

1 HB107
2 208355-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

SYNOPSIS: Under the existing habitual felony offender act, enhanced penalties are established for felony criminal defendants who have been previously convicted of one or more felony offenses.

This bill would repeal the Habitual Felony Offender Act.

This bill would provide for resentencing for defendants whose sentences were based on the Habitual Felony Offender Act.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote

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

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

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 Relating sentencing; to amend Section 13A-5-6, as
20 last amended by Act 2019-465, 2019 Regular Session, Code of
21 Alabama 1975, Sections 13A-5-13, 13A-11-241, 13A-12-231,
22 13A-12-233, 14-9-44, 32-5A-154, and 32-5A-191, Code of Alabama
23 1975; to revise sentencing standards in certain circumstances;
24 to repeal Sections 13A-5-9 and 13A-5-10, Code of Alabama 1975,
25 relating to the Habitual Felony Offender Act; to add Section
26 13A-5-14 to the Code of Alabama 1975, to provide for
27 resentencing for defendants whose sentences were based on the

1 habitual felony offender act; to make nonsubstantive,
2 technical revisions to update the existing code language to
3 current style; and in connection therewith would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds within the meaning of Amendment 621
6 of the Constitution of Alabama of 1901, now appearing as
7 Section 111.05 of the Official ReCompilation of the
8 Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 13A-5-6, as last amended by Act
11 2019-465, 2019 Regular Session, Code of Alabama 1975, Sections
12 13A-5-13, 13A-11-241, 13A-12-231, 13A-12-233, 14-9-44, and
13 32-5A-154, Code of Alabama 1975, are amended to read as
14 follows:

15 "§13A-5-6.

16 "(a) Sentences for felonies shall be for a definite
17 term of imprisonment, which imprisonment includes hard labor,
18 within the following limitations:

19 "(1) For a Class A felony, for life or not more than
20 99 years or less than 10 years.

21 "(2) For a Class B felony, not more than 20 years or
22 less than 2 years.

23 "(3) For a Class C felony, not more than 10 years or
24 less than 1 year and 1 day and must be in accordance with
25 subsection (b) of Section 15-18-8 unless ~~sentencing is~~
26 ~~pursuant to Section 13A-5-9~~ or the offense is a sex offense
27 pursuant to Section 15-20A-5.

1 "(4) For a Class D felony, not more than 5 years or
2 less than 1 year and 1 day and must be in accordance with
3 subsection (b) of Section 15-18-8.

4 "(5) For a Class A felony in which a firearm or
5 deadly weapon was used or attempted to be used in the
6 commission of the felony, or a Class A felony sex offense
7 involving a child as defined in Section 15-20A-4, not less
8 than 20 years.

9 "(6) For a Class B or C felony in which a firearm or
10 deadly weapon was used or attempted to be used in the
11 commission of the felony, or a Class B felony sex offense
12 involving a child as defined in Section 15-20A-4, not less
13 than 10 years.

14 "(b) The actual time of release within the
15 limitations established by subsection (a) shall be determined
16 under procedures established elsewhere by law.

17 "(c) In addition to any other penalties ~~heretofore~~
18 ~~or hereafter~~ provided by law, in all cases where an offender
19 is designated as a sexually violent predator pursuant to
20 Section 15-20A-19, or where an offender is convicted of a
21 Class A felony sex offense involving a child as defined in
22 Section 15-20A-4, and is sentenced to a county jail or the
23 Alabama Department of Corrections, the sentencing judge shall
24 impose an additional penalty of not less than 10 years of
25 post-release supervision to be served upon the defendant's
26 release from incarceration.

1 "(d) In addition to any other penalties ~~heretofore~~
2 ~~or hereafter~~ provided by law, in all cases where an offender
3 is convicted of a sex offense pursuant to Section 13A-6-61,
4 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of
5 age or older and the victim was six years of age or less at
6 the time the offense was committed, the defendant shall be
7 sentenced to life imprisonment without the possibility of
8 parole.

9 "§13A-5-13.

10 "(a) The Legislature finds and declares the
11 following:

12 "(1) It is the right of every person, regardless of
13 race, color, religion, national origin, ethnicity, or physical
14 or mental disability, to be secure and protected from threats
15 of reasonable fear, intimidation, harassment, and physical
16 harm caused by activities of groups and individuals.

17 "(2) It is not the intent, by enactment of this
18 section, to interfere with the exercise of rights protected by
19 the Constitution of the State of Alabama or the United States.

20 "(3) The intentional advocacy of unlawful acts by
21 groups or individuals against other persons or groups and
22 bodily injury or death to persons is not constitutionally
23 protected when violence or civil disorder is imminent, and
24 poses a threat to public order and safety, and ~~such~~ the
25 conduct should be subjected to criminal sanctions.

26 "(b) The purpose of this section is to impose
27 additional penalties where it is shown that a perpetrator

1 committing the underlying offense was motivated by the
2 victim's actual or perceived race, color, religion, national
3 origin, ethnicity, or physical or mental disability.

4 "(c) A person who has been found guilty of a crime,
5 the commission of which was shown beyond a reasonable doubt to
6 have been motivated by the victim's actual or perceived race,
7 color, religion, national origin, ethnicity, or physical or
8 mental disability, shall be punished as follows:

9 ~~"(1) Felonies:~~

10 ~~"(1) For a. On conviction of a Class A felony that~~
11 ~~was found to have been motivated by the victim's actual or~~
12 ~~perceived race, color, religion, national origin, ethnicity,~~
13 ~~or physical or mental disability, the sentence shall not be~~
14 less than 15 years.

15 ~~"(2) For b. On conviction of a Class B felony that~~
16 ~~was found to have been motivated by the victim's actual or~~
17 ~~perceived race, color, religion, national origin, ethnicity,~~
18 ~~or physical or mental disability, the sentence shall not be~~
19 less than 10 years.

20 ~~"(3) For c. On conviction of a Class C felony that~~
21 ~~was found to have been motivated by the victim's actual or~~
22 ~~perceived race, color, religion, national origin, ethnicity,~~
23 ~~or physical or mental disability, the sentence shall not be~~
24 less than two years.

