

1 HB481
2 128387-1
3 By Representative Poole
4 RFD: Public Safety and Homeland Security
5 First Read: 07-APR-11

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8 SYNOPSIS: Under existing law, a person convicted of
9 driving under the influence is subject to certain
10 penalties of increasing severity based on
11 subsequent convictions.

12 Existing law does not require a person
13 convicted of driving under the influence to have
14 installed and operating an ignition interlock
15 device on any motor vehicle driven by the offender
16 for certain periods of time.

17 This bill would require under certain
18 conditions for a person convicted of driving under
19 the influence to have installed and operating an
20 ignition interlock device on any motor vehicle
21 driven by the offender for increasing periods of
22 time based on a conviction or subsequent
23 convictions.

24 This bill would also require as condition
25 for bail after an arrest for a second or subsequent
26 violation that a defendant have an ignition
27 interlock device installed.

1 This bill would require the Department of
2 Forensic Sciences to certify ignition interlock
3 devices. The Department of Public Safety would be
4 required to issue restricted driver's licenses for
5 persons required to drive only with an ignition
6 interlock device and would authorize a fee for the
7 issuance of the license and reinstatement of a
8 regular license.

9 This bill would also indemnify the state
10 from liability related to the installation of the
11 devices.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

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

1 the requirement of a new or increased expenditure of local
2 funds within the meaning of Amendment 621 of the Constitution
3 of Alabama of 1901, now appearing as Section 111.05 of the
4 Official Recompilation of the Constitution of Alabama of 1901,
5 as amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 32-5A-191 of the Code of Alabama
8 1975, is amended to read as follows:

9 "§32-5A-191.

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

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

14 "(2) Under the influence of alcohol;

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

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

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

24 "(b) A person who is under the age of 21 years shall
25 not drive or be in actual physical control of any vehicle if
26 there is .02 percentage or more by weight of alcohol in his or
27 her blood. The Department of Public Safety shall suspend or

1 revoke the driver's license of any person, including, but not
2 limited to, a juvenile, child, or youthful offender, convicted
3 or adjudicated of, or subjected to a finding of delinquency
4 based on this subsection. Notwithstanding the foregoing, upon
5 the first violation of this subsection by a person whose blood
6 alcohol level is between .02 and .08, the person's driver's
7 license or driving privilege shall be suspended for a period
8 of 30 days in lieu of any penalties provided in subsection (e)
9 of this section and there shall be no disclosure, other than
10 to courts, law enforcement agencies, and the person's
11 employer, by any entity or person of any information,
12 documents, or records relating to the person's arrest,
13 conviction, or adjudication of or finding of delinquency based
14 on this subsection.

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

24 "(c) (1) A school bus or day care driver shall not
25 drive or be in actual physical control of any vehicle while in
26 performance of his or her duties if there is greater than .02
27 percentage by weight of alcohol in his or her blood. A person

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

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

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

24 "(e) Upon first conviction, a person violating this
25 section shall be punished by imprisonment in the county or
26 municipal jail for not more than one year, or by fine of not
27 less than six hundred dollars (\$600) nor more than two

1 thousand one hundred dollars (\$2,100), or by both a fine and
2 imprisonment. In addition, on a first conviction, the Director
3 of Public Safety shall suspend the driving privilege or
4 driver's license of the person convicted for a period of 90
5 days and the offender may be required to have an ignition
6 interlock device installed and operating on the designated
7 motor vehicle driven by the offender for a period of one year
8 or, in lieu of suspension of driving privilege, the person,
9 upon proof of hardship or verified employment, may be required
10 to have an ignition interlock device installed and operating
11 on the designated motor vehicle driven by the offender for a
12 period of 180 days from the date of issuance of a driver's
13 license indicating that the person's driving privileges are
14 subject to the condition of the installation and use of a
15 certified ignition interlock device on a motor vehicle. Any
16 person granted this privilege shall not be eligible for
17 indigent status or access to the Alabama Interlock Indigent
18 Fund. If, on a first conviction, the person provides blood
19 alcohol concentration of 0.15 or greater or any person
20 refusing to provide a blood alcohol concentration, or if a
21 child under the age of 14 years was present in the vehicle at
22 the time of the offense, or if someone else other than the
23 offender was injured at the time of the offense, the Director
24 of the Department of Public Safety shall suspend the driving
25 privilege or driver's license of the person convicted for a
26 period of 90 days and the person shall be required to have an
27 ignition interlock device installed and operating on the

1 designated motor vehicle driven by the offender for a period
2 of two years from the date of issuance of a driver's license
3 indicating that the person's driving privileges are subject to
4 the condition of the installation and use of a certified
5 ignition interlock device on a motor vehicle.

