

State DUI Laws: Alabama

Blood Alcohol Content Level: .08

Automatic Suspension of License for Failure of Blood Alcohol Test or Refusal to submit to test: Yes

Ignition Interlock Requirement upon Conviction: No

Felony Conviction for Repeat Offenses: Yes

Code of Alabama

§ 32-5-171. Arrest of violator without warrant

A uniformed police officer, state trooper, county sheriff or his deputy or member of a municipal police force may arrest, at the scene of a traffic accident, any driver of a vehicle involved in the accident if upon personal investigation, including information from eyewitnesses, the officer has reasonable grounds to believe that the person by violating Section 32-5A-191 contributed to the accident. He may arrest such a person without a warrant although he did not personally see the violation.

§ 32-5-192. Consent to testing; suspension of license; hearing

(a) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given his consent, subject to the provisions of this division, to a chemical test or tests of his blood, breath or urine for the purpose of determining the alcoholic content of his blood if lawfully arrested for any offense arising out of acts alleged to have been committed while the person was driving a motor vehicle on the public highways of this state while under the influence of intoxicating liquor. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered. Such person shall be told that his failure to submit to such a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of 90 days; provided if such person objects to a blood test, the law enforcement agency shall designate that one of the other aforesaid tests be administered.

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is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (a) of this section and the test or tests may be administered, subject to the provisions of this division.

(c) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided in subsection (a) of this section, none shall be given, but the director of public safety, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer, shall, on the first refusal, suspend his license or permit to drive, or the privilege of driving a motor vehicle on the

highways of this state given to a nonresident; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit, for a period of 90 days, subject to review as hereinafter provided. For a second or subsequent refusal of such test within a five-year period, the director, upon said receipt of a sworn report, shall suspend his license or permit to drive, or the privilege of driving a motor vehicle on the highways of this state given to a nonresident for a period of one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit, for a period of one year subject to review as hereinafter provided. If such person is acquitted on the charge of driving a motor vehicle upon the highways of this state while under the influence of intoxicating liquor, then in that event the Director of Public Safety may, in his discretion, reduce said period of suspension.

(d) Upon suspending the license or permit to drive or the privilege of driving a motor vehicle on the highways of this state given to a nonresident or any person, or upon determining that the issuance of a license or permit shall be denied to the person, as hereinbefore in this section directed, the Director of Public Safety or his duly authorized agent shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing in the same manner and under the same conditions as is provided in Section 32-6-16, for notification and hearings in the cases of suspension of licenses; except, that the scope of such a hearing for the purposes of this section shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. Whether the person was informed that his privilege to drive would be suspended or denied if he refused to submit to the test shall not be an issue. The Director of Public Safety shall order that the suspension or determination that there should be a denial of issuance either be rescinded or sustained.

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

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

§ 32-5-200. Consent to testing; accident resulting in death or serious physical injury

(a) Any person who operates a motor vehicle on the public highways of this state who is involved in an accident that results in death or a serious physical injury to any person shall be deemed to have given consent to a test of his or her blood for the purpose of determining the alcoholic content of his or her blood or the presence of amphetamines, opiates, or cannabis. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person, while driving a motor vehicle on the public highways of this state, was under the influence of alcohol, amphetamines, opiates, or cannabis. The person shall be informed by the law enforcement officer who is investigating the accident that failure to submit to a test will result in the suspension of his or her privilege to operate a motor vehicle for a period of two years.

(b) For purposes of this section, the term "serious physical injury" means physical injury which creates a substantial risk

of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(c) Any person who is dead, unconscious, or who is otherwise in a condition in which they are incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (a).

(d) If a person refuses to submit to a test, none shall be given, unless a court order has been obtained ordering the person to submit to a test. If the person is found not to have been at fault in causing the accident, the Director of Public Safety may reduce the period of suspension.

(e) Upon suspending the license or permit to drive or the privilege of driving a motor vehicle on the highways of this state that is given to a nonresident or any person, or upon determining that the issuance of a license or permit shall be denied to the person, the Director of Public Safety or his or her authorized agent shall within three days of suspension notify the person in writing. Upon a request filed by the person within five days from the date of the notice of suspension or denial, the director shall schedule a hearing with notice of the hearing to be provided by certified mail to the person stating the date, time, place, and scope of the hearing. The scope of the hearing shall pertain to all of the following issues:

(1) Whether a law enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle on the public highways of this state while under the influence of the substances enumerated in subsection (a).

