

1 SB133
2 196212-3
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, there are circumstances
9 where a defendant is required to install an
10 ignition interlock device if convicted of driving
11 under the influence.

12 This bill would give the court the option to
13 order a defendant to install an ignition interlock
14 device or any other alcohol monitoring device
15 approved by the court.

16 Under existing law, when a defendant charged
17 with driving under the influence enters any pre
18 trial diversion or similar program, the defendant
19 is required to install an ignition interlock
20 device.

21 This bill would provide that the defendant
22 may be required by the court to install any other
23 alcohol monitoring device in lieu of an ignition
24 interlock device.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment.
14 However, the bill does not require approval of a
15 local governmental entity or enactment by a 2/3
16 vote to become effective because it comes within
17 one of the specified exceptions contained in the
18 amendment.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 Relating to persons charged with driving under the
25 influence; to amend Section 32-5A-191, Code of Alabama 1975,
26 as last amended by Act 2018-517, Act 2018-518, and Act
27 2018-546, 2018 Regular Session; to amend Section 32-5A-191.4,

1 Code of Alabama 1975, as last amended by Act 2018-517, 2018
2 Regular Session, to require and provide for the use of
3 ignition interlock devices or any device approved for alcohol
4 monitoring; and in connection therewith would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds within the meaning of Amendment 621
7 of the Constitution of Alabama of 1901, now appearing as
8 Section 111.05 of the Official Recompilation of the
9 Constitution of Alabama of 1901, as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 32-5A-191, Code of Alabama 1975,
12 as last amended by Act 2018-517, Act 2018-518, and Act
13 2018-546, 2018 Regular Session, and Section 32-5A-191.4, Code
14 of Alabama 1975, as last amended by Act 2018-517, 2018 Regular
15 Session, are amended to read as follows:

16 "§32-5A-191.

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

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

21 "(2) Under the influence of alcohol;

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

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

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

4 "(b) (1) A person who is under the age of 21 years
5 shall not drive or be in actual physical control of any
6 vehicle if there is 0.02 percent or more by weight of alcohol
7 in his or her blood. The Alabama State Law Enforcement Agency
8 shall suspend or revoke the driver's license of any person,
9 including, but not limited to, a juvenile, child, or youthful
10 offender, convicted or adjudicated of, or subjected to a
11 finding of, delinquency based on this subsection.

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

23 "(2) All persons, except as otherwise provided in
24 this subsection for a first offense, including, but not
25 limited to, a juvenile, child, or youthful offender, convicted
26 or adjudicated of or subjected to a finding of delinquency
27 based on this subsection shall be fined pursuant to this

1 section, notwithstanding any other law to the contrary, and
2 the person shall also be required to attend and complete a DUI
3 or substance abuse court referral program in accordance with
4 subsection (k).

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

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

1 "(3) Any commutation of suspension or revocation
2 time as it relates to a court order, approval, and
3 installation of an ignition interlock device or any other
4 alcohol monitoring device approved by the court shall not
5 apply to commercial driving privileges or disqualifications.

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

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

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

1 interlock restricted driver license, and upon proof of
2 installation of an operational approved ignition interlock
3 device on the designated vehicle of the person convicted, the
4 mandated ignition interlock period of one year provided in
5 this subsection shall start and the suspension period,
6 revocation period, or both, as required under this subsection
7 shall be stayed. If the court ordered any other alcohol
8 monitoring device in lieu of an ignition interlock device,
9 upon receipt of a court order from the convicting court that
10 the person convicted has provided proof of installation,
11 purchase, or lease of an alcohol monitoring device approved by
12 the court, the mandated ignition interlock period of one year
13 provided in this subsection shall start and the suspension
14 period, revocation period, or both, as required under this
15 subsection shall be stayed. The remainder of the driver
16 license revocation period, suspension period, or both, shall
17 be commuted upon the successful completion of the period of
18 time in which the ignition interlock device is mandated to be
19 installed and operational or the period of time any other
20 alcohol monitoring device approved by the court is mandated to
21 be operational.

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

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

1 under this subsection shall be stayed. If the court ordered
2 any other alcohol monitoring device in lieu of an ignition
3 interlock device, upon receipt of a court order from the
4 convicting court that the person convicted has provided proof
5 of installation, purchase, or lease of an alcohol monitoring
6 device approved by the court, the mandated ignition interlock
7 period of two years provided in this subsection shall start
8 and the suspension period, revocation period, or both, as
9 required under this subsection shall be stayed. The remainder
10 of the driver license revocation period, suspension period, or
11 both, shall be commuted upon the successful completion of the
12 period of time in which the ignition interlock device is
13 mandated to be installed and operational or the period of time
14 any other alcohol monitoring device approved by the court is
15 mandated to be operational.

