

Bussman

2
3 SUBSTITUTE FOR SB301

Tabled

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7
8 SYNOPSIS:

 This bill would relate to persons charged
9 with driving under the influence and the
10 installation of ignition interlock devices on
11 vehicles.

 This bill would: Further provide for the
12 time periods and conditions for a defendant,
13 including defendants approved for a pretrial
14 diversion program or released on bond, to be
15 required to have an ignition interlock device
16 installed and would provide for the amendment of
17 the DUI law to delete this provision in five years;
18 provide that certain enhancement provisions would
19 not apply to ignition interlock requirements;
20 provide that a portion of the court fee would be
21 distributed to the municipal court if the case is a
22 municipal court case when the person is ordered or
23 agrees to have an ignition interlock device; delete
24 the requirement for indigents to pay for the
25 services; provide that a person convicted of a
26 third offense would be authorized or required to
27 obtain an ignition interlock device after the
28 completion of his or her incarceration; would
29

1 require manufacturers to provide ignition interlock
2 services to the indigent under certain conditions
3 without charge; specify the number of violations
4 for extension of ignition interlock requirements to
5 be consistent with Department of Forensic Sciences
6 rules; specify that a judge may require the use of
7 an ignition interlock device by a person released
8 on bond and provide for the issuance of a
9 restricted driver's license; and provide that the
10 probation period of any convicted defendant would
11 be extended to include all ignition interlock
12 requirements.

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

26 The purpose or effect of this bill would be
27 to require a new or increased expenditure of local
28 funds within the meaning of the amendment. However,
29 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to persons charged with driving under the
10 influence; to amend Section 32-5A-191 and Section 32-5A-191.4,
11 Code of Alabama 1975, to further require and provide for the
12 use of ignition interlock devices including by persons
13 approved for pretrial diversion or persons released on bond;
14 to provide for the repeal of the ignition interlock request
15 for pretrial diversion participants in five years; to provide
16 for the distribution of court fees to municipal courts under
17 certain conditions; to provide for ignition interlock services
18 for the indigent under certain conditions; and in connection
19 therewith would have as its purpose or effect the requirement
20 of a new or increased expenditure of local funds within the
21 meaning of Amendment 621 of the Constitution of Alabama of
22 1901, now appearing as Section 111.05 of the Official
23 Recompilation of the Constitution of Alabama of 1901, as
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 32-5A-191 and Section 32-5A-
27 191.4, Code of Alabama 1975, are amended to read as follows:

28 "§32-5A-191.

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

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

5 "(2) Under the influence of alcohol;

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

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

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

15 "(b) A person who is under the age of 21 years shall
16 not drive or be in actual physical control of any vehicle if
17 there is 0.02 percent or more by weight of alcohol in his or
18 her blood. The Alabama State Law Enforcement Agency shall
19 suspend or revoke the driver's license of any person,
20 including, but not limited to, a juvenile, child, or youthful
21 offender, convicted or adjudicated of, or subjected to a
22 finding of, delinquency based on this subsection.

23 Notwithstanding the foregoing, upon the first violation of
24 this subsection by a person whose blood alcohol level is
25 between 0.02 and 0.08, the person's driver's license or
26 driving privilege shall be suspended for a period of 30 days
27 in lieu of any penalties provided in subsection (e) of this
28 section, and there shall be no disclosure, other than to
29 courts, law enforcement agencies, the person's attorney of

1 record, and the person's employer, by any entity or person of
2 any information, documents, or records relating to the
3 person's arrest, conviction, or adjudication of or finding of
4 delinquency based on this subsection.

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

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

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

1 privilege of a person convicted of violating this subdivision
2 shall be disqualified for the period provided in accordance
3 with 49 CFR Part 383.51, as applicable, and the person's
4 regular driver's license or privilege to drive a regular motor
5 vehicle shall be governed by the remainder of this section if
6 the person is guilty of a violation of another provision of
7 this section.

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

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

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

1 Alabama State Law Enforcement Agency and obtain an ignition
2 interlock restricted driver license. The remainder of the
3 suspension shall be commuted upon the successful completion of
4 the elected use, mandated use, or both, of the ignition
5 interlock device. If, on a first conviction, any person
6 refusing to provide a blood alcohol concentration, ~~or~~ if a
7 child under the age of 14 years was a passenger in the vehicle
8 at the time of the offense, ~~or~~ if someone else besides the
9 offender was injured at the time of the offense, or if the
10 offender 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, the Secretary of the
13 Alabama State Law Enforcement Agency shall suspend the driving
14 privilege or driver's license of the person convicted for a
15 period of 90 days and the person shall be required to have an
16 ignition interlock device installed and operating on the
17 designated motor vehicle driven by the offender for a period
18 of ~~two years~~ one year from the date of issuance of a driver's
19 license indicating that the person's driving privileges are
20 subject to the condition of the installation and use of a
21 certified ignition interlock device on a motor vehicle. ~~After~~
22 ~~a minimum of 45 days of the license revocation or suspension~~
23 ~~pursuant to Section 32-5A-304 or this section, or both, is~~
24 ~~completed, upon~~ Upon receipt of a court order from the
25 convicting court, upon issuance of an ignition interlock
26 restricted driver license, and upon proof of installation of
27 an operational approved ignition interlock device on the
28 designated vehicle of the person convicted, the mandated
29 ignition interlock period of ~~two years~~ one year 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 "(f) On a second conviction within a five-year
9 period, a person convicted of violating this section shall be
10 punished by a fine of not less than one thousand one hundred
11 dollars (\$1,100) nor more than five thousand one hundred
12 dollars (\$5,100) and by imprisonment, which may include hard
13 labor in the county or municipal jail for not more than one
14 year. The sentence shall include a mandatory sentence, which
15 is not subject to suspension or probation, of imprisonment in
16 the county or municipal jail for not less than five days or
17 community service for not less than 30 days. In addition, the
18 Secretary of the Alabama State Law Enforcement Agency shall
19 revoke the driving privileges or driver's license of the
20 person convicted for a period of one year and the offender
21 shall be required to have an ignition interlock device
22 installed and operating on the designated motor vehicle driven
23 by the offender for a period of two years from the date of
24 issuance of a driver's license indicating that the person's
25 driving privileges are subject to the condition of the
26 installation and use of a certified ignition interlock device
27 on a motor vehicle. After a minimum of 45 days of the license
28 revocation or suspension pursuant to Section 32-5A-304, this
29 section, or both, is completed, upon receipt of a court order

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

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

1 ignition interlock device on a motor vehicle. After a minimum
2 of ~~180~~ 60 days of the license revocation or suspension
3 pursuant to Section 32-5A-304, this section, or both, is
4 completed, upon receipt of a court order from the convicting
5 court, upon issuance of an ignition interlock restricted
6 driver license, and upon proof of installation of an
7 operational approved ignition interlock device on the
8 designated vehicle of the person convicted, the mandated
9 ignition interlock period of three years provided in this
10 subsection shall start and the suspension period, revocation
11 period, or both, as required under this subsection shall be
12 stayed. The remainder of the driver license revocation period,
13 suspension period, or both, shall be commuted upon the
14 successful completion of the period of time in which the
15 ignition interlock device is mandated to be installed and
16 operational.

