

1 SB4
2 206030-6
3 By Senator Allen
4 RFD: Transportation and Energy
5 First Read: 02-FEB-21
6 PFD: 07/22/2020

1 SB4

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4 ENROLLED, An Act,

5 Relating to the rules of the road; to amend Section
6 32-5A-176.1, Code of Alabama 1975, to provide further for
7 construction zone speed violations to include moving
8 violations; to further provide criminal penalties; and in
9 connection therewith would have as its purpose or effect the
10 requirement of a new or increased expenditure of local funds
11 within the meaning of Amendment 621 of the Constitution of
12 Alabama of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 32-5A-176.1, Code of Alabama
17 1975, is amended to read as follows:

18 "§32-5A-176.1.

19 "(a) A person commits a construction zone moving
20 violation if, while operating a motor vehicle, he or she
21 commits any violation of Chapter 5 or Chapter 5A of Title 32
22 under all of the following conditions:

23 "(1) The person is in a construction zone designated
24 by the Department of Transportation or a political subdivision
25 of the state.

1 "(2) Construction or maintenance workers are present
2 and performing construction or maintenance work.

3 "(3) There are work zone traffic control devices,
4 traffic controls, or warning signs present to notify motorists
5 and pedestrians of construction or maintenance workers in the
6 area.

7 "~~(a)~~ (b) The ~~State~~ Department of Transportation may
8 set the speed limits in urban and rural construction zones
9 along state and interstate highways and the county commission
10 of a county may set the speed limits in urban and rural
11 construction zones along county roads or highways. The
12 construction zone speed limits shall be posted on the
13 department's standard size speed limit signs at least one
14 hundred feet in advance of the entrance to a construction
15 zone. Law enforcement authorities shall enforce construction
16 zone speed limits.

17 "(c) Upon conviction of a construction zone ~~speed~~
18 moving violation, the operator of the motor vehicle shall be
19 assessed a fine of the greater of two hundred fifty dollars
20 (\$250) or double the amount prescribed by law outside a
21 construction zone. ~~The fine shall only be doubled for~~
22 ~~construction zone violations if construction personnel are~~
23 ~~present and that fact is indicated by appropriate signs.~~

24 "(d) ~~The~~ Warning signs, shall be placed at the
25 entrance of the construction zone, and shall warn of ~~the~~

1 ~~doubled~~ additional fines for ~~speeding~~ committing a moving
2 violation within a construction zone. The signs shall also
3 state that the ~~doubled~~ additional fines are applicable only
4 when construction personnel are present.

5 "~~(b)~~ (e) The ~~State~~ Department of Transportation may
6 ~~promulgate~~ adopt and implement administrative rules and
7 procedures ~~as it deems necessary to both carry out the~~
8 ~~provisions of subsection (a) on state and interstate highways~~
9 ~~and~~ enforce this section and to ensure the safety of private
10 and public construction and maintenance personnel working in
11 designated construction zones on state and interstate
12 highways. A county commission may promulgate and implement
13 administrative rules and procedures as it deems necessary to
14 ~~carry out the provisions of subsection (a)~~ enforce this
15 section on county roads and highways, provided the rules and
16 procedures are not in conflict with those set by the ~~State~~
17 Department of Transportation.

18 "~~(c)~~ (f) A person subject to a penalty pursuant to
19 this section ~~shall~~ may not be assessed additional court costs
20 on conviction.

21 "(g) Fines assessed under this section shall be
22 collected and distributed as other fines for moving violations
23 are collected and distributed, as provided by law."

1 Section 2. Sections 15-27-1 and 15-27-2, Code of
2 Alabama 1975, as last amended by Act 2021-286, 2021 Regular
3 Session, are amended to read as follows:

4 "§15-27-1.

5 "(a) A person who has been charged with a
6 misdemeanor offense, a violation, a traffic violation, or a
7 municipal ordinance violation may file a petition in the
8 criminal division of the circuit court in the county in which
9 the charges were filed, to expunge records relating to the
10 charge in any of the following circumstances:

11 "(1) When the charge has been dismissed with
12 prejudice and more than 90 days have passed.

13 "(2) When the charge has been no billed by a grand
14 jury and more than 90 days have passed.

15 "(3) When the person has been found not guilty of
16 the charge and more than 90 days have passed.

17 "(4) When the charge has been nolle prossed without
18 conditions, more than 90 days have passed, and the charge or
19 charges have not been refiled.

20 "(5) When the indictment has been quashed and the
21 statute of limitations for refiling the charge or charges has
22 expired or the prosecuting agency confirms that the charge or
23 charges will not be refiled.

24 "(6)a. When the charge was dismissed after
25 successful completion of a drug court program, mental health

1 court program, diversion program, veteran's court, or any
2 court-approved deferred prosecution program.