(2) Whether the person was at fault in causing the accident.

(3) Whether the person refused to submit to the test upon request of a law enforcement officer.

(4) Whether the person was informed that his or her privilege to drive would be suspended or denied if he or she refused to submit to the test shall not be an issue.

(f) If the suspension or determination that there should be a denial or issuance is sustained by the director or his or her authorized agent, the person whose license or permit to drive or a nonresident operating privilege has been suspended, or to whom a license or permit is denied, shall have the right to file a petition to review the final order, suspension, or denial within 30 days after the entry of the final order of suspension or denial by the director in the appropriate court to review the final order of suspension.

(g) When it has been finally determined under the procedures of this section that the privilege of a nonresident to operate a motor vehicle in this state has been suspended, the director shall give information in writing of the action taken to the motor vehicle administrator of the state of the residence of the person and to any state in which the person has a license.

§ 32-5A-191. Driving under the influence

(a) A person shall not drive or be in actual physical control of any vehicle while:

(1) There is 0.08 percent or more by weight of alcohol in his or her blood;

(2) Under the influence of alcohol;

- (3) Under the influence of a controlled substance to a degree which renders him or her incapable of safely driving;
- (4) Under the combined influence of alcohol and a controlled substance to a degree which renders him or her incapable of safely driving; or
- (5) Under the influence of any substance which impairs the mental or physical faculties of such person to a degree which renders him or her incapable of safely driving.

(b) A person who is under the age of 21 years shall not drive or be in actual physical control of any vehicle if there is .02 percentage or more by weight of alcohol in his or her blood. The Department of Public Safety shall suspend or revoke the driver's license of any person, including, but not limited to, a juvenile, child, or youthful offender, convicted or adjudicated of, or subjected to a finding of delinquency based on this subsection. Notwithstanding the foregoing, upon the first violation of this subsection by a person whose blood alcohol level is between .02 and .08, the person's driver's license or driving privilege shall be suspended for a period of 30 days in lieu of any penalties provided in subsection (e) of this section and there shall be no disclosure, other than to courts, law enforcement agencies, and the person's employer, by any entity or person of any information, documents, or records relating to the person's arrest, conviction, or adjudication of or finding of delinquency based on this subsection.

All persons, except as otherwise provided in this subsection for a first offense, including, but not limited to, a juvenile, child, or youthful offender, convicted or adjudicated of, or subjected to a finding of delinquency based on this subsection shall be fined pursuant to this section, notwithstanding any other law to the contrary, and the person shall also be required to attend and complete a DUI or substance abuse court referral program in accordance with subsection (i).

(c) A school bus or day care driver shall not drive or be in actual physical control of any vehicle while in performance of his or her duties if there is greater than .02 percentage by weight of alcohol in his or her blood. A person convicted pursuant to this subsection shall be subject to the penalties provided by this section except that on the first conviction the Director of Public Safety shall suspend the driving privilege or driver's license for a period of one year.

(d) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

(e) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not less than six hundred dollars (\$ 600) nor more than two thousand one hundred dollars (\$ 2,100), or by both a fine and imprisonment. In addition, on a first conviction, the Director of Public Safety shall suspend the driving privilege or driver's license of the person convicted for a period of 90 days.

(f) On a second conviction within a five-year period, a person convicted of violating this section shall be punished by a fine of not less than one thousand one hundred dollars (\$ 1,100) nor more than five thousand one hundred dollars (\$ 5,100) and by imprisonment, which may include hard labor in the county or municipal jail for not more than one year. The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than five days or community service for not less than 30 days. In addition the Director of Public Safety shall revoke the driving privileges or driver's license of the person convicted for a period of one year.

(g) On a third conviction, a person convicted of violating this section shall be punished by a fine of not less than two thousand one hundred dollars (\$ 2,100) nor more than ten thousand one hundred dollars (\$ 10,100) and by imprisonment, which may include hard labor, in the county or municipal jail for not less than 60 days nor more than one

year, to include a minimum of 60 days which shall be served in the county or municipal jail and cannot be probated or suspended. In addition, the Director of Public Safety shall revoke the driving privilege or driver's license of the person convicted for a period of three years.