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

1 be served in the county jail. The remainder of the sentence
2 may be suspended or probated, but only if as a condition of
3 probation the defendant enrolls and successfully completes a
4 state certified chemical dependency program recommended by the
5 court referral officer and approved by the sentencing court.
6 Where probation is granted, the sentencing court may, in its
7 discretion, and where monitoring equipment is available, place
8 the defendant on house arrest under electronic surveillance
9 during the probationary term. In addition to the other
10 penalties authorized, the Secretary of the Alabama State Law
11 Enforcement Agency shall revoke the driving privilege or
12 driver's license of the person convicted for a period of five
13 years and the offender shall be required to have an ignition
14 interlock device installed and operating on the designated
15 motor vehicle driven by the offender for a period of ~~five~~ four
16 years from the date of issuance of a driver's license
17 indicating that the person's driving privileges are subject to
18 the condition of the installation and use of a certified
19 ignition interlock device on a motor vehicle. After a minimum
20 of one year of the license revocation or suspension pursuant
21 to Section 32-5A-304, this section, or both, is completed,
22 upon receipt of a court order from the convicting court, upon
23 issuance of an ignition interlock restricted driver license,
24 and upon proof of installation of an operational approved
25 ignition interlock device on the designated vehicle of the
26 person convicted, the mandated ignition interlock period of
27 ~~five~~ four years provided in this subsection shall start and
28 the suspension period, revocation period, or both, as required
29 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 "The Alabama habitual felony offender law shall not
6 apply to a conviction of a felony pursuant to this subsection,
7 and a conviction of a felony pursuant to this subsection shall
8 not be a felony conviction for purposes of the enhancement of
9 punishment pursuant to Alabama's habitual felony offender law.
10 However, prior misdemeanor or felony convictions for driving
11 under the influence may be considered as part of the
12 sentencing calculations or determinations under the Alabama
13 Sentencing Guidelines or rules promulgated by the Alabama
14 Sentencing Commission.

15 "(i) When any person convicted of violating this
16 section is found to have had at least 0.15 percent or more by
17 weight of alcohol in his or her blood while operating or being
18 in actual physical control of a vehicle, he or she shall be
19 sentenced to at least double the minimum punishment that the
20 person would have received if he or she had had less than 0.15
21 percent by weight of alcohol in his or her blood. ~~Upon the~~
22 ~~first violation of this subsection, the offender shall be~~
23 ~~ordered by the court to have an ignition interlock device~~
24 ~~installed and operating on his or her designated motor vehicle~~
25 ~~for a period of two years from the date of issuance of an~~
26 ~~ignition interlock restricted driver's license. This~~
27 subsection does not apply to the duration of time an ignition
28 interlock device is required by this section. If the
29 adjudicated offense is a misdemeanor, the minimum punishment

1 shall be imprisonment for one year, all of which may be
2 suspended except as otherwise provided for in subsections (f)
3 and (g).

4 "(j) When any person over the age of 21 years is
5 convicted of violating this section and it is found that a
6 child under the age of 14 years was a passenger in the vehicle
7 at the time of the offense, the person shall be sentenced to
8 at least double the minimum punishment that the person would
9 have received if the child had not been a passenger in the
10 motor vehicle. This subsection does not apply to the duration
11 of time an ignition interlock device is required by this
12 section.

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

26 "(2) Upon conviction, the court shall notify the
27 Alabama State Law Enforcement Agency if the person convicted
28 is required to install and maintain an approved ignition
29 interlock device. The agency shall suspend or revoke a

1 person's driving privileges until completion of the mandatory
2 suspension or revocation period required by this section, and
3 clearance of all other suspensions, revocations,
4 cancellations, or denials, and proof of installation of an
5 approved ignition interlock device is presented to the agency.
6 The agency shall not reissue a driver's license to a person
7 who has been ordered by a court or is required by law to have
8 the ignition interlock device installed until proof is
9 presented that the person is eligible for reinstatement of
10 driving privileges. Upon presentation of proof and compliance
11 with all ignition interlock requirements, the agency shall
12 issue a driver's license with a restriction indicating that
13 the licensee may operate a motor vehicle only with the
14 certified ignition interlock device installed and properly
15 operating. If the licensee fails to maintain the approved
16 ignition interlock device as required or is otherwise not in
17 compliance with any order of the court, the court shall notify
18 the agency of the noncompliance and the agency shall suspend
19 the person's driving privileges until the agency receives
20 notification from the court that the licensee is in
21 compliance. The requirement that the licensee use the ignition
22 interlock device may be removed only when the court of
23 conviction confirms to the agency that the licensee is no
24 longer subject to the ignition interlock device requirement.

25 "(1) Neither reckless driving nor any other traffic
26 infraction is a lesser included offense under a charge of
27 driving under the influence of alcohol or of a controlled
28 substance.

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

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

1 otherwise provided by law for municipal ordinance violations.
2 Any amounts collected over these amounts shall be deposited as
3 otherwise provided by law for municipal ordinance violations.
4 Notwithstanding any provision of law to the contrary, 90
5 percent of any fine assessed and collected for any DUI offense
6 charged by municipal ordinance violation in district or
7 circuit court shall be computed only on the amount assessed
8 over the minimum fine authorized, and upon collection shall be
9 distributed to the municipal general fund with the remaining
10 10 percent distributed to the State General Fund. In addition
11 to fines imposed pursuant to this subsection, a mandatory fee
12 of one hundred dollars (\$100) shall be collected from any
13 individual that successfully completes any pretrial diversion
14 or deferral program in any municipal, district, or circuit
15 court where the individual was charged with a violation of
16 this section or a corresponding municipal ordinance. The one
17 hundred dollars (\$100) shall be deposited into the Alabama
18 Chemical Testing Training and Equipment Fund.

