

1 SB170
2 144226-3
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 07-FEB-13

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8 SYNOPSIS: Existing law provides penalties for driving
9 while under the influence of alcohol or controlled
10 substances.

11 This bill would further define the offense
12 of driving under the influence.

13 Under existing law, a person may be charged
14 with driving under the influence when there is a
15 certain percentage of alcohol in the person's blood
16 or if the person is under the influence of a
17 controlled substance that impairs the mental or
18 physical faculties of the person to the extent that
19 it renders him or her incapable of safely driving.

20 This bill would define "under the influence"
21 for the purpose of the offense of driving under the
22 influence to mean not having the normal use of
23 mental and physical faculties by reason of the
24 introduction into the body of alcohol, a controlled
25 substance, a drug, or any other substance, or a
26 combination of two or more of those substances.

1 The bill would consolidate the charges of
2 driving under the influence to specify that a
3 person may be charged with driving under the
4 influence if the person is under the influence of
5 any substance or substances which render the person
6 incapable of safe driving.

7 This bill also would provide that a person
8 may be charged with driving under the influence if
9 he or she has a measurable amount of specified
10 substances in his or her body unless the person has
11 a valid prescription for use of the substance or is
12 otherwise authorized to use the substance.

13 This bill would further increase the minimum
14 mandatory sentence for a fourth or subsequent
15 violation of the law from 10 days to 90 days.

16 Existing law provides that a prior
17 conviction within a five-year period for driving
18 while under the influence from this state, a
19 municipality within this state, or another state or
20 territory or a municipality of another state or
21 territory would be considered by a court when
22 imposing a sentence.

23 This bill would remove the requirement that
24 a prior conviction considered by a court when
25 imposing a sentence would only be a prior
26 conviction within a five-year period and would
27 provide that any prior conviction for driving while

1 impaired from this state, a municipality within
2 this state, or another state or territory or a
3 municipality of another state or territory, with or
4 without the jurisdiction having adopted the law of
5 Alabama, so long as the offense was in violation of
6 the law in the respective jurisdiction, would be
7 considered by a court for imposing a sentence.

8 Existing law provides that a person who
9 drives a motor vehicle while his or her driver's
10 license or driving privilege is cancelled, denied,
11 suspended, or revoked is guilty of a misdemeanor
12 punishable by a minimum fine of \$100 up to a
13 maximum of \$500 and imprisonment of no more than
14 180 days.

15 This bill would provide that a person
16 convicted for a third or subsequent time for
17 operating a motor vehicle while his or her license
18 or driving privilege is cancelled, denied,
19 suspended, or revoked when his or her license or
20 driving privilege was cancelled, denied, suspended,
21 or revoked as a consequence of a DUI-related
22 offense would be guilty of a Class A misdemeanor
23 with a minimum mandatory sentence of 30 days in
24 jail.

25 This bill would also delete a redundant
26 subsection providing additional penalties when a

1 child under 14 years of age was in the vehicle at
2 the time of a DUI offense.

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

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 32-5A-191 of the Code of Alabama
2 1975, as last amended by Act 2012-363 of the 2012 Regular
3 Session, relating to driving while under the influence; to
4 further define the offense and to define the term under the
5 influence for the purpose of unsafe driving; to prohibit a
6 person from driving who has a measurable amount of specified
7 substances in the person's body; to further provide for a
8 minimum mandatory sentence for a fourth or subsequent
9 violation; to remove the requirement that a prior conviction
10 considered by the court when imposing a sentence would only be
11 a prior conviction within a five-year period; to further
12 provide for the offenses that can be considered by a court
13 when imposing a sentence for multiple violations; to amend
14 Section 32-6-19 of the Code of Alabama 1975, relating to
15 violations for driving while license or driving privilege is
16 cancelled, denied, suspended, or revoked; to provide that a
17 person convicted for a third or subsequent time when his or
18 her license or driving privilege was cancelled, denied,
19 suspended, or revoked as a consequence of a DUI-related
20 offense would be guilty of a Class A misdemeanor with a
21 minimum mandatory sentence of 30 days in jail; and in
22 connection therewith would have as its purpose or effect the
23 requirement of a new or increased expenditure of local funds
24 within the meaning of Amendment 621 of the Constitution of
25 Alabama of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,
27 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, as last amended by Act 2012-363 of the 2012 Regular
4 Session, is amended to read as follows:

5 "§32-5A-191.

