

1 SB349  
2 115889-6  
3 By Senator Ross  
4 RFD: Commerce, Transportation, and Utilities  
5 First Read: 02-FEB-10

1 SB349

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4 ENROLLED, An Act,

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

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§32-5A-195.

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

22 "(b) The privilege of driving a motor vehicle on the  
23 highways of this state given to a nonresident hereunder shall  
24 be subject to suspension or revocation by the Director of

1 Public Safety in like manner and for like cause as a driver's  
2 license issued hereunder may be suspended or revoked.

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

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

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

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

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

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

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

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

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

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

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

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

24 "(2) Has been convicted with such frequency of  
25 serious offenses against traffic regulations governing the

1 movement of vehicles as to indicate a disrespect for traffic  
2 laws and a disregard for the safety of other persons on the  
3 highways;

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

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

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

10 "(6) Has committed an offense in another state which  
11 if committed in this state would be grounds for suspension or  
12 revocation;

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

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

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

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

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

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

1           "(o) The Director of Public Safety upon cancelling,  
2           suspending or revoking a license shall require that such  
3           license be surrendered to and be retained by the Director of  
4           Public Safety. Any person whose license has been cancelled,  
5           suspended or revoked shall immediately return his license to  
6           the Director of Public Safety. If such licensee refuses to  
7           surrender such license, he shall be guilty of a misdemeanor.

8           "(p) Any resident or nonresident whose driver's  
9           license or privilege to operate a motor vehicle in this state  
10          has been suspended or revoked as provided in this section  
11          shall not operate a motor vehicle in this state under a  
12          license or permit issued by any other jurisdiction or  
13          otherwise during such suspension or after such revocation  
14          until a new license is obtained when and as permitted under  
15          this article.

16          "(q) Any person denied a license or whose license  
17          has been cancelled, suspended or revoked by the Director of  
18          Public Safety except where such cancellation or revocation is  
19          mandatory under the provisions of this article shall have the  
20          right to file a petition within 30 days thereafter for a  
21          hearing in the matter in the circuit court in the county  
22          wherein such person resides, or in the case of cancellation,  
23          suspension or revocation of a nonresident's operating  
24          privilege in the county in which the main office of the  
25          Director of Public Safety is located, and such court is hereby

1       vested with jurisdiction and it shall be its duty to set the  
2       matter for hearing upon 30 days' written notice to the  
3       Director of Public Safety, and thereupon to take testimony and  
4       examine into the facts of the case and to determine whether  
5       the petitioner is entitled to a license or is subject to  
6       suspension, cancellation or revocation of license under the  
7       provisions of this section."

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB349  
Senate 23-FEB-10  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

McDowell Lee  
Secretary

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House of Representatives  
Passed: 08-APR-10

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By: Senator Ross