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

25 "(2) A judge may require an offender to install and
26 use a certified ignition interlock device as a condition of
27 bond. In that instance, the Secretary of the Alabama State Law
28 Enforcement Agency shall issue the offender a restricted
29 driver's license indicating the person's driving privileges

1 are subject to the condition of the installation and use of a
2 certified ignition interlock device on a motor vehicle. Any
3 driver's license suspension or revocation period pursuant to
4 Section 32-5A-304 shall be stayed during the period the
5 offender is under the bond condition. The period of time the
6 offender has the ignition interlock device installed as a
7 condition of bond shall not be credited to any requirement to
8 have an ignition interlock device upon conviction.

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

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

22 "(q) Any person convicted of driving under the
23 influence of alcohol, or a controlled substance, or both, or
24 any substance which impairs the mental or physical faculties
25 in violation of this section, a municipal ordinance adopting
26 this section, or a similar law from another state or territory
27 or a municipality of another state or territory more than once
28 in a five-year period shall have his or her motor vehicle
29 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 "(r) (1) Any person ordered by the court to have an
12 ignition interlock device installed on a designated vehicle,
13 and any person who elects to have the ignition interlock
14 device installed on a designated vehicle for the purpose of
15 reducing a period of suspension or revocation of his or her
16 driver's license, shall pay to the court, ~~for each of the~~
17 ~~first four months~~ following his or her conviction ~~or the first~~
18 ~~four months following the installation of the ignition~~
19 ~~interlock device on his or her vehicle, seventy five dollars~~
20 ~~(\$75) per month~~ two hundred dollars (\$200), which may be paid
21 in installments and which shall be divided as follows:

22 "a. ~~Forty five~~ Seventeen percent to the Alabama
23 Interlock Indigent Fund.

24 "b. ~~Twenty~~ For cases in the district or circuit
25 court, 30 percent to the State Judicial Administration Fund
26 administered by the Administrative Office of Courts and for
27 cases in the municipal court, 30 percent to the municipal
28 judicial administration fund of the municipality where the

1 municipal court is located to be used for the operation of the
2 municipal court.

3 "c. ~~Twenty~~ Thirty percent to the Highway Traffic
4 Safety Fund administered by the Alabama State Law Enforcement
5 Agency.

6 "d. ~~Fifteen~~ Twenty-three percent to the District
7 Attorney's Solicitor Fund.

8 "(2) In addition to paying the court clerk ~~seventy-~~
9 ~~five dollars (\$75) per month for the first four months~~ the fee
10 required in subdivision (1) following the conviction or the
11 voluntary installation of the ignition interlock device, the
12 defendant shall pay all costs associated with the
13 installation, purchase, maintenance, or lease of the ignition
14 interlock devices to an approved ignition interlock provider
15 pursuant to the rules of the Department of Forensic Sciences,
16 unless the defendant is subject to Section ~~32-5A-191.4(g)(4)~~
17 ~~during which he or she shall pay one-half the cost for the~~
18 ~~available indigency period~~ 32-5A-191.4(i)(4).

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

25 "(t)(1) Any person who is required to comply with
26 the ignition interlock provisions of this section as a
27 condition of restoration or reinstatement of his or her
28 driver's license, shall only operate the designated vehicle
29 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~~ one year
5 if the 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 "(u) (1) The Alabama State Law Enforcement Agency may
10 set a fee of not more than one hundred fifty dollars (\$150)
11 for the issuance of a driver's license indicating that the
12 person's driving privileges are subject to the condition of
13 the installation and use of a certified ignition interlock
14 device 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 State General
18 Fund. In addition, at the end of the time the person's driving
19 privileges are subject to the above conditions, the agency
20 shall set a fee of not more than seventy-five dollars (\$75) to
21 reissue a regular driver's license. The fee shall be deposited
22 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

23 "(2) The defendant shall provide proof of
24 installation of an approved ignition interlock device to the
25 Alabama State Law Enforcement Agency as a condition of the
26 issuance of a restricted driver's license.

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

1 interlock use for six months ~~from the date of violation.~~

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

4 "a. A breath sample at or above a minimum blood
5 alcohol concentration level of 0.02 recorded ~~more than four~~ or
6 more times during the monthly reporting period unless a
7 subsequent test performed within 10 minutes registers a breath
8 alcohol concentration lower than 0.02.

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

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

14 "(v) Nothing in this section and Section 32-5A-191.4
15 shall require an employer to install an ignition interlock
16 device in a vehicle owned or operated by the employer for use
17 by an employee required to use the device as a condition of
18 driving pursuant to this section and Section 32-5A-191.4.

19 "(w) The provisions in this section and Section 32-
20 5A-191.4 relating to ignition interlock devices shall not
21 apply to persons who commit violations of this section while
22 under 19 years of age and who are adjudicated in juvenile
23 court, unless specifically ordered otherwise by the court.

24 "(x) (1) The amendatory language in Act 2014-222 to
25 this section, authorizing the Alabama State Law Enforcement
26 Agency to stay a driver's license suspension or revocation
27 upon compliance with the ignition interlock requirement shall
28 apply retroactively if any of the following occurs:

1 "a. The offender files an appeal with the court of
2 jurisdiction requesting all prior suspensions or revocation,
3 or both, be stayed upon compliance with the ignition interlock
4 requirement.

5 "b. The offender wins appeal with the court of
6 jurisdiction relating to this section.

7 "c. The court of jurisdiction notifies the Alabama
8 State Law Enforcement Agency that the offender is eligible to
9 have the driver's license stayed.

10 "d. The Alabama State Law Enforcement Agency issues
11 an ignition interlock restricted driver's license.

12 "e. The offender remains in compliance of ignition
13 interlock requirements.

14 "(2) The remainder of the driver license revocation,
15 suspension, or both, shall be commuted upon the successful
16 completion of the period of time in which the ignition
17 interlock device is mandated to be installed and operational.

