

1 HB440
2 128555-1
3 By Representatives Johnson (W), Baughn, Long, Sanderford,
4 Farley, Tuggle, Ball, Wood, Rich, Patterson, Robinson (J) and
5 Collins
6 RFD: Public Safety and Homeland Security
7 First Read: 05-APR-11

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8 SYNOPSIS: Under existing law, a court that has
9 jurisdiction over state traffic offenses or
10 municipal ordinances adopted by a local authority
11 that regulate the operation of motor vehicles on
12 highways, must forward a record of a conviction
13 under those laws to the Department of Public Safety
14 within 10 days.

15 Under existing law, the Department of Public
16 Safety must notify the driver licensing authority
17 in the licensing state of any conviction, within 10
18 days after receiving a report of the conviction, of
19 a nonresident holder of a commercial driver license
20 for any violation of state law or local ordinance
21 relating to motor vehicle traffic control committed
22 in a commercial motor vehicle.

23 This bill would shorten those periods to
24 five days.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Section 32-5A-195, as amended by Act
4 2010-599 of the 2010 Regular Session (Acts 2010, p. 1346), to
5 further provide for the time limit placed upon a court to
6 notify the Department of Public Safety of convictions of state
7 or local traffic offenses; to amend Section 32-6-49.14 of the
8 Code of Alabama 1975, to further provide for the time limit
9 placed upon the Department of Public Safety to notify the
10 driver licensing authority in the licensing state of any
11 conviction of a nonresident holder of a commercial driver
12 license for any violation of state law or local ordinance
13 relating to motor vehicle traffic control committed in a
14 commercial motor vehicle.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 32-5A-195, as amended by Act
17 2010-599 of the 2010 Regular Session (Acts 2010, p. 1346), and
18 Section 32-6-49.14, Code of Alabama 1975, are amended to read
19 as follows:

20 "§32-5A-195.

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

1 cancelled. If such licensee refuses to surrender such license,
2 he or she shall be guilty of a misdemeanor.

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

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

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

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

26 "(f) The Director of Public Safety may give such
27 effect to conduct of a resident in another state as is

1 provided by the laws of this state had such conduct occurred
2 in this state.

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

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

19 "(i) For the purposes of this article the term
20 conviction shall mean a final conviction. Also, for the
21 purposes of this article an unvacated forfeiture of bail or
22 collateral deposited to secure a defendant's appearance in
23 court, a plea of nolo contendere accepted by the court, the
24 payment of a fine, a plea of guilty or a finding of guilt of a
25 traffic violation charge, shall be equivalent to a conviction
26 regardless of whether the penalty is rebated, suspended, or
27 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 or her incapable of
18 safely driving or under the combined influence of alcohol and
19 a controlled substance to a degree which renders him or her
20 incapable of safely driving, such revocation shall take place
21 only when 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 or her incapable of safely driving or under
27 the combined influence of alcohol and a controlled substance

1 to a degree which renders him or her incapable of safely
2 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 or herself as required under the laws of this state in
7 the event of a motor vehicle accident resulting in the death
8 or personal 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 or her request shall afford him or her an
17 opportunity for a hearing as early as practicable, not to
18 exceed 30 days after receipt of such request in the county
19 wherein the licensee resides unless the Director of Public
20 Safety and the licensee agree that such hearing may be held in
21 some other county. Such hearing shall be before the Director
22 of Public Safety or his or her duly authorized agent. Upon
23 such hearing the Director of Public Safety or his or her duly
24 authorized agent may administer oaths and may issue subpoenas
25 for the attendance of witnesses in the production of relevant
26 books and papers and may require a reexamination of the
27 licensee. Upon such hearing the Director of Public Safety or

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

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

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

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

1 refuses to surrender such license, he or she shall be guilty
2 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 "§32-6-49.14.

2 "Within ~~10~~ five days after receiving a report of the
3 conviction of any nonresident holder of a commercial driver
4 license for any violation of state law or local ordinance
5 relating to motor vehicle traffic control, other than parking
6 violations, committed in a commercial motor vehicle, the
7 department must notify the driver licensing authority in the
8 licensing state of the conviction."

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.