

1 SB291
2 127470-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 29-MAR-11

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

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

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

This bill would also require as condition for bail after an arrest for a violation that a defendant have an ignition interlock device installed.

1 The 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 and
10 the interlock device installer from liability
11 related to the installation of the 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 a
14 person authorized to drive a motor vehicle after a conviction
15 of driving under the influence to have installed and operating
16 an ignition interlock device for certain periods of time; to
17 provide for the installation and certification of ignition
18 interlock devices; to impose certain duties on the Department
19 of Forensic Sciences; to authorize the Department of Public
20 Safety to set a fee for the issuance of a restricted license
21 and for the reissuance of a regular license pursuant to this
22 act; to provide penalties for violations; to indemnify the
23 state and the interlock device installer from liability
24 related to the installation of the devices; and in connection
25 therewith would have as its purpose or effect the requirement
26 of a new or increased expenditure of local funds within the
27 meaning of Amendment 621 of the Constitution of Alabama of

1 1901, now appearing as Section 111.05 of the Official
2 Recompile of the Constitution of Alabama of 1901, as
3 amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 32-5A-191 of the Code of Alabama
6 1975, is amended to read as follows:

7 "§32-5A-191.

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

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

12 "(2) Under the influence of alcohol;

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

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

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

22 "(b) A person who is under the age of 21 years shall
23 not drive or be in actual physical control of any vehicle if
24 there is .02 percentage or more by weight of alcohol in his or
25 her blood. The Department of Public Safety shall suspend or
26 revoke the driver's license of any person, including, but not
27 limited to, a juvenile, child, or youthful offender, convicted

1 or adjudicated of, or subjected to a finding of delinquency
2 based on this subsection. Notwithstanding the foregoing, upon
3 the first violation of this subsection by a person whose blood
4 alcohol level is between .02 and .08, the person's driver's
5 license or driving privilege shall be suspended for a period
6 of 30 days in lieu of any penalties provided in subsection (e)
7 of this section and there shall be no disclosure, other than
8 to courts, law enforcement agencies, and the person's
9 employer, by any entity or person of any information,
10 documents, or records relating to the person's arrest,
11 conviction, or adjudication of or finding of delinquency based
12 on this subsection.

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

22 "(c) (1) A school bus or day care driver shall not
23 drive or be in actual physical control of any vehicle while in
24 performance of his or her duties if there is greater than .02
25 percentage by weight of alcohol in his or her blood. A person
26 convicted pursuant to this subsection shall be subject to the
27 penalties provided by this section except that on the first

1 conviction the Director of Public Safety shall suspend the
2 driving privilege or driver's license for a period of one
3 year.

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

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

22 "(e) Upon first conviction, a person violating this
23 section shall be punished by imprisonment in the county or
24 municipal jail for not more than one year, or by fine of not
25 less than six hundred dollars (\$600) nor more than two
26 thousand one hundred dollars (\$2,100), or by both a fine and
27 imprisonment. In addition, on a first conviction, the Director

1 of Public Safety shall suspend the driving privilege or
2 driver's license of the person convicted for a period of 90
3 days and the offender shall be required to have an ignition
4 interlock device installed and operating on the designated
5 motor vehicle driven by the offender for a period of one year.

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

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

1 year, to include a minimum of 60 days which shall be served in
2 the county or municipal jail and cannot be probated or
3 suspended. In addition, the Director of Public Safety shall
4 revoke the driving privilege or driver's license of the person
5 convicted for a period of three years and the offender shall
6 be required to have an ignition interlock device installed and
7 operating on the designated motor vehicle driven by the
8 offender for a period of three years.

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

1 discretion, and where monitoring equipment is available, place
2 the defendant on house arrest under electronic surveillance
3 during the probationary term. In addition to the other
4 penalties authorized, the Director of Public Safety shall
5 revoke the driving privilege or driver's license of the person
6 convicted for a period of five years and the offender shall be
7 required to have an ignition interlock device installed and
8 operating on the designated motor vehicle driven by the
9 offender for a period of five years.

