

1 SB319
2 155906-6
3 By Senators Holtzclaw, Waggoner, Dunn and Ward
4 RFD: Commerce, Transportation, and Utilities
5 First Read: 06-FEB-14

1 SB319

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4 ENROLLED, An Act,

5 To amend Sections 32-5A-191, 32-5A-191.4, 32-5A-301,
6 and 32-5A-304, Code of Alabama 1975, relating to driving under
7 the influence; to provide further for ignition interlock
8 devices on the automobiles of certain persons convicted of
9 driving under the influence; to provide further for the
10 distribution of the fee required of offenders for monitoring
11 the ignition interlock device; and to provide for installation
12 of the device where the offender is indigent.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 32-5A-191, 32-5A-191.4,
15 32-5A-301, and 32-5A-304, Code of Alabama 1975, are amended to
16 read as follows:

17 "§32-5A-191.

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

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

22 "(2) Under the influence of alcohol;

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

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

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

7 "(b) A person who is under the age of 21 years shall
8 not drive or be in actual physical control of any vehicle if
9 there is 0.02 percent or more by weight of alcohol in his or
10 her blood. The Department of Public Safety shall suspend or
11 revoke the driver's license of any person, 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. Notwithstanding the foregoing, upon
15 the first violation of this subsection by a person whose blood
16 alcohol level is between 0.02 and 0.08, the person's driver's
17 license or driving privilege shall be suspended for a period
18 of 30 days in lieu of any penalties provided in subsection (e)
19 of this section, and there shall be no disclosure, other than
20 to courts, law enforcement agencies, the person's attorney of
21 record, and the person's employer, by any entity or person of
22 any information, documents, or records relating to the
23 person's arrest, conviction, or adjudication of or finding of
24 delinquency based on this subsection.

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

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

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

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

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

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

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

1 and operating on the designated motor vehicle driven by the
2 offender for six months. The offender shall present proof of
3 installation of the approved ignition interlock device to the
4 Department of Public Safety and obtain an ignition interlock
5 restricted driver license. The remainder of the suspension
6 shall be commuted upon the successful completion of the
7 elected use, mandated use, or both, of the ignition interlock
8 device. If, on a first conviction, any person refusing to
9 provide a blood alcohol concentration or if a child under the
10 age of 14 years was ~~present~~ a passenger in the vehicle at the
11 time of the offense or if someone else besides the offender
12 was injured at the time of the offense, the Director of the
13 Department of Public Safety shall suspend the driving
14 privilege or driver's license of the person convicted for a
15 period of 90 days and the person shall be required to have an
16 ignition interlock device installed and operating on the
17 designated motor vehicle driven by the offender for a period
18 of two years from the date of issuance of a driver's license
19 indicating that the person's driving privileges are subject to
20 the condition of the installation and use of a certified
21 ignition interlock device on a motor vehicle. After a minimum
22 of 45 days of the license revocation or suspension pursuant to
23 Section 32-5A-304 or Section 32-5A-191, or both, is completed,
24 upon receipt of a court order from the convicting court, upon
25 issuance of an ignition interlock restricted driver license,

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

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

1 of two years 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. After a minimum
5 of 45 days of the license revocation or suspension pursuant to
6 Section 32-5A-304, Section 32-5A-191, or both, is completed,
7 upon receipt of a court order from the convicting court, upon
8 issuance of an ignition interlock restricted driver license,
9 and upon proof of installation or an operational approved
10 ignition interlock device on the designated vehicle of the
11 person convicted, the mandated ignition interlock period of
12 two years approved in this subsection shall start and the
13 suspension period, revocation period, or both, as required
14 under this subsection shall be stayed. The remainder of the
15 driver license revocation period, suspension period, or both,
16 shall be commuted upon the successful completion of the period
17 of time in which the ignition interlock device is mandated to
18 be installed and operational.