25 ~~"(4) For d. On conviction of a Class D felony that~~
26 ~~was found to have been motivated by the victim's actual or~~
27 ~~perceived race, color, religion, national origin, ethnicity,~~

1 ~~or physical or mental disability,~~ the sentence shall not be
2 less than 18 months.

3 ~~"e. For purposes of this subdivision, a criminal~~
4 ~~defendant who has been previously convicted of any felony and~~
5 ~~receives an enhanced sentence pursuant to this section is also~~
6 ~~subject to enhanced punishment under the Alabama Habitual~~
7 ~~Felony Offender Act, Section 13A-5-9.~~

8 ~~"(2) Misdemeanors:~~

9 ~~"(5) For~~ On ~~conviction of a misdemeanor which was~~
10 ~~found beyond a reasonable doubt to have been motivated by the~~
11 ~~victim's actual or perceived race, color, religion, national~~
12 ~~origin, ethnicity, or physical or mental disability, the~~
13 defendant shall be sentenced for a Class A misdemeanor, except
14 that the defendant shall be sentenced to a minimum of three
15 months.

16 "§13A-11-241.

17 "(a) A person commits the crime of cruelty to a dog
18 or cat in the first degree if he or she intentionally tortures
19 any dog or cat or skins a domestic dog or cat or offers for
20 sale or exchange or offers to buy or exchange the fur, hide,
21 or pelt of a domestic dog or cat. Cruelty to a dog or cat in
22 the first degree is a Class C felony. ~~A conviction for a~~
23 ~~felony pursuant to this section shall not be considered a~~
24 ~~felony for purposes of the Habitual Felony Offender Act,~~
25 ~~Sections 13A-5-9 to 13A-5-10.1, inclusive.~~

26 "(b) A person commits the crime of cruelty to a dog
27 or cat in the second degree if he or she, in a cruel manner,

1 overloads, overdrives, deprives of necessary sustenance or
2 shelter, unnecessarily or cruelly beats, ~~injuries~~ injures,
3 mutilates, or causes the same to be done. Cruelty to a dog or
4 cat in the second degree is a Class A misdemeanor.

5 "§13A-12-231.

6 "Except as authorized in Chapter 27 of Title 20:

7 "(1) Any person who knowingly sells, manufactures,
8 delivers, or brings into this state, or who is knowingly in
9 actual or constructive possession of, in excess of one kilo or
10 2.2 pounds of any part of the plant of the genus Cannabis,
11 whether growing or not, the seeds thereof, the resin extracted
12 from any part of the plant, and every compound, manufacture,
13 salt, derivative, mixture, or preparation of the plant, its
14 seeds, or resin including the completely defoliated mature
15 stalks of the plant, fiber produced from the stalks, oil, or
16 cake, or the completely sterilized samples of seeds of the
17 plant which are incapable of germination is guilty of a
18 felony, which felony shall be known as "trafficking in
19 cannabis." Nothing in this subdivision shall apply to samples
20 of tetrahydrocannabinols including, but not limited to, all
21 synthetic or naturally produced samples of
22 tetrahydrocannabinols which contain more than 15 percent by
23 weight of tetrahydrocannabinols and which do not contain plant
24 material exhibiting the external morphological features of the
25 plant cannabis. If the quantity of cannabis involved:

26 "a. Is in excess of one kilo or 2.2 pounds, but less
27 than 100 pounds, the person shall be sentenced to a mandatory

1 minimum term of imprisonment of three calendar years and to
2 pay a fine of twenty-five thousand dollars (\$25,000).

3 "b. Is 100 pounds or more, but less than 500 pounds,
4 the person shall be sentenced to a mandatory minimum term of
5 imprisonment of five calendar years and to pay a fine of fifty
6 thousand dollars (\$50,000).

7 "c. Is 500 pounds or more, but less than 1,000
8 pounds, the person shall be sentenced to a mandatory minimum
9 term of imprisonment of 15 calendar years and to pay a fine of
10 two hundred thousand dollars (\$200,000).

11 "d. Is 1,000 pounds or more, the person shall be
12 sentenced to a mandatory term of imprisonment of life.

13 "(2) Any person who knowingly sells, manufactures,
14 delivers, or brings into this state, or who is knowingly in
15 actual or constructive possession of, 28 grams or more of
16 cocaine or of any mixture containing cocaine, described in
17 Section 20-2-25(1), is guilty of a felony, which felony shall
18 be known as "trafficking in cocaine." If the quantity
19 involved:

20 "a. Is 28 grams or more, but less than 500 grams,
21 the person shall be sentenced to a mandatory minimum term of
22 imprisonment of three calendar years and to pay a fine of
23 fifty thousand dollars (\$50,000).

24 "b. Is 500 grams or more, but less than one kilo,
25 the person shall be sentenced to a mandatory minimum term of
26 imprisonment of five calendar years and to pay a fine of one
27 hundred thousand dollars (\$100,000).

1 "c. Is one kilo, but less than 10 kilos, then the
2 person shall be sentenced to a mandatory minimum term of
3 imprisonment of 15 calendar years and to pay a fine of two
4 hundred fifty thousand dollars (\$250,000).

5 "d. Is 10 kilos or more, the person shall be
6 sentenced to a mandatory term of imprisonment of life.

7 "(3) Any person, except as otherwise authorized by
8 law, who knowingly sells, manufactures, delivers, or brings
9 into this state, or who is knowingly in actual or constructive
10 possession of, four grams or more of any morphine, opium, or
11 any salt, isomer, or salt of an isomer thereof, including
12 heroin, as described in Section 20-2-23(b)(2) or Section
13 20-2-25(1)a., or four grams or more of any mixture containing
14 any such substance, or any mixture containing Fentanyl or any
15 synthetic controlled substance Fentanyl analogue, as described
16 in Sections 20-2-23 and 20-2-25, is guilty of a felony, which
17 felony shall be known as "trafficking in illegal drugs." If
18 the quantity involved:

19 "a. Is four grams or more, but less than 14 grams,
20 the person shall be sentenced to a mandatory minimum term of
21 imprisonment of three calendar years and to pay a fine of
22 fifty thousand dollars (\$50,000).