6 "(f) On a second conviction within a five-year
7 period, a person convicted of violating this section shall be
8 punished by a fine of not less than one thousand one hundred
9 dollars (\$1,100) nor more than five thousand one hundred
10 dollars (\$5,100) and by imprisonment, which may include hard
11 labor in the county or municipal jail for not more than one
12 year. The sentence shall include a mandatory sentence, which
13 is not subject to suspension or probation, of imprisonment in
14 the county or municipal jail for not less than five days or
15 community service for not less than 30 days. In addition the
16 Director of Public Safety shall revoke the driving privileges
17 or driver's license of the person convicted for a period of
18 one year 90 days, and the offender shall be required to have
19 an ignition interlock device installed and operating on the
20 designated motor vehicle driven by the offender for a period
21 of two years from the date of issuance of a driver's license
22 indicating that the person's driving privileges are subject to
23 the condition of the installation and use of a certified
24 ignition interlock device on a motor vehicle.

25 "(g) On a third conviction, a person convicted of
26 violating this section shall be punished by a fine of not less
27 than two thousand one hundred dollars (\$2,100) nor more than

1 ten thousand one hundred dollars (\$10,100) and by
2 imprisonment, which may include hard labor, in the county or
3 municipal jail for not less than 60 days nor more than one
4 year, to include a minimum of 60 days which shall be served in
5 the county or municipal jail and cannot be probated or
6 suspended. In addition, the Director of Public Safety shall
7 revoke the driving privilege or driver's license of the person
8 convicted for a period of ~~three years~~ 180 days and the
9 offender shall be required to have an ignition interlock
10 device installed and operating on the designated motor vehicle
11 driven by the offender for a period of three years from the
12 date of issuance of a driver's license indicating that the
13 person's driving privileges are subject to the condition of
14 the installation and use of a certified ignition interlock
15 device on a motor vehicle.

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

1 shall be a minimum mandatory sentence of 10 days which shall
2 be served in the county jail. The remainder of the sentence
3 may be suspended or probated, but only if as a condition of
4 probation the defendant enrolls and successfully completes a
5 state certified chemical dependency program recommended by the
6 court referral officer and approved by the sentencing court.
7 Where probation is granted, the sentencing court may, in its
8 discretion, and where monitoring equipment is available, place
9 the defendant on house arrest under electronic surveillance
10 during the probationary term. In addition to the other
11 penalties authorized, the Director of Public Safety shall
12 revoke the driving privilege or driver's license of the person
13 convicted for a period of ~~five years~~ one year and the offender
14 shall be required to have an ignition interlock device
15 installed and operating on the designated motor vehicle driven
16 by the offender for a period of five years from the date of
17 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 "The Alabama habitual felony offender law shall not
22 apply to a conviction of a felony pursuant to this subsection,
23 and a conviction of a felony pursuant to this subsection shall
24 not be a felony conviction for purposes of the enhancement of
25 punishment pursuant to Alabama's habitual felony offender law.

26 "(i) In addition to the penalties provided herein,
27 any person convicted of violating this section shall be

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

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

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

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

1 two hundred dollars (\$200) of the fine collected for any
2 conviction shall be deposited to the State Treasury with the
3 first one hundred dollars (\$100) collected for any conviction
4 credited to the Alabama Chemical Testing Training and
5 Equipment Trust Fund and the second one hundred dollars (\$100)
6 for any conviction credited to the Impaired Drivers Trust Fund
7 after deducting five percent of the one hundred dollars (\$100)
8 for administrative costs and depositing this amount in the
9 general fund of the municipality. The second three hundred
10 dollars (\$300) of the fine collected for a first conviction,
11 the second eight hundred dollars (\$800) collected for a second
12 conviction, the second one thousand eight hundred dollars
13 (\$1,800) collected for a third conviction, and the second
14 three thousand eight hundred dollars (\$3,800) collected for a
15 fourth conviction shall be divided with 50 percent of the
16 funds collected to be deposited to the State Treasury to be
17 credited to the State General Fund and 50 percent deposited as
18 otherwise provided by law for municipal ordinance violations.
19 Any amounts collected over these amounts shall be deposited as
20 otherwise provided by law for municipal ordinance violations.
21 Notwithstanding any provision of law to the contrary, 90
22 percent of any fine assessed and collected for any DUI offense
23 charged by municipal ordinance violation in district or
24 circuit court shall be computed only on the amount assessed
25 over the minimum fine authorized, and upon collection shall be
26 distributed to the municipal general fund with the remaining
27 10 percent distributed to the State General Fund.

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

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

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

20 "(o) A prior conviction within a five-year period
21 for driving under the influence of alcohol or drugs from this
22 state, a municipality within this state, or another state or
23 territory or a municipality of another state or territory
24 shall be considered by a court for imposing a sentence
25 pursuant to this section.

26 "(p) Any person convicted of driving under the
27 influence of alcohol, or a controlled substance, or both, or

1 any substance which impairs the mental or physical faculties
2 in violation of this section, a municipal ordinance adopting
3 this section, or a similar law from another state or territory
4 or a municipality of another state or territory more than once
5 in a five-year period shall have his or her motor vehicle
6 registration for all vehicles owned by the repeat offender
7 suspended by the Alabama Department of Revenue for the
8 duration of the offender's driver's license suspension period,
9 unless such action would impose an undue hardship to any
10 individual, not including the repeat offender, who is
11 completely dependent on the motor vehicle for the necessities
12 of life, including any family member of the repeat offender
13 and any co-owner of the vehicle or, in the case of a repeat
14 offender, if the repeat offender has a functioning ignition
15 interlock device installed on the designated vehicle for the
16 duration of the offender's driver's license suspension period.