18 "(y) (1) Any person charged in a district, circuit,
19 or municipal court with a violation of this section or a
20 municipal ordinance adopted in conformance with this section
21 who is approved for any pretrial diversion program or similar
22 program shall be required to install an ignition interlock
23 device for a minimum of six months or the duration of the
24 pretrial diversion program, whichever is greater, and meet all
25 the requirements of this section and Section 32-5A-191.4. A
26 participant in a pretrial diversion program shall be eligible
27 for indigency status if the program enrolls indigent
28 defendants and waives fees for indigent defendants.

1 "(2) Upon receipt of a court order or an agreement
2 from the district attorney or prosecutor indicating the
3 offender has entered a pretrial diversion program or any other
4 form of deferred prosecution agreement, the Secretary of the
5 Alabama State Law Enforcement Agency shall indicate as the
6 agency shall determine the person's driving privileges are
7 subject to the condition of the installation and use of a
8 certified ignition interlock device on a motor vehicle. Any
9 driver's license suspension period pursuant to Section 32-5A-
10 304 shall be stayed and then commuted upon the successful
11 completion of the pretrial diversion program, or any other
12 form of deferred prosecution agreement.

13 "(z) Pursuant to Section 15-22-54, the maximum
14 probation period for persons convicted under this section
15 shall be extended until all ignition interlock requirements
16 have been completed by the offender.

17 "§32-5A-191.4.

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

27 "(b) The ignition interlock device shall be
28 installed, calibrated, and monitored directly by trained
29 technicians who shall train the offender for whom the device

1 is being installed in the proper use of the device. The use of
2 a mail in or remote calibration system where the technician is
3 not in the immediate proximity of the vehicle being calibrated
4 is prohibited. The Department of Forensic Sciences shall
5 promulgate rules for punishment and appeal for ignition
6 interlock providers relating to violation of this subsection.

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

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

17 "(e) The Department of Forensic Sciences shall
18 promulgate rules regulating approved ignition interlock
19 providers related to areas of consumer coverage. The rules
20 shall address areas of consumer coverage and shall provide for
21 a two-year period from July 1, 2014, to allow provider
22 compliance.

23 "(f) The Department of Forensic Sciences shall
24 charge an application fee of two thousand dollars (\$2,000) to
25 any ignition interlock provider to evaluate the instrument.
26 Any ignition interlock provider whose ignition interlock
27 device is approved by the Department of Forensic Sciences
28 shall be permitted to install and calibrate its approved
29 device in Alabama. Each year during the month of April, the

1 Department of Forensic Sciences may receive applications and
2 instruments to review for approval.

3 "~~g~~" The ~~Department of Public Safety~~ Alabama State
4 Law Enforcement Agency shall be responsible for enforcing the
5 rules promulgated by the Department of Forensic Sciences
6 related to ignition interlock devices and providers. The
7 ~~Department of Public Safety~~ Alabama State Law Enforcement
8 Agency shall promulgate rules regulating the inspection and
9 enforcement of approved ignition interlock providers and any
10 associate service locations.

11 "(h) In the absence of negligence, wantonness, or
12 willful misconduct, no person or employer or agent of a person
13 who installs an ignition interlock device pursuant to Section
14 32-5A-191 shall be liable for any occurrence related to the
15 device, including, but not limited to, occurrences resulting
16 from or related to a malfunction of the device or use of,
17 misuse of, or failure to use the device or the vehicle in
18 which the device was installed.

19 "(i) (1) When the court imposes the use of an
20 ignition interlock device as required by Section 32-5A-191,
21 the court shall require that the person provide proof of
22 installation of a device to the court or a probation officer
23 within 30 days of the date the defendant becomes eligible to
24 receive an ignition interlock-restricted license from the
25 ~~Department of Public Safety~~ Alabama State Law Enforcement
26 Agency. If the person fails to provide proof of installation
27 within that period, absent a finding by the court of good
28 cause for that failure which is entered into the court record,
29 the court may revoke the person's probation where applicable

1 after a petition to revoke probation has been filed and the
2 defendant has been given notice and an opportunity to be heard
3 on the petition. The court in which the defendant is convicted
4 shall notify the ~~department~~ agency that the defendant is
5 restricted to the operation of a motor vehicle only when an
6 approved ignition interlock device is installed and properly
7 operating. Nothing in this subsection shall permit a person
8 who does not own a vehicle or otherwise have an ignition
9 interlock device installed on a motor vehicle to operate a
10 motor vehicle without an approved ignition interlock device
11 installed and properly operating.

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

17 "(3) A defendant who is determined by the court to
18 be indigent for the purpose of ignition interlock may have an
19 ignition interlock device installed by an ignition interlock
20 provider as provided in this subsection. Criteria for
21 determining indigency for the purpose of ignition interlock
22 shall be the same criteria as set forth in Section 15-12-5(b)
23 and (c) after the report is complete. ~~In determining whether~~
24 ~~the defendant is indigent for the purpose of ignition~~
25 ~~interlock, the judge shall require an investigation and report~~
26 ~~by a sheriff, adult probation officer, or other officer of the~~
27 ~~court. The report may include input from the district attorney~~
28 ~~or municipal prosecutor.~~ The defendant shall execute an
29 affidavit of substantial hardship on a form approved by the

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

7 "(4) Any offender granted indigency status for the
8 purpose of ignition interlock shall ~~pay one half of~~ not be
9 required to pay the costs associated with installing and
10 maintaining an interlock device for ~~a~~ the period of ~~no more~~
11 ~~than two years at which time the offender shall pay the full~~
12 ~~remaining cost for any sentence left for ignition interlock.~~
13 The defendant shall pay any fees for any violation of ignition
14 interlock requirements and for any optional services elected
15 by the defendant and for any missing or damaged equipment.
16 This section shall not affect any fees associated with the
17 driver's license of the defendant.

18 "(5)a. ~~All interlock providers shall be required to~~
19 ~~pay one and one half percent of all payments collected less~~
20 ~~any payments made by a defendant determined as indigent for~~
21 ~~the purpose of ignition interlock to the Alabama Ignition~~
22 ~~Interlock Indigent Fund in the State Treasury. The Alabama~~
23 State Law Enforcement Agency shall require each approved
24 manufacturer to provide a minimum number of indigent
25 defendants with ignition interlock services, including
26 installation, lease, calibration, and removal at no cost to
27 the indigent defendant. The minimum number of indigent
28 defendants provided services shall be equal to five percent of

1 the total installations provided by the manufacturer during
2 the prior calendar year.