3 "b. Expungement may be a court-ordered condition of
4 a program listed in paragraph a.

5 "c. A petition for expungement may be filed one year
6 from the date of successful completion of a program listed in
7 paragraph a.

8 "(7) When the charge was dismissed without prejudice
9 more than one year ago, has not been refiled, and the person
10 has not been convicted of any other felony or misdemeanor
11 crime, any violation, or any traffic violation, excluding
12 minor traffic violations, during the previous two years.

13 "(8) When the person proves by a preponderance of
14 the evidence that the person is a victim of human trafficking,
15 that the person committed the misdemeanor offense, violation,
16 traffic violation, or municipal ordinance violation during the
17 period the person was being trafficked, and that the person
18 would not have committed the offense or violation but for
19 being trafficked. Evidence that a person is a victim of human
20 trafficking may include, but is not limited to, evidence that
21 the person's trafficker was convicted of trafficking the
22 person under Section 13A-6-152 or Section 13A-6-153.

23 "(b) Subsection (a) notwithstanding, a person who
24 has been convicted of a misdemeanor offense, a violation, a
25 traffic violation, or a municipal ordinance violation may file

1 a petition in the criminal division of the circuit court in
2 the county in which the charges were filed to expunge records
3 relating to the charge and the conviction if all of the
4 following occur:

5 "(1) Except as provided in Section 15-27-4, all
6 probation or parole requirements have been completed,
7 including payment of all fines, costs, restitution, and other
8 court-ordered amounts, and are evidenced by the applicable
9 court or agency.

10 "(2) Three years have passed from the date of
11 conviction.

12 "(3) ~~The~~ If the person was convicted of any of the
13 offenses enumerated in 49 C.F.R. § 383.51, the person was not
14 operating a commercial motor vehicle at the time of the
15 offense, or was not holding a commercial driver license or a
16 commercial learner's permit at the time of the offense~~and~~
17 ~~convicted of any of the offenses enumerated in 49 C.F.R. §~~
18 ~~383.51.~~

19 "(4) The conviction is not a violent offense, as
20 provided in Section 12-25-32.

21 "(5) The conviction is not a sex offense, as
22 provided in Section 15-20A-5.

23 "(6) The conviction is not an offense involving
24 moral turpitude, as provided in Section 17-3-30.1. This
25 subdivision does not apply if the crime the person was

1 convicted of was classified as a felony at the time of the
2 conviction, but has been reclassified as a misdemeanor,
3 pursuant to Act 2015-185, and the person has not been arrested
4 for any offense, excluding minor traffic violations, 15 years
5 prior to the filing of the petition for expungement.

6 "(7) The conviction is not a serious traffic
7 offense, as provided in Article 9 of Chapter 5A of Title 32.

8 "(c) Subject to the provisions of 15-27-16, records
9 related to offenses and convictions may be disclosed to a
10 criminal justice agency, a district attorney, or a prosecuting
11 authority for criminal investigation purposes as provided in
12 Section 15-27-7, to a utility and its agents and affiliates,
13 to the Department of Human Resources for the purpose of
14 investigation or assessment in order to protect children or
15 vulnerable adults, or to any entities or services providing
16 information to banking, insurance, and other financial
17 institutions as required for various requirements as provided
18 in state and federal law. Further, any criminal charges that
19 are expunged or are pending expungement pursuant to 15-27-1
20 shall be available for use by any attorneys, officers of the
21 Court, or the Court itself in any civil matters related to the
22 criminal charges expunged or seeking to be expunged regardless
23 of the outcome of the petitioned expungement. At the
24 conclusion of the pending civil matter, all references to the

1 criminal charges expunged or to be expunged shall be redacted
2 in the event the criminal charges are expunged.

3 "(d) The circuit court shall have exclusive
4 jurisdiction of a petition filed under subsections (a) and
5 (b).

6 "§15-27-2.

7 "(a) A person who has been charged with any felony
8 offense may file a petition in the criminal division of the
9 circuit court in the county in which the charges were filed,
10 to expunge records relating to the charge in any of the
11 following circumstances:

12 "(1) When the charge is dismissed with prejudice and
13 more than 90 days have passed.

14 "(2) When the charge has been no billed by a grand
15 jury and more than 90 days have passed.

16 "(3) When the person has been found not guilty of
17 the charge and more than 90 days have passed.

18 "(4) When the charge has been nolle prossed without
19 conditions, and more than 90 days have passed, and the charge
20 or charges have not been refiled.

21 "(5) When the indictment has been quashed and the
22 statute of limitations for refileing the charge or charges has
23 expired or the prosecuting agency confirms that the charge or
24 charges will not be refiled.