19 "(g) On a third conviction, a person convicted of
20 violating this section shall be punished by a fine of not less
21 than two thousand one hundred dollars (\$2,100) nor more than
22 ten thousand one hundred dollars (\$10,100) and by
23 imprisonment, which may include hard labor, in the county or
24 municipal jail for not less than 60 days nor more than one
25 year, to include a minimum of 60 days which shall be served in

1 the county or municipal jail and cannot be probated or
2 suspended. In addition, the Director of Public Safety shall
3 revoke the driving privilege or driver's license of the person
4 convicted for a period of three years and the offender shall
5 be required to have an ignition interlock device installed and
6 operating on the designated motor vehicle driven by the
7 offender for a period of three years from the date of issuance
8 of a driver's license indicating that the person's driving
9 privileges are subject to the condition of the installation
10 and use of a certified ignition interlock device on a motor
11 vehicle. After a minimum of 180 days of the license revocation
12 or suspension pursuant to Section 32-5A-304, Section
13 32-5A-191, or both, is completed, upon receipt of a court
14 order from the convicting court, upon issuance of an ignition
15 interlock restricted driver license, and upon proof of
16 installation of an operational approved ignition interlock
17 device on the designated vehicle of the person convicted, the
18 mandated ignition interlock period of three years provided in
19 this subsection shall start and the suspension period,
20 revocation period, or both, as required under this subsection
21 shall be stayed. The remainder of the driver license
22 revocation period, suspension period, or both, shall be
23 commuted upon the successful completion of the period of time
24 in which the ignition interlock device is mandated to be
25 installed and operational.

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

1 required to have an ignition interlock device installed and
2 operating on the designated motor vehicle driven by the
3 offender for a period of five 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. After a minimum of one year of the license revocation
8 or suspension pursuant to Section 32-5A-304, Section
9 32-5A-191, or both, is completed, upon receipt of a court
10 order from the convicting court, upon issuance of an ignition
11 interlock restricted driver license, and upon proof of
12 installation of an operational approved ignition interlock
13 device on the designated vehicle of the person convicted, the
14 mandated ignition interlock period of five years provided in
15 this subsection shall start and the suspension period,
16 revocation period, or both, as required under this subsection
17 shall be stayed. The remainder of the driver license
18 revocation period, suspension period, or both, shall be
19 commuted upon the successful completion of the period of time
20 in which the ignition interlock device is mandated to be
21 installed and operational.

22 "The Alabama habitual felony offender law shall not
23 apply to a conviction of a felony pursuant to this subsection,
24 and a conviction of a felony pursuant to this subsection shall
25 not be a felony conviction for purposes of the enhancement of

1 punishment pursuant to Alabama's habitual felony offender law.
2 However, prior misdemeanor or felony convictions for driving
3 under the influence may be considered as part of the
4 sentencing calculations or determinations under the Alabama
5 Sentencing Guidelines or rules promulgated by the Alabama
6 Sentencing Commission.

7 "(i) When any person convicted of violating this
8 section is found to have had at least 0.15 percent or more by
9 weight of alcohol in his or her blood while operating or being
10 in actual physical control of a vehicle, he or she shall be
11 sentenced to at least double the minimum punishment that the
12 person would have received if he or she had had less than 0.15
13 percent by weight of alcohol in his or her blood. Upon the
14 first violation of this subsection, the offender shall be
15 ordered by the court to have an ignition interlock device
16 installed and operating on his or her designated motor vehicle
17 for a period of two years from the date of issuance of an
18 ignition interlock-restricted driver's license. If the
19 adjudicated offense is a misdemeanor, the minimum punishment
20 shall be imprisonment for one year, all of which may be
21 suspended except as otherwise provided for in Section
22 32-5A-191(f) and Section 32-5A-191 (g). ~~In addition, the~~
23 ~~Director of Public Safety shall revoke the driving privileges~~
24 ~~or driver's license of the person convicted for a period of~~
25 ~~not less than one year.~~

1 "(j) When any person over the age of 21 years is
2 convicted of violating this section and it is found that a
3 child under the age of 14 years was ~~present~~ a passenger in the
4 vehicle at the time of the offense, the person shall be
5 sentenced to at least double the minimum punishment that the
6 person would have received if the child had not been ~~present~~ a
7 passenger in the motor vehicle.

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

20 "(2) Upon conviction, the court shall notify the
21 Department of Public Safety if the person convicted is
22 required to install and maintain an approved ignition
23 interlock device. The department shall suspend or revoke a
24 person's driving privileges until completion of the mandatory
25 suspension or revocation period required by this section, and

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

24 "(1) Neither reckless driving nor any other traffic
25 infraction is a lesser included offense under a charge of

1 driving under the influence of alcohol or of a controlled
2 substance.

