

1 HB477  
2 149716-3  
3 By Representative Farley  
4 RFD: Public Safety and Homeland Security  
5 First Read: 20-MAR-13

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8 SYNOPSIS: Under existing law, certain persons  
9 authorized to drive a motor vehicle who are  
10 convicted of driving under the influence are  
11 required to have installed an operating ignition  
12 interlock device for certain periods of time.

13 This bill would authorize the Department of  
14 Public Safety to withdraw the 90-day suspension of  
15 a person's driver's license for a first conviction  
16 of driving under the influence if the judge orders  
17 the offender or the offender elects to have an  
18 ignition interlock device installed and operating  
19 on the designated motor vehicle and is issued a  
20 restricted license.

21 This bill would allow driver's license  
22 revocation periods to be commuted for certain  
23 driving under the influence violations upon  
24 completion of a certain portion of the revocation  
25 and upon the installation of a certified ignition  
26 interlock device in a designated motor vehicle.

1                   This bill would require the installation of  
2 a certified ignition interlock device for a person  
3 convicted of driving under the influence with at  
4 least .15 percent or more by weight of alcohol in  
5 his or her blood.

6                   This bill would require courts to notify the  
7 Department of Public Safety of certain driving  
8 under the influence convictions requiring  
9 installation of an ignition interlock device and  
10 would require the department to issue restricted  
11 licenses indicating that a licensee is subject to  
12 the operation of a motor vehicle only with the  
13 approved ignition interlock device installed and  
14 properly operating.

15                   This bill would specify that ignition  
16 interlock requirements do not apply to certain  
17 minors adjudicated in juvenile court unless  
18 specifically ordered by a court.

19                   This bill would specify that a provider of  
20 ignition interlock devices who fails to satisfy  
21 certain specifications will have its device removed  
22 from the list of approved ignition interlock  
23 devices for a period of five years.

24                   This bill would also create the Alabama  
25 Interlock Indigent Fund, to be administered by the  
26 Department of Public Safety.

1                   Amendment 621 of the Constitution of Alabama  
2                   of 1901, now appearing as Section 111.05 of the  
3                   Official Recompilation of the Constitution of  
4                   Alabama of 1901, as amended, prohibits a general  
5                   law whose purpose or effect would be to require a  
6                   new or increased expenditure of local funds from  
7                   becoming effective with regard to a local  
8                   governmental entity without enactment by a 2/3 vote  
9                   unless: it comes within one of a number of  
10                  specified exceptions; it is approved by the  
11                  affected entity; or the Legislature appropriates  
12                  funds, or provides a local source of revenue, to  
13                  the entity for the purpose.

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of the amendment. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in the amendment.

21  
22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   To amend Sections 32-5A-191, as amended by Act  
27                   2012-363 of the 2012 Regular Session, 32-5A-191.4, 32-5A-301,

1 and 32-5A-304, Code of Alabama 1975, relating to driving under  
2 the influence and ignition interlock devices; to authorize the  
3 Department of Public Safety to withdraw the driver's license  
4 suspension of certain persons for a first conviction of  
5 driving under the influence if the judge orders the offender  
6 or the offender elects to have an ignition interlock device  
7 installed and operating; to allow driver's license revocation  
8 periods to be commuted for certain driving under the influence  
9 violations upon completion of a certain portion of the  
10 revocation and upon the installation of a certified ignition  
11 interlock device; to require the installation of a certified  
12 ignition interlock device for certain persons convicted of  
13 driving under the influence with certain alcohol levels; to  
14 require courts to notify the Department of Public Safety of  
15 certain driving under the influence convictions requiring the  
16 installation of ignition interlock devices; to authorize the  
17 department to issue licenses with certain restrictions  
18 relating to ignition interlock devices; to specify that  
19 ignition interlock requirements do not apply to certain minors  
20 adjudicated in juvenile court unless ordered by the court; to  
21 provide for the removal of certain providers of ignition  
22 interlock services from the approved list for certain  
23 violations; to create the Alabama Interlock Indigent Fund; and  
24 in connection therewith would have as its purpose or effect  
25 the requirement of a new or increased expenditure of local  
26 funds within the meaning of Amendment 621 of the Constitution  
27 of Alabama of 1901, now appearing as Section 111.05 of the

1 Official Recompilation of the Constitution of Alabama of 1901,  
2 as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 32-5A-191, as amended by Act  
5 2012-363 of the 2012 Regular Session, 32-5A-191.4, 32-5A-301,  
6 and 32-5A-304, Code of Alabama 1975, are amended to read as  
7 follows:

8 "§32-5A-191.

