

1 HB139
2 115319-1
3 By Representative Mask
4 RFD: Education Policy
5 First Read: 12-JAN-10
6 PFD: 01/07/2010

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8 SYNOPSIS: Under existing law, a student's driver's
9 license generally can be suspended for withdrawing
10 from school before graduating or for possessing a
11 pistol on school grounds or on a school bus. School
12 officials do not have authority to initiate the
13 suspension of a student's driver's license for
14 other misconduct or disruptive behavior in the
15 classroom.

16 This bill would provide for suspension
17 within 10 days, in lieu of the current 30 days,
18 following notice of adjudication of possessing a
19 pistol at school or on a school bus.

20 This bill would require the Department of
21 Public Safety, upon recommendation of a school
22 principal, to suspend a student's driver's license
23 for serious misconduct or a pattern of misconduct
24 or disruptive behavior in school. The principal
25 would have to certify to the department compliance
26 with all the due process requirements of the local

1 school system's disciplinary policies and
2 procedures.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 To amend Section 16-28-40, Code of Alabama 1975,
9 relating to the suspension of a student's driver's license for
10 withdrawal from school or possession of a pistol at school, to
11 provide further for the date of suspension of a student
12 convicted of possession of a pistol at a school or on a school
13 bus, and to provide for the suspension of a driver's license
14 for a student who engages in serious misconduct or a pattern
15 of misconduct or disruptive behavior at school or on a school
16 bus.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 16-28-40, Code of Alabama 1975,
19 is amended to read as follows:

20 "§16-28-40.

21 "(a) The Department of Public Safety shall deny a
22 driver's license or a learner's license for the operation of a
23 motor vehicle to any person under the age of 19 who does not,
24 at the time of application, present a diploma or other
25 certificate of graduation issued to the person from a
26 secondary high school of this state or any other state, or
27 documentation that the person: (1) is enrolled and making

1 satisfactory progress in a course leading to a general
2 educational development certificate (GED) from a state
3 approved institution or organization, or has obtained the
4 certificate; (2) is enrolled in a secondary school of this
5 state or any other state; (3) is participating in a job
6 training program approved by the State Superintendent of
7 Education; (4) is gainfully and substantially employed; (5) is
8 a parent with the care and custody of a minor or unborn child;
9 (6) has a physician certify that the parents of the person
10 depend on him or her as their sole source of transportation;
11 or (7) is exempted from this requirement due to circumstances
12 beyond his or her control as provided in this chapter.

13 "(b) The attendance officer or chief attendance
14 administrator, upon request, shall provide documentation of
15 enrollment status on a form approved by the Department of
16 Education to any student 15 years of age or older who is
17 properly enrolled in a school under the jurisdiction of the
18 official, for presentation to the Department of Public Safety,
19 on application for, or renewal or reinstatement of, a driver's
20 license or a learner's license to operate a motor vehicle.
21 Whenever a student 16 years of age or older withdraws from
22 school, the attendance officer or chief attendance
23 administrator shall notify the Department of Public Safety of
24 the withdrawal. Withdrawal shall be defined as more than 10
25 consecutive or 15 days total unexcused absences during a
26 single semester.

1 "(c) Within five days of receipt of a notice of
2 withdrawal, the Department of Public Safety shall send notice
3 to the licensee that his or her driver's license or learner's
4 license will be suspended under this article on the 30th day
5 following the date the notice was sent unless documentation of
6 compliance with this article is received by the department
7 before the 30th day.

8 "(d) Whenever the withdrawal from school of the
9 student, or the failure of the student to enroll in a course
10 leading to or to obtain a GED or high school diploma, is
11 beyond the control of the student, or is for the purpose of
12 transfer to another school as confirmed in writing by the
13 parent or guardian of the student, or is for the purpose of
14 participating in a job training program approved by the State
15 Superintendent of Education, no notice shall be sent by the
16 proper school official to the Department of Public Safety to
17 suspend the license of the student. If the student is applying
18 for or renewing a driver's license or a learner's license, the
19 attendance officer or chief attendance administrator, upon
20 request, shall provide the student with documentation to
21 present to the Department of Public Safety to exempt the
22 student from this section. The local superintendent of
23 education with the assistance of the county or city school
24 attendance director as the case may be, and any other staff or
25 school personnel, or the appropriate school official of any
26 private secondary school, shall be the sole judge of whether
27 the withdrawal is due to circumstances beyond the control of

1 the person. Suspension or expulsion from school or
2 imprisonment in a jail or penitentiary is not a circumstance
3 beyond the control of a person.