3 "b. The Alabama State Law Enforcement Agency shall
4 oversee the administration of indigent services on an annual
5 basis by doing all of the following:

6 "1. Verifying the total number of installations
7 provided by the manufacturer each year.

8 "2. Verifying the number of installations for
9 indigent defendants provided each year by each manufacturer.

10 "3. Conducting random audits of payments based on
11 the list of indigent defendants serviced by each manufacturer.

12 "c. Each manufacturer who fails to meet the five
13 percent threshold for indigent defendants shall be subject to
14 a civil penalty of five hundred dollars (\$500) for each
15 indigent defendant the manufacturer failed to provide services
16 below the five percent threshold. All fines shall be collected
17 by the agency and deposited in the Alabama Ignition Interlock
18 Indigent Fund.

19 "b.d. The Alabama Ignition Interlock Indigent Fund
20 is created in the State Treasury. The fund shall be
21 administered by the Department of Public Safety the Alabama
22 State Law Enforcement Agency. All Except as provided in
23 paragraph e., all of the money in the fund shall be used to
24 reimburse ignition interlock device providers who have
25 installed devices in vehicles of indigent persons pursuant to
26 court orders issued under this section. No provider shall be
27 reimbursed for an interlock device installed without the
28 completed affidavit of substantial hardship and the subsequent
29 order of the court granting indigency status. Payments to

1 interlock device providers pursuant to this subdivision shall
2 be made every three months. If the amount of money in the fund
3 at the time payments are made is not sufficient to pay all
4 requests for reimbursement submitted during that three-month
5 period, the Comptroller shall make payments on a pro rata
6 basis and those payments shall be considered payment in full
7 for the requests submitted. At the end of each fiscal year,
8 all monies above five hundred thousand dollars (\$500,000)
9 remaining in the Alabama Ignition Interlock Indigent Fund
10 shall be divided as follows:

11 "1. Thirty percent to the Highway Traffic Safety
12 Fund administered by the ~~Department of Public Safety~~ Alabama
13 State Law Enforcement Agency.

14 "2. Twenty percent to the Alabama Chemical Testing
15 Training and Equipment Trust Fund administered by the
16 Department of Forensic Sciences.

17 "3. Thirty percent to the District Attorney's
18 Solicitor's Fund.

19 "4. Twenty percent to the Office of Prosecution
20 Services.

21 "e. Notwithstanding the provisions of paragraph d.,
22 10 percent of the first five hundred thousand dollars
23 (\$500,000) collected in the fund each year may be used by the
24 Alabama State Law Enforcement Agency for any of the following
25 additional purposes on an annual basis:

26 "1. Annual reporting and assessment of manufacturer
27 compliance with indigent service requirements.

28 "2. Notice and collection of any fines for
29 noncompliance.

1 "3. Annual inspection of interlock service centers
2 by the agency.

3 "(6) Any defendant who does not own a vehicle or
4 otherwise have an ignition interlock device installed on a
5 vehicle shall be required to pay seventy-five dollars (\$75)
6 per month for the entire period the defendant is required or
7 elects to have an ignition interlock device. The defendant
8 shall still serve all license suspension or revocation, or
9 both, during this period. Any monies paid pursuant to this
10 subdivision shall be paid to the court clerk and shall be
11 deposited in the Alabama Impaired Driving Prevention and
12 Enforcement Fund in the State Treasury to be used by the
13 ~~Department of Public Safety~~ Alabama State Law Enforcement
14 Agency for impaired driving education and enforcement.

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

18 "(1) Operate, lease, or borrow a motor vehicle
19 unless that vehicle is equipped with a functioning ignition
20 interlock device.

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

25 "(k) (1) Any person who operates a motor vehicle in
26 violation of subsection (j) shall be immediately removed from
27 the vehicle and taken into custody. The vehicle, regardless of
28 ownership or possessory interest of the operator or person
29 present in the vehicle, except when the owner of the vehicle

1 or another family member of the owner is present in the
2 vehicle and presents a valid driver's license, shall be
3 impounded by any duly sworn law enforcement officer pursuant
4 to Section 32-6-19(c). If there is an emergency or medical
5 necessity jeopardizing life or limb, the law enforcement
6 officer may elect not to impound the vehicle.

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

23 "(1) No person shall blow into an ignition interlock
24 device or start a motor vehicle equipped with the device for
25 the purpose of providing an operable motor vehicle to a person
26 who is prohibited from operating a motor vehicle without an
27 ignition interlock device.

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

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

8 Section 2. Five years from the effective date of
9 this act, Section 32-5A-191, Code of Alabama 1975, as amended
10 by Section 1 of this act, is further amended to read as
11 follows:

12 §32-5A-191.

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

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

17 "(2) Under the influence of alcohol;

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

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

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

27 "(b) A person who is under the age of 21 years shall
28 not drive or be in actual physical control of any vehicle if
29 there is 0.02 percent or more by weight of alcohol in his or

1 her blood. The Alabama State Law Enforcement Agency shall
2 suspend or revoke the driver's license of any person,
3 including, but not limited to, a juvenile, child, or youthful
4 offender, convicted or adjudicated of, or subjected to a
5 finding of, delinquency based on this subsection.

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

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

26 "(c) (1) A school bus or day care driver shall not
27 drive or be in actual physical control of any vehicle while in
28 performance of his or her duties if there is greater than 0.02
29 percent 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 Secretary of the Alabama State Law Enforcement
4 Agency shall suspend the driving privilege or driver's license
5 for a period of one 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 383.5 of the Federal Motor Carrier Safety
9 Regulations as adopted pursuant to Section 32-9A-2, if there
10 is 0.04 percent or greater by weight of alcohol in his or her
11 blood. Notwithstanding the other provisions of this section,
12 the commercial driver's license or commercial driving
13 privilege of a person convicted of violating this subdivision
14 shall be disqualified for the period provided in accordance
15 with 49 CFR Part 383.51, as applicable, and the person's
16 regular driver's license or privilege to drive a regular motor
17 vehicle shall be governed by the remainder of this section if
18 the person is guilty of a violation of another provision of
19 this section.