(h) On a fourth or subsequent conviction, a person convicted of violating this section shall be guilty of a Class C felony and punished by a fine of not less than four thousand one hundred dollars (\$ 4,100) nor more than ten thousand one hundred dollars (\$ 10,100) and by imprisonment of not less than one year and one day nor more than 10 years. Any term of imprisonment may include hard labor for the county or state, and where imprisonment does not exceed three years confinement may be in the county jail. Where imprisonment does not exceed one year and one day, confinement shall be in the county jail. The minimum sentence shall include a term of imprisonment for at least one year and one day, provided, however, that there shall be a minimum mandatory sentence of 10 days which shall be served in the county jail. The remainder of the sentence may be suspended or probated, but only if as a condition of probation the defendant enrolls and successfully completes a state certified chemical dependency program recommended by the court referral officer and approved by the sentencing court. Where probation is granted, the sentencing court may, in its discretion, and where monitoring equipment is available, place the defendant on house arrest under electronic surveillance during the probationary term. In addition to the other penalties authorized, the Director of Public Safety shall revoke the driving privilege or driver's license of the person convicted for a period of five years.

Any law to the contrary notwithstanding, the Alabama habitual felony offender law shall not apply to a conviction of a felony pursuant to this subsection, and a conviction of a felony pursuant to this subsection shall not be a felony conviction for purposes of the enhancement of punishment pursuant to Alabama's habitual felony offender law.

(i) In addition to the penalties provided herein, any person convicted of violating this section shall be referred to the court referral officer for evaluation and referral to appropriate community resources. The defendant shall, at a minimum, be required to complete a DUI or substance abuse court referral program approved by the Administrative Office of Courts and operated in accordance with provisions of the Mandatory Treatment Act of 1990, Sections 12-23-1 to 12-23-19, inclusive. The Department of Public Safety shall not reissue a driver's license to a person convicted under this section without receiving proof that the defendant has successfully completed the required program.

(j) Neither reckless driving nor any other traffic infraction is a lesser included offense under a charge of driving under the influence of alcohol or of a controlled substance.

(k) Except for fines collected for violations of this section charged pursuant to a municipal ordinance, fines collected for violations of this section shall be deposited to the State General Fund; however, beginning October 1, 1995, of any amount collected over two hundred fifty dollars (\$ 250) for a first conviction, over five hundred dollars (\$ 500) for a second conviction within five years, over one thousand dollars (\$ 1,000) for a third conviction within five years, and over two thousand dollars (\$ 2,000) for a fourth or subsequent conviction within five years, the first one hundred dollars (\$ 100) of that additional amount shall be deposited to the Alabama Chemical Testing Training and Equipment Trust Fund, after three percent of the one hundred dollars (\$ 100) is deducted for administrative costs, and beginning October 1, 1997, and thereafter, the second one hundred dollars (\$ 100) of that additional amount shall be deposited in the Impaired Drivers Trust Fund after deducting five percent of the one hundred dollars (\$ 100) for administrative costs and the remainder of the funds shall be deposited to the State General Fund. Fines collected for violations of this section charged pursuant to a municipal ordinance where the total fine is paid at one time shall be deposited as follows: The first three hundred fifty dollars (\$ 350) collected for a first conviction, the first six hundred dollars (\$ 600) collected for a second conviction within five years, the first one thousand one hundred dollars (\$ 1,100) collected for a third conviction, and the first two thousand one hundred dollars (\$ 2,100) collected for a fourth or subsequent conviction shall be