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

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

13 "(2) Under the influence of alcohol;

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

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

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

23 "(b) A person who is under the age of 21 years shall  
24 not drive or be in actual physical control of any vehicle if  
25 there is 0.02 percent or more by weight of alcohol in his or  
26 her blood. The Department of Public Safety shall suspend or  
27 revoke the driver's license of any person, including, but not

1 limited to, a juvenile, child, or youthful offender, convicted  
2 or adjudicated of, or subjected to a finding of, delinquency  
3 based on this subsection. Notwithstanding the foregoing, upon  
4 the first violation of this subsection by a person whose blood  
5 alcohol level is between 0.02 and 0.08, the person's driver's  
6 license or driving privilege shall be suspended for a period  
7 of 30 days in lieu of any penalties provided in subsection (e)  
8 of this section, and there shall be no disclosure, other than  
9 to courts, law enforcement agencies, and the person's  
10 employer, by any entity or person of any information,  
11 documents, or records relating to the person's arrest,  
12 conviction, or adjudication of or finding of delinquency based  
13 on this subsection.

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

23 "(c) (1) A school bus or day care driver shall not  
24 drive or be in actual physical control of any vehicle while in  
25 performance of his or her duties if there is greater than 0.02  
26 percent by weight of alcohol in his or her blood. A person  
27 convicted pursuant to this subsection shall be subject to the

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

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

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

1 imprisonment. In addition, on a first conviction, the Director  
2 of Public Safety shall suspend the driving privilege or  
3 driver's license of the person convicted for a period of 90  
4 days. The 90-day suspension may be withdrawn if the judge  
5 orders the offender or the offender elects to have an ignition  
6 interlock device installed and operating on the designated  
7 motor vehicle driven by the offender for a period of one year  
8 from the date of issuance of a driver's license. The driver's  
9 license shall indicate that the person's driving privileges  
10 are subject to the condition of the installation and use of a  
11 certified ignition interlock device on a motor vehicle in lieu  
12 of suspension. The person shall present proof of installation  
13 of the approved ignition interlock device to the Department of  
14 Public Safety and obtain a driver's license indicating that  
15 the person is restricted to such use when operating a motor  
16 vehicle. If, on a first conviction, any person refusing to  
17 provide a blood alcohol concentration or if a child under the  
18 age of 14 years was ~~present~~ a passenger in the vehicle at the  
19 time of the offense or if someone else besides the offender  
20 was injured at the time of the offense, the Director of the  
21 Department of Public Safety shall suspend the driving  
22 privilege or driver's license of the person convicted for a  
23 period of 90 days and the person shall be required to have an  
24 ignition interlock device installed and operating on the  
25 designated motor vehicle driven by the offender for a period  
26 of two years from the date of issuance of a driver's license  
27 indicating that the person's driving privileges are subject to

1 the condition of the installation and use of a certified  
2 ignition interlock device on a motor vehicle.

3 "(f) On a second conviction within a five-year  
4 period, a person convicted of violating this section shall be  
5 punished by a fine of not less than one thousand one hundred  
6 dollars (\$1,100) nor more than five thousand one hundred  
7 dollars (\$5,100) and by imprisonment, which may include hard  
8 labor in the county or municipal jail for not more than one  
9 year. The sentence shall include a mandatory sentence, which  
10 is not subject to suspension or probation, of imprisonment in  
11 the county or municipal jail for not less than five days or  
12 community service for not less than 30 days. In addition the  
13 Director of Public Safety shall revoke the driving privileges  
14 or driver's license of the person convicted for a period of  
15 one year and the offender shall be required to have an  
16 ignition interlock device installed and operating on the  
17 designated motor vehicle driven by the offender for a period  
18 of two years from the date of 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. If, a minimum of  
22 45 days after the license revocation or suspension pursuant to  
23 Section 32-5A-304, or both, is completed, the person convicted  
24 has a certified ignition interlock device installed and  
25 operational on the designated motor vehicle driven by the  
26 offender, the mandated ignition interlock period of two years  
27 provided in this subsection shall begin and the remainder of

1 the driver's license revocation, suspension, or both, will be  
2 commuted.

