

1 HB425
2 189433-3
3 By Representative Mooney
4 RFD: Public Safety and Homeland Security
5 First Read: 15-FEB-18

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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.

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

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

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

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

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to persons charged with driving under the
14 influence; to amend Section 32-5A-191 and Section 32-5A-191.4,
15 Code of Alabama 1975, to further require and provide for the
16 use of ignition interlock devices including by persons
17 approved for pretrial diversion or persons released on bond;
18 to provide for the repeal of the ignition interlock request
19 for pretrial diversion participants in five years; to provide
20 for the distribution of court fees to municipal courts under
21 certain conditions; to provide for ignition interlock services
22 for the indigent under certain conditions; and in connection
23 therewith would have as its purpose or effect the requirement
24 of a new or increased expenditure of local funds within the
25 meaning of Amendment 621 of the Constitution of Alabama of
26 1901, now appearing as Section 111.05 of the Official

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 32-5A-191, as amended by Act
5 2016-259 and Section 32-5A-191.4, Code of Alabama 1975, are
6 amended to read as follows:

7 "§32-5A-191.

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

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

12 "(2) Under the influence of alcohol;

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

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

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

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

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

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

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

1 penalties provided by this section, except that on the first
2 conviction the Secretary of the Alabama State Law Enforcement
3 Agency shall suspend the driving privilege or driver's license
4 for a period of one year.

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

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

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

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

1 privilege or driver's license of the person convicted for a
2 period of 90 days and the person shall be required to have an
3 ignition interlock device installed and operating on the
4 designated motor vehicle driven by the offender for a period
5 of ~~two years~~ one year from the date of issuance of a driver's
6 license indicating that 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. ~~After~~
9 ~~a minimum of 45 days of the license revocation or suspension~~
10 ~~pursuant to Section 32-5A-304 or this section, or both, is~~
11 ~~completed, upon~~ Upon receipt of a court order from the
12 convicting court, upon issuance of an ignition interlock
13 restricted driver license, and upon proof of installation of
14 an operational approved ignition interlock device on the
15 designated vehicle of the person convicted, the mandated
16 ignition interlock period of ~~two years~~ one year provided 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 "(f) On a second conviction within a five-year
25 period, a person convicted of violating this section shall be
26 punished by a fine of not less than one thousand one hundred
27 dollars (\$1,100) nor more than five thousand one hundred

1 dollars (\$5,100) and by imprisonment, which may include hard
2 labor in the county or municipal jail for not more than one
3 year. The sentence shall include a mandatory sentence, which
4 is not subject to suspension or probation, of imprisonment in
5 the county or municipal jail for not less than five days or
6 community service for not less than 30 days. In addition, the
7 Secretary of the Alabama State Law Enforcement Agency shall
8 revoke the driving privileges or driver's license of the
9 person convicted for a period of one year and the offender
10 shall be required to have an ignition interlock device
11 installed and operating on the designated motor vehicle driven
12 by the offender for a period of two years from the date of
13 issuance of a driver's license indicating that the person's
14 driving privileges are subject to the condition of the
15 installation and use of a certified ignition interlock device
16 on a motor vehicle. After a minimum of 45 days of the license
17 revocation or suspension pursuant to Section 32-5A-304, this
18 section, or both, is completed, upon receipt of a court order
19 from the convicting court, upon issuance of an ignition
20 interlock restricted driver license, and upon proof of
21 installation ~~or~~ of an operational approved ignition interlock
22 device on the designated vehicle of the person convicted, the
23 mandated ignition interlock period of two years approved in
24 this subsection shall start and the suspension period,
25 revocation period, or both, as required under this subsection
26 shall be stayed. The remainder of the driver license
27 revocation period, suspension period, or both, shall be

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

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

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

10 "(h) On a fourth or subsequent conviction, a person
11 convicted of violating this section shall be guilty of a Class
12 C felony and punished by a fine of not less than four thousand
13 one hundred dollars (\$4,100) nor more than ten thousand one
14 hundred dollars (\$10,100) and by imprisonment of not less than
15 one year and one day nor more than 10 years. Any term of
16 imprisonment may include hard labor for the county or state,
17 and where imprisonment does not exceed three years confinement
18 may be in the county jail. Where imprisonment does not exceed
19 one year and one day, confinement shall be in the county jail.
20 The minimum sentence shall include a term of imprisonment for
21 at least one year and one day, provided, however, that there
22 shall be a minimum mandatory sentence of 10 days which shall
23 be served in the county jail. The remainder of the sentence
24 may be suspended or probated, but only if as a condition of
25 probation the defendant enrolls and successfully completes a
26 state certified chemical dependency program recommended by the
27 court referral officer and approved by the sentencing court.

