

1 HB673
2 73138-1
3 By Representative Schmitz
4 RFD: Public Safety
5 First Read: 29-MAR-05

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8 SYNOPSIS: Under existing law, any person who attains
9 a certain age regardless of any behavior problems
10 he or she has exhibited in school, may obtain a
11 driver's license to drive on the public roads.

12 This bill would extend the age at which a
13 student who has been the subject of a disciplinary
14 action for an infraction committed on school
15 property may be eligible to apply for a learner's
16 permit, motor driven cycle operator's license, or
17 driver's license.

18 This bill would also provide for a reduction
19 in the effect of the punishment in specific
20 circumstances.

21 This bill would require the Alabama
22 Department of Public Safety to determine a
23 student's age of eligibility to apply for a
24 learner's permit, motor driven cycle operator's
25 license, or driver's license.

1 This bill would provide that a student
2 affected by this act would have the right to a
3 hearing.

4 This bill would amend Section 16-28-40, Code
5 of Alabama 1975, to conform to the other provisions
6 of this bill.

7 Amendment 621 of the Constitution of Alabama
8 of 1901 prohibits a general law whose purpose or
9 effect would be to require a new or increased
10 expenditure of local funds from becoming effective
11 with regard to a local governmental entity without
12 enactment by a 2/3 vote unless: it comes within one
13 of a number of specified exceptions; it is approved
14 by the affected entity; or the Legislature
15 appropriates funds, or provides a local source of
16 revenue, to the entity for the purpose.

17 The purpose or effect of this bill would be
18 to require a new or increased expenditure of local
19 funds within the meaning of Amendment 621. However,
20 the bill does not require approval of a local
21 governmental entity or enactment by a 2/3 vote to
22 become effective because it comes within one of the
23 specified exceptions contained in Amendment 621.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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To create a system for increasing the age at which a person is eligible to apply for a driver's license if the person, over the age of 12 years and a student in a public or private school, was subject to habitual school punishment for an infraction committed on school property; to require the Alabama Department of Public Safety to determine a student's age of eligibility to apply for a learner's permit, motorcycle operator's license, or driver's license; to provide that a student affected by this act would have the right to a hearing; to amend Section 16-28-40, Code of Alabama 1975, to conform to the other provisions of this act; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) Notwithstanding any other provision of law, each student over the age of 12 years who is enrolled in a public or private secondary school shall be subjected to a disciplinary point system for an infraction committed on school property to determine the age at which the student shall be allowed to apply for a learner's permit, motor driven cycle operator's license, or driver's license. The disciplinary points imposed for a disciplinary action shall be as follows:

- (1) One day in-school suspension - 1 point

1 (2) One day out-of-school suspension - 4 points

2 (3) Alternative school placement - 12 points

3 (4) Expulsion - 40 points

4 (b)(1) The points shall accumulate on a yearly
5 basis, beginning with the school year including summer school
6 in which the student turns 13, and accumulate each year until
7 the student is eligible to apply for a driver's license under
8 the imposed point system. Each accumulated point shall add one
9 additional week to the age at which the student is eligible to
10 be issued a learner's permit, motor driven cycle operator's
11 license, or driver's license.

12 (2) Notwithstanding subdivision (1), the age at
13 which a student may apply for a license or permit shall not be
14 extended by this act beyond one year from the date the student
15 initially applies for a learner's permit, motor driven cycle
16 operator's license, or driver's license.

17 (c)(1) Points shall be accrued on a school-year
18 basis.

19 (2) Points may not accrue for the first three days
20 of in-school suspension in any school year; however, beginning
21 with the fourth day of suspension in any school year, all
22 days, including the first three, of in-school suspension shall
23 be counted in determining the points.

24 (3) Points may not accrue for an initial
25 out-of-school suspension of two days or less in any school
26 year; however, the days of the initial suspension shall be
27 used to determine the points after a second out-of-school

1 suspension in any school year or all days will be used to
2 determine points if the initial suspension exceeds 2 days.

3 (4) Accumulated points shall be reduced by one-half
4 if the student has not received additional accumulated points
5 for one school year. If no additional points are received for
6 two years, all records of the accumulated points shall be
7 removed from the student's records at the school.

8 Section 2. (a) The Alabama Department of Public
9 Safety shall be the final arbiter as to the date of
10 eligibility of a student based on accumulated points.

11 (b) If the department refuses to issue a permit or
12 license, the student shall have a right to an impartial
13 hearing before the Director of Public Safety or his or her
14 designee. At the hearing, the student shall have the right to
15 be represented by counsel and to present witnesses. The
16 student may appeal within 14 days from the date of an adverse
17 decision to the district court of his or her resident for a
18 trial de novo.

19 (c) All records and decisions of the department
20 pursuant to this act shall be confidential, and no action
21 taken by the school and the department shall be used for
22 purposes of affecting the insurance of the student or his or
23 her parent.

24 (d) The requirements of this section are in addition
25 to the requirements of Section 32-6-7.2 and 32-6-8 of the Code
26 of Alabama 1975.

1 Section 3. Section 16-28-40 of the Code of Alabama
2 1975, is amended to read follows:

3 "§16-28-40.

