

1 HB160
2 208996-1
3 By Representative Moore (P)
4 RFD: Public Safety and Homeland Security
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

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

12 This bill would only require a defendant to
13 install an ignition interlock device if he or she
14 was convicted of driving under the influence where
15 alcohol was involved.

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

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment.
6 However, the bill does not require approval of a
7 local governmental entity or enactment by a 2/3
8 vote to become effective because it comes within
9 one of the specified exceptions contained in the
10 amendment.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 Related to ignition interlock; to amend Section
17 32-5A-191, Code of Alabama 1975, to require the use of
18 ignition interlock in certain circumstances; and in connection
19 therewith would have as its purpose or effect the requirement
20 of a new or increased expenditure of local funds within the
21 meaning of Amendment 621 of the Constitution of Alabama of
22 1901, now appearing as Section 111.05 of the Official
23 Recompilation of the Constitution of Alabama of 1901, as
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 "§32-5A-191.

2 "(a) A person shall not drive or be in actual
3 physical control of any vehicle ~~while~~ under any of the
4 following circumstances:

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

7 "(2) Under the influence of alcohol~~;~~.

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

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

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

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

25 Notwithstanding the foregoing, upon the first violation of
26 this subsection by a person whose blood alcohol level is
27 between 0.02 and 0.08, the person's driver's license or

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

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

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

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

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

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

23 "(e) (1) On a ~~Upon~~ first conviction, a person
24 violating this section shall be punished by ~~imprisonment~~ all
25 of the following:

26 "a. Imprisonment in the county or municipal jail for
27 not more than one year, ~~or by.~~

1 "b. A fine of not less than six hundred dollars
2 (\$600) nor more than two thousand one hundred dollars
3 (\$2,100), or by both a fine and imprisonment. ~~In addition, on~~
4 ~~a first conviction, the~~

5 "c. The Secretary of the Alabama State Law
6 Enforcement Agency shall suspend the driving privilege or
7 driver's license of the person convicted for a period of 90
8 days. The 90-day suspension shall be stayed if the offender
9 elects to have an approved ignition interlock device installed
10 and operating on the designated motor vehicle driven by the
11 offender for 90 days. The offender shall present proof of
12 installation of the approved ignition interlock device to the
13 ~~Alabama State Law Enforcement Agency~~ agency and obtain an
14 ignition interlock restricted ~~driver~~ driver's license. The
15 remainder of the suspension shall be commuted upon the
16 successful completion of the elected use, ~~mandated use, or~~
17 ~~both,~~ of the ignition interlock device.

18 "(2) If, on a first conviction of a violation of
19 subdivision (a) (1), (a) (2), or (a) (4), any person refusing to
20 provide a blood alcohol concentration, if a child under the
21 age of 14 years was a passenger in the vehicle at the time of
22 the offense, if someone else besides the offender was injured
23 at the time of the offense, or if the offender is found to
24 have had at least 0.15 percent or more by weight of alcohol in
25 his or her blood while operating or being in actual physical
26 control of a vehicle, the Secretary of the Alabama State Law
27 Enforcement Agency shall suspend the driving privilege or

1 driver's license of the person convicted for a period of 90
2 days and the person shall be required to have an ignition
3 interlock device installed and operating on the designated
4 motor vehicle driven by the offender for a period of one year
5 from the date of issuance of a driver's license indicating
6 that the person's driving privileges are subject to the
7 condition of the installation and use of a certified ignition
8 interlock device on a motor vehicle. Upon receipt of a court
9 order from the convicting court, upon issuance of an ignition
10 interlock restricted ~~driver~~ driver's license, and upon proof
11 of installation of an operational approved ignition interlock
12 device on the designated vehicle of the person convicted, the
13 mandated ignition interlock period of one year provided in
14 this ~~subsection~~ subdivision shall start and the suspension
15 period, revocation period, or both, as required under this
16 ~~subsection~~ subdivision shall be stayed. The remainder of the
17 ~~driver~~ driver's license revocation period, suspension period,
18 or both, shall be commuted upon the successful completion of
19 the period of time in which the ignition interlock device is
20 mandated to be installed and operational.

21 "(f) On a second conviction, a person convicted of
22 violating this section shall be punished by ~~a~~ all of the
23 following:

24 "(1) A fine of not less than one thousand one
25 hundred dollars (\$1,100) nor more than five thousand one
26 hundred dollars (\$5,100) ~~and by imprisonment.~~

1 "(2) Imprisonment, which may include hard labor, in
2 the county or municipal jail for not more than one year. The
3 sentence shall include a mandatory sentence, which is not
4 subject to suspension or probation, of imprisonment in the
5 county or municipal jail for not less than five days or
6 community service for not less than 30 days. ~~In addition, the~~

7 "(3) The Secretary of the Alabama State Law
8 Enforcement Agency shall revoke the driving privileges or
9 driver's license of the person convicted for a period of one
10 year ~~and~~.