1 Where probation is granted, the sentencing court may, in its
2 discretion, and where monitoring equipment is available, place
3 the defendant on house arrest under electronic surveillance
4 during the probationary term. In addition to the other
5 penalties authorized, the Secretary of the Alabama State Law
6 Enforcement Agency shall revoke the driving privilege or
7 driver's license of the person convicted for a period of five
8 years and the offender shall be required to have an ignition
9 interlock device installed and operating on the designated
10 motor vehicle driven by the offender for a period of ~~five~~ four
11 years from the date of issuance of a driver's license
12 indicating that the person's driving privileges are subject to
13 the condition of the installation and use of a certified
14 ignition interlock device on a motor vehicle. After a minimum
15 of one year of the license revocation or suspension pursuant
16 to Section 32-5A-304, this section, or both, is completed,
17 upon receipt of a court order from the convicting court, upon
18 issuance of an ignition interlock restricted driver license,
19 and upon proof of installation of an operational approved
20 ignition interlock device on the designated vehicle of the
21 person convicted, the mandated ignition interlock period of
22 ~~five~~ four years provided in this subsection shall start and
23 the suspension period, revocation period, or both, as required
24 under this subsection shall be stayed. The remainder of the
25 driver license revocation period, suspension period, or both,
26 shall be commuted upon the successful completion of the period

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

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

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

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

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

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

1 dollars (\$300) of the fine collected for a first conviction,
2 the second eight hundred dollars (\$800) collected for a second
3 conviction, the second one thousand eight hundred dollars
4 (\$1,800) collected for a third conviction, and the second
5 three thousand eight hundred dollars (\$3,800) collected for a
6 fourth conviction shall be divided with 50 percent of the
7 funds collected to be deposited to the State Treasury to be
8 credited to the State General Fund and 50 percent deposited as
9 otherwise provided by law for municipal ordinance violations.
10 Any amounts collected over these amounts shall be deposited as
11 otherwise provided by law for municipal ordinance violations.
12 Notwithstanding any provision of law to the contrary, 90
13 percent of any fine assessed and collected for any DUI offense
14 charged by municipal ordinance violation in district or
15 circuit court shall be computed only on the amount assessed
16 over the minimum fine authorized, and upon collection shall be
17 distributed to the municipal general fund with the remaining
18 10 percent distributed to the State General Fund. In addition
19 to fines imposed pursuant to this subsection, a mandatory fee
20 of one hundred dollars (\$100) shall be collected from any
21 individual that successfully completes any pretrial diversion
22 or deferral program in any municipal, district, or circuit
23 court where the individual was charged with a violation of
24 this section or a corresponding municipal ordinance. The one
25 hundred dollars (\$100) shall be deposited into the Alabama
26 Chemical Testing Training and Equipment Fund.

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

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

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

1 "(p) A prior conviction within a five-year period
2 for driving under the influence of alcohol or drugs from this
3 state, a municipality within this state, or another state or
4 territory or a municipality of another state or territory
5 shall be considered by a court for imposing a sentence
6 pursuant to this section.

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

25 "(r) (1) Any person ordered by the court to have an
26 ignition interlock device installed on a designated vehicle,
27 and any person who elects to have the ignition interlock

1 device installed on a designated vehicle for the purpose of
2 reducing a period of suspension or revocation of his or her
3 driver's license, shall pay to the court, ~~for each of the~~
4 ~~first four months~~ following his or her conviction ~~or the first~~
5 ~~four months following the installation of the ignition~~
6 ~~interlock device on his or her vehicle, seventy-five dollars~~
7 ~~(\$75) per month~~ two hundred dollars (\$200), which may be paid
8 in installments and which shall be divided as follows:

9 "a. ~~Forty-five~~ Seventeen percent to the Alabama
10 Interlock Indigent Fund.