23 "b. Is 14 grams or more, but less than 28 grams, the
24 person shall be sentenced to a mandatory minimum term of
25 imprisonment of 10 calendar years and to pay a fine of one
26 hundred thousand dollars (\$100,000).

1 "c. Is 28 grams or more, but less than 56 grams, the
2 person shall be sentenced to a mandatory minimum term of
3 imprisonment of 25 calendar years and to pay a fine of five
4 hundred thousand dollars (\$500,000).

5 "d. Is 56 grams or more, the person shall be
6 sentenced to a mandatory term of imprisonment of life.

7 "(4) Any person who knowingly sells, manufactures,
8 delivers, or brings into this state, or who is knowingly in
9 actual or constructive possession of 1,000 or more pills or
10 capsules of methaqualone, as described in Section 20-2-1, et
11 seq., is guilty of a felony, which felony shall be known as
12 "trafficking in illegal drugs." If the quantity involved:

13 "a. Is 1,000 pills or capsules, but less than 5,000
14 pills or capsules, the person shall be sentenced to a
15 mandatory minimum term of imprisonment of three calendar years
16 and pay a fine of fifty thousand dollars (\$50,000).

17 "b. Is 5,000 capsules or more, but less than 25,000
18 capsules, that person shall be imprisoned to a mandatory
19 minimum term of imprisonment of 10 calendar years and pay a
20 fine of one hundred thousand dollars (\$100,000).

21 "c. Is 25,000 pills or more, but less than 100,000
22 pills or capsules, the person shall be sentenced to a
23 mandatory minimum term of imprisonment of 25 calendar years
24 and pay a fine of five hundred thousand dollars (\$500,000).

25 "d. Is 100,000 capsules or more, the person shall be
26 sentenced to a mandatory term of imprisonment of life.

1 "(5) Any person who knowingly sells, manufactures,
2 delivers, or brings into this state, or who is knowingly in
3 actual or constructive possession of 500 or more pills or
4 capsules of hydromorphone as is described in Section 20-2-1,
5 et seq., is guilty of a felony which shall be known as
6 "trafficking in illegal drugs." If the quantity involved:

7 "a. Is 500 pills or capsules or more but less than
8 1,000 pills or capsules, the person shall be sentenced to a
9 mandatory term of imprisonment of three calendar years and to
10 pay a fine of fifty thousand dollars (\$50,000).

11 "b. Is 1,000 pills or capsules or more, but less
12 than 4,000 pills or capsules, the person shall be sentenced to
13 a mandatory term of imprisonment of 10 calendar years and to
14 pay a fine of one hundred thousand dollars (\$100,000).

15 "c. Is 4,000 pills or capsules or more but less than
16 10,000 pills or capsules, the person shall be sentenced to a
17 mandatory term of imprisonment of 25 calendar years and to pay
18 a fine of one hundred thousand dollars (\$100,000).

19 "d. Is more than 10,000 pills or capsules, the
20 person shall be sentenced to a mandatory term of life.

21 "(6) Any person who knowingly sells, manufactures,
22 delivers, or brings into this state, or who is knowingly in
23 actual or constructive possession of, 28 grams or more of
24 3,4-methylenedioxy amphetamine, or of any mixture containing
25 3,4-methylenedioxy amphetamine, is guilty of a felony, which
26 felony shall be known as "trafficking in illegal drugs." If
27 the quantity involved:

1 "a. Is 28 grams or more, but less than 500 grams,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of three calendar years and to pay a fine of
4 fifty thousand dollars (\$50,000).

5 "b. Is 500 grams or more, but less than one kilo,
6 the person shall be sentenced to a mandatory minimum term of
7 imprisonment of five calendar years and to pay a fine of one
8 hundred thousand dollars (\$100,000).

9 "c. Is one kilo, but less than 10 kilos, then the
10 person shall be sentenced to a mandatory minimum term of
11 imprisonment of 15 calendar years and to pay a fine of two
12 hundred fifty thousand dollars (\$250,000).

13 "d. Is 10 kilos or more, the person shall be
14 sentenced to a mandatory term of imprisonment of life.

15 "(7) Any person who knowingly sells, manufactures,
16 delivers, or brings into this state, or who is knowingly in
17 actual or constructive possession of, 28 grams or more of
18 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture
19 containing 5-methoxy-3, 4-methylenedioxy amphetamine is guilty
20 of a felony, which felony shall be known as "trafficking in
21 illegal drugs" if the quantity involved:

22 "a. Is 28 grams or more, but less than 500 grams,
23 the person shall be sentenced to a mandatory minimum term of
24 imprisonment of three calendar years and to pay a fine of
25 fifty thousand dollars (\$50,000).

26 "b. Is 500 grams or more, but less than one kilo,
27 the person shall be sentenced to a mandatory minimum term of

1 imprisonment of five calendar years and to pay a fine of one
2 hundred thousand dollars (\$100,000).

3 "c. Is one kilo, but less than 10 kilos, then the
4 person shall be sentenced to a mandatory minimum term of
5 imprisonment of 15 calendar years and to pay a fine of two
6 hundred fifty thousand dollars (\$250,000).

7 "d. Is 10 kilos or more, the person shall be
8 sentenced to a mandatory term of imprisonment of life.

9 "(8) Any person who knowingly sells, manufactures,
10 delivers, or brings into this state, or who is knowingly in
11 actual or constructive possession of, four grams or more of
12 phencyclidine, or any mixture containing phencyclidine, is
13 guilty of a felony, which felony shall be known as
14 "trafficking in illegal drugs." If the quantity involved:

15 "a. Is four grams or more, but less than 14 grams,
16 the person shall be sentenced to a mandatory minimum term of
17 imprisonment of three calendar years and to pay a fine of
18 fifty thousand dollars (\$50,000).

19 "b. Is 14 grams or more, but less than 28 grams, the
20 person shall be sentenced to a mandatory minimum term of
21 imprisonment of five calendar years and to pay a fine of one
22 hundred thousand dollars (\$100,000).

