

1 HB361
2 127222-6
3 By Representatives Hill, McClendon, Morrow, Weaver, Treadaway,
4 Collins, Drake, Davis, McMillan, Canfield, Wallace, Melton,
5 Baker, Coleman, Givan, Colston, Grimsley, Thomas, Farley,
6 Sanderford, McCutcheon and Shiver
7 RFD: Public Safety and Homeland Security
8 First Read: 29-MAR-11

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to motor vehicles and driving under the
9 influence; to amend Section 32-5A-191 of the Code of Alabama
10 1975, and to add Section 32-5A-191.4 to the Code of Alabama
11 1975; to increase the penalties for violations by requiring
12 certain persons authorized to drive a motor vehicle after a
13 conviction of driving under the influence to have installed
14 and operating an ignition interlock device for certain periods
15 of time; to provide for the installation and certification of
16 ignition interlock devices; to impose certain duties on the
17 Department of Forensic Sciences; to provide for fees and to
18 authorize the Department of Public Safety to set a fee for the
19 issuance of a restricted license and for the reissuance of a
20 regular license pursuant to this act; to provide penalties for
21 violations; to provide fees to cover costs for the court
22 systems, Department of Public Safety, district attorneys, and
23 the Alabama Interlock Indigent Fund; to indemnify the state
24 from liability related to the installation of the devices; and
25 in connection therewith would have as its purpose or effect
26 the requirement of a new or increased expenditure of local
27 funds within the meaning of Amendment 621 of the Constitution

1 of Alabama of 1901, now appearing as Section 111.05 of the
2 Official Recompilation of the Constitution of Alabama of 1901,
3 as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 32-5A-191 of the Code of Alabama
6 1975, is amended to read as follows:

7 "§32-5A-191.

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

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

12 "(2) Under the influence of alcohol;

13 "(3) Under the influence of a controlled substance
14 to a degree which renders him or her incapable of safely
15 driving;

16 "(4) Under the combined influence of alcohol and a
17 controlled substance to a degree which renders him or her
18 incapable of safely driving; or

19 "(5) Under the influence of any substance which
20 impairs the mental or physical faculties of such person to a
21 degree which renders him or her incapable of safely driving.

22 "(b) A person who is under the age of 21 years shall
23 not drive or be in actual physical control of any vehicle if
24 there is .02 percentage or more by weight of alcohol in his or
25 her blood. The Department of Public Safety shall suspend or
26 revoke the driver's license of any person, including, but not
27 limited to, a juvenile, child, or youthful offender, convicted

1 or adjudicated of, or subjected to a finding of delinquency
2 based on this subsection. Notwithstanding the foregoing, upon
3 the first violation of this subsection by a person whose blood
4 alcohol level is between .02 and .08, the person's driver's
5 license or driving privilege shall be suspended for a period
6 of 30 days in lieu of any penalties provided in subsection (e)
7 of this section and there shall be no disclosure, other than
8 to courts, law enforcement agencies, and the person's
9 employer, by any entity or person of any information,
10 documents, or records relating to the person's arrest,
11 conviction, or adjudication of or finding of delinquency based
12 on this subsection.

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

22 "(c) (1) A school bus or day care driver shall not
23 drive or be in actual physical control of any vehicle while in
24 performance of his or her duties if there is greater than .02
25 percentage by weight of alcohol in his or her blood. A person
26 convicted pursuant to this subsection shall be subject to the
27 penalties provided by this section except that on the first

1 conviction the Director of Public Safety shall suspend the
2 driving privilege or driver's license for a period of one
3 year.

4 "(2) A person shall not drive or be in actual
5 physical control of a commercial motor vehicle as defined in
6 49 CFR Part ~~390.5~~ 383.5 of the Federal Motor Carrier Safety
7 Regulations as adopted pursuant to Section 32-9A-2, if there
8 is .04 percentage or greater by weight of alcohol in his or
9 her blood. Notwithstanding the other provisions of this
10 section, the commercial driver's license or commercial driving
11 privilege of a person convicted of violating this subdivision
12 shall be ~~suspended~~ disqualified for the period provided in
13 accordance with 49 CFR Part 383.51 ~~or 49 CFR Part 391.15~~, as
14 applicable, and the person's regular driver's license or
15 privilege to drive a regular motor vehicle shall be governed
16 by the remainder of this section if the person is guilty of a
17 violation of another provision of this section.