11 "b. ~~Twenty~~ For cases in the district or circuit
12 court, 30 percent to the State Judicial Administration Fund
13 administered by the Administrative Office of Courts and for
14 cases in the municipal court, 30 percent to the municipal
15 judicial administration fund of the municipality where the
16 municipal court is located to be used for the operation of the
17 municipal court.

18 "c. ~~Twenty~~ Thirty percent to the Highway Traffic
19 Safety Fund administered by the Alabama State Law Enforcement
20 Agency.

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

23 "(2) In addition to paying the court clerk
24 ~~seventy-five dollars (\$75) per month for the first four months~~
25 the fee required in subdivision (1) following the conviction
26 or the voluntary installation of the ignition interlock
27 device, the defendant shall pay all costs associated with the

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

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

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

20 "(2) The duration of the time an ignition interlock
21 device is required by this section shall be ~~doubled~~ one year
22 if the offender refused the prescribed chemical test for
23 intoxication, ~~or if the offender's blood alcohol concentration~~
24 ~~was 0.15 grams percent or greater unless already doubled by a~~
25 ~~previous section.~~

26 "(u) (1) The Alabama State Law Enforcement Agency may
27 set a fee of not more than one hundred fifty dollars (\$150)

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

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

17 "(3) Any ignition interlock driving violation
18 committed by the offender during the mandated ignition
19 interlock period shall extend the duration of ignition
20 interlock use for six months ~~from the date of violation.~~
21 Ignition interlock driving violations include any of the
22 following:

23 "a. A breath sample at or above a minimum blood
24 alcohol concentration level of 0.02 recorded ~~more than~~ four or
25 more times during the monthly reporting period unless a
26 subsequent test performed within 10 minutes registers a breath
27 alcohol concentration lower than 0.02.

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

3 "c. Failure to comply with the servicing or
4 calibration requirements of the ignition interlock device
5 every 30 days.

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

11 "(w) The provisions in this section and Section
12 32-5A-191.4 relating to ignition interlock devices shall not
13 apply to persons who commit violations of this section while
14 under 19 years of age and who are adjudicated in juvenile
15 court, unless specifically ordered otherwise by the court.

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

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

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

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

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

6 "e. The offender remains in compliance of ignition
7 interlock requirements.

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

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

23 "(2) Upon receipt of a court order or an agreement
24 from the district attorney or prosecutor indicating the
25 offender has entered a pretrial diversion program or any other
26 form of deferred prosecution agreement, the Secretary of the
27 Alabama State Law Enforcement Agency shall indicate as the

1 agency shall determine the person's driving privileges are
2 subject to the condition of the installation and use of a
3 certified ignition interlock device on a motor vehicle. Any
4 driver's license suspension period pursuant to Section
5 32-5A-304 shall be stayed and then commuted upon the
6 successful completion of the pretrial diversion program, or
7 any other form of deferred prosecution agreement.

8 "(z) This section shall be repealed five years from
9 the effective date of the act adding this language.

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

14 "§32-5A-191.4.

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

24 "(b) The ignition interlock device shall be
25 installed, calibrated, and monitored directly by trained
26 technicians who shall train the offender for whom the device
27 is being installed in the proper use of the device. The use of

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

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

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

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

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

1 device in Alabama. Each year during the month of April, the
2 Department of Forensic Sciences may receive applications and
3 instruments to review for approval.

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

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

20 "(i) (1) When the court imposes the use of an
21 ignition interlock device as required by Section 32-5A-191,
22 the court shall require that the person provide proof of
23 installation of a device to the court or a probation officer
24 within 30 days of the date the defendant becomes eligible to
25 receive an ignition interlock-restricted license from the
26 Department of Public Safety. If the person fails to provide
27 proof of installation within that period, absent a finding by

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

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

19 "(3) A defendant who is determined by the court to
20 be indigent for the purpose of ignition interlock may have an
21 ignition interlock device installed by an ignition interlock
22 provider as provided in this subsection. Criteria for
23 determining indigency for the purpose of ignition interlock
24 shall be the same criteria as set forth in Section 15-12-5(b)
25 and (c) after the report is complete. ~~In determining whether~~
26 ~~the defendant is indigent for the purpose of ignition~~
27 ~~interlock, the judge shall require an investigation and report~~

1 ~~by a sheriff, adult probation officer, or other officer of the~~
2 ~~court. The report may include input from the district attorney~~
3 ~~or municipal prosecutor.~~ The defendant shall execute an
4 affidavit of substantial hardship on a form approved by the
5 Supreme Court. The completed affidavit of substantial hardship
6 and the subsequent order of the court either denying or
7 granting indigency status for the purpose of ignition
8 interlock to the offender shall become a part of the official
9 court record in the case and shall be submitted by the
10 offender to the interlock provider.

