

HB2 INTRODUCED



1 DG5XHH-1
2 By Representatives Mooney, Treadaway
3 RFD: Ways and Means General Fund
4 First Read: 07-Mar-23
5 PFD: 20-Jan-23



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SYNOPSIS:

Under existing law, a person who has been charged with driving under the influence and who participates in a pretrial diversion program or similar program is required to install an ignition interlock device on his or her vehicle for a minimum of six months or the duration of the program, whichever is greater. This provision will no longer be a requirement as of July 1, 2023.

This bill would preserve the requirements currently in law, continuing the requirement that a person charged with driving under the influence and who participates in a pretrial diversion program or similar program be required to install an ignition interlock device on his or her vehicle for six months or the duration of the program, whichever is greater.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for



29 the purpose.

30 The purpose or effect of this bill would be to
31 require a new or increased expenditure of local funds
32 within the meaning of the amendment. However, the bill
33 does not require approval of a local governmental
34 entity or enactment by a 2/3 vote to become effective
35 because it comes within one of the specified exceptions
36 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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43 Relating to persons charged with driving under the
44 influence; to amend Section 32-5A-191, Code of Alabama 1975,
45 effective July 1, 2023, to continue the requirement that a
46 person charged with driving under the influence and who enters
47 a pretrial diversion program or similar program be required to
48 install an ignition interlock device on his or her vehicle for
49 six months or the duration of the program, whichever is
50 greater; and in connection therewith would have as its purpose
51 or effect the requirement of a new or increased expenditure of
52 local funds within the meaning of Section 111.05 of the
53 Constitution of Alabama of 2022.

54 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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



57 "§32-5A-191

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

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

62 (2) Under the influence of alcohol;

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

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

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

71 (b) A person who is under the age of 21 years shall not
72 drive or be in actual physical control of any vehicle if there
73 is 0.02 percent or more by weight of alcohol in his or her
74 blood. The Alabama State Law Enforcement Agency shall suspend
75 or revoke the driver's license of any person, including, but
76 not limited to, a juvenile, child, or youthful offender,
77 convicted or adjudicated of, or subjected to a finding of,
78 delinquency based on this subsection. Notwithstanding the
79 foregoing, upon the first violation of this subsection by a
80 person whose blood alcohol level is between 0.02 and 0.08, the
81 person's driver's license or driving privilege shall be
82 suspended for a period of 30 days in lieu of any penalties
83 provided in subsection (e) of this section, and there shall be
84 no disclosure, other than to courts, law enforcement agencies,



85 the person's attorney of record, and the person's employer, by
86 any entity or person of any information, documents, or records
87 relating to the person's arrest, conviction, or adjudication
88 of or finding of delinquency based on this subsection.

89 All persons, except as otherwise provided in this
90 subsection for a first offense, including, but not limited to,
91 a juvenile, child, or youthful offender, convicted or
92 adjudicated of or subjected to a finding of delinquency based
93 on this subsection shall be fined pursuant to this section,
94 notwithstanding any other law to the contrary, and the person
95 shall also be required to attend and complete a DUI or
96 substance abuse court referral program in accordance with
97 subsection (k).

98 (c) (1) A school bus or day care driver shall not drive
99 or be in actual physical control of any vehicle while in
100 performance of his or her duties if there is greater than 0.02
101 percent by weight of alcohol in his or her blood. A person
102 convicted pursuant to this subsection shall be subject to the
103 penalties provided by this section, except that on the first
104 conviction the Secretary of the Alabama State Law Enforcement
105 Agency shall suspend the driving privilege or driver's license
106 for a period of one year.