3 "(g) On a third conviction within a five-year  
4 period, a person convicted of violating this section shall be  
5 punished by a fine of not less than two thousand one hundred  
6 dollars (\$2,100) nor more than ten thousand one hundred  
7 dollars (\$10,100) and by imprisonment, which may include hard  
8 labor, in the county or municipal jail for not less than 60  
9 days nor more than one year, to include a minimum of 60 days  
10 which shall be served in the county or municipal jail and  
11 cannot be probated or suspended. In addition, the Director of  
12 Public Safety shall revoke the driving privilege or driver's  
13 license of the person convicted for a period of three years  
14 and the offender shall be required to have an ignition  
15 interlock device installed and operating on the designated  
16 motor vehicle driven by the offender for a period of three  
17 years from the date of issuance of a driver's license  
18 indicating that the person's driving privileges are subject to  
19 the condition of the installation and use of a certified  
20 ignition interlock device on a motor vehicle. If, a minimum of  
21 180 days after the license revocation or suspension pursuant  
22 to Section 32-5A-304, or both, is completed, the person  
23 convicted has a certified ignition interlock device installed  
24 and operational on the designated motor vehicle driven by the  
25 offender, the mandated ignition interlock period of three  
26 years provided in this subsection shall begin and the

1 remainder of the driver's license revocation, suspension, or  
2 both, will be commuted.

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

1 required to have an ignition interlock device installed and  
2 operating on the designated motor vehicle driven by the  
3 offender for a period of five years from the date of issuance  
4 of a driver's license indicating that the person's driving  
5 privileges are subject to the condition of the installation  
6 and use of a certified ignition interlock device on a motor  
7 vehicle. If, a minimum of one year after the license  
8 revocation or suspension pursuant to Section 32-5A-304, or  
9 both, is completed, the person convicted has a certified  
10 ignition interlock device installed and operational on the  
11 designated motor vehicle driven by the offender, the mandated  
12 ignition interlock period of five years provided in this  
13 subsection shall begin and the remainder of the driver's  
14 license revocation, suspension, or both, will be commuted.

15 "The Alabama habitual felony offender law shall not  
16 apply to a conviction of a felony pursuant to this subsection,  
17 and a conviction of a felony pursuant to this subsection shall  
18 not be a felony conviction for purposes of the enhancement of  
19 punishment pursuant to Alabama's habitual felony offender law.

20 "(i) When any person convicted of violating this  
21 section is found to have had at least 0.15 percent or more by  
22 weight of alcohol in his or her blood while operating or being  
23 in actual physical control of a vehicle, he or she shall be  
24 sentenced to at least double the minimum punishment that the  
25 person would have received if he or she had had less than 0.15  
26 percent by weight of alcohol in his or her blood. Upon the  
27 first violation of this subsection, the offender shall be

1 required to have an ignition interlock device installed and  
2 operating on the designated motor vehicle driven by the  
3 offender for a period of two years from the date of issuance  
4 of a driver's license indicating that the person's driving  
5 privileges are subject to the condition of the installation  
6 and use of a certified ignition interlock device on a motor  
7 vehicle. If the adjudicated offense is a misdemeanor, the  
8 minimum punishment shall be imprisonment for one year, all of  
9 which may be suspended except as otherwise provided for in  
10 Section 32-5A-191(f) and Section 32-5A-191 (g). ~~In addition,~~  
11 ~~the Director of Public Safety shall revoke the driving~~  
12 ~~privileges or driver's license of the person convicted for a~~  
13 ~~period of not less than one year.~~

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 ~~present~~ a passenger in the  
17 vehicle at the time of the offense, the person shall be  
18 sentenced to at least double the minimum punishment that the  
19 person would have received if the child had not been ~~present~~ a  
20 passenger in the motor vehicle.

21 "(k) (1) In addition to the penalties provided  
22 herein, any person convicted of violating this section shall  
23 be referred to the court referral officer for evaluation and  
24 referral to appropriate community resources. The defendant  
25 shall, at a minimum, be required to complete a DUI or  
26 substance abuse court referral program approved by the  
27 Administrative Office of Courts and operated in accordance

1 with provisions of the Mandatory Treatment Act of 1990,  
2 Sections 12-23-1 to 12-23-19, inclusive. The Department of  
3 Public Safety shall not reissue a driver's license to a person  
4 convicted under this section without receiving proof that the  
5 defendant has successfully completed the required program.

6 "(2) Upon conviction, the court shall notify the  
7 Department of Public Safety that the person convicted is  
8 required to install and maintain an approved ignition  
9 interlock device. The Department of Public Safety shall cancel  
10 a person's driving privileges until completion of the  
11 mandatory suspension or revocation period as required by this  
12 section, and clearance of all other suspension, revocation,  
13 cancellation, or denial as required, and proof of installation  
14 of an approved ignition interlock device is presented to the  
15 Department of Public Safety. The Department of Public Safety  
16 shall not reissue a driver's license to a person required by  
17 the courts or law to have the device installed until proof is  
18 presented and upon being otherwise eligible for reinstatement  
19 of driving privileges. Upon presentation of proof and  
20 completion of all ignition interlock requirements, the  
21 Department of Public Safety shall issue a driver's license  
22 with a restriction indicating that the licensee is subject to  
23 the operation of a motor vehicle only with the approved  
24 ignition interlock device installed and properly operating. If  
25 the licensee fails to maintain the approved ignition interlock  
26 device as required or is otherwise in noncompliance with any  
27 orders of the court, the court shall notify the Department of