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

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

10 ~~"(2) Under the influence of alcohol;~~

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

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

17 ~~"(5) (2) a. Under the influence of any substance
18 which impairs the mental or physical faculties of such person
19 or substances to a degree which renders him or her incapable
20 of safely driving.~~

21 "b. For the purposes of this subdivision, the term
22 "under the influence" means either of the following:

23 "1. Not having the normal use of mental or physical
24 faculties by reason of the introduction into the body of
25 alcohol, a controlled substance, a drug, or any other
26 substance, or combination of two or more of those substances;
27 or

1 "2. There is greater than five nanograms of
2 Delta-9-tetrahydrocannabinol (THC) per milliliter of blood or
3 any measurable amount of any of the following substances in
4 the person's body:

5 "(i) Alprazolam.

6 "(ii) Hydrocodone.

7 "(iii) Amphetamine/methamphetamine.

8 "(iv) Carisoprodol/meprobamate.

9 "(v) Diazepam/nordiazepam.

10 "(vi) Morphine.

11 "(vii) Cocaine and metabolites.

12 "(viii) Methadone.

13 "(ix) Oxycodone.

14 "(x) Clonazepam.

15 "(xi) Zolpidem.

16 "It is an affirmative defense to a violation of this
17 subparagraph 2 if the person has a lawful prescription for the
18 substance or is otherwise authorized by law to use the
19 substance.

20 "(b) A person who is under the age of 21 years shall
21 not drive or be in actual physical control of any vehicle if
22 there is 0.02 percent or more by weight of alcohol in his or
23 her blood. The Department of Public Safety shall suspend or
24 revoke the driver's license of any person, including, but not
25 limited to, a juvenile, child, or youthful offender, convicted
26 or adjudicated of, or subjected to a finding of, delinquency
27 based on this subsection. Notwithstanding the foregoing, upon

1 the first violation of this subsection by a person whose blood
2 alcohol level is between 0.02 and 0.08, the person's driver's
3 license or driving privilege shall be suspended for a period
4 of 30 days in lieu of any penalties provided in subsection (e)
5 of this section, and there shall be no disclosure, other than
6 to courts, law enforcement agencies, and the person's
7 employer, by any entity or person of any information,
8 documents, or records relating to the person's arrest,
9 conviction, or adjudication of or finding of delinquency based
10 on this subsection.

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

20 "(c) (1) A school bus or day care driver shall not
21 drive or be in actual physical control of any vehicle while in
22 performance of his or her duties if there is greater than 0.02
23 percent by weight of alcohol in his or her blood. A person
24 convicted pursuant to this subsection shall be subject to the
25 penalties provided by this section, except that on the first
26 conviction the Director of Public Safety shall suspend the

1 driving privilege or driver's license for a period of one
2 year.

3 "(2) A person shall not drive or be in actual
4 physical control of a commercial motor vehicle, as defined in
5 49 CFR Part 383.5 of the Federal Motor Carrier Safety
6 Regulations as adopted pursuant to Section 32-9A-2, if there
7 is 0.04 percent or greater by weight of alcohol in his or her
8 blood. Notwithstanding the other provisions of this section,
9 the commercial driver's license or commercial driving
10 privilege of a person convicted of violating this subdivision
11 shall be disqualified for the period provided in accordance
12 with 49 CFR Part 383.51, as applicable, and the person's
13 regular driver's license or privilege to drive a regular motor
14 vehicle shall be governed by the remainder of this section if
15 the person is guilty of a violation of another provision of
16 this section.

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

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

1 driver's license of the person convicted for a period of 90
2 days. If, on a first conviction, any person refusing to
3 provide a blood alcohol concentration or if a child under the
4 age of 14 years was present in the vehicle at the time of the
5 offense or if someone else besides the offender was injured at
6 the time of the offense, the Director of the Department of
7 Public Safety shall suspend the driving privilege or driver's
8 license of the person convicted for a period of 90 days and
9 the person 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 two years from the date
12 of issuance of a driver's license indicating that the person's
13 driving privileges are subject to the condition of the
14 installation and use of a certified ignition interlock device
15 on a motor vehicle.

