

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,

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

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to motor vehicles and driving under the
11 influence; to amend Section 32-5A-191 of the Code of Alabama
12 1975, and to add Section 32-5A-191.4 to the Code of Alabama
13 1975; to increase the penalties for violations by requiring
14 certain persons authorized to drive a motor vehicle after a
15 conviction of driving under the influence to have installed
16 and operating an ignition interlock device for certain periods
17 of time; to provide for the installation and certification of
18 ignition interlock devices; to impose certain duties on the
19 Department of Forensic Sciences; to provide for fees and to
20 authorize the Department of Public Safety to set a fee for the
21 issuance of a restricted license and for the reissuance of a
22 regular license pursuant to this act; to provide penalties for
23 violations; to provide fees to cover costs for the court
24 systems, Department of Public Safety, district attorneys, and
25 the Alabama Interlock Indigent Fund; to indemnify the state
26 from liability related to the installation of the devices; and
27 in connection therewith would have as its purpose or effect

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

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 32-5A-191 of the Code of Alabama
8 1975, 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) A person who is under the age of 21 years shall
25 not drive or be in actual physical control of any vehicle if
26 there is .02 percentage or more by weight of alcohol in his or
27 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

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

6 "(2) A person shall not drive or be in actual
7 physical control of a commercial motor vehicle as defined in
8 49 CFR Part ~~390.5~~ 383.5 of the Federal Motor Carrier Safety
9 Regulations as adopted pursuant to Section 32-9A-2, if there
10 is .04 percentage or greater by weight of alcohol in his or
11 her blood. Notwithstanding the other provisions of this
12 section, the commercial driver's license or commercial driving
13 privilege of a person convicted of violating this subdivision
14 shall be ~~suspended~~ disqualified for the period provided in
15 accordance with 49 CFR Part 383.51 ~~or 49 CFR Part 391.15~~, as
16 applicable, and the person's regular driver's license or
17 privilege to drive a regular motor vehicle shall be governed
18 by the remainder of this section if the person is guilty of a
19 violation of another provision of this section.

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 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

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

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

1 a. Thirty percent to the Department of Public
2 Safety.

3 b. Twenty percent to the Department of Forensic
4 Sciences.

5 c. Thirty percent to the District Attorney of
6 jurisdiction.

7 d. Twenty percent to the Office of Prosecution
8 Services.

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

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

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

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

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

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

14 (2) A violation of subsection (g) on the first
15 offense is a Class A misdemeanor and punishable as provided by
16 law. In addition, the time the defendant is required to use an
17 ignition interlock device shall be extended by six months.
18 Upon second conviction of a violation of subsection (g), the
19 sentence shall include a mandatory sentence, which is not
20 subject to suspension or probation, of imprisonment in the
21 county or municipal jail for not less than 48 hours and the
22 time the defendant is required to use an ignition interlock
23 device shall be extended by six months. Upon a third or
24 subsequent conviction of a violation of subsection (g), the
25 sentence shall include a mandatory sentence, which is not
26 subject to suspension or probation, of imprisonment in the
27 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.