deposited to the State Treasury with the first one hundred dollars (\$ 100) collected for each conviction credited to the Alabama Chemical Testing Training and Equipment Trust Fund and the second one hundred dollars (\$ 100) to the Impaired Drivers Trust Fund after deducting five percent of the one hundred dollars (\$ 100) for administrative costs and depositing this amount in the general fund of the municipality, and the balance credited to the State General Fund. Any amounts collected over these amounts shall be deposited as otherwise provided by law. Fines collected for violations of this section charged pursuant to a municipal ordinance, where the fine is paid on a partial or installment basis, shall be deposited as follows: The first two hundred dollars (\$ 200) of the fine collected for any conviction shall be deposited to the State Treasury with the first one hundred dollars (\$ 100) collected for any conviction credited to the Alabama Chemical Testing Training and Equipment Trust Fund and the second one hundred dollars (\$ 100) for any conviction credited to the Impaired Drivers Trust Fund after deducting five percent of the one hundred dollars (\$ 100) for administrative costs and depositing this amount in the general fund of the municipality. The second three hundred dollars (\$ 300) of the fine collected for a first conviction, the second eight hundred dollars (\$ 800) collected for a second conviction, the second one thousand eight hundred dollars (\$ 1,800) collected for a third conviction, and the second three thousand eight hundred dollars (\$ 3,800) collected for a fourth conviction shall be divided with 50 percent of the funds collected to be deposited to the State Treasury to be credited to the State General Fund and 50 percent deposited as otherwise provided by law for municipal ordinance violations. Any amounts collected over these amounts shall be deposited as otherwise provided by law for municipal ordinance violations. Notwithstanding any provision of law to the contrary, 90 percent of any fine assessed and collected for any DUI offense charged by municipal ordinance violation in district or circuit court shall be computed only on the amount assessed over the minimum fine authorized, and upon collection shall be distributed to the municipal general fund with the remaining 10 percent distributed to the State General Fund.

(l) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in his or her blood as specified in subsection (a)(1) or, in the case of a person who is under the age of 21 years, subsection (b) hereof.

(m) Upon verification that a defendant arrested pursuant to this section is currently on probation from another court of this state as a result of a conviction for any criminal offense, the prosecutor shall provide written or oral notification of the defendant's subsequent arrest and pending prosecution to the court in which the prior conviction occurred.

(n) When any person over the age of 21 years is convicted pursuant to this section and a child under the age of 14 years was present in the vehicle at the time of the offense, the defendant shall be sentenced to double the minimum punishment that the person would have received if the child had not been present in the motor vehicle.

(o) Any person convicted of driving under the influence of alcohol, or a controlled substance, or both, or any substance which impairs the mental or physical faculties in violation of this section, a municipal ordinance adopting this section, or a similar law from another state more than once in a five-year period shall have his or her motor vehicle registration for all vehicles owned by the repeat offender suspended by the Alabama Department of Revenue for the duration of the offender's driver's license suspension period, unless such action would impose an undue hardship to any individual, not including the repeat offender, who is completely dependent on the motor vehicle for the necessities of life, including any family member of the repeat offender and any co-owner of the vehicle.

§ 32-5A-191.3. Boating under the influence

(a) A person shall not operate or be in actual physical control of any vessel, or manipulate any water skis, aquaplane, or any other marine transportation device on the waters of this state, as the waters are defined in Section 33-5-3, under

any condition in which a person would be guilty of driving under the influence of alcohol or drugs pursuant to Section 32-5A-191 if the person was driving or controlling a motor vehicle.

(b) In the case of a vessel or other marine device described in subsection (a), where a law enforcement officer has probable cause to believe that the operator of the vessel or other marine device is operating in violation of this section, the law enforcement officer is authorized to administer and may test the operator, at the scene, by using a field breathalyzer or other approved device, as a screening device, to determine if the operator may be operating a vessel or device in violation of subsection (a). Refusal to submit to a field breathalyzer test or other approved testing device shall result in the same punishment as provided in subsection (c) of **Section 32-5-192 for operators of motor vehicles on the state highways**.

(c) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

(d) Upon a first or subsequent conviction, a person violating this section shall be punished in the same manner and under the same conditions as a person convicted of driving under the influence of alcohol or drugs pursuant to Section 32-5A-191 or any successor section or sections providing for the offense of driving under the influence of alcohol or drugs, except that in any case where reference is made to the Director of Public Safety and the driving privilege or driver's license of the person, the reference shall be deemed to refer to the Commissioner of Conservation and Natural Resources and the vessel operating privilege or boater safety certification of the person convicted under this section.

(e) Neither reckless or careless operation of a vessel, nor any other boating or water safety infraction, is a lesser included offense under a charge of operating a vessel while under the influence of alcohol or controlled substances.

(f) All fines collected for violation of this section as to vessels or other marine devices on the waters of this state shall be paid into the State Water Safety Fund.

(g) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in the person's blood as specified in subdivision (1) of subsection (a).