107 (2) A person shall not drive or be in actual physical
108 control of a commercial motor vehicle, as defined in 49 CFR
109 Part 383.5 of the Federal Motor Carrier Safety Regulations as
110 adopted pursuant to Section 32-9A-2, if there is 0.04 percent
111 or greater by weight of alcohol in his or her blood.
112 Notwithstanding the other provisions of this section, the



113 commercial driver's license or commercial driving privilege of
114 a person convicted of violating this subdivision shall be
115 disqualified for the period provided in accordance with 49 CFR
116 Part 383.51, as applicable, and the person's regular driver's
117 license or privilege to drive a regular motor vehicle shall be
118 governed by the remainder of this section if the person is
119 guilty of a violation of another provision of this section.

120 (3) Any commutation of suspension or revocation time as
121 it relates to a court order, approval, and installation of an
122 ignition interlock device shall not apply to commercial
123 driving privileges or disqualifications.

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

128 (e) Upon first conviction, a person violating this
129 section shall be punished by imprisonment in the county or
130 municipal jail for not more than one year, or by fine of not
131 less than six hundred dollars (\$600) nor more than two
132 thousand one hundred dollars (\$2,100), or by both a fine and
133 imprisonment. In addition, on a first conviction, the
134 Secretary of the Alabama State Law Enforcement Agency shall
135 suspend the driving privilege or driver's license of the
136 person convicted for a period of 90 days. The 90-day
137 suspension shall be stayed if the offender elects to have an
138 approved ignition interlock device installed and operating on
139 the designated motor vehicle driven by the offender for 90
140 days. The offender shall present proof of installation of the



141 approved ignition interlock device to the Alabama State Law
142 Enforcement Agency and obtain an ignition interlock restricted
143 driver license. The remainder of the suspension shall be
144 commuted upon the successful completion of the elected use,
145 mandated use, or both, of the ignition interlock device. If,
146 on a first conviction, any person refusing to provide a blood
147 alcohol concentration or if a child under the age of 14 years
148 was a passenger in the vehicle at the time of the offense or
149 if someone else besides the offender was injured at the time
150 of the offense, or if the offender is found to have had at
151 least 0.15 percent or more by weight of alcohol in his or her
152 blood while operating or being in actual control of a vehicle,
153 the Secretary of the Alabama State Law Enforcement Agency
154 shall suspend the driving privilege or driver's license of the
155 person convicted for a period of 90 days and the person shall
156 be required to have an ignition interlock device installed and
157 operating on the designated motor vehicle driven by the
158 offender for a period of one year from the date of issuance of
159 a driver's license indicating that the person's driving
160 privileges are subject to the condition of the installation
161 and use of a certified ignition interlock device on a motor
162 vehicle. After a minimum of 45 days of the license revocation
163 or suspension pursuant to Section 32-5A-304 or this section,
164 or both, is completed, upon receipt of a court order from the
165 convicting court, upon issuance of an ignition interlock
166 restricted driver license, and upon proof of installation of
167 an operational approved ignition interlock device on the
168 designated vehicle of the person convicted, the mandated



169 ignition interlock period of one year provided in this
170 subsection shall start and the suspension period, revocation
171 period, or both, as required under this subsection shall be
172 stayed. The remainder of the driver license revocation period,
173 suspension period, or both, shall be commuted upon the
174 successful completion of the period of time in which the
175 ignition interlock device is mandated to be installed and
176 operational.

177 (f) On a second conviction, a person convicted of
178 violating this section shall be punished by a fine of not less
179 than one thousand one hundred dollars (\$1,100) nor more than
180 five thousand one hundred dollars (\$5,100) and by
181 imprisonment, which may include hard labor in the county or
182 municipal jail for not more than one year. The sentence shall
183 include a mandatory sentence, which is not subject to
184 suspension or probation, of imprisonment in the county or
185 municipal jail for not less than five days or community
186 service for not less than 30 days. In addition, the Secretary
187 of the Alabama State Law Enforcement Agency shall revoke the
188 driving privileges or driver's license of the person convicted
189 for a period of one year and the offender shall be required to
190 have an ignition interlock device installed and operating on
191 the designated motor vehicle driven by the offender for a
192 period of two years from the date of issuance of a driver's
193 license indicating that the person's driving privileges are
194 subject to the condition of the installation and use of a
195 certified ignition interlock device on a motor vehicle. After
196 a minimum of 45 days of the license revocation or suspension



