

1 HB697  
2 140968-1  
3 By Representative Jones  
4 RFD: Public Safety and Homeland Security  
5 First Read: 17-APR-12

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8 SYNOPSIS: Under existing law, any person who operates  
9 a motor vehicle upon the public highways of this  
10 state is deemed to have given his or her consent to  
11 blood, breath, or urine tests for blood alcohol  
12 content.

13 Also under existing law, the driver's  
14 license of a person is subject to suspension for 90  
15 days upon a first refusal to submit to a test for  
16 blood alcohol content.

17 This bill would increase the suspension  
18 period for failure to submit to a test for blood  
19 alcohol content from 90 days to one year.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To amend Section 32-5-192, Code of Alabama 1975, to  
26 increase the suspension period for failure to submit to a test  
27 for blood alcohol content from 90 days to one year.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 32-5-192, Code of Alabama 1975,  
3 is amended to read as follows:

4 "§32-5-192.

5 "(a) Any person who operates a motor vehicle upon  
6 the public highways of this state shall be deemed to have  
7 given his or her consent, subject to the provisions of this  
8 division, to a chemical test or tests of his or her blood,  
9 breath or urine for the purpose of determining the alcoholic  
10 content of his or her blood if lawfully arrested for any  
11 offense arising out of acts alleged to have been committed  
12 while the person was driving a motor vehicle on the public  
13 highways of this state while under the influence of  
14 intoxicating liquor. The test or tests shall be administered  
15 at the direction of a law enforcement officer having  
16 reasonable grounds to believe the person to have been driving  
17 a motor vehicle upon the public highways of this state while  
18 under the influence of intoxicating liquor. The law  
19 enforcement agency by which ~~such~~ the officer is employed shall  
20 designate which of the aforesaid tests shall be administered.  
21 ~~Such~~ The person shall be told that his or her failure to  
22 submit to such a chemical test will result in the suspension  
23 of his or her privilege to operate a motor vehicle for a  
24 period of ~~90 days~~ one year; provided if such person objects to  
25 a blood test, the law enforcement agency shall designate that  
26 one of the other aforesaid tests be administered.

1           "(b) Any person who is dead, unconscious or who is  
2 otherwise in a condition rendering him or her incapable of  
3 refusal, shall be deemed not to have withdrawn the consent  
4 provided by subsection (a) of this section and the test or  
5 tests may be administered, subject to the provisions of this  
6 division.

7           "(c) If a person under arrest refuses upon the  
8 request of a law enforcement officer to submit to a chemical  
9 test designated by the law enforcement agency as provided in  
10 subsection (a) of this section, none shall be given, but the  
11 Director of Public Safety, upon the receipt of a sworn report  
12 of the law enforcement officer that he or she had reasonable  
13 grounds to believe the arrested person had been driving a  
14 motor vehicle upon the public highways of this state while  
15 under the influence of intoxicating liquor and that the person  
16 had refused to submit to the test upon the request of the law  
17 enforcement officer, shall, on the first refusal, suspend his  
18 or her license or permit to drive, or the privilege of driving  
19 a motor vehicle on the highways of this state given to a  
20 nonresident; or if the person is a resident without a license  
21 or permit to operate a motor vehicle in this state, the  
22 director shall deny to the person the issuance of a license or  
23 permit, for a period of ~~90 days~~ one year, subject to review as  
24 hereinafter provided. For a second or subsequent refusal of  
25 such test within a five-year period, the director, upon ~~said~~  
26 receipt of a sworn report, shall suspend his or her license or  
27 permit to drive, or the privilege of driving a motor vehicle

1 on the highways of this state given to a nonresident for a  
2 period of one year; or if the person is a resident without a  
3 license or permit to operate a motor vehicle in this state,  
4 the director shall deny to the person the issuance of a  
5 license or permit, for a period of one year subject to review  
6 as hereinafter provided. If such person is acquitted on the  
7 charge of driving a motor vehicle upon the highways of this  
8 state while under the influence of intoxicating liquor, then  
9 in that event the Director of Public Safety may, in his or her  
10 discretion, reduce ~~said~~ the period of suspension.

11 "(d) Upon suspending the license or permit to drive  
12 or the privilege of driving a motor vehicle on the highways of  
13 this state given to a nonresident or any person, or upon  
14 determining that the issuance of a license or permit shall be  
15 denied to the person, as ~~hereinbefore~~ provided in this section  
16 ~~directed~~, the Director of Public Safety or his or her duly  
17 authorized agent shall immediately notify the person in  
18 writing and upon his or her request shall afford him or her an  
19 opportunity for a hearing in the same manner and under the  
20 same conditions as is provided in Section 32-6-16, for  
21 notification and hearings in the cases of suspension of  
22 licenses; except, that the scope of such a hearing for the  
23 purposes of this section shall cover the issues of whether a  
24 law enforcement officer had reasonable grounds to believe the  
25 person had been driving a motor vehicle upon the public  
26 highways of this state while under the influence of  
27 intoxicating liquor, whether the person was placed under

1       arrest, and whether he or she refused to submit to the test  
2       upon request of the officer. Whether the person was informed  
3       that his or her privilege to drive would be suspended or  
4       denied if he or she refused to submit to the test shall not be  
5       an issue. The Director of Public Safety shall order that the  
6       suspension or determination that there should be a denial of  
7       issuance either be rescinded or sustained.

8               "(e) If the suspension or determination that there  
9       should be a denial of issuance is sustained by the Director of  
10       Public Safety or his or her authorized agent upon such  
11       hearing, the person whose license or permit to drive or  
12       nonresident operating privilege has been suspended or to whom  
13       a license or permit is denied, under the provisions of this  
14       section, shall have the right to file a petition in the  
15       appropriate court to review the final order of suspension or  
16       denial by the director or his or her duly authorized agent in  
17       the same manner and under the same conditions as is provided  
18       in Section 32-6-16 in the cases of suspensions and denials.

19               "(f) When it has been finally determined under the  
20       procedures of this section that a nonresident's privilege to  
21       operate a motor vehicle in this state has been suspended the  
22       director shall give information in writing of the action taken  
23       to the motor vehicle administrator of the state of the  
24       person's residence and of any state in which he or she has a  
25       license."

1                   Section 2. This act shall become effective on the  
2           first day of the third month following its passage and  
3           approval by the Governor, or its otherwise becoming law.