

1 HB361  
2 127222-14  
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  
2 ENROLLED, An Act,

3           Relating to motor vehicles and driving under the  
4 influence; to amend Section 32-5A-191 of the Code of Alabama  
5 1975, and to add Section 32-5A-191.4 to the Code of Alabama  
6 1975; to increase the penalties for violations by requiring  
7 certain persons authorized to drive a motor vehicle after a  
8 conviction of driving under the influence to have installed  
9 and operating an ignition interlock device for certain periods  
10 of time; to provide for the installation and certification of  
11 ignition interlock devices; to impose certain duties on the  
12 Department of Forensic Sciences; to provide for fees and to  
13 authorize the Department of Public Safety to set a fee for the  
14 issuance of a restricted license and for the reissuance of a  
15 regular license pursuant to this act; to provide penalties for  
16 violations; to provide fees to cover costs for the court  
17 systems, Department of Public Safety, district attorneys, and  
18 the Alabama Interlock Indigent Fund; to indemnify the state  
19 from liability related to the installation of the devices; and  
20 in connection therewith would have as its purpose or effect  
21 the requirement of a new or increased expenditure of local  
22 funds within the meaning of Amendment 621 of the Constitution  
23 of Alabama of 1901, now appearing as Section 111.05 of the  
24 Official Recompilation of the Constitution of Alabama of 1901,  
25 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 32-5A-191 of the Code of Alabama  
3 1975, is amended to read as follows:

4 "§32-5A-191.

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

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

9 "(2) Under the influence of alcohol;

10 "(3) Under the influence of a controlled substance  
11 to a degree which renders him or her incapable of safely  
12 driving;

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

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

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

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

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

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

1 penalties provided by this section except that on the first  
2 conviction the Director of Public Safety shall suspend the  
3 driving privilege or driver's license for a period of one  
4 year.

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

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

23 "(e) Upon first conviction, a person violating this  
24 section shall be punished by imprisonment in the county or  
25 municipal jail for not more than one year, or by fine of not

1 less than six hundred dollars (\$600) nor more than two  
2 thousand one hundred dollars (\$2,100), or by both a fine and  
3 imprisonment. In addition, on a first conviction, the Director  
4 of Public Safety shall suspend the driving privilege or  
5 driver's license of the person convicted for a period of 90  
6 days and the offender may be required to have an ignition  
7 interlock device installed and operating on the designated  
8 motor vehicle driven by the offender for a period of one year.  
9 days. If, on a first conviction, the person provides blood  
10 alcohol concentration of 0.15 or greater or any person  
11 refusing to provide a blood alcohol concentration or if a  
12 child under the age of 14 years was present in the vehicle at  
13 the time of the offense or if someone else besides the  
14 offender was injured at the time of the offense, the Director  
15 of the Department of Public Safety shall suspend the driving  
16 privilege or driver's license of the person convicted for a  
17 period of 90 days and the person shall be required to have an  
18 ignition interlock device installed and operating on the  
19 designated motor vehicle driven by the offender for a period  
20 of two years from the date of issuance of a driver's license  
21 indicating that the person's driving privileges are subject to  
22 the condition of the installation and use of a certified  
23 ignition interlock device on a motor vehicle.

24 "(f) On a second conviction within a five-year  
25 period, a person convicted of violating this section shall be

1 punished by a fine of not less than one thousand one hundred  
2 dollars (\$1,100) nor more than five thousand one hundred  
3 dollars (\$5,100) and by imprisonment, which may include hard  
4 labor in the county or municipal jail for not more than one  
5 year. The sentence shall include a mandatory sentence, which  
6 is not subject to suspension or probation, of imprisonment in  
7 the county or municipal jail for not less than five days or  
8 community service for not less than 30 days. In addition the  
9 Director of Public Safety shall revoke the driving privileges  
10 or driver's license of the person convicted for a period of  
11 one year and the offender shall be required to have an  
12 ignition interlock device installed and operating on the  
13 designated motor vehicle driven by the offender for a period  
14 of two years from the date of issuance of a driver's license  
15 indicating that the person's driving privileges are subject to  
16 the condition of the installation and use of a certified  
17 ignition interlock device on a motor vehicle.

