

1 SB386  
2 73138-1  
3 By Senator Denton  
4 RFD: Education  
5 First Read: 03-MAR-05

2  
3  
4  
5  
6  
7  
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

1  
2           To create a system for increasing the age at which a  
3 person is eligible to apply for a driver's license if the  
4 person, over the age of 12 years and a student in a public or  
5 private school, was subject to habitual school punishment for  
6 an infraction committed on school property; to require the  
7 Alabama Department of Public Safety to determine a student's  
8 age of eligibility to apply for a learner's permit, motorcycle  
9 operator's license, or driver's license; to provide that a  
10 student affected by this act would have the right to a  
11 hearing; to amend Section 16-28-40, Code of Alabama 1975, to  
12 conform to the other provisions of this act; and in connection  
13 therewith would have as its purpose or effect the requirement  
14 of a new or increased expenditure of local funds within the  
15 meaning of Amendment 621 of the Constitution of Alabama of  
16 1901.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

- 27           (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.