

1 SB276  
2 127222-3  
3 By Senators Holtzclaw, Glover, McGill, Scofield, Williams,  
4 Taylor, Brooks, Orr, Smith and Holley  
5 RFD: Judiciary  
6 First Read: 24-MAR-11

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8 SYNOPSIS: Under existing law, a person convicted of  
9 driving under the influence is subject to certain  
10 penalties of increasing severity based on  
11 subsequent convictions.

12 Existing law does not require a person  
13 convicted of driving under the influence to have  
14 installed and operating an ignition interlock  
15 device on any motor vehicle driven by the offender  
16 for certain periods of time.

17 This bill would require under certain  
18 conditions for a person convicted of driving under  
19 the influence to have installed and operating an  
20 ignition interlock device on any motor vehicle  
21 driven by the offender for increasing periods of  
22 time based on a conviction or subsequent  
23 convictions.

24 This bill would also require as condition  
25 for bail after an arrest for a second or subsequent  
26 violation that a defendant have an ignition  
27 interlock device installed.

1                   This bill would require the Department of  
2 Forensic Sciences to certify ignition interlock  
3 devices. The Department of Public Safety would be  
4 required to issue restricted driver's licenses for  
5 persons required to drive only with an ignition  
6 interlock device and would authorize a fee for the  
7 issuance of the license and reinstatement of a  
8 regular license.

9                   This bill would also indemnify the state  
10 from liability related to the installation of the  
11 devices.

12                  Amendment 621 of the Constitution of Alabama  
13 of 1901, now appearing as Section 111.05 of the  
14 Official Recompilation of the Constitution of  
15 Alabama of 1901, as amended, prohibits a general  
16 law whose purpose or effect would be to require a  
17 new or increased expenditure of local funds from  
18 becoming effective with regard to a local  
19 governmental entity without enactment by a 2/3 vote  
20 unless: it comes within one of a number of  
21 specified exceptions; it is approved by the  
22 affected entity; or the Legislature appropriates  
23 funds, or provides a local source of revenue, to  
24 the entity for the purpose.

25                  The purpose or effect of this bill would be  
26 to require a new or increased expenditure of local  
27 funds within the meaning of the amendment. However,

the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

## AN ACT

Relating to motor vehicles and driving under the influence; to amend Section 32-5A-191 of the Code of Alabama 1975, and to add Section 32-5A-191.4 to the Code of Alabama 1975; to increase the penalties for violations by requiring certain persons authorized to drive a motor vehicle after a conviction of driving under the influence to have installed and operating an ignition interlock device for certain periods of time; to provide for the installation and certification of ignition interlock devices; to impose certain duties on the Department of Forensic Sciences; to provide for fees and to authorize the Department of Public Safety to set a fee for the issuance of a restricted license and for the reissuance of a regular license pursuant to this act; to provide penalties for violations; to provide fees to cover costs for the court systems, Department of Public Safety, district attorneys, and the Alabama Interlock Indigent Fund; to indemnify the state from liability related to the installation of the devices; and in connection therewith would have as its purpose or effect

the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§32-5A-191.

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

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

"(2) Under the influence of alcohol;

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

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

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

"(b) A person who is under the age of 21 years shall not drive or be in actual physical control of any vehicle if there is .02 percentage or more by weight of alcohol in his or her blood. The Department of Public Safety shall suspend or

1 revoke the driver's license of any person, including, but not  
2 limited to, a juvenile, child, or youthful offender, convicted  
3 or adjudicated of, or subjected to a finding of delinquency  
4 based on this subsection. Notwithstanding the foregoing, upon  
5 the first violation of this subsection by a person whose blood  
6 alcohol level is between .02 and .08, the person's driver's  
7 license or driving privilege shall be suspended for a period  
8 of 30 days in lieu of any penalties provided in subsection (e)  
9 of this section and there shall be no disclosure, other than  
10 to courts, law enforcement agencies, and the person's  
11 employer, by any entity or person of any information,  
12 documents, or records relating to the person's arrest,  
13 conviction, or adjudication of or finding of delinquency based  
14 on this subsection.