197 pursuant to Section 32-5A-304, this section, or both, is
198 completed, upon receipt of a court order from the convicting
199 court, upon issuance of an ignition interlock restricted
200 driver license, and upon proof of installation of an
201 operational approved ignition interlock device on the
202 designated vehicle of the person convicted, the mandated
203 ignition interlock period of two years approved in this
204 subsection shall start and the suspension period, revocation
205 period, or both, as required under this subsection shall be
206 stayed. The remainder of the driver license revocation period,
207 suspension period, or both, shall be commuted upon the
208 successful completion of the period of time in which the
209 ignition interlock device is mandated to be installed and
210 operational.

211 (g) On a third conviction, a person convicted of
212 violating this section shall be punished by a fine of not less
213 than two thousand one hundred dollars (\$2,100) nor more than
214 ten thousand one hundred dollars (\$10,100) and by
215 imprisonment, which may include hard labor, in the county or
216 municipal jail for not less than 60 days nor more than one
217 year, to include a minimum of 60 days which shall be served in
218 the county or municipal jail and cannot be probated or
219 suspended. In addition, the Secretary of the Alabama State Law
220 Enforcement Agency shall revoke the driving privilege or
221 driver's license of the person convicted for a period of three
222 years and the offender shall be required to have an ignition
223 interlock device installed and operating on the designated
224 motor vehicle driven by the offender for a period of three



225 years from the date of issuance of a driver's license
226 indicating that the person's driving privileges are subject to
227 the condition of the installation and use of a certified
228 ignition interlock device on a motor vehicle. After a minimum
229 of 60 days of the license revocation or suspension pursuant to
230 Section 32-5A-304, this section, or both, is completed, upon
231 receipt of a court order from the convicting court, upon
232 issuance of an ignition interlock restricted driver license,
233 and upon proof of installation of an operational approved
234 ignition interlock device on the designated vehicle of the
235 person convicted, the mandated ignition interlock period of
236 three years provided in this subsection shall start and the
237 suspension period, revocation period, or both, as required
238 under this subsection shall be stayed. The remainder of the
239 driver license revocation period, suspension period, or both,
240 shall be commuted upon the successful completion of the period
241 of time in which the ignition interlock device is mandated to
242 be installed and operational.

243 (h) On a fourth or subsequent conviction, or if the
244 person has a previous felony DUI conviction, a person
245 convicted of violating this section shall be guilty of a Class
246 C felony and punished by a fine of not less than four thousand
247 one hundred dollars (\$4,100) nor more than ten thousand one
248 hundred dollars (\$10,100) and by imprisonment of not less than
249 one year and one day nor more than 10 years. Any term of
250 imprisonment may include hard labor for the county or state,
251 and where imprisonment does not exceed three years,
252 confinement may be in the county jail. Where imprisonment does



253 not exceed one year and one day, confinement shall be in the
254 county jail. The minimum sentence shall include a term of
255 imprisonment for at least one year and one day; provided,
256 however, that there shall be a minimum mandatory sentence of
257 10 days which shall be served in the county jail. The
258 remainder of the sentence may be suspended or probated, but
259 only if, as a condition of probation, the defendant enrolls
260 and successfully completes a state certified chemical
261 dependency program recommended by the court referral officer
262 and approved by the sentencing court. Where probation is
263 granted, the sentencing court may, in its discretion, and
264 where monitoring equipment is available, place the defendant
265 on house arrest under electronic surveillance during the
266 probationary term. In addition to the other penalties
267 authorized, the Secretary of the Alabama State Law Enforcement
268 Agency shall revoke the driving privilege or driver's license
269 of the person convicted for a period of five years and the
270 offender shall be required to have an ignition interlock
271 device installed and operating on the designated motor vehicle
272 driven by the offender for a period of four years from the
273 date of issuance of a driver's license indicating that the
274 person's driving privileges are subject to the condition of
275 the installation and use of a certified ignition interlock
276 device on a motor vehicle. After a minimum of one year of the
277 license revocation or suspension pursuant to Section
278 32-5A-304, this section, or both, is completed, upon receipt
279 of a court order from the convicting court, upon issuance of
280 an ignition interlock restricted driver license, and upon