3 "(m) Except for fines collected for violations of
4 this section charged pursuant to a municipal ordinance, fines
5 collected for violations of this section shall be deposited to
6 the State General Fund; however, beginning October 1, 1995, of
7 any amount collected over two hundred fifty dollars (\$250) for
8 a first conviction, over five hundred dollars (\$500) for a
9 second conviction within five years, over one thousand dollars
10 (\$1,000) for a third conviction within five years, and over
11 two thousand dollars (\$2,000) for a fourth or subsequent
12 conviction within five years, the first one hundred dollars
13 (\$100) of that additional amount shall be deposited to the
14 Alabama Chemical Testing Training and Equipment Trust Fund,
15 after three percent of the one hundred dollars (\$100) is
16 deducted for administrative costs, and beginning October 1,
17 1997, and thereafter, the second one hundred dollars (\$100) of
18 that additional amount shall be deposited in the Impaired
19 Drivers Trust Fund after deducting five percent of the one
20 hundred dollars (\$100) for administrative costs and the
21 remainder of the funds shall be deposited to the State General
22 Fund. Fines collected for violations of this section charged
23 pursuant to a municipal ordinance where the total fine is paid
24 at one time shall be deposited as follows: The first three
25 hundred fifty dollars (\$350) collected for a first conviction,

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

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

1 hundred dollars (\$100) shall be deposited into the Alabama
2 Chemical Testing Training and Equipment Fund.

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

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

16 ~~"(p) When any person over the age of 21 years is~~
17 ~~convicted pursuant to this section and a child under the age~~
18 ~~of 14 years was present in the vehicle at the time of the~~
19 ~~offense, the defendant shall be sentenced to double the~~
20 ~~minimum punishment that the person would have received if the~~
21 ~~child had not been present in the motor vehicle.~~

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

1 shall be considered by a court for imposing a sentence
2 pursuant to this section.

3 ~~"(r)(g)~~ 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 five-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 for the
20 duration of the offender's driver's license suspension period.

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

1 his or her driver's license, shall pay to the court, ~~during~~
2 for each of the first four months following his or her ~~license~~
3 ~~is suspended~~ conviction or the first four months following the
4 installation of the ignition interlock device on his or her
5 vehicle, seventy-five dollars (\$75) per month, which shall be
6 divided as follows:

7 ~~"(1)a. Forty~~ Forty-five percent to the Alabama
8 Interlock Indigent Fund.

9 ~~"(2)b. Twenty-five~~ Twenty percent to the ~~court of~~
10 ~~jurisdiction~~ State Judicial Administration Fund administered
11 by the Administrative Office of Courts.

12 ~~"(3)c.~~ Twenty percent to the Highway Traffic Safety
13 Fund administered by the Department of Public Safety.

14 ~~"(4)d.~~ Fifteen percent to the ~~district attorney of~~
15 ~~jurisdiction~~ District Attorney's Solicitor Fund.

16 "(2) In addition to paying the court clerk
17 seventy-five dollars (\$75) per month for the first four months
18 following the conviction or the voluntary installation of the
19 ignition interlock device, the defendant shall pay all costs
20 associated with the installation, purchase, maintenance, or
21 lease of the ignition interlock devices to an approved
22 ignition interlock provider pursuant to the rules of the
23 Department of Forensic Sciences, unless the defendant is
24 subject to Section 32-5A-191.4(q)(4) during which he or she

1 shall pay one-half the cost for the available indigency period.

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

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

15 "(2) The duration of the time an ignition interlock
16 device is required by this section shall be doubled if the
17 offender refused the prescribed chemical test for
18 intoxication, or if the offender's blood alcohol concentration
19 was 0.15 grams percent or greater unless already doubled by a
20 previous section.

21 ~~"(v)(u)~~ (1) The Department of Public Safety may set a
22 fee of not more than one hundred fifty dollars (\$150) for the
23 issuance of a driver's license indicating that the person's
24 driving privileges are subject to the condition of the
25 installation and use of a certified ignition interlock device

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

10 "(2) The defendant shall provide proof of
11 installation of an approved ignition interlock device to the
12 Department of Public Safety as a condition of the issuance of
13 a restricted driver's license.

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

20 "a. A breath sample at or above a minimum blood
21 alcohol concentration level of 0.02 recorded more than four
22 times during the monthly reporting period.

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

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

15 "§32-5A-191.4.

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

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 or remote calibration system where the technician is
6 not in the immediate proximity of the vehicle being calibrated
7 is prohibited. The Department of Forensic Sciences shall
8 promulgate rules for punishment and appeal for ignition
9 interlock providers relating to violation of this subsection.

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

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

20 "(e) The Department of Forensic Sciences shall
21 promulgate rules regulating approved ignition interlock
22 providers related to areas of consumer coverage. The rules
23 shall address areas of consumer coverage and shall provide for
24 a two-year period from the effective date of the act adding
25 this language to allow provider compliance.

