

1 SB117
2 180308-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 07-FEB-17

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8 SYNOPSIS: Existing law does not specify the time frame
9 in which the Alabama State Law Enforcement Agency
10 may suspend the driver's license of a person
11 convicted of certain criminal offenses or who is
12 otherwise ineligible for driving privileges.

13 This bill would require the Alabama State
14 Law Enforcement Agency to suspend the driver's
15 license of a person convicted of certain criminal
16 offenses or who is otherwise ineligible for driving
17 privileges within a specified time frame of receipt
18 of a record of the requisite conviction or upon
19 receipt of evidence sufficient to determine
20 ineligibility for driving privileges.

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22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Section 32-5A-195, Code of Alabama 1975, as
27 last amended by Act 2016-152, 2016 Regular Session, relating

1 to the cancellation, suspension, or revocation of a driver's
2 license, to require the Alabama State Law Enforcement Agency
3 to suspend the driver's license of a person convicted of
4 certain criminal offenses within a specified time frame.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 32-5A-195, Code of Alabama 1975,
7 as last amended by Act 2016-152, 2016 Regular Session, is
8 amended to read as follows:

9 "§32-5A-195.

10 "(a) The Secretary of the Alabama State Law
11 Enforcement Agency ~~is authorized to~~ may cancel any driver's
12 license upon determining that the licensee was not entitled to
13 the issuance thereof or that the licensee failed to give the
14 correct or required information in his or her application.
15 Upon such cancellation, the licensee must surrender the
16 license so cancelled. If the licensee refuses to surrender the
17 license, he or she shall be guilty of a misdemeanor.

18 "(b) The privilege of driving a motor vehicle on the
19 highways of this state given to a nonresident shall be subject
20 to suspension or revocation by the Secretary of the Alabama
21 State Law Enforcement Agency in like manner and for like cause
22 as a driver's license issued may be suspended or revoked.

23 "(c) The Secretary of the State Alabama Law
24 Enforcement Agency is further authorized, upon receiving a
25 record of the conviction in this state of a nonresident driver
26 of a motor vehicle of any offense, to forward a certified copy

1 of such record to the motor vehicle administrator in the state
2 where the person so convicted is a resident.

3 "(d) When a nonresident's operating privilege is
4 suspended or revoked, the Secretary of the Alabama State Law
5 Enforcement Agency shall forward a certified copy of the
6 record of such action to the motor vehicle administrator in
7 the state where such person resides.

8 "(e) The Secretary of the Alabama State Law
9 Enforcement Agency is authorized to suspend or revoke the
10 license of any resident of this state or the privilege of a
11 nonresident to drive a motor vehicle in this state upon
12 receiving notice of the conviction of such person in another
13 state of any offense therein which, if committed in this
14 state, would be grounds for the suspension or revocation of
15 the license of a driver.

16 "(f) The Secretary of the Alabama State Law
17 Enforcement Agency may give such effect to conduct of a
18 resident in another state as is provided by the laws of this
19 state had such conduct occurred in this state.

20 (g) Whenever any person is convicted of any offense
21 for which this chapter makes mandatory the revocation of the
22 license of such person by the agency, the court in which the
23 conviction is had shall require the surrender to it of any
24 driver's license then held by the person convicted and the
25 court shall forward the same together with a record of such
26 conviction to the Secretary of the Alabama State Law
27 Enforcement Agency.

1 "(h) Every court having jurisdiction over offenses
2 committed under this article or any other law of this state or
3 municipal ordinance adopted by a local authority regulating
4 the operation of motor vehicles on highways, shall forward to
5 the Secretary of the Alabama State Law Enforcement Agency
6 within five days a record of the conviction of any person in
7 the court for a violation of any laws other than regulations
8 governing standing or parking, and may recommend the
9 suspension of the driver's license of the person so convicted.

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

19 "(j) (1) The Secretary of the Alabama State Law
20 Enforcement Agency shall revoke the license of any driver ~~upon~~
21 ~~receiving~~ within three months of receipt of a record of the
22 driver's conviction of any of the following offenses:

23 "~~(1)~~ a. Manslaughter or homicide by vehicle
24 resulting from the operation of a motor vehicle, including a
25 person who is adjudicated as a youthful offender based on an
26 underlying charge of manslaughter or homicide by vehicle, but
27 there shall be no disclosure, other than to courts and law

1 enforcement agencies by any entity or person of any
2 information, documents, or records relating to the youthful
3 offender's arrest, conviction, or adjudication of or finding
4 of delinquency related to the manslaughter or homicide by
5 vehicle.

6 ~~"(2)~~ b. Upon a first conviction of driving or being
7 in actual physical control of any vehicle while under the
8 influence of alcohol or under the influence of a controlled
9 substance to a degree which renders him or her incapable of
10 safely driving or under the combined influence of alcohol and
11 a controlled substance to a degree which renders him or her
12 incapable of safely driving, such revocation shall take place
13 only when ordered by the court rendering the conviction.

