

1 SB259  
2 174038-1  
3 By Senators Coleman-Madison, Orr, Marsh, Dial, Smitherman,  
4 Beasley, Ross, Melson, Holtzclaw and Waggoner  
5 RFD: Transportation and Energy  
6 First Read: 17-FEB-16

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8 SYNOPSIS: This bill would reduce the number of days  
9 within which a court must forward to the Alabama  
10 Law Enforcement Agency a record of conviction of  
11 certain traffic offenses.

12 This bill would revise the penalties for  
13 persons operating commercial vehicles who are  
14 convicted of specified offenses relating to  
15 railroad-highway grade crossings.

16 This bill would reduce the number of days  
17 within which the Alabama Law Enforcement Agency  
18 must notify the driver's license issuing authority  
19 in the licensing state of a nonresident who is  
20 convicted of certain commercial vehicle traffic  
21 offenses and would make other technical  
22 non-substantive changes.

23 This bill would also require that certain  
24 DUI arrest information be retained on a person's  
25 driving record if he or she holds a commercial  
26 learners license, a commercial driver license, or  
27 was operating a commercial vehicle.

1  
2 A BILL  
3 TO BE ENTITLED  
4 AN ACT

5  
6 Relating to motor vehicles; to amend Sections  
7 32-5A-195, 32-5A-304, 32-6-49.11, and 32-6-49.14, Code of  
8 Alabama 1975, to reduce the number of days in which a court  
9 must forward to the Alabama Law Enforcement Agency a record of  
10 conviction of certain traffic offenses; to revise the  
11 penalties for persons operating commercial vehicles who are  
12 convicted of specified offenses relating to railroad-highway  
13 grade crossings; to reduce the number of days in which the  
14 agency must notify the driver's license issuing authority in  
15 the licensing state of a nonresident who is convicted of  
16 certain commercial vehicle traffic offenses; to require  
17 retention of certain information on a person's driving record  
18 under certain conditions; and to make other technical,  
19 non-substantive changes.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 32-5A-195, 32-5A-304,  
22 32-6-49.11, and 32-6-49.14, Code of Alabama 1975, are amended  
23 to read as follows:

24 "§32-5A-195.

25 "(a) The ~~Director of Public Safety~~ Secretary of the  
26 Alabama Law Enforcement Agency is hereby authorized to cancel  
27 any driver's license upon determining that the licensee was

1 not entitled to the issuance thereof ~~hereunder~~ or that ~~said~~  
2 the licensee failed to give the correct or required  
3 information in his or her application. Upon such cancellation,  
4 the licensee must surrender the license so cancelled. If ~~such~~  
5 the licensee refuses to surrender ~~such~~ the license, he or she  
6 shall be guilty of a misdemeanor.

7 "(b) The privilege of driving a motor vehicle on the  
8 highways of this state given to a nonresident ~~hereunder~~ shall  
9 be subject to suspension or revocation by the ~~Director of~~  
10 Public Safety Secretary of the Alabama Law Enforcement Agency  
11 in like manner and for like cause as a driver's license issued  
12 ~~hereunder~~ may be suspended or revoked.

13 "(c) The ~~Director of Public Safety~~ Secretary of the  
14 Alabama Law Enforcement Agency is further authorized, upon  
15 receiving a record of the conviction in this state of a  
16 nonresident driver of a motor vehicle of any offense, to  
17 forward a certified copy of such record to the motor vehicle  
18 administrator in the state ~~wherein~~ where the person so  
19 convicted is a resident.

20 "(d) When a nonresident's operating privilege is  
21 suspended or revoked, the ~~Director of Public Safety~~ Secretary  
22 of the Alabama Law Enforcement Agency shall forward a  
23 certified copy of the record of such action to the motor  
24 vehicle administrator in the state ~~wherein~~ where such person  
25 resides.

26 "(e) The ~~Director of Public Safety~~ Secretary of the  
27 Alabama Law Enforcement Agency is authorized to suspend or

1 revoke the license of any resident of this state or the  
2 privilege of a nonresident to drive a motor vehicle in this  
3 state upon receiving notice of the conviction of such person  
4 in another state of any offense therein which, if committed in  
5 this state, would be grounds for the suspension or revocation  
6 of the license of a driver.