281 proof of installation of an operational approved ignition
282 interlock device on the designated vehicle of the person
283 convicted, the mandated ignition interlock period of four
284 years provided in this subsection shall start and the
285 suspension period, revocation period, or both, as required
286 under this subsection shall be stayed. The remainder of the
287 driver license revocation period, suspension period, or both,
288 shall be commuted upon the successful completion of the period
289 of time in which the ignition interlock device is mandated to
290 be installed and operational.

291 The Alabama habitual felony offender law shall not
292 apply to a conviction of a felony pursuant to this subsection,
293 and a conviction of a felony pursuant to this subsection shall
294 not be a felony conviction for purposes of the enhancement of
295 punishment pursuant to Alabama's habitual felony offender law.
296 However, prior misdemeanor or felony convictions for driving
297 under the influence may be considered as part of the
298 sentencing calculations or determinations under the Alabama
299 Sentencing Guidelines or rules promulgated by the Alabama
300 Sentencing Commission.

301 (i) When any person convicted of violating this section
302 is found to have had at least 0.15 percent or more by weight
303 of alcohol in his or her blood while operating or being in
304 actual physical control of a vehicle, he or she shall be
305 sentenced to at least double the minimum punishment that the
306 person would have received if he or she had had less than 0.15
307 percent by weight of alcohol in his or her blood. This
308 subsection does not apply to the duration of time an ignition



309 interlock device is required by this section. If the
310 adjudicated offense is a misdemeanor, the minimum punishment
311 shall be imprisonment for one year, all of which may be
312 suspended except as otherwise provided for in subsections (f)
313 and (g).

314 (j) When any person over the age of 21 years is
315 convicted of violating this section and it is found that a
316 child under the age of 14 years was a passenger in the vehicle
317 at the time of the offense, the person shall be sentenced to
318 at least double the minimum punishment that the person would
319 have received if the child had not been a passenger in the
320 motor vehicle. This subsection does not apply to the duration
321 of time an ignition interlock device is required by this
322 section.

323 (k) (1) In addition to the penalties provided herein,
324 any person convicted of violating this section shall be
325 referred to the court referral officer for evaluation and
326 referral to appropriate community resources. The defendant
327 shall, at a minimum, be required to complete a DUI or
328 substance abuse court referral program approved by the
329 Administrative Office of Courts and operated in accordance
330 with provisions of the Mandatory Treatment Act of 1990,
331 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law
332 Enforcement Agency shall not reissue a driver's license to a
333 person convicted under this section without receiving proof
334 that the defendant has successfully completed the required
335 program.

336 (2) Upon conviction, the court shall notify the Alabama



337 State Law Enforcement Agency if the person convicted is
338 required to install and maintain an approved ignition
339 interlock device. The agency shall suspend or revoke a
340 person's driving privileges until completion of the mandatory
341 suspension or revocation period required by this section, and
342 clearance of all other suspensions, revocations,
343 cancellations, or denials, and proof of installation of an
344 approved ignition interlock device is presented to the agency.
345 The agency shall not reissue a driver's license to a person
346 who has been ordered by a court or is required by law to have
347 the ignition interlock device installed until proof is
348 presented that the person is eligible for reinstatement of
349 driving privileges. Upon presentation of proof and compliance
350 with all ignition interlock requirements, the agency shall
351 issue a driver's license with a restriction indicating that
352 the licensee may operate a motor vehicle only with the
353 certified ignition interlock device installed and properly
354 operating. If the licensee fails to maintain the approved
355 ignition interlock device as required or is otherwise not in
356 compliance with any order of the court, the court shall notify
357 the agency of the noncompliance and the agency shall suspend
358 the person's driving privileges until the agency receives
359 notification from the court that the licensee is in
360 compliance. The requirement that the licensee use the ignition
361 interlock device may be removed only when the court of
362 conviction confirms to the agency that the licensee is no
363 longer subject to the ignition interlock device requirement.