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

15 "(i) In addition to the penalties provided herein,
16 any person convicted of violating this section shall be
17 referred to the court referral officer for evaluation and
18 referral to appropriate community resources. The defendant
19 shall, at a minimum, be required to complete a DUI or
20 substance abuse court referral program approved by the
21 Administrative Office of Courts and operated in accordance
22 with provisions of the Mandatory Treatment Act of 1990,
23 Sections 12-23-1 to 12-23-19, inclusive. The Department of
24 Public Safety shall not reissue a driver's license to a person
25 convicted under this section without receiving proof that the
26 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 (1) (1) 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 "(2) In addition, the court shall require as a
25 condition of release from jail, under bond or otherwise, that
26 any person who is arrested for a violation of this section
27 only operate a designated vehicle and have an ignition

1 interlock device installed on the designated vehicle that he
2 or she operates. The arrested person shall have 15 days from
3 the date of release to comply with this requirement and the
4 ignition interlock device shall remain on the designated
5 vehicle during the pendency of the criminal proceedings. The
6 defendant shall designate the vehicle to be used by
7 identifying the vehicle by the vehicle identification number
8 to the court. Failure to comply with this condition of release
9 shall result in the revocation of bond.

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

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

23 "(o) A prior conviction within a five-year period
24 for driving under the influence of alcohol or drugs from this
25 state, a municipality within this state, or another state or
26 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 "(p) 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 or
13 revocation period, unless such action would impose an undue
14 hardship to any individual, not including the repeat offender,
15 who is completely dependent on the motor vehicle for the
16 necessities of life, including any family member of the repeat
17 offender and any co-owner of the vehicle or, in the case of a
18 repeat offender, if the repeat offender has a functioning
19 ignition interlock device installed on the designated vehicle
20 for the duration of the offender's driver's license suspension
21 or revocation period.

22 "(q) The duration of the time an ignition interlock
23 device is required by this section shall be doubled if the
24 offender refused the prescribed chemical test for
25 intoxication, or if the offender's blood alcohol concentration
26 (BAC) was 0.15 grams percent or greater.

1 "(r) Any ignition interlock driving violation
2 committed by the offender during the mandated ignition
3 interlock period shall extend the duration of ignition
4 interlock use for six months from the date of violation.
5 Ignition interlock driving violations include any of the
6 following:

7 "a. A breath sample at or above a minimum BAC level
8 of 0.03.

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

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

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

15 §32-5A-191.4.

16 (a) As used in Sections 32-5A-191 and 32-5A-191.4,
17 the following words have the following meanings:

18 (1) IGNITION INTERLOCK DEVICE. A regularly
19 calibrated device, approved by the Department of Forensic
20 Sciences, that regulates the operation of a motor vehicle by
21 measuring an operator's blood-alcohol level before allowing
22 the operator to start the vehicle and that periodically tests
23 the operator's blood-alcohol level while he or she operates
24 the vehicle. The system shall be so calibrated that a motor
25 vehicle cannot be started if the blood-alcohol level of the
26 operator as measured by the test reaches a BAC level of .03.

1 (2) IGNITION INTERLOCK LICENSE. A driver's license
2 issued to a person that allows that person to operate a motor
3 vehicle with an ignition interlock device after that person's
4 driver's license has been suspended or revoked pursuant to
5 this section or Section 32-5A-191.

6 (3) REVOKED LICENSE. A driver's license revoked for
7 driving while under the influence of alcohol or drugs pursuant
8 to Section 32-5A-191.

9 (4) SUSPENDED LICENSE. A driver's license which has
10 been suspended for driving while under the influence of
11 alcohol or drugs pursuant to Section 32-5A-191.

12 (b) A person whose driver's license has been
13 suspended or revoked pursuant to this section or Section
14 32-5A-191 shall apply to the Department of Public Safety for
15 an ignition interlock license.

16 (c) An applicant for an ignition interlock license
17 shall do all of the following:

18 (1) Provide proof of installation of the ignition
19 interlock device by a Department of Forensic Sciences approved
20 ignition interlock installer on any vehicle the applicant
21 drives.

22 (2) Sign an affidavit acknowledging both of the
23 following: a. That operation by the applicant of any vehicle
24 that is not equipped with an ignition interlock device is
25 subject to penalties for driving with a suspended or revoked
26 license. b. The the applicant shall maintain the ignition
27 interlock device and keep up-to-date records in the motor

1 vehicle showing required service and calibrations and be able
2 to provide the records upon request.