18 "(g) On a third conviction, a person convicted of  
19 violating this section shall be punished by a fine of not less  
20 than two thousand one hundred dollars (\$2,100) nor more than  
21 ten thousand one hundred dollars (\$10,100) and by  
22 imprisonment, which may include hard labor, in the county or  
23 municipal jail for not less than 60 days nor more than one  
24 year, to include a minimum of 60 days which shall be served in  
25 the county or municipal jail and cannot be probated or

1 suspended. In addition, the Director of Public Safety shall  
2 revoke the driving privilege or driver's license of the person  
3 convicted for a period of three years and the offender shall  
4 be required to have an ignition interlock device installed and  
5 operating on the designated motor vehicle driven by the  
6 offender for a period of three years from the date of issuance  
7 of a driver's license indicating that the person's driving  
8 privileges are subject to the condition of the installation  
9 and use of a certified ignition interlock device on a motor  
10 vehicle.

11 " (h) On a fourth or subsequent conviction, a person  
12 convicted of violating this section shall be guilty of a Class  
13 C felony and punished by a fine of not less than four thousand  
14 one hundred dollars (\$4,100) nor more than ten thousand one  
15 hundred dollars (\$10,100) and by imprisonment of not less than  
16 one year and one day nor more than 10 years. Any term of  
17 imprisonment may include hard labor for the county or state,  
18 and where imprisonment does not exceed three years confinement  
19 may be in the county jail. Where imprisonment does not exceed  
20 one year and one day, confinement shall be in the county jail.  
21 The minimum sentence shall include a term of imprisonment for  
22 at least one year and one day, provided, however, that there  
23 shall be a minimum mandatory sentence of 10 days which shall  
24 be served in the county jail. The remainder of the sentence  
25 may be suspended or probated, but only if as a condition of



1 probation the defendant enrolls and successfully completes a  
2 state certified chemical dependency program recommended by the  
3 court referral officer and approved by the sentencing court.  
4 Where probation is granted, the sentencing court may, in its  
5 discretion, and where monitoring equipment is available, place  
6 the defendant on house arrest under electronic surveillance  
7 during the probationary term. In addition to the other  
8 penalties authorized, the Director of Public Safety shall  
9 revoke the driving privilege or driver's license of the person  
10 convicted for a period of five years and the offender shall be  
11 required to have an ignition interlock device installed and  
12 operating on the designated motor vehicle driven by the  
13 offender for a period of five years from the date of issuance  
14 of a driver's license indicating that the person's driving  
15 privileges are subject to the condition of the installation  
16 and use of a certified ignition interlock device on a motor  
17 vehicle.

18 "The Alabama habitual felony offender law shall not  
19 apply to a conviction of a felony pursuant to this subsection,  
20 and a conviction of a felony pursuant to this subsection shall  
21 not be a felony conviction for purposes of the enhancement of  
22 punishment pursuant to Alabama's habitual felony offender law.

23 "(i) In addition to the penalties provided herein,  
24 any person convicted of violating this section shall be  
25 referred to the court referral officer for evaluation and

1 referral to appropriate community resources. The defendant  
2 shall, at a minimum, be required to complete a DUI or  
3 substance abuse court referral program approved by the  
4 Administrative Office of Courts and operated in accordance  
5 with provisions of the Mandatory Treatment Act of 1990,  
6 Sections 12-23-1 to 12-23-19, inclusive. The Department of  
7 Public Safety shall not reissue a driver's license to a person  
8 convicted under this section without receiving proof that the  
9 defendant has successfully completed the required program.

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

14 "(k) Except for fines collected for violations of  
15 this section charged pursuant to a municipal ordinance, fines  
16 collected for violations of this section shall be deposited to  
17 the State General Fund; however, beginning October 1, 1995, of  
18 any amount collected over two hundred fifty dollars (\$250) for  
19 a first conviction, over five hundred dollars (\$500) for a  
20 second conviction within five years, over one thousand dollars  
21 (\$1,000) for a third conviction within five years, and over  
22 two thousand dollars (\$2,000) for a fourth or subsequent  
23 conviction within five years, the first one hundred dollars  
24 (\$100) of that additional amount shall be deposited to the  
25 Alabama Chemical Testing Training and Equipment Trust Fund,