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

22 "(e) Upon first conviction, a person violating this
23 section shall be punished by imprisonment in the county or
24 municipal jail for not more than one year, or by fine of not
25 less than six hundred dollars (\$600) nor more than two
26 thousand one hundred dollars (\$2,100), or by both a fine and
27 imprisonment. In addition, on a first conviction, the Director

1 of Public Safety shall suspend the driving privilege or
2 driver's license of the person convicted for a period of 90
3 days and the offender may be required to have an ignition
4 interlock device installed and operating on the designated
5 motor vehicle driven by the offender for a period of one year.
6 If, on a first conviction, the person provides blood alcohol
7 concentration of 0.15 or greater or any person refusing to
8 provide a blood alcohol concentration or if a child under the
9 age of 14 years was present in the vehicle at the time of the
10 offense or if someone else besides the offender was injured at
11 the time of the offense, the Director of the Department of
12 Public Safety shall suspend the driving privilege or driver's
13 license of the person convicted for a period of 90 days and
14 the person shall be required to have an ignition interlock
15 device installed and operating on the designated motor vehicle
16 driven by the offender for a period of two years from the date
17 of issuance of a driver's license indicating that the person's
18 driving privileges are subject to the condition of the
19 installation and use of a certified ignition interlock device
20 on a motor vehicle.

21 "(f) On a second conviction within a five-year
22 period, a person convicted of violating this section shall be
23 punished by a fine of not less than one thousand one hundred
24 dollars (\$1,100) nor more than five thousand one hundred
25 dollars (\$5,100) and by imprisonment, which may include hard
26 labor in the county or municipal jail for not more than one
27 year. The sentence shall include a mandatory sentence, which

1 is not subject to suspension or probation, of imprisonment in
2 the county or municipal jail for not less than five days or
3 community service for not less than 30 days. In addition the
4 Director of Public Safety shall revoke the driving privileges
5 or driver's license of the person convicted for a period of
6 one year and the offender shall be required to have an
7 ignition interlock device installed and operating on the
8 designated motor vehicle driven by the offender for a period
9 of two years from the date of issuance of a driver's license
10 indicating that the person's driving privileges are subject to
11 the condition of the installation and use of a certified
12 ignition interlock device on a motor vehicle.

13 "(g) On a third conviction, a person convicted of
14 violating this section shall be punished by a fine of not less
15 than two thousand one hundred dollars (\$2,100) nor more than
16 ten thousand one hundred dollars (\$10,100) and by
17 imprisonment, which may include hard labor, in the county or
18 municipal jail for not less than 60 days nor more than one
19 year, to include a minimum of 60 days which shall be served in
20 the county or municipal jail and cannot be probated or
21 suspended. In addition, the Director of Public Safety shall
22 revoke the driving privilege or driver's license of the person
23 convicted for a period of three years and the offender shall
24 be required to have an ignition interlock device installed and
25 operating on the designated motor vehicle driven by the
26 offender for a period of three years from the date of issuance
27 of a driver's license indicating that the person's driving

1 privileges are subject to the condition of the installation
2 and use of a certified ignition interlock device on a motor
3 vehicle.

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

1 convicted for a period of five years and the offender shall be
2 required to have an ignition interlock device installed and
3 operating on the designated motor vehicle driven by the
4 offender for a period of five years from the date of issuance
5 of a driver's license indicating that the person's driving
6 privileges are subject to the condition of the installation
7 and use of a certified ignition interlock device on a motor
8 vehicle.

9 "The Alabama habitual felony offender law shall not
10 apply to a conviction of a felony pursuant to this subsection,
11 and a conviction of a felony pursuant to this subsection shall
12 not be a felony conviction for purposes of the enhancement of
13 punishment pursuant to Alabama's habitual felony offender law.

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

26 "(j) Neither reckless driving nor any other traffic
27 infraction is a lesser included offense under a charge of

1 driving under the influence of alcohol or of a controlled
2 substance.

