

1 HB332
2 190263-1
3 By Representatives Wadsworth, Pettus and Rowe
4 RFD: Judiciary
5 First Read: 30-JAN-18

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, for purposes of enhanced
9 criminal penalties, a court may only consider a
10 defendant's driving under the influence convictions
11 from the past five years.

12 This bill would require a court to consider
13 a defendant's DUI convictions from the past 10
14 years.

15 This bill would require that a defendant
16 must have been represented by counsel or waived
17 counsel on any prior DUI for the conviction to be
18 considered for enhanced criminal penalty purposes.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of
22 Alabama of 1901, as amended, prohibits a general
23 law whose purpose or effect would be to require a
24 new or increased expenditure of local funds from
25 becoming effective with regard to a local
26 governmental entity without enactment by a 2/3 vote
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. However,
8 the bill does not require approval of a local
9 governmental entity or enactment by a 2/3 vote to
10 become effective because it comes within one of the
11 specified exceptions contained in the amendment.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 32-5A-191, Code of Alabama 1975,
18 relating to driving under the influence and administrative
19 driver license suspension; to require all prior convictions or
20 contacts within 10 years be considered by the court for
21 sentencing enhancement purposes or the Alabama State Law
22 Enforcement Agency in administrative driver license suspension
23 periods; and in connection therewith would have as its purpose
24 or effect the requirement of a new or increased expenditure of
25 local funds within the meaning of Amendment 621 of the
26 Constitution of Alabama of 1901, now appearing as Section

1 111.05 of the Official Recompilation of the Constitution of
2 Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§32-5A-191.

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

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

11 "(2) Under the influence of alcohol;

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

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

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

21 "(b) A person who is under the age of 21 years shall
22 not drive or be in actual physical control of any vehicle if
23 there is 0.02 percent or more by weight of alcohol in his or
24 her blood. The Alabama State Law Enforcement Agency shall
25 suspend or revoke the driver's license of any person,
26 including, but not limited to, a juvenile, child, or youthful
27 offender, convicted or adjudicated of, or subjected to a

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

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

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

1 conviction the Secretary of the Alabama State Law Enforcement
2 Agency shall suspend the driving privilege or driver's license
3 for a period of one year.

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

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

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

26 "(e) Upon first conviction, a person violating this
27 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 six
11 months. The offender shall present proof of installation of
12 the approved ignition interlock device to the Alabama State
13 Law Enforcement Agency and obtain an ignition interlock
14 restricted driver license. The remainder of the suspension
15 shall be commuted upon the successful completion of the
16 elected use, mandated use, or both, of the ignition interlock
17 device. If, on a first conviction, any person refusing to
18 provide a blood alcohol concentration or if a child under the
19 age of 14 years was a passenger in the vehicle at the time of
20 the offense or if someone else besides the offender was
21 injured at the time of the offense, the Secretary of the
22 Alabama State Law Enforcement Agency shall suspend the driving
23 privilege or driver's license of the person convicted for a
24 period of 90 days and the person shall be required to have an
25 ignition interlock device installed and operating on the
26 designated motor vehicle driven by the offender for a period
27 of two years from the date of issuance of a driver's license

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

18 "(f) On a second conviction within a ~~five-year~~
19 10-year period, a person convicted of violating this section
20 shall be punished by a fine of not less than one thousand one
21 hundred dollars (\$1,100) nor more than five thousand one
22 hundred dollars (\$5,100) and by imprisonment, which may
23 include hard labor in the county or municipal jail for not
24 more than one year. The sentence shall include a mandatory
25 sentence, which is not subject to suspension or probation, of
26 imprisonment in the county or municipal jail for not less than
27 five days or community service for not less than 30 days. In

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

25 "(g) On a third conviction within a 10-year period,
26 a person convicted of violating this section shall be punished
27 by a fine of not less than two thousand one hundred dollars

1 (\$2,100) nor more than ten thousand one hundred dollars
2 (\$10,100) and by imprisonment, which may include hard labor,
3 in the county or municipal jail for not less than 60 days nor
4 more than one year, to include a minimum of 60 days which
5 shall be served in the county or municipal jail and cannot be
6 probated or suspended. In addition, the Secretary of the
7 Alabama State Law Enforcement Agency shall revoke the driving
8 privilege or driver's license of the person convicted for a
9 period of three years and the offender shall be required to
10 have an ignition interlock device installed and operating on
11 the designated motor vehicle driven by the offender for a
12 period of three years from the date of issuance of a driver's
13 license indicating that the person's driving privileges are
14 subject to the condition of the installation and use of a
15 certified ignition interlock device on a motor vehicle. After
16 a minimum of 180 days of the license revocation or suspension
17 pursuant to Section 32-5A-304, this section, or both, is
18 completed, upon receipt of a court order from the convicting
19 court, upon issuance of an ignition interlock restricted
20 driver license, and upon proof of installation of an
21 operational approved ignition interlock device on the
22 designated vehicle of the person convicted, the mandated
23 ignition interlock period of three years provided in this
24 subsection shall start and the suspension period, revocation
25 period, or both, as required under this subsection shall be
26 stayed. The remainder of the driver license revocation period,
27 suspension period, or both, shall be commuted upon the

1 successful completion of the period of time in which the
2 ignition interlock device is mandated to be installed and
3 operational.

