

1 SB1
2 194096-2
3 By Senator McClendon
4 RFD: Judiciary
5 First Read: 09-JAN-18
6 PFD: 05/19/2017

1 SB1

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4 ENROLLED, An Act,

5 Relating to persons charged with driving under the
6 influence; to amend Section 32-5A-191 and Section 32-5A-191.4,
7 Code of Alabama 1975, to further require and provide for the
8 use of ignition interlock devices; to provide for the
9 distribution of court fees certain conditions; to provide for
10 ignition interlock services for the indigent under certain
11 conditions; and in connection therewith would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds within the meaning of Amendment 621
14 of the Constitution of Alabama of 1901, now appearing as
15 Section 111.05 of the Official ReCompilation of the
16 Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 "§32-5A-191.

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

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

1 "(2) Under the influence of alcohol;

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

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

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

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

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

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

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

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

23 "(2) A person shall not drive or be in actual
24 physical control of a commercial motor vehicle, as defined in
25 49 CFR Part 383.5 of the Federal Motor Carrier Safety

1 Regulations as adopted pursuant to Section 32-9A-2, if there
2 is 0.04 percent or greater by weight of alcohol in his or her
3 blood. Notwithstanding the other provisions of this section,
4 the commercial driver's license or commercial driving
5 privilege of a person convicted of violating this subdivision
6 shall be disqualified for the period provided in accordance
7 with 49 CFR Part 383.51, as applicable, and the person's
8 regular driver's license or privilege to drive a regular motor
9 vehicle shall be governed by the remainder of this section if
10 the person is guilty of a violation of another provision of
11 this section.

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

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

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

1 Secretary of the Alabama State Law Enforcement Agency shall
2 suspend the driving privilege or driver's license of the
3 person convicted for a period of 90 days. The 90-day
4 suspension shall be stayed if the offender elects to have an
5 approved ignition interlock device installed and operating on
6 the designated motor vehicle driven by the offender for ~~six~~
7 ~~months~~ 90 days. The offender shall present proof of
8 installation of the approved ignition interlock device to the
9 Alabama State Law Enforcement Agency and obtain an ignition
10 interlock restricted driver license. The remainder of the
11 suspension shall be commuted upon the successful completion of
12 the elected use, mandated use, or both, of the ignition
13 interlock device. If, on a first conviction, any person
14 refusing to provide a blood alcohol concentration, ~~or~~ if a
15 child under the age of 14 years was a passenger in the vehicle
16 at the time of the offense, ~~or~~ if someone else besides the
17 offender was injured at the time of the offense, or if the
18 offender is found to have had at least 0.15 percent or more by
19 weight of alcohol in his or her blood while operating or being
20 in actual physical control of a vehicle, the Secretary of the
21 Alabama State Law Enforcement Agency shall suspend the driving
22 privilege or driver's license of the person convicted for a
23 period of 90 days and the person shall be required to have an
24 ignition interlock device installed and operating on the
25 designated motor vehicle driven by the offender for a period

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

20 "(f) On a second conviction within a five-year
21 period, a person convicted of violating this section shall be
22 punished by a fine of not less than one thousand one hundred
23 dollars (\$1,100) nor more than five thousand one hundred
24 dollars (\$5,100) and by imprisonment, which may include hard
25 labor in the county or municipal jail for not more than one

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

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

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

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

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

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

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

1 ~~ordered by the court to have an ignition interlock device~~
2 ~~installed and operating on his or her designated motor vehicle~~
3 ~~for a period of two years from the date of issuance of an~~
4 ~~ignition interlock-restricted driver's license. This~~
5 ~~subsection does not apply to the duration of time an ignition~~
6 ~~interlock device is required by this section.~~ If the
7 adjudicated offense is a misdemeanor, the minimum punishment
8 shall be imprisonment for one year, all of which may be
9 suspended except as otherwise provided for in subsections (f)
10 and (g).

