HB 464
106949-3
By Representatives Curtis, Robinson (J), Letson, Sherer,
White, Irons, Grantland, Treadaway, Ford, McLaughlin, England,
Scott, Taylor, Fite, Coleman, McDaniel, Ball, McCutcheon,
Black and Shiver
RFD: Public Safety
First Read: 10-FEB-09
ENROLLED, An Act,

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, driver's license, or any license required by the State of Alabama for the operation of a motor vehicle or vessel; to provide that a student affected by this act would have the right to a hearing; to amend Sections 16-28-40 and 33-5-57, Code of Alabama 1975, relating to applicants for a driver's license under 19 years of age to provide documentation of school enrollment; relating to persons to whom boater safety certification may be issued, to conform existing law to the provisions of this act; to provide that a boater safety certification could not be issued to a person who is ineligible to receive a driver's license pursuant to 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, now appearing as
Section 111.05 of the Official Recompilation of the
Constitution of Alabama of 1901, as amended.

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, driver's license, or any license
required by the State of Alabama for the operation of a motor
vehicle or vessel. The disciplinary points imposed for a
disciplinary action shall be as follows:

(1) One day in-school suspension — 1 point
(2) One day out-of-school suspension — 2 points
(3) Alternative school placement — 4 points
(4) Expulsion — 40 points

(b) (1) The points shall accumulate on a yearly
basis, beginning with the school year including summer school
in which the student turns 13, and accumulate each year until
the student is eligible to apply for a driver's license under
the imposed point system. Each accumulated point shall add one
additional week to the age at which the student is eligible to
be issued a learner's permit, motor driven cycle operator's
license, or driver's license.
(2) Notwithstanding subdivision (1), the age at which a student may apply for a license or permit shall not be extended by this act beyond one year from the date the student initially applies for a learner's permit, motor driven cycle operator's license, driver's license, or any license required by the State of Alabama for the operation of a motor vehicle or vessel.

(c) The following subdivisions are contingent upon the technical capability of the student data management system to track, manage, and coordinate the data:

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

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

(3) Points may not accrue for an initial out-of-school suspension of two days or less in any school year; however, the days of the initial suspension shall be used to determine the points after a second out-of-school suspension in any school year or all days will be used to determine points if the initial suspension exceeds 2 days.

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

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

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

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

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

Section 3. Sections 16-28-40 and 33-5-57 of the Code of Alabama 1975, are amended to read as follows:

"§16-28-40.
"(a) The Department of Public Safety shall deny a driver's license or a learner's license for the operation of a motor vehicle to any person under the age of 19 who does not, at the time of application, present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person: (1) is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state approved institution or organization, or has obtained the certificate; (2) is enrolled in a secondary school of this state or any other state and has not at the time of application accumulated disciplinary points while a student in school that would extend the age of eligibility for the student to apply for a driver's license; (3) is participating in a job training program approved by the State Superintendent of Education; (4) is gainfully and substantially employed; (5) is a parent with the care and custody of a minor or unborn child; (6) has a physician certify that the parents of the person depend on him or her as their sole source of transportation; or (7) is exempted from this requirement due to circumstances beyond his or her control as provided in this chapter.

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

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

"(d) Whenever the withdrawal from school of the
student, or the failure of the student to enroll in a course
leading to or to obtain a GED or high school diploma, is
beyond the control of the student, or is for the purpose of
transfer to another school as confirmed in writing by the
parent or guardian of the student, or is for the purpose of
participating in a job training program approved by the State Superintendent of Education, no notice shall be sent by the proper school official to the Department of Public Safety to suspend the license of the student. If the student is applying for or renewing a driver's license or a learner's license, the attendance officer or chief attendance administrator, upon request, shall provide the student with documentation to present to the Department of Public Safety to exempt the student from this section. The local superintendent of education with the assistance of the county or city school attendance director as the case may be, and any other staff or school personnel, or the appropriate school official of any private secondary school, shall be the sole judge of whether the withdrawal is due to circumstances beyond the control of the person. Suspension or expulsion from school or imprisonment in a jail or penitentiary is not a circumstance beyond the control of a person.

"(e)(1) Any person over the age of 14 who is convicted of the crime of possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be denied issuance of a driver's permit or license for the operation of a motor vehicle for 180 days from the date the person is eligible and applies for a permit or license for the operation of a motor vehicle. Any adjudication as a juvenile delinquent or youthful offender
where the underlying charge is the possession of a pistol on
the premises of a public school, or a public school bus, or
both, under Section 13A-11-72 shall be considered a conviction
under this subsection, and the adjudication of a person as a
juvenile delinquent or youthful offender where the underlying
charge is a violation under Section 13A-11-72 shall be
reported to the Department of Public Safety.

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

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

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

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

"§33-5-57.

"(a) A boater safety certification shall may not be issued to the following persons:

"(1) Any person less than 12 years of age.

"(2) Any person whose vessel operating right or privilege is suspended.
"(3) Any person whose vessel operating right or privilege is revoked.

"(4) Any person who is an habitual abuser of alcohol or drugs.

"(5) Any person afflicted with or suffering from a physical or mental disability which, in the opinion of the Director of Public Safety or examining officer, will prevent the person from exercising reasonable and ordinary control over a vessel.

"(6) Any person who is ineligible to receive a driver's license pursuant to the act adding this language.

"(b) Notwithstanding any other provisions of this chapter, a person 12 years of age, but less than 14 years of age, who does not have a valid boater safety certification on January 1, 2002, may not operate a vessel, including a personal watercraft, unless the person obtains a valid boater safety certification and is under the immediate supervision of a person who is 21 years of age or older having a valid boater safety certification and who is on the vessel and is in a position to take immediate physical control of the vessel if needed. Also, notwithstanding any other provisions of this chapter, Alabama residents 12 years of age, but less than 14 years of age on January 1, 2002, may apply for and obtain a boater safety certification and operate a vessel, including a
personal watercraft, to the same extent and under the same
conditions as persons 14 years of age."

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

Section 5. This act shall become effective for
offenses committed after the first day of August the school
year following the implementation of the upgraded Alabama
Student Information Management System (ASIMS) following its
passage and approval by the Governor, or its otherwise
becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated in and was passed by the House 26-FEB-09, as amended.

Greg Pappas
Clerk

Senate 15-MAY-09
Amended and Passed
Concurred in Senate Amendment

House 15-MAY-09

Alabama Secretary Of State
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