(h) Upon verification that a defendant arrested pursuant to this section is currently on probation from another court of this state as a result of a conviction for any criminal offense, the prosecutor shall provide written or oral notification of the defendant's subsequent arrest and pending prosecution to the court in which the prior conviction occurred.

(i) When any person over the age of 21 years is convicted pursuant to this section and a child under the age of 14 years was present on the vessel or other marine device described in subsection (a) at the time of the offense, the defendant shall be sentenced to double the minimum punishment that the person would have received if the child had not been present.

(j) "Vessel," for the purposes of this section, shall mean any vessel as defined in Section 33-5-3, operated on the waters of this state, as defined in Section 33-5-3.

(k) No provision of this section shall be construed to assess points for DUI convictions under motor vehicle convictions for driving under the influence.

§ 32-5A-192. Violations; homicide; operation of vehicle under the influence

(a) Whoever shall unlawfully and unintentionally cause the death of another person while engaged in the violation of any state law or municipal ordinance applying to the operation or use of a vehicle, or vessel, as defined in Section 33-5-3, or to the regulation of traffic or boating, shall be guilty of homicide when the violation is the proximate cause of the death.

(b) Any person convicted of homicide by vehicle or vessel shall be fined not less than five hundred dollars (\$ 500) nor more than two thousand dollars (\$ 2,000), or shall be imprisoned for a term not less than one year nor more than five years, or may be so fined and so imprisoned. All fines collected for violation of this section relating to vessels shall be paid into the State Water Safety Fund.

§ 32-5A-194. Driving under the influence; evidence; blood alcohol content

(a) Upon the trial of any civil, criminal or quasi-criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual control of a vehicle while under the influence of alcohol or controlled substance, evidence of the amount of alcohol or controlled substance in a person's blood at the alleged time, as determined by a chemical analysis of the person's blood, urine, breath or other bodily substance, shall be admissible. Where such a chemical test is made the following provisions shall apply:

(1) Chemical analyses of the person's blood, urine, breath or other bodily substance to be considered valid under the provisions of this section shall have been performed according to methods approved by the Department of Forensic Sciences and by an individual possessing a valid permit issued by the Department of Forensic Sciences for this purpose. The court trying the case may take judicial notice of the methods approved by the Department of Forensic Sciences. The Department of Forensic Sciences is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the Department of Forensic Sciences. The Department of Forensic Sciences shall approve permits required in this section only for employees of state, county, municipal, and federal law enforcement agencies and for laboratory personnel employed by the Department of Forensic Sciences.

(2) When a person shall submit to a blood test at the direction of a law enforcement officer under the provisions of Section 32-5-192, only a physician or a registered nurse (or other qualified person) may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath or urine specimens. If the test given under Section 32-5-192 is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will insure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(3) The person tested may at his own expense have a physician, or a qualified technician, registered nurse or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the discretion of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(4) Upon the written request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or his attorney.

(5) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 cubic centimeters of blood or grams of alcohol per 210 liters of breath.

(b) Upon the trial of any civil, criminal, or quasi-criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcohol, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath or other bodily substance shall give rise to the following presumptions:

(1) If there were at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcohol unless the person was operating a motor vehicle in performance of his or her duties as a school bus driver or day care driver at that time or was under the age of 21 years at that time.

(2) If there were at the time in excess of 0.05 percent but less than 0.08 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of alcohol, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol unless the person was operating a motor vehicle in performance of his or her duties as a school bus driver or day care driver at that time or was under the age of 21 years at that time.

(3) If there were at that time 0.08 percent or more by weight of alcohol in the person's blood, or greater than .02 percent if the person was operating a motor vehicle in performance of his or her duties as a school bus driver or day care driver at that time or was under the age of 21 years at that time, it shall be presumed that the person was under the influence of alcohol.

(4) The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcohol.

(c) If a person under arrest refuses to submit to a chemical test under the provisions of Section 32-5-192, evidence of refusal shall be admissible in any civil, criminal or quasi-criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol or controlled substance.

(d) No physician, registered nurse or duly licensed chemical laboratory technologist or clinical laboratory technician or medical facility shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a law enforcement officer to administer such a test.

§ 32-5A-195. Drivers' license; cancellation, suspension or revocation

(a) The Director of Public Safety is hereby authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof hereunder or that said licensee failed to give the correct or required information in his application. Upon such cancellation the licensee must surrender the license so cancelled. If such licensee refuses to surrender such license, he shall be guilty of a misdemeanor.