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

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

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

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

1 operating. If the licensee fails to maintain the approved
2 ignition interlock device as required or is otherwise not in
3 compliance with any order of the court, the court shall notify
4 the agency of the noncompliance and the agency shall suspend
5 the person's driving privileges until the agency receives
6 notification from the court that the licensee is in
7 compliance. The requirement that the licensee use the ignition
8 interlock device may be removed only when the court of
9 conviction confirms to the agency that the licensee is no
10 longer subject to the ignition interlock device requirement.

11 "(l) Neither reckless driving nor any other traffic
12 infraction is a lesser included offense under a charge of
13 driving under the influence of alcohol or of a controlled
14 substance.

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

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

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

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

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

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

1 oral notification of the defendant's subsequent arrest and
2 pending prosecution to the court in which the prior conviction
3 occurred.

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

10 "(q) Any person convicted of driving under the
11 influence of alcohol, or a controlled substance, or both, or
12 any substance which impairs the mental or physical faculties
13 in violation of this section, a municipal ordinance adopting
14 this section, or a similar law from another state or territory
15 or a municipality of another state or territory more than once
16 in a five-year period shall have his or her motor vehicle
17 registration for all vehicles owned by the repeat offender
18 suspended by the Alabama Department of Revenue for the
19 duration of the offender's driver's license suspension period,
20 unless such action would impose an undue hardship to any
21 individual, not including the repeat offender, who is
22 completely dependent on the motor vehicle for the necessities
23 of life, including any family member of the repeat offender
24 and any co-owner of the vehicle or, in the case of a repeat
25 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, ~~for each of the~~
9 ~~first four months~~ following his or her conviction ~~or the first~~
10 ~~four months following the installation of the ignition~~
11 ~~interlock device on his or her vehicle, seventy-five dollars~~
12 ~~(\$75) per month~~ two hundred dollars (\$200), which may be paid
13 in installments and which shall be divided as follows:

14 "a. ~~Forty-five~~ Seventeen percent to the Alabama
15 Interlock Indigent Fund.

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

23 "c. ~~Twenty~~ Thirty percent to the Highway Traffic
24 Safety Fund administered by the Alabama State Law Enforcement
25 Agency.

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

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

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

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

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

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

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

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

1 Alabama State Law Enforcement Agency as a condition of the
2 issuance of a restricted driver's license.

3 "(3) Any ignition interlock driving violation
4 committed by the offender during the mandated ignition
5 interlock period shall extend the duration of ignition
6 interlock use for six months ~~from the date of violation.~~
7 Ignition interlock driving violations include any of the
8 following:

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

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

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

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

24 "(w) The provisions in this section and Section
25 32-5A-191.4 relating to ignition interlock devices shall not

1 apply to persons who commit violations of this section while
2 under 19 years of age and who are adjudicated in juvenile
3 court, unless specifically ordered otherwise by the court.

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

9 "a. The offender files an appeal with the court of
10 jurisdiction requesting all prior suspensions or revocation,
11 or both, be stayed upon compliance with the ignition interlock
12 requirement.

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

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

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

20 "e. The offender remains in compliance of ignition
21 interlock requirements.

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

1 "(y) (1) Any person charged in a district, circuit,
2 or municipal court with a violation of this section or a
3 municipal ordinance adopted in conformance with this section
4 who is approved for any pretrial diversion program or similar
5 program shall be required to install an ignition interlock
6 device for a minimum of six months or the duration of the
7 pretrial diversion program, whichever is greater, and meet all
8 the requirements of this section and Section 32-5A-191.4. A
9 participant in a pretrial diversion program shall be eligible
10 for indigency status if the program enrolls indigent
11 defendants and waives fees for indigent defendants.

12 "(2) Upon receipt of a court order or an agreement
13 from the district attorney or prosecutor indicating the
14 offender has entered a pretrial diversion program or any other
15 form of deferred prosecution agreement, the Secretary of the
16 Alabama State Law Enforcement Agency shall indicate as the
17 agency shall determine the person's driving privileges are
18 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 period pursuant to Section
21 32-5A-304 shall be stayed and then commuted upon the
22 successful completion of the pretrial diversion program, or
23 any other form of deferred prosecution agreement.

