

1 HB381
2 155906-4
3 By Representatives Farley, Wood, Bracy, Hammon, Newton,
4 Shiver, Faust, Brown and Standridge
5 RFD: Public Safety and Homeland Security
6 First Read: 30-JAN-14

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8 SYNOPSIS: Under existing law, certain persons
9 convicted of driving under the influence are
10 required to have an ignition interlock device
11 installed on their motor vehicles as a condition of
12 driving.

13 This bill would authorize the Director of
14 Public Safety to stay the required 90-day
15 suspension of the driver's license upon a first
16 conviction for driving under the influence if the
17 offender has an ignition interlock device installed
18 on his or her motor vehicle.

19 This bill would authorize the director to
20 reduce the suspension period for a subsequent
21 offense if the ignition interlock device is
22 installed.

23 This bill would require certain offenders to
24 have the ignition interlock device installed.

25 This bill would provide further for the
26 distribution of the fee associated with monitoring
27 the interlock device.

1 This bill would provide for installation of
2 the device where the offender is adjudged indigent.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Sections 32-5A-191, 32-5A-191.4, 32-5A-301,
9 and 32-5A-304, Code of Alabama 1975, relating to driving under
10 the influence; to provide further for ignition interlock
11 devices on the automobiles of certain persons convicted of
12 driving under the influence; to provide further for the
13 distribution of the fee required of offenders for monitoring
14 the ignition interlock device; and to provide for installation
15 of the device where the offender is indigent.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 32-5A-191, 32-5A-191.4,
18 32-5A-301, and 32-5A-304, Code of Alabama 1975, are amended to
19 read as follows:

20 "§32-5A-191.

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

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

25 "(2) Under the influence of alcohol;

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

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

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

10 "(b) A person who is under the age of 21 years shall
11 not drive or be in actual physical control of any vehicle if
12 there is 0.02 percent or more by weight of alcohol in his or
13 her blood. The Department of Public Safety shall suspend or
14 revoke the driver's license of any person, including, but not
15 limited to, a juvenile, child, or youthful offender, convicted
16 or adjudicated of, or subjected to a finding of, delinquency
17 based on this subsection. Notwithstanding the foregoing, upon
18 the first violation of this subsection by a person whose blood
19 alcohol level is between 0.02 and 0.08, the person's driver's
20 license or driving privilege shall be suspended for a period
21 of 30 days in lieu of any penalties provided in subsection (e)
22 of this section, and there shall be no disclosure, other than
23 to courts, law enforcement agencies, the person's attorney of
24 record, and the person's employer, by any entity or person of
25 any information, documents, or records relating to the
26 person's arrest, conviction, or adjudication of or finding of
27 delinquency based on this subsection.

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

10 "(c) (1) A school bus or day care driver shall not
11 drive or be in actual physical control of any vehicle while in
12 performance of his or her duties if there is greater than 0.02
13 percent by weight of alcohol in his or her blood. A person
14 convicted pursuant to this subsection shall be subject to the
15 penalties provided by this section, except that on the first
16 conviction the Director of Public Safety shall suspend the
17 driving privilege or driver's license for a period of one
18 year.

19 "(2) A person shall not drive or be in actual
20 physical control of a commercial motor vehicle, as defined in
21 49 CFR Part 383.5 of the Federal Motor Carrier Safety
22 Regulations as adopted pursuant to Section 32-9A-2, if there
23 is 0.04 percent or greater by weight of alcohol in his or her
24 blood. Notwithstanding the other provisions of this section,
25 the commercial driver's license or commercial driving
26 privilege of a person convicted of violating this subdivision
27 shall be disqualified for the period provided in accordance

1 with 49 CFR Part 383.51, as applicable, and the person's
2 regular driver's license or privilege to drive a regular motor
3 vehicle shall be governed by the remainder of this section if
4 the person is guilty of a violation of another provision of
5 this section.

6 "(3) Any commutation of suspension or revocation
7 time as it relates to a court order, approval, and
8 installation of an ignition interlock device shall not apply
9 to commercial driving privileges or disqualifications.

