

1 SB349  
2 115889-5  
3 By Senator Ross  
4 RFD: Commerce, Transportation, and Utilities  
5 First Read: 02-FEB-10

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Section 32-5A-195, Code of Alabama 1975,  
12 relating to cancellation, suspension, or revocation of a  
13 driver's license; to provide for the revocation of the license  
14 of a driver who is adjudicated as a youthful offender based on  
15 an underlying charge of manslaughter or homicide by vehicle.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§32-5A-195.

20 "(a) The Director of Public Safety is hereby  
21 authorized to cancel any driver's license upon determining  
22 that the licensee was not entitled to the issuance thereof  
23 hereunder or that said licensee failed to give the correct or  
24 required information in his application. Upon such  
25 cancellation the licensee must surrender the license so  
26 cancelled. If such licensee refuses to surrender such license,  
27 he shall be guilty of a misdemeanor.

1           "(b) The privilege of driving a motor vehicle on the  
2 highways of this state given to a nonresident hereunder shall  
3 be subject to suspension or revocation by the Director of  
4 Public Safety in like manner and for like cause as a driver's  
5 license issued hereunder may be suspended or revoked.

6           "(c) The Director of Public Safety is further  
7 authorized, upon receiving a record of the conviction in this  
8 state of a nonresident driver of a motor vehicle of any  
9 offense, to forward a certified copy of such record to the  
10 motor vehicle administrator in the state wherein the person so  
11 convicted is a resident.

12           "(d) When a nonresident's operating privilege is  
13 suspended or revoked, the Director of Public Safety shall  
14 forward a certified copy of the record of such action to the  
15 motor vehicle administrator in the state wherein such person  
16 resides.

17           "(e) The Director of Public Safety is authorized to  
18 suspend or revoke the license of any resident of this state or  
19 the privilege of a nonresident to drive a motor vehicle in  
20 this state upon receiving notice of the conviction of such  
21 person in another state of any offense therein which, if  
22 committed in this state, would be grounds for the suspension  
23 or revocation of the license of a driver.

24           "(f) The Director of Public Safety may give such  
25 effect to conduct of a resident in another state as is  
26 provided by the laws of this state had such conduct occurred  
27 in this state.

1           "(g) Whenever any person is convicted of any offense  
2 for which this chapter makes mandatory the revocation of the  
3 license of such person by the department, the court in which  
4 such conviction is had shall require the surrender to it of  
5 any driver's license then held by the person convicted and the  
6 court shall thereupon forward the same together with a record  
7 of such conviction to the Director of Public Safety.

8           "(h) Every court having jurisdiction over offenses  
9 committed under this article or any other law of this state or  
10 municipal ordinance adopted by a local authority regulating  
11 the operation of motor vehicles on highways, shall forward to  
12 the Director of Public Safety within 10 days a record of the  
13 conviction of any person in said court for a violation of any  
14 said laws other than regulations governing standing or  
15 parking, and may recommend the suspension of the driver's  
16 license of the person so convicted.

17           "(i) For the purposes of this article the term  
18 "conviction" shall mean a final conviction. Also, for the  
19 purposes of this article an unvacated forfeiture of bail or  
20 collateral deposited to secure a defendant's appearance in  
21 court, a plea of nolo contendere accepted by the court, the  
22 payment of a fine, a plea of guilty or a finding of guilt of a  
23 traffic violation charge, shall be equivalent to a conviction  
24 regardless of whether the penalty is rebated, suspended or  
25 probated.

1           "(j) The Director of Public Safety shall forthwith  
2           revoke the license of any driver upon receiving a record of  
3           such driver's conviction of any of the following offenses:

4           "(1) Manslaughter or homicide by vehicle resulting  
5           from the operation of a motor vehicle, including a person who  
6           is adjudicated as a youthful offender based on an underlying  
7           charge of manslaughter or homicide by vehicle, but there shall  
8           be no disclosure, other than to courts and law enforcement  
9           agencies by any entity or person of any information,  
10          documents, or records relating to the youthful offender's  
11          arrest, conviction, or adjudication of or finding of  
12          delinquency related to such manslaughter or homicide by  
13          vehicle;