1 after three percent of the one hundred dollars (\$100) is  
2 deducted for administrative costs, and beginning October 1,  
3 1997, and thereafter, the second one hundred dollars (\$100) of  
4 that additional amount shall be deposited in the Impaired  
5 Drivers Trust Fund after deducting five percent of the one  
6 hundred dollars (\$100) for administrative costs and the  
7 remainder of the funds shall be deposited to the State General  
8 Fund. Fines collected for violations of this section charged  
9 pursuant to a municipal ordinance where the total fine is paid  
10 at one time shall be deposited as follows: The first three  
11 hundred fifty dollars (\$350) collected for a first conviction,  
12 the first six hundred dollars (\$600) collected for a second  
13 conviction within five years, the first one thousand one  
14 hundred dollars (\$1,100) collected for a third conviction, and  
15 the first two thousand one hundred dollars (\$2,100) collected  
16 for a fourth or subsequent conviction shall be deposited to  
17 the State Treasury with the first one hundred dollars (\$100)  
18 collected for each conviction credited to the Alabama Chemical  
19 Testing Training and Equipment Trust Fund and the second one  
20 hundred dollars (\$100) to the Impaired Drivers Trust Fund  
21 after deducting five percent of the one hundred dollars (\$100)  
22 for administrative costs and depositing this amount in the  
23 general fund of the municipality, and the balance credited to  
24 the State General Fund. Any amounts collected over these  
25 amounts shall be deposited as otherwise provided by law. Fines

1 collected for violations of this section charged pursuant to a  
2 municipal ordinance, where the fine is paid on a partial or  
3 installment basis, shall be deposited as follows: The first  
4 two hundred dollars (\$200) of the fine collected for any  
5 conviction shall be deposited to the State Treasury with the  
6 first one hundred dollars (\$100) collected for any conviction  
7 credited to the Alabama Chemical Testing Training and  
8 Equipment Trust Fund and the second one hundred dollars (\$100)  
9 for any conviction credited to the Impaired Drivers Trust Fund  
10 after deducting five percent of the one hundred dollars (\$100)  
11 for administrative costs and depositing this amount in the  
12 general fund of the municipality. The second three hundred  
13 dollars (\$300) of the fine collected for a first conviction,  
14 the second eight hundred dollars (\$800) collected for a second  
15 conviction, the second one thousand eight hundred dollars  
16 (\$1,800) collected for a third conviction, and the second  
17 three thousand eight hundred dollars (\$3,800) collected for a  
18 fourth conviction shall be divided with 50 percent of the  
19 funds collected to be deposited to the State Treasury to be  
20 credited to the State General Fund and 50 percent deposited as  
21 otherwise provided by law for municipal ordinance violations.  
22 Any amounts collected over these amounts shall be deposited as  
23 otherwise provided by law for municipal ordinance violations.  
24 Notwithstanding any provision of law to the contrary, 90  
25 percent of any fine assessed and collected for any DUI offense

1 charged by municipal ordinance violation in district or  
2 circuit court shall be computed only on the amount assessed  
3 over the minimum fine authorized, and upon collection shall be  
4 distributed to the municipal general fund with the remaining  
5 10 percent distributed to the State General Fund.

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

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

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

1           "(o) A prior conviction within a five-year period  
2 for driving under the influence of alcohol or drugs from this  
3 state, a municipality within this state, or another state or  
4 territory or a municipality of another state or territory  
5 shall be considered by a court for imposing a sentence  
6 pursuant to this section.

7           "(p) Any person convicted of driving under the  
8 influence of alcohol, or a controlled substance, or both, or  
9 any substance which impairs the mental or physical faculties  
10 in violation of this section, a municipal ordinance adopting  
11 this section, or a similar law from another state or territory  
12 or a municipality of another state or territory more than once  
13 in a five-year period shall have his or her motor vehicle  
14 registration for all vehicles owned by the repeat offender  
15 suspended by the Alabama Department of Revenue for the  
16 duration of the offender's driver's license suspension period,  
17 unless such action would impose an undue hardship to any  
18 individual, not including the repeat offender, who is  
19 completely dependent on the motor vehicle for the necessities  
20 of life, including any family member of the repeat offender  
21 and any co-owner of the vehicle or, in the case of a repeat  
22 offender, if the repeat offender has a functioning ignition  
23 interlock device installed on the designated vehicle for the  
24 duration of the offender's driver's license suspension period.