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

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

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

26 "(h) On a fourth or subsequent conviction, a person
27 convicted of violating this section shall be guilty of a Class

1 C felony and punished by a fine of not less than four thousand
2 one hundred dollars (\$4,100) nor more than ten thousand one
3 hundred dollars (\$10,100) and by imprisonment of not less than
4 one year and one day nor more than 10 years. Any term of
5 imprisonment may include hard labor for the county or state,
6 and where imprisonment does not exceed three years confinement
7 may be in the county jail. Where imprisonment does not exceed
8 one year and one day, confinement shall be in the county jail.
9 The minimum sentence shall include a term of imprisonment for
10 at least one year and one day, provided, however, that there
11 shall be a minimum mandatory sentence of ~~10~~ 90 days which
12 shall be served in the county jail. The remainder of the
13 sentence may be suspended or probated, but only if as a
14 condition of probation the defendant enrolls and successfully
15 completes a state certified chemical dependency program
16 recommended by the court referral officer and approved by the
17 sentencing court. Where probation is granted, the sentencing
18 court may, in its discretion, and where monitoring equipment
19 is available, place the defendant on house arrest under
20 electronic surveillance during the probationary term. In
21 addition to the other penalties authorized, the Director of
22 Public Safety shall revoke the driving privilege or driver's
23 license of the person convicted for a period of five years and
24 the offender shall be required to have an ignition interlock
25 device installed and operating on the designated motor vehicle
26 driven by the offender for a period of five years from the
27 date of issuance of a driver's license indicating that the

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

4 "The Alabama habitual felony offender law shall not
5 apply to a conviction of a felony pursuant to this subsection,
6 and a conviction of a felony pursuant to this subsection shall
7 not be a felony conviction for purposes of the enhancement of
8 punishment pursuant to Alabama's habitual felony offender law.

9 "(i) When any person convicted of violating this
10 section is found to have had at least 0.15 percent or more by
11 weight of alcohol in his or her blood while operating or being
12 in actual physical control of a vehicle, he or she shall be
13 sentenced to at least double the minimum punishment that the
14 person would have received if he or she had had less than 0.15
15 percent by weight of alcohol in his or her blood. If the
16 adjudicated offense is a misdemeanor, the minimum punishment
17 shall be imprisonment for one year, all of which may be
18 suspended except as otherwise provided for in Section
19 32-5A-191(f) and Section 32-5A-191 (g). In addition, the
20 Director of Public Safety shall revoke the driving privileges
21 or driver's license of the person convicted for a period of
22 not less than one year.

23 "(j) When any person over the age of 21 years is
24 convicted of violating this section and it is found that a
25 child under the age of 14 years was present in the vehicle at
26 the time of the offense, the person shall be sentenced to at
27 least double the minimum punishment that the person would have

1 received if the child had not been present in the motor
2 vehicle.

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

15 "(l) Neither reckless driving nor any other traffic
16 infraction is a lesser included offense under a charge of
17 driving under the influence of alcohol or of a controlled
18 substance.

19 "(m) Except for fines collected for violations of
20 this section charged pursuant to a municipal ordinance, fines
21 collected for violations of this section shall be deposited to
22 the State General Fund; however, beginning October 1, 1995, of
23 any amount collected over two hundred fifty dollars (\$250) for
24 a first conviction, over five hundred dollars (\$500) for a
25 second conviction within five years, over one thousand dollars
26 (\$1,000) for a third conviction within five years, and over
27 two thousand dollars (\$2,000) for a fourth or subsequent

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

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

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

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

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

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

24 ~~"(q) A prior conviction within a five-year period
25 for driving under the influence of alcohol or drugs from this
26 state, a municipality within this state, or another state or
27 territory or a municipality of another state or territory~~

1 ~~shall be considered by a court for imposing a sentence~~
2 ~~pursuant to this section.~~

3 "(p) Any prior conviction for an offense of driving
4 while impaired from this state, a municipality within this
5 state, or another state or territory or a municipality of
6 another state or territory, with or without the jurisdiction
7 having adopted the law of Alabama, so long as the offense was
8 in violation of the law in the respective jurisdiction,
9 including, but not limited to, the following offenses shall be
10 considered by a court for imposing a sentence pursuant to this
11 section:

12 "(1) Driving while the blood alcohol level of the
13 defendant was at or in excess of the legal limit imposed by
14 law of the jurisdiction in which the offense occurred at the
15 time the offense occurred.

16 "(2) Driving while under the influence of alcohol.

17 "(3) Driving while under the influence of a
18 controlled substance to a degree which renders him or her
19 incapable of safely driving.

20 "(4) Driving while under the combined influence of
21 alcohol and a controlled substance to a degree which renders
22 him or her incapable of safely driving.

23 "(5) Driving while under the influence of any
24 substance which impairs the mental or physical faculties of
25 such person to a degree which renders him or her incapable of
26 safely driving.

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

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

24 "(1) Forty percent to the Alabama Interlock Indigent
25 Fund.

26 "(2) Twenty-five percent to the court of
27 jurisdiction.

1 "(3) Twenty percent to the Department of Public
2 Safety.

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

5 "~~(t)~~(s) The defendant shall designate the vehicle to
6 be used by identifying the vehicle by the vehicle
7 identification number to the court.