24 "(3) Upon receipt of a court order detailing any
25 ignition interlock violation of the requirements of this

1 section or Section 32-5A-191.4 or termination of the
2 participation in any pretrial diversion program, the Alabama
3 State Law Enforcement Agency shall suspend or revoke driving
4 privileges pursuant to this section and Section 32-5A-304.

5 "(4) Nothing in this section shall be construed to
6 require the Alabama State Law Enforcement Agency to issue an
7 ignition interlock license or stay or commute any license
8 suspension or revocation period of a holder of a commercial
9 driver's license, an operator of a commercial motor vehicle,
10 or a commercial driver learner permit holder in violation of
11 other state or federal laws.

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

16 "(aa) Notwithstanding the ignition interlock
17 requirements of this section, no person may be required to
18 install an ignition interlock device if there is not a
19 certified ignition interlock provider available within a 50
20 mile radius of his or her place of residence or place of
21 business or employment.

22 "§32-5A-191.4.

23 "(a) As used in Section 32-5A-191, the term,
24 "ignition interlock device" means a constant monitoring device
25 that prevents a motor vehicle from being started at any time

1 without first determining the equivalent blood alcohol level
2 of the operator through the taking of a breath sample for
3 testing. The system shall be calibrated so that the motor
4 vehicle may not be started if the blood alcohol level of the
5 operator, as measured by the test, reaches a blood alcohol
6 concentration level of 0.02.

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

16 "(c) The Department of Forensic Sciences shall
17 formulate and promulgate rules for the proper approval,
18 installation, and use of ignition interlock devices.
19 Additionally, the Department of Forensic Sciences shall
20 maintain and make public the list of approved ignition
21 interlock devices.

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

1 "(e) The Department of Forensic Sciences shall
2 promulgate rules regulating approved ignition interlock
3 providers related to areas of consumer coverage. The rules
4 shall address areas of consumer coverage and shall provide for
5 a two-year period from July 1, 2014, to allow provider
6 compliance.

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

16 "(g) The ~~Department of Public Safety~~ Alabama State
17 Law Enforcement Agency shall be responsible for enforcing the
18 rules promulgated by the Department of Forensic Sciences
19 related to ignition interlock devices and providers. The
20 ~~Department of Public Safety~~ Alabama State Law Enforcement
21 Agency shall promulgate rules regulating the inspection and
22 enforcement of approved ignition interlock providers and any
23 associate service locations.

24 "(h) In the absence of negligence, wantonness, or
25 willful misconduct, no person or employer or agent of a person

1 who installs an ignition interlock device pursuant to Section
2 32-5A-191 shall be liable for any occurrence related to the
3 device, including, but not limited to, occurrences resulting
4 from or related to a malfunction of the device or use of,
5 misuse of, or failure to use the device or the vehicle in
6 which the device was installed.

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

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

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

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

1 court record in the case and shall be submitted by the
2 offender to the interlock provider.

3 "(4) Any offender granted indigency status for the
4 purpose of ignition interlock shall ~~pay one-half of~~ not be
5 required to pay the costs associated with installing and
6 maintaining an interlock device nor required to pay any
7 interlock fees charged to a defendant who does not own a
8 vehicle or otherwise have an ignition interlock device
9 installed on a vehicle pursuant to subdivision (6) for a the
10 period of no more than two years at which time the offender
11 shall pay the full remaining cost for any sentence left for
12 ignition interlock. The defendant shall pay any fees for any
13 violation of ignition interlock requirements and for any
14 optional services elected by the defendant and for any missing
15 or damaged equipment. This section shall not affect any fees
16 associated with the driver's license of the defendant.

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

1 the indigent defendant. The minimum number of indigent
2 defendants provided services shall be equal to five percent of
3 the total installations provided by the manufacturer during
4 the prior calendar year.

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

8 "1. Verifying the total number of installations
9 provided by the manufacturer each year.