14          "(2) Upon a first conviction of driving or being in  
15          actual physical control of any vehicle while under the  
16          influence of alcohol or under the influence of a controlled  
17          substance to a degree which renders him incapable of safely  
18          driving or under the combined influence of alcohol and a  
19          controlled substance to a degree which renders him incapable  
20          of safely driving, such revocation shall take place only when  
21          ordered by the court rendering such conviction;

22          "(3) Upon a second or subsequent conviction within a  
23          five-year period, of driving or being in actual physical  
24          control of any vehicle while under the influence of alcohol or  
25          under the influence of a controlled substance to a degree  
26          which renders him incapable of safely driving or under the

1 combined influence of alcohol and a controlled substance to a  
2 degree which renders him incapable of safely driving;

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

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

9 "(6) Perjury or the making of a false affidavit or  
10 statement under oath to the Director of Public Safety under  
11 this article or under any other law relating to the ownership  
12 or operation of motor vehicles;

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

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

17 "(k) The Director of Public Safety is hereby  
18 authorized to suspend the license of a driver without  
19 preliminary hearing upon a showing by its records or other  
20 sufficient evidence that the licensee:

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

23 "(2) Has been convicted with such frequency of  
24 serious offenses against traffic regulations governing the  
25 movement of vehicles as to indicate a disrespect for traffic  
26 laws and a disregard for the safety of other persons on the  
27 highways;

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

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

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

7           "(6) Has committed an offense in another state which  
8 if committed in this state would be grounds for suspension or  
9 revocation;

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

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

13           "(1) Upon suspending the license of any person as  
14 hereinbefore in this section authorized, the Director of  
15 Public Safety shall immediately notify the licensee in writing  
16 and upon his request shall afford him an opportunity for a  
17 hearing as early as practicable, not to exceed 30 days after  
18 receipt of such request in the county wherein the licensee  
19 resides unless the Director of Public Safety and the licensee  
20 agree that such hearing may be held in some other county. Such  
21 hearing shall be before the Director of Public Safety or his  
22 duly authorized agent. Upon such hearing the Director of  
23 Public Safety or his duly authorized agent may administer  
24 oaths and may issue subpoenas for the attendance of witnesses  
25 in the production of relevant books and papers and may require  
26 a reexamination of the licensee. Upon such hearing the  
27 Director of Public Safety or his duly authorized agent shall

1 either rescind its order of suspension or, good cause  
2 appearing therefor, may continue, modify or extend the  
3 suspension of such licensee or revoke such license. If the  
4 license has been suspended as a result of the licensee's  
5 driving while under the influence of alcohol, the director or  
6 his agent conducting the hearing shall take into account,  
7 among other relevant factors, the licensee's successful  
8 completion of any duly established "highway intoxication  
9 seminar," "DWI counterattack course" or similar educational  
10 program designed for problem drinking drivers. If the hearing  
11 is conducted by a duly authorized agent instead of by the  
12 Director of Public Safety himself, the action of such agent  
13 must be approved by the Director of Public Safety.

14 "(m) The Director of Public Safety shall not suspend  
15 a driver's license or privilege to drive a motor vehicle upon  
16 the public highways for a period of more than one year, except  
17 as permitted under Section 32-6-19.

18 "(n) At the end of the period of suspension a  
19 license surrendered to the Director of Public Safety under  
20 subsection (o) shall be returned to the licensee.

21 "(o) The Director of Public Safety upon cancelling,  
22 suspending or revoking a license shall require that such  
23 license be surrendered to and be retained by the Director of  
24 Public Safety. Any person whose license has been cancelled,  
25 suspended or revoked shall immediately return his license to  
26 the Director of Public Safety. If such licensee refuses to  
27 surrender such license, he shall be guilty of a misdemeanor.



1           "(p) Any resident or nonresident whose driver's  
2 license or privilege to operate a motor vehicle in this state  
3 has been suspended or revoked as provided in this section  
4 shall not operate a motor vehicle in this state under a  
5 license or permit issued by any other jurisdiction or  
6 otherwise during such suspension or after such revocation  
7 until a new license is obtained when and as permitted under  
8 this article.

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

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

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Senate

Read for the first time and referred to the Senate  
committee on Commerce, Transportation, and Utili-  
ties ..... 02-FEB-10

Read for the second time and placed on the calen-  
dar 1 amendment ..... 18-FEB-10

Read for the third time and passed as amended ... 23-FEB-10

Yeas 29  
Nays 0

McDowell Lee  
Secretary