

1 SB180  
2 209532-1  
3 By Senator Whatley  
4 RFD: Judiciary  
5 First Read: 03-FEB-21

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

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

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

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

25 Amendment 621 of the Constitution of Alabama  
26 of 1901, as amended by Amendment 890, now appearing  
27 as Section 111.05 of the Official ReCompilation of

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

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

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to persons charged with driving under the  
24 influence; to amend Sections 32-5A-191 and 32-5A-191.4, Code  
25 of Alabama 1975, to require and provide for the use of  
26 ignition interlock devices or any device approved for alcohol  
27 monitoring; and in connection therewith would have as its

1 purpose or effect the requirement of a new or increased  
2 expenditure of local funds within the meaning of Amendment 621  
3 of the Constitution of Alabama of 1901, as amended by  
4 Amendment 890, now appearing as Section 111.05 of the Official  
5 Recompilation of the Constitution of Alabama of 1901.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

9 "§32-5A-191.

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

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

14 "(2) Under the influence of alcohol;

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

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

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

24 "(b) (1) A person who is under the age of 21 years  
25 shall not drive or be in actual physical control of any  
26 vehicle if there is 0.02 percent or more by weight of alcohol  
27 in his or her blood. The Alabama State Law Enforcement Agency

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

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

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

25 "(c) (1) A school bus or day care driver shall not  
26 drive or be in actual physical control of any vehicle while in  
27 performance of his or her duties if there is greater than 0.02

1 percent by weight of alcohol in his or her blood. A person  
2 convicted pursuant to this subsection shall be subject to the  
3 penalties provided by this section, except that on the first  
4 conviction the Secretary of the Alabama State Law Enforcement  
5 Agency shall suspend the driving privilege or driver's license  
6 for a period of one year.

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

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

26 "(d) The fact that any person charged with violating  
27 this section is or has been legally entitled to use alcohol or

1 a controlled substance shall not constitute a defense against  
2 any charge of violating this section.

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

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



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

15 "(f) On a second conviction, a person convicted of  
16 violating this section shall be punished by a fine of not less  
17 than one thousand one hundred dollars (\$1,100) nor more than  
18 five thousand one hundred dollars (\$5,100) and by  
19 imprisonment, which may include hard labor in the county or  
20 municipal jail for not more than one year. The sentence shall  
21 include a mandatory sentence, which is not subject to  
22 suspension or probation, of imprisonment in the county or  
23 municipal jail for not less than five days or community  
24 service for not less than 30 days. In addition, the Secretary  
25 of the Alabama State Law Enforcement Agency shall revoke the  
26 driving privileges or driver's license of the person convicted  
27 for a period of one year and the offender shall be required to

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

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

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

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

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

3           "(h) (1) On a fourth or subsequent conviction, or if  
4 the person has a previous felony DUI conviction, a person  
5 convicted of violating this section shall be guilty of a Class  
6 C felony and punished by a fine of not less than four thousand  
7 one hundred dollars (\$4,100) nor more than ten thousand one  
8 hundred dollars (\$10,100) and by imprisonment of not less than  
9 one year and one day nor more than 10 years. Any term of  
10 imprisonment may include hard labor for the county or state,  
11 and where imprisonment does not exceed three years,  
12 confinement may be in the county jail. Where imprisonment does  
13 not exceed one year and one day, confinement shall be in the  
14 county jail. The minimum sentence shall include a term of  
15 imprisonment for at least one year and one day, provided,  
16 however, that there shall be a minimum mandatory sentence of  
17 10 days which shall be served in the county jail. The  
18 remainder of the sentence may be suspended or probated, but  
19 only if as a condition of probation the defendant enrolls and  
20 successfully completes a state certified chemical dependency  
21 program recommended by the court referral officer and approved  
22 by the sentencing court. Where probation is granted, the  
23 sentencing court may, in its discretion, and where monitoring  
24 equipment is available, place the defendant on house arrest  
25 under electronic surveillance during the probationary term. In  
26 addition to the other penalties authorized, the Secretary of  
27 the Alabama State Law Enforcement Agency shall revoke the

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

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

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

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

1 subsection does not apply to the duration of time an ignition  
2 interlock device or any other alcohol monitoring device  
3 approved by the court is required by this section. If the  
4 adjudicated offense is a misdemeanor, the minimum punishment  
5 shall be imprisonment for one year, all of which may be  
6 suspended except as otherwise provided for in subsections (f)  
7 and (g).