11 "(4) If convicted of a violation of subdivision
12 (a) (1), (a) (2), or (a) (4), the offender shall be required to
13 have an ignition interlock device installed and operating on
14 the designated motor vehicle driven by the offender for a
15 period of two years from the date of issuance of a driver's
16 license indicating that the person's driving privileges are
17 subject to the condition of the installation and use of a
18 certified ignition interlock device on a motor vehicle. After
19 a minimum of 45 days of the license revocation or suspension
20 pursuant to Section 32-5A-304, this section, or both, is
21 completed, upon receipt of a court order from the convicting
22 court, upon issuance of an ignition interlock restricted
23 ~~driver~~ driver's license, and upon proof of installation of an
24 operational approved ignition interlock device on the
25 designated vehicle of the person convicted, the mandated
26 ignition interlock period of two years ~~approved~~ provided in
27 this ~~subsection~~ subdivision shall start and the suspension

1 period, revocation period, or both, as required under this
2 ~~subsection~~ subdivision shall be stayed. The remainder of the
3 ~~driver~~ driver's license revocation period, suspension period,
4 or both, shall be commuted upon the successful completion of
5 the period of time in which the ignition interlock device is
6 mandated to be installed and operational.

7 "(g) On a third conviction, a person convicted of
8 violating this section shall be punished by ~~a~~ all of the
9 following:

10 "(1) A fine of not less than two thousand one
11 hundred dollars (\$2,100) nor more than ten thousand one
12 hundred dollars (\$10,100) ~~and by imprisonment.~~

13 "(2) Imprisonment, which may include hard labor, in
14 the county or municipal jail for not less than 60 days nor
15 more than one year, to include a minimum of 60 days which
16 shall be served in the county or municipal jail and cannot be
17 probated or suspended. ~~In addition, the~~

18 "(3) The Secretary of the Alabama State Law
19 Enforcement Agency shall revoke the driving privilege or
20 driver's license of the person convicted for a period of three
21 years ~~and.~~

22 "(4) If convicted of a violation of subdivision
23 (a) (1), (a) (2), or (a) (4), the offender shall be required to
24 have an ignition interlock device installed and operating on
25 the designated motor vehicle driven by the offender for a
26 period of three years from the date of issuance of a driver's
27 license indicating that the person's driving privileges are

1 subject to the condition of the installation and use of a
2 certified ignition interlock device on a motor vehicle. After
3 a minimum of 60 days of the license revocation or suspension
4 pursuant to Section 32-5A-304, this section, or both, is
5 completed, upon receipt of a court order from the convicting
6 court, upon issuance of an ignition interlock restricted
7 ~~driver~~ driver's license, and upon proof of installation of an
8 operational approved ignition interlock device on the
9 designated vehicle of the person convicted, the mandated
10 ignition interlock period of three years provided in this
11 ~~subsection~~ subdivision shall start and the suspension period,
12 revocation period, or both, as required under this ~~subsection~~
13 subdivision shall be stayed. The remainder of the ~~driver~~
14 driver's license revocation period, suspension period, or
15 both, shall be commuted upon the successful completion of the
16 period of time in which the ignition interlock device is
17 mandated to be installed and operational.

18 " (h) (1) On a fourth or subsequent conviction, or if
19 the person has a previous felony DUI conviction, a person
20 convicted of violating this section shall be guilty of a Class
21 C felony and punished by ~~a~~ all of the following:

22 "a. A fine of not less than four thousand one
23 hundred dollars (\$4,100) nor more than ten thousand one
24 hundred dollars (\$10,100) ~~and by imprisonment.~~

25 "b. Imprisonment of not less than one year and one
26 day nor more than 10 years. Any term of imprisonment may
27 include hard labor for the county or state, and where

1 imprisonment does not exceed three years, confinement may be
2 in the county jail. Where imprisonment does not exceed one
3 year and one day, confinement shall be in the county jail. The
4 minimum sentence shall include a term of imprisonment for at
5 least one year and one day, provided, ~~however,~~ that ~~there~~ the
6 offender shall ~~be~~ serve a minimum mandatory sentence of 10
7 days ~~which shall be served~~ in the county jail. The remainder
8 of the sentence may be suspended or probated, but only if, as
9 a condition of probation, the defendant enrolls and
10 successfully completes a state certified chemical dependency
11 program recommended by the court referral officer and approved
12 by the sentencing court. Where probation is granted, the
13 sentencing court ~~may, in its discretion, and,~~ where monitoring
14 equipment is available, may place the defendant on house
15 arrest under electronic surveillance during the probationary
16 term. ~~In addition to the other penalties authorized, the.~~

17 "c. The Secretary of the Alabama State Law
18 Enforcement Agency shall revoke the driving privilege or
19 driver's license of the person convicted for a period of five
20 years and.

