

1 HB144
2 116021-1
3 By Representative Payne
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 01/07/2010

SYNOPSIS: Under existing law, a person is required to have a commercial driver license issued by the Department of Public Safety with a P endorsement in order to drive a commercial vehicle carrying passengers or with an S endorsement in order to drive a school bus.

This bill would prohibit a person required to register as a sex offender from being issued a commercial driver license with a P or an S endorsement. The bill would also prohibit a person convicted of a crime requiring registration as a sex offender from driving a commercial motor vehicle required to be operated by a commercial driver with a P or an S endorsement, would provide for the revocation of licenses, and would provide penalties for violations.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

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

17
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 Relating to commercial driver licenses issued by the
23 Department of Public Safety; to add Section 36-6-49.25 to the
24 Code of Alabama 1975, to prohibit the issuance of a commercial
25 driver license with an endorsement authorizing the license
26 holder to drive a commercial passenger vehicle (P endorsement)
27 or a school bus (S endorsement) if the person is required to

1 register as a sex offender; to prohibit a person convicted of
2 a crime requiring registration as a sex offender from driving
3 a commercial motor vehicle required to be operated by a
4 commercial driver with a P or an S endorsement; to provide for
5 the revocation of licenses under certain conditions; to
6 provide penalties for violations; and in connection therewith
7 would have as its purpose or effect the requirement of a new
8 or increased expenditure of local funds within the meaning of
9 Amendment 621 of the Constitution of Alabama of 1901, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 36-6-49.25 is added to the Code
14 of Alabama 1975, to read as follows:

15 Section 36-6-49.25.

16 (a)(1) Effective July 1, 2010, except as otherwise
17 provided by this subsection, a person convicted of a crime
18 that requires registration as a sex offender under Article 2
19 of Chapter 20 of Title 15 is prohibited from driving a
20 commercial motor vehicle that requires a commercial driver
21 license with a P or an S endorsement.

22 (2) If a person who is registered as a sex offender
23 pursuant to Article 2 of Chapter 20 of Title 15 on July 1,
24 2010, has a valid commercial driver license with a P or an S
25 endorsement that was issued on or before July 1, 2010, then
26 the person is not disqualified under this subsection until
27 that license expires, provided the person does not commit a

1 subsequent offense that requires registration as a sex
2 offender under Article 2 of Chapter 20 of Title 15.

3 (b) The department shall revoke the commercial
4 driver license with a P or an S endorsement of any person
5 convicted of any offense on or after July 1, 2010, that
6 requires registration as a sex offender under Article 2 of
7 Chapter 20 of Title 15 of Title 15.

8 (c) (1) Effective July 1, 2010, the department shall
9 not issue or renew a commercial driver license with a P or an
10 S endorsement to any person who is required to register as a
11 sex offender under Article 2 of Chapter 20 of Title 15.

12 (2) The department shall not issue a commercial
13 driver license with a P or an S endorsement to an applicant
14 until the department has searched both the statewide registry
15 and the National Sex Offender Public Registry to determine if
16 the person is currently registered as a sex offender in this
17 state or another state.

18 (3) If the department finds that the person is
19 currently registered as a sex offender in either this state or
20 another state, the department shall not issue a commercial
21 driver license with a P or an S endorsement to the person.

22 (4) If the department is unable to access either the
23 statewide registry or all information of other states
24 contained in the National Sex Offender Public Registry, but
25 the person is otherwise qualified to obtain a commercial
26 driver license with a P or an S endorsement, then the
27 department shall issue the commercial driver license with the

1 P or S endorsement, but shall first require the person to sign
2 an affidavit stating that the person does not appear on either
3 the statewide registry or the National Sex Offender Public
4 Registry. The department shall search the statewide registry
5 and the National Sex Offender Public Registry for the person
6 within a reasonable time after access to the statewide
7 registry or the National Sex Offender Public Registry is
8 restored. If the person does appear in either registry, the
9 person is in violation of this section, and the department
10 shall immediately cancel the commercial driver license and
11 shall promptly notify the district attorney of the circuit
12 where the person resides of the offense.

13 (5) Any person denied a commercial driver license
14 with a P or an S endorsement pursuant to this subsection shall
15 have a right to file an appeal to the department within 30
16 days thereafter for a hearing in the matter. The department
17 shall set the matter for a hearing within 30 days in order to
18 take testimony and examine the facts of the case and determine
19 whether the petitioner is entitled to a commercial driver
20 license with a P or an S endorsement under this subsection.

21 (6) Any person who makes a false affidavit, or who
22 knowingly swears or affirms falsely, to any matter or thing
23 required by this section to be affirmed to or sworn is guilty
24 of a Class C felony.

25 (d) A person who drives a commercial passenger
26 vehicle or a school bus and who does not have a valid
27 commercial driver license with a P or an S endorsement because

1 the person was convicted of a violation that requires
2 registration as a sex offender under Article 2 of Chapter 20
3 of Title 15 is guilty of a Class C felony.

4 Section 2. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 3. This act shall become effective July 10,
13 2010, following its passage and approval by the Governor, or
14 its otherwise becoming law.