23 "c. Is 28 grams or more, but less than 56 grams,
24 then the person shall be sentenced to a mandatory minimum term
25 of imprisonment of 15 calendar years and to pay a fine of two
26 hundred fifty thousand dollars (\$250,000).

1 "d. Is 56 grams or more, the person shall be
2 sentenced to a mandatory term of imprisonment of life.

3 "(9) Any person who knowingly sells, manufactures,
4 delivers, or brings into this state, or who is knowingly in
5 actual or constructive possession of, four grams or more of
6 lysergic acid diethylamide, of four grams or more of any
7 mixture containing lysergic acid diethylamide, is guilty of a
8 felony, which felony shall be known as "trafficking in illegal
9 drugs." If the quantity involved:

10 "a. Is four grams or more, but less than 14 grams,
11 the person shall be sentenced to a mandatory minimum term of
12 imprisonment of three calendar years and to pay a fine of
13 fifty thousand dollars (\$50,000).

14 "b. Is 14 grams or more, but less than 28 grams, the
15 person shall be sentenced to a mandatory minimum term of
16 imprisonment of 10 calendar years and to pay a fine of one
17 hundred thousand dollars (\$100,000).

18 "c. Is 28 grams or more, but less than 56 grams, the
19 person shall be sentenced to a mandatory minimum term of
20 imprisonment of 25 calendar years and to pay a fine of five
21 hundred thousand dollars (\$500,000).

22 "d. Is 56 grams or more, the person shall be
23 sentenced to a mandatory term of imprisonment of life.

24 "(10) Any person who knowingly sells, manufactures,
25 delivers, or brings into this state, or who is knowingly in
26 actual or constructive possession of, 28 grams or more of
27 amphetamine or any mixture containing amphetamine, its salt,

1 optical isomer, or salt of its optical isomer thereof, is
2 guilty of a felony, which felony shall be known as
3 "trafficking in amphetamine." If the quantity involved:

4 "a. Is 28 grams or more but less than 500 grams, the
5 person shall be sentenced to a mandatory minimum term of
6 imprisonment of three calendar years and to pay a fine of
7 fifty thousand dollars (\$50,000).

8 "b. Is 500 grams or more, but less than one kilo,
9 the person shall be sentenced to a mandatory minimum term of
10 imprisonment of five calendar years and to pay a fine of one
11 hundred thousand dollars (\$100,000).

12 "c. Is one kilo but less than 10 kilos, then the
13 person shall be sentenced to a mandatory minimum term of
14 imprisonment of 15 calendar years and to pay a fine of two
15 hundred fifty thousand dollars (\$250,000).

16 "d. Is 10 kilos or more, the person shall be
17 sentenced to a mandatory term of imprisonment of life.

18 "(11) Any person who knowingly sells, manufactures,
19 delivers, or brings into this state, or who is knowingly in
20 actual or constructive possession of, 28 grams or more of
21 methamphetamine or any mixture containing methamphetamine, its
22 salts, optical isomers, or salt of its optical isomers
23 thereof, is guilty of a felony, which felony shall be known as
24 "trafficking in methamphetamine." If the quantity involved:

25 "a. Is 28 grams or more but less than 500 grams, the
26 person shall be sentenced to a mandatory minimum term of

1 imprisonment of three calendar years and to pay a fine of
2 fifty thousand dollars (\$50,000).

3 "b. Is 500 grams or more, but less than one kilo,
4 the person shall be sentenced to a mandatory minimum term of
5 imprisonment of five calendar years and to pay a fine of one
6 hundred thousand dollars (\$100,000).

7 "c. Is one kilo but less than 10 kilos, then the
8 person shall be sentenced to a mandatory minimum term of
9 imprisonment of 15 calendar years and to pay a fine of two
10 hundred fifty thousand dollars (\$250,000).

11 "d. Is 10 kilos or more, the person shall be
12 sentenced to a mandatory term of imprisonment of life.

13 "(12) Any person who knowingly sells, manufactures,
14 delivers, or brings into this state, or who is knowingly in
15 actual or constructive possession of 56 or more grams of a
16 synthetic controlled substance or a synthetic controlled
17 substance analogue, as described in subdivision (4) or (5) of
18 subsection (a) of Section 20-2-23, except for any synthetic
19 controlled substance Fentanyl analogue referenced in
20 subdivision (13), is guilty of a felony, which felony shall be
21 known as "trafficking in synthetic controlled substances." If
22 the quantity involved:

23 "a. Is 56 grams or more, but less than 500 grams,
24 the person shall be sentenced to a mandatory minimum term of
25 imprisonment of three calendar years and to pay a fine of
26 fifty thousand dollars (\$50,000).

1 "b. Is 500 grams or more, but less than 1 kilo, the
2 person shall be sentenced to a mandatory minimum term of
3 imprisonment of 10 calendar years and to pay a fine of one
4 hundred thousand dollars (\$100,000).

5 "c. Is one kilo, but less than 10 kilos, then the
6 person shall be sentenced to a mandatory minimum term of
7 imprisonment of 15 calendar years and to pay a fine of two
8 hundred fifty thousand dollars (\$250,000).

9 "d. Is 10 kilos or more, the person shall be
10 sentenced to a mandatory term of imprisonment of life.

11 " (13) Any person, unless otherwise authorized by
12 law, who knowingly sells, manufactures, delivers, or brings
13 into this state, or who is knowingly in actual or constructive
14 possession of, one gram or more of Fentanyl or any synthetic
15 controlled substance Fentanyl analogue, as a single component
16 as described in Sections 20-2-23 and 20-2-25, is guilty of a
17 felony, which felony shall be known as "trafficking in illegal
18 drugs." If the quantity involved:

19 "a. Is one gram or more, but less than two grams,
20 the person shall be ordered to pay a minimum fine of fifty
21 thousand dollars (\$50,000).

22 "b. Is two grams or more, but less than four grams,
23 the person shall be ordered to pay a minimum fine of one
24 hundred thousand dollars (\$100,000).