21 "d. If convicted of a violation of subdivision
22 (a) (1), (a) (2), or (a) (4), the offender shall be required to
23 have an ignition interlock device installed and operating on
24 the designated motor vehicle driven by the offender for a
25 period of four years from the date of issuance of a driver's
26 license indicating that the person's driving privileges are
27 subject to the condition of the installation and use of a

1 certified ignition interlock device on a motor vehicle. After
2 a minimum of one year of the license revocation or suspension
3 pursuant to Section 32-5A-304, this section, or both, is
4 completed, upon receipt of a court order from the convicting
5 court, upon issuance of an ignition interlock restricted
6 ~~driver~~ driver's license, and upon proof of installation of an
7 operational approved ignition interlock device on the
8 designated vehicle of the person convicted, the mandated
9 ignition interlock period of four years provided in this
10 ~~subsection~~ paragraph shall start and the suspension period,
11 revocation period, or both, as required under this ~~subsection~~
12 paragraph shall be stayed. The remainder of the ~~driver~~
13 driver's license revocation period, suspension period, or
14 both, shall be commuted upon the successful completion of the
15 period of time in which the ignition interlock device is
16 mandated to be installed and operational.

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

1 "(i) When any person convicted of violating this
2 section is found to have had at least 0.15 percent or more by
3 weight of alcohol in his or her blood while operating or being
4 in actual physical control of a vehicle, he or she shall be
5 sentenced to at least double the minimum punishment that the
6 person would have received if he or she had had less than 0.15
7 percent by weight of alcohol in his or her blood. This
8 subsection does not apply to the duration of time an ignition
9 interlock device is required by this section. If the
10 adjudicated offense is a misdemeanor, the minimum punishment
11 shall be imprisonment for one year, all of which may be
12 suspended except as otherwise provided for in subsections (f)
13 and (g).

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

23 "(k) (1) In addition to the penalties provided
24 herein, any person convicted of violating this section shall
25 be referred to the court referral officer for evaluation and
26 referral to appropriate community resources. The defendant
27 shall, at a minimum, be required to complete a DUI or

1 substance abuse court referral program approved by the
2 Administrative Office of Courts and operated in accordance
3 with provisions of the Mandatory Treatment Act of 1990,
4 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law
5 Enforcement Agency shall not reissue a driver's license to a
6 person convicted under this section without receiving proof
7 that the defendant has successfully completed the required
8 program.

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

1 ignition interlock device as required or is otherwise not in
2 compliance with any order of the court, the court shall notify
3 the agency of the noncompliance and the agency shall suspend
4 the person's driving privileges until the agency receives
5 notification from the court that the licensee is in
6 compliance. The requirement that the licensee use the ignition
7 interlock device may be removed only when the court of
8 conviction confirms to the agency that the licensee is no
9 longer subject to the ignition interlock device requirement.

10 "(l) Neither reckless driving nor any other traffic
11 infraction is a lesser included offense under a charge of
12 driving under the influence of alcohol or of a controlled
13 substance.

14 "(m) (1) Except for fines collected for violations of
15 this section charged pursuant to a municipal ordinance, fines
16 collected for violations of this section shall be deposited to
17 the State General Fund; however, beginning October 1, 1995, of
18 any amount collected over two hundred fifty dollars (\$250) for
19 a first conviction, over five hundred dollars (\$500) for a
20 second conviction within 10 years, over one thousand dollars
21 (\$1,000) for a third conviction within 10 years, and over two
22 thousand dollars (\$2,000) for a fourth or subsequent
23 conviction within 10 years, the first one hundred dollars
24 (\$100) of that additional amount shall be deposited to the
25 Alabama Chemical Testing Training and Equipment Trust Fund,
26 after three percent of the one hundred dollars (\$100) is
27 deducted for administrative costs, and beginning October 1,

1 1997, and thereafter, the second one hundred dollars (\$100) of
2 that additional amount shall be deposited in the Alabama Head
3 and Spinal Cord Injury Trust Fund after deducting five percent
4 of the one hundred dollars (\$100) for administrative costs and
5 the remainder of the funds shall be deposited to the State
6 General Fund.

7 "(2) Fines collected for violations of this section
8 charged pursuant to a municipal ordinance where the total fine
9 is paid at one time shall be deposited as follows: The first
10 three hundred fifty dollars (\$350) collected for a first
11 conviction, the first six hundred dollars (\$600) collected for
12 a second conviction within 10 years, the first one thousand
13 one hundred dollars (\$1,100) collected for a third conviction,
14 and the first two thousand one hundred dollars (\$2,100)
15 collected for a fourth or subsequent conviction shall be
16 deposited to the State Treasury with the first one hundred
17 dollars (\$100) collected for each conviction credited to the
18 Alabama Chemical Testing Training and Equipment Trust Fund and
19 the second one hundred dollars (\$100) to the Alabama Head and
20 Spinal Cord Injury Trust Fund after deducting five percent of
21 the one hundred dollars (\$100) for administrative costs and
22 depositing this amount in the general fund of the
23 municipality, and the balance credited to the State General
24 Fund. Any amounts collected over these amounts shall be
25 deposited as otherwise provided by law.

26 "(3) Fines collected for violations of this section
27 charged pursuant to a municipal ordinance, where the fine is

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

23 "(4) Notwithstanding any provision of law to the
24 contrary, 90 percent of any fine assessed and collected for
25 any DUI offense charged by municipal ordinance violation in
26 district or circuit court shall be computed only on the amount
27 assessed over the minimum fine authorized, and upon collection

1 shall be distributed to the municipal general fund with the
2 remaining 10 percent distributed to the State General Fund.

