or SUPPORT ORDER. Support of a minor
24 child and spousal support when the spousal support is
25 collected pursuant to the requirements of Title IV-D of the
26 Social Security Act. Support order shall mean any order,
27 decree, or judgment for the support of a child, or in the case

1 of an order being enforced pursuant to the requirements of
2 Title IV-D of the Social Security Act, a spouse, or former
3 spouse, issued by a court or other entity authorized to issue
4 the orders.

5 "§30-3-179.

6 "It is the intent of the Legislature that this
7 article provide for the withholding, restricted use,
8 suspension, or revocation of professional, occupational, or
9 recreational, ~~or drivers'~~ licenses for the failure to pay
10 child support or to comply with subpoenas or warrants relating
11 to paternity or child support proceedings."

12 Section 3. The Department of Human Resources may
13 only seek the suspension of an individual's driver's license
14 for failure to pay child support to the extent required in 42
15 U.S.C. §666(16).

16 Section 4. (a) Notwithstanding any other provision
17 of law, the Alabama State Law Enforcement Agency may not
18 suspend or revoke a person's driver's license for failing to
19 appear in court.

20 (b) The Secretary of the Alabama State Law
21 Enforcement Agency shall adopt rules as necessary to implement
22 and administer the requirements of this section.

23 Section 5. (a) A court may not suspend an
24 individual's privilege to operate a motor vehicle in this
25 state for failure to pay a fine or restitution imposed as a
26 result of a traffic infraction.

1 (b) It is the intent of the Legislature that
2 pursuant to Amendment 328 of the Constitution of Alabama of
3 1901, now appearing as Section 150 of the Official
4 Recompilation of the Constitution of Alabama of 1901, as
5 amended, the Supreme Court of Alabama shall amend its rules to
6 conform with this act.

7 Section 6. Sections 13A-12-290, 13A-12-291,
8 13A-12-292, 13A-12-293, and 13A-12-294 of the Code of Alabama
9 1975, relating to driver's license suspension for certain drug
10 related violations and Sections 16-28-40, 16-28-41, 16-28-42,
11 16-28-43, 16-28-44, and 16-28-45 of the Code of Alabama 1975,
12 relating to conditioning of driving privileges upon school
13 attendance, are specifically repealed.

14 Section 7. The Governor may take any and all action
15 necessary to opt out of 23 U.S.C. § 159, which requires a
16 driver's license suspension or revocation for any drug
17 convictions, including a written certification to the United
18 States Secretary of Transportation that the Legislature has
19 adopted a resolution expressing its opposition to driver's
20 license suspension laws as provided in 23 U.S.C. § 159. The
21 Governor may also provide a written certification to the
22 United States Secretary of Transportation stating her
23 opposition to the enactment or enforcement of 23 U.S.C. § 159
24 in the state.

25 Section 8. Sections 1, 3, 4, 5, 6, and 7 of this act
26 shall become effective immediately following its passage and
27 approval by the Governor, or its otherwise becoming law.

1 Section 2 of this act shall be contingent upon an amendment to
2 42 U.S.C. §666 and the Department of Human Resources receiving
3 a waiver from United States Secretary of Health and Human
4 Services.