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

6           "(1) Forty percent to the Alabama Interlock Indigent  
7 Fund.

8           "(2) Twenty-five percent to the court of  
9 jurisdiction.

10          (3) Twenty percent to the Department of Public  
11 Safety.

12          "(4) Fifteen percent to the district attorney of  
13 jurisdiction.

14          "(r) The defendant shall designate the vehicle to be  
15 used by identifying the vehicle by the vehicle identification  
16 number to the court.

17          "(s) (1) Any person who is required to comply with  
18 the ignition interlock provisions of this section as a  
19 condition of restoration or reinstatement of his or her  
20 driver's license, shall only operate the designated vehicle  
21 equipped with a functioning ignition interlock device for the  
22 period of time consistent with the offense for which he or she  
23 was convicted as provided for in this section.

24          "(2) The duration of the time an ignition interlock  
25 device is required by this section shall be doubled if the

1 offender refused the prescribed chemical test for  
2 intoxication, or if the offender's blood alcohol concentration  
3 was 0.15 grams percent or greater.

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

17 "(2) The defendant shall provide proof of  
18 installation of an approved ignition interlock device to the  
19 Department of Public Safety as a condition of the issuance of  
20 a restricted driver's license.

21 "(3) Any ignition interlock driving violation  
22 committed by the offender during the mandated ignition  
23 interlock period shall extend the duration of ignition  
24 interlock use for six months from the date of violation.



1 Ignition interlock driving violations include any of the  
2 following:

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

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

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

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

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

17 §32-5A-191.4.

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

1 operator, as measured by the test, reaches a blood alcohol  
2 concentration level of 0.02.

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

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

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

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

1 permitted to install and calibrate its approved device in  
2 Alabama.

3 (f) In the absence of negligence, wantonness, or  
4 willful misconduct, no person or employer or agent of a person  
5 who installs an ignition interlock device pursuant to Section  
6 32-5A-191 shall be liable for any occurrence related to the  
7 device, including, but not limited to, occurrences resulting  
8 from or related to a malfunction of the device or use of,  
9 misuse of, or failure to use the device or the vehicle in  
10 which the device was installed.

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

19 (2) Proof of installation for the purpose of this  
20 subsection may be furnished by either a certificate of  
21 installation or a copy of the lease agreement in the name of  
22 the offender for the designated vehicle with an approved  
23 ignition interlock device company.

24 (3) A defendant who is determined by the court to be  
25 indigent may have an ignition interlock device installed by an

1 ignition interlock provider as provided in this subsection.  
2 Criteria for determining indigency shall be the same criteria  
3 as set forth in Section 15-12-5(b). In determining whether the  
4 defendant is indigent, the judge shall require an  
5 investigation and report by a sheriff, probation officer, or  
6 other officer of the court. The report may include input from  
7 the district attorney. The accused shall execute an affidavit  
8 of substantial hardship on a form approved by the Supreme  
9 Court. The completed affidavit of substantial hardship and the  
10 subsequent order of the court either denying or granting  
11 indigency status to the offender shall become a part of the  
12 official court record in the case and shall be submitted by  
13 the offender to the interlock provider.

14 (4) Any offender granted indigency status shall pay  
15 one-half of the costs associated with installing and  
16 maintaining an interlock device. This section shall not affect  
17 any fees associated with the driver's license of the  
18 defendant.

19 (5) All interlock providers shall be required to pay  
20 one and one-half percent of all payments collected to the  
21 Alabama Interlock Indigent Fund in the State Treasury. All of  
22 the money in the fund shall be used to reimburse ignition  
23 interlock device providers who have installed devices in  
24 vehicles of indigent persons pursuant to court orders issued  
25 under this section. No provider shall be reimbursed for an

1 interlock device installed without the completed affidavit of  
2 substantial hardship and the subsequent order of the court  
3 granting indigency status. Payments to interlock device  
4 providers pursuant to this subdivision shall be made every  
5 three months. If the amount of money in the fund at the time  
6 payments are made is not sufficient to pay all requests for  
7 reimbursement submitted during that three-month period, the  
8 Comptroller shall make payments on a pro rata basis and those  
9 payments shall be considered payment in full for the requests  
10 submitted. At the end of each fiscal year, all monies above  
11 one hundred thousand dollars (\$100,000) remaining in the  
12 Alabama Interlock Indigent Fund shall be divided as follows:

13 a. Thirty percent to the Department of Public  
14 Safety.