4 "(a) The Department of Public Safety shall deny a
5 driver's license or a learner's license for the operation of a
6 motor vehicle to any person under the age of 19 who does not,
7 at the time of application, present a diploma or other
8 certificate of graduation issued to the person from a
9 secondary high school of this state or any other state, or
10 documentation that the person: (1) is enrolled and making
11 satisfactory progress in a course leading to a general
12 educational development certificate (GED) from a state
13 approved institution or organization, or has obtained the
14 certificate; (2) is enrolled in a secondary school of this
15 state or any other state and has not at the time of
16 application accumulated disciplinary points while a student in
17 school that would extend the age of eligibility for the
18 student to apply for a driver's license; (3) is participating
19 in a job training program approved by the State Superintendent
20 of Education; (4) is gainfully and substantially employed; (5)
21 is a parent with the care and custody of a minor or unborn
22 child; (6) has a physician certify that the parents of the
23 person depend on him or her as their sole source of
24 transportation; or (7) is exempted from this requirement due
25 to circumstances beyond his or her control as provided in this
26 chapter.

1 "(b) The attendance officer or chief attendance
2 administrator, upon request, shall provide documentation of
3 enrollment status and disciplinary points on a form approved
4 by the Department of Education to any student 15 years of age
5 or older who is properly enrolled in a school under the
6 jurisdiction of the official, for presentation to the
7 Department of Public Safety, on application for, or renewal or
8 reinstatement of, a driver's license or a learner's license to
9 operate a motor vehicle. Whenever a student 16 years of age or
10 older withdraws from school, the attendance officer or chief
11 attendance administrator shall notify the Department of Public
12 Safety of the withdrawal. Withdrawal shall be defined as more
13 than 10 consecutive or 15 days total unexcused absences during
14 a single semester.

15 "(c) Within five days of receipt of a notice of
16 withdrawal, the Department of Public Safety shall send notice
17 to the licensee that his or her driver's license or learner's
18 license will be suspended under this article on the 30th day
19 following the date the notice was sent unless documentation of
20 compliance with this article is received by the department
21 before the 30th day.

22 "(d) Whenever the withdrawal from school of the
23 student, or the failure of the student to enroll in a course
24 leading to or to obtain a GED or high school diploma, is
25 beyond the control of the student, or is for the purpose of
26 transfer to another school as confirmed in writing by the
27 parent or guardian of the student, or is for the purpose of

1 participating in a job training program approved by the State
2 Superintendent of Education, no notice shall be sent by the
3 proper school official to the Department of Public Safety to
4 suspend the license of the student. If the student is applying
5 for or renewing a driver's license or a learner's license, the
6 attendance officer or chief attendance administrator, upon
7 request, shall provide the student with documentation to
8 present to the Department of Public Safety to exempt the
9 student from this section. The local superintendent of
10 education with the assistance of the county or city school
11 attendance director as the case may be, and any other staff or
12 school personnel, or the appropriate school official of any
13 private secondary school, shall be the sole judge of whether
14 the withdrawal is due to circumstances beyond the control of
15 the person. Suspension or expulsion from school or
16 imprisonment in a jail or penitentiary is not a circumstance
17 beyond the control of a person.

18 "(e) (1) Any person over the age of 14 who is
19 convicted of the crime of possession of a pistol on the
20 premises of a public school, or a public school bus, or both,
21 under Section 13A-11-72 shall be denied issuance of a driver's
22 permit or license for the operation of a motor vehicle for 180
23 days from the date the person is eligible and applies for a
24 permit or license for the operation of a motor vehicle. Any
25 adjudication as a juvenile delinquent or youthful offender
26 where the underlying charge is the possession of a pistol on
27 the premises of a public school, or a public school bus, or

1 both, under Section 13A-11-72 shall be considered a conviction
2 under this subsection, and the adjudication of a person as a
3 juvenile delinquent or youthful offender where the underlying
4 charge is a violation under Section 13A-11-72 shall be
5 reported to the Department of Public Safety.

6 "(2) If a person over the age of 14 years possesses
7 a driver's license on the date of conviction, the Department
8 of Public Safety, within five days of receipt of a notice of
9 conviction from the court, shall send notice to the licensee
10 that his or her driver's license will be suspended. The notice
11 shall state that the license will be suspended for 180 days
12 commencing on the 30th day following the date the notice was
13 sent unless documentation is received by the department before
14 the 30th day that the person was not convicted of the crime.
15 Upon the appropriate date, the department shall suspend the
16 license.

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

1 director in the same manner and under the same conditions as
2 is provided in the case of suspensions and denials.

3 "(4) If the conviction is reversed within the 180
4 day period, the department, upon receipt of notice of the
5 reversal from the Administrative Office of Courts, shall
6 reinstate a suspended license and shall accept an application
7 for a license and shall issue the license according to law and
8 regulation.

9 "(5) The court shall notify the Department of Public
10 Safety of the conviction of a person over the age of 14 of a
11 crime involving the possession of a pistol on the premises of
12 a public school, or a public school bus, or both, under
13 Section 13A-11-72 and any reversal of the conviction. The
14 Administrative Office of Courts may promulgate necessary rules
15 and regulations to implement this notification procedure."

16 Section 4. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621 because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 5. This act shall become effective for
23 offenses committed after August 1, 2004, following its passage
24 and approval by the Governor, or its otherwise becoming law.