3 "(k) Except for fines collected for violations of
4 this section charged pursuant to a municipal ordinance, fines
5 collected for violations of this section shall be deposited to
6 the State General Fund; however, beginning October 1, 1995, of
7 any amount collected over two hundred fifty dollars (\$250) for
8 a first conviction, over five hundred dollars (\$500) for a
9 second conviction within five years, over one thousand dollars
10 (\$1,000) for a third conviction within five years, and over
11 two thousand dollars (\$2,000) for a fourth or subsequent
12 conviction within five years, the first one hundred dollars
13 (\$100) of that additional amount shall be deposited to the
14 Alabama Chemical Testing Training and Equipment Trust Fund,
15 after three percent of the one hundred dollars (\$100) is
16 deducted for administrative costs, and beginning October 1,
17 1997, and thereafter, the second one hundred dollars (\$100) of
18 that additional amount shall be deposited in the Impaired
19 Drivers Trust Fund after deducting five percent of the one
20 hundred dollars (\$100) for administrative costs and the
21 remainder of the funds shall be deposited to the State General
22 Fund. Fines collected for violations of this section charged
23 pursuant to a municipal ordinance where the total fine is paid
24 at one time shall be deposited as follows: The first three
25 hundred fifty dollars (\$350) collected for a first conviction,
26 the first six hundred dollars (\$600) collected for a second
27 conviction within five years, the first one thousand one

1 hundred dollars (\$1,100) collected for a third conviction, and
2 the first two thousand one hundred dollars (\$2,100) collected
3 for a fourth or subsequent conviction shall be deposited to
4 the State Treasury with the first one hundred dollars (\$100)
5 collected for each conviction credited to the Alabama Chemical
6 Testing Training and Equipment Trust Fund and the second one
7 hundred dollars (\$100) to the Impaired Drivers Trust Fund
8 after deducting five percent of the one hundred dollars (\$100)
9 for administrative costs and depositing this amount in the
10 general fund of the municipality, and the balance credited to
11 the State General Fund. Any amounts collected over these
12 amounts shall be deposited as otherwise provided by law. Fines
13 collected for violations of this section charged pursuant to a
14 municipal ordinance, where the fine is paid on a partial or
15 installment basis, shall be deposited as follows: The first
16 two hundred dollars (\$200) of the fine collected for any
17 conviction shall be deposited to the State Treasury with the
18 first one hundred dollars (\$100) collected for any conviction
19 credited to the Alabama Chemical Testing Training and
20 Equipment Trust Fund and the second one hundred dollars (\$100)
21 for any conviction credited to the Impaired Drivers Trust Fund
22 after deducting five percent of the one hundred dollars (\$100)
23 for administrative costs and depositing this amount in the
24 general fund of the municipality. The second three hundred
25 dollars (\$300) of the fine collected for a first conviction,
26 the second eight hundred dollars (\$800) collected for a second
27 conviction, the second one thousand eight hundred dollars

1 (\$1,800) collected for a third conviction, and the second
2 three thousand eight hundred dollars (\$3,800) collected for a
3 fourth conviction shall be divided with 50 percent of the
4 funds collected to be deposited to the State Treasury to be
5 credited to the State General Fund and 50 percent deposited as
6 otherwise provided by law for municipal ordinance violations.
7 Any amounts collected over these amounts shall be deposited as
8 otherwise provided by law for municipal ordinance violations.
9 Notwithstanding any provision of law to the contrary, 90
10 percent of any fine assessed and collected for any DUI offense
11 charged by municipal ordinance violation in district or
12 circuit court shall be computed only on the amount assessed
13 over the minimum fine authorized, and upon collection shall be
14 distributed to the municipal general fund with the remaining
15 10 percent distributed to the State General Fund.

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

22 "(m) Upon verification that a defendant arrested
23 pursuant to this section is currently on probation from
24 another court of this state as a result of a conviction for
25 any criminal offense, the prosecutor shall provide written or
26 oral notification of the defendant's subsequent arrest and

1 pending prosecution to the court in which the prior conviction
2 occurred.