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

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

28 "(e) Upon first conviction, a person violating this
29 section shall be punished by imprisonment in the county or

1 municipal jail for not more than one year, or by fine of not
2 less than six hundred dollars (\$600) nor more than two
3 thousand one hundred dollars (\$2,100), or by both a fine and
4 imprisonment. In addition, on a first conviction, the
5 Secretary of the Alabama State Law Enforcement Agency shall
6 suspend the driving privilege or driver's license of the
7 person convicted for a period of 90 days. The 90-day
8 suspension shall be stayed if the offender elects to have an
9 approved ignition interlock device installed and operating on
10 the designated motor vehicle driven by the offender for 90
11 days. The offender shall present proof of installation of the
12 approved ignition interlock device to the Alabama State Law
13 Enforcement Agency and obtain an ignition interlock restricted
14 driver license. The remainder of the suspension shall be
15 commuted upon the successful completion of the elected use,
16 mandated use, or both, of the ignition interlock device. If,
17 on a first conviction, any person refusing to provide a blood
18 alcohol concentration or if a child under the age of 14 years
19 was a passenger in the vehicle at the time of the offense or
20 if someone else besides the offender was injured at the time
21 of the offense, or if the offender is found to have had at
22 least 0.15 percent or more by weight of alcohol in his or her
23 blood while operating or being in actual control of a vehicle,
24 the Secretary of the Alabama State Law Enforcement Agency
25 shall suspend the driving privilege or driver's license of the
26 person convicted for a period of 90 days and the person shall
27 be required to have an ignition interlock device installed and
28 operating on the designated motor vehicle driven by the
29 offender for a period of one year from the date of issuance of

1 a driver's license indicating that the person's driving
2 privileges are subject to the condition of the installation
3 and use of a certified ignition interlock device on a motor
4 vehicle. After a minimum of 45 days of the license revocation
5 or suspension pursuant to Section 32-5A-304 or this section,
6 or both, is completed, upon receipt of a court order from the
7 convicting court, upon issuance of an ignition interlock
8 restricted driver license, and upon proof of installation of
9 an operational approved ignition interlock device on the
10 designated vehicle of the person convicted, the mandated
11 ignition interlock period of one year provided in this
12 subsection shall start and the suspension period, revocation
13 period, or both, as required under this subsection shall be
14 stayed. The remainder of the driver license revocation period,
15 suspension period, or both, shall be commuted upon the
16 successful completion of the period of time in which the
17 ignition interlock device is mandated to be installed and
18 operational.

19 "(f) On a second conviction within a five-year
20 period, a person convicted of violating this section shall be
21 punished by a fine of not less than one thousand one hundred
22 dollars (\$1,100) nor more than five thousand one hundred
23 dollars (\$5,100) and by imprisonment, which may include hard
24 labor in the county or municipal jail for not more than one
25 year. The sentence shall include a mandatory sentence, which
26 is not subject to suspension or probation, of imprisonment in
27 the county or municipal jail for not less than five days or
28 community service for not less than 30 days. In addition, the
29 Secretary of the Alabama State Law Enforcement Agency shall

1 revoke the driving privileges or driver's license of the
2 person convicted for a period of one year and the offender
3 shall be required to have an ignition interlock device
4 installed and operating on the designated motor vehicle driven
5 by the offender for a period of two years from the date of
6 issuance of a driver's license indicating that the person's
7 driving privileges are subject to the condition of the
8 installation and use of a certified ignition interlock device
9 on a motor vehicle. After a minimum of 45 days of the license
10 revocation or suspension pursuant to Section 32-5A-304, this
11 section, or both, is completed, upon receipt of a court order
12 from the convicting court, upon issuance of an ignition
13 interlock restricted driver license, and upon proof of
14 installation of an operational approved ignition interlock
15 device on the designated vehicle of the person convicted, the
16 mandated ignition interlock period of two years approved in
17 this subsection shall start and the suspension period,
18 revocation period, or both, as required under this subsection
19 shall be stayed. The remainder of the driver license
20 revocation period, suspension period, or both, shall be
21 commuted upon the successful completion of the period of time
22 in which the ignition interlock device is mandated to be
23 installed and operational.

24 "(g) On a third conviction, a person convicted of
25 violating this section shall be punished by a fine of not less
26 than two thousand one hundred dollars (\$2,100) nor more than
27 ten thousand one hundred dollars (\$10,100) and by
28 imprisonment, which may include hard labor, in the county or
29 municipal jail for not less than 60 days nor more than one

1 year, to include a minimum of 60 days which shall be served in
2 the county or municipal jail and cannot be probated or
3 suspended. In addition, the Secretary of the Alabama State Law
4 Enforcement Agency shall revoke the driving privilege or
5 driver's license of the person convicted for a period of three
6 years and the offender shall be required to have an ignition
7 interlock device installed and operating on the designated
8 motor vehicle driven by the offender for a period of three
9 years from the date of issuance of a driver's license
10 indicating that the person's driving privileges are subject to
11 the condition of the installation and use of a certified
12 ignition interlock device on a motor vehicle. After a minimum
13 of 60 days of the license revocation or suspension pursuant to
14 Section 32-5A-304, this section, or both, is completed, upon
15 receipt of a court order from the convicting court, upon
16 issuance of an ignition interlock restricted driver license,
17 and upon proof of installation of an operational approved
18 ignition interlock device on the designated vehicle of the
19 person convicted, the mandated ignition interlock period of
20 three years provided in this subsection shall start and the
21 suspension period, revocation period, or both, as required
22 under this subsection shall be stayed. The remainder of the
23 driver license revocation period, suspension period, or both,
24 shall be commuted upon the successful completion of the period
25 of time in which the ignition interlock device is mandated to
26 be installed and operational.

27 " (h) On a fourth or subsequent conviction, a person
28 convicted of violating this section shall be guilty of a Class
29 C felony and punished by a fine of not less than four thousand

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

1 device on a motor vehicle. After a minimum of one year of the
2 license revocation or suspension pursuant to Section 32-5A-
3 304, this section, or both, is completed, upon receipt of a
4 court order from the convicting court, upon issuance of an
5 ignition interlock restricted driver license, and upon proof
6 of installation of an operational approved ignition interlock
7 device on the designated vehicle of the person convicted, the
8 mandated ignition interlock period of four 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 "The Alabama habitual felony offender law shall not
17 apply to a conviction of a felony pursuant to this subsection,
18 and a conviction of a felony pursuant to this subsection shall
19 not be a felony conviction for purposes of the enhancement of
20 punishment pursuant to Alabama's habitual felony offender law.
21 However, prior misdemeanor or felony convictions for driving
22 under the influence may be considered as part of the
23 sentencing calculations or determinations under the Alabama
24 Sentencing Guidelines or rules promulgated by the Alabama
25 Sentencing Commission.