364 (1) Neither reckless driving nor any other traffic



365 infraction is a lesser included offense under a charge of
366 driving under the influence of alcohol or of a controlled
367 substance.

368 (m) (1) Except for fines collected for violations of
369 this section charged pursuant to a municipal ordinance, fines
370 collected for violations of this section shall be deposited to
371 the State General Fund; however, beginning October 1, 1995, of
372 any amount collected over two hundred fifty dollars (\$250) for
373 a first conviction, over five hundred dollars (\$500) for a
374 second conviction within 10 years, over one thousand dollars
375 (\$1,000) for a third conviction within 10 years, and over two
376 thousand dollars (\$2,000) for a fourth or subsequent
377 conviction within 10 years, the first one hundred dollars
378 (\$100) of that additional amount shall be deposited to the
379 Alabama Chemical Testing Training and Equipment Trust Fund,
380 after three percent of the one hundred dollars (\$100) is
381 deducted for administrative costs, and beginning October 1,
382 1997, and thereafter, the second one hundred dollars (\$100) of
383 that additional amount shall be deposited in the Alabama Head
384 and Spinal Cord Injury Trust Fund after deducting five percent
385 of the one hundred dollars (\$100) for administrative costs and
386 the remainder of the funds shall be deposited to the State
387 General Fund.

388 (2) Fines collected for violations of this section
389 charged pursuant to a municipal ordinance where the total fine
390 is paid at one time shall be deposited as follows: The first
391 three hundred fifty dollars (\$350) collected for a first
392 conviction, the first six hundred dollars (\$600) collected for



393 a second conviction within 10 years, the first one thousand
394 one hundred dollars (\$1,100) collected for a third conviction,
395 and the first two thousand one hundred dollars (\$2,100)
396 collected for a fourth or subsequent conviction shall be
397 deposited to the State Treasury with the first one hundred
398 dollars (\$100) collected for each conviction credited to the
399 Alabama Chemical Testing Training and Equipment Trust Fund and
400 the second one hundred dollars (\$100) to the Alabama Head and
401 Spinal Cord Injury Trust Fund after deducting five percent of
402 the one hundred dollars (\$100) for administrative costs and
403 depositing this amount in the general fund of the
404 municipality, and the balance credited to the State General
405 Fund. Any amounts collected over these amounts shall be
406 deposited as otherwise provided by law.

407 (3) Fines collected for violations of this section
408 charged pursuant to a municipal ordinance, where the fine is
409 paid on a partial or installment basis, shall be deposited as
410 follows: The first two hundred dollars (\$200) of the fine
411 collected for any conviction shall be deposited to the State
412 Treasury with the first one hundred dollars (\$100) collected
413 for any conviction credited to the Alabama Chemical Testing
414 Training and Equipment Trust Fund and the second one hundred
415 dollars (\$100) for any conviction credited to the Alabama Head
416 and Spinal Cord Injury Trust Fund after deducting five percent
417 of the one hundred dollars (\$100) for administrative costs and
418 depositing this amount in the general fund of the
419 municipality. The second three hundred dollars (\$300) of the
420 fine collected for a first conviction, the second eight



421 hundred dollars (\$800) collected for a second conviction, the
422 second one thousand eight hundred dollars (\$1,800) collected
423 for a third conviction, and the second three thousand eight
424 hundred dollars (\$3,800) collected for a fourth conviction
425 shall be divided with 50 percent of the funds collected to be
426 deposited to the State Treasury to be credited to the State
427 General Fund and 50 percent deposited as otherwise provided by
428 law for municipal ordinance violations. Any amounts collected
429 over these amounts shall be deposited as otherwise provided by
430 law for municipal ordinance violations.