3 (3) Designate the vehicle to be driven by the
4 applicant by identifying the vehicle by the vehicle
5 identification number to the Department of Public Safety.

6 (d) The Department of Public Safety may set a fee of
7 not more than one hundred fifty dollars (\$150) for the
8 issuance of a driver's license indicating that the person's
9 driving privileges are subject to the condition of the
10 installation and use of a certified ignition interlock device
11 on the motor vehicle. In addition, at the end of the time the
12 person's driving privileges are subject to the above
13 conditions, the department shall set a fee of not more than
14 seventy-five dollars (\$75) to reissue a regular driver's
15 license. The fee shall be deposited in the Department of
16 Public Safety Highway and Traffic Safety Fund and shall be
17 continuously appropriated to the Department of Public Safety
18 for the cost of issuance of the licenses and for the operation
19 of the department.

20 (e) The ignition interlock device shall be
21 installed, calibrated, and monitored directly by trained
22 technicians who shall train the offender for whom the device
23 is being installed in the proper use of the device. The use of
24 a "mail-in" or remote calibration system where the technician
25 is not in the immediate proximity of the vehicle being
26 calibrated is prohibited.

1 (f) The Department of Forensic Sciences shall
2 formulate and promulgate rules for the proper approval,
3 installation, and use of ignition interlock devices.

4 (g) The Department of Forensic Sciences may adopt in
5 whole or relevant part the guidelines, rules, regulations,
6 studies, or independent laboratory tests performed or relied
7 upon by other states, their agencies, or commissions.

8 (h) In the absence of negligence, wantonness, or
9 willful conduct, no person or employer or agent of a person
10 who installs an ignition interlock device pursuant to Section
11 32-5A-191 shall be liable for any occurrence related to the
12 device, including, but not limited to, occurrences resulting
13 from or related to a malfunction of the device or use of,
14 misuse of, or failure to use the device or the vehicle in
15 which the device was installed.

16 (i) (1) When the court imposes the use of an ignition
17 interlock device as required by Section 32-5A-191, the court
18 shall require that the person provide proof of installation of
19 a device to the court or a probation officer within 30 days.
20 If the person fails to provide proof of installation within
21 that period, absent a finding by the court of good cause for
22 that failure which is entered into the court record, the court
23 shall revoke the person's probation.

24 (2) Proof of installation for the purpose of this
25 subsection may be furnished by either a certificate of
26 installation or a copy of the lease agreement with an approved
27 ignition interlock device company.

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

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

21 (5) All interlock device providers shall be required
22 to pay three percent of all payments collected to the Alabama
23 Interlock Indigent Fund in the State Treasury. All of the
24 money in the fund will be used to reimburse ignition interlock
25 device providers who have installed devices in vehicles of
26 indigent persons pursuant to court orders issued under this
27 section. No provider will be reimbursed for an interlock

1 device installed without the completed affidavit of
2 substantial hardship and the subsequent order of the court
3 granting indigency status. Payments to interlock device
4 providers pursuant to this subdivision shall be made every
5 three months. If the amount of money in the fund at the time
6 payments are made is not sufficient to pay all requests for
7 reimbursement submitted during that three-month period, the
8 state Comptroller shall make payments on a pro rata basis and
9 those payments shall be considered payment in full for the
10 requests submitted.

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

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

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

1 (2) Request or solicit any other person to blow into
2 an ignition interlock device or to start a motor vehicle
3 equipped with the device for the purpose of providing the
4 person so restricted with an operable motor vehicle.

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

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

1 subject to suspension or probation, of imprisonment in the
2 county or municipal jail for not less than five days and the
3 time the defendant shall be required to use an ignition
4 interlock device shall be extended by one year.

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

10 (m) No person shall intentionally attempt to tamper
11 with, defeat, or circumvent the operation of an ignition
12 interlock device.

13 (n) Any person convicted of a violation of
14 subsections (l) or (m) shall be punished by imprisonment for
15 not more than six months or a fine of not more than five
16 hundred dollars (\$500), or both.

17 Section 3. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 4. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

