

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

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8 SYNOPSIS: Existing law allows the Director of Public
9 Safety to revoke the license of a driver if the
10 driver is convicted of manslaughter or homicide by
11 vehicle.

12 This bill would allow the Director of Public
13 Safety to revoke the license of a driver who is
14 adjudicated as a youthful offender based on an
15 underlying charge of manslaughter or homicide by
16 vehicle.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 32-5A-195, Code of Alabama 1975,
23 relating to cancellation, suspension, or revocation of a
24 driver's license; to provide for the revocation of the license
25 of a driver who is adjudicated as a youthful offender based on
26 an underlying charge of manslaughter or homicide by vehicle.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§32-5A-195.

4 "(a) The Director of Public Safety is hereby
5 authorized to cancel any driver's license upon determining
6 that the licensee was not entitled to the issuance thereof
7 hereunder or that said licensee failed to give the correct or
8 required information in his application. Upon such
9 cancellation the licensee must surrender the license so
10 cancelled. If such licensee refuses to surrender such license,
11 he shall be guilty of a misdemeanor.

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

17 "(c) The Director of Public Safety is further
18 authorized, upon receiving a record of the conviction in this
19 state of a nonresident driver of a motor vehicle of any
20 offense, to forward a certified copy of such record to the
21 motor vehicle administrator in the state wherein the person so
22 convicted is a resident.

23 "(d) When a nonresident's operating privilege is
24 suspended or revoked, the Director of Public Safety shall
25 forward a certified copy of the record of such action to the
26 motor vehicle administrator in the state wherein such person
27 resides.

1 "(e) The Director of Public Safety is authorized to
2 suspend or revoke the license of any resident of this state or
3 the privilege of a nonresident to drive a motor vehicle in
4 this state upon receiving notice of the conviction of such
5 person in another state of any offense therein which, if
6 committed in this state, would be grounds for the suspension
7 or revocation of the license of a driver.

8 "(f) The Director of Public Safety may give such
9 effect to conduct of a resident in another state as is
10 provided by the laws of this state had such conduct occurred
11 in this state.

12 "(g) Whenever any person is convicted of any offense
13 for which this chapter makes mandatory the revocation of the
14 license of such person by the department, the court in which
15 such conviction is had shall require the surrender to it of
16 any driver's license then held by the person convicted and the
17 court shall thereupon forward the same together with a record
18 of such conviction to the Director of Public Safety.

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

1 "(i) For the purposes of this article the term
2 "conviction" shall mean a final conviction. Also, for the
3 purposes of this article an unvacated forfeiture of bail or
4 collateral deposited to secure a defendant's appearance in
5 court, a plea of nolo contendere accepted by the court, the
6 payment of a fine, a plea of guilty or a finding of guilt of a
7 traffic violation charge, shall be equivalent to a conviction
8 regardless of whether the penalty is rebated, suspended or
9 probated.

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

13 "(1) Manslaughter or homicide by vehicle resulting
14 from the operation of a motor vehicle, including a person who
15 is adjudicated as a youthful offender based on an underlying
16 charge of manslaughter or homicide by vehicle;

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

25 "(3) Upon a second or subsequent conviction within a
26 five-year period, of driving or being in actual physical
27 control of any vehicle while under the influence of alcohol or

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

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

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

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

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

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

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

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

25 "(2) Has been convicted with such frequency of
26 serious offenses against traffic regulations governing the
27 movement of vehicles as to indicate a disrespect for traffic

1 laws and a disregard for the safety of other persons on the
2 highways;

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

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

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

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

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

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

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

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

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

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

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

1 the Director of Public Safety. If such licensee refuses to
2 surrender such license, he shall be guilty of a misdemeanor.

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

11 "(q) Any person denied a license or whose license
12 has been cancelled, suspended or revoked by the Director of
13 Public Safety except where such cancellation or revocation is
14 mandatory under the provisions of this article shall have the
15 right to file a petition within 30 days thereafter for a
16 hearing in the matter in the circuit court in the county
17 wherein such person resides, or in the case of cancellation,
18 suspension or revocation of a nonresident's operating
19 privilege in the county in which the main office of the
20 Director of Public Safety is located, and such court is hereby
21 vested with jurisdiction and it shall be its duty to set the
22 matter for hearing upon 30 days' written notice to the
23 Director of Public Safety, and thereupon to take testimony and
24 examine into the facts of the case and to determine whether
25 the petitioner is entitled to a license or is subject to
26 suspension, cancellation or revocation of license under the
27 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.