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

22 "(1) Forty percent to the Alabama Interlock Indigent
23 Fund.

24 "(2) Twenty-five percent to the court of
25 jurisdiction.

26 "(3) Twenty percent to the Department of Public
27 Safety.

1 "(4) Fifteen percent to the district attorney of
2 jurisdiction.

3 "(r) The defendant shall designate the vehicle to be
4 used by identifying the vehicle by the vehicle identification
5 number to the court.

6 "(s) (1) Any person who is required to comply with
7 the ignition interlock provisions of this section as a
8 condition of restoration or reinstatement of his or her
9 driver's license, shall only operate the designated vehicle
10 equipped with a functioning ignition interlock device for the
11 period of time consistent with the offense for which he or she
12 was convicted as provided for in this section.

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

18 "(t) (1) The Department of Public Safety may set a
19 fee of not more than one hundred fifty dollars (\$150) for the
20 issuance of a driver's license indicating that the person's
21 driving privileges are subject to the condition of the
22 installation and use of a certified ignition interlock device
23 on a motor vehicle. Fifteen percent of the fee shall be
24 distributed to the general fund of the county where the person
25 was convicted to be utilized for law enforcement purposes. In
26 addition, at the end of the time the person's driving
27 privileges are subject to the above conditions, the department

1 shall set a fee of not more than seventy-five dollars (\$75) to
2 reissue a regular driver's license. The fee shall be deposited
3 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

4 "(2) The defendant shall provide proof of
5 installation of an approved ignition interlock device to the
6 Department of Public Safety as a condition of the issuance of
7 a restricted driver's license.

8 "(3) Any ignition interlock driving violation
9 committed by the offender during the mandated ignition
10 interlock period shall extend the duration of ignition
11 interlock use for six months from the date of violation.
12 Ignition interlock driving violations include any of the
13 following:

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

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

19 "c. Failure to comply with the servicing or
20 calibration requirements of the ignition interlock device
21 every 30 days."

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

24 §32-5A-191.4.

25 (a) As used in Section 32-5A-191, the term,
26 "ignition interlock device" means a constant monitoring device
27 that prevents a motor vehicle from being started at any time

1 without first determining the equivalent blood alcohol level
2 of the operator through the taking of a breath sample for
3 testing. The system shall be calibrated so that the motor
4 vehicle may not be started if the blood alcohol level of the
5 operator, as measured by the test, reaches a blood alcohol
6 concentration level of 0.02.

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

14 (c) The Department of Forensic Sciences shall
15 formulate and promulgate rules for the proper approval,
16 installation, and use of ignition interlock devices. The
17 department shall also maintain and make public the list of
18 approved ignition interlock devices.

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

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

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

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
26 ignition interlock provider as provided in this subsection.
27 Criteria for determining indigency shall be the same criteria

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

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

17 (5) All interlock providers shall be required to pay
18 one and one-half percent of all payments collected to the
19 Alabama Interlock Indigent Fund in the State Treasury. All of
20 the money in the fund shall be used to reimburse ignition
21 interlock device providers who have installed devices in
22 vehicles of indigent persons pursuant to court orders issued
23 under this section. No provider shall be reimbursed for an
24 interlock device installed without the completed affidavit of
25 substantial hardship and the subsequent order of the court
26 granting indigency status. Payments to interlock device
27 providers pursuant to this subdivision shall be made every

1 three months. If the amount of money in the fund at the time
2 payments are made is not sufficient to pay all requests for
3 reimbursement submitted during that three-month period, the
4 Comptroller shall make payments on a pro rata basis and those
5 payments shall be considered payment in full for the requests
6 submitted. At the end of each fiscal year, all monies above
7 \$100,000 remaining in the Alabama Interlock Indigent Fund
8 shall be divided as follows:

9 a. Thirty percent to the Department of Public
10 Safety.

11 b. Twenty percent to the Department of Forensic
12 Sciences.

13 c. Thirty percent to the District Attorneys
14 Association.

15 d. Twenty percent to the Office of Prosecution
16 Services.

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

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

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

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

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

22 (2) A violation of subsection (h) on the first
23 offense is a Class A misdemeanor and punishable as provided by
24 law. In addition, the time the defendant is required to use an
25 ignition interlock device shall be extended by six months.
26 Upon second conviction of a violation of subsection (h), the
27 sentence shall include a mandatory sentence, which is not

1 subject to suspension or probation, of imprisonment in the
2 county or municipal jail for not less than 48 hours and the
3 time the defendant is required to use an ignition interlock
4 device shall be extended by six months. Upon a third or
5 subsequent conviction of a violation of subsection (h), the
6 sentence shall include a mandatory sentence, which is not
7 subject to suspension or probation, of imprisonment in the
8 county or municipal jail for not less than five days and the
9 time the defendant shall be required to use an ignition
10 interlock device shall be extended by one year.

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

16 (k) No person shall intentionally attempt to tamper
17 with, defeat, or circumvent the operation of an ignition
18 interlock device.

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

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

1 Section 4. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

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