4 "(h) On a fourth or subsequent conviction within a
5 10-year period, a person convicted of violating this section
6 shall be guilty of a Class C felony and punished by a fine of
7 not less than four thousand one hundred dollars (\$4,100) nor
8 more than ten thousand one hundred dollars (\$10,100) and by
9 imprisonment of not less than one year and one day nor more
10 than 10 years. Any term of imprisonment may include hard labor
11 for the county or state, and where imprisonment does not
12 exceed three years confinement may be in the county jail.
13 Where imprisonment does not exceed one year and one day,
14 confinement shall be in the county jail. The minimum sentence
15 shall include a term of imprisonment for at least one year and
16 one day, provided, however, that there shall be a minimum
17 mandatory sentence of 10 days which shall be served in the
18 county jail. The remainder of the sentence may be suspended or
19 probated, but only if as a condition of probation the
20 defendant enrolls and successfully completes a state certified
21 chemical dependency program recommended by the court referral
22 officer and approved by the sentencing court. Where probation
23 is granted, the sentencing court may, in its discretion, and
24 where monitoring equipment is available, place the defendant
25 on house arrest under electronic surveillance during the
26 probationary term. In addition to the other penalties
27 authorized, the Secretary of the Alabama State Law Enforcement

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

24 "The Alabama habitual felony offender law shall not
25 apply to a conviction of a felony pursuant to this subsection,
26 and a conviction of a felony pursuant to this subsection shall
27 not be a felony conviction for purposes of the enhancement of

1 punishment pursuant to Alabama's habitual felony offender law.
2 However, prior misdemeanor or felony convictions for driving
3 under the influence may be considered as part of the
4 sentencing calculations or determinations under the Alabama
5 Sentencing Guidelines or rules promulgated by the Alabama
6 Sentencing Commission.

7 "(i) When any person convicted of violating this
8 section is found to have had at least 0.15 percent or more by
9 weight of alcohol in his or her blood while operating or being
10 in actual physical control of a vehicle, he or she shall be
11 sentenced to at least double the minimum punishment that the
12 person would have received if he or she had had less than 0.15
13 percent by weight of alcohol in his or her blood. Upon the
14 first violation of this subsection, the offender shall be
15 ordered by the court to have an ignition interlock device
16 installed and operating on his or her designated motor vehicle
17 for a period of two years from the date of issuance of an
18 ignition interlock-restricted driver's license. If the
19 adjudicated offense is a misdemeanor, the minimum punishment
20 shall be imprisonment for one year, all of which may be
21 suspended except as otherwise provided for in subsections (f)
22 and (g).

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

1 have received if the child had not been a passenger in the
2 motor vehicle.

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

16 "(2) Upon conviction, the court shall notify the
17 Alabama State Law Enforcement Agency if the person convicted
18 is required to install and maintain an approved ignition
19 interlock device. The agency shall suspend or revoke a
20 person's driving privileges until completion of the mandatory
21 suspension or revocation period required by this section, and
22 clearance of all other suspensions, revocations,
23 cancellations, or denials, and proof of installation of an
24 approved ignition interlock device is presented to the agency.
25 The agency shall not reissue a driver's license to a person
26 who has been ordered by a court or is required by law to have
27 the ignition interlock device installed until proof is

1 presented that the person is eligible for reinstatement of
2 driving privileges. Upon presentation of proof and compliance
3 with all ignition interlock requirements, the agency shall
4 issue a driver's license with a restriction indicating that
5 the licensee may operate a motor vehicle only with the
6 certified ignition interlock device installed and properly
7 operating. If the licensee fails to maintain the approved
8 ignition interlock device as required or is otherwise not in
9 compliance with any order of the court, the court shall notify
10 the agency of the noncompliance and the agency shall suspend
11 the person's driving privileges until the agency receives
12 notification from the court that the licensee is in
13 compliance. The requirement that the licensee use the ignition
14 interlock device may be removed only when the court of
15 conviction confirms to the agency that the licensee is no
16 longer subject to the ignition interlock device requirement.