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

24 "(c) (1) A school bus or day care driver shall not  
25 drive or be in actual physical control of any vehicle while in  
26 performance of his or her duties if there is greater than .02  
27 percentage by weight of alcohol in his or her blood. A person

convicted pursuant to this subsection shall be subject to the penalties provided by this section except that on the first conviction the Director of Public Safety shall suspend the driving privilege or driver's license for a period of one year.

"(2) A person shall not drive or be in actual physical control of a commercial motor vehicle as defined in 49 CFR Part ~~390.5~~ 383.5 of the Federal Motor Carrier Safety Regulations as adopted pursuant to Section 32-9A-2, if there is .04 percentage or greater by weight of alcohol in his or her blood. Notwithstanding the other provisions of this section, the commercial driver's license or commercial driving privilege of a person convicted of violating this subdivision shall be ~~suspended~~ disqualified for the period provided in accordance with 49 CFR Part 383.51 or ~~49 CFR Part 391.15~~, as applicable, and the person's regular driver's license or privilege to drive a regular motor vehicle shall be governed by the remainder of this section if the person is guilty of a violation of another provision of this section.

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

"(e) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not 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 Director  
3 of Public Safety shall suspend the driving privilege or  
4 driver's license of the person convicted for a period of 90  
5 days and the offender may be required to have an ignition  
6 interlock device installed and operating on the designated  
7 motor vehicle driven by the offender for a period of one year.  
8 If, on a first conviction, the person provides blood alcohol  
9 concentration of 0.15 or greater or any person refusing to  
10 provide a blood alcohol concentration or if a child under the  
11 age of 14 years was present in the vehicle at the time of the  
12 offense or if someone else besides the offender was injured at  
13 the time of the offense, the Director of the Department of  
14 Public Safety shall suspend the driving privilege or driver's  
15 license of the person convicted for a period of 90 days and  
16 the person shall be required to have an ignition interlock  
17 device installed and operating on the designated motor vehicle  
18 driven by the offender for a period of two years from the date  
19 of issuance of a driver's license indicating that the person's  
20 driving privileges are subject to the condition of the  
21 installation and use of a certified ignition interlock device  
22 on a motor vehicle.

23                     "(f) On a second conviction within a five-year  
24 period, a person convicted of violating this section shall be  
25 punished by a fine of not less than one thousand one hundred  
26 dollars (\$1,100) nor more than five thousand one hundred  
27 dollars (\$5,100) and by imprisonment, which may include hard

1 labor in the county or municipal jail for not more than one  
2 year. The sentence shall include a mandatory sentence, which  
3 is not subject to suspension or probation, of imprisonment in  
4 the county or municipal jail for not less than five days or  
5 community service for not less than 30 days. In addition the  
6 Director of Public Safety shall revoke the driving privileges  
7 or driver's license of the person convicted for a period of  
8 one year and the offender shall be required to have an  
9 ignition interlock device installed and operating on the  
10 designated motor vehicle driven by the offender for a period  
11 of two years from the date of issuance of a driver's license  
12 indicating that the person's driving privileges are subject to  
13 the condition of the installation and use of a certified  
14 ignition interlock device on a motor vehicle.

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

offender for a period of three years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle.

"(h) On a fourth or subsequent conviction, a person convicted of violating this section shall be guilty of a Class C felony and punished by a fine of not less than four thousand one hundred dollars (\$4,100) nor more than ten thousand one hundred dollars (\$10,100) and by imprisonment of not less than one year and one day nor more than 10 years. Any term of imprisonment may include hard labor for the county or state, and where imprisonment does not exceed three years confinement may be in the county jail. Where imprisonment does not exceed one year and one day, confinement shall be in the county jail. The minimum sentence shall include a term of imprisonment for at least one year and one day, provided, however, that there shall be a minimum mandatory sentence of 10 days which shall be served in the county jail. The remainder of the sentence may be suspended or probated, but only if as a condition of probation the defendant enrolls and successfully completes a state certified chemical dependency program recommended by the court referral officer and approved by the sentencing court. Where probation is granted, the sentencing court may, in its discretion, and where monitoring equipment is available, place the defendant on house arrest under electronic surveillance during the probationary term. In addition to the other