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

18 "(k) (1) In addition to the penalties provided  
19 herein, any person convicted of violating this section shall  
20 be referred to the court referral officer for evaluation and  
21 referral to appropriate community resources. The defendant  
22 shall, at a minimum, be required to complete a DUI or  
23 substance abuse court referral program approved by the  
24 Administrative Office of Courts and operated in accordance  
25 with provisions of the Mandatory Treatment Act of 1990,  
26 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law  
27 Enforcement Agency shall not reissue a driver's license to a



1 person convicted under this section without receiving proof  
2 that the defendant has successfully completed the required  
3 program.

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

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

21 "(l) Neither reckless driving nor any other traffic  
22 infraction is a lesser included offense under a charge of  
23 driving under the influence of alcohol or of a controlled  
24 substance.

25 "(m) (1) Except for fines collected for violations of  
26 this section charged pursuant to a municipal ordinance, fines  
27 collected for violations of this section shall be deposited to

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

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

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

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

1 shall be divided with 50 percent of the funds collected to be  
2 deposited to the State Treasury to be credited to the State  
3 General Fund and 50 percent deposited as otherwise provided by  
4 law for municipal ordinance violations. Any amounts collected  
5 over these amounts shall be deposited as otherwise provided by  
6 law for municipal ordinance violations.

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

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

23 "(6) In addition to the fines and fees imposed  
24 pursuant to this subsection, a mandatory fee of one hundred  
25 dollars (\$100) shall be collected from any individual who  
26 successfully completes any pretrial diversion or deferral  
27 program in any municipal, district, or circuit court where the

1 individual was charged with a violation of this section or a  
2 corresponding municipal ordinance. The one hundred dollars  
3 (\$100) shall be deposited into the Alabama Head and Spinal  
4 Cord Injury Trust Fund.

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

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

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

25 "(2) If the person has a previous felony DUI  
26 conviction, then all of the person's subsequent DUI

1 convictions shall be treated as felonies regardless of the  
2 date of the previous felony DUI conviction.

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

22 "(r) (1) Any person ordered by the court to have an  
23 ignition interlock device installed on a designated vehicle or  
24 use any other alcohol monitoring device approved by the court,  
25 and any person who elects to have the ignition interlock  
26 device installed on a designated vehicle or use any other  
27 alcohol monitoring device approved by the court for the

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

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

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

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

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

18 "(2) In addition to paying the court clerk the fee  
19 required in subdivision (1) following the conviction or the  
20 voluntary installation of the ignition interlock device or any  
21 other alcohol monitoring device approved by the court, the  
22 defendant shall pay all costs associated with the  
23 installation, purchase, maintenance, or lease of the ignition  
24 interlock ~~devices~~ device to an approved ignition interlock  
25 provider pursuant to the rules of the Department of Forensic  
26 Sciences, unless the defendant is subject to Section



1 32-5A-191.4(i) (4) or to the alcohol monitoring provider  
2 approved by the court.

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

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

18 "(2) The duration of the time an ignition interlock  
19 device or any other alcohol monitoring device approved by the  
20 court is required by this section shall be one additional year  
21 if the offender refused the prescribed chemical test for  
22 intoxication.

23 "(u) (1) ~~The~~ If the court orders an offender to  
24 install an ignition interlock device, the Alabama State Law  
25 Enforcement Agency may set a fee of not more than one hundred  
26 fifty dollars (\$150) for the issuance of a driver's license  
27 indicating that the person's driving privileges are subject to

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

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

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

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

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

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

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

9 "(w) The provisions in this section and Section  
10 32-5A-191.4 relating to ignition interlock devices or any  
11 other alcohol monitoring device approved by the court shall  
12 not apply to persons who commit violations of this section  
13 while under 19 years of age and who are adjudicated in  
14 juvenile court, unless specifically ordered otherwise by the  
15 court.

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

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

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

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

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

8            "e. The offender remains in compliance of ignition  
9 interlock requirements or any other alcohol monitoring device  
10 requirements.

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

17            "(y) (1) Any person charged in a district, circuit,  
18 or municipal court with a violation of this section or a  
19 municipal ordinance adopted in conformance with this section  
20 who is approved for any pretrial diversion program or similar  
21 program shall be required to install an ignition interlock  
22 device or any other alcohol monitoring device approved by the  
23 court for a minimum of six months or the duration of the  
24 pretrial diversion program, whichever is greater, and meet all  
25 the requirements of this section and Section 32-5A-191.4. A  
26 participant in a pretrial diversion program shall be eligible

1 for indigency status if the program enrolls indigent  
2 defendants and waives fees for indigent defendants.