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

14 "(e) Upon first conviction, a person violating this
15 section shall be punished by imprisonment in the county or
16 municipal jail for not more than one year, or by fine of not
17 less than six hundred dollars (\$600) nor more than two
18 thousand one hundred dollars (\$2,100), or by both a fine and
19 imprisonment. In addition, on a first conviction, the Director
20 of Public Safety shall suspend the driving privilege or
21 driver's license of the person convicted for a period of 90
22 days. The 90-day suspension shall be stayed if the offender
23 elects to have an approved ignition interlock device installed
24 and operating on the designated motor vehicle driven by the
25 offender for six months. The offender shall present proof of
26 installation of the approved ignition interlock device to the
27 Department of Public Safety and obtain an ignition interlock

1 restricted driver license. The remainder of the suspension
2 shall be commuted upon the successful completion of the
3 elected use, mandated use, or both, of the ignition interlock
4 device. If, on a first conviction, any person refusing to
5 provide a blood alcohol concentration or if a child under the
6 age of 14 years was ~~present~~ a passenger in the vehicle at the
7 time of the offense or if someone else besides the offender
8 was injured at the time of the offense, the Director of the
9 Department of Public Safety shall suspend the driving
10 privilege or driver's license of the person convicted for a
11 period of 90 days and the person 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. After a minimum
18 of 45 days of the license revocation or suspension pursuant to
19 Section 32-5A-304 or Section 32-5A-191, or both, is completed,
20 upon receipt of a court order from the convicting court, upon
21 issuance of an ignition interlock restricted driver license,
22 and upon proof of installation of an operational approved
23 ignition interlock device on the designated vehicle of the
24 person convicted, the mandated ignition interlock period of
25 two years provided in this subsection shall start and the
26 suspension period, revocation period, or both, as required
27 under this subsection shall be stayed. The remainder of the

1 driver license revocation period, suspension period, or both,
2 shall be commuted upon the successful completion of the period
3 of time in which the ignition interlock device is mandated to
4 be installed and operational.

5 (f) On a second conviction within a five-year
6 period, a person convicted of violating this section shall be
7 punished by a fine of not less than one thousand one hundred
8 dollars (\$1,100) nor more than five thousand one hundred
9 dollars (\$5,100) and by imprisonment, which may include hard
10 labor in the county or municipal jail for not more than one
11 year. The sentence shall include a mandatory sentence, which
12 is not subject to suspension or probation, of imprisonment in
13 the county or municipal jail for not less than five days or
14 community service for not less than 30 days. In addition the
15 Director of Public Safety shall revoke the driving privileges
16 or driver's license of the person convicted for a period of
17 one year and the offender 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. After a minimum
24 of 45 days of the license revocation or suspension pursuant to
25 Section 32-5A-304, Section 32-5A-191, or both, is completed,
26 upon receipt of a court order from the convicting court, upon
27 issuance of an ignition interlock restricted driver license,

1 and upon proof of installation or an operational approved
2 ignition interlock device on the designated vehicle of the
3 person convicted, the mandated ignition interlock period of
4 two years approved in this subsection shall start and the
5 suspension period, revocation period, or both, as required
6 under this subsection shall be stayed. The remainder of the
7 driver license revocation period, suspension period, or both,
8 shall be commuted upon the successful completion of the period
9 of time in which the ignition interlock device is mandated to
10 be installed and operational.

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

1 vehicle. After a minimum of 180 days of the license revocation
2 or suspension pursuant to Section 32-5A-304, Section
3 32-5A-191, or both, is completed, upon receipt of a court
4 order from the convicting court, upon issuance of an ignition
5 interlock restricted driver license, and upon proof of
6 installation of an operational approved ignition interlock
7 device on the designated vehicle of the person convicted, the
8 mandated ignition interlock period of three years provided in
9 this subsection shall start and the suspension period,
10 revocation period, or both, as required under this subsection
11 shall be stayed. The remainder of the driver license
12 revocation period, suspension period, or both, shall be
13 commuted upon the successful completion of the period of time
14 in which the ignition interlock device is mandated to be
15 installed and operational.

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 and the offender shall be
14 required to have an ignition interlock device installed and
15 operating on the designated motor vehicle driven by the
16 offender for a period of five years from the date of issuance
17 of a driver's license indicating that the person's driving
18 privileges are subject to the condition of the installation
19 and use of a certified ignition interlock device on a motor
20 vehicle. After a minimum of one year of the license revocation
21 or suspension pursuant to Section 32-5A-304, Section
22 32-5A-191, or both, is completed, upon receipt of a court
23 order from the convicting court, upon issuance of an ignition
24 interlock restricted driver license, and upon proof of
25 installation of an operational approved ignition interlock
26 device on the designated vehicle of the person convicted, the
27 mandated ignition interlock period of five years provided in

1 this subsection shall start and the suspension period,
2 revocation period, or both, as required under this subsection
3 shall be stayed. The remainder of the driver license
4 revocation period, suspension period, or both, shall be
5 commuted upon the successful completion of the period of time
6 in which the ignition interlock device is mandated to be
7 installed and operational.