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

9 "(o) A prior conviction within a five-year period
10 for driving under the influence of alcohol or drugs from this
11 state, a municipality within this state, or another state or
12 territory or a municipality of another state or territory
13 shall be considered by a court for imposing a sentence
14 pursuant to this section.

15 "(p) Any person convicted of driving under the
16 influence of alcohol, or a controlled substance, or both, or
17 any substance which impairs the mental or physical faculties
18 in violation of this section, a municipal ordinance adopting
19 this section, or a similar law from another state or territory
20 or a municipality of another state or territory more than once
21 in a five-year period shall have his or her motor vehicle
22 registration for all vehicles owned by the repeat offender
23 suspended by the Alabama Department of Revenue for the
24 duration of the offender's driver's license suspension period,
25 unless such action would impose an undue hardship to any
26 individual, not including the repeat offender, who is
27 completely dependent on the motor vehicle for the necessities

1 of life, including any family member of the repeat offender
2 and any co-owner of the vehicle or, in the case of a repeat
3 offender, if the repeat offender has a functioning ignition
4 interlock device installed on the designated vehicle for the
5 duration of the offender's driver's license suspension period.

6 "(q) Any person ordered by the court to have an
7 ignition interlock device installed on a designated vehicle
8 shall pay to the court, during the first four months his or
9 her license is suspended, seventy-five dollars (\$75) per
10 month, which shall be divided as follows:

11 "(1) Forty percent to the Alabama Interlock Indigent
12 Fund.

13 "(2) Twenty-five percent to the court of
14 jurisdiction.

15 "(3) Twenty percent to the Department of Public
16 Safety.

17 "(4) Fifteen percent to the district attorney of
18 jurisdiction.

19 "(r) The defendant shall designate the vehicle to be
20 used by identifying the vehicle by the vehicle identification
21 number to the court.

22 "(s) (1) Any person who is required to comply with
23 the ignition interlock provisions of this section as a
24 condition of restoration or reinstatement of his or her
25 driver's license, shall only operate the designated vehicle
26 equipped with a functioning ignition interlock device for the

1 period of time consistent with the offense for which he or she
2 was convicted as provided for in this section.

3 "(2) The duration of the time an ignition interlock
4 device is required by this section shall be doubled if the
5 offender refused the prescribed chemical test for
6 intoxication, or if the offender's blood alcohol concentration
7 was 0.15 grams percent or greater.

8 "(t) (1) The Department of Public Safety may set a
9 fee of not more than one hundred fifty dollars (\$150) for the
10 issuance of a driver's license indicating that the person's
11 driving privileges are subject to the condition of the
12 installation and use of a certified ignition interlock device
13 on a motor vehicle. Fifteen percent of the fee shall be
14 distributed to the general fund of the county where the person
15 was convicted to be utilized for law enforcement purposes. In
16 addition, at the end of the time the person's driving
17 privileges are subject to the above conditions, the department
18 shall set a fee of not more than seventy-five dollars (\$75) to
19 reissue a regular driver's license. The fee shall be deposited
20 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

21 "(2) The defendant shall provide proof of
22 installation of an approved ignition interlock device to the
23 Department of Public Safety as a condition of the issuance of
24 a restricted driver's license.

25 "(3) Any ignition interlock driving violation
26 committed by the offender during the mandated ignition
27 interlock period shall extend the duration of ignition

1 interlock use for six months from the date of violation.
2 Ignition interlock driving violations include any of the
3 following:

4 "a. A breath sample at or above a minimum blood
5 alcohol concentration level of 0.02 recorded more than four
6 times during the monthly reporting period.

7 "b. Any tampering, circumvention, or bypassing of
8 the ignition interlock device, or attempt thereof.

9 "c. Failure to comply with the servicing or
10 calibration requirements of the ignition interlock device
11 every 30 days."

12 "(u) Nothing in this act shall require an employer
13 to install an ignition interlock device in a vehicle owned or
14 operated by the employer for use by an employee required to
15 use the device as a condition of driving pursuant to this act.

16 Section 2. Section 32-5A-191.4 is added to the Code
17 of Alabama 1975, to read as follows:

18 §32-5A-191.4.