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

17 "b. If the court orders any other alcohol monitoring  
18 device in lieu of an ignition interlock device, upon receipt  
19 of a court order or an agreement from the district attorney or  
20 prosecutor indicating the offender has entered a pretrial  
21 diversion program or any other form of deferred prosecution  
22 agreement, and upon receipt of a court order indicating the  
23 offender has provided proof of installation, purchase, or  
24 lease, of an operational alcohol monitoring device approved by  
25 the court, the Secretary of the Alabama State Law Enforcement  
26 Agency shall issue a driver's license to the offender. Any  
27 driver's license suspension period pursuant to Section

1 32-5A-304 shall be stayed and then commuted upon the  
2 successful completion of the pretrial diversion program, or  
3 any other form of deferred prosecution agreement.

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

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

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

22 "(aa) Notwithstanding the ignition interlock  
23 requirements of this section, no person may be required to  
24 install an ignition interlock device if there is not a  
25 certified ignition interlock provider available within a 50  
26 mile radius of his or her place of residence or place of  
27 business or employment."

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

3           "§32-5A-191.

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

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

8           "(2) Under the influence of alcohol;

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

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

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

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

26 Notwithstanding the foregoing, upon the first violation of  
27 this subsection by a person whose blood alcohol level is

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

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

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



1           "(2) A person shall not drive or be in actual  
2 physical control of a commercial motor vehicle, as defined in  
3 49 CFR Part 383.5 of the Federal Motor Carrier Safety  
4 Regulations as adopted pursuant to Section 32-9A-2, if there  
5 is 0.04 percent or greater by weight of alcohol in his or her  
6 blood. Notwithstanding the other provisions of this section,  
7 the commercial driver's license or commercial driving  
8 privilege of a person convicted of violating this subdivision  
9 shall be disqualified for the period provided in accordance  
10 with 49 CFR Part 383.51, as applicable, and the person's  
11 regular driver's license or privilege to drive a regular motor  
12 vehicle shall be governed by the remainder of this section if  
13 the person is guilty of a violation of another provision of  
14 this section.

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

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

24           "(e) Upon first conviction, a person violating this  
25 section shall be punished by imprisonment in the county or  
26 municipal jail for not more than one year, or by fine of not  
27 less than six hundred dollars (\$600) nor more than two

1 thousand one hundred dollars (\$2,100), or by both a fine and  
2 imprisonment. In addition, on a first conviction, the  
3 Secretary of the Alabama State Law Enforcement Agency shall  
4 suspend the driving privilege or driver's license of the  
5 person convicted for a period of 90 days. The 90-day  
6 suspension shall be stayed if the offender elects to have an  
7 approved ignition interlock device installed and operating on  
8 the designated motor vehicle driven by the offender or elects  
9 to have any other alcohol monitoring device approved by the  
10 court operational for 90 days. The offender shall present  
11 proof of installation of the approved ignition interlock  
12 device to the ~~Alabama State Law Enforcement Agency~~ agency and  
13 obtain an ignition interlock restricted driver license or  
14 shall present proof of installation, purchase, or lease of any  
15 other alcohol monitoring device approved by the court to the  
16 agency. The remainder of the suspension shall be commuted upon  
17 the successful completion of the elected use, mandated use, or  
18 both, of the ignition interlock device or any other alcohol  
19 monitoring device approved by the court. If, on a first  
20 conviction, any person refusing to provide a blood alcohol  
21 concentration or if a child under the age of 14 years was a  
22 passenger in the vehicle at the time of the offense or if  
23 someone else besides the offender was injured at the time of  
24 the offense, or if the offender is found to have had at least  
25 0.15 percent or more by weight of alcohol in his or her blood  
26 while operating or being in actual control of a vehicle, the  
27 Secretary of the Alabama State Law Enforcement Agency shall