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

10 "(g) The Department of Public Safety shall be
11 responsible for enforcing the rules promulgated by the
12 Department of Forensic Sciences related to ignition interlock
13 devices and providers. The Department of Public Safety shall
14 promulgate rules regulating the inspection and enforcement of
15 approved ignition interlock providers and any associate
16 service locations.

17 "~~(f)~~(h) In the absence of negligence, wantonness, or
18 willful misconduct, no person or employer or agent of a person
19 who installs an ignition interlock device pursuant to Section
20 32-5A-191 shall be liable for any occurrence related to the
21 device, including, but not limited to, occurrences resulting
22 from or related to a malfunction of the device or use of,
23 misuse of, or failure to use the device or the vehicle in
24 which the device was installed.

1 "~~(g)~~ (i) (1) When the court imposes the use of an
2 ignition interlock device as required by Section 32-5A-191,
3 the court shall require that the person provide proof of
4 installation of a device to the court or a probation officer
5 within 30 days of the date the defendant becomes eligible to
6 receive an ignition interlock-restricted license from the
7 Department of Public Safety. If the person fails to provide
8 proof of installation within that period, absent a finding by
9 the court of good cause for that failure which is entered into
10 the court record, the court ~~shall~~ may revoke the person's
11 probation where applicable after a petition to revoke
12 probation has been filed and the defendant has been given
13 notice and an opportunity to be heard on the petition. The
14 court in which the defendant is convicted shall notify the
15 department that the defendant is restricted to the operation
16 of a motor vehicle only when an approved ignition interlock
17 device is installed and properly operating. Nothing in this
18 subsection shall permit a person who does not own a vehicle or
19 otherwise have an ignition interlock device installed on a
20 motor vehicle to operate a motor vehicle without an approved
21 ignition interlock device 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

1 the offender for the designated vehicle with an approved
2 ignition interlock device company.

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

22 "(4) Any offender granted indigency status for the
23 purpose of ignition interlock shall pay one-half of the costs
24 associated with installing and maintaining an interlock device
25 for a period of no more than two years at which time the

1 offender shall pay the full remaining cost for any sentence
2 left for ignition interlock. This section shall not affect any
3 fees associated with the driver's license of the defendant.

4 "(5)a. All interlock providers shall be required to
5 pay one and one-half percent of all payments collected less
6 any payments made by a defendant determined as indigent for
7 the purpose of ignition interlock to the Alabama Interlock
8 Indigent Fund in the State Treasury.

9 "b. The Alabama Ignition Interlock Indigent Fund is
10 created in the State Treasury. The fund shall be administered
11 by the Department of Public Safety. All of the money in the
12 fund shall be used to reimburse ignition interlock device
13 providers who have installed devices in vehicles of indigent
14 persons pursuant to court orders issued under this section. No
15 provider shall be reimbursed for an interlock device installed
16 without the completed affidavit of substantial hardship and
17 the subsequent order of the court granting indigency status.
18 Payments to interlock device providers pursuant to this
19 subdivision shall be made every three months. If the amount of
20 money in the fund at the time payments are made is not
21 sufficient to pay all requests for reimbursement submitted
22 during that three-month period, the Comptroller shall make
23 payments on a pro rata basis and those payments shall be
24 considered payment in full for the requests submitted. At the
25 end of each fiscal year, all monies above ~~one hundred thousand~~

1 dollars ~~(\$100,000)~~ five hundred thousand dollars (\$500,000)
 2 remaining in the Alabama Interlock Indigent Fund shall be
 3 divided as follows:

4 "a.1. Thirty percent to the Highway Traffic Safety
 5 Fund administered by the Department of Public Safety.

6 "b.2. Twenty percent to the Alabama Chemical Testing
 7 Training and Equipment Trust Fund administered by the
 8 Department of Forensic Sciences.

9 "c.3. Thirty percent to the ~~district attorney of~~
 10 ~~jurisdiction~~ District Attorney's Solicitor Fund.

11 "d.4. Twenty percent to the Office of Prosecution
 12 Services.

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

1 used by the Department of Public Safety for impaired driving
2 education and enforcement.

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

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

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

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

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

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

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

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

23 "~~(l)~~ (n) Any person convicted of a violation of this
24 section other than subsection ~~(h)~~ (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 "§32-5A-301.