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

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

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

9 " (h) (1) On a fourth or subsequent conviction, or if
10 the person has a previous felony DUI 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,
18 confinement may be in the county jail. Where imprisonment does
19 not exceed one year and one day, confinement shall be in the
20 county jail. The minimum sentence shall include a term of
21 imprisonment for at least one year and one day, provided,
22 however, that there shall be a minimum mandatory sentence of
23 10 days which shall be served in the county jail. The
24 remainder of the sentence may be suspended or probated, but
25 only if, as a condition of probation, the defendant enrolls
26 and successfully completes a state certified chemical
27 dependency program recommended by the court referral officer

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

1 subsection shall start and the suspension period, revocation
2 period, or both, as required under this subsection shall be
3 stayed. If the court ordered any other alcohol monitoring
4 device in lieu of an ignition interlock device, upon receipt
5 of a court order from the convicting court that the person
6 convicted has provided proof of installation, purchase, or
7 lease of an alcohol monitoring device approved by the court,
8 the mandated ignition interlock period of four years provided
9 in this subsection shall start and the suspension period,
10 revocation period, or both, as required under this subsection
11 shall be stayed. The remainder of the driver license
12 revocation period, suspension period, or both, shall be
13 commuted upon the successful completion of the period of time
14 in which the ignition interlock device is mandated to be
15 installed and operational or the period of time any other
16 alcohol monitoring device approved by the court is mandated to
17 be operational.

18 "(2) The Alabama habitual felony offender law shall
19 not apply to a conviction of a felony pursuant to this
20 subsection, and a conviction of a felony pursuant to this
21 subsection shall not be a felony conviction for purposes of
22 the enhancement of punishment pursuant to Alabama's habitual
23 felony offender law. However, prior misdemeanor or felony
24 convictions for driving under the influence may be considered
25 as part of the sentencing calculations or determinations under
26 the Alabama Sentencing Guidelines or rules promulgated by the
27 Alabama Sentencing Commission.

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

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

25 "(k) (1) In addition to the penalties provided
26 herein, any person convicted of violating this section shall
27 be referred to the court referral officer for evaluation and

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

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

1 for reinstatement of driving privileges. Upon presentation of
2 proof and compliance with all ignition interlock requirements,
3 the agency shall issue a driver's license with a restriction
4 indicating that the licensee may operate a motor vehicle only
5 with the certified ignition interlock device installed and
6 properly operating. If the licensee fails to maintain the
7 approved ignition interlock device as required or is otherwise
8 not in compliance with any order of the court, the court shall
9 notify the agency of the noncompliance and the agency shall
10 suspend the person's driving privileges until the agency
11 receives notification from the court that the licensee is in
12 compliance. If the court ordered any other alcohol monitoring
13 device in lieu of an ignition interlock device, upon
14 presentation of proof and compliance with all alcohol
15 monitoring device requirements, the agency shall issue a
16 driver's license to the offender. If the licensee fails to
17 maintain the approved alcohol monitoring device as required,
18 or is otherwise not in compliance with any order of the court,
19 the court shall notify the agency of the noncompliance and the
20 agency shall suspend the person's driving privileges until the
21 agency receives notification from the court that the licensee
22 is in compliance. The requirement that the licensee use the
23 ignition interlock device or any other alcohol monitoring
24 device approved by the court may be removed only when the
25 court of conviction confirms to the agency that the licensee
26 is no longer subject to the ignition interlock device
27 requirement or alcohol monitoring 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) (1) 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 10 years, over one thousand dollars
12 (\$1,000) for a third conviction within 10 years, and over two
13 thousand dollars (\$2,000) for a fourth or subsequent
14 conviction within 10 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.

25 "(2) Fines collected for violations of this section
26 charged pursuant to a municipal ordinance where the total fine
27 is paid at one time shall be deposited as follows: The first

1 three hundred fifty dollars (\$350) collected for a first
2 conviction, the first six hundred dollars (\$600) collected for
3 a second conviction within 10 years, the first one thousand
4 one hundred dollars (\$1,100) collected for a third conviction,
5 and the first two thousand one hundred dollars (\$2,100)
6 collected for a fourth or subsequent conviction shall be
7 deposited to the State Treasury with the first one hundred
8 dollars (\$100) collected for each conviction credited to the
9 Alabama Chemical Testing Training and Equipment Trust Fund and
10 the second one hundred dollars (\$100) to the Alabama Head and
11 Spinal Cord Injury Trust Fund after deducting five percent of
12 the one hundred dollars (\$100) for administrative costs and
13 depositing this amount in the general fund of the
14 municipality, and the balance credited to the State General
15 Fund. Any amounts collected over these amounts shall be
16 deposited as otherwise provided by law.

17 "(3) Fines collected for violations of this section
18 charged pursuant to a municipal ordinance, where the fine is
19 paid on a partial or installment basis, shall be deposited as
20 follows: The first two hundred dollars (\$200) of the fine
21 collected for any conviction shall be deposited to the State
22 Treasury with the first one hundred dollars (\$100) collected
23 for any conviction credited to the Alabama Chemical Testing
24 Training and Equipment Trust Fund and the second one hundred
25 dollars (\$100) for any conviction credited to the Alabama Head
26 and Spinal Cord Injury Trust Fund after deducting five percent
27 of the one hundred dollars (\$100) for administrative costs and

1 depositing this amount in the general fund of the
2 municipality. The second three hundred dollars (\$300) of the
3 fine collected for a first conviction, the second eight
4 hundred dollars (\$800) collected for a second conviction, the
5 second one thousand eight hundred dollars (\$1,800) collected
6 for a third conviction, and the second three thousand eight
7 hundred dollars (\$3,800) collected for a fourth conviction
8 shall be divided with 50 percent of the funds collected to be
9 deposited to the State Treasury to be credited to the State
10 General Fund and 50 percent deposited as otherwise provided by
11 law for municipal ordinance violations. Any amounts collected
12 over these amounts shall be deposited as otherwise provided by
13 law for municipal ordinance violations.