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

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

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

21 "~~b.d.~~ The Alabama Ignition Interlock Indigent Fund
22 is created in the State Treasury. The fund shall be
23 administered by ~~the Department of Public Safety~~ the Alabama
24 State Law Enforcement Agency. ~~All~~ Except as provided in
25 paragraph e., all of the money in the fund shall be used to

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

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

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

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

1 "4. Twenty percent to the Office of Prosecution
2 Services.

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

8 "1. Annual reporting and assessment of manufacturer
9 compliance with indigent service requirements.

10 "2. Notice and collection of any fines for
11 noncompliance.

12 "3. Annual inspection of interlock service centers
13 by the agency.

14 "(6) Any defendant who does not own a vehicle or
15 otherwise have an ignition interlock device installed on a
16 vehicle shall be required to pay seventy-five dollars (\$75)
17 per month for the entire period the defendant is required or
18 elects to have an ignition interlock device unless the
19 defendant is determined by the court to be indigent as
20 provided for in subdivision (3). The defendant shall still
21 serve all license suspension or revocation, or both, during
22 this period. Any monies paid pursuant to this subdivision
23 shall be paid to the court clerk and shall be deposited in the
24 Alabama Impaired Driving Prevention and Enforcement Fund in
25 the State Treasury to be used by the ~~Department of Public~~

1 ~~Safety~~ Alabama State Law Enforcement Agency for impaired
2 driving education and enforcement.

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

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

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

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

24 "(2) A violation of subsection (j) on the first
25 offense is a Class A misdemeanor ~~and punishable as provided by~~

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

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

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

23 "(n) Any person convicted of a violation of this
24 section other than subsection (j) shall be punished by

1 imprisonment for not more than six months or a fine of not
2 more than five hundred dollars (\$500), or both."

3 Section 2. Five years from the effective date of
4 this act, Section 32-5A-191, Code of Alabama 1975, as amended
5 by Section 1 of this act, is further amended to read as
6 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

1 suspend or revoke the driver's license of any person,
2 including, but not limited to, a juvenile, child, or youthful
3 offender, convicted or adjudicated of, or subjected to a
4 finding of, delinquency based on this subsection.

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

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

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

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

24 "(3) Any commutation of suspension or revocation
25 time as it relates to a court order, approval, and

1 installation of an ignition interlock device shall not apply
2 to commercial driving privileges or disqualifications.

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

7 "(e) Upon first conviction, a person violating this
8 section shall be punished by imprisonment in the county or
9 municipal jail for not more than one year, or by fine of not
10 less than six hundred dollars (\$600) nor more than two
11 thousand one hundred dollars (\$2,100), or by both a fine and
12 imprisonment. In addition, on a first conviction, the
13 Secretary of the Alabama State Law Enforcement Agency shall
14 suspend the driving privilege or driver's license of the
15 person convicted for a period of 90 days. The 90-day
16 suspension shall be stayed if the offender elects to have an
17 approved ignition interlock device installed and operating on
18 the designated motor vehicle driven by the offender for 90
19 days. The offender shall present proof of installation of the
20 approved ignition interlock device to the Alabama State Law
21 Enforcement Agency and obtain an ignition interlock restricted
22 driver license. The remainder of the suspension shall be
23 commuted upon the successful completion of the elected use,
24 mandated use, or both, of the ignition interlock device. If,
25 on a first conviction, any person refusing to provide a blood

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

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

6 "(f) On a second conviction within a five-year
7 period, a person convicted of violating this section shall be
8 punished by a fine of not less than one thousand one hundred
9 dollars (\$1,100) nor more than five thousand one hundred
10 dollars (\$5,100) and by imprisonment, which may include hard
11 labor in the county or municipal jail for not more than one
12 year. The sentence shall include a mandatory sentence, which
13 is not subject to suspension or probation, of imprisonment in
14 the county or municipal jail for not less than five days or
15 community service for not less than 30 days. In addition, the
16 Secretary of the Alabama State Law Enforcement Agency shall
17 revoke the driving privileges or driver's license of the
18 person convicted for a period of one year and the offender
19 shall be required to have an ignition interlock device
20 installed and operating on the designated motor vehicle driven
21 by the offender for a period of two years from the date of
22 issuance of a driver's license indicating that the person's
23 driving privileges are subject to the condition of the
24 installation and use of a certified ignition interlock device
25 on a motor vehicle. After a minimum of 45 days of the license