25 "c. Is four grams or more, but less than eight
26 grams, the person shall be ordered to pay a minimum fine of
27 five hundred thousand dollars (\$500,000).

1 "d. Is eight grams or more, the person shall be
2 ordered to pay a minimum fine of seven hundred fifty thousand
3 dollars (\$750,000).

4 "(14) In lieu of the weight ranges listed in
5 subdivision (12), a person may instead be charged with
6 trafficking any substance listed in subdivisions (3) and (12)
7 if that person possesses 50 or more individual packages of
8 that substance. The person shall only be sentenced according
9 to the sentence range provision listed in paragraph a. of each
10 subdivision for the specific substance contained in the 50 or
11 more individual packages if charged pursuant to this
12 subdivision, subdivision (15), or subdivision (16), if
13 applicable. In order to charge a person pursuant to this
14 subdivision, the same substance must be contained in each of
15 the 50 or more individual packages.

16 "(15) The felonies of "trafficking in cannabis,"
17 "trafficking in cocaine," "trafficking in illegal drugs,"
18 "trafficking in amphetamine," "trafficking in
19 methamphetamine," and "trafficking in synthetic controlled
20 substances" as defined in subdivisions (1) through (14),
21 ~~above,~~ shall be treated as Class A felonies ~~for purposes of~~
22 ~~this title, including sentencing under Section 13A-5-9.~~
23 ~~Provided, however, that the sentence of imprisonment for a~~
24 ~~defendant with one or more prior felony convictions who~~
25 ~~violates subdivisions (1) through (14) of this section shall~~
26 ~~be the sentence provided therein, or the sentence provided~~
27 ~~under Section 13A-5-9, whichever is greater. Provided further,~~

1 ~~that the fine for a defendant with one or more prior felony~~
2 ~~convictions who violates subdivisions (1) through (14) of this~~
3 ~~section shall be the fine provided therein, or the fine~~
4 ~~provided under Section 13A-5-9, whichever is greater.~~

5 "(16) Notwithstanding any provision of law to the
6 contrary, any person who has possession of a firearm during
7 the commission of any act proscribed by this section shall be
8 punished by a term of imprisonment of five ~~calendar~~ years
9 which shall be in addition to, and not in lieu of, the
10 punishment otherwise provided, and a fine of twenty-five
11 thousand dollars (\$25,000); ~~the~~. The court shall not suspend
12 the five-year additional sentence of the person or give the
13 person a probationary sentence.

14 "§13A-12-233.

15 "(a) This section shall be known as the "Alabama
16 Drug Trafficking Enterprise Act." For purposes of this
17 section, a person is engaged in a criminal enterprise for the
18 purpose of trafficking in illegal drugs if that person
19 violates any provision of Section 13A-12-231, ~~and such~~
20 ~~violation is~~ both of the following occur:

21 "(1) ~~Undertaken by such~~ The violation is undertaken
22 by the person in concert with five or more other persons ~~with~~
23 ~~respect to whom such,~~ and the person occupies a position of is
24 an organizer, in a supervisory position, or any other position
25 of management, ~~and.~~

26 "(2) ~~From which such~~ The person obtains substantial
27 income or resources from the criminal enterprises.

1 "(b) For purposes of this section, "substantial
2 income" means any amount exceeding the established minimum
3 wage, as established by law.

4 "(c) Any person who engages in a criminal enterprise
5 for the purpose of trafficking in illegal drugs shall be
6 punished as follows:

7 "(1) Upon the first conviction ~~of violation of this~~
8 ~~section~~, he or she shall be sentenced to a mandatory minimum
9 term of imprisonment of 25 ~~calendar~~ years or for any mandatory
10 term ~~of calendar years~~ up to and including life without parole
11 and to a fine of not less than fifty thousand dollars
12 (\$50,000.00) nor more than five hundred thousand dollars
13 (\$500,000.00).

14 "(2) Upon the second conviction ~~of violation of this~~
15 ~~section~~, he ~~must~~ or she shall be sentenced to a mandatory term
16 of imprisonment for life without parole and to a fine of not
17 less than one hundred fifty thousand dollars (\$150,000.00) nor
18 more than one million dollars (\$1,000,000.00).

19 "(3) In no event shall the term of imprisonment or
20 the amount of fine imposed ~~under this section~~ be less than the
21 corresponding term of imprisonment or fine authorized in
22 Section 13A-12-231, for the underlying violation of that
23 section, ~~including application of the Habitual Felony Offender~~
24 ~~Act~~, as determined by the type and amount of the particular
25 illegal drug involved.

26 "(d) The courts of Alabama ~~shall have jurisdiction~~
27 ~~to~~ may enter such restraining orders or prohibitions, or ~~to~~

1 may take ~~such~~ any other actions, including the acceptance of
2 satisfactory performance bonds, in connection with any
3 property or other interest subject to forfeiture under Section
4 20-2-93 as they shall deem proper.

5 "§14-9-44.

6 ~~"(a)~~ Nothing ~~herein~~ in this article shall be
7 interpreted to give any retroactive effect to this article.

8 ~~"(b) Nothing contained in this article shall in any
9 way be construed to repeal or affect the provisions of Section
10 13A-5-9, or any other statute heretofore or hereinafter
11 enacted in this state dealing with habitual felony offenders
12 or the sentencing of such offenders.~~

13 "§32-5A-154.

14 "(a) The driver of a vehicle upon meeting or
15 overtaking from either direction any school bus which has
16 stopped for the purpose of receiving or discharging any school
17 children on a highway, on a roadway, on school property, or
18 upon a private road or any church bus which has stopped for
19 the purpose of receiving or discharging passengers shall bring
20 the vehicle to a complete stop before reaching the school or
21 church bus when there is in operation on the school or church
22 bus a visual signal as specified in Section 32-5A-155. The
23 driver shall not proceed until the school or church bus
24 resumes motion or is signaled by the school or church bus
25 driver to proceed or the visual signals are no longer
26 actuated.