4 "(e) (1) Any person over the age of 14 who is
5 convicted of the crime of possession of a pistol on the
6 premises of a public school, or a public school bus, or both,
7 under Section 13A-11-72 shall be denied issuance of a driver's
8 permit or license for the operation of a motor vehicle for 180
9 days from the date the person is eligible and applies for a
10 permit or license for the operation of a motor vehicle. Any
11 adjudication as a juvenile delinquent or youthful offender
12 where the underlying charge is the possession of a pistol on
13 the premises of a public school, or a public school bus, or
14 both, under Section 13A-11-72 shall be considered a conviction
15 under this subsection, and the adjudication of a person as a
16 juvenile delinquent or youthful offender where the underlying
17 charge is a violation under Section 13A-11-72 shall be
18 reported to the Department of Public Safety.

19 "(2) If a person over the age of 14 years possesses
20 a driver's license on the date of conviction, the Department
21 of Public Safety, within five days of receipt of a notice of
22 conviction from the court, shall send notice to the licensee
23 that his or her driver's license will be suspended. The notice
24 shall state that the license will be suspended for 180 days
25 commencing on the ~~30th~~ 10th day following the date the notice
26 was sent unless documentation is received by the department
27 before the ~~30th~~ 10th day that the person was not convicted of

1 the crime. Upon the appropriate date, the department shall
2 suspend the license.

3 ~~"(3) Upon the written request of the person whose~~
4 ~~license is denied or suspended, the Department of Public~~
5 ~~Safety shall afford the person an opportunity for a hearing in~~
6 ~~the same manner and under the procedure used for other~~
7 ~~driver's license suspensions. If the suspension or denial of~~
8 ~~issuance determination is sustained by the Director of the~~
9 ~~Department of Public Safety or the authorized agent of the~~
10 ~~director, upon such hearing, the person may file a petition in~~
11 ~~the appropriate court to review the final order of suspension~~
12 ~~or denial by the director or the authorized agent of the~~
13 ~~director in the same manner and under the same conditions as~~
14 ~~is provided in the case of suspensions and denials.~~

15 ~~"(4)(3)~~ If the conviction is reversed within the 180
16 day period, the department, upon receipt of notice of the
17 reversal from the Administrative Office of Courts, shall
18 reinstate a suspended license and shall accept an application
19 for a license and shall issue the license according to law and
20 regulation.

21 ~~"(5)(4)~~ The court shall notify the Department of
22 Public Safety of the conviction of a person over the age of 14
23 of a crime involving the possession of a pistol on the
24 premises of a public school, or a public school bus, or both,
25 under Section 13A-11-72 and any reversal of the conviction.
26 The Administrative Office of Courts may promulgate necessary

1 rules and regulations to implement this notification
2 procedure.

3 "(f)(1) The Department of Public Safety, within five
4 days of receipt of a school principal's recommendation of
5 suspension of a student's driver's license or learner's
6 license for serious misconduct while at school, at an official
7 school-sponsored activity, or on a school bus, shall send
8 notice to the student that his or her driver's or learner's
9 license will be suspended. The notice shall state that the
10 license will be suspended for 90 days, 120 days, or one year,
11 as recommended by the school principal, commencing on the 10th
12 day following the date the notice was sent unless
13 documentation is received by the department before the 10th
14 day demonstrating material noncompliance with subdivision (3)
15 of this subsection. Upon the appropriate date, the department
16 shall suspend the license.

17 "(2) For purposes of this section, serious
18 misconduct is any act or omission punishable by suspension or
19 expulsion under the local school system's disciplinary
20 policies, regardless of whether the student is actually
21 suspended or expelled. Serious misconduct also includes a
22 pattern of misconduct or disruptive behavior for which
23 suspension or expulsion would be available under the local
24 school system's disciplinary policies.

25 "(3) The Department of Public Safety shall not
26 process a principal's recommendation for suspension of a
27 driver's license or learner's license under this subsection

1 unless the principal's recommendation includes all of the
2 following:

3 "a. The name of the school and the principal's typed
4 name and signature on official letterhead.

5 "b. The full name, address, and date of birth of the
6 student.

7 "c. A general description of the misconduct forming
8 the basis of the principal's recommendation and a citation to
9 the specific disciplinary policy that was violated.

10 "d. A statement certifying that the principal has
11 complied with all the due process requirements of the local
12 school system's disciplinary policies and procedures for
13 substantiating allegations of misconduct.

14 "(g) Upon the written request of the person whose
15 license is denied or suspended under subsection (e) or (f),
16 the Department of Public Safety shall afford the person an
17 opportunity for a hearing in the same manner and under the
18 procedure used for other driver's license suspensions. If the
19 suspension or denial of issuance determination is sustained by
20 the Director of the Department of Public Safety or the
21 authorized agent of the director, upon such hearing, the
22 person may file a petition in the appropriate court to review
23 the final order of suspension or denial by the director or the
24 authorized agent of the director in the same manner and under
25 the same conditions as is provided in the case of suspensions
26 and denials."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.