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

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

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~~ Secretary of the Alabama Law  
24 Enforcement Agency within ~~10~~ five days a record of the  
25 conviction of any person in ~~said~~ the court for a violation of  
26 any ~~said~~ laws other than regulations governing standing or

1 parking, and may recommend the suspension of the driver's  
2 license of the person so convicted.

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

12 "(j) The ~~Director of Public Safety~~ Secretary of the  
13 Alabama Law Enforcement Agency shall ~~forthwith~~ revoke the  
14 license of any driver upon receiving a record of ~~such~~ the  
15 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~~ the 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~~ the 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~~  
23 Secretary of the Alabama Law Enforcement Agency under this  
24 article or under any other law relating to the ownership or  
25 operation of motor vehicles~~;~~.

26 "(7) Conviction upon three charges of reckless  
27 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~~ Secretary of the  
4 Alabama Law Enforcement Agency is hereby authorized to suspend  
5 the license of a driver without preliminary hearing upon a  
6 showing by its records or other sufficient evidence that the  
7 licensee:

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

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

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

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

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

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

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

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



1           "(1) Upon suspending the license of any person as  
2 ~~hereinbefore provided~~ in this section ~~authorized~~, the ~~Director~~  
3 ~~of Public Safety~~ Secretary of the Alabama Law Enforcement  
4 Agency shall immediately notify the licensee in writing and  
5 upon his or her request shall afford him or her an opportunity  
6 for a hearing as early as practicable, not to exceed 30 days  
7 after receipt of ~~such~~ the request in the county ~~wherein~~ where  
8 the licensee resides unless the ~~Director of Public Safety~~  
9 Secretary of the Alabama Law Enforcement Agency and the  
10 licensee agree that ~~such~~ the hearing may be held in some other  
11 county. ~~Such~~ The hearing shall be before the ~~Director of~~  
12 ~~Public Safety~~ Secretary of the Alabama Law Enforcement Agency  
13 or his or her duly authorized agent. Upon such hearing, the  
14 ~~Director of Public Safety~~ Secretary of the Alabama Law  
15 Enforcement Agency or his or her duly authorized agent may  
16 administer oaths and may issue subpoenas for the attendance of  
17 witnesses in the production of relevant books and papers and  
18 may require a reexamination of the licensee. Upon such  
19 hearing, the ~~Director of Public Safety~~ Secretary of the  
20 Alabama Law Enforcement Agency or his or her duly authorized  
21 agent shall either rescind its order of suspension or, ~~good~~  
22 ~~cause appearing therefor~~ upon a showing of good cause, may  
23 continue, modify, the or extend the suspension of ~~such~~ the  
24 licensee or revoke ~~such~~ the license. If the license has been  
25 suspended as a result of the licensee's driving while under  
26 the influence of alcohol, the director or his or her agent  
27 conducting the hearing shall take into account, among other

1 relevant factors, the licensee's successful completion of any  
2 duly established "highway intoxication seminar," "DWI  
3 counterattack course," or similar educational program designed  
4 for problem drinking drivers. If the hearing is conducted by a  
5 duly authorized agent instead of by the Director of Public  
6 Safety himself or herself, the action of such agent must be  
7 approved by the ~~Director of Public Safety~~ Secretary of the  
8 Alabama Law Enforcement Agency.

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

14 " (n) At the end of the period of suspension a  
15 license surrendered to the ~~Director of Public Safety~~ Secretary  
16 of the Alabama Law Enforcement Agency under subsection (o),  
17 the license shall be returned to the licensee.