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

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

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

1 "(o) Upon verification that a defendant arrested
2 pursuant to this section is currently on probation from
3 another court of this state as a result of a conviction for
4 any criminal offense, the prosecutor shall provide written or
5 oral notification of the defendant's subsequent arrest and
6 pending prosecution to the court in which the prior conviction
7 occurred.

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

15 "(2) If the person has a previous felony DUI
16 conviction, then all of the person's subsequent DUI
17 convictions shall be treated as felonies regardless of the
18 date of the previous felony DUI conviction.

19 "(q) Any person convicted of ~~driving under the~~
20 ~~influence of alcohol, or a controlled substance, or both, or~~
21 ~~any substance which impairs the mental or physical faculties~~
22 ~~in a~~ violation of this section, a municipal ordinance adopting
23 this section, or a similar law from another state or territory
24 or a municipality of another state or territory more than once
25 in a 10-year period shall have his or her motor vehicle
26 registration for all vehicles owned by the repeat offender
27 suspended by the Alabama Department of Revenue for the

1 duration of the offender's driver's license suspension period,
2 unless such action would impose an undue hardship to any
3 individual, not including the repeat offender, who is
4 completely dependent on the motor vehicle for the necessities
5 of life, including any family member of the repeat offender
6 and any co-owner of the vehicle or, in the case of a repeat
7 offender, if the repeat offender has a functioning ignition
8 interlock device installed on the designated vehicle for the
9 duration of the offender's driver's license suspension period.

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

18 "a. Seventeen percent to the Alabama Interlock
19 Indigent Fund.

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

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

3 "d. Twenty-three percent to the District Attorney's
4 Solicitor Fund.

5 "(2) In addition to paying the court clerk the fee
6 required in subdivision (1) following the conviction or the
7 voluntary installation of the ignition interlock device, the
8 defendant shall pay all costs associated with the
9 installation, purchase, maintenance, or lease of the ignition
10 interlock ~~devices~~ device to an approved ignition interlock
11 provider pursuant to the rules of the Department of Forensic
12 Sciences, unless the defendant is subject to Section
13 32-5A-191.4(i)(4).

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

21 "(t) (1) Any person who is required to comply with
22 the ignition interlock provisions of this section,
23 specifically the requirement to install an ignition interlock
24 device, as a condition of restoration or reinstatement of his
25 or her driver's license, shall only operate the designated
26 vehicle equipped with a functioning ignition interlock device

1 for the period of time consistent with the offense for which
2 he or she 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 one additional
5 year if the offender refused the prescribed chemical test for
6 intoxication.

7 "(u) (1) ~~The~~ If the court orders an offender to
8 install an ignition interlock device, the Alabama State Law
9 Enforcement Agency may set a fee of not more than one hundred
10 fifty dollars (\$150) for the issuance of a driver's license
11 indicating that the person's driving privileges are subject to
12 the condition of the installation and use of a certified
13 ignition interlock device on a motor vehicle. Fifteen percent
14 of the fee shall be distributed to the general fund of the
15 county where the person was convicted to be utilized for law
16 enforcement purposes. Eighty-five percent shall be distributed
17 to the State General Fund. In addition, at the end of the time
18 the person's driving privileges are subject to the above
19 conditions, the agency shall set a fee of not more than
20 seventy-five dollars (\$75) to reissue a regular driver's
21 license. The fee shall be deposited as provided in Sections
22 32-6-5, 32-6-6, and 32-6-6.1.

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

1 "(3) 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. Ignition interlock driving
5 violations include any of the following:

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

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

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

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

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

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

1 Agency to stay a driver's license suspension or revocation
2 upon compliance with the ignition interlock requirement shall
3 apply retroactively if any of the following occurs:

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

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

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

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

15 "e. The offender remains in compliance of ignition
16 interlock requirements.

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

22 "(y) (1) Any person charged in a district, circuit,
23 or municipal court with a violation of ~~this section~~
24 subdivision (a) (1), (a) (2), or (a) (4) or a municipal ordinance
25 adopted in conformance with ~~this section~~ subdivision (a) (1),
26 (a) (2), or (a) (4) who is approved for any pretrial diversion
27 program or similar program shall be required to install an

1 ignition interlock device for a minimum of six months or the
2 duration of the pretrial diversion program, whichever is
3 greater, and meet all the requirements of this section and
4 Section 32-5A-191.4. A participant in a pretrial diversion
5 program shall be eligible for indigency status if the program
6 enrolls indigent defendants and waives fees for indigent
7 defendants.

8 "(2) ~~Upon~~ If the court orders an offender to install
9 an ignition interlock device, upon receipt of a court order or
10 an agreement from the district attorney or prosecutor
11 indicating the offender has entered a pretrial diversion
12 program or any other form of deferred prosecution agreement,
13 the Secretary of the Alabama State Law Enforcement Agency
14 shall indicate, as the agency shall determine, the person's
15 driving privileges are subject to the condition of the
16 installation and use of a certified ignition interlock device
17 on a motor vehicle. Any driver's license suspension period
18 pursuant to Section 32-5A-304 shall be stayed and then
19 commuted upon the successful completion of the pretrial
20 diversion program, or any other form of deferred prosecution
21 agreement.