8 "The Alabama habitual felony offender law shall not
9 apply to a conviction of a felony pursuant to this subsection,
10 and a conviction of a felony pursuant to this subsection shall
11 not be a felony conviction for purposes of the enhancement of
12 punishment pursuant to Alabama's habitual felony offender law.
13 However, prior misdemeanor or felony convictions for driving
14 under the influence may be considered as part of the
15 sentencing calculations or determinations under the Alabama
16 Sentencing Guidelines or rules promulgated by the Alabama
17 Sentencing Commission.

18 "(i) When any person convicted of violating this
19 section is found to have had at least 0.15 percent or more by
20 weight of alcohol in his or her blood while operating or being
21 in actual physical control of a vehicle, he or she shall be
22 sentenced to at least double the minimum punishment that the
23 person would have received if he or she had had less than 0.15
24 percent by weight of alcohol in his or her blood. Upon the
25 first violation of this subsection, the offender shall be
26 ordered by the court to have an ignition interlock device
27 installed and operating on his or her designated motor vehicle

1 for a period of two years from the date of issuance of an
2 ignition interlock-restricted driver's license. If the
3 adjudicated offense is a misdemeanor, the minimum punishment
4 shall be imprisonment for one year, all of which may be
5 suspended except as otherwise provided for in Section
6 32-5A-191(f) and Section 32-5A-191 (g). ~~In addition, the~~
7 ~~Director of Public Safety shall revoke the driving privileges~~
8 ~~or driver's license of the person convicted for a period of~~
9 ~~not less than one year.~~

10 "(j) When any person over the age of 21 years is
11 convicted of violating this section and it is found that a
12 child under the age of 14 years was ~~present~~ a passenger in the
13 vehicle at the time of the offense, the person shall be
14 sentenced to at least double the minimum punishment that the
15 person would have received if the child had not been ~~present~~ a
16 passenger in the motor vehicle.

17 "(k) (1) In addition to the penalties provided
18 herein, any person convicted of violating this section shall
19 be referred to the court referral officer for evaluation and
20 referral to appropriate community resources. The defendant
21 shall, at a minimum, be required to complete a DUI or
22 substance abuse court referral program approved by the
23 Administrative Office of Courts and operated in accordance
24 with provisions of the Mandatory Treatment Act of 1990,
25 Sections 12-23-1 to 12-23-19, inclusive. The Department of
26 Public Safety shall not reissue a driver's license to a person

1 convicted under this section without receiving proof that the
2 defendant has successfully completed the required program.

3 "(2) Upon conviction, the court shall notify the
4 Department of Public Safety if the person convicted is
5 required to install and maintain an approved ignition
6 interlock device. The department shall suspend or revoke a
7 person's driving privileges until completion of the mandatory
8 suspension or revocation period required by this section, and
9 clearance of all other suspensions, revocations,
10 cancellations, or denials, and proof of installation of an
11 approved ignition interlock device is presented to the
12 department. The department shall not reissue a driver's
13 license to a person who has been ordered by a court or is
14 required by law to have the ignition interlock device
15 installed until proof is presented that the person is eligible
16 for reinstatement of driving privileges. Upon presentation of
17 proof and compliance with all ignition interlock requirements,
18 the department shall issue a driver's license with a
19 restriction indicating that the licensee may operate a motor
20 vehicle only with the certified ignition interlock device
21 installed and properly operating. If the licensee fails to
22 maintain the approved ignition interlock device as required or
23 is otherwise not in compliance with any order of the court,
24 the court shall notify the department of the noncompliance and
25 the department shall suspend the person's driving privileges
26 until the department receives notification from the court that
27 the licensee is in compliance. The requirement that the

1 licensee use the ignition interlock device may be removed only
2 when the court of conviction confirms to the department that
3 the licensee is no longer subject to the ignition interlock
4 device requirement.

5 "(l) Neither reckless driving nor any other traffic
6 infraction is a lesser included offense under a charge of
7 driving under the influence of alcohol or of a controlled
8 substance.