1 "(b) Every bus used for the transportation of school
2 children shall bear upon the front and rear ~~thereof~~ of the bus
3 plainly visible signs containing the words "school bus" in
4 letters not less than eight inches in height, and ~~in addition~~
5 shall be equipped with visual signals meeting the requirements
6 of Section 32-5A-155, which shall be actuated by the driver of
7 the school bus only when the vehicle is stopped for the
8 purpose of receiving or discharging school children. The
9 visual signals shall not be actuated at any other time.

10 "(c) (1) Every bus used for the transportation of
11 passengers to or from church shall bear upon the front and
12 rear ~~thereof~~ of the bus plainly visible signs containing the
13 words "church bus" in letters not less than eight inches in
14 height. Visual signals meeting the requirements of Section
15 32-5A-155, on a church bus, if any, may be actuated by the
16 driver of the church bus only when the vehicle is stopped for
17 the purpose of receiving or discharging passengers.

18 "(2) A bus operated by ~~the Association for Retarded~~
19 ~~Citizens~~ ARC of Alabama, or an affiliate thereof, transporting
20 its clients shall be considered a bus to which this section is
21 applicable.

22 "(d) The driver of a vehicle upon a divided highway
23 having four or more lanes which permits at least two lanes of
24 traffic to travel in opposite directions need not stop the
25 vehicle upon meeting a school or church bus which is stopped
26 in the opposing roadway or if the school or church bus is
27 stopped in a loading zone which is a part of or adjacent to

1 such highway and where pedestrians are not permitted to cross
2 the roadway.

3 "(e) If the driver of any vehicle is witnessed by a
4 ~~peace~~ law enforcement officer or the driver of a school bus to
5 have violated this section and the identity of the driver of
6 the vehicle is not otherwise apparent, it shall be an
7 inference that the person in whose name ~~such~~ the vehicle is
8 registered committed the violation. In the event that charges
9 are filed against multiple owners of a motor vehicle, only one
10 of the owners may be convicted and court costs may be assessed
11 against only one of the owners. If the vehicle which is
12 involved in the violation is registered in the name of a
13 rental or leasing company and the vehicle is rented or leased
14 to another person at the time of the violation, the rental or
15 leasing company may rebut the inference by providing the ~~peace~~
16 law enforcement officer or prosecuting authority with a copy
17 of the rental or lease agreement in effect at the time of the
18 violation.

19 "(f) (1) Upon first conviction, a person violating
20 subsection (a) shall be punished by a fine of not less than
21 one hundred fifty dollars (\$150) nor more than three hundred
22 dollars (\$300).

23 "(2) On a second conviction, a person convicted of
24 violating subsection (a) shall be punished by a fine of not
25 less than three hundred dollars (\$300) nor more than five
26 hundred dollars (\$500) and shall complete at least 100 hours
27 of community service. In addition, the ~~Director~~ Secretary of

1 the ~~Department of Public Safety~~ Alabama State Law Enforcement
2 Agency shall suspend the driving privileges or driver's
3 license of the person convicted for a period of 30 days.

4 "(3) On a third conviction, a person convicted of
5 violating subsection (a) shall be punished by a fine of not
6 less than five hundred dollars (\$500) nor more than one
7 thousand dollars (\$1,000) and shall complete at least 200
8 hours of community service. In addition, the ~~Director~~
9 Secretary of the ~~Department of Public Safety~~ Alabama State Law
10 Enforcement Agency shall suspend the driving privileges or
11 driver's license of the person convicted for a period of 90
12 days.

13 "(4) On a fourth or subsequent conviction, a person
14 convicted of violating subsection (a) shall be guilty of a
15 Class C felony and punished by a fine of not less than one
16 thousand dollars (\$1,000) nor more than three thousand dollars
17 (\$3,000). In addition to the other penalties authorized, the
18 ~~Director~~ Secretary of the ~~Department of Public Safety~~ Alabama
19 State Law Enforcement Agency shall revoke the driving
20 privileges or driver's license of the person convicted for a
21 period of one year.

22 "~~(g) Any law to the contrary notwithstanding, the~~
23 ~~Alabama habitual felony offender law shall not apply to a~~
24 ~~conviction of a felony pursuant to subsection (f), and a~~
25 ~~conviction of a felony pursuant to subsection (f) shall not be~~
26 ~~a felony conviction for purposes of the enhancement of~~
27 ~~punishment pursuant to Alabama's habitual felony offender law.~~

1 "~~(h)~~ (g) All fines and penalties imposed pursuant to
2 this section shall be forwarded immediately upon collection by
3 the officer of the court who collects the proceeds to the
4 general fund of the respective agency that enforced this
5 section.

6 "~~(i)~~ (h) Neither reckless driving nor any other
7 traffic infraction is a lesser included offense under a charge
8 of overtaking and passing a school bus or church bus."

9 Section 2. Section 32-5A-191, Code of Alabama 1975,
10 effective until July 1, 2023, is amended to read as follows:

11 "§32-5A-191.

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

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

16 "(2) Under the influence of alcohol;

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

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

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

26 "(b) (1) A person who is under the age of 21 years
27 shall not drive or be in actual physical control of any

1 vehicle if there is 0.02 percent or more by weight of alcohol
2 in his or her blood. The Alabama State Law Enforcement Agency
3 shall suspend or revoke the driver's license of any person,
4 including, but not limited to, a juvenile, child, or youthful
5 offender, convicted or adjudicated of, or subjected to a
6 finding of, delinquency based on this subsection.

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

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

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

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

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

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

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

1 0.15 percent or more by weight of alcohol in his or her blood
2 while operating or being in actual physical control of a
3 vehicle, the Secretary of the Alabama State Law Enforcement
4 Agency shall suspend the driving privilege or driver's license
5 of the person convicted for a period of 90 days and the person
6 shall be required to have an ignition interlock device
7 installed and operating on the designated motor vehicle driven
8 by the offender for a period of one year from the date of
9 issuance of a driver's license indicating that the person's
10 driving privileges are subject to the condition of the
11 installation and use of a certified ignition interlock device
12 on a motor vehicle. Upon receipt of a court order from the
13 convicting court, upon issuance of an ignition interlock
14 restricted driver license, and upon proof of installation of
15 an operational approved ignition interlock device on the
16 designated vehicle of the person convicted, the mandated
17 ignition interlock period of one year provided in this
18 subsection shall start and the suspension period, revocation
19 period, or both, as required under this subsection shall be
20 stayed. The remainder of the driver license revocation period,
21 suspension period, or both, shall be commuted upon the
22 successful completion of the period of time in which the
23 ignition interlock device is mandated to be installed and
24 operational.