19 (a) As used in Section 32-5A-191, the term,
20 "ignition interlock device" means a constant monitoring device
21 that prevents a motor vehicle from being started at any time
22 without first determining the equivalent blood alcohol level
23 of the operator through the taking of a breath sample for
24 testing. The system shall be calibrated so that the motor
25 vehicle may not be started if the blood alcohol level of the
26 operator, as measured by the test, reaches a blood alcohol
27 concentration level of 0.02.

1 (b) The ignition interlock device shall be
2 installed, calibrated, and monitored directly by trained
3 technicians who shall train the offender for whom the device
4 is being installed in the proper use of the device. The use of
5 a mail in or remote calibration system where the technician is
6 not in the immediate proximity of the vehicle being calibrated
7 is prohibited.

8 (c) The Department of Forensic Sciences shall
9 formulate and promulgate rules for the proper approval,
10 installation, and use of ignition interlock devices.
11 Additionally, the Department of Forensic Sciences shall
12 maintain and make public the list of approved ignition
13 interlock devices.

14 (d) The Department of Forensic Sciences may adopt in
15 whole or relevant part the guidelines, rules, regulations,
16 studies, or independent laboratory tests performed or relied
17 upon by other states, their agencies, or commissions.

18 (e) The Department of Forensic Sciences shall charge
19 an application fee of two thousand dollars (\$2,000) to any
20 ignition interlock provider to evaluate the instrument. Any
21 ignition interlock provider whose ignition interlock device is
22 approved by the Department of Forensic Sciences shall be
23 permitted to install and calibrate its approved device in
24 Alabama.

25 (f) In the absence of negligence, wantonness, or
26 willful misconduct, no person or employer or agent of a person
27 who installs an ignition interlock device pursuant to Section

1 32-5A-191 shall be liable for any occurrence related to the
2 device, including, but not limited to, occurrences resulting
3 from or related to a malfunction of the device or use of,
4 misuse of, or failure to use the device or the vehicle in
5 which the device was installed.

6 (g) (1) When the court imposes the use of an ignition
7 interlock device as required by Section 32-5A-191, the court
8 shall require that the person provide proof of installation of
9 a device to the court or a probation officer within 30 days.
10 If the person fails to provide proof of installation within
11 that period, absent a finding by the court of good cause for
12 that failure which is entered into the court record, the court
13 shall revoke the person's probation.

14 (2) Proof of installation for the purpose of this
15 subsection may be furnished by either a certificate of
16 installation or a copy of the lease agreement in the name of
17 the offender for the designated vehicle with an approved
18 ignition interlock device company.

19 (3) A defendant who is determined by the court to be
20 indigent may have an ignition interlock device installed by an
21 ignition interlock provider as provided in this subsection.
22 Criteria for determining indigency shall be the same criteria
23 as set forth in Section 15-12-5(b). In determining whether the
24 defendant is indigent, the judge shall require an
25 investigation and report by a sheriff, probation officer, or
26 other officer of the court. The report may include input from
27 the district attorney. The accused shall execute an affidavit

1 of substantial hardship on a form approved by the Supreme
2 Court. The completed affidavit of substantial hardship and the
3 subsequent order of the court either denying or granting
4 indigency status to the offender shall become a part of the
5 official court record in the case and shall be submitted by
6 the offender to the interlock provider.

7 (4) Any offender granted indigency status shall pay
8 one-half of the costs associated with installing and
9 maintaining an interlock device. This section shall not affect
10 any fees associated with the driver's license of the
11 defendant.

12 (5) All interlock providers shall be required to pay
13 one and one-half percent of all payments collected to the
14 Alabama Interlock Indigent Fund in the State Treasury. All of
15 the money in the fund shall be used to reimburse ignition
16 interlock device providers who have installed devices in
17 vehicles of indigent persons pursuant to court orders issued
18 under this section. No provider shall be reimbursed for an
19 interlock device installed without the completed affidavit of
20 substantial hardship and the subsequent order of the court
21 granting indigency status. Payments to interlock device
22 providers pursuant to this subdivision shall be made every
23 three months. If the amount of money in the fund at the time
24 payments are made is not sufficient to pay all requests for
25 reimbursement submitted during that three-month period, the
26 Comptroller shall make payments on a pro rata basis and those
27 payments shall be considered payment in full for the requests

1 submitted. At the end of each fiscal year, all monies above
2 one hundred thousand dollars (\$100,000) remaining in the
3 Alabama Interlock Indigent Fund shall be divided as follows:

4 a. Thirty percent to the Department of Public
5 Safety.