1 suspend the driving privilege or driver's license of the  
2 person convicted for a period of 90 days and the person shall  
3 be required to either have an ignition interlock device  
4 installed and operating on the designated motor vehicle driven  
5 by the offender for a period of one year from the date of  
6 issuance of a driver's license indicating that the person's  
7 driving privileges are subject to the condition of the  
8 installation and use of a certified ignition interlock device  
9 on a motor vehicle or have any other alcohol monitoring device  
10 approved by the court purchased or leased and operational for  
11 a period of one year from the date the offender provides proof  
12 of installation, purchase, or lease of the alcohol monitoring  
13 device to the court and the agency. ~~After a minimum of 45 days~~  
14 ~~of the license revocation or suspension pursuant to Section~~  
15 ~~32-5A-304 or this section, or both, is completed, upon~~ Upon  
16 receipt of a court order from the convicting court, upon  
17 issuance of an ignition interlock restricted driver license,  
18 and upon proof of installation of an operational approved  
19 ignition interlock device on the designated vehicle of the  
20 person convicted, the mandated ignition interlock period of  
21 one year provided in this subsection shall start and the  
22 suspension period, revocation period, or both, as required  
23 under this subsection shall be stayed. If the court ordered  
24 any other alcohol monitoring device in lieu of an ignition  
25 interlock device, upon receipt of a court order from the  
26 convicting court that the person convicted has provided proof  
27 of installation, purchase, or lease of an alcohol monitoring

1 device approved by the court, the mandated ignition interlock  
2 period of one year provided in this subsection shall start and  
3 the suspension period, revocation period, or both, as required  
4 under this subsection shall be stayed. The remainder of the  
5 driver license revocation period, suspension period, or both,  
6 shall be commuted upon the successful completion of the period  
7 of time in which the ignition interlock device is mandated to  
8 be installed and operational or the period of time any other  
9 alcohol monitoring device approved by he court is mandated to  
10 be 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 either have an ignition interlock device installed and  
25 operating on the designated motor vehicle driven by the  
26 offender for a period of two years from the date of issuance  
27 of a driver's license indicating that the person's driving

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

1 period of time in which the ignition interlock device is  
2 mandated to be installed and operational or the period of time  
3 any other alcohol monitoring device approved by the court is  
4 mandated to be 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 either have an  
17 ignition interlock device installed and operating on the  
18 designated motor vehicle driven by the offender for a period  
19 of three 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 or have any other  
23 alcohol monitoring device approved by the court purchased or  
24 leased and operational for a period of three years from the  
25 date the offender provides proof of installation, purchase, or  
26 lease of the alcohol monitoring device to the court and the  
27 agency. After a minimum of 60 days of the license revocation

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

25 " (h) (1) On a fourth or subsequent conviction, or if  
26 the person has a previous felony DUI conviction, a person  
27 convicted of violating this section shall be guilty of a Class

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



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

1 revocation period, suspension period, or both, shall be  
2 commuted upon the successful completion of the period of time  
3 in which the ignition interlock device is mandated to be  
4 installed and operational or the period of time any other  
5 alcohol monitoring device approved by the court is mandated to  
6 be operational.

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

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

1 shall be imprisonment for one year, all of which may be  
2 suspended except as otherwise provided for in subsections (f)  
3 and (g).

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

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

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

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

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

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

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

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

1 Spinal Cord Injury Trust Fund after deducting five percent of  
2 the one hundred dollars (\$100) for administrative costs and  
3 depositing this amount in the general fund of the  
4 municipality, and the balance credited to the State General  
5 Fund. Any amounts collected over these amounts shall be  
6 deposited as otherwise provided by law.

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

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

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

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

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



1 (\$100) shall be deposited into the Alabama Head and Spinal  
2 Cord Injury Trust Fund.

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

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

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

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

3 "(p) (1) Except as provided in subdivision (2), a  
4 prior conviction for driving under the influence from this  
5 state, a municipality within this state, or another state or  
6 territory or a municipality of another state or territory  
7 shall be considered by a court for imposing a sentence  
8 pursuant to this section if the prior conviction occurred  
9 within 10 years of the date of the current offense.

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

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

1 and any co-owner of the vehicle or, in the case of a repeat  
2 offender, if the repeat offender has a functioning ignition  
3 interlock device installed on the designated vehicle or any  
4 other alcohol monitoring device approved by the court, for the  
5 duration of the offender's driver's license suspension period.

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

16 "a. Seventeen percent to the Alabama Interlock  
17 Indigent Fund.

