

1 HB487  
2 137836-1  
3 By Representative Hubbard (J)  
4 RFD: Public Safety and Homeland Security  
5 First Read: 06-MAR-12

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8 SYNOPSIS: Under existing law, the Director of Public  
9 Safety is authorized to suspend the license of a  
10 driver without a preliminary hearing under certain  
11 circumstances.

12 This bill would authorize the Director of  
13 Public Safety to suspend the license of a driver  
14 who violates the right-of-way provisions of Section  
15 32-5A-112, Code of Alabama 1975, and the violation  
16 results in an accident that causes the death of or  
17 serious bodily injury to any person.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To amend Section 32-5A-195, Code of Alabama 1975,  
24 relating to driver's license suspension; to authorize the  
25 Director of Public Safety to suspend, without a preliminary  
26 hearing, the license of a driver who violates the right-of-way  
27 provisions of Section 32-5A-112, Code of Alabama 1975, and the

1 violation results in an accident that causes the death of or  
2 serious bodily injury to any person.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§32-5A-195.

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

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

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

26 "(d) When a nonresident's operating privilege is  
27 suspended or revoked, the Director of Public Safety shall

1 forward a certified copy of the record of such action to the  
2 motor vehicle administrator in the state wherein such person  
3 resides.

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

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

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

22 "(h) Every court having jurisdiction over offenses  
23 committed under this article or any other law of this state or  
24 municipal ordinance adopted by a local authority regulating  
25 the operation of motor vehicles on highways, shall forward to  
26 the Director of Public Safety within 10 days a record of the  
27 conviction of any person in said court for a violation of any

1 said laws other than regulations governing standing or  
2 parking, and may recommend the suspension of the driver's  
3 license of the person so convicted.

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

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

16 "(1) Manslaughter or homicide by vehicle resulting  
17 from the operation of a motor vehicle, including a person who  
18 is adjudicated as a youthful offender based on an underlying  
19 charge of manslaughter or homicide by vehicle, but there shall  
20 be no disclosure, other than to courts and law enforcement  
21 agencies by any entity or person of any information,  
22 documents, or records relating to the youthful offender's  
23 arrest, conviction, or adjudication of or finding of  
24 delinquency related to such manslaughter or homicide by  
25 vehicle;

26 "(2) Upon a first conviction of driving or being in  
27 actual physical control of any vehicle while under the

1 influence of alcohol or under the influence of a controlled  
2 substance to a degree which renders him or her incapable of  
3 safely driving or under the combined influence of alcohol and  
4 a controlled substance to a degree which renders him or her  
5 incapable of safely driving, such revocation shall take place  
6 only when ordered by the court rendering such conviction;

7 "(3) Upon a second or subsequent conviction within a  
8 five-year period, of driving or being in actual physical  
9 control of any vehicle while under the influence of alcohol or  
10 under the influence of a controlled substance to a degree  
11 which renders him or her incapable of safely driving or under  
12 the combined influence of alcohol and a controlled substance  
13 to a degree which renders him or her incapable of safely  
14 driving;

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

17 "(5) Failure to stop, render aid, or identify  
18 himself or herself as required under the laws of this state in  
19 the event of a motor vehicle accident resulting in the death  
20 or personal injury of another;

21 "(6) Perjury or the making of a false affidavit or  
22 statement under oath to the Director of Public Safety under  
23 this article or under any other law relating to the ownership  
24 or operation of motor vehicles;

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

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

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

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

9           "(2) Has been convicted with such frequency of  
10 serious offenses against traffic regulations governing the  
11 movement of vehicles as to indicate a disrespect for traffic  
12 laws and a disregard for the safety of other persons on the  
13 highways;

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

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

18           "(5) Has permitted an unlawful or fraudulent use of  
19 such license;

20           "(6) Has committed an offense in another state which  
21 if committed in this state would be grounds for suspension or  
22 revocation;

23           "(7) Has been convicted of fleeing or attempting to  
24 elude a police officer; ~~or~~

25           "(8) Has been convicted of racing on the highways; ~~;~~  
26 or

1           "(9) Has violated the right-of-way provisions of  
2           Section 32-5A-112 and the violation results in an accident  
3           that causes the death of or serious bodily injury to any  
4           person. For purposes of this act, serious bodily injury shall  
5           include any of the following:

6           "a. Substantial risk of death.

7           "b. Serious disfigurement.

8           "c. Protracted loss or impairment of the function of  
9           any bodily member, organ, or mental faculty.

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

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

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

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

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

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

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