22 "(3) Upon receipt of a court order detailing any
23 ignition interlock violation of the requirements of this
24 section or Section 32-5A-191.4 or termination of the
25 participation in any pretrial diversion program, the ~~Alabama~~
26 ~~State Law Enforcement Agency~~ agency shall suspend or revoke

1 driving privileges pursuant to this section and Section 32-5A-304.

2 "(4) Nothing in this section shall be construed to
3 require the ~~Alabama State Law Enforcement Agency~~ agency to
4 issue an ignition interlock restricted driver's license or
5 stay or commute any license suspension or revocation period of
6 a holder of a commercial driver's license, an operator of a
7 commercial motor vehicle, or a commercial driver learner
8 permit holder in violation of other state or federal laws.

9 "(z) Pursuant to Section 15-22-54, the maximum
10 probation period for persons convicted under this section
11 shall be extended until all ignition interlock requirements
12 have been completed by the offender.

13 "(aa) Notwithstanding the ignition interlock
14 requirements of this section, no person may be required to
15 install an ignition interlock device if there is not a
16 certified ignition interlock provider available within a 50
17 mile radius of his or her place of residence or place of
18 business or employment.

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

21 "§32-5A-191.

22 "(a) A person shall not drive or be in actual
23 physical control of any vehicle ~~while~~ under any of the
24 following circumstances:

25 "(1) There is 0.08 percent or more by weight of
26 alcohol in his or her blood~~7.~~

27 "(2) Under the influence of alcohol~~7.~~

1 "(3) Under the influence of a controlled substance
2 to a degree which renders him or her incapable of safely
3 driving~~7~~.

4 "(4) Under the combined influence of alcohol and a
5 controlled substance to a degree which renders him or her
6 incapable of safely driving~~7~~~~or~~.

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

10 "(b) (1) A person who is under the age of 21 years
11 shall not drive or be in actual physical control of any
12 vehicle if there is 0.02 percent or more by weight of alcohol
13 in his or her blood. The Alabama State Law Enforcement Agency
14 shall suspend or revoke the driver's license of any person,
15 including, but not limited to, a juvenile, child, or youthful
16 offender, convicted ~~or~~ of, adjudicated of, or subjected to a
17 finding of~~7~~ delinquency based on this subsection.

18 Notwithstanding the foregoing, upon the first violation of
19 this subsection by a person whose blood alcohol level is
20 between 0.02 and 0.08, the person's driver's license or
21 driving privilege shall be suspended for a period of 30 days
22 in lieu of any penalties provided in subsection (e) ~~of this~~
23 ~~section~~, and there shall be no disclosure, other than to
24 courts, law enforcement agencies, the person's attorney of
25 record, and the person's employer, by any entity or person of
26 any information, documents, or records relating to the

1 person's arrest, conviction, or adjudication of or finding of
2 delinquency based on this subsection.

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

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

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

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

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

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

16 "(e) (1) On a ~~Upon~~ first conviction, a person
17 violating this section shall be punished by ~~imprisonment~~ all
18 of the following:

19 "a. Imprisonment in the county or municipal jail for
20 not more than one year, ~~or by.~~

21 "b. A fine of not less than six hundred dollars
22 (\$600) nor more than two thousand one hundred dollars
23 (\$2,100), or by both a fine and imprisonment. ~~In addition, on~~
24 ~~a first conviction, the~~

25 "c. The Secretary of the Alabama State Law
26 Enforcement Agency shall suspend the driving privilege or
27 driver's license of the person convicted for a period of 90

1 days. The 90-day suspension shall be stayed if the offender
2 elects to have an approved ignition interlock device installed
3 and operating on the designated motor vehicle driven by the
4 offender for 90 days. The offender shall present proof of
5 installation of the approved ignition interlock device to the
6 ~~Alabama State Law Enforcement Agency~~ agency and obtain an
7 ignition interlock restricted ~~driver~~ driver's license. The
8 remainder of the suspension shall be commuted upon the
9 successful completion of the elected use, ~~mandated use, or~~
10 ~~both,~~ of the ignition interlock device.

11 " (2) If, on a first conviction of a violation of
12 subdivision (a) (1), (a) (2), or (a) (4), any person refusing to
13 provide a blood alcohol concentration ~~or,~~ if a child under the
14 age of 14 years was a passenger in the vehicle at the time of
15 the offense ~~or,~~ if someone else besides the offender was
16 injured at the time of the offense, or if the offender is
17 found to have had at least 0.15 percent or more by weight of
18 alcohol in his or her blood while operating or being in actual
19 control of a vehicle, the Secretary of the Alabama State Law
20 Enforcement Agency shall suspend the driving privilege or
21 driver's license of the person convicted for a period of 90
22 days and the person shall be required to have an ignition
23 interlock device installed and operating on the designated
24 motor vehicle driven by the offender for a period of one year
25 from the date of issuance of a driver's license indicating
26 that the person's driving privileges are subject to the
27 condition of the installation and use of a certified ignition

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

17 "(f) On a second conviction, a person convicted of
18 violating this section shall be punished by ~~a~~ all of the
19 following:

20 "(1) A fine of not less than one thousand one
21 hundred dollars (\$1,100) nor more than five thousand one
22 hundred dollars (\$5,100) ~~and by imprisonment,~~.