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

21 "(m) Except for fines collected for violations of
22 this section charged pursuant to a municipal ordinance, fines
23 collected for violations of this section shall be deposited to
24 the State General Fund; however, beginning October 1, 1995, of
25 any amount collected over two hundred fifty dollars (\$250) for
26 a first conviction, over five hundred dollars (\$500) for a
27 second conviction within ~~five~~ 10 years, over one thousand

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

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

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

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

23 "(o) Upon verification that a defendant arrested
24 pursuant to this section is currently on probation from
25 another court of this state as a result of a conviction for
26 any criminal offense, the prosecutor shall provide written or
27 oral notification of the defendant's subsequent arrest and

1 pending prosecution to the court in which the prior conviction
2 occurred.

3 "(p) A prior conviction within a ~~five-year~~ 10-year
4 period for driving under the influence of alcohol or drugs
5 from this state, a municipality within this state, or another
6 state or territory or a municipality of another state or
7 territory shall be considered by a court for imposing a
8 sentence pursuant to this section. The 10-year period of time
9 shall be measured from the date for which previous convictions
10 were obtained or pleas were accepted to the date of the
11 current arrest for which a conviction is obtained or plea is
12 accepted. Unless it is shown that the accused was represented
13 by counsel, or waived counsel, at the time of his or her prior
14 conviction, the prior conviction may not be considered in
15 imposing a sentence under this section.

16 "(q) Any person convicted of driving under the
17 influence of alcohol, or a controlled substance, or both, or
18 any substance which impairs the mental or physical faculties
19 in violation of this section, a municipal ordinance adopting
20 this section, or a similar law from another state or territory
21 or a municipality of another state or territory more than once
22 in a ~~five-year~~ 10-year period shall have his or her motor
23 vehicle registration for all vehicles owned by the repeat
24 offender suspended by the Alabama Department of Revenue for
25 the duration of the offender's driver's license suspension
26 period, unless such action would impose an undue hardship to
27 any individual, not including the repeat offender, who is

1 completely dependent on the motor vehicle for the necessities
2 of life, including any family member of the repeat offender
3 and any co-owner of the vehicle or, in the case of a repeat
4 offender, if the repeat offender has a functioning ignition
5 interlock device installed on the designated vehicle for the
6 duration of the offender's driver's license suspension period.

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

17 "a. Forty-five percent to the Alabama Interlock
18 Indigent Fund.

19 "b. Twenty percent to the State Judicial
20 Administration Fund administered by the Administrative Office
21 of Courts.

22 "c. Twenty percent to the Highway Traffic Safety
23 Fund administered by the Alabama State Law Enforcement Agency.

24 "d. Fifteen percent to the District Attorney's
25 Solicitor Fund.

26 "(2) In addition to paying the court clerk
27 seventy-five dollars (\$75) per month for the first four months

1 following the conviction or the voluntary installation of the
2 ignition interlock device, the defendant shall pay all costs
3 associated with the installation, purchase, maintenance, or
4 lease of the ignition interlock devices to an approved
5 ignition interlock provider pursuant to the rules of the
6 Department of Forensic Sciences, unless the defendant is
7 subject to Section 32-5A-191.4(g)(4) during which he or she
8 shall pay one-half the cost for the available indigency
9 period.

10 "(s) The defendant shall designate the vehicle to be
11 used by identifying the vehicle by the vehicle identification
12 number to the court. The defendant, at his or her own expense,
13 may designate additional motor vehicles on which an ignition
14 interlock device may be installed for the use of the
15 defendant.

16 "(t)(1) Any person who is required to comply with
17 the ignition interlock provisions of this section as a
18 condition of restoration or reinstatement of his or her
19 driver's license, shall only operate the designated vehicle
20 equipped with a functioning ignition interlock device for the
21 period of time consistent with the offense for which he or she
22 was convicted as provided for in this section.

23 "(2) The duration of the time an ignition interlock
24 device is required by this section shall be doubled if the
25 offender refused the prescribed chemical test for
26 intoxication, or if the offender's blood alcohol concentration

1 was 0.15 grams percent or greater unless already doubled by a
2 previous section.

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

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

21 "(3) Any ignition interlock driving violation
22 committed by the offender during the mandated ignition
23 interlock period shall extend the duration of ignition
24 interlock use for six months from the date of violation.
25 Ignition interlock driving violations include any of the
26 following:

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

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

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

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

14 "(w) The provisions in this section and Section
15 32-5A-191.4 relating to ignition interlock devices shall not
16 apply to persons who commit violations of this section while
17 under 19 years of age and who are adjudicated in juvenile
18 court, unless specifically ordered otherwise by the court.

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

24 "a. The offender files an appeal with the court of
25 jurisdiction requesting all prior suspensions or revocation,
26 or both, be stayed upon compliance with the ignition interlock
27 requirement.

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

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

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

8 "e. The offender remains in compliance of ignition
9 interlock requirements.

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

14 Section 2. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.