14 "(4) Notwithstanding any provision of law to the
15 contrary, 90 percent of any fine assessed and collected for
16 any DUI offense charged by municipal ordinance violation in
17 district or circuit court shall be computed only on the amount
18 assessed over the minimum fine authorized, and upon collection
19 shall be distributed to the municipal general fund with the
20 remaining 10 percent distributed to the State General Fund.

21 "(5) In addition to fines imposed pursuant to this
22 subsection, a mandatory fee of one hundred dollars (\$100)
23 shall be collected from any individual who successfully
24 completes any pretrial diversion or deferral program in any
25 municipal, district, or circuit court where the individual was
26 charged with a violation of this section or a corresponding
27 municipal ordinance. The one hundred dollars (\$100) shall be

1 deposited into the Alabama Chemical Testing Training and
2 Equipment Fund.

3 "(6) In addition to the fines and fees imposed
4 pursuant to this subsection, a mandatory fee of one hundred
5 dollars (\$100) shall be collected from any individual who
6 successfully completes any pretrial diversion or deferral
7 program in any municipal, district, or circuit court where the
8 individual was charged with a violation of this section or a
9 corresponding municipal ordinance. The one hundred dollars
10 (\$100) shall be deposited into the Alabama Head and Spinal
11 Cord Injury Trust Fund.

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

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

25 "(p) (1) Except as provided in subdivision (2), a
26 prior conviction for driving under the influence from this
27 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 if the prior conviction occurred
4 within 10 years of the date of the current offense.

5 "(2) If the person has a previous felony DUI
6 conviction, then all of the person's subsequent DUI
7 convictions shall be treated as felonies regardless of the
8 date of the previous felony DUI conviction.

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

1 "(r) (1) Any person ordered by the court to have an
2 ignition interlock device installed on a designated vehicle or
3 use any other alcohol monitoring device approved by the court,
4 and any person who elects to have the ignition interlock
5 device installed on a designated vehicle or use any other
6 alcohol monitoring device approved by the court for the
7 purpose of reducing a period of suspension or revocation of
8 his or her driver's license, shall pay to the court, following
9 his or her conviction, two hundred dollars (\$200), which may
10 be paid in 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
21 Fund 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 in subdivision (1) following the conviction or the
26 voluntary installation of the ignition interlock device or any
27 other alcohol monitoring device approved by the court, the

1 defendant shall pay all costs associated with the
2 installation, purchase, maintenance, or lease of the ignition
3 interlock ~~devices~~ device to an approved ignition interlock
4 provider pursuant to the rules of the Department of Forensic
5 Sciences, unless the defendant is subject to Section
6 32-5A-191.4(i)(4) or to the alcohol monitoring provider
7 approved by the court.

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

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

23 "(2) The duration of the time an ignition interlock
24 device or any other alcohol monitoring device approved by the
25 court is required by this section shall be one additional year
26 if the offender refused the prescribed chemical test for
27 intoxication.

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

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

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

26 "a. A breath sample at or above a minimum blood
27 alcohol concentration level of 0.02 recorded four or more

1 times during the monthly reporting period unless a subsequent
2 test performed within 10 minutes registers a breath alcohol
3 concentration lower than 0.02.

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

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

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

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

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

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

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

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

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

13 "e. The offender remains in compliance of ignition
14 interlock requirements or any other alcohol monitoring device
15 requirements.

16 "(2) The remainder of the driver license revocation,
17 suspension, or both, shall be commuted upon the successful
18 completion of the period of time in which the ignition
19 interlock device or any other alcohol monitoring device
20 approved by the court is mandated to be installed and
21 operational.

22 "(y) (1) Any person charged in a district, circuit,
23 or municipal court with a violation of this section or a
24 municipal ordinance adopted in conformance with this section
25 who is approved for any pretrial diversion program or similar
26 program shall be required to install an ignition interlock
27 device or any other alcohol monitoring device approved by the

1 court for a minimum of six months or the duration of the
2 pretrial diversion program, whichever is greater, and meet all
3 the requirements of this section and Section 32-5A-191.4. A
4 participant in a pretrial diversion program shall be eligible
5 for indigency status if the program enrolls indigent
6 defendants and waives fees for indigent defendants.

7 "(2) a. Upon If the court orders an offender to
8 install an ignition interlock device, upon receipt of a court
9 order or an agreement from the district attorney or prosecutor
10 indicating the offender has entered a pretrial diversion
11 program or any other form of deferred prosecution agreement,
12 the Secretary of the Alabama State Law Enforcement Agency
13 shall indicate, as the agency shall determine, 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. Any driver's license suspension period
17 pursuant to Section 32-5A-304 shall be stayed and then
18 commuted upon the successful completion of the pretrial
19 diversion program, or any other form of deferred prosecution
20 agreement.