23 "(2) Imprisonment, which may include hard labor, in
24 the county or municipal jail for not more than one year. The
25 sentence shall include a mandatory sentence, which is not
26 subject to suspension or probation, of imprisonment in the

1 county or municipal jail for not less than five days or
2 community service for not less than 30 days. ~~In addition, the~~

3 "(3) The Secretary of the Alabama State Law
4 Enforcement Agency shall revoke the driving privileges or
5 driver's license of the person convicted for a period of one
6 year and.

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

1 the period of time in which the ignition interlock device is
2 mandated to be installed and operational.

3 "(g) On a third conviction, a person convicted of
4 violating this section shall be punished by ~~a~~ all of the
5 following:

6 "(1) A fine of not less than two thousand one
7 hundred dollars (\$2,100) nor more than ten thousand one
8 hundred dollars (\$10,100) ~~and by imprisonment.~~

9 "(2) Imprisonment, which may include hard labor, in
10 the county or municipal jail for not less than 60 days nor
11 more than one year, to include a minimum of 60 days which
12 shall be served in the county or municipal jail and cannot be
13 probated or suspended. ~~In addition, the~~

14 "(3) The Secretary of the Alabama State Law
15 Enforcement Agency shall revoke the driving privilege or
16 driver's license of the person convicted for a period of three
17 years ~~and.~~

18 "(4) If convicted of a violation of subdivision
19 (a) (1), (a) (2), or (a) (4), the offender shall be required to
20 have an ignition interlock device installed and operating on
21 the designated motor vehicle driven by the offender for a
22 period of three years from the date of issuance of a driver's
23 license indicating that the person's driving privileges are
24 subject to the condition of the installation and use of a
25 certified ignition interlock device on a motor vehicle. After
26 a minimum of 60 days of the license revocation or suspension
27 pursuant to Section 32-5A-304, this section, or both, is

1 completed, upon receipt of a court order from the convicting
2 court, upon issuance of an ignition interlock restricted
3 ~~driver~~ driver's license, and upon proof of installation of an
4 operational approved ignition interlock device on the
5 designated vehicle of the person convicted, the mandated
6 ignition interlock period of three years provided in this
7 ~~subsection~~ subdivision shall start and the suspension period,
8 revocation period, or both, as required under this ~~subsection~~
9 subdivision shall be stayed. The remainder of the ~~driver~~
10 driver's license revocation period, suspension period, or
11 both, shall be commuted upon the successful completion of the
12 period of time in which the ignition interlock device is
13 mandated to be installed and operational.

14 "(h) (1) On a fourth or subsequent conviction, or if
15 the person has a previous felony DUI conviction, a person
16 convicted of violating this section shall be guilty of a Class
17 C felony and punished by ~~a~~ all of the following:

18 "a. A fine of not less than four thousand one
19 hundred dollars (\$4,100) nor more than ten thousand one
20 hundred dollars (\$10,100) ~~and by imprisonment.~~

21 "b. Imprisonment of not less than one year and one
22 day nor more than 10 years. Any term of imprisonment may
23 include hard labor for the county or state, and where
24 imprisonment does not exceed three years, confinement may be
25 in the county jail. Where imprisonment does not exceed one
26 year and one day, confinement shall be in the county jail. The
27 minimum sentence shall include a term of imprisonment for at

1 least one year and one day; provided, ~~however,~~ that ~~there~~ the
2 offender shall ~~be~~ serve a minimum mandatory sentence of 10
3 days ~~which shall be served~~ in the county jail. The remainder
4 of the sentence may be suspended or probated, but only if, as
5 a condition of probation, the defendant enrolls and
6 successfully completes a state certified chemical dependency
7 program recommended by the court referral officer and approved
8 by the sentencing court. Where probation is granted, the
9 sentencing court ~~may, in its discretion, and,~~ where monitoring
10 equipment is available, may place the defendant on house
11 arrest under electronic surveillance during the probationary
12 term. ~~In addition to the other penalties authorized, the~~

13 "c. The Secretary of the Alabama State Law
14 Enforcement Agency shall revoke the driving privilege or
15 driver's license of the person convicted for a period of five
16 years and.

17 "d. If convicted of a violation of subdivision
18 (a) (1), (a) (2), or (a) (4), the offender shall be required to
19 have an ignition interlock device installed and operating on
20 the designated motor vehicle driven by the offender for a
21 period of four years from the date of issuance of a driver's
22 license indicating that the person's driving privileges are
23 subject to the condition of the installation and use of a
24 certified ignition interlock device on a motor vehicle. After
25 a minimum of one year of the license revocation or suspension
26 pursuant to Section 32-5A-304, this section, or both, is
27 completed, upon receipt of a court order from the convicting

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

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

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

1 person would have received if he or she had had less than 0.15
2 percent by weight of alcohol in his or her blood. This
3 subsection does not apply to the duration of time an ignition
4 interlock device is required by this section. If the
5 adjudicated offense is a misdemeanor, the minimum punishment
6 shall be imprisonment for one year, all of which may be
7 suspended except as otherwise provided for in subsections (f)
8 and (g).