18 " (o) The ~~Director of Public Safety~~ Secretary of the  
19 Alabama Law Enforcement Agency, upon cancelling, suspending,  
20 or revoking a license, shall require that such license be  
21 surrendered to and be retained by the ~~Director of Public~~  
22 ~~Safety~~ Secretary of the Alabama Law Enforcement Agency. Any  
23 person whose license has been cancelled, suspended, or revoked  
24 shall immediately return his or her license to the ~~Director of~~  
25 ~~Public Safety~~ Secretary of the Alabama Law Enforcement Agency.  
26 If ~~such~~ the licensee refuses to surrender ~~such~~ the license, he  
27 or she shall be guilty 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~~ Secretary of the Alabama Law Enforcement Agency  
12 except where such cancellation or revocation is mandatory  
13 under the provisions of this article shall have the right to  
14 file a petition within 30 days thereafter for a hearing in the  
15 matter in the circuit court in the county ~~wherein such~~ where  
16 the person resides, or in. In the case of cancellation,  
17 suspension, or revocation of a nonresident's operating  
18 privilege in the county in which the main office of the  
19 ~~Director of Public Safety~~ Secretary of the Alabama Law  
20 Enforcement Agency is located, ~~and such~~ the 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           "§32-5A-304.

2           "(a) A driving privilege suspension shall become  
3 effective 45 days after the person has received a notice of  
4 intended suspension as provided in Section 32-5A-303, or is  
5 deemed to have received a notice of suspension by mail as  
6 provided in Section 32-5A-302 if no notice of intended  
7 suspension was served.

8           "(b) The period of driving privilege suspension  
9 under this section shall be as follows:

10           "(1) Ninety days if the driving record of a person  
11 shows no prior alcohol or drug-related enforcement contacts  
12 during the immediately preceding five years.

13           "(2) One year if the driving record of a person  
14 shows one prior alcohol or drug-related enforcement contact  
15 during the immediately preceding five years.

16           "(3) Three years if the driving record of a person  
17 shows two or three alcohol or drug-related enforcement  
18 contacts during the immediately preceding five years.

19           "(4) Five years if the driving record of a person  
20 shows four or more alcohol or drug-related enforcement  
21 contacts during the immediately preceding five years.

22           "(5) For purposes of this section, "alcohol or  
23 drug-related enforcement contacts" shall include all  
24 suspensions under this article, any suspension or revocation  
25 entered in this or any other state for a refusal to submit to  
26 chemical testing under an implied consent law, and any  
27 conviction in this or any other state for a violation which

1 involves driving a motor vehicle while having an unlawful  
2 percent of alcohol in the blood, or while under the influence  
3 of alcohol or drugs, or alcohol and drugs except that no more  
4 than one alcohol or drug-related contact on any one DUI arrest  
5 may be considered by the department in determining the period  
6 of suspension.

7 "(c) If a license is suspended under this section  
8 for having .08 or more by weight of alcohol in the blood of  
9 the person and the person is also convicted on criminal  
10 charges arising out of the same occurrence for a violation of  
11 Section 32-5A-191, the suspension under this section shall be  
12 imposed, giving credit for suspension time served toward the  
13 duration of suspension or revocation required under Section  
14 32-5A-191. If a license is suspended under this section for  
15 having .08 or more by weight of alcohol in the blood of the  
16 person and the criminal charge against the person for  
17 violation of Section 32-5A-191 is dismissed, nolle prossed, or  
18 the person is acquitted of the charge, the director shall  
19 rescind the suspension order and remove the administrative  
20 suspension from the person's driving record, except for those  
21 persons holding a commercial driver license, a commercial  
22 learner license, or a person operating a commercial motor  
23 vehicle.

24 "§32-6-49.11.

25 "(a) Any person is disqualified from driving a  
26 commercial motor vehicle for a period of not less than one

1 year if convicted of a first violation of one of the  
2 following:

3 "(1) Driving a motor vehicle under the influence of  
4 alcohol, or a controlled substance or any other drug which  
5 renders a person incapable of safely driving.

6 "(2) Driving a commercial motor vehicle while the  
7 alcohol concentration of the person's blood, urine, or breath  
8 is 0.04 or more.

9 "(3) Knowingly and willfully leaving the scene of an  
10 accident involving a motor vehicle driven by the person.

11 "(4) Using a motor vehicle in the commission of any  
12 felony.

13 "(5) Refusal to submit to a test to determine the  
14 driver's use of a controlled substance or alcohol  
15 concentration while driving a motor vehicle.

16 "If any of the violations in subdivisions (1) to  
17 (5), inclusive, occurred while transporting a hazardous  
18 material required to be placarded, the person is disqualified  
19 for a period of not less than three years.

20 "(b) A person is disqualified for life if convicted  
21 of two or more violations of any of the offenses specified in  
22 subsection (a), or any combination of those offenses, arising  
23 from two or more separate incidents.