1                   penalties authorized, the Director of Public Safety shall  
2                   revoke the driving privilege or driver's license of the person  
3                   convicted for a period of five years and the offender shall be  
4                   required to have an ignition interlock device installed and  
5                   operating on the designated motor vehicle driven by the  
6                   offender for a period of five years from the date of issuance  
7                   of a driver's license indicating that the person's driving  
8                   privileges are subject to the condition of the installation  
9                   and use of a certified ignition interlock device on a motor  
10                   vehicle.

11                   "The Alabama habitual felony offender law shall not  
12                   apply to a conviction of a felony pursuant to this subsection,  
13                   and a conviction of a felony pursuant to this subsection shall  
14                   not be a felony conviction for purposes of the enhancement of  
15                   punishment pursuant to Alabama's habitual felony offender law.

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

1                         "(j) Neither reckless driving nor any other traffic  
2 infraction is a lesser included offense under a charge of  
3 driving under the influence of alcohol or of a controlled  
4 substance.

5                         "(k) Except for fines collected for violations of  
6 this section charged pursuant to a municipal ordinance, fines  
7 collected for violations of this section shall be deposited to  
8 the State General Fund; however, beginning October 1, 1995, of  
9 any amount collected over two hundred fifty dollars (\$250) for  
10 a first conviction, over five hundred dollars (\$500) for a  
11 second conviction within five years, over one thousand dollars  
12 (\$1,000) for a third conviction within five years, and over  
13 two thousand dollars (\$2,000) for a fourth or subsequent  
14 conviction within five years, the first one hundred dollars  
15 (\$100) of that additional amount shall be deposited to the  
16 Alabama Chemical Testing Training and Equipment Trust Fund,  
17 after three percent of the one hundred dollars (\$100) is  
18 deducted for administrative costs, and beginning October 1,  
19 1997, and thereafter, the second one hundred dollars (\$100) of  
20 that additional amount shall be deposited in the Impaired  
21 Drivers Trust Fund after deducting five percent of the one  
22 hundred dollars (\$100) for administrative costs and the  
23 remainder of the funds shall be deposited to the State General  
24 Fund. Fines collected for violations of this section charged  
25 pursuant to a municipal ordinance where the total fine is paid  
26 at one time shall be deposited as follows: The first three  
27 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  
26 general fund of the municipality. The second three hundred  
27 dollars (\$300) of the fine collected for a first conviction,

1 the second eight hundred dollars (\$800) collected for a second  
2 conviction, the second one thousand eight hundred dollars  
3 (\$1,800) collected for a third conviction, and the second  
4 three thousand eight hundred dollars (\$3,800) collected for a  
5 fourth conviction shall be divided with 50 percent of the  
6 funds collected to be deposited to the State Treasury to be  
7 credited to the State General Fund and 50 percent deposited as  
8 otherwise provided by law for municipal ordinance violations.  
9 Any amounts collected over these amounts shall be deposited as  
10 otherwise provided by law for municipal ordinance violations.  
11 Notwithstanding any provision of law to the contrary, 90  
12 percent of any fine assessed and collected for any DUI offense  
13 charged by municipal ordinance violation in district or  
14 circuit court shall be computed only on the amount assessed  
15 over the minimum fine authorized, and upon collection shall be  
16 distributed to the municipal general fund with the remaining  
17 10 percent distributed to the State General Fund.

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

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

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

4 "(n) When any person over the age of 21 years is  
5 convicted pursuant to this section and a child under the age  
6 of 14 years was present in the vehicle at the time of the  
7 offense, the defendant shall be sentenced to double the  
8 minimum punishment that the person would have received if the  
9 child had not been present in the motor vehicle.