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

22 "(5) a. ~~All interlock providers shall be required to~~
23 ~~pay one and one-half percent of all payments collected less~~
24 ~~any payments made by a defendant determined as indigent for~~
25 ~~the purpose of ignition interlock to the Alabama Ignition~~
26 ~~Interlock Indigent Fund in the State Treasury.~~ The Alabama
27 State Law Enforcement Agency shall require each approved

1 manufacturer to provide a minimum number of indigent
2 defendants with ignition interlock services, including
3 installation, lease, calibration, and removal at no cost to
4 the indigent defendant. The minimum number of indigent
5 defendants provided services shall be equal to five percent of
6 the total installations provided by the manufacturer during
7 the prior calendar year.

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

11 "1. Verifying the total number of installations
12 provided by the manufacturer each year.

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

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

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

24 "b.d. The Alabama Ignition Interlock Indigent Fund
25 is created in the State Treasury. The fund shall be
26 administered by ~~the Department of Public Safety~~ the Alabama
27 State Law Enforcement Agency. All ~~Except as provided in~~

1 paragraph e., all of the money in the fund shall be used to
2 reimburse ignition interlock device providers who have
3 installed devices in vehicles of indigent persons pursuant to
4 court orders issued under this section. No provider shall be
5 reimbursed for an interlock device installed without the
6 completed affidavit of substantial hardship and the subsequent
7 order of the court granting indigency status. Payments to
8 interlock device providers pursuant to this subdivision shall
9 be made every three months. If the amount of money in the fund
10 at the time payments are made is not sufficient to pay all
11 requests for reimbursement submitted during that three-month
12 period, the Comptroller shall make payments on a pro rata
13 basis and those payments shall be considered payment in full
14 for the requests submitted. At the end of each fiscal year,
15 all monies above five hundred thousand dollars (\$500,000)
16 remaining in the Alabama Ignition Interlock Indigent Fund
17 shall be divided as follows:

18 "1. Thirty percent to the Highway Traffic Safety
19 Fund administered by the ~~Department of Public Safety~~ Alabama
20 State Law Enforcement Agency.

21 "2. Twenty percent to the Alabama Chemical Testing
22 Training and Equipment Trust Fund administered by the
23 Department of Forensic Sciences.

24 "3. Thirty percent to the District Attorney's
25 Solicitor's Fund.

26 "4. Twenty percent to the Office of Prosecution
27 Services.

1 "e. Notwithstanding the provisions of paragraph d.,
2 10 percent of the first five hundred thousand dollars
3 (\$500,000) collected in the fund each year may be used by the
4 Alabama State Law Enforcement Agency for any of the following
5 additional purposes on an annual basis:

6 "1. Annual reporting and assessment of manufacturer
7 compliance with indigent service requirements.

8 "2. Notice and collection of any fines for
9 noncompliance.

10 "3. Annual inspection of interlock service centers
11 by the agency.

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

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

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

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

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

19 "(2) A violation of subsection (j) on the first
20 offense is a Class A misdemeanor ~~and punishable as provided by~~
21 ~~law~~. In addition, the time the defendant is required to use an
22 ignition interlock device shall be extended by six months.
23 Upon second conviction of a violation of subsection (j), the
24 sentence shall include a mandatory sentence, which is not
25 subject to suspension or probation, of imprisonment in the
26 county or municipal jail for not less than 48 hours and the
27 time the defendant is required to use an ignition interlock

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

8 "(l) No person shall blow into an ignition interlock
9 device or start a motor vehicle equipped with the device for
10 the purpose of providing an operable motor vehicle to a person
11 who is prohibited from operating a motor vehicle without an
12 ignition interlock device.