1 Public Safety regarding the noncompliance and the department  
2 shall cancel the person's driver license or driving privileges  
3 until notification is received from the court that the  
4 licensee is in compliance. The restriction indicating that the  
5 licensee is subject to the ignition interlock device may be  
6 removed only upon confirmation by the court of conviction to  
7 the department that the licensee is no longer subject to the  
8 ignition interlock device requirement.

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

13 "(m) Except for fines collected for violations of  
14 this section charged pursuant to a municipal ordinance, fines  
15 collected for violations of this section shall be deposited to  
16 the State General Fund; however, beginning October 1, 1995, of  
17 any amount collected over two hundred fifty dollars (\$250) for  
18 a first conviction, over five hundred dollars (\$500) for a  
19 second conviction within five years, over one thousand dollars  
20 (\$1,000) for a third conviction within five years, and over  
21 two thousand dollars (\$2,000) for a fourth or subsequent  
22 conviction within five years, the first one hundred dollars  
23 (\$100) of that additional amount shall be deposited to the  
24 Alabama Chemical Testing Training and Equipment Trust Fund,  
25 after three percent of the one hundred dollars (\$100) is  
26 deducted for administrative costs, and beginning October 1,  
27 1997, and thereafter, the second one hundred dollars (\$100) of

1 that additional amount shall be deposited in the Impaired  
2 Drivers Trust Fund after deducting five percent of the one  
3 hundred dollars (\$100) for administrative costs and the  
4 remainder of the funds shall be deposited to the State General  
5 Fund. Fines collected for violations of this section charged  
6 pursuant to a municipal ordinance where the total fine is paid  
7 at one time shall be deposited as follows: The first three  
8 hundred fifty dollars (\$350) collected for a first conviction,  
9 the first six hundred dollars (\$600) collected for a second  
10 conviction within five years, the first one thousand one  
11 hundred dollars (\$1,100) collected for a third conviction, and  
12 the first two thousand one hundred dollars (\$2,100) collected  
13 for a fourth or subsequent conviction shall be deposited to  
14 the State Treasury with the first one hundred dollars (\$100)  
15 collected for each conviction credited to the Alabama Chemical  
16 Testing Training and Equipment Trust Fund and the second one  
17 hundred dollars (\$100) to the Impaired Drivers Trust Fund  
18 after deducting five percent of the one hundred dollars (\$100)  
19 for administrative costs and depositing this amount in the  
20 general fund of the municipality, and the balance credited to  
21 the State General Fund. Any amounts collected over these  
22 amounts shall be deposited as otherwise provided by law. Fines  
23 collected for violations of this section charged pursuant to a  
24 municipal ordinance, where the fine is paid on a partial or  
25 installment basis, shall be deposited as follows: The first  
26 two hundred dollars (\$200) of the fine collected for any  
27 conviction shall be deposited to the State Treasury with the

1 first one hundred dollars (\$100) collected for any conviction  
2 credited to the Alabama Chemical Testing Training and  
3 Equipment Trust Fund and the second one hundred dollars (\$100)  
4 for any conviction credited to the Impaired Drivers Trust Fund  
5 after deducting five percent of the one hundred dollars (\$100)  
6 for administrative costs and depositing this amount in the  
7 general fund of the municipality. The second three hundred  
8 dollars (\$300) of the fine collected for a first conviction,  
9 the second eight hundred dollars (\$800) collected for a second  
10 conviction, the second one thousand eight hundred dollars  
11 (\$1,800) collected for a third conviction, and the second  
12 three thousand eight hundred dollars (\$3,800) collected for a  
13 fourth conviction shall be divided with 50 percent of the  
14 funds collected to be deposited to the State Treasury to be  
15 credited to the State General Fund and 50 percent deposited as  
16 otherwise provided by law for municipal ordinance violations.  
17 Any amounts collected over these amounts shall be deposited as  
18 otherwise provided by law for municipal ordinance violations.  
19 Notwithstanding any provision of law to the contrary, 90  
20 percent of any fine assessed and collected for any DUI offense  
21 charged by municipal ordinance violation in district or  
22 circuit court shall be computed only on the amount assessed  
23 over the minimum fine authorized, and upon collection shall be  
24 distributed to the municipal general fund with the remaining  
25 10 percent distributed to the State General Fund.