21 "b. If the court orders any other alcohol monitoring
22 device in lieu of an ignition interlock device, upon receipt
23 of a court order or an agreement from the district attorney or
24 prosecutor indicating the offender has entered a pretrial
25 diversion program or any other form of deferred prosecution
26 agreement, and upon receipt of a court order indicating the
27 offender has provided proof of installation, purchase, or

1 lease, of an operational alcohol monitoring device approved by
2 the court, the Secretary of the Alabama State Law Enforcement
3 Agency shall issue a driver's license to the offender. 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 "(3) Upon receipt of a court order detailing any
9 ~~ignition interlock~~ violation of the requirements of this
10 section or Section 32-5A-191.4 or termination of the
11 participation in any pretrial diversion program, the Alabama
12 State Law Enforcement Agency shall suspend or revoke driving
13 privileges pursuant to this section and Section 32-5A-304.

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

21 "(z) Pursuant to Section 15-22-54, the maximum
22 probation period for persons convicted under this section
23 shall be extended until all ignition interlock requirements or
24 any other alcohol monitoring device requirements have been
25 completed by the offender.

26 "(aa) Notwithstanding the ignition interlock
27 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 "§32-5A-191.4.

6 "(a) (1) As used in Section 32-5A-191, the term,
7 "ignition interlock device" means a constant monitoring device
8 that prevents a motor vehicle from being started at any time
9 without first determining the equivalent blood alcohol level
10 of the operator through the taking of a breath sample for
11 testing. The system shall be calibrated so that the motor
12 vehicle may not be started if the blood alcohol level of the
13 operator, as measured by the test, reaches a blood alcohol
14 concentration level of 0.02.

15 (2) In lieu of requiring an offender to install an
16 ignition interlock device, a court may order an offender to
17 install, purchase, or lease any other alcohol monitoring
18 device approved by the court.

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

1 "(c) The Department of Forensic Sciences shall
2 formulate and promulgate rules for the proper approval,
3 installation, and use of ignition interlock devices.
4 Additionally, the Department of Forensic Sciences shall
5 maintain and make public the list of approved ignition
6 interlock devices.

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

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

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

26 "(g) The Alabama State Law Enforcement Agency shall
27 be responsible for enforcing the rules promulgated by the

1 Department of Forensic Sciences related to ignition interlock
2 devices and providers. The Alabama State Law Enforcement
3 Agency shall promulgate rules regulating the inspection and
4 enforcement of approved ignition interlock providers and any
5 associate service locations.

6 "(h) In the absence of negligence, wantonness, or
7 willful misconduct, no person or employer or agent of a person
8 who installs an ignition interlock device or any other alcohol
9 monitoring device approved by the court pursuant to Section
10 32-5A-191 shall be liable for any occurrence related to the
11 device, including, but not limited to, occurrences resulting
12 from or related to a malfunction of the device or use of,
13 misuse of, or failure to use the device or the vehicle in
14 which the device was installed.

15 "(i) (1) When the court imposes the use of an
16 ignition interlock device or any other alcohol monitoring
17 device approved by the court as required by Section 32-5A-191,
18 the court shall require that the person provide proof of
19 installation of a device to the court or a probation officer
20 within 30 days of the date the defendant becomes eligible to
21 receive an ignition ~~interlock-restricted~~ interlock restricted
22 license from the Alabama State Law Enforcement Agency or
23 within 30 days of the court's order if ordered to install,
24 purchase, or lease or any other alcohol monitoring device
25 approved by the court. If the person fails to provide proof of
26 installation within that period, absent a finding by the court
27 of good cause for that failure which is entered into the court

1 record, the court may revoke the person's probation where
2 applicable after a petition to revoke probation has been filed
3 and the defendant has been given notice and an opportunity to
4 be heard on the petition. The court in which the defendant is
5 convicted shall notify the agency that the defendant is
6 restricted to the operation of a motor vehicle only when an
7 approved ignition interlock device is installed and properly
8 operating or that a defendant is only eligible for a driver's
9 license once the defendant has provided proof of the
10 installation, purchase, or lease of any other alcohol
11 monitoring device to the court and the agency. Nothing in this
12 subsection shall permit a person who does not own a vehicle or
13 otherwise have an ignition interlock device installed on a
14 motor vehicle to operate a motor vehicle without an approved
15 ignition interlock device installed and properly operating.

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

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

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

8 "(4) Any offender granted indigency status for the
9 purpose of ignition interlock shall not be required to pay the
10 costs associated with installing and maintaining an ignition
11 interlock device nor required to pay any ignition interlock
12 fees charged to a defendant who does not own a vehicle or
13 otherwise have an ignition interlock device installed on a
14 vehicle pursuant to subdivision (6) for the period of any
15 sentence for ignition interlock. The defendant shall pay any
16 fees for any violation of ignition interlock requirements and
17 for any optional services elected by the defendant and for any
18 missing or damaged equipment. This section shall not affect
19 any fees associated with the driver's license of the
20 defendant.