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

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

20 Section 2. Five years from the effective date of
21 this act, Section 32-5A-191 is added to the Code of Alabama
22 1975, to read as follows:

23 §32-5A-191.

24 (a) A person shall not drive or be in actual
25 physical control of any vehicle while:

26 (1) There is 0.08 percent or more by weight of
27 alcohol in his or her blood;

1 (2) Under the influence of alcohol;

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

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

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

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

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

1 person's arrest, conviction, or adjudication of or finding of
2 delinquency based on this subsection.

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

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

21 (2) A person shall not drive or be in actual
22 physical control of a commercial motor vehicle, as defined in
23 49 CFR Part 383.5 of the Federal Motor Carrier Safety
24 Regulations as adopted pursuant to Section 32-9A-2, if there
25 is 0.04 percent or greater by weight of alcohol in his or her
26 blood. Notwithstanding the other provisions of this section,
27 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 time
9 as it relates to a court order, approval, and installation of
10 an ignition interlock device shall not apply to commercial
11 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 90

1 days. The offender shall present proof of installation of the
2 approved ignition interlock device to the Alabama State Law
3 Enforcement Agency and obtain an ignition interlock restricted
4 driver license. The remainder of the suspension shall be
5 commuted upon the successful completion of the elected use,
6 mandated use, or both, of the ignition interlock device. If,
7 on a first conviction, any person refusing to provide a blood
8 alcohol concentration or if a child under the age of 14 years
9 was a passenger in the vehicle at the time of the offense or
10 if someone else besides the offender was injured at the time
11 of the offense, or if the offender is found to have had at
12 least 0.15 percent or more by weight of alcohol in his or her
13 blood while operating or being in actual control of a vehicle,
14 the Secretary of the Alabama State Law Enforcement Agency
15 shall suspend the driving privilege or driver's license of the
16 person convicted for a period of 90 days and the person shall
17 be required to have an ignition interlock device installed and
18 operating on the designated motor vehicle driven by the
19 offender for a period of one year from the date of issuance of
20 a driver's license indicating that the person's driving
21 privileges are subject to the condition of the installation
22 and use of a certified ignition interlock device on a motor
23 vehicle. After a minimum of 45 days of the license revocation
24 or suspension pursuant to Section 32-5A-304 or this section,
25 or both, is completed, upon receipt of a court order from the
26 convicting court, upon issuance of an ignition interlock
27 restricted driver license, and upon proof of installation of

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

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

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

18 (g) On a third conviction, a person convicted of
19 violating this section shall be punished by a fine of not less
20 than two thousand one hundred dollars (\$2,100) nor more than
21 ten thousand one hundred dollars (\$10,100) and by
22 imprisonment, which may include hard labor, in the county or
23 municipal jail for not less than 60 days nor more than one
24 year, to include a minimum of 60 days which shall be served in
25 the county or municipal jail and cannot be probated or
26 suspended. In addition, the Secretary of the Alabama State Law
27 Enforcement Agency shall revoke the driving privilege or

1 driver's license of the person convicted for a period of three
2 years and the offender shall be required to have an ignition
3 interlock device installed and operating on the designated
4 motor vehicle driven by the offender for a period of three
5 years from the date of issuance of a driver's license
6 indicating that the person's driving privileges are subject to
7 the condition of the installation and use of a certified
8 ignition interlock device on a motor vehicle. After a minimum
9 of 60 days of the license revocation or suspension pursuant to
10 Section 32-5A-304, this section, or both, is completed, upon
11 receipt of a court order from the convicting court, upon
12 issuance of an ignition interlock restricted driver license,
13 and upon proof of installation of an operational approved
14 ignition interlock device on the designated vehicle of the
15 person convicted, the mandated ignition interlock period of
16 three years provided in this subsection shall start and the
17 suspension period, revocation period, or both, as required
18 under this subsection shall be stayed. The remainder of the
19 driver license revocation period, suspension period, or both,
20 shall be commuted upon the successful completion of the period
21 of time in which the ignition interlock device is mandated to
22 be installed and operational.