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

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

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

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

1 compliance. The requirement that the licensee use the ignition
2 interlock device may be removed only when the court of
3 conviction confirms to the agency that the licensee is no
4 longer subject to the ignition interlock device requirement.

5 "(l) Neither reckless driving nor any other traffic
6 infraction is a lesser included offense under a charge of
7 driving under the influence of alcohol or of a controlled
8 substance.

9 "(m) (1) Except for fines collected for violations of
10 this section charged pursuant to a municipal ordinance, fines
11 collected for violations of this section shall be deposited to
12 the State General Fund; however, beginning October 1, 1995, of
13 any amount collected over two hundred fifty dollars (\$250) for
14 a first conviction, over five hundred dollars (\$500) for a
15 second conviction within 10 years, over one thousand dollars
16 (\$1,000) for a third conviction within 10 years, and over two
17 thousand dollars (\$2,000) for a fourth or subsequent
18 conviction within 10 years, the first one hundred dollars
19 (\$100) of that additional amount shall be deposited to the
20 Alabama Chemical Testing Training and Equipment Trust Fund,
21 after three percent of the one hundred dollars (\$100) is
22 deducted for administrative costs, and beginning October 1,
23 1997, and thereafter, the second one hundred dollars (\$100) of
24 that additional amount shall be deposited in the Alabama Head
25 and Spinal Cord Injury Trust Fund after deducting five percent
26 of the one hundred dollars (\$100) for administrative costs and

1 the remainder of the funds shall be deposited to the State
2 General Fund.

3 "(2) Fines collected for violations of this section
4 charged pursuant to a municipal ordinance where the total fine
5 is paid at one time shall be deposited as follows: The first
6 three hundred fifty dollars (\$350) collected for a first
7 conviction, the first six hundred dollars (\$600) collected for
8 a second conviction within 10 years, the first one thousand
9 one hundred dollars (\$1,100) collected for a third conviction,
10 and the first two thousand one hundred dollars (\$2,100)
11 collected for a fourth or subsequent conviction shall be
12 deposited to the State Treasury with the first one hundred
13 dollars (\$100) collected for each conviction credited to the
14 Alabama Chemical Testing Training and Equipment Trust Fund and
15 the second one hundred dollars (\$100) to the Alabama Head and
16 Spinal Cord Injury Trust Fund after deducting five percent of
17 the one hundred dollars (\$100) for administrative costs and
18 depositing this amount in the general fund of the
19 municipality, and the balance credited to the State General
20 Fund. Any amounts collected over these amounts shall be
21 deposited as otherwise provided by law.

22 "(3) Fines collected for violations of this section
23 charged pursuant to a municipal ordinance, where the fine is
24 paid on a partial or installment basis, shall be deposited as
25 follows: The first two hundred dollars (\$200) of the fine
26 collected for any conviction shall be deposited to the State
27 Treasury with the first one hundred dollars (\$100) collected

1 for any conviction credited to the Alabama Chemical Testing
2 Training and Equipment Trust Fund and the second one hundred
3 dollars (\$100) for any conviction credited to the Alabama Head
4 and Spinal Cord Injury Trust Fund after deducting five percent
5 of the one hundred dollars (\$100) for administrative costs and
6 depositing this amount in the general fund of the
7 municipality. The second three hundred dollars (\$300) of the
8 fine collected for a first conviction, the second eight
9 hundred dollars (\$800) collected for a second conviction, the
10 second one thousand eight hundred dollars (\$1,800) collected
11 for a third conviction, and the second three thousand eight
12 hundred dollars (\$3,800) collected for a fourth conviction
13 shall be divided with 50 percent of the funds collected to be
14 deposited to the State Treasury to be credited to the State
15 General Fund and 50 percent deposited as otherwise provided by
16 law for municipal ordinance violations. Any amounts collected
17 over these amounts shall be deposited as otherwise provided by
18 law for municipal ordinance violations.

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

26 "(5) In addition to fines imposed pursuant to this
27 subsection, a mandatory fee of one hundred dollars (\$100)

1 shall be collected from any individual who successfully
2 completes any pretrial diversion or deferral program in any
3 municipal, district, or circuit court where the individual was
4 charged with a violation of this section or a corresponding
5 municipal ordinance. The one hundred dollars (\$100) shall be
6 deposited into the Alabama Chemical Testing Training and
7 Equipment Fund.

8 "(6) In addition to the fines and fees imposed
9 pursuant to this subsection, a mandatory fee of one hundred
10 dollars (\$100) shall be collected from any individual who
11 successfully completes any pretrial diversion or deferral
12 program in any municipal, district, or circuit court where the
13 individual was charged with a violation of this section or a
14 corresponding municipal ordinance. The one hundred dollars
15 (\$100) shall be deposited into the Alabama Head and Spinal
16 Cord Injury Trust Fund.