(b) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the Director of Public Safety in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(c) The Director of Public Safety is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense, to forward a certified copy of such record to the Motor Vehicle

Administrator in the state wherein the person so convicted is a resident.

(d) When a nonresident's operating privilege is suspended or revoked, the Director of Public Safety shall forward a certified copy of the record of such action to the motor vehicle administrator in the state wherein such person resides.

(e) The Director of Public Safety is authorized to suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state of any offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of a driver.

(f) The Director of Public Safety may give such effect to conduct of a resident in another state as is provided by the laws of this state had such conduct occurred in this state.

(g) Whenever any person is convicted of any offense for which this chapter makes mandatory the revocation of the license of such person by the department, the court in which such conviction is had shall require the surrender to it of any driver's license then held by the person convicted and the court shall thereupon forward the same together with a record of such conviction to the Director of Public Safety.

(h) Every court having jurisdiction over offenses committed under this article or any other law of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, shall forward to the Director of Public Safety within 10 days a record of the conviction of any person in said court for a violation of any said laws other than regulations governing standing or parking, and may recommend the suspension of the driver's license of the person so convicted.

(i) For the purposes of this article the term "conviction" shall mean a final conviction. Also, for the purposes of this article an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by the court, the payment of a fine, a plea of guilty or a finding of guilt of a traffic violation charge, shall be equivalent to a conviction regardless of whether the penalty is rebated, suspended or probated.

(j) The Director of Public Safety shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses:

(1) Manslaughter or homicide by vehicle resulting from the operation of a motor vehicle;

(2) Upon a first conviction of driving or being in actual physical control of any vehicle while under the influence of alcohol or under the influence of a controlled substance to a degree which renders him incapable of safely driving or under the combined influence of alcohol and a controlled substance to a degree which renders him incapable of safely driving, such revocation shall take place only when ordered by the court rendering such conviction;

(3) Upon a second or subsequent conviction within a five-year period, of driving or being in actual physical control of any vehicle while under the influence of alcohol or under the influence of a controlled substance to a degree which renders him incapable of safely driving or under the combined influence of alcohol and a controlled substance to a degree which renders him incapable of safely driving;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop, render aid, or identify himself as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(6) Perjury or the making of a false affidavit or statement under oath to the Director of Public Safety under this article or under any other law relating to the ownership or operation of motor vehicles;

(7) Conviction upon three charges of reckless driving committed within a period of 12 months;

(8) Unauthorized use of a motor vehicle belonging to another which act does not amount to a felony.

(k) The Director of Public Safety is hereby authorized to suspend the license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of license is required upon conviction;

(2) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(3) Is an habitually reckless or negligent driver of a motor vehicle, such fact being established by a record of accidents, or by other evidence;

(4) Is incompetent to drive a motor vehicle;

(5) Has permitted an unlawful or fraudulent use of such license;

(6) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation;

(7) Has been convicted of fleeing or attempting to elude a police officer; or

(8) Has been convicted of racing on the highways.

(l) Upon suspending the license of any person as hereinbefore in this section authorized, the Director of Public Safety shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practicable, not to exceed 30 days after receipt of such request in the county wherein the licensee resides unless the Director of Public Safety and the licensee agree that such hearing may be held in some other county. Such hearing shall be before the Director of Public Safety or his duly authorized agent. Upon such hearing the Director of Public Safety or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses in the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Director of Public Safety or his duly authorized agent shall either rescind its order of suspension or, good cause appearing therefor, may continue, modify or extend the suspension of such licensee or revoke such license. If the license has been suspended as a result of the licensee's driving while under the influence of alcohol, the director or his agent conducting the hearing shall take into account, among other relevant factors, the licensee's successful completion of any duly established "highway intoxication seminar", "DWI counterattack course" or similar educational program designed for problem drinking drivers. If the hearing is conducted by a duly authorized agent instead of by the Director of Public Safety himself, the action of such agent must be approved by the Director of Public Safety.

(m) The Director of Public Safety shall not suspend a driver's license or privilege to drive a motor vehicle upon the public highways for a period of more than one year, except as permitted under Section 32-6-19.

(n) At the end of the period of suspension a license surrendered to the Director of Public Safety under subsection (o) shall be returned to the licensee.

