

1 HB398  
2 130134-1  
3 By Representative McMillan  
4 RFD: Public Safety and Homeland Security  
5 First Read: 23-FEB-12

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SYNOPSIS: Under existing law, for a person under the age of 19 to obtain a driver's license or learner's license for the operation of a motor vehicle, he or she must show proof of enrollment in school or employment.

This bill would require that the employment be for a minimum of 30 hours per week.

This bill would also require that a summary of the requirements for obtaining a driver's license or learner's license, and a form for notifying the department of the withdrawal of a student from school, be annually provided by the Department of Public Safety to students through the local superintendent of education.

A BILL  
TO BE ENTITLED  
AN ACT

1           To amend Section 16-28-40, Code of Alabama 1975,  
2           conditioning driving privileges on school attendance; to  
3           require proof of employment for a minimum of 30 hours a week  
4           if not enrolled in school; and to require the Department of  
5           Public Safety to annually provide notice of the requirements  
6           for driving, and a form for notifying the department of the  
7           withdrawal of a student from school, to high school students  
8           through the local superintendent of education.

9           BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10           Section 1. Section 16-28-40 of the Code of Alabama  
11           1975, is amended to read as follows:

12           "§16-28-40.

13           "(a) The Department of Public Safety shall deny a  
14           driver's license or a learner's license for the operation of a  
15           motor vehicle to any person under the age of 19 who does not,  
16           at the time of application, present a diploma or other  
17           certificate of graduation issued to the person from a  
18           secondary high school of this state or any other state, or  
19           documentation that the person: (1) is enrolled and making  
20           satisfactory progress in a course leading to a general  
21           educational development certificate (GED) from a state  
22           approved institution or organization, or has obtained the  
23           certificate; (2) is enrolled in a secondary school of this  
24           state or any other state and has not at the time of  
25           application accumulated disciplinary points while a student in  
26           school that would extend the age of eligibility for the  
27           student to apply for a driver's license; (3) is participating

1 in a job training program approved by the State Superintendent  
2 of Education; (4) is gainfully and substantially employed for  
3 a minimum of 30 hours per week; (5) is a parent with the care  
4 and custody of a minor or unborn child; (6) has a physician  
5 certify that the parents of the person depend on him or her as  
6 their sole source of transportation; or (7) is exempted from  
7 this requirement due to circumstances beyond his or her  
8 control as provided in this chapter.

9 "(b) The attendance officer or chief attendance  
10 administrator, upon request, shall provide documentation of  
11 enrollment status and disciplinary points on a form approved  
12 by the Department of Education to any student 15 years of age  
13 or older who is properly enrolled in a school under the  
14 jurisdiction of the official, for presentation to the  
15 Department of Public Safety, on application for, or renewal or  
16 reinstatement of, a driver's license or a learner's license to  
17 operate a motor vehicle. Whenever a student 16 years of age or  
18 older withdraws from school, the attendance officer or chief  
19 attendance administrator shall notify the Department of Public  
20 Safety of the withdrawal. Withdrawal shall be defined as more  
21 than 10 consecutive or 15 days total unexcused absences during  
22 a single semester.

23 "(c) Each year between July 1 and August 1, the  
24 Department of Public Safety shall provide by United States  
25 mail to each local superintendent of education in the state, a  
26 summary of the requirements of subsections (a) and (b) and a  
27 form to be used in notifying the Department of Public Safety

1 of the withdrawal from school of a student. The local  
2 superintendent of education shall provide a copy of the  
3 summary and the form to the principal of each secondary high  
4 school located within the school system, for implementation in  
5 the school.

6 "~~(c)~~ (d) Within five days of receipt of a notice of  
7 withdrawal, the Department of Public Safety shall send notice  
8 to the licensee that his or her driver's license or learner's  
9 license will be suspended under this article on the 30th day  
10 following the date the notice was sent unless documentation of  
11 compliance with this article is received by the department  
12 before the 30th day.

13 "~~(d)~~ (e) Whenever the withdrawal from school of the  
14 student, or the failure of the student to enroll in a course  
15 leading to or to obtain a GED or high school diploma, is  
16 beyond the control of the student, or is for the purpose of  
17 transfer to another school as confirmed in writing by the  
18 parent or guardian of the student, or is for the purpose of  
19 participating in a job training program approved by the State  
20 Superintendent of Education, no notice shall be sent by the  
21 proper school official to the Department of Public Safety to  
22 suspend the license of the student. If the student is applying  
23 for or renewing a driver's license or a learner's license, the  
24 attendance officer or chief attendance administrator, upon  
25 request, shall provide the student with documentation to  
26 present to the Department of Public Safety to exempt the  
27 student from this section. The local superintendent of

1 education with the assistance of the county or city school  
2 attendance director as the case may be, and any other staff or  
3 school personnel, or the appropriate school official of any  
4 private secondary school, shall be the sole judge of whether  
5 the withdrawal is due to circumstances beyond the control of  
6 the person. Suspension or expulsion from school or  
7 imprisonment in a jail or penitentiary is not a circumstance  
8 beyond the control of a person.

9 ~~"(e)~~ (f) (1) Any person over the age of 14 who is  
10 convicted of the crime of possession of a pistol on the  
11 premises of a public school, or a public school bus, or both,  
12 under Section 13A-11-72 shall be denied issuance of a driver's  
13 permit or license for the operation of a motor vehicle for 180  
14 days from the date the person is eligible and applies for a  
15 permit or license for the operation of a motor vehicle. Any  
16 adjudication as a juvenile delinquent or youthful offender  
17 where the underlying charge is the possession of a pistol on  
18 the premises of a public school, or a public school bus, or  
19 both, under Section 13A-11-72 shall be considered a conviction  
20 under this subsection, and the adjudication of a person as a  
21 juvenile delinquent or youthful offender where the underlying  
22 charge is a violation under Section 13A-11-72 shall be  
23 reported to the Department of Public Safety.

24 "(2) If a person over the age of 14 years possesses  
25 a driver's license on the date of conviction, the Department  
26 of Public Safety, within five days of receipt of a notice of  
27 conviction from the court, shall send notice to the licensee

1 that his or her driver's license will be suspended. The notice  
2 shall state that the license will be suspended for 180 days  
3 commencing on the 30th day following the date the notice was  
4 sent unless documentation is received by the department before  
5 the 30th day that the person was not convicted of the crime.  
6 Upon the appropriate date, the department shall suspend the  
7 license.

8 "(3) Upon the written request of the person whose  
9 license is denied or suspended, the Department of Public  
10 Safety shall afford the person an opportunity for a hearing in  
11 the same manner and under the procedure used for other  
12 driver's license suspensions. If the suspension or denial of  
13 issuance determination is sustained by the Director of the  
14 Department of Public Safety or the authorized agent of the  
15 director, upon such hearing, the person may file a petition in  
16 the appropriate court to review the final order of suspension  
17 or denial by the director or the authorized agent of the  
18 director in the same manner and under the same conditions as  
19 is provided in the case of suspensions and denials.

20 "(4) If the conviction is reversed within the  
21 180-day period, the department, upon receipt of notice of the  
22 reversal from the Administrative Office of Courts, shall  
23 reinstate a suspended license and shall accept an application  
24 for a license and shall issue the license according to law and  
25 regulation.

26 "(5) The court shall notify the Department of Public  
27 Safety of the conviction of a person over the age of 14 of a

1 crime involving the possession of a pistol on the premises of  
2 a public school, or a public school bus, or both, under  
3 Section 13A-11-72 and any reversal of the conviction. The  
4 Administrative Office of Courts may promulgate necessary rules  
5 and regulations to implement this notification procedure."

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