25 "(f) On a second conviction, a person convicted of
26 violating this section shall be punished by a fine of not less
27 than one thousand one hundred dollars (\$1,100) nor more than

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

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

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

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

10 " (h) (1) On a fourth or subsequent conviction, or if
11 the person has a previous felony DUI conviction, a person
12 convicted of violating this section shall be guilty of a Class
13 C felony and punished by a fine of not less than four thousand
14 one hundred dollars (\$4,100) nor more than ten thousand one
15 hundred dollars (\$10,100) and by imprisonment of not less than
16 one year and one day nor more than 10 years. Any term of
17 imprisonment may include hard labor for the county or state,
18 and where imprisonment does not exceed three years,
19 confinement may be in the county jail. Where imprisonment does
20 not exceed one year and one day, confinement shall be in the
21 county jail. The minimum sentence shall include a term of
22 imprisonment for at least one year and one day, provided,
23 however, that there shall be a minimum mandatory sentence of
24 10 days which shall be served in the county jail. The
25 remainder of the sentence may be suspended or probated, but
26 only if as a condition of probation the defendant enrolls and
27 successfully completes a state certified chemical dependency

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

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

4 "(2) ~~The Alabama habitual felony offender law shall~~
5 ~~not apply to a conviction of a felony pursuant to this~~
6 ~~subsection, and a conviction of a felony pursuant to this~~
7 ~~subsection shall not be a felony conviction for purposes of~~
8 ~~the enhancement of punishment pursuant to Alabama's habitual~~
9 ~~felony offender law. However, prior~~ Prior misdemeanor or
10 felony convictions for driving under the influence may be
11 considered as part of the sentencing calculations or
12 determinations under the Alabama Sentencing Guidelines or
13 rules ~~promulgated~~ adopted by the Alabama Sentencing
14 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 is required by this section. If the
24 adjudicated offense is a misdemeanor, the minimum punishment
25 shall be imprisonment for one year, all of which may be
26 suspended except as otherwise provided for in subsections (f)
27 and (g).

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

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

23 "(2) Upon conviction, the court shall notify the
24 Alabama State Law Enforcement Agency if the person convicted
25 is required to install and maintain an approved ignition
26 interlock device. The agency shall suspend or revoke a
27 person's driving privileges until completion of the mandatory

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

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

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

21 "(2) Fines collected for violations of this section
22 charged pursuant to a municipal ordinance where the total fine
23 is paid at one time shall be deposited as follows: The first
24 three hundred fifty dollars (\$350) collected for a first
25 conviction, the first six hundred dollars (\$600) collected for
26 a second conviction within 10 years, the first one thousand
27 one hundred dollars (\$1,100) collected for a third conviction,

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

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

1 second one thousand eight hundred dollars (\$1,800) collected
2 for a third conviction, and the second three thousand eight
3 hundred dollars (\$3,800) collected for a fourth conviction
4 shall be divided with 50 percent of the funds collected to be
5 deposited to the State Treasury to be credited to the State
6 General Fund and 50 percent deposited as otherwise provided by
7 law for municipal ordinance violations. Any amounts collected
8 over these amounts shall be deposited as otherwise provided by
9 law for municipal ordinance violations.

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

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

26 "(6) In addition to the fines and fees imposed
27 pursuant to this subsection, a mandatory fee of one hundred

1 dollars (\$100) shall be collected from any individual who
2 successfully completes any pretrial diversion or deferral
3 program in any municipal, district, or circuit court where the
4 individual was charged with a violation of this section or a
5 corresponding municipal ordinance. The one hundred dollars
6 (\$100) shall be deposited into the Alabama Head and Spinal
7 Cord Injury Trust Fund.

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

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

21 "(p) (1) Except as provided in subdivision (2), a
22 prior conviction for driving under the influence from this
23 state, a municipality within this state, or another state or
24 territory or a municipality of another state or territory
25 shall be considered by a court for imposing a sentence
26 pursuant to this section if the prior conviction occurred
27 within 10 years of the date of the current offense.

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

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

23 "(r) (1) Any person ordered by the court to have an
24 ignition interlock device installed on a designated vehicle,
25 and any person who elects to have the ignition interlock
26 device installed on a designated vehicle for the purpose of
27 reducing a period of suspension or revocation of his or her

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

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

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

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

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

17 "(2) In addition to paying the court clerk the fee
18 required in subdivision (1) following the conviction or the
19 voluntary installation of the ignition interlock device, the
20 defendant shall pay all costs associated with the
21 installation, purchase, maintenance, or lease of the ignition
22 interlock devices to an approved ignition interlock provider
23 pursuant to the rules of the Department of Forensic Sciences,
24 unless the defendant is subject to Section 32-5A-191.4(i)(4).

25 "(s) The defendant shall designate the vehicle to be
26 used by identifying the vehicle by the vehicle identification
27 number to the court. The defendant, at his or her own expense,

1 may designate additional motor vehicles on which an ignition
2 interlock device may be installed for the use of the
3 defendant.

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

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

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

1 reissue a regular driver's license. The fee shall be deposited
2 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

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

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

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

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

19 "c. Failure to comply with the servicing or
20 calibration requirements of the ignition interlock device
21 every 30 days.

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

1 "(w) The provisions in this section and Section
2 32-5A-191.4 relating to ignition interlock devices shall not
3 apply to persons who commit violations of this section while
4 under 19 years of age and who are adjudicated in juvenile
5 court, unless specifically ordered otherwise by the court.

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

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

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

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

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

22 "e. The offender remains in compliance of ignition
23 interlock requirements.