21 "(5)a. The Alabama State Law Enforcement Agency
22 shall require each approved ~~manufacturer~~ ignition interlock
23 provider to provide a minimum number of indigent defendants
24 with ignition interlock services, including installation,
25 lease, calibration, and removal at no cost to the indigent
26 defendant. The minimum number of indigent defendants provided
27 services shall be equal to five percent of the total

1 installations provided by the ~~manufacturer~~ ignition interlock
2 provider during the prior calendar year.

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

6 "1. Verifying the total number of installations
7 provided by the ~~manufacturer~~ ignition interlock provider each
8 year.

9 "2. Verifying the number of installations for
10 indigent defendants provided each year by each ~~manufacturer~~
11 ignition interlock provider.

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

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

23 "d. The Alabama Ignition Interlock Indigent Fund is
24 created in the State Treasury. The fund shall be administered
25 by the Alabama State Law Enforcement Agency. Except as
26 provided in paragraph e., all of the money in the fund shall
27 be used to reimburse ignition interlock ~~device~~ providers who

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

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

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

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

24 "4. Twenty percent to the Office of Prosecution
25 Services.

26 "e. Notwithstanding the provisions of paragraph d.,
27 10 percent of the first five hundred thousand dollars

1 (\$500,000) collected in the fund each year may be used by the
2 Alabama State Law Enforcement Agency for any of the following
3 additional purposes on an annual basis:

4 "1. Annual reporting and assessment of ~~manufacturer~~
5 ignition interlock provider compliance with indigent service
6 requirements.

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

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

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

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

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

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

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

22 "(2) A violation of subsection (j) on the first
23 offense is a Class A misdemeanor. In addition, the time the
24 defendant is required to use an ignition interlock device
25 shall be extended by six months. Upon second conviction of a
26 violation of subsection (j), the sentence shall include a
27 mandatory sentence, which is not subject to suspension or

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

10 "(l) No person shall blow into an ignition interlock
11 device, any other alcohol monitoring device approved by the
12 court, or start a motor vehicle equipped with the device for
13 the purpose of providing an operable motor vehicle to a person
14 who is prohibited from operating a motor vehicle without an
15 ignition interlock device.

16 "(m) No person shall intentionally attempt to tamper
17 with, defeat, or circumvent the operation of an ignition
18 interlock device or any other alcohol monitoring device
19 approved by the court.

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

24 Section 2. Section 32-5A-191, Code of Alabama 1975,
25 as last amended by Act 2018-517, Act 2018-518, and Act
26 2018-546, 2018 Regular Session, effective July 1, 2023, is
27 amended to read as follows:

1 "§32-5A-191.

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

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

6 "(2) Under the influence of alcohol;

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

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

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

16 "(b) (1) A person who is under the age of 21 years
17 shall not drive or be in actual physical control of any
18 vehicle if there is 0.02 percent or more by weight of alcohol
19 in his or her blood. The Alabama State Law Enforcement Agency
20 shall suspend or revoke the driver's license of any person,
21 including, but not limited to, a juvenile, child, or youthful
22 offender, convicted or adjudicated of, or subjected to a
23 finding of, delinquency based on this subsection.

24 Notwithstanding the foregoing, upon the first violation of
25 this subsection by a person whose blood alcohol level is
26 between 0.02 and 0.08, the person's driver's license or
27 driving privilege shall be suspended for a period of 30 days

1 in lieu of any penalties provided in subsection (e) of this
2 section, and there shall be no disclosure, other than to
3 courts, law enforcement agencies, the person's attorney of
4 record, and the person's employer, by any entity or person of
5 any information, documents, or records relating to the
6 person's arrest, conviction, or adjudication of or finding of
7 delinquency based on this subsection.

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

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

26 "(2) A person shall not drive or be in actual
27 physical control of a commercial motor vehicle, as defined in

1 49 CFR Part 383.5 of the Federal Motor Carrier Safety
2 Regulations as adopted pursuant to Section 32-9A-2, if there
3 is 0.04 percent or greater by weight of alcohol in his or her
4 blood. Notwithstanding the other provisions of this section,
5 the commercial driver's license or commercial driving
6 privilege of a person convicted of violating this subdivision
7 shall be disqualified for the period provided in accordance
8 with 49 CFR Part 383.51, as applicable, and the person's
9 regular driver's license or privilege to drive a regular motor
10 vehicle shall be governed by the remainder of this section if
11 the person is guilty of a violation of another provision of
12 this section.

13 "(3) Any commutation of suspension or revocation
14 time as it relates to a court order, approval, and
15 installation of an ignition interlock device or any other
16 alcohol monitoring device approved by the court shall not
17 apply to commercial driving privileges or disqualifications.