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

1 Fund. Fines collected for violations of this section charged
2 pursuant to a municipal ordinance where the total fine is paid
3 at one time shall be deposited as follows: The first three
4 hundred fifty dollars (\$350) collected for a first conviction,
5 the first six hundred dollars (\$600) collected for a second
6 conviction within five years, the first one thousand one
7 hundred dollars (\$1,100) collected for a third conviction, and
8 the first two thousand one hundred dollars (\$2,100) collected
9 for a fourth or subsequent conviction shall be deposited to
10 the State Treasury with the first one hundred dollars (\$100)
11 collected for each conviction credited to the Alabama Chemical
12 Testing Training and Equipment Trust Fund and the second one
13 hundred dollars (\$100) to the Impaired Drivers Trust Fund
14 after deducting five percent of the one hundred dollars (\$100)
15 for administrative costs and depositing this amount in the
16 general fund of the municipality, and the balance credited to
17 the State General Fund. Any amounts collected over these
18 amounts shall be deposited as otherwise provided by law. Fines
19 collected for violations of this section charged pursuant to a
20 municipal ordinance, where the fine is paid on a partial or
21 installment basis, shall be deposited as follows: The first
22 two hundred dollars (\$200) of the fine collected for any
23 conviction shall be deposited to the State Treasury with the
24 first one hundred dollars (\$100) collected for any conviction
25 credited to the Alabama Chemical Testing Training and
26 Equipment Trust Fund and the second one hundred dollars (\$100)
27 for any conviction credited to the Impaired Drivers Trust Fund

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

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

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

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

14 "~~(q)~~ (p) A prior conviction within a five-year period
15 for driving under the influence of alcohol or drugs from this
16 state, a municipality within this state, or another state or
17 territory or a municipality of another state or territory
18 shall be considered by a court for imposing a sentence
19 pursuant to this section.

20 "~~(r)~~ (q) Any person convicted of driving under the
21 influence of alcohol, or a controlled substance, or both, or
22 any substance which impairs the mental or physical faculties
23 in violation of this section, a municipal ordinance adopting
24 this section, or a similar law from another state or territory
25 or a municipality of another state or territory more than once
26 in a five-year period shall have his or her motor vehicle
27 registration for all vehicles owned by the repeat offender

1 suspended by the Alabama Department of Revenue for the
2 duration of the offender's driver's license suspension period,
3 unless such action would impose an undue hardship to any
4 individual, not including the repeat offender, who is
5 completely dependent on the motor vehicle for the necessities
6 of life, including any family member of the repeat offender
7 and any co-owner of the vehicle or, in the case of a repeat
8 offender, if the repeat offender has a functioning ignition
9 interlock device installed on the designated vehicle for the
10 duration of the offender's driver's license suspension period.

11 ~~"(s)(r)(1)~~ Any person ordered by the court to have
12 an ignition interlock device installed on a designated
13 vehicle, and any person who elects to have the ignition
14 interlock device installed on a designated vehicle for the
15 purpose of reducing a period of suspension or revocation of
16 his or her driver's license, shall pay to the court, ~~during~~
17 for each of the first four months following his or her license
18 ~~is suspended~~ conviction or the first four months following the
19 installation of the ignition interlock device on his or her
20 vehicle, seventy-five dollars (\$75) per month, which shall be
21 divided as follows:

22 ~~"(1)a.~~ Forty ~~Forty-five~~ percent to the Alabama
23 Interlock Indigent Fund.

24 ~~"(2)b.~~ Twenty-five ~~Twenty~~ percent to the ~~court of~~
25 jurisdiction State Judicial Administration Fund administered
26 by the Administrative Office of Courts.

1 "~~(3)~~c. Twenty percent to the Highway Traffic Safety
2 Fund administered by the Department of Public Safety.

3 "~~(4)~~d. Fifteen percent to the ~~district attorney of~~
4 jurisdiction District Attorney's Solicitor Fund.

5 "(2) In addition to paying the court clerk
6 seventy-five dollars (\$75) per month for the first four months
7 following the conviction or the voluntary installation of the
8 ignition interlock device, the defendant shall pay all costs
9 associated with the installation, purchase, maintenance, or
10 lease of the ignition interlock devices to an approved
11 ignition interlock provider pursuant to the rules of the
12 Department of Forensic Sciences, unless the defendant is
13 subject to Section 32-5A-191.4(q)(4) during which he or she
14 shall pay one-half the cost for the available indigency
15 period.