24 "(c) The department may issue regulations and  
25 promulgate establishing guidelines, including conditions,  
26 under which a disqualification for life under subsection (b)  
27 may be reduced to a period of not less than 10 years.

1           "(d) A person is disqualified from driving a  
2 commercial motor vehicle for life who uses a motor vehicle in  
3 the commission of any felony involving the manufacture,  
4 distribution, or dispensing of a controlled substance, or  
5 possession with intent to manufacture, distribute, or dispense  
6 a controlled substance.

7           "(e) A person is disqualified from driving a  
8 commercial motor vehicle for a period of not less than 60 days  
9 if convicted of two serious traffic violations, or 120 days if  
10 convicted of three serious traffic violations, committed in a  
11 commercial motor vehicle arising from separate incidents  
12 occurring within a three-year period.

13           "(f) (1) A person is disqualified from driving a  
14 commercial motor vehicle for not less than 90 days nor more  
15 than one year upon a first conviction of driving a commercial  
16 vehicle while under an out-of-service order.

17           "(2) A person is disqualified from driving a  
18 commercial motor vehicle for not less than one year nor more  
19 than five years if during any 10-year period the person  
20 receives two convictions of driving a commercial vehicle while  
21 under an out-of-service order where the convictions arise out  
22 of separate incidents.

23           "(3) A person is disqualified from driving a  
24 commercial motor vehicle for not less than three years nor  
25 more than five years if during any 10-year period the person  
26 receives three or more convictions of driving a commercial

1 vehicle while under an out-of-service order where the  
2 convictions arise out of separate incidents.

3 "(4) If a conviction of driving a commercial motor  
4 vehicle while under an out-of-service order arises out of an  
5 arrest where the person was transporting hazardous materials  
6 required to be placarded under the Hazardous Materials  
7 Transportation Act, ~~(49 U.S.C. 5101 et seq.)~~, or while  
8 operating motor vehicles designed to transport more than 15  
9 passengers, including the driver, the person is disqualified  
10 for not less than 180 days nor more than two years upon a  
11 first conviction and not less than three years nor more than  
12 five years upon any subsequent conviction within a 10-year  
13 period where these factors exist.

14 "(g) (1) A person is disqualified from operating a  
15 commercial motor vehicle for not less than 60 days upon a  
16 first conviction ~~of a~~, not less than 120 days if during any  
17 three-year period the person receives two convictions, and not  
18 less than one year if during any three-year period the person  
19 receives three or more convictions of any of the following  
20 railroad-highway grade crossing ~~violation.~~ violations:

21 "a. The driver is not required to stop, but fails to  
22 slow down and check that tracks are clear of an approaching  
23 train.

24 "b. The driver is not required to stop, but fails to  
25 stop before reaching the crossing if the tracks are not clear.

26 "c. The driver is always required to stop, but fails  
27 to stop before driving onto the crossing.



1           "d. The driver fails to have sufficient space to  
2 drive completely through the crossing without stopping.

3           "e. The driver fails to obey a traffic control  
4 device or the directions of an enforcement official at the  
5 crossing.

6           "f. The driver fails to negotiate a crossing because  
7 of insufficient undercarriage clearance.

8           "(2) A person is disqualified for not less than 120  
9 days if during any three-year period, the person receives two  
10 convictions of a railroad-highway grade crossing violation.

11           "(3) A person is disqualified from operating a  
12 commercial motor vehicle for not less than one year if during  
13 any three-year period, the person receives three or more  
14 convictions of a railroad-highway grade crossing violation.

15           "(h) After suspending, revoking, or canceling a  
16 commercial driver license, the department shall update its  
17 records to reflect that action within 10 days. After  
18 suspending, revoking, or canceling a nonresident commercial  
19 driver's privilege, the department shall notify the licensing  
20 authority of the state that issued the commercial driver  
21 license or commercial driver instruction permit within 10  
22 days.

23           "Any failure to report or disclose required  
24 information, either before or after issuance of a commercial  
25 driver license shall be a Class C felony and shall, upon  
26 conviction thereof, be punished as provided by law.

27           "§32-6-49.14.

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

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