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

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

1 shall be required to either have an ignition interlock device
2 installed and operating on the designated motor vehicle driven
3 by the offender for a period of one year from the date of
4 issuance of a driver's license indicating that the person's
5 driving privileges are subject to the condition of the
6 installation and use of a certified ignition interlock device
7 on a motor vehicle or have any other alcohol monitoring device
8 approved by the court purchased or leased and operational for
9 a period of one year from the date the offender provides proof
10 of installation, purchase, or lease of the alcohol monitoring
11 device to the court and the agency. ~~After a minimum of 45 days~~
12 ~~of the license revocation or suspension pursuant to Section~~
13 ~~32-5A-304 or this section, or both, is completed, upon~~ Upon
14 receipt of a court order from the convicting court, upon
15 issuance of an ignition interlock restricted driver license,
16 and upon proof of installation of an operational approved
17 ignition interlock device on the designated vehicle of the
18 person convicted, the mandated ignition interlock period of
19 one year provided in this subsection shall start and the
20 suspension period, revocation period, or both, as required
21 under this subsection shall be stayed. If the court ordered
22 any other alcohol monitoring device in lieu of an ignition
23 interlock device, upon receipt of a court order from the
24 convicting court that the person convicted has provided proof
25 of installation, purchase, or lease of an alcohol monitoring
26 device approved by the court, the mandated ignition interlock
27 period of one year provided in this subsection shall start and

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

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

1 vehicle or have any other alcohol monitoring device approved
2 by the court purchased or leased and operational for a period
3 of two years from the date the offender provides proof of
4 installation, purchase, or lease of the alcohol monitoring
5 device to the court and the agency. After a minimum of 45 days
6 of the license revocation or suspension pursuant to Section
7 32-5A-304, this section, or both, is completed, upon receipt
8 of a court order from the convicting court, upon issuance of
9 an ignition interlock restricted driver license, and upon
10 proof of installation of an operational approved ignition
11 interlock device on the designated vehicle of the person
12 convicted, the mandated ignition interlock period of two years
13 ~~approved~~ provided in this subsection shall start and the
14 suspension period, revocation period, or both, as required
15 under this subsection shall be stayed. If the court ordered
16 any other alcohol monitoring device in lieu of an ignition
17 interlock device, upon receipt of a court order from the
18 convicting court that the person convicted has provided proof
19 of installation, purchase, or lease of an alcohol monitoring
20 device approved by the court, the mandated ignition interlock
21 period of two years provided in this subsection shall start
22 and the suspension period, revocation period, or both, as
23 required under this subsection shall be stayed. The remainder
24 of the driver license revocation period, suspension period, or
25 both, shall be commuted upon the successful completion of the
26 period of time in which the ignition interlock device is
27 mandated to be installed and operational or the period of time

1 any other alcohol monitoring device approved by the court is
2 mandated to be operational.

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

1 convicting court, upon issuance of an ignition interlock
2 restricted driver license, and upon proof of installation of
3 an operational approved ignition interlock device on the
4 designated vehicle of the person convicted, the mandated
5 ignition interlock period of three years provided in this
6 subsection shall start and the suspension period, revocation
7 period, or both, as required under this subsection shall be
8 stayed. If the court ordered any other alcohol monitoring
9 device in lieu of an ignition interlock device, upon receipt
10 of a court order from the convicting court that the person
11 convicted has provided proof of installation, purchase, or
12 lease of an alcohol monitoring device approved by the court,
13 the mandated ignition interlock period of three years provided
14 in this subsection shall start and the suspension period,
15 revocation period, or both, as required under this subsection
16 shall be stayed. The remainder of the driver license
17 revocation period, suspension period, or both, shall be
18 commuted upon the successful completion of the period of time
19 in which the ignition interlock device is mandated to be
20 installed and operational or the period of time any other
21 alcohol monitoring device approved by the court is mandated to
22 be operational.

23 " (h) (1) On a fourth or subsequent conviction, or if
24 the person has a previous felony DUI conviction, a person
25 convicted of violating this section shall be guilty of a Class
26 C felony and punished by a fine of not less than four thousand
27 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 either have an ignition
24 interlock device installed and operating on the designated
25 motor vehicle driven by the offender for a period of four
26 years from the date of issuance of a driver's license
27 indicating that the person's driving privileges are subject to

1 the condition of the installation and use of a certified
2 ignition interlock device on a motor vehicle or have any other
3 alcohol monitoring device approved by the court purchased or
4 leased and operational for a period of four years from the
5 date the offender provides proof of installation, purchase, or
6 lease of the alcohol monitoring device to the court and the
7 agency. After a minimum of one year of the license revocation
8 or suspension pursuant to Section 32-5A-304, this section, or
9 both, is completed, upon receipt of a court order from the
10 convicting court, upon issuance of an ignition interlock
11 restricted driver license, and upon proof of installation of
12 an operational approved ignition interlock device on the
13 designated vehicle of the person convicted, the mandated
14 ignition interlock period of four years provided in this
15 subsection shall start and the suspension period, revocation
16 period, or both, as required under this subsection shall be
17 stayed. If the court ordered any other alcohol monitoring
18 device in lieu of an ignition interlock device, upon receipt
19 of a court order from the convicting court that the person
20 convicted has provided proof of installation, purchase, or
21 lease of an alcohol monitoring device approved by the court,
22 the mandated ignition interlock period of four years provided
23 in this subsection shall start and the suspension period,
24 revocation period, or both, as required under this subsection
25 shall be stayed. The remainder of the driver license
26 revocation period, suspension period, or both, shall be
27 commuted upon the successful completion of the period of time

1 in which the ignition interlock device is mandated to be
2 installed and operational or the period of time any other
3 alcohol monitoring device approved by the court is mandated to
4 be operational.