10 "(o) A prior conviction within a five-year period  
11 for driving under the influence of alcohol or drugs from this  
12 state, a municipality within this state, or another state or  
13 territory or a municipality of another state or territory  
14 shall be considered by a court for imposing a sentence  
15 pursuant to this section.

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

1 completely dependent on the motor vehicle for the necessities  
2 of life, including any family member of the repeat offender  
3 and any co-owner of the vehicle or, in the case of a repeat  
4 offender, if the repeat offender has a functioning ignition  
5 interlock device installed on the designated vehicle for the  
6 duration of the offender's driver's license suspension period.

7                 "(q) Any person ordered by the court to have an  
8 ignition interlock device installed on a designated vehicle  
9 shall pay to the court, during the first four months his or  
10 her license is suspended, seventy-five dollars (\$75) per  
11 month, which shall be divided as follows:

12                 "(1) Forty percent to the Alabama Interlock Indigent  
13 Fund.

14                 "(2) Twenty-five percent to the court of  
15 jurisdiction.

16                 "(3) Twenty percent to the Department of Public  
17 Safety.

18                 "(4) Fifteen percent to the district attorney of  
19 jurisdiction.

20                 "(r) The defendant shall designate the vehicle to be  
21 used by identifying the vehicle by the vehicle identification  
22 number to the court.

23                 "(s) (1) Any person who is required to comply with  
24 the ignition interlock provisions of this section as a  
25 condition of restoration or reinstatement of his or her  
26 driver's license, shall only operate the designated vehicle  
27 equipped with a functioning ignition interlock device for the

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

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

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

21               "(2) The defendant shall provide proof of  
22       installation of an approved ignition interlock device to the  
23       Department of Public Safety as a condition of the issuance of  
24       a restricted driver's license.

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

1                   interlock use for six months from the date of violation.

2                   Ignition interlock driving violations include any of the  
3                   following:

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

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

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

12                   Section 2. Section 32-5A-191.4 is added to the Code  
13                   of Alabama 1975, to read as follows:

14                   §32-5A-191.4.

15                   (a) 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                   (b) The ignition interlock device shall be  
25                   installed, calibrated, and monitored directly by trained  
26                   technicians who shall train the offender for whom the device  
27                   is being installed in the proper use of the device. The use of

1 a mail in or remote calibration system where the technician is  
2 not in the immediate proximity of the vehicle being calibrated  
3 is prohibited.

4 (c) The Department of Forensic Sciences shall  
5 formulate and promulgate rules for the proper approval,  
6 installation, and use of ignition interlock devices.

7 Additionally, the Department of Forensic Sciences shall  
8 maintain and make public the list of approved ignition  
9 interlock devices.

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

14 (e) The Department of Forensic Sciences shall charge  
15 an application fee of two thousand dollars (\$2,000) to any  
16 ignition interlock provider to evaluate the instrument. Any  
17 ignition interlock provider whose ignition interlock device is  
18 approved by the Department of Forensic Sciences shall be  
19 permitted to install and calibrate its approved device in  
20 Alabama.

21 (f) In the absence of negligence, wantonness, or  
22 willful misconduct, no person or employer or agent of a person  
23 who installs an ignition interlock device pursuant to Section  
24 32-5A-191 shall be liable for any occurrence related to the  
25 device, including, but not limited to, occurrences resulting  
26 from or related to a malfunction of the device or use of,

1 misuse of, or failure to use the device or the vehicle in  
2 which the device was installed.

3 (g) (1) When the court imposes the use of an ignition  
4 interlock device as required by Section 32-5A-191, the court  
5 shall require that the person provide proof of installation of  
6 a device to the court or a probation officer within 30 days.  
7 If the person fails to provide proof of installation within  
8 that period, absent a finding by the court of good cause for  
9 that failure which is entered into the court record, the court  
10 shall revoke the person's probation.