1 "(6)a. When the charge was dismissed after
2 successful completion of a drug court program, mental health
3 court program, diversion program, veteran's court, or any
4 court-approved deferred prosecution program.

5 "b. Expungement may be a court-ordered condition of
6 a program listed in paragraph a.

7 "c. A petition for expungement may be filed one year
8 from the date of the successful completion of a program listed
9 in paragraph a.

10 "(7) When the charge was dismissed without prejudice
11 more than five years ago, has not been refiled, and the person
12 has not been convicted of any other felony or misdemeanor
13 crime, any violation, or any traffic violation, excluding
14 minor traffic violations, during the previous five years.

15 "(8) When the person proves by a preponderance of
16 the evidence that the person is a victim of human trafficking,
17 that the person committed the felony offense during the period
18 the person was being trafficked, and that the person would not
19 have committed the felony offense but for being trafficked.
20 Evidence that a person is a victim of human trafficking may
21 include, but is not limited to, evidence that the person's
22 trafficker was convicted of trafficking the person under
23 Section 13A-6-152 or Section 13A-6-153.

24 "(b) Subsection (a) notwithstanding, a person who
25 has been convicted of any of the following violent offenses,

1 as defined in Section 12-25-32, may be expunged upon a showing
2 that the person committed the felony offense during the period
3 the person was trafficked, and that the person would not have
4 committed the felony offense but for being trafficked:

5 "(1) Promoting prostitution in the first degree
6 pursuant to Section 13A-12-111.

7 "(2) Domestic violence in the third degree pursuant
8 to subsection (d) of Section 13A-6-132.

9 "(3) Production of obscene matter involving a person
10 under the age of 17 years pursuant to Section 13A-12-197.

11 "(c) A person who has been convicted of a felony
12 offense may file a petition in the criminal division of the
13 circuit court in the county in which the charges were filed to
14 expunge records relating to the charge and the conviction if
15 all of the following occur:

16 "(1) The person has been granted a certificate of
17 pardon with restoration of civil and political rights for the
18 conviction from the Board of Pardons and Paroles.

19 "(2) All civil and political rights that were
20 forfeited as a result of the conviction have been restored.

21 "(3) One hundred eighty days have passed from the
22 date of the issuance of the certificate of pardon.

23 "(4) Except as provided in subsection (b), the
24 conviction is not a violent offense, as provided in Section
25 12-25-32.

1 "(5) The conviction is not a sex offense, as
2 provided in Section 15-20A-5.

3 "(6) The conviction is not an offense involving
4 moral turpitude, as provided in Section 17-3-30.1. This
5 subdivision does not apply if the crime the person was
6 convicted of was classified as a felony at the time of the
7 conviction, but has been reclassified as a misdemeanor,
8 pursuant to Act 2015-185, and the person has not been arrested
9 for any offense, excluding minor traffic violations, 15 years
10 prior to the filing of the petition for expungement.

11 "(7) The conviction is not a serious traffic
12 offense, as provided in Article 9 of Chapter 5A of Title 32.

13 "(8) If the person was convicted of any of the
14 offenses enumerated in 49 C.F.R. § 383.51, the person was not
15 holding a commercial driver license or a commercial learner's
16 permit at the time of the offense, or was not operating a
17 commercial motor vehicle at the time of the offense.

18 "(d) Subject to the provisions of Section 15-27-16,
19 records related to offenses and convictions may be disclosed
20 to a criminal justice agency, a district attorney, or a
21 prosecuting authority for criminal investigation purposes as
22 provided in Section 15-27-7, to a utility and its agents and
23 affiliates, to the Department of Human Resources for the
24 purpose of investigation or assessment in order to protect
25 children or vulnerable adults, or to any entities or services

1 providing information to banking, insurance, and other
2 financial institutions as required for various requirements as
3 provided in state and federal law. Further, any criminal
4 charges that are expunged or are pending expungement pursuant
5 to 15-27-2 shall be available for use by any attorneys,
6 officers of the Court, or the Court itself in any civil
7 matters related to the criminal charges expunged or seeking to
8 be expunged regardless of the outcome of the petitioned
9 expungement. At the conclusion of the pending civil matter,
10 all references to the criminal charges expunged or to be
11 expunged shall be redacted in the event the criminal charges
12 are expunged.

13 "(e) The circuit court shall have exclusive
14 jurisdiction of a petition filed under subsection (a), (b), or
15 (c)."

16 Section 3. 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, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

1 Section 4. This act shall become effective on the
2 first day of the second month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 04-MAR-21.
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Senate 06-MAY-21
I hereby certify that the within Act originated in and passed
the Senate, as amended by Executive Amendment.

Patrick Harris,
Secretary.

House of Representatives
Passed: 29-APR-21
House of Representatives
Passed: 17-MAY-21, as amended by Executive Amendment.

By: Senator Allen