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

15 "(i) When any person convicted of violating this
16 section is found to have had at least 0.15 percent or more by
17 weight of alcohol in his or her blood while operating or being
18 in actual physical control of a vehicle, he or she shall be
19 sentenced to at least double the minimum punishment that the
20 person would have received if he or she had had less than 0.15
21 percent by weight of alcohol in his or her blood. This
22 subsection does not apply to the duration of time an ignition
23 interlock device or any other alcohol monitoring device
24 approved by the court is required by this section. If the
25 adjudicated offense is a misdemeanor, the minimum punishment
26 shall be imprisonment for one year, all of which may be

1 suspended except as otherwise provided for in subsections (f)
2 and (g).

3 "(j) When any person over the age of 21 years is
4 convicted of violating this section and it is found that a
5 child under the age of 14 years was a passenger in the vehicle
6 at the time of the offense, the person shall be sentenced to
7 at least double the minimum punishment that the person would
8 have received if the child had not been a passenger in the
9 motor vehicle. This subsection does not apply to the duration
10 of time an ignition interlock device or any other alcohol
11 monitoring device approved by the court 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 or any other alcohol monitoring device
3 approved by the court. The agency shall suspend or revoke a
4 person's driving privileges until completion of the mandatory
5 suspension or revocation period required by this section, and
6 clearance of all other suspensions, revocations,
7 cancellations, or denials, and proof of installation of an
8 approved ignition interlock device or proof of installation,
9 purchase, or lease of any other alcohol monitoring device
10 approved by the court is presented to the agency. The agency
11 shall not reissue a driver's license to a person who has been
12 ordered by a court or is required by law to have the ignition
13 interlock device installed or any other alcohol monitoring
14 device approved by the court to be installed, purchased, or
15 leased until proof is presented that the person is eligible
16 for reinstatement of driving privileges. Upon presentation of
17 proof and compliance with all ignition interlock requirements,
18 the agency shall issue a driver's license with a restriction
19 indicating that the licensee may operate a motor vehicle only
20 with the certified ignition interlock device installed and
21 properly operating. If the licensee fails to maintain the
22 approved ignition interlock device as required or is otherwise
23 not in compliance with any order of the court, the court shall
24 notify the agency of the noncompliance and the agency shall
25 suspend the person's driving privileges until the agency
26 receives notification from the court that the licensee is in
27 compliance. If the court ordered any other alcohol monitoring

1 device in lieu of an ignition interlock device, upon
2 presentation of proof and compliance with all alcohol
3 monitoring device requirements, the agency shall issue a
4 driver's license to the offender. If the licensee fails to
5 maintain the approved alcohol monitoring device as required,
6 or is otherwise not in compliance with any order of the court,
7 the court shall notify the agency of the noncompliance and the
8 agency shall suspend the person's driving privileges until the
9 agency receives notification from the court that the licensee
10 is in compliance. The requirement that the licensee use the
11 ignition interlock device or any other alcohol monitoring
12 device approved by the court may be removed only when the
13 court of conviction confirms to the agency that the licensee
14 is no longer subject to the ignition interlock device
15 requirement or alcohol monitoring device requirement.

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

20 "(m) (1) Except for fines collected for violations of
21 this section charged pursuant to a municipal ordinance, fines
22 collected for violations of this section shall be deposited to
23 the State General Fund; however, beginning October 1, 1995, of
24 any amount collected over two hundred fifty dollars (\$250) for
25 a first conviction, over five hundred dollars (\$500) for a
26 second conviction within 10 years, over one thousand dollars
27 (\$1,000) for a third conviction within 10 years, and over two

1 thousand dollars (\$2,000) for a fourth or subsequent
2 conviction within 10 years, the first one hundred dollars
3 (\$100) of that additional amount shall be deposited to the
4 Alabama Chemical Testing Training and Equipment Trust Fund,
5 after three percent of the one hundred dollars (\$100) is
6 deducted for administrative costs, and beginning October 1,
7 1997, and thereafter, the second one hundred dollars (\$100) of
8 that additional amount shall be deposited in the Alabama Head
9 and Spinal Cord Injury Trust Fund after deducting five percent
10 of the one hundred dollars (\$100) for administrative costs and
11 the remainder of the funds shall be deposited to the State
12 General Fund.