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

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

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

24 "(3) Upon receipt of a court order detailing any
25 ignition interlock violation of the requirements of this
26 section or Section 32-5A-191.4 or termination of the
27 participation in any pretrial diversion program, the Alabama

1 State Law Enforcement Agency shall suspend or revoke driving
2 privileges pursuant to this section and Section 32-5A-304.

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

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

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

20 Section 3. Section 32-5A-191, Code of Alabama 1975,
21 effective July 1, 2023, is amended to read as follows:

22 "§32-5A-191.

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

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

27 "(2) Under the influence of alcohol;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 " (h) (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 have an ignition interlock
24 device installed and operating on the designated motor vehicle
25 driven by the offender for a period of four years from the
26 date of issuance of a driver's license indicating that the
27 person's driving privileges are subject to the condition of

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

17 "(2) ~~The Alabama habitual felony offender law shall~~
18 ~~not apply to a conviction of a felony pursuant to this~~
19 ~~subsection, and a conviction of a felony pursuant to this~~
20 ~~subsection shall not be a felony conviction for purposes of~~
21 ~~the enhancement of punishment pursuant to Alabama's habitual~~
22 ~~felony offender law. However, prior Prior misdemeanor or~~
23 ~~felony convictions for driving under the influence may be~~
24 ~~considered as part of the sentencing calculations or~~
25 ~~determinations under the Alabama Sentencing Guidelines or~~
26 ~~rules promulgated adopted by the Alabama Sentencing~~
27 ~~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 is required by this section. If the
10 adjudicated offense is a misdemeanor, the minimum punishment
11 shall be imprisonment for one year, all of which may be
12 suspended except as otherwise provided for in subsections (f)
13 and (g).

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

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

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

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

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

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

14 "(m) (1) Except for fines collected for violations of
15 this section charged pursuant to a municipal ordinance, fines
16 collected for violations of this section shall be deposited to
17 the State General Fund; however, beginning October 1, 1995, of
18 any amount collected over two hundred fifty dollars (\$250) for
19 a first conviction, over five hundred dollars (\$500) for a
20 second conviction within 10 years, over one thousand dollars
21 (\$1,000) for a third conviction within 10 years, and over two
22 thousand dollars (\$2,000) for a fourth or subsequent
23 conviction within 10 years, the first one hundred dollars
24 (\$100) of that additional amount shall be deposited to the
25 Alabama Chemical Testing Training and Equipment Trust Fund,
26 after three percent of the one hundred dollars (\$100) is
27 deducted for administrative costs, and beginning October 1,

1 1997, and thereafter, the second one hundred dollars (\$100) of
2 that additional amount shall be deposited in the Alabama Head
3 and Spinal Cord Injury Trust Fund after deducting five percent
4 of the one hundred dollars (\$100) for administrative costs and
5 the remainder of the funds shall be deposited to the State
6 General Fund.

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

26 "(3) Fines collected for violations of this section
27 charged pursuant to a municipal ordinance, where the fine is

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

23 "(4) Notwithstanding any provision of law to the
24 contrary, 90 percent of any fine assessed and collected for
25 any DUI offense charged by municipal ordinance violation in
26 district or circuit court shall be computed only on the amount
27 assessed over the minimum fine authorized, and upon collection

1 shall be distributed to the municipal general fund with the
2 remaining 10 percent distributed to the State General Fund.

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

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

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

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

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

21 "(p) (1) Except as provided in subdivision (2), a
22 prior conviction for driving under the influence from this
23 state, a municipality within this state, or another state or
24 territory or a municipality of another state or territory
25 shall be considered by a court for imposing a sentence
26 pursuant to this section if the prior conviction occurred
27 within 10 years of the date of the current offense.

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

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

23 "(r) (1) Any person ordered by the court to have an
24 ignition interlock device installed on a designated vehicle,
25 and any person who elects to have the ignition interlock
26 device installed on a designated vehicle for the purpose of
27 reducing a period of suspension or revocation of his or her

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

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

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

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

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

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

25 "(s) The defendant shall designate the vehicle to be
26 used by identifying the vehicle by the vehicle identification
27 number to the court. The defendant, at his or her own expense,

1 may designate additional motor vehicles on which an ignition
2 interlock device may be installed for the use of the
3 defendant.

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

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

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

1 reissue a regular driver's license. The fee shall be deposited
2 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

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

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

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

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

19 "c. Failure to comply with the servicing or
20 calibration requirements of the ignition interlock device
21 every 30 days.

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

1 "(w) The provisions in this section and Section
2 32-5A-191.4 relating to ignition interlock devices shall not
3 apply to persons who commit violations of this section while
4 under 19 years of age and who are adjudicated in juvenile
5 court, unless specifically ordered otherwise by the court.

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

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

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

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

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

22 "e. The offender remains in compliance of ignition
23 interlock requirements.

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

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

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

11 Section 4. Sections 13A-5-9 and 13A-5-10 of the Code
12 of Alabama 1975, relating to the habitual felony offender act,
13 are repealed.

14 Section 5. Section 13A-5-14 is added to the Code of
15 Alabama 1975, to read as follows:

16 §13A-5-14.

17 (a) Any defendant who is currently in the custody of
18 or under the supervision of the Department of Corrections, the
19 Board of Pardons and Paroles, or the court, for an offense
20 where he or she was sentenced pursuant to the Habitual Felony
21 Offender Act, Sections 13A-5-9 and 13A-5-10, prior to the
22 effective date of this act, shall be resentenced pursuant to
23 the sentencing standards in place at the time of the
24 resentencing.

25 (b) The venue for resentencing shall be the criminal
26 division of the circuit court in the county in which the
27 defendant was convicted.

1 (c) The original sentencing judge, or the presiding
2 circuit judge if the sentencing judge is no longer in office,
3 on motion of the defendant, the Department of Corrections, a
4 prosecuting attorney, or the court, shall resentence any
5 defendant who is eligible to be resentenced pursuant to this
6 section. The court shall set a hearing, as soon as
7 practicable, to resentence the defendant.

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

16 Section 7. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.