(o) The Director of Public Safety upon cancelling, suspending or revoking a license shall require that such license be surrendered to and be retained by the Director of Public Safety. Any person whose license has been cancelled, suspended or revoked shall immediately return his license to the Director of Public Safety. If such licensee refuses to surrender such license, he shall be guilty of a misdemeanor.

(p) Any resident or nonresident whose driver's license or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this section shall not operate a motor vehicle in this state under a license or permit issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this article.

(q) Any person denied a license or whose license has been cancelled, suspended or revoked by the Director of Public Safety except where such cancellation or revocation is mandatory under the provisions of this article shall have the right to file a petition within 30 days thereafter for a hearing in the matter in the circuit court in the county wherein such person resides, or in the case of cancellation, suspension or revocation of a nonresident's operating privilege in the county in which the main office of the Director of Public Safety is located, and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon 30 days' written notice to the Director of Public Safety, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation or revocation of license under the provisions of this section.

§ 32-5A-300. Generally

(a) The director, or his or her agent, shall suspend the driving privilege of any person upon a determination that the person drove or was in actual physical control of a motor vehicle while the amount of alcohol in the blood of the person was above the legal limit.

(b) The director, or his or her agent, shall suspend the driving privilege of any person upon a determination that the person refused a test to determine the amount of alcohol in the blood of the person as provided in Section 32-5-192.

(c) The director, or his or her agent, shall make a determination pursuant to subsections (a) and (b) based on the report of a law enforcement officer required in Section 32-5A-301, and this determination shall be final unless an administrative review is requested under Section 32-5A-306 or a hearing is held under Section 32-5A-307.

(d) The determination of these facts by the director, or his or her agent, is independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of these criminal charges shall not affect any suspension under this section.

§ 32-5A-304. Periods of suspension; when effective; duration; criminal conviction under § 32-5A-191

(a) A driving privilege suspension shall become effective 45 days after the person has received a notice of intended suspension as provided in Section 32-5A-303, or is deemed to have received a notice of suspension by mail as provided in Section 32-5A-302 if no notice of intended suspension was served.

(b) The period of driving privilege suspension under this section shall be as follows:

(1) Ninety days if the driving record of a person shows no prior alcohol or drug-related enforcement contacts during the immediately preceding five years.

(2) One year if the driving record of a person shows one prior alcohol or drug-related enforcement contact during the immediately preceding five years.

(3) Three years if the driving record of a person shows two or three alcohol or drug-related enforcement contacts during the immediately preceding five years.

(4) Five years if the driving record of a person shows four or more alcohol or drug-related enforcement contacts during the immediately preceding five years.

(5) For purposes of this section, "alcohol or drug-related enforcement contacts" shall include any suspension under this article, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving a motor vehicle while having an unlawful percent of alcohol in the blood, or while under the influence of alcohol or drugs, or alcohol and drugs except that no more than one alcohol or drug-related contact on any one DUI arrest may be considered by the department in determining the period of suspension.

(c) If a license is suspended under this section for having .08 or more by weight of alcohol in the blood of the person and the person is also convicted on criminal charges arising out of the same occurrence for a violation of Section 32-5A-191, the suspension under this section shall be imposed, but no period of suspension or revocation shall be imposed under Section 32-5A-191. If a license is suspended under this section for having .08 or more by weight of alcohol in the blood of the person and the criminal charge against the person for violation of Section 32-5A-191 is dismissed, nolle prossed, or the person is acquitted of the charge, the director shall rescind the suspension order and remove the administrative suspension from the person's driving record.

§ 32-6-19. Penalties; driving with suspended or revoked license

(a) (1) Any person whose driver's or chauffeur's license issued in this or another state or whose driving privilege as a nonresident has been cancelled, denied, suspended, or revoked as provided in this article and who drives any motor vehicle upon the highways of this state while his or her license or privilege is cancelled, denied, suspended, or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$ 100) nor more than five hundred dollars (\$ 500), and in addition thereto may be imprisoned for not more than 180 days. In addition to all fines, fees, costs, and punishments prescribed by law, there shall be imposed or assessed an additional penalty of fifty dollars (\$ 50) to be placed in the Traffic Safety Trust Fund and the Peace Officers Standards and Training Fund. Also, at the discretion of the Director of Public Safety, the person's license may be revoked for an additional revocation period of six months.