26 "(i) When any person convicted of violating this
27 section is found to have had at least 0.15 percent or more by
28 weight of alcohol in his or her blood while operating or being
29 in actual physical control of a vehicle, he or she shall be

1 sentenced to at least double the minimum punishment that the
2 person would have received if he or she had had less than 0.15
3 percent by weight of alcohol in his or her blood. This
4 subsection does not apply to the duration of time an ignition
5 interlock device is required by this section. If the
6 adjudicated offense is a misdemeanor, the minimum punishment
7 shall be imprisonment for one year, all of which may be
8 suspended except as otherwise provided for in subsections (f)
9 and (g).

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 a passenger in the vehicle
13 at the time of the offense, the person shall be sentenced to
14 at least double the minimum punishment that the person would
15 have received if the child had not been a passenger in the
16 motor vehicle. This subsection does not apply to the duration
17 of time an ignition interlock device is required by this
18 section.

19 "(k)(1) In addition to the penalties provided
20 herein, any person convicted of violating this section shall
21 be referred to the court referral officer for evaluation and
22 referral to appropriate community resources. The defendant
23 shall, at a minimum, be required to complete a DUI or
24 substance abuse court referral program approved by the
25 Administrative Office of Courts and operated in accordance
26 with provisions of the Mandatory Treatment Act of 1990,
27 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law
28 Enforcement Agency shall not reissue a driver's license to a
29 person convicted under this section without receiving proof

1 that the defendant has successfully completed the required
2 program.

3 "(2) Upon conviction, the court shall notify the
4 Alabama State Law Enforcement Agency if the person convicted
5 is required to install and maintain an approved ignition
6 interlock device. The agency 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 agency.
12 The agency shall not reissue a driver's license to a person
13 who has been ordered by a court or is required by law to have
14 the ignition interlock device installed until proof is
15 presented that the person is eligible for reinstatement of
16 driving privileges. Upon presentation of proof and compliance
17 with all ignition interlock requirements, the agency shall
18 issue a driver's license with a restriction indicating that
19 the licensee may operate a motor vehicle only with the
20 certified ignition interlock device installed and properly
21 operating. If the licensee fails to maintain the approved
22 ignition interlock device as required or is otherwise not in
23 compliance with any order of the court, the court shall notify
24 the agency of the noncompliance and the agency shall suspend
25 the person's driving privileges until the agency receives
26 notification from the court that the licensee is in
27 compliance. The requirement that the licensee use the ignition
28 interlock device may be removed only when the court of

1 conviction confirms to the agency that the licensee is no
2 longer subject to the ignition interlock device requirement.

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

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

1 conviction, the first six hundred dollars (\$600) collected for
2 a second conviction within five years, the first one thousand
3 one hundred dollars (\$1,100) collected for a third conviction,
4 and the first two thousand one hundred dollars (\$2,100)
5 collected for a fourth or subsequent conviction shall be
6 deposited to the State Treasury with the first one hundred
7 dollars (\$100) collected for each conviction credited to the
8 Alabama Chemical Testing Training and Equipment Trust Fund and
9 the second one hundred dollars (\$100) to the Alabama Head and
10 Spinal Cord Injury Trust Fund after deducting five percent of
11 the one hundred dollars (\$100) for administrative costs and
12 depositing this amount in the general fund of the
13 municipality, and the balance credited to the State General
14 Fund. Any amounts collected over these amounts shall be
15 deposited as otherwise provided by law. Fines collected for
16 violations of this section charged pursuant to a municipal
17 ordinance, where the fine is paid on a partial or installment
18 basis, shall be deposited as follows: The first two hundred
19 dollars (\$200) of the fine collected for any conviction shall
20 be deposited to the State Treasury with the first one hundred
21 dollars (\$100) collected for any conviction credited to the
22 Alabama Chemical Testing Training and Equipment Trust Fund and
23 the second one hundred dollars (\$100) for any conviction
24 credited to the Alabama Head and Spinal Cord Injury Trust Fund
25 after deducting five percent of the one hundred dollars (\$100)
26 for administrative costs and depositing this amount in the
27 general fund of the municipality. The second three hundred
28 dollars (\$300) of the fine collected for a first conviction,
29 the second eight hundred dollars (\$800) collected for a second

1 conviction, the second one thousand eight hundred dollars
2 (\$1,800) collected for a third conviction, and the second
3 three thousand eight hundred dollars (\$3,800) collected for a
4 fourth conviction shall be divided with 50 percent of the
5 funds collected to be deposited to the State Treasury to be
6 credited to the State General Fund and 50 percent deposited as
7 otherwise provided by law for municipal ordinance violations.
8 Any amounts collected over these amounts shall be deposited as
9 otherwise provided by law for municipal ordinance violations.
10 Notwithstanding any provision of law to the contrary, 90
11 percent of any fine assessed and collected for any DUI offense
12 charged by municipal ordinance violation in district or
13 circuit court shall be computed only on the amount assessed
14 over the minimum fine authorized, and upon collection shall be
15 distributed to the municipal general fund with the remaining
16 10 percent distributed to the State General Fund. In addition
17 to fines imposed pursuant to this subsection, a mandatory fee
18 of one hundred dollars (\$100) shall be collected from any
19 individual that successfully completes any pretrial diversion
20 or deferral program in any municipal, district, or circuit
21 court where the individual was charged with a violation of
22 this section or a corresponding municipal ordinance. The one
23 hundred dollars (\$100) shall be deposited into the Alabama
24 Chemical Testing Training and Equipment Fund.

25 " (n) (1) A person who has been arrested for violating
26 this section shall not be released from jail under bond or
27 otherwise, until there is less than the same percent by weight
28 of alcohol in his or her blood as specified in

1 subsection(a)(1) or, in the case of a person who is under the
2 age of 21 years, subsection (b) hereof.