13 "(2) Fines collected for violations of this section
14 charged pursuant to a municipal ordinance where the total fine
15 is paid at one time shall be deposited as follows: The first
16 three hundred fifty dollars (\$350) collected for a first
17 conviction, the first six hundred dollars (\$600) collected for
18 a second conviction within 10 years, the first one thousand
19 one hundred dollars (\$1,100) collected for a third conviction,
20 and the first two thousand one hundred dollars (\$2,100)
21 collected for a fourth or subsequent conviction shall be
22 deposited to the State Treasury with the first one hundred
23 dollars (\$100) collected for each conviction credited to the
24 Alabama Chemical Testing Training and Equipment Trust Fund and
25 the second one hundred dollars (\$100) to the Alabama Head and
26 Spinal Cord Injury Trust Fund after deducting five percent of
27 the one hundred dollars (\$100) for administrative costs and

1 depositing this amount in the general fund of the
2 municipality, and the balance credited to the State General
3 Fund. Any amounts collected over these amounts shall be
4 deposited as otherwise provided by law.

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

1 over these amounts shall be deposited as otherwise provided by
2 law for municipal ordinance violations.

3 "(4) Notwithstanding any provision of law to the
4 contrary, 90 percent of any fine assessed and collected for
5 any DUI offense charged by municipal ordinance violation in
6 district or circuit court shall be computed only on the amount
7 assessed over the minimum fine authorized, and upon collection
8 shall be distributed to the municipal general fund with the
9 remaining 10 percent distributed to the State General Fund.

10 "(5) In addition to fines imposed pursuant to this
11 subsection, a mandatory fee of one hundred dollars (\$100)
12 shall be collected from any individual who successfully
13 completes any pretrial diversion or deferral program in any
14 municipal, district, or circuit court where the individual was
15 charged with a violation of this section or a corresponding
16 municipal ordinance. The one hundred dollars (\$100) shall be
17 deposited into the Alabama Chemical Testing Training and
18 Equipment Fund.

19 "(6) In addition to the fines and fees imposed
20 pursuant to this subsection, a mandatory fee of one hundred
21 dollars (\$100) shall be collected from any individual who
22 successfully completes any pretrial diversion or deferral
23 program in any municipal, district, or circuit court where the
24 individual was charged with a violation of this section or a
25 corresponding municipal ordinance. The one hundred dollars
26 (\$100) shall be deposited into the Alabama Head and Spinal
27 Cord Injury Trust 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 subdivision (a) (1) or, in the case of a person who is under
6 the age of 21 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) (1) Except as provided in subdivision (2), a
2 prior conviction for driving under the influence 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 if the prior conviction occurred
7 within 10 years of the date of the current offense.

8 "(2) If the person has a previous felony DUI
9 conviction, then all of the person's subsequent DUI
10 convictions shall be treated as felonies regardless of the
11 date of the previous felony DUI conviction.

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 10-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 or any
2 other alcohol monitoring device approved by the court, for the
3 duration of the offender's driver's license suspension period.

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

14 "a. Seventeen percent to the Alabama Interlock
15 Indigent Fund.

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

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

25 "d. Twenty-three percent to the District Attorney's
26 Solicitor Fund.

1 "(2) In addition to paying the court clerk the fee
2 required ~~above~~ in subdivision (1) following the conviction or
3 the voluntary installation of the ignition interlock device or
4 any other alcohol monitoring device approved by the court, the
5 defendant shall pay all costs associated with the
6 installation, purchase, maintenance, or lease of the ignition
7 interlock ~~devices~~ device to an approved ignition interlock
8 provider pursuant to the rules of the Department of Forensic
9 Sciences, unless the defendant is subject to Section
10 32-5A-191.4(i)(4).

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

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

26 "(2) The duration of the time an ignition interlock
27 device or any other alcohol monitoring device approved by the

1 court is required by this section shall be one additional year
2 if the offender refused the prescribed chemical test for
3 intoxication.

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

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

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

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

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

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

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

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

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

25 "(x) (1) The amendatory language in Act 2014-222 to
26 this section, authorizing the Alabama State Law Enforcement
27 Agency to stay a driver's license suspension or revocation

1 upon compliance with the ignition interlock ~~requirement~~
2 requirements or any other alcohol monitoring device
3 requirements shall apply retroactively if any of the following
4 occurs:

5 "a. The offender files an appeal with the court of
6 jurisdiction requesting all prior suspensions or revocation,
7 or both, be stayed upon compliance with the ignition interlock
8 requirement or any other alcohol monitoring device
9 requirements.

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

12 "c. The court of jurisdiction notifies the ~~Alabama~~
13 ~~State Law Enforcement Agency~~ agency that the offender is
14 eligible to have the driver's license stayed.

15 "d. The ~~Alabama State Law Enforcement Agency~~ agency
16 issues an ignition interlock restricted driver's license.

17 "e. The offender remains in compliance of ignition
18 interlock requirements or any other alcohol monitoring device
19 requirements.

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

26 "(y) Pursuant to Section 15-22-54, the maximum
27 probation period for persons convicted under this section

1 shall be extended until all ignition interlock requirements or
2 any other alcohol monitoring device requirements have been
3 completed by the offender.

4 "(z) Notwithstanding the ignition interlock
5 requirements of this section, no person may be required to
6 install an ignition interlock device if there is not a
7 certified ignition interlock provider available within a 50
8 mile radius of his or her place of residence or place of
9 business or employment."

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

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