6 b. Twenty percent to the Department of Forensic
7 Sciences.

8 c. Thirty percent to the District Attorney of
9 jurisdiction.

10 d. Twenty percent to the Office of Prosecution
11 Services.

12 (6) Any defendant who does not own a vehicle or
13 otherwise have an ignition interlock device installed on the
14 vehicle shall be required to pay seventy-five dollars (\$75)
15 per month, the same approximate cost the defendant would have
16 paid to an ignition interlock provider if the defendant had an
17 interlock device installed. Any monies paid pursuant to this
18 subdivision shall be paid to the court clerk and shall be
19 deposited in the Alabama Impaired Driving Prevention and
20 Enforcement Fund in the State Treasury to be used by the
21 Department of Public Safety for impaired driving education and
22 enforcement.

23 (h) No person who is prohibited from operating a
24 motor vehicle unless it is equipped with an ignition interlock
25 device as provided in Section 32-5A-191 shall knowingly:

1 (1) Operate, lease, or borrow a motor vehicle unless
2 that vehicle is equipped with a functioning ignition interlock
3 device.

4 (2) Request or solicit any other person to blow into
5 an ignition interlock device or to start a motor vehicle
6 equipped with the device for the purpose of providing the
7 person so restricted with an operable motor vehicle.

8 (i)(1) Any person who operates a motor vehicle in
9 violation of subsection (g) shall be immediately removed from
10 the vehicle and taken into custody. The vehicle, regardless of
11 ownership or possessory interest of the operator or person
12 present in the vehicle, except when the owner of the vehicle
13 or another family member of the owner is present in the
14 vehicle and presents a valid driver's license, shall be
15 impounded by any duly sworn law enforcement officer pursuant
16 to Section 32-6-19(c). If there is an emergency or medical
17 necessity jeopardizing life or limb, the law enforcement
18 officer may elect not to impound the vehicle.

19 (2) A violation of subsection (g) on the first
20 offense is a Class A misdemeanor and punishable as provided by
21 law. In addition, the time the defendant is required to use an
22 ignition interlock device shall be extended by six months.
23 Upon second conviction of a violation of subsection (g), the
24 sentence shall include a mandatory sentence, which is not
25 subject to suspension or probation, of imprisonment in the
26 county or municipal jail for not less than 48 hours and the
27 time the defendant is required to use an ignition interlock

1 device shall be extended by six months. Upon a third or
2 subsequent conviction of a violation of subsection (g), the
3 sentence shall include a mandatory sentence, which is not
4 subject to suspension or probation, of imprisonment in the
5 county or municipal jail for not less than five days and the
6 time the defendant shall be required to use an ignition
7 interlock device shall be extended by one year.

8 (j) No person shall blow into an ignition interlock
9 device or start a motor vehicle equipped with the device for
10 the purpose of providing an operable motor vehicle to a person
11 who is prohibited from operating a motor vehicle without an
12 ignition interlock device.

13 (k) No person shall intentionally attempt to tamper
14 with, defeat, or circumvent the operation of an ignition
15 interlock device.

16 (l) Any person convicted of a violation of this
17 section other than by law within subsection (g) shall be
18 punished by imprisonment for not more than six months or a
19 fine of not more than five hundred dollars (\$500), or both.

20 Section 3. The substantive provisions of this act
21 shall be operative 12 months after the effective date of this
22 act. Any agency affected by this act may adopt rules and
23 expend funds prior to that date in order for this act to
24 become operative on that date.

25 Section 4. Although this bill would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

6 Section 5. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Public Safety
and Homeland Security..... 29-MAR-11

Read for the second time and placed
on the calendar 1 amendment 21-APR-11

Read for the third time and passed
as amended..... 05-MAY-11

Yeas 90, Nays 0, Abstains 1

Greg Pappas
Clerk