16 "~~(t)~~(s) The defendant shall designate the vehicle to
17 be used by identifying the vehicle by the vehicle
18 identification number to the court. The defendant, at his or
19 her own expense, may designate additional motor vehicles on
20 which an ignition interlock device may be installed for the
21 use of the defendant.

22 "~~(u)~~(t)(1) Any person who is required to comply with
23 the ignition interlock provisions of this section as a
24 condition of restoration or reinstatement of his or her
25 driver's license, shall only operate the designated vehicle
26 equipped with a functioning ignition interlock device for the

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

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

9 "~~(v)~~ (u) (1) The Department of Public Safety may set a
10 fee of not more than one hundred fifty dollars (\$150) for the
11 issuance of a driver's license indicating that the person's
12 driving privileges are subject to the condition of the
13 installation and use of a certified ignition interlock device
14 on a motor vehicle. Fifteen percent of the fee shall be
15 distributed to the general fund of the county where the person
16 was convicted to be utilized for law enforcement purposes.
17 Eighty-five percent shall be distributed to the Highway
18 Traffic Safety Fund administered by the Department of Public
19 Safety. In addition, at the end of the time the person's
20 driving privileges are subject to the above conditions, the
21 department shall set a fee of not more than seventy-five
22 dollars (\$75) to reissue a regular driver's license. The fee
23 shall be deposited as provided in Sections 32-6-5, 32-6-6, and
24 32-6-6.1.

25 "(2) The defendant shall provide proof of
26 installation of an approved ignition interlock device to the

1 Department of Public Safety as a condition of the issuance of
2 a restricted driver's license.

3 "(3) Any ignition interlock driving violation
4 committed by the offender during the mandated ignition
5 interlock period shall extend the duration of ignition
6 interlock use for six months from the date of violation and
7 photo-based positive identification ignition interlock shall
8 be required for the duration of the term. Ignition interlock
9 driving violations include any of the following:

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

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

15 "c. Failure to comply with the servicing or
16 calibration requirements of the ignition interlock device
17 every 30 days.

18 "~~(w)~~ (v) Nothing in this section and Section
19 32-5A-191.4 shall require an employer to install an ignition
20 interlock device in a vehicle owned or operated by the
21 employer for use by an employee required to use the device as
22 a condition of driving pursuant to this section and Section
23 32-5A-191.4.

24 "(w) The provisions in this section and Section
25 32-5A-191.4 relating to ignition interlock devices shall not
26 apply to persons who commit violations of this section while

1 under 19 years of age and who are adjudicated in juvenile
2 court, unless specifically ordered otherwise by the court.

3 "§32-5A-191.4.

4 "(a) As used in Section 32-5A-191, the term,
5 "ignition interlock device" means a constant monitoring device
6 that prevents a motor vehicle from being started at any time
7 without first determining the equivalent blood alcohol level
8 of the operator through the taking of a breath sample for
9 testing. The system shall be calibrated so that the motor
10 vehicle may not be started if the blood alcohol level of the
11 operator, as measured by the test, reaches a blood alcohol
12 concentration level of 0.02.

13 "(b) The ignition interlock device shall be
14 installed, calibrated, and monitored directly by trained
15 technicians who shall train the offender for whom the device
16 is being installed in the proper use of the device. The use of
17 a mail in or remote calibration system where the technician is
18 not in the immediate proximity of the vehicle being calibrated
19 is prohibited. The Department of Forensic Sciences shall
20 promulgate rules for punishment and appeal for ignition
21 interlock providers relating to violation of this subsection.

22 "(c) The Department of Forensic Sciences shall
23 formulate and promulgate rules for the proper approval,
24 installation, and use of ignition interlock devices.
25 Additionally, the Department of Forensic Sciences shall
26 maintain and make public the list of approved ignition
27 interlock devices.

1 "(d) The Department of Forensic Sciences may adopt
2 in whole or relevant part the guidelines, rules, regulations,
3 studies, or independent laboratory tests performed or relied
4 upon by other states, their agencies, or commissions.

5 "(e) The Department of Forensic Sciences shall
6 promulgate rules regulating approved ignition interlock
7 providers related to areas of consumer coverage. The rules
8 shall address areas of consumer coverage and shall provide for
9 a two-year period from the effective date of the act adding
10 this language to allow provider compliance.