4 "(a) A law enforcement officer who arrests any
5 person for a violation of Section 32-5A-191 shall within five
6 days after the day of arrest, excluding weekends and state
7 holidays, hand deliver, ~~or mail,~~ or submit electronically to
8 the department a sworn report of all information relevant to
9 the enforcement action, including information which adequately
10 identifies the arrested person, a statement of the officer's
11 grounds for belief that the person violated Section 32-5A-191,
12 ~~a sworn report of the results of any chemical test which was~~
13 ~~conducted,~~ a statement if the person refused to submit to a
14 test, and a copy of the citation or complaint filed with the
15 court.

16 "(b) The report required by this section shall be
17 made on forms supplied by the department or in a manner
18 specified by regulations of the department.

19 "(c) The department shall not take action on any
20 report not sworn to and not mailed and postmarked or received
21 by the department within five days after the day of arrest,
22 excluding weekends and state holidays, ~~and the driver license~~
23 ~~of the person shall be returned.~~

24 "§32-5A-304.

1 "(a) A driving privilege suspension shall become
2 effective 45 days after the person has received a notice of
3 intended suspension as provided in Section 32-5A-303, or is
4 deemed to have received a notice of suspension by mail as
5 provided in Section 32-5A-302 if no notice of intended
6 suspension was served.

7 "(b) The period of driving privilege suspension
8 under this section shall be as follows:

9 "(1) Ninety days if the driving record of a person
10 shows no prior alcohol or drug-related enforcement contacts
11 during the immediately preceding five years.

12 "(2) One year if the driving record of a person
13 shows one prior alcohol or drug-related enforcement contact
14 during the immediately preceding five years.

15 "(3) Three years if the driving record of a person
16 shows two or three alcohol or drug-related enforcement
17 contacts during the immediately preceding five years.

18 "(4) Five years if the driving record of a person
19 shows four or more alcohol or drug-related enforcement
20 contacts during the immediately preceding five years.

21 "(5) For purposes of this section, "alcohol or
22 drug-related enforcement contacts" shall include ~~any~~
23 ~~suspension~~ all suspensions under this article, any suspension
24 or revocation entered in this or any other state for a refusal
25 to submit to chemical testing under an implied consent law,

1 and any conviction in this or any other state for a violation
2 which involves driving a motor vehicle while having an
3 unlawful percent of alcohol in the blood, or while under the
4 influence of alcohol or drugs, or alcohol and drugs except
5 that no more than one alcohol or drug-related contact on any
6 one DUI arrest may be considered by the department in
7 determining the period of suspension.

8 "(c) If a license is suspended under this section
9 for having .08 or more by weight of alcohol in the blood of
10 the person and the person is also convicted on criminal
11 charges arising out of the same occurrence for a violation of
12 Section 32-5A-191, the suspension under this section shall be
13 imposed, ~~but no period of suspension or revocation shall be~~
14 ~~imposed~~ giving credit for suspension time served toward the
15 duration of suspension or revocation required under Section
16 32-5A-191. If a license is suspended under this section for
17 having .08 or more by weight of alcohol in the blood of the
18 person and the criminal charge against the person for
19 violation of Section 32-5A-191 is dismissed, nolle prossed, or
20 the person is acquitted of the charge, the director shall
21 rescind the suspension order and remove the administrative
22 suspension from the person's driving record."

23 Section 2. (a) The amendatory language in Section 1
24 of this act to Section 32-5A-191, Code of Alabama 1975,
25 authorizing the Department of Public Safety to stay a driver's

1 license suspension or revocation upon compliance with the
2 ignition interlock requirement shall apply retroactively if
3 any of the following occurs:

4 (1) The offender files an appeal with the court of
5 jurisdiction requesting all prior suspensions or revocation,
6 or both, be stayed upon compliance with the ignition interlock
7 requirement;

8 (2) The offender wins appeal with the court of
9 jurisdiction relating to this section;

10 (3) The court of jurisdiction notifies the
11 Department Public Safety that the offender is eligible to have
12 the driver's license stayed;

13 (4) The Department of Public Safety issues an
14 ignition interlock restricted driver's license; and

15 (5) The offender remains in compliance of ignition
16 interlock requirements.

17 (b) The remainder of the driver license revocation,
18 suspension, or both, shall be commuted upon the successful
19 completion of the period of time in which the ignition
20 interlock device is mandated to be installed and operational.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB319

Senate 20-FEB-14

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Amended and passed 11-MAR-14

Senate concurred in House amendment 18-MAR-14

By: Senator Holtzclaw