(2) The additional penalty of fifty dollars (\$ 50) shall be assessed in all criminal and quasi-criminal proceedings in

municipal, district, and circuit courts, including, but not limited to, final bond forfeitures, municipal ordinance violations, wherein the defendant is adjudged guilty or pleads guilty and in all juvenile delinquency and youthful offender adjudications.

(3) If the fifty dollar (\$ 50) penalty required by subdivision (1) is not imposed by the court, the clerk of the court shall automatically assess it upon conviction.

(b) Notwithstanding any provision of law, any person who operates a motor vehicle upon the highways of this state while his or her driver's license or driving privilege is revoked for any reason under the laws of this state or similar laws of any other state or territory, or while his or her driver's license or driving privilege is suspended as a consequence of a DUI-related offense, including, but not limited to, being adjudicated delinquent or a youthful offender based on a DUI-related offense, or while his or her driver's license or driving privilege is suspended as a result of failure to comply with the implied consent law of this state or laws of another state, or who has been adjudicated a delinquent child or a youthful offender based on an offense that if the person had been an adult would have been a conviction of driving under the influence of a controlled substance or alcohol or failure to comply with the implied consent law, shall be immediately removed from the vehicle. The vehicle, regardless of ownership or possessory interest of the operator or person present in the vehicle, except when the owner of the vehicle or another family member of the owner is present in the vehicle and presents a valid driver's license, shall be impounded by any duly sworn law enforcement officer. If there is an emergency or medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the vehicle.

(c) (1) The law enforcement officer making the impoundment shall direct an approved towing service to tow the vehicle to the garage of the towing service, storage lot, or other place of safety and maintain custody and control of the vehicle until the registered owner or authorized agent of the registered owner claims the vehicle by paying all reasonable and customary towing and storage fees for the services of the towing company. The vehicle shall then be released to the registered owner or an agent of the owner.

(2) Any towing service or towing company removing the vehicle at the direction of the law enforcement officer in accordance with this section shall have a lien on the motor vehicle for all reasonable and customary fees relating to the towing and storage of the motor vehicle. This lien shall be subject and subordinate to all prior security interests and other liens affecting the vehicle whether evidenced on the certificate of title or otherwise. Notice of any sale or other proceedings relative to this lien shall be given to the holders of all prior security interest or other liens by official service of process at least 15 days prior to any sale or other proceedings.

§ 13A-6-20. Assault; first degree

(a) A person commits the crime of assault in the first degree if:

(1) With intent to cause serious physical injury to another person, he causes serious physical injury to any person by means of a deadly weapon or a dangerous instrument; or

(2) With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such an injury to any person; or

(3) Under circumstances manifesting extreme indifference to the value of human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to any person; or

(4) In the course of and in furtherance of the commission or attempted commission of arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree or any other felony clearly dangerous to human life, or of immediate flight therefrom, he causes a serious physical injury to another person; or

(5) While driving under the influence of alcohol or a controlled substance or any combination thereof in violation of Section 32-5A-191 he causes serious bodily injury to the person of another with a motor vehicle.

(b) Assault in the first degree is a Class B felony.

§ 13A-12-291. Crimes enumerated

A driver's license shall be suspended pursuant to Section 13A-12-290 for conviction of, adjudication of, or a finding of delinquency based on, the following crimes:

- (1) Criminal solicitation to commit a controlled substance crime under Section 13A-12-202.
- (2) Attempt to commit a controlled substance crime under Section 13A-12-203.
- (3) Criminal conspiracy to commit a controlled substance crime under Section 13A-12-204.
- (4) Unlawful distribution of controlled substances under Section 13A-12-211.
- (5) Unlawful possession or receipt of controlled substances under Section 13A-12-212.
- (6) Unlawful possession of marihuana in the first degree under Section 13A-12-213.
- (7) Unlawful possession of marihuana in the second degree under Section 13A-12-214.
- (8) Sale or furnishing of controlled substances by persons over age 18 to persons under age 18 under Section 13A-12-215.
- (9) Trafficking in specified substances under Section 13A-12-231.
- (10) Driving under the influence of a controlled substance, or under the combined influence of a controlled substance and alcohol under Sections 32-5A-191(a)(3) and 32-5A-191(a)(4).