11 "~~(e)~~ (f) The Department of Forensic Sciences shall
12 charge an application fee of two thousand dollars (\$2,000) to
13 any ignition interlock provider to evaluate the instrument.
14 Any ignition interlock provider whose ignition interlock
15 device is approved by the Department of Forensic Sciences
16 shall be permitted to install and calibrate its approved
17 device in Alabama. Each year during the month of April, the
18 Department of Forensic Sciences may receive applications and
19 instruments to review for approval.

20 "(g) The Department of Public Safety shall be
21 responsible for enforcing the rules promulgated by the
22 Department of Forensic Sciences related to ignition interlock
23 devices and providers. The Department of Public Safety shall
24 promulgate rules regulating the inspection and enforcement of
25 approved ignition interlock providers and any associate
26 service locations.

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

9 "~~(g)~~ (i) (1) When the court imposes the use of an
10 ignition interlock device as required by Section 32-5A-191,
11 the court shall require that the person provide proof of
12 installation of a device to the court or a probation officer
13 within 30 days of the date the defendant becomes eligible to
14 receive an ignition interlock-restricted license from the
15 Department of Public Safety. If the person fails to provide
16 proof of installation within that period, absent a finding by
17 the court of good cause for that failure which is entered into
18 the court record, the court ~~shall~~ may revoke the person's
19 probation where applicable after a petition to revoke
20 probation has been filed and the defendant has been given
21 notice and an opportunity to be heard on the petition. The
22 court in which the defendant is convicted shall notify the
23 department that the defendant is restricted to the operation
24 of a motor vehicle only when an approved ignition interlock
25 device is installed and properly operating. Nothing in this
26 subsection shall permit a person who does not own a vehicle or
27 otherwise have an ignition interlock device installed on a

1 motor vehicle to operate a motor vehicle without an approved
2 ignition interlock device installed and properly operating.

3 "(2) Proof of installation for the purpose of this
4 subsection may be furnished by either a certificate of
5 installation or a copy of the lease agreement in the name of
6 the offender for the designated vehicle with an approved
7 ignition interlock device company.

8 "(3) A defendant who is determined by the court to
9 be indigent for the purpose of ignition interlock may have an
10 ignition interlock device installed by an ignition interlock
11 provider as provided in this subsection. Criteria for
12 determining indigency for the purpose of ignition interlock
13 shall be the same criteria as set forth in Section 15-12-5(b)
14 and (c) after the report is complete. In determining whether
15 the defendant is indigent for the purpose of ignition
16 interlock, the judge shall require an investigation and report
17 by a sheriff, adult probation officer, or other officer of the
18 court. The report may include input from the district attorney
19 or municipal prosecutor. The ~~accused~~ defendant shall execute
20 an affidavit of substantial hardship on a form approved by the
21 Supreme Court. The completed affidavit of substantial hardship
22 and the subsequent order of the court either denying or
23 granting indigency status for the purpose of ignition
24 interlock to the offender shall become a part of the official
25 court record in the case and shall be submitted by the
26 offender to the interlock provider.

1 "(4) Any offender granted indigency status for the
2 purpose of ignition interlock shall pay one-half of the costs
3 associated with installing and maintaining an interlock device
4 for a period of no more than two years at which time the
5 offender shall pay the full remaining cost for any sentence
6 left for ignition interlock. This section shall not affect any
7 fees associated with the driver's license of the defendant.

8 "(5)a. All interlock providers shall be required to
9 pay one and one-half percent of all payments collected less
10 any payments made by a defendant determined as indigent for
11 the purpose of ignition interlock to the Alabama Interlock
12 Indigent Fund in the State Treasury.

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

1 considered payment in full for the requests submitted. At the
2 end of each fiscal year, all monies above ~~one hundred thousand~~
3 ~~dollars (\$100,000)~~ five hundred thousand dollars (\$500,000)
4 remaining in the Alabama Interlock Indigent Fund shall be
5 divided as follows:

6 "a.1. Thirty percent to the Highway Traffic Safety
7 Fund administered by the Department of Public Safety.

8 "b.2. Twenty percent to the Alabama Chemical Testing
9 Training and Equipment Trust Fund administered by the
10 Department of Forensic Sciences.

11 "c.3. Thirty percent to the ~~district attorney of~~
12 ~~jurisdiction~~ District Attorney's Solicitor Fund.

13 "d.4. Twenty percent to the Office of Prosecution
14 Services.