14 ~~"(3)~~ c. Upon a second or subsequent conviction
15 within a five-year period, of driving or being in actual
16 physical control of any vehicle while under the influence of
17 alcohol or under the influence of a controlled substance to a
18 degree which renders him or her incapable of safely driving or
19 under the combined influence of alcohol and a controlled
20 substance to a degree which renders him or her incapable of
21 safely driving.

22 ~~"(4)~~ d. Any felony in the commission of which a
23 motor vehicle is used.

24 ~~"(5)~~ e. Failure to stop, render aid, or identify
25 himself or herself as required under the laws of this state in
26 the event of a motor vehicle accident resulting in the death
27 or personal injury of another.

1 "~~(6)~~ f. Perjury or the making of a false affidavit
2 or statement under oath to the Secretary of the Alabama State
3 Law Enforcement Agency under this article or under any other
4 law relating to the ownership or operation of motor vehicles.

5 "~~(7)~~ g. Conviction upon three charges of reckless
6 driving committed within a period of 12 months.

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

9 "(2) The Secretary of the Alabama State Law
10 Enforcement Agency may not suspend the license of a driver
11 under this subsection after six months from the date of the
12 conviction requiring suspension.

13 "(k) (1) The Secretary of the Alabama State Law
14 Enforcement Agency ~~is authorized to~~ may suspend the license of
15 a driver without preliminary hearing ~~upon~~ within six months of
16 a showing by its records or other sufficient evidence that the
17 licensee:

18 "~~(1)~~ a. Has committed an offense for which mandatory
19 revocation of license is required upon conviction;

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

25 "~~(3)~~ c. Is an habitually reckless or negligent
26 driver of a motor vehicle, such fact being established by a
27 record of accidents or by other evidence;

1 "~~(4)~~ d. Is incompetent to drive a motor vehicle;

2 "~~(5)~~ e. Has permitted an unlawful or fraudulent use
3 of such license;

4 "~~(6)~~ f. Has committed an offense in another state
5 which if committed in this state would be grounds for
6 suspension or revocation;

7 "~~(7)~~ g. Has been convicted of fleeing or attempting
8 to elude a police officer; or

9 "~~(8)~~ h. Has been convicted of racing on the
10 highways.

11 "(2) The Secretary of the Alabama State Law
12 Enforcement Agency may not suspend the license of a driver
13 under this subsection after one year from the date of the
14 conviction requiring suspension or the last act requiring
15 suspension under this subsection.

16 "(1) Upon suspending the license of any person as
17 provided in this section, the Secretary of the Alabama State
18 Law Enforcement Agency shall immediately notify the licensee
19 in writing and upon his or her request shall afford him or her
20 an opportunity for a hearing as early as practicable, not to
21 exceed 30 days after receipt of the request in the county
22 where the licensee resides unless the Secretary of the Alabama
23 State Law Enforcement Agency and the licensee agree that the
24 hearing may be held in some other county. The hearing shall be
25 before the Secretary of the Alabama State Law Enforcement
26 Agency or his or her duly authorized agent. Upon such hearing,
27 the Secretary of the Alabama State Law Enforcement Agency or

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

21 "(m) The Secretary of the Alabama State Law
22 Enforcement Agency shall not suspend a driver's license or
23 privilege to drive a motor vehicle upon the public highways
24 for a period of more than one year, except as permitted under
25 Section 32-6-19.

26 "(n) At the end of the period of suspension a
27 license surrendered to the Secretary of the Alabama State Law

1 Enforcement Agency under subsection (o), the license shall be
2 returned to the licensee.

3 "(o) The Secretary of the Alabama State Law
4 Enforcement Agency, upon cancelling, suspending, or revoking a
5 license, shall require that such license be surrendered to and
6 be retained by the Secretary of the Alabama State Law
7 Enforcement Agency. Any person whose license has been
8 cancelled, suspended, or revoked shall immediately return his
9 or her license to the Secretary of the Alabama State Law
10 Enforcement Agency. If the licensee refuses to surrender the
11 license, he or she shall be guilty of a misdemeanor.

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

20 "(q) Any person denied a license or whose license
21 has been cancelled, suspended, or revoked by the Secretary of
22 the Alabama State Law Enforcement Agency except where such
23 cancellation or revocation is mandatory under the provisions
24 of this article shall have the right to file a petition within
25 30 days thereafter for a hearing in the matter in the circuit
26 court in the county where the person resides. In the case of
27 cancellation, suspension, or revocation of a nonresident's

1 operating privilege in the county in which the main office of
2 the Secretary of the Alabama State Law Enforcement Agency is
3 located, the court is vested with jurisdiction and it shall be
4 its duty to set the matter for hearing upon 30 days' written
5 notice to the secretary and to take testimony and examine into
6 the facts of the case and to determine whether the petitioner
7 is entitled to a license or is subject to suspension,
8 cancellation, or revocation of license under this section."

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