3 "(2) A judge may require an offender to install and
4 use a certified ignition interlock device as a condition of
5 bond. In that instance, the Secretary of the Alabama State Law
6 Enforcement Agency shall issue the offender a restricted
7 driver's license indicating the person's driving privileges
8 are subject to the condition of the installation and use of a
9 certified ignition interlock device on a motor vehicle. Any
10 driver's license suspension or revocation period pursuant to
11 Section 32-5A-304 shall be stayed during the period the
12 offender is under the bond condition. The period of time the
13 offender has the ignition interlock device installed as a
14 condition of bond shall not be credited to any requirement to
15 have an ignition interlock device upon conviction.

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

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

1 "(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 "(r) (1) Any person ordered by the court to have an
20 ignition interlock device installed on a designated vehicle,
21 and any person who elects to have the ignition interlock
22 device installed on a designated vehicle for the purpose of
23 reducing a period of suspension or revocation of his or her
24 driver's license, shall pay to the court, following his or her
25 conviction, two hundred dollars (\$200), which may be paid in
26 installments and which shall be divided as follows:

27 "a. Seventeen percent to the Alabama Interlock
28 Indigent Fund.

1 "b. For cases in the district or circuit court, 30
2 percent to the State Judicial Administration Fund administered
3 by the Administrative Office of Courts and for cases in the
4 municipal court, 30 percent to the municipal judicial
5 administration fund of the municipality where the municipal
6 court is located to be used for the operation of the municipal
7 court.

8 "c. Thirty percent to the Highway Traffic Safety
9 Fund administered by the Alabama State Law Enforcement Agency.

10 "d. Twenty-three percent to the District Attorney's
11 Solicitor Fund.

12 "(2) In addition to paying the court clerk the fee
13 required above following the conviction or the voluntary
14 installation of the ignition interlock device, the defendant
15 shall pay all costs associated with the installation,
16 purchase, maintenance, or lease of the ignition interlock
17 devices to an approved ignition interlock provider pursuant to
18 the rules of the Department of Forensic Sciences, unless the
19 defendant is subject to Section 32-5A-191.4(i)(4).

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

26 "(t)(1) Any person who is required to comply with
27 the ignition interlock provisions of this section as a
28 condition of restoration or reinstatement of his or her
29 driver's license, shall only operate the designated vehicle

1 equipped with a functioning ignition interlock device for the
2 period of time consistent with the offense for which he or she
3 was convicted as provided for in this section.

4 "(2) The duration of the time an ignition interlock
5 device is required by this section shall be one year if the
6 offender refused the prescribed chemical test for
7 intoxication.

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

22 "(2) The defendant shall provide proof of
23 installation of an approved ignition interlock device to the
24 Alabama State Law Enforcement Agency as a condition of the
25 issuance of a restricted driver's license.

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

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

3 "a. A breath sample at or above a minimum blood
4 alcohol concentration level of 0.02 recorded four or more
5 times during the monthly reporting period unless a subsequent
6 test performed within 10 minutes registers a breath alcohol
7 concentration lower than 0.02.

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

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

13 "(v) Nothing in this section and Section 32-5A-191.4
14 shall require an employer to install an ignition interlock
15 device in a vehicle owned or operated by the employer for use
16 by an employee required to use the device as a condition of
17 driving pursuant to this section and Section 32-5A-191.4.

18 "(w) The provisions in this section and Section 32-
19 5A-191.4 relating to ignition interlock devices shall not
20 apply to persons who commit violations of this section while
21 under 19 years of age and who are adjudicated in juvenile
22 court, unless specifically ordered otherwise by the court.

23 "(x) (1) The amendatory language in Act 2014-222 to
24 this section, authorizing the Alabama State Law Enforcement
25 Agency to stay a driver's license suspension or revocation
26 upon compliance with the ignition interlock requirement shall
27 apply retroactively if any of the following occurs:

28 "a. The offender files an appeal with the court of
29 jurisdiction requesting all prior suspensions or revocation,

1 or both, be stayed upon compliance with the ignition interlock
2 requirement.

3 "b. The offender wins appeal with the court of
4 jurisdiction relating to this section.

5 "c. The court of jurisdiction notifies the Alabama
6 State Law Enforcement Agency that the offender is eligible to
7 have the driver's license stayed.

8 "d. The Alabama State Law Enforcement Agency issues
9 an ignition interlock restricted driver's license.

10 "e. The offender remains in compliance of ignition
11 interlock requirements.

12 "(2) The remainder of the driver license revocation,
13 suspension, or both, shall be commuted upon the successful
14 completion of the period of time in which the ignition
15 interlock device is mandated to be installed and operational.

16 ~~"(y) (1) Any person charged in a district, circuit,~~
17 ~~or municipal court with a violation of this section or a~~
18 ~~municipal ordinance adopted in conformance with this section~~
19 ~~who is approved for any pretrial diversion program or similar~~
20 ~~program shall be required to install an ignition interlock~~
21 ~~device for a minimum of six months or the duration of the~~
22 ~~pretrial diversion program, whichever is greater, and meet all~~
23 ~~the requirements of this section and Section 32-5A-191.4. A~~
24 ~~participant in a pretrial diversion program shall be eligible~~
25 ~~for indigency status if the program enrolls indigent~~
26 ~~defendants and waives fees for indigent defendants.~~

27 ~~"(2) Upon receipt of a court order or an agreement~~
28 ~~from the district attorney or prosecutor indicating the~~
29 ~~offender has entered a pretrial diversion program or any other~~

~~form of deferred prosecution agreement, the Secretary of the Alabama State Law Enforcement Agency shall indicate as the agency shall determine the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. Any driver's license suspension period pursuant to Section 32-5A-304 shall be stayed and then commuted upon the successful completion of the pretrial diversion program, or any other form of deferred prosecution agreement.~~

"(z) (y) Pursuant to Section 15-22-54, the maximum probation period for persons convicted under this section shall be extended until all ignition interlock requirements have been completed by the offender."

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

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

SENATE
RECONSIDERED

3-6 2018
YEAS W NAYS ABS

SENATE 3-4 2018
ADOPTED
YEAS 28 NAYS 1 ABS 0
PATRICK HARRIS, SECRETARY

SENATE 3-6 2018
TABBED W
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PATRICK HARRIS, SECRETARY