15 "(6) Any defendant who does not own a vehicle or
16 otherwise have an ignition interlock device installed on ~~the a~~
17 vehicle shall be required to pay seventy-five dollars (\$75)
18 per month, ~~the same approximate cost the defendant would have~~
19 ~~paid to an ignition interlock provider if the defendant had an~~
20 ~~interlock device installed~~ for the entire period the defendant
21 is required or elects to have an ignition interlock device.
22 The defendant shall still serve all license suspension or
23 revocation, or both, during this period. Any monies paid
24 pursuant to this subdivision shall be paid to the court clerk
25 and shall be deposited in the Alabama Impaired Driving
26 Prevention and Enforcement Fund in the State Treasury to be

1 used by the Department of Public Safety for impaired driving
2 education and enforcement.

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

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

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

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

24 "(2) A violation of subsection ~~(h)~~ (j) on the first
25 offense is a Class A misdemeanor and punishable as provided by
26 law. In addition, the time the defendant is required to use an
27 ignition interlock device shall be extended by six months.

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

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

18 "~~(k)~~ (m) No person shall intentionally attempt to
19 tamper with, defeat, or circumvent the operation of an
20 ignition interlock device.

21 "~~(i)~~ (n) Any person convicted of a violation of this
22 section other than subsection ~~(h)~~ (j) shall be punished by
23 imprisonment for not more than six months or a fine of not
24 more than five hundred dollars (\$500), or both.

25 "§32-5A-301.

26 "(a) A law enforcement officer who arrests any
27 person for a violation of Section 32-5A-191 shall within five

1 days after the day of arrest, excluding weekends and state
2 holidays, hand deliver, ~~or mail,~~ or submit electronically to
3 the department a sworn report of all information relevant to
4 the enforcement action, including information which adequately
5 identifies the arrested person, a statement of the officer's
6 grounds for belief that the person violated Section 32-5A-191,
7 ~~a sworn report of the results of any chemical test which was~~
8 ~~conducted,~~ a statement if the person refused to submit to a
9 test, and a copy of the citation or complaint filed with the
10 court.

11 "(b) The report required by this section shall be
12 made on forms supplied by the department or in a manner
13 specified by regulations of the department.

14 "(c) The department shall not take action on any
15 report not sworn to and not mailed and postmarked or received
16 by the department within five days after the day of arrest,
17 excluding weekends and state holidays, ~~and the driver license~~
18 ~~of the person shall be returned.~~

19 "§32-5A-304.

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

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

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

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

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

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

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

25 "(c) If a license is suspended under this section
26 for having .08 or more by weight of alcohol in the blood of
27 the person and the person is also convicted on criminal

1 charges arising out of the same occurrence for a violation of
2 Section 32-5A-191, the suspension under this section shall be
3 imposed, ~~but no period of suspension or revocation shall be~~
4 ~~imposed~~ giving credit for suspension time served toward the
5 duration of suspension or revocation required under Section
6 32-5A-191. ~~If a license is suspended under this section for~~
7 ~~having .08 or more by weight of alcohol in the blood of the~~
8 ~~person and the criminal charge against the person for~~
9 ~~violation of Section 32-5A-191 is dismissed, nolle prossed, or~~
10 ~~the person is acquitted of the charge, the director shall~~
11 ~~rescind the suspension order and remove the administrative~~
12 ~~suspension from the person's driving record."~~

13 Section 2. (a) The amendatory language in Section 1
14 of this act to Section 32-5A-191, Code of Alabama 1975,
15 authorizing the Department of Public Safety to stay a driver's
16 license suspension or revocation upon compliance with the
17 ignition interlock requirement shall apply retroactively if
18 any of the following occurs:

19 (1) The offender files an appeal with the court of
20 jurisdiction requesting all prior suspensions or revocation,
21 or both, be stayed upon compliance with the ignition interlock
22 requirement;

23 (2) The offender wins appeal with the court of
24 jurisdiction relating to this section;

25 (3) The court of jurisdiction notifies the
26 Department Public Safety that the offender is eligible to have
27 the driver's license stayed;

1 (4) The Department of Public Safety issues an
2 ignition interlock restricted driver's license; and

3 (5) The offender remains in compliance of ignition
4 interlock requirements.

5 (b) The remainder of the driver license revocation,
6 suspension, or both, shall be commuted upon the successful
7 completion of the period of time in which the ignition
8 interlock device is mandated to be installed and operational.

9 Section 3. 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.