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

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

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

3            "(2) In addition to paying the court clerk the fee  
4 required ~~above~~ in subdivision (1) following the conviction or  
5 the voluntary installation of the ignition interlock device or  
6 any other alcohol monitoring device approved by the court, the  
7 defendant shall pay all costs associated with the  
8 installation, purchase, maintenance, or lease of the ignition  
9 interlock ~~devices~~ device to an approved ignition interlock  
10 provider pursuant to the rules of the Department of Forensic  
11 Sciences, unless the defendant is subject to Section  
12 32-5A-191.4(i)(4).

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

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

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

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

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

26           "(3) Any ignition interlock driving violation  
27 committed by the offender during the mandated ignition

1 interlock period shall extend the duration of ignition  
2 interlock use for six months. Ignition interlock driving  
3 violations include any of the following:

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

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

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

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

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

26 "(x) (1) The amendatory language in Act 2014-222 to  
27 this section, authorizing the Alabama State Law Enforcement

1 Agency to stay a driver's license suspension or revocation  
2 upon compliance with the ignition interlock ~~requirement~~  
3 requirements or any other alcohol monitoring device  
4 requirements shall apply retroactively if any of the following  
5 occurs:

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

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

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

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

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

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

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

12           Section 3. Section 32-5A-191.4, Code of Alabama  
13 1975, is amended to read as follows:

14           "§32-5A-191.4.

15           "(a) (1) As used in Section 32-5A-191, the term,  
16 "ignition interlock device" means a constant monitoring device  
17 that prevents a motor vehicle from being started at any time  
18 without first determining the equivalent blood alcohol level  
19 of the operator through the taking of a breath sample for  
20 testing. The system shall be calibrated so that the motor  
21 vehicle may not be started if the blood alcohol level of the  
22 operator, as measured by the test, reaches a blood alcohol  
23 concentration level of 0.02.

24           "(2) In lieu of requiring an offender to install an  
25 ignition interlock device, a court may order an offender to  
26 install, purchase, or lease any other alcohol monitoring  
27 device approved by the court.



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

11           "(c) The department shall formulate and ~~promulgate~~  
12 adopt rules for the proper approval, installation, and use of  
13 ignition interlock devices. Additionally, the department shall  
14 maintain and make public the list of approved ignition  
15 interlock devices.

16           "(d) The department may adopt in whole or relevant  
17 part the guidelines, rules, regulations, studies, or  
18 independent laboratory tests performed or relied upon by other  
19 states, their agencies, or commissions.

20           "(e) The department shall ~~promulgate~~ adopt rules  
21 regulating approved ignition interlock providers related to  
22 areas of consumer coverage. The rules shall address areas of  
23 consumer coverage and shall provide for a two-year period from  
24 July 1, 2014, to allow provider compliance.

25           "(f) The department shall charge an application fee  
26 of two thousand dollars (\$2,000) to any ignition interlock  
27 provider to evaluate the instrument. Any ignition interlock

1 provider whose ignition interlock device is approved by the  
2 department shall be permitted to install and calibrate its  
3 approved device in Alabama. Each year during the month of  
4 April, the department may receive applications and instruments  
5 to review for approval.

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

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

21 "(i) (1) When the court imposes the use of an  
22 ignition interlock device or any other alcohol monitoring  
23 device approved by the court as required by Section 32-5A-191,  
24 the court shall require that the person provide proof of  
25 installation of a device to the court or a probation officer  
26 within 30 days of the date the defendant becomes eligible to  
27 receive an ignition ~~interlock-restricted~~ interlock restricted

1 driver's license from the agency or within 30 days of the  
2 court's order if ordered to install, purchase, or lease or any  
3 other alcohol monitoring device approved by the court. If the  
4 person fails to provide proof of installation within that  
5 period, absent a finding by the court of good cause for that  
6 failure which is entered into the court record, the court may  
7 revoke the person's probation where applicable after a  
8 petition to revoke probation has been filed and the defendant  
9 has been given notice and an opportunity to be heard on the  
10 petition. The court in which the defendant is convicted shall  
11 notify the agency that the defendant is restricted to the  
12 operation of a motor vehicle only when an approved ignition  
13 interlock device is installed and properly operating or that a  
14 defendant is only eligible for a driver's license once the  
15 defendant has provided proof of the installation, purchase, or  
16 lease of any other alcohol monitoring device to the court and  
17 the agency. Nothing in this subsection shall permit a person  
18 who does not own a vehicle or otherwise have an ignition  
19 interlock device installed on a motor vehicle to operate a  
20 motor vehicle without an approved ignition interlock device  
21 installed and properly operating.