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

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

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

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

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

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

19 "The Alabama habitual felony offender law shall not
20 apply to a conviction of a felony pursuant to this subsection,
21 and a conviction of a felony pursuant to this subsection shall
22 not be a felony conviction for purposes of the enhancement of
23 punishment pursuant to Alabama's habitual felony offender law.
24 However, prior misdemeanor or felony convictions for driving
25 under the influence may be considered as part of the

1 sentencing calculations or determinations under the Alabama
2 Sentencing Guidelines or rules promulgated by the Alabama
3 Sentencing Commission.

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

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

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

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

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

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

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

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

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

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

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

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

1 territory or a municipality of another state or territory
2 shall be considered by a court for imposing a sentence
3 pursuant to this section.

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

22 "(r) (1) Any person ordered by the court to have an
23 ignition interlock device installed on a designated vehicle,
24 and any person who elects to have the ignition interlock
25 device installed on a designated vehicle for the purpose of

1 reducing a period of suspension or revocation of his or her
2 driver's license, shall pay to the court, following his or her
3 conviction, two hundred dollars (\$200), which may be paid in
4 installments and which shall be divided as follows:

5 "a. Seventeen percent to the Alabama Interlock
6 Indigent Fund.

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

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

16 "d. Twenty-three percent to the District Attorney's
17 Solicitor Fund.

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

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

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

14 "(2) The duration of the time an ignition interlock
15 device is required by this section shall be one year if the
16 offender refused the prescribed chemical test for
17 intoxication.

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

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

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

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

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

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

23 "c. Failure to comply with the servicing or
24 calibration requirements of the ignition interlock device
25 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.

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

3 "e. The offender remains in compliance of ignition
4 interlock requirements.

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

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

20 ~~"(2) Upon receipt of a court order or an agreement
21 from the district attorney or prosecutor indicating the
22 offender has entered a pretrial diversion program or any other
23 form of deferred prosecution agreement, the Secretary of the
24 Alabama State Law Enforcement Agency shall indicate as the
25 agency shall determine the person's driving privileges are~~

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

7 "~~(3)~~ Upon receipt of a court order detailing any
8 ignition interlock violation of the requirements of this
9 section or Section 32-5A-191.4 or termination of the
10 participation in any pretrial diversion program, the Alabama
11 State Law Enforcement Agency shall suspend or revoke driving
12 privileges pursuant to this section and Section 32-5A-304.

13 "~~(4)~~ Nothing in this section shall be construed to
14 require the Alabama State Law Enforcement Agency to issue an
15 ignition interlock license or stay or commute any license
16 suspension or revocation period of a holder of a commercial
17 driver's license, an operator of a commercial motor vehicle,
18 or a commercial driver learner permit holder in violation of
19 other state or federal laws.

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

24 "~~(aa)~~ (z) Notwithstanding the ignition interlock
25 requirements of this section, no person may be required to

1 install an ignition interlock device if there is not a
2 certified ignition interlock provider available within a 50
3 mile radius of his or her place of residence or place of
4 business or employment."

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

13 Section 4. (a) The provisions of Section 1 and
14 Section 2 shall govern the construction and punishment for any
15 offense defined in Section 1 and Section 2 committed after the
16 effective date of this act, except the provisions of
17 subsection (y) of Section 32-5A-191, Code of Alabama 1975, as
18 amended by Section 1, shall only apply for five years after
19 the effective date of this act.

20 (b) The provisions of Section 1 do not apply to or
21 govern the construction and punishment of any offense
22 committed prior to the effective date of this act. The
23 provisions of Section 2 do not apply to or govern the
24 construction and punishment of any offense committed prior to
25 the effective date of Section 2.

1 Section 5. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB1
Senate 25-JAN-18
I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 29-MAR-18
I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives
Passed: 20-MAR-18, as amended
House of Representatives
Passed: 29-MAR-2018, as amended by Conference Committee Report.

By: Senator McClendon