

1 SB389
2 176409-1
3 By Senator Sanders
4 RFD: Judiciary
5 First Read: 05-APR-16

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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 cost for convictions of or
12 for failure to appear on charges arising from
13 certain traffic violations.

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 cost for convictions of or for failure
24 to appear on charges arising from certain traffic violations.
25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 "§32-5A-195.

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

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

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

24 "(d) When a nonresident's operating privilege is
25 suspended or revoked, the ~~Director of Public Safety~~ Secretary
26 of the Alabama State Law Enforcement Agency shall forward a
27 certified copy of the record of such action to the motor

1 vehicle administrator in the state wherein such person
2 resides.

3 "(e) The ~~Director of Public Safety~~ Secretary of the
4 Alabama State Law Enforcement Agency is authorized to suspend
5 or revoke the license of any resident of this state or the
6 privilege of a nonresident to drive a motor vehicle in this
7 state upon receiving notice of the conviction of such person
8 in 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 ~~Director of Public Safety~~ Secretary of the
12 Alabama State Law Enforcement Agency may give such effect to
13 conduct of a resident in another state as is provided by the
14 laws of this 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 department, the court in which
18 such conviction is had shall require the surrender to it of
19 any driver's license then held by the person convicted and the
20 court shall thereupon forward the same together with a record
21 of such conviction to the ~~Director of Public Safety~~ Secretary
22 of the Alabama State Law 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 ~~Director of Public Safety~~ Secretary of the Alabama State

1 Law Enforcement Agency within 10 days a record of the
2 conviction of any person in said court for a violation of any
3 said laws other than regulations governing standing or
4 parking, and may recommend the suspension of the driver's
5 license of the person so convicted.

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

15 "(j) The ~~Director of Public Safety~~ Secretary of the
16 Alabama State Law Enforcement Agency shall forthwith revoke
17 the license of any driver upon receiving a record of such
18 driver's conviction of any of the following offenses:

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

1 delinquency related to such manslaughter or homicide by
2 vehicle;

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

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

19 "(4) Any felony in the commission of which a motor
20 vehicle is used;

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

25 "(6) Perjury or the making of a false affidavit or
26 statement under oath to the Director of Public Safety under

1 this article or under any other law relating to the ownership
2 or operation of motor vehicles;

3 "(7) Conviction upon three charges of reckless
4 driving committed within a period of 12 months;

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

7 "(k) The ~~Director of Public Safety~~ Secretary of the
8 Alabama State Law Enforcement Agency is hereby authorized to
9 suspend the license of a driver without preliminary hearing
10 upon a showing by its records or other sufficient evidence
11 that the licensee:

12 "(1) Has committed an offense for which mandatory
13 revocation of license is required upon conviction;

14 "(2) Has been convicted with such frequency of
15 serious offenses against traffic regulations governing the
16 movement of vehicles as to indicate a disrespect for traffic
17 laws and a disregard for the safety of other persons on the
18 highways;

19 "(3) Is an habitually reckless or negligent driver
20 of a motor vehicle, such fact being established by a record of
21 accidents, or by other evidence;

22 "(4) Is incompetent to drive a motor vehicle;

23 "(5) Has permitted an unlawful or fraudulent use of
24 such license;

25 "(6) Has committed an offense in another state which
26 if committed in this state would be grounds for suspension or
27 revocation;

1 "(7) Has been convicted of fleeing or attempting to
2 elude a police officer; or

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

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

1 successful completion of any duly established "highway
2 intoxication seminar," "DWI counterattack course" or similar
3 educational program designed for problem drinking drivers. If
4 the hearing is conducted by a duly authorized agent instead of
5 by the ~~Director of Public Safety~~ secretary himself or herself,
6 the action of such agent must be approved by the ~~Director of~~
7 ~~Public Safety~~ secretary.

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

13 "(n) At the end of the period of suspension a
14 license surrendered to the ~~Director of Public Safety~~ Secretary
15 of the Alabama State Law Enforcement Agency under subsection
16 (o) shall be returned to the licensee.

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

26 "(p) Any resident or nonresident whose driver's
27 license or privilege to operate a motor vehicle in this state

1 has been suspended or revoked as provided in this section
2 shall not operate a motor vehicle in this state under a
3 license or permit issued by any other jurisdiction or
4 otherwise during such suspension or after such revocation
5 until a new license is obtained when and as permitted under
6 this article.

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

25 "(r) The Alabama State Law Enforcement Agency may
26 not suspend or revoke the driver's license of an individual
27 solely on the grounds that the individual failed to pay a

1 fine, penalty, fee, or court cost for conviction of a traffic
2 violation or for failure to appear on charges arising from a
3 traffic violation other than a violation described in
4 subsection (j) or (k)."

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