15 b. Twenty percent to the Department of Forensic  
16 Sciences.

17 c. Thirty percent to the District Attorney of  
18 jurisdiction.

19 d. Twenty percent to the Office of Prosecution  
20 Services.

21 (6) Any defendant who does not own a vehicle or  
22 otherwise have an ignition interlock device installed on the  
23 vehicle shall be required to pay seventy-five dollars (\$75)  
24 per month, the same approximate cost the defendant would have  
25 paid to an ignition interlock provider if the defendant had an

1 interlock device installed. Any monies paid pursuant to this  
2 subdivision shall be paid to the court clerk and shall be  
3 deposited in the Alabama Impaired Driving Prevention and  
4 Enforcement Fund in the State Treasury to be used by the  
5 Department of Public Safety for impaired driving education and  
6 enforcement.

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

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

13 (2) Request or solicit any other person to blow into  
14 an ignition interlock device or to start a motor vehicle  
15 equipped with the device for the purpose of providing the  
16 person so restricted with an operable motor vehicle.

17 (i) (1) Any person who operates a motor vehicle in  
18 violation of subsection (g) shall be immediately removed from  
19 the vehicle and taken into custody. The vehicle, regardless of  
20 ownership or possessory interest of the operator or person  
21 present in the vehicle, except when the owner of the vehicle  
22 or another family member of the owner is present in the  
23 vehicle and presents a valid driver's license, shall be  
24 impounded by any duly sworn law enforcement officer pursuant  
25 to Section 32-6-19(c). If there is an emergency or medical

1 necessity jeopardizing life or limb, the law enforcement  
2 officer may elect not to impound the vehicle.

3 (2) A violation of subsection (g) on the first  
4 offense is a Class A misdemeanor and punishable as provided by  
5 law. In addition, the time the defendant is required to use an  
6 ignition interlock device shall be extended by six months.  
7 Upon second conviction of a violation of subsection (g), the  
8 sentence shall include a mandatory sentence, which is not  
9 subject to suspension or probation, of imprisonment in the  
10 county or municipal jail for not less than 48 hours and the  
11 time the defendant is required to use an ignition interlock  
12 device shall be extended by six months. Upon a third or  
13 subsequent conviction of a violation of subsection (g), the  
14 sentence shall include a mandatory sentence, which is not  
15 subject to suspension or probation, of imprisonment in the  
16 county or municipal jail for not less than five days and the  
17 time the defendant shall be required to use an ignition  
18 interlock device shall be extended by one year.

19 (j) No person shall blow into an ignition interlock  
20 device or start a motor vehicle equipped with the device for  
21 the purpose of providing an operable motor vehicle to a person  
22 who is prohibited from operating a motor vehicle without an  
23 ignition interlock device.

1           (k) No person shall intentionally attempt to tamper  
 2 with, defeat, or circumvent the operation of an ignition  
 3 interlock device.

4           (1) Any person convicted of a violation of this  
 5 section other than by law within subsection (g) shall be  
 6 punished by imprisonment for not more than six months or a  
 7 fine of not more than five hundred dollars (\$500), or both.

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

13           Section 4. Although this bill would have as its  
 14 purpose or effect the requirement of a new or increased  
 15 expenditure of local funds, the bill is excluded from further  
 16 requirements and application under Amendment 621, now  
 17 appearing as Section 111.05 of the Official Recompilation of  
 18 the Constitution of Alabama of 1901, as amended, because the  
 19 bill defines a new crime or amends the definition of an  
 20 existing crime.

21           Section 5. This act shall be known and may be cited  
 22 as the "Matthew John Dahl DUI Prevention Act."

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



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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 05-MAY-11, as amended.

Greg Pappas  
Clerk

Senate

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02-JUN-11

Amended and Passed

House

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02-JUN-11

Concurred in Sen-  
ate Amendment