23 (h) On a fourth or subsequent conviction, a person
24 convicted of violating this section shall be guilty of a Class
25 C felony and punished by a fine of not less than four thousand
26 one hundred dollars (\$4,100) nor more than ten thousand one
27 hundred dollars (\$10,100) and by imprisonment of not less than

1 one year and one day nor more than 10 years. Any term of
2 imprisonment may include hard labor for the county or state,
3 and where imprisonment does not exceed three years,
4 confinement may be in the county jail. Where imprisonment does
5 not exceed one year and one day, confinement shall be in the
6 county jail. The minimum sentence shall include a term of
7 imprisonment for at least one year and one day; provided,
8 however, that there shall be a minimum mandatory sentence of
9 10 days which shall be served in the county jail. The
10 remainder of the sentence may be suspended or probated, but
11 only if, as a condition of probation, the defendant enrolls
12 and successfully completes a state certified chemical
13 dependency program recommended by the court referral officer
14 and approved by the sentencing court. Where probation is
15 granted, the sentencing court may, in its discretion, and
16 where monitoring equipment is available, place the defendant
17 on house arrest under electronic surveillance during the
18 probationary term. In addition to the other penalties
19 authorized, the Secretary of the Alabama State Law Enforcement
20 Agency shall revoke the driving privilege or driver's license
21 of the person convicted for a period of five years and the
22 offender shall be required to have an ignition interlock
23 device installed and operating on the designated motor vehicle
24 driven by the offender for a period of four years from the
25 date of issuance of a driver's license indicating that the
26 person's driving privileges are subject to the condition of
27 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
3 32-5A-304, this section, or both, is completed, upon receipt
4 of a court order from the convicting court, upon issuance of
5 an ignition interlock restricted driver license, and upon
6 proof of installation of an operational approved ignition
7 interlock device on the designated vehicle of the person
8 convicted, the mandated ignition interlock period of four
9 years provided in this subsection shall start and the
10 suspension period, revocation period, or both, as required
11 under this subsection shall be stayed. The remainder of the
12 driver license revocation period, suspension period, or both,
13 shall be commuted upon the successful completion of the period
14 of time in which the ignition interlock device is mandated to
15 be 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

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

12 (j) When any person over the age of 21 years is
13 convicted of violating this section and it is found that a
14 child under the age of 14 years was a passenger in the vehicle
15 at the time of the offense, the person shall be sentenced to
16 at least double the minimum punishment that the person would
17 have received if the child had not been a passenger in the
18 motor vehicle. This subsection does not apply to the duration
19 of time an ignition interlock device is required by this
20 section.

21 (k) (1) In addition to the penalties provided
22 herein, any person convicted of violating this section shall
23 be referred to the court referral officer for evaluation and
24 referral to appropriate community resources. The defendant
25 shall, at a minimum, be required to complete a DUI or
26 substance abuse court referral program approved by the
27 Administrative Office of Courts and operated in accordance

1 with provisions of the Mandatory Treatment Act of 1990,
2 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law
3 Enforcement Agency shall not reissue a driver's license to a
4 person convicted under this section without receiving proof
5 that the defendant has successfully completed the required
6 program.

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

1 the agency of the noncompliance and the agency shall suspend
2 the person's driving privileges until the agency receives
3 notification from the court that the licensee is in
4 compliance. The requirement that the licensee use the ignition
5 interlock device may be removed only when the court of
6 conviction confirms to the agency that the licensee is no
7 longer subject to the ignition interlock device requirement.

8 (l) Neither reckless driving nor any other traffic
9 infraction is a lesser included offense under a charge of
10 driving under the influence of alcohol or of a controlled
11 substance.

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

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

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

1 individual that successfully completes any pretrial diversion
2 or deferral program in any municipal, district, or circuit
3 court where the individual was charged with a violation of
4 this section or a corresponding municipal ordinance. The one
5 hundred dollars (\$100) shall be deposited into the Alabama
6 Chemical Testing Training and Equipment Fund.

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

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

26 (o) Upon verification that a defendant arrested
27 pursuant to this section is currently on probation from

1 another court of this state as a result of a conviction for
2 any criminal offense, the prosecutor shall provide written or
3 oral notification of the defendant's subsequent arrest and
4 pending prosecution to the court in which the prior conviction
5 occurred.

6 (p) A prior conviction within a five-year period for
7 driving under the influence of alcohol or drugs from this
8 state, a municipality within this state, or another state or
9 territory or a municipality of another state or territory
10 shall be considered by a court for imposing a sentence
11 pursuant to this section.