22 "(2) Proof of installation for the purpose of this  
23 subsection may be furnished by either a certificate of  
24 installation or a copy of the lease agreement in the name of  
25 the offender for the designated vehicle with an approved  
26 ignition interlock device ~~company~~ provider.

1           "(3) A defendant who is determined by the court to  
2 be indigent for the purpose of ignition interlock may have an  
3 ignition interlock device installed by an ignition interlock  
4 provider as provided in this subsection. Criteria for  
5 determining indigency for the purpose of ignition interlock  
6 shall be the same criteria as set forth in Section 15-12-5(b)  
7 and (c) after the report is complete. The defendant shall  
8 execute an affidavit of substantial hardship on a form  
9 approved by the Supreme Court. The completed affidavit of  
10 substantial hardship and the subsequent order of the court  
11 either denying or granting indigency status for the purpose of  
12 ignition interlock to the offender shall become a part of the  
13 official court record in the case and shall be submitted by  
14 the offender to the ignition interlock provider.

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

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

10           "b. The agency shall oversee the administration of  
11 indigent services on an annual basis by doing all of the  
12 following:

13           "1. Verifying the total number of installations  
14 provided by the ~~manufacturer~~ ignition interlock provider each  
15 year.

16           "2. Verifying the number of installations for  
17 indigent defendants provided each year by each ~~manufacturer~~  
18 ignition interlock provider.

19           "3. Conducting random audits of payments based on  
20 the list of indigent defendants serviced by each ~~manufacturer~~  
21 ignition interlock provider.

22           "c. Each ~~manufacturer~~ ignition interlock provider  
23 who fails to meet the five percent threshold for indigent  
24 defendants shall be subject to a civil penalty of five hundred  
25 dollars (\$500) for each indigent defendant the ~~manufacturer~~  
26 ignition interlock provider failed to provide services below  
27 the five percent threshold. All fines shall be collected by

1 the agency and deposited in the Alabama Ignition Interlock  
2 Indigent Fund.

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

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

25 "2. Twenty percent to the Alabama Chemical Testing  
26 Training and Equipment Trust Fund administered by the  
27 Department of Forensic Sciences.

1                   "3. Thirty percent to the District Attorney's  
2 Solicitor's Fund.

3                   "4. Twenty percent to the Office of Prosecution  
4 Services.

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

10                   "1. Annual reporting and assessment of ~~manufacturer~~  
11 ignition interlock provider compliance with indigent service  
12 requirements.

13                   "2. Notice and collection of any fines for  
14 noncompliance.

15                   "3. Annual inspection of interlock service centers  
16 by the agency.

17                   "(6) Any defendant who does not own a vehicle or  
18 otherwise have an ignition interlock device installed on a  
19 vehicle or who does not install, purchase, or lease any other  
20 alcohol monitoring device approved by the court shall be  
21 required to pay seventy-five dollars (\$75) per month for the  
22 entire period the defendant is required or elects to have an  
23 ignition interlock device or any other alcohol monitoring  
24 device approved by the court unless the defendant is  
25 determined by the court to be indigent as provided for in  
26 subdivision (3). The defendant shall still serve all license  
27 suspension or revocation, or both, during this period. Any

1 monies paid pursuant to this subdivision shall be paid to the  
2 court clerk and shall be deposited in the Alabama Impaired  
3 Driving Prevention and Enforcement Fund in the State Treasury  
4 to be used by the Alabama State Law Enforcement Agency for  
5 impaired driving education and enforcement.

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

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

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

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



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

16           "(1) No person shall blow into an ignition interlock  
17 device, any other alcohol monitoring device approved by the  
18 court, or start a motor vehicle equipped with the device for  
19 the purpose of providing an operable motor vehicle to a person  
20 who is prohibited from operating a motor vehicle without an  
21 ignition interlock device.

22           "(m) No person shall intentionally attempt to tamper  
23 with, defeat, or circumvent the operation of an ignition  
24 interlock device or any other alcohol monitoring device  
25 approved by the court.

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

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

3 Section 4. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, as amended  
7 by Amendment 890, now appearing as Section 111.05 of the  
8 Official Recompilation of the Constitution of Alabama of 1901,  
9 as amended, because the bill defines a new crime or amends the  
10 definition of an existing crime.

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