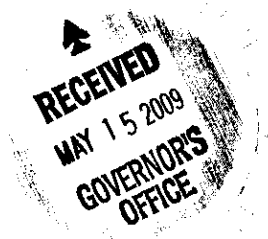


ACT# 2009-713

1 HB464
2 106949-3
3 By Representatives Curtis, Robinson (J), Letson, Sherer,
4 White, Irons, Grantland, Treadaway, Ford, McLaughlin, England,
5 Scott, Taylor, Fite, Coleman, McDaniel, Ball, McCutcheon,
6 Black and Shiver
7 RFD: Public Safety
8 First Read: 10-FEB-09



1
2 ENROLLED, An Act,

3 To create a system for increasing the age at which a
4 person is eligible to apply for a driver's license if the
5 person, over the age of 12 years and a student in a public or
6 private school, was subject to habitual school punishment for
7 an infraction committed on school property; to require the
8 Alabama Department of Public Safety to determine a student's
9 age of eligibility to apply for a learner's permit, motorcycle
10 operator's license, driver's license, or any license required
11 by the State of Alabama for the operation of a motor vehicle
12 or vessel; to provide that a student affected by this act
13 would have the right to a hearing; to amend Sections 16-28-40
14 and 33-5-57, Code of Alabama 1975, relating to applicants for
15 a driver's license under 19 years of age to provide
16 documentation of school enrollment; relating to persons to
17 whom boater safety certification may be issued, to conform
18 existing law to the provisions of this act; to provide that a
19 boater safety certification could not be issued to a person
20 who is ineligible to receive a driver's license pursuant to
21 this act; and in connection therewith would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds within the meaning of Amendment 621
24 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 - ~~4~~ 2 points
- (3) Alternative school placement - ~~12~~ 6 points
- (4) Expulsion - ~~40~~ 20 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.

1 (2) Notwithstanding subdivision (1), the age at
2 which a student may apply for a license or permit shall not be
3 extended by this act beyond one year from the date the student
4 initially applies for a learner's permit, motor driven cycle
5 operator's license, driver's license, or any license required
6 by the State of Alabama for the operation of a motor vehicle
7 or vessel.

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

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

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

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

23 (4) Accumulated points shall be reduced by one-half
24 if the student has not received additional accumulated points
25 for one school year. If no additional points are received for

1 two years, all records of the accumulated points shall be
2 removed from the student's records at the school.

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

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

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

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

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

24 "§16-28-40.

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

24 "(b) The attendance officer or chief attendance
25 administrator, upon request, shall provide documentation of

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

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

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

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

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

19 "(3) Upon the written request of the person whose
20 license is denied or suspended, the Department of Public
21 Safety shall afford the person an opportunity for a hearing in
22 the same manner and under the procedure used for other
23 driver's license suspensions. If the suspension or denial of
24 issuance determination is sustained by the Director of the
25 Department of Public Safety or the authorized agent of the

1 director, upon such hearing, the person may file a petition in
2 the appropriate court to review the final order of suspension
3 or denial by the director or the authorized agent of the
4 director in the same manner and under the same conditions as
5 is provided in the case of suspensions and denials.

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

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

19 "§33-5-57.

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

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

23 "(2) Any person whose vessel operating right or
24 privilege is suspended.

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

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

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

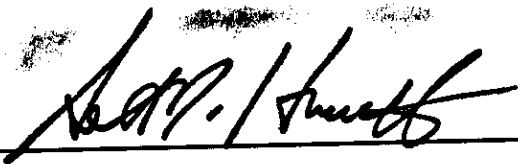
10 "(6) Any person who is ineligible to receive a
11 driver's license pursuant to the act adding this language.

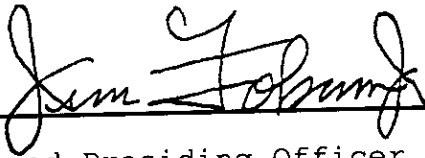
12 "(b) Notwithstanding any other provisions of this
13 chapter, a person 12 years of age, but less than 14 years of
14 age, who does not have a valid boater safety certification on
15 January 1, 2002, may not operate a vessel, including a
16 personal watercraft, unless the person obtains a valid boater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

1 personal watercraft, to the same extent and under the same
2 conditions as persons 14 years of age."

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

9 Section 5. This act shall become effective for
10 offenses committed after the first day of ~~August~~ the school
11 year following the implementation of the upgraded Alabama
12 Student Information Management System (ASIMS) following its
13 passage and approval by the Governor, or its otherwise
14 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

House

15-MAY-09

Concurred in Sen-
ate Amendment

APPROVED May 21, 2009

TIME 1:10 pm


GOVERNOR

Alabama Secretary Of State

Act Num....: 2009-713
Bill Num....: H-464

Recv'd 05/21/09 04:15pm JJB