

1 HB462
2 166494-2
3 By Representatives McCampbell, Beech and Jackson
4 RFD: Judiciary
5 First Read: 09-APR-15

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, drag racing on any
9 public highway is prohibited.

10 This bill would provide that organizers and
11 spectators would be guilty of the offense, would
12 increase the penalties for drag racing, and would
13 provide for impoundment or seizure of vehicles
14 involved in illegal drag racing under certain
15 circumstances. In addition, the vehicle of a person
16 charged with drag racing who has previously been
17 convicted of the offense would be subject to
18 forfeiture.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of
22 Alabama of 1901, as amended, prohibits a general
23 law whose purpose or effect would be to require a
24 new or increased expenditure of local funds from
25 becoming effective with regard to a local
26 governmental entity without enactment by a 2/3 vote
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. However,
8 the bill does not require approval of a local
9 governmental entity or enactment by a 2/3 vote to
10 become effective because it comes within one of the
11 specified exceptions contained in the amendment.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 Relating to drag racing; to further define the
18 crime; to increase the penalties; to provide for impoundment
19 or seizure of vehicles used in drag racing and for forfeiture
20 under certain circumstances; and in connection therewith would
21 have as its purpose or effect the requirement of a new or
22 increased expenditure of local funds within the meaning of
23 Amendment 621 of the Constitution of Alabama of 1901, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 32-5A-178, Code of Alabama 1975,
2 is amended to read as follows:

3 "§32-5A-178.

4 "(a) It is a violation of this section for any No
5 person shall to drive any vehicle on any public highway in any
6 race, speed competition or contest, drag race or acceleration
7 contest, test of physical endurance, exhibition of speed or
8 acceleration, or for the purpose of making a speed record.
9 and no It is also a violation of this section for any person
10 shall in any manner to participate in any such race,
11 competition, contest, test, or exhibition of the above named
12 activities as an organizer, spectator, observer, or any other
13 manner.

14 "(b) "Drag race" is defined as the operation of two
15 or more vehicles from a point side by side at accelerating
16 speeds in a competitive attempt to outdistance each other, or
17 the operation of one or more vehicles over a common selected
18 course, from the same point to the same point, for the purpose
19 of comparing the relative speeds or power of acceleration of
20 such vehicle or vehicles within a certain distance or time
21 limit.

22 "(c) "Racing" is defined as the use of one or more
23 vehicles in an attempt to outgain, outdistance, or prevent
24 another vehicle from passing, to arrive at a given destination
25 ahead of another vehicle or vehicles, or to test the physical
26 stamina or endurance of drivers over long distance driving
27 routes.

1 "(d) Every person violating this section, if
2 convicted, ~~of racing on highways~~ shall be punished as follows:

3 "(1) On upon a first conviction, by imprisonment for
4 ~~a period of not less than five days nor more than 90 days, or~~
5 ~~by a fine of not less than \$25.00 nor more than \$500.00, or by~~
6 ~~both such fine and imprisonment, five hundred dollars (\$500)~~
7 ~~and 30-days probation;~~

8 "(2) On and on a second or subsequent conviction,
9 ~~shall be punished by imprisonment for not less than 10 days~~
10 ~~nor more than six months, or by a fine of not less than \$50.00~~
11 ~~nor more than \$500.00, or by both such fine and imprisonment~~
12 ~~and, one thousand dollars (\$1,000) and 90-days probation;~~

13 "(3) For a third or subsequent conviction by a fine
14 of three thousand dollars (\$3,000) and six months probation.

15 "(e) In addition to the fines and penalties set out
16 in subdivision (d), the court may shall prohibit the any
17 person so convicted of driving a vehicle in violation of this
18 section from driving a motor vehicle on the public highways of
19 this state for a period not exceeding six months one year, and
20 the license of the person shall be suspended for ~~such that~~
21 period by the Director of Public Safety pursuant to Section
22 32-5A-195.

23 "(f) When a person is charged with driving a vehicle
24 in violation of this section for the first time, the vehicle
25 being operated by the person shall be impounded by the law
26 enforcement officer issuing the citation. The law enforcement
27 officer making the impoundment shall direct an approved towing

1 service to tow the vehicle to the garage of the towing
2 service, storage lot, or other place of safety and maintain
3 custody and control of the vehicle until the registered owner
4 or authorized agent of the registered owner claims the vehicle
5 by paying all reasonable and customary towing and storage fees
6 for the services of the towing company. The vehicle shall then
7 be released to the registered owner or an agent of the owner.

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

20 "(g) When a person is charged with driving a vehicle
21 in violation of this section and has previously been convicted
22 of a violation of this section, the law enforcement officer
23 shall seize the person's vehicle as an incidence of the
24 arrest. When seized under this section, the vehicle shall be
25 held in the custody of the state, county, or municipal law
26 enforcement agency making the arrest and shall be subject to a
27 forfeiture proceeding as further provided herein.

1 "Forfeiture proceedings shall be instituted
2 promptly, and a vehicle found by the court to have been used
3 in violation of this section shall be forfeited to the law
4 enforcement agency responsible for the arrest and seizure.
5 When the property has been forfeited under this section, the
6 state, county, or municipal law enforcement agency may retain
7 the vehicle for official use or sell the vehicle. When the
8 vehicle is sold, proceeds from the sale shall be used, first,
9 for payment of all proper expenses of the proceedings for
10 forfeiture and sales, including expenses of seizure,
11 maintenance of or custody, advertising, and court costs. The
12 remaining proceeds from the sale shall be awarded and
13 distributed by the court to the state, county, or municipality
14 whose law enforcement agency was responsible for the arrest
15 and seizure with those proceeds earmarked for law enforcement
16 purposes."

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

23 Section 3. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.