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

1 interlock device installed on the designated vehicle for the
2 duration of the offender's driver's license suspension period.

3 (r) (1) Any person ordered by the court to have an
4 ignition interlock device installed on a designated vehicle,
5 and any person who elects to have the ignition interlock
6 device installed on a designated vehicle for the purpose of
7 reducing a period of suspension or revocation of his or her
8 driver's license, shall pay to the court, following his or her
9 conviction, two hundred dollars (\$200), which may be paid in
10 installments and which shall be divided as follows:

11 a. Seventeen percent to the Alabama Interlock
12 Indigent Fund.

13 b. For cases in the district or circuit court, 30
14 percent to the State Judicial Administration Fund administered
15 by the Administrative Office of Courts and for cases in the
16 municipal court, 30 percent to the municipal judicial
17 administration fund of the municipality where the municipal
18 court is located to be used for the operation of the municipal
19 court.

20 c. Thirty percent to the Highway Traffic Safety Fund
21 administered by the Alabama State Law Enforcement Agency.

22 d. Twenty-three percent to the District Attorney's
23 Solicitor Fund.

24 (2) In addition to paying the court clerk the fee
25 required above following the conviction or the voluntary
26 installation of the ignition interlock device, the defendant
27 shall pay all costs associated with the installation,

1 purchase, maintenance, or lease of the ignition interlock
2 devices to an approved ignition interlock provider pursuant to
3 the rules of the Department of Forensic Sciences, unless the
4 defendant is subject to Section 32-5A-191.4(i)(4).

5 (s) The defendant shall designate the vehicle to be
6 used by identifying the vehicle by the vehicle identification
7 number to the court. The defendant, at his or her own expense,
8 may designate additional motor vehicles on which an ignition
9 interlock device may be installed for the use of the
10 defendant.

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

18 (2) The duration of the time an ignition interlock
19 device is required by this section shall be one year if the
20 offender refused the prescribed chemical test for
21 intoxication.

22 (u)(1) The Alabama State Law Enforcement Agency may
23 set a fee of not more than one hundred fifty dollars (\$150)
24 for the issuance of a driver's license indicating that the
25 person's driving privileges are subject to the condition of
26 the installation and use of a certified ignition interlock
27 device on a motor vehicle. Fifteen percent of the fee shall be

1 distributed to the general fund of the county where the person
2 was convicted to be utilized for law enforcement purposes.
3 Eighty-five percent shall be distributed to the State General
4 Fund. In addition, at the end of the time the person's driving
5 privileges are subject to the above conditions, the agency
6 shall set a fee of not more than seventy-five dollars (\$75) to
7 reissue a regular driver's license. The fee shall be deposited
8 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

9 (2) The defendant shall provide proof of
10 installation of an approved ignition interlock device to the
11 Alabama State Law Enforcement Agency as a condition of the
12 issuance of a restricted driver's license.

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

18 a. A breath sample at or above a minimum blood
19 alcohol concentration level of 0.02 recorded four or more
20 times during the monthly reporting period unless a subsequent
21 test performed within 10 minutes registers a breath alcohol
22 concentration lower than 0.02.

23 b. Any tampering, circumvention, or bypassing of the
24 ignition interlock device, or attempt thereof.

25 c. Failure to comply with the servicing or
26 calibration requirements of the ignition interlock device
27 every 30 days.

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

6 (w) The provisions in this section and Section
7 32-5A-191.4 relating to ignition interlock devices shall not
8 apply to persons who commit violations of this section while
9 under 19 years of age and who are adjudicated in juvenile
10 court, unless specifically ordered otherwise by the court.

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

16 a. The offender files an appeal with the court of
17 jurisdiction requesting all prior suspensions or revocation,
18 or both, be stayed upon compliance with the ignition interlock
19 requirement.

20 b. The offender wins appeal with the court of
21 jurisdiction relating to this section.

22 c. The court of jurisdiction notifies the Alabama
23 State Law Enforcement Agency that the offender is eligible to
24 have the driver's license stayed.

25 d. The Alabama State Law Enforcement Agency issues
26 an ignition interlock restricted driver's license.

1 e. The offender remains in compliance of ignition
2 interlock requirements.

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

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

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

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