431 (4) Notwithstanding any provision of law to the
432 contrary, 90 percent of any fine assessed and collected for
433 any DUI offense charged by municipal ordinance violation in
434 district or circuit court shall be computed only on the amount
435 assessed over the minimum fine authorized, and upon collection
436 shall be distributed to the municipal general fund with the
437 remaining 10 percent distributed to the State General Fund.

438 (5) In addition to fines imposed pursuant to this
439 subsection, a mandatory fee of one hundred dollars (\$100)
440 shall be collected from any individual who successfully
441 completes any pretrial diversion or deferral program in any
442 municipal, district, or circuit court where the individual was
443 charged with a violation of this section or a corresponding
444 municipal ordinance. The one hundred dollars (\$100) shall be
445 deposited into the Alabama Chemical Testing Training and
446 Equipment Fund.

447 (6) In addition to the fines and fees imposed pursuant
448 to this subsection, a mandatory fee of one hundred dollars



449 (\$100) shall be collected from any individual who successfully
450 completes any pretrial diversion or deferral program in any
451 municipal, district, or circuit court where the individual was
452 charged with a violation of this section or a corresponding
453 municipal ordinance. The one hundred dollars (\$100) shall be
454 deposited into the Alabama Head and Spinal Cord Injury Trust
455 Fund.

456 (n) (1) A person who has been arrested for violating
457 this section shall not be released from jail under bond or
458 otherwise, until there is less than the same percent by weight
459 of alcohol in his or her blood as specified in subsection
460 (a) (1) or, in the case of a person who is under the age of 21
461 years, subsection (b) hereof.

462 (2) A judge may require an offender to install and use
463 a certified ignition interlock device as a condition of bond.
464 In that instance, the Secretary of the Alabama State Law
465 Enforcement Agency shall issue the offender a restricted
466 driver's license indicating the person's driving privileges
467 are subject to the condition of the installation and use of a
468 certified ignition interlock device on a motor vehicle. Any
469 driver's license suspension or revocation period pursuant to
470 Section 32-5A-304 shall be stayed during the period the
471 offender is under the bond condition. The period of time the
472 offender has the ignition interlock device installed as a
473 condition of bond shall not be credited to any requirement to
474 have an ignition interlock device upon conviction.

475 (o) Upon verification that a defendant arrested
476 pursuant to this section is currently on probation from



477 another court of this state as a result of a conviction for
478 any criminal offense, the prosecutor shall provide written or
479 oral notification of the defendant's subsequent arrest and
480 pending prosecution to the court in which the prior conviction
481 occurred.

482 (p) (1) Except as provided in subdivision (2), a prior
483 conviction for driving under the influence from this state, a
484 municipality within this state, or another state or territory
485 or a municipality of another state or territory shall be
486 considered by a court for imposing a sentence pursuant to this
487 section if the prior conviction occurred within 10 years of
488 the date of the current offense.

489 (2) If the person has a previous felony DUI conviction,
490 then all of the person's subsequent DUI convictions shall be
491 treated as felonies regardless of the date of the previous
492 felony DUI conviction.

493 (q) Any person convicted of driving under the influence
494 of alcohol, or a controlled substance, or both, or any
495 substance which impairs the mental or physical faculties in
496 violation of this section, a municipal ordinance adopting this
497 section, or a similar law from another state or territory or a
498 municipality of another state or territory more than once in a
499 10-year period shall have his or her motor vehicle
500 registration for all vehicles owned by the repeat offender
501 suspended by the Alabama Department of Revenue for the
502 duration of the offender's driver's license suspension period,
503 unless such action would impose an undue hardship to any
504 individual, not including the repeat offender, who is



505 completely dependent on the motor vehicle for the necessities
506 of life, including any family member of the repeat offender
507 and any co-owner of the vehicle or, in the case of a repeat
508 offender, if the repeat offender has a functioning ignition
509 interlock device installed on the designated vehicle for the
510 duration of the offender's driver's license suspension period.