11 (2) Proof of installation for the purpose of this  
12 subsection may be furnished by either a certificate of  
13 installation or a copy of the lease agreement in the name of  
14 the offender for the designated vehicle with an approved  
15 ignition interlock device company.

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

1 indigency status to the offender shall become a part of the  
2 official court record in the case and shall be submitted by  
3 the offender to the interlock provider.

4 (4) Any offender granted indigency status shall pay  
5 one-half of the costs associated with installing and  
6 maintaining an interlock device. This section shall not affect  
7 any fees associated with the driver's license of the  
8 defendant.

9 (5) All interlock providers shall be required to pay  
10 one and one-half percent of all payments collected to the  
11 Alabama Interlock Indigent Fund in the State Treasury. All of  
12 the money in the fund shall be used to reimburse ignition  
13 interlock device providers who have installed devices in  
14 vehicles of indigent persons pursuant to court orders issued  
15 under this section. No provider shall be reimbursed for an  
16 interlock device installed without the completed affidavit of  
17 substantial hardship and the subsequent order of the court  
18 granting indigency status. Payments to interlock device  
19 providers pursuant to this subdivision shall be made every  
20 three months. If the amount of money in the fund at the time  
21 payments are made is not sufficient to pay all requests for  
22 reimbursement submitted during that three-month period, the  
23 Comptroller shall make payments on a pro rata basis and those  
24 payments shall be considered payment in full for the requests  
25 submitted. At the end of each fiscal year, all monies above  
26 one hundred thousand dollars (\$100,000) remaining in the  
27 Alabama Interlock Indigent Fund shall be divided as follows:

a. Thirty percent to the Department of Public Safety.

b. Twenty percent to the Department of Forensic Sciences.

c. Thirty percent to the District Attorney of jurisdiction.

d. Twenty percent to the Office of Prosecution Services.

(6) Any defendant who does not own a vehicle or otherwise have an ignition interlock device installed on the vehicle shall be required to pay seventy-five dollars (\$75) per month, the same approximate cost the defendant would have paid to an ignition interlock provider if the defendant had an interlock device installed. Any monies paid pursuant to this subdivision shall be paid to the court clerk and shall be deposited in the Alabama Impaired Driving Prevention and Enforcement Fund in the State Treasury to be used by the Department of Public Safety for impaired driving education and enforcement.

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

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

(2) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle

equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

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

(2) A violation of subsection (g) on the first offense is a Class A misdemeanor and punishable as provided by law. In addition, the time the defendant is required to use an ignition interlock device shall be extended by six months. Upon second conviction of a violation of subsection (g), the sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than 48 hours and the time the defendant is required to use an ignition interlock device shall be extended by six months. Upon a third or subsequent conviction of a violation of subsection (g), the sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than five days and the

1 time the defendant shall be required to use an ignition  
2 interlock device shall be extended by one year.

3 (j) No person shall blow into an ignition interlock  
4 device or start a motor vehicle equipped with the device for  
5 the purpose of providing an operable motor vehicle to a person  
6 who is prohibited from operating a motor vehicle without an  
7 ignition interlock device.

8 (k) No person shall intentionally attempt to tamper  
9 with, defeat, or circumvent the operation of an ignition  
10 interlock device.

11 (l) Any person convicted of a violation of this  
12 section other than by law within subsection (g) shall be  
13 punished by imprisonment for not more than six months or a  
14 fine of not more than five hundred dollars (\$500), or both.

15 Section 3. The substantive provisions of this act  
16 shall be operative 12 months after the effective date of this  
17 act. Any agency affected by this act may adopt rules and  
18 expend funds prior to that date in order for this act to  
19 become operative on that date.

20 Section 4. Although this bill would have as its  
21 purpose or effect the requirement of a new or increased  
22 expenditure of local funds, the bill is excluded from further  
23 requirements and application under Amendment 621, now  
24 appearing as Section 111.05 of the Official Recompilation of  
25 the Constitution of Alabama of 1901, as amended, because the  
26 bill defines a new crime or amends the definition of an  
27 existing crime.

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