8 "~~(u)~~(t) (1) Any person who is required to comply with
9 the ignition interlock provisions of this section as a
10 condition of restoration or reinstatement of his or her
11 driver's license, shall only operate the designated vehicle
12 equipped with a functioning ignition interlock device for the
13 period of time consistent with the offense for which he or she
14 was convicted as provided for in this section.

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

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

1 addition, at the end of the time the person's driving
2 privileges are subject to the above conditions, the department
3 shall set a fee of not more than seventy-five dollars (\$75) to
4 reissue a regular driver's license. The fee shall be deposited
5 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

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

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

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

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

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

24 "~~(w)~~ (v) Nothing in this section and Section
25 32-5A-191.4 shall require an employer to install an ignition
26 interlock device in a vehicle owned or operated by the
27 employer for use by an employee required to use the device as

1 a condition of driving pursuant to this section and Section
2 32-5A-191.4."

3 Section 2. Section 32-6-19 of the Code of Alabama
4 1975, is amended to read as follows:

5 "§32-6-19.

6 "(a) (1) ~~Any~~ Except as otherwise provided in
7 subdivision (4), any person whose driver's or chauffeur's
8 license issued in this or another state or whose driving
9 privilege as a nonresident has been cancelled, denied,
10 suspended, or revoked as provided in this article and who
11 drives any motor vehicle upon the highways of this state while
12 his or her license or privilege is cancelled, denied,
13 suspended, or revoked shall be guilty of a misdemeanor and
14 upon conviction shall be punished by a fine of not less than
15 one hundred dollars (\$100) nor more than five hundred dollars
16 (\$500), and in addition thereto may be imprisoned for not more
17 than 180 days. In addition to all fines, fees, costs, and
18 punishments prescribed by law, there shall be imposed or
19 assessed an additional penalty of fifty dollars (\$50) to be
20 placed in the Traffic Safety Trust Fund and the Peace Officers
21 Standards and Training Fund. Also, at the discretion of the
22 Director of Public Safety, the person's license may be revoked
23 for an additional revocation period of six months.

24 "(2) The additional penalty of fifty dollars (\$50)
25 shall be assessed in all criminal and quasi-criminal
26 proceedings in municipal, district, and circuit courts,
27 including, but not limited to, final bond forfeitures,

1 municipal ordinances violations, wherein the defendant is
2 adjudged guilty or pleads guilty and in all juvenile
3 delinquency and youthful offender adjudications.

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

7 "(4) In addition to the other penalties provided in
8 this subsection, upon a third or subsequent conviction of a
9 violation of this subsection, a person convicted of violating
10 this subsection shall be guilty of a Class A misdemeanor and
11 shall receive a minimum mandatory sentence of 30 days in jail.

12 "(b) Notwithstanding any provision of law, any
13 person who operates a motor vehicle upon the highways of this
14 state while his or her driver's license or driving privilege
15 is revoked for any reason under the laws of this state or
16 similar laws of any other state or territory, or while his or
17 her driver's license or driving privilege is suspended as a
18 consequence of a DUI-related offense, including, but not
19 limited to, being adjudicated delinquent or a youthful
20 offender based on a DUI-related offense, or while his or her
21 driver's license or driving privilege is suspended as a result
22 of failure to comply with the implied consent law of this
23 state or laws of another state, or who has been adjudicated a
24 delinquent child or a youthful offender based on an offense
25 that if the person had been an adult would have been a
26 conviction of driving under the influence of a controlled
27 substance or alcohol or failure to comply with the implied

1 consent law, shall be immediately removed from the vehicle.
2 The vehicle, regardless of ownership or possessory interest of
3 the operator or person present in the vehicle, except when the
4 owner of the vehicle or another family member of the owner is
5 present in the vehicle and presents a valid driver's license,
6 shall be impounded by any duly sworn law enforcement officer.
7 If there is an emergency or medical necessity jeopardizing
8 life or limb, the law enforcement officer may elect not to
9 impound the vehicle.

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

19 "(2) Any towing service or towing company removing
20 the vehicle at the direction of the law enforcement officer in
21 accordance with this section shall have a lien on the motor
22 vehicle for all reasonable and customary fees relating to the
23 towing and storage of the motor vehicle. This lien shall be
24 subject and subordinate to all prior security interests and
25 other liens affecting the vehicle whether evidenced on the
26 certificate of title or otherwise. Notice of any sale or other
27 proceedings relative to this lien shall be given to the

1 holders of all prior security interest or other liens by
2 official service of process at least 15 days prior to any sale
3 or other proceedings."

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

12 Section 4. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.