511 (r) (1) Any person ordered by the court to have an
512 ignition interlock device installed on a designated vehicle,
513 and any person who elects to have the ignition interlock
514 device installed on a designated vehicle for the purpose of
515 reducing a period of suspension or revocation of his or her
516 driver's license, shall pay to the court, following his or her
517 conviction, two hundred dollars (\$200), which may be paid in
518 installments and which shall be divided as follows:

519 a. Seventeen percent to the Alabama Interlock Indigent
520 Fund.

521 b. For cases in the district or circuit court, 30
522 percent to the State Judicial Administration Fund administered
523 by the Administrative Office of Courts and for cases in the
524 municipal court, 30 percent to the municipal judicial
525 administration fund of the municipality where the municipal
526 court is located to be used for the operation of the municipal
527 court.

528 c. Thirty percent to the Highway Traffic Safety Fund
529 administered by the Alabama State Law Enforcement Agency.

530 d. Twenty-three percent to the District Attorney's
531 Solicitor Fund.

532 (2) In addition to paying the court clerk the fee



533 required above following the conviction or the voluntary
534 installation of the ignition interlock device, the defendant
535 shall pay all costs associated with the installation,
536 purchase, maintenance, or lease of the ignition interlock
537 devices to an approved ignition interlock provider pursuant to
538 the rules of the Department of Forensic Sciences, unless the
539 defendant is subject to Section 32-5A-191.4(i)(4).

540 (s) The defendant shall designate the vehicle to be
541 used by identifying the vehicle by the vehicle identification
542 number to the court. The defendant, at his or her own expense,
543 may designate additional motor vehicles on which an ignition
544 interlock device may be installed for the use of the
545 defendant.

546 (t)(1) Any person who is required to comply with the
547 ignition interlock provisions of this section as a condition
548 of restoration or reinstatement of his or her driver's
549 license, shall only operate the designated vehicle equipped
550 with a functioning ignition interlock device for the period of
551 time consistent with the offense for which he or she was
552 convicted as provided for in this section.

553 (2) The duration of the time an ignition interlock
554 device is required by this section shall be one year if the
555 offender refused the prescribed chemical test for
556 intoxication.

557 (u)(1) The Alabama State Law Enforcement Agency may set
558 a fee of not more than one hundred fifty dollars (\$150) for
559 the issuance of a driver's license indicating that the
560 person's driving privileges are subject to the condition of



561 the installation and use of a certified ignition interlock
562 device on a motor vehicle. Fifteen percent of the fee shall be
563 distributed to the general fund of the county where the person
564 was convicted to be utilized for law enforcement purposes.
565 Eighty-five percent shall be distributed to the State General
566 Fund. In addition, at the end of the time the person's driving
567 privileges are subject to the above conditions, the agency
568 shall set a fee of not more than seventy-five dollars (\$75) to
569 reissue a regular driver's license. The fee shall be deposited
570 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

571 (2) The defendant shall provide proof of installation
572 of an approved ignition interlock device to the Alabama State
573 Law Enforcement Agency as a condition of the issuance of a
574 restricted driver's license.

575 (3) Any ignition interlock driving violation committed
576 by the offender during the mandated ignition interlock period
577 shall extend the duration of ignition interlock use for six
578 months. Ignition interlock driving violations include any of
579 the following:

580 a. A breath sample at or above a minimum blood alcohol
581 concentration level of 0.02 recorded four or more times during
582 the monthly reporting period unless a subsequent test
583 performed within 10 minutes registers a breath alcohol
584 concentration lower than 0.02.

585 b. Any tampering, circumvention, or bypassing of the
586 ignition interlock device, or attempt thereof.

587 c. Failure to comply with the servicing or calibration
588 requirements of the ignition interlock device every 30 days.