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

23 "(2) A judge may require an offender to install and
24 use a certified ignition interlock device as a condition of
25 bond. In that instance, the Secretary of the Alabama State Law
26 Enforcement Agency shall issue the offender a restricted
27 driver's license indicating the person's driving privileges

1 are subject to the condition of the installation and use of a
2 certified ignition interlock device on a motor vehicle. Any
3 driver's license suspension or revocation period pursuant to
4 Section 32-5A-304 shall be stayed during the period the
5 offender is under the bond condition. The period of time the
6 offender has the ignition interlock device installed as a
7 condition of bond shall not be credited to any requirement to
8 have an ignition interlock device upon conviction.

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

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

23 "(2) If the person has a previous felony DUI
24 conviction, then all of the person's subsequent DUI
25 convictions shall be treated as felonies regardless of the
26 date of the previous felony DUI conviction.

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

19 "(r) (1) Any person ordered by the court to have an
20 ignition interlock device installed on a designated vehicle,
21 and any person who elects to have the ignition interlock
22 device installed on a designated vehicle for the purpose of
23 reducing a period of suspension or revocation of his or her
24 driver's license, shall pay to the court, following his or her
25 conviction, two hundred dollars (\$200), which may be paid in
26 installments and which shall be divided as follows:

1 "a. Seventeen percent to the Alabama Interlock
2 Indigent Fund.

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

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

12 "d. Twenty-three percent to the District Attorney's
13 Solicitor Fund.

14 "(2) In addition to paying the court clerk the fee
15 required ~~above~~ in subdivision (1) following the conviction or
16 the voluntary installation of the ignition interlock device,
17 the defendant shall pay all costs associated with the
18 installation, purchase, maintenance, or lease of the ignition
19 interlock ~~devices~~ device to an approved ignition interlock
20 provider pursuant to the rules of the Department of Forensic
21 Sciences, unless the defendant is subject to Section
22 32-5A-191.4(i)(4).

23 "(s) ~~The~~ If ordered to install an ignition interlock
24 device, the defendant shall designate the vehicle to be used
25 by identifying the vehicle by the vehicle identification
26 number to the court. The defendant, at his or her own expense,
27 may designate additional motor vehicles on which an ignition

1 interlock device may be installed for the use of the
2 defendant.

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

11 "(2) The duration of the time an ignition interlock
12 device is required by this section shall be one year if the
13 offender refused the prescribed chemical test for
14 intoxication.

15 "(u) (1) ~~The~~ If the court orders an offender to
16 install an ignition interlock device, the Alabama State Law
17 Enforcement Agency may set a fee of not more than one hundred
18 fifty dollars (\$150) for the issuance of a driver's license
19 indicating that the person's driving privileges are subject to
20 the condition of the installation and use of a certified
21 ignition interlock device on a motor vehicle. Fifteen percent
22 of the fee shall be distributed to the general fund of the
23 county where the person was convicted to be utilized for law
24 enforcement purposes. Eighty-five percent shall be distributed
25 to the State General Fund. In addition, at the end of the time
26 the person's driving privileges are subject to the above
27 conditions, the agency shall set a fee of not more than

1 seventy-five dollars (\$75) to reissue a regular driver's
2 license. The fee shall be deposited as provided in Sections
3 32-6-5, 32-6-6, and 32-6-6.1.

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

8 "(3) Any ignition interlock driving violation
9 committed by the offender during the mandated ignition
10 interlock period shall extend the duration of ignition
11 interlock use for six months. Ignition interlock driving
12 violations include any of the following:

13 "a. A breath sample at or above a minimum blood
14 alcohol concentration level of 0.02 recorded four or more
15 times during the monthly reporting period unless a subsequent
16 test performed within 10 minutes registers a breath alcohol
17 concentration lower than 0.02.

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

20 "c. Failure to comply with the servicing or
21 calibration requirements of the ignition interlock device
22 every 30 days.

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

1 "(w) The provisions in this section and Section
2 32-5A-191.4 relating to ignition interlock devices shall not
3 apply to persons who commit violations of this section while
4 under 19 years of age and who are adjudicated in juvenile
5 court, unless specifically ordered otherwise by the court.

6 "(x) (1) The amendatory language in Act 2014-222 to
7 this section, authorizing the Alabama State Law Enforcement
8 Agency to stay a driver's license suspension or revocation
9 upon compliance with the ignition interlock requirement shall
10 apply retroactively if any of the following occurs:

11 "a. The offender files an appeal with the court of
12 jurisdiction requesting all prior suspensions or revocation,
13 or both, be stayed upon compliance with the ignition interlock
14 requirement.

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

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

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

22 "e. The offender remains in compliance of ignition
23 interlock requirements.

24 "(2) The remainder of the ~~driver~~ driver's license
25 revocation, suspension, or both, shall be commuted upon the
26 successful completion of the period of time in which the

1 ignition interlock device is mandated to be installed and
2 operational.

3 "(y) Pursuant to Section 15-22-54, the maximum
4 probation period for persons convicted under this section
5 shall be extended until all ignition interlock requirements
6 have been completed by the offender.

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

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

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