589 (v) Nothing in this section and Section 32-5A-191.4
590 shall require an employer to install an ignition interlock
591 device in a vehicle owned or operated by the employer for use
592 by an employee required to use the device as a condition of
593 driving pursuant to this section and Section 32-5A-191.4.

594 (w) The provisions in this section and Section
595 32-5A-191.4 relating to ignition interlock devices shall not
596 apply to persons who commit violations of this section while
597 under 19 years of age and who are adjudicated in juvenile
598 court, unless specifically ordered otherwise by the court.

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

604 a. The offender files an appeal with the court of
605 jurisdiction requesting all prior suspensions or revocation,
606 or both, be stayed upon compliance with the ignition interlock
607 requirement.

608 b. The offender wins appeal with the court of
609 jurisdiction relating to this section.

610 c. The court of jurisdiction notifies the Alabama State
611 Law Enforcement Agency that the offender is eligible to have
612 the driver's license stayed.

613 d. The Alabama State Law Enforcement Agency issues an
614 ignition interlock restricted driver's license.

615 e. The offender remains in compliance of ignition
616 interlock requirements.



617 (2) The remainder of the driver license revocation,
618 suspension, or both, shall be commuted upon the successful
619 completion of the period of time in which the ignition
620 interlock device is mandated to be installed and operational.

621 (y) (1) Any person charged in a district, circuit, or
622 municipal court with a violation of this section or a
623 municipal ordinance adopted in conformance with this section
624 who is approved for any pretrial diversion program or similar
625 program shall be required to install an ignition interlock
626 device for a minimum of six months or the duration of the
627 pretrial diversion program, whichever is greater, and meet all
628 the requirements of this section and Section 32-5A-191.4. A
629 participant in a pretrial diversion program shall be eligible
630 for indigency status if the program enrolls indigent
631 defendants and waives fees for indigent defendants.

632 (2) Upon receipt of a court order or an agreement from
633 the district attorney or prosecutor indicating the offender
634 has entered a pretrial diversion program or any other form of
635 deferred prosecution agreement, the Secretary of the Alabama
636 State Law Enforcement Agency shall indicate, as the agency
637 shall determine, the person's driving privileges are subject
638 to the condition of the installation and use of a certified
639 ignition interlock device on a motor vehicle. Any driver's
640 license suspension period pursuant to Section 32-5A-304 shall
641 be stayed and then commuted upon the successful completion of
642 the pretrial diversion program, or any other form of deferred
643 prosecution agreement.

644 (3) Upon receipt of a court order detailing any



645 ignition interlock violation of the requirements of this
646 section or Section 32-5A-191.4 or termination of the
647 participation in any pretrial diversion program, the Alabama
648 State Law Enforcement Agency shall suspend or revoke driving
649 privileges pursuant to this section and Section 32-5A-304.

650 (4) Nothing in this section shall be construed to
651 require the Alabama State Law Enforcement Agency to issue an
652 ignition interlock license or stay or commute any license
653 suspension or revocation period of a holder of a commercial
654 driver's license, an operator of a commercial motor vehicle,
655 or a commercial driver learner permit holder in violation of
656 other state or federal laws.

657 ~~(y)~~ (z) Pursuant to Section 15-22-54, the maximum
658 probation period for persons convicted under this section
659 shall be extended until all ignition interlock requirements
660 have been completed by the offender.

661 ~~(z)~~ (aa) Notwithstanding the ignition interlock
662 requirements of this section, no person may be required to
663 install an ignition interlock device if there is not a
664 certified ignition interlock provider available within a 50
665 mile radius of his or her place of residence or place of
666 business or employment."

667 Section 2. Although this bill would have as its purpose
668 or effect the requirement of a new or increased expenditure of
669 local funds, the bill is excluded from further requirements
670 and application under Section 111.05 of the Constitution of
671 Alabama of 2022, because the bill defines a new crime or
672 amends the definition of an existing crime.



673 Section 3. This act shall become effective on July 1,
674 2023, following its passage and approval by the Governor or
675 its otherwise becoming law.