26 "(n) A person who has been arrested for violating  
27 this section shall not be released from jail under bond or

1 otherwise, until there is less than the same percent by weight  
2 of alcohol in his or her blood as specified in subsection  
3 (a) (1) or, in the case of a person who is under the age of 21  
4 years, subsection (b) hereof.

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

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

18 ~~"(q) (p)~~ A prior conviction within a five-year period  
19 for driving under the influence of alcohol or drugs from this  
20 state, a municipality within this state, or another state or  
21 territory or a municipality of another state or territory  
22 shall be considered by a court for imposing a sentence  
23 pursuant to this section.

24 ~~"(r) (q)~~ Any person convicted of driving under the  
25 influence of alcohol, or a controlled substance, or both, or  
26 any substance which impairs the mental or physical faculties  
27 in violation of this section, a municipal ordinance adopting

1 this section, or a similar law from another state or territory  
2 or a municipality of another state or territory more than once  
3 in a five-year period shall have his or her motor vehicle  
4 registration for all vehicles owned by the repeat offender  
5 suspended by the Alabama Department of Revenue for the  
6 duration of the offender's driver's license suspension period,  
7 unless such action would impose an undue hardship to any  
8 individual, not including the repeat offender, who is  
9 completely dependent on the motor vehicle for the necessities  
10 of life, including any family member of the repeat offender  
11 and any co-owner of the vehicle or, in the case of a repeat  
12 offender, if the repeat offender has a functioning ignition  
13 interlock device installed on the designated vehicle for the  
14 duration of the offender's driver's license suspension or  
15 revocation period.

16 "~~(s)~~(r) (1) Any person ordered by the court to have  
17 an ignition interlock device installed on a designated vehicle  
18 shall pay to the court, ~~during~~ for each of the first four  
19 months following his or her ~~license is suspended~~ conviction,  
20 seventy-five dollars (\$75) per month, which shall be divided  
21 as follows:

22 "~~(1)~~a. ~~Forty-five~~ percent to the Alabama Interlock  
23 Indigent Fund.

24 "~~(2)~~b. ~~Twenty-five~~ percent to the ~~court of~~  
25 jurisdiction State Judicial Administration Fund administered  
26 by the Administrative Office of Courts.

1           "~~(3)~~c. Twenty percent to the ~~Department of Public~~  
2 ~~Safety Highway Traffic Safety Fund~~ administered by the  
3 ~~Department of Public Safety.~~

4           "~~(4)~~d. Fifteen percent to the ~~district attorney of~~  
5 ~~jurisdiction District Attorney's Solicitor Fund.~~

6           "(2) The defendant shall pay all costs associated  
7 with the installation, purchase, maintenance, or lease of the  
8 ignition interlock device to an approved ignition interlock  
9 pursuant to the rules of the Department of Forensic Sciences,  
10 unless the defendant is subject to Section 32-5A-191.4(g)(4).

11           "~~(t)~~(s) The defendant shall designate the vehicle to  
12 be used by identifying the vehicle by the vehicle  
13 identification number to the court. The defendant may  
14 designate additional vehicles under this subsection to have  
15 additional ignition interlock devices at his or her expense.

16           "~~(u)~~~~(1)~~(t) (1) Any person who is required to comply  
17 with the ignition interlock provisions of this section as a  
18 condition of restoration or reinstatement of his or her  
19 driver's license, shall only operate the designated vehicle  
20 equipped with a functioning ignition interlock device for the  
21 period of time consistent with the offense for which he or she  
22 was convicted as provided for in this section.

23           "(2) The duration of the time an ignition interlock  
24 device is required by this section shall be doubled if the  
25 offender refused the prescribed chemical test for  
26 intoxication, or if the offender's blood alcohol concentration

1 was 0.15 grams percent or greater unless already doubled by a  
2 previous subsection.

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

16 "(2) The defendant shall provide proof of  
17 installation of an approved ignition interlock device to the  
18 Department of Public Safety as a condition of the issuance of  
19 a restricted driver's license.

20 "(3) Any ignition interlock driving violation  
21 committed by the offender during the mandated ignition  
22 interlock period shall extend the duration of ignition  
23 interlock use for six months from the date of violation and  
24 positive identification ignition interlock shall be required  
25 for the duration of the term. Ignition interlock driving  
26 violations include any of the following:

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

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

6            "c. Failure to comply with the servicing or  
7 calibration requirements of the ignition interlock device  
8 every 30 days.

9            "~~(w)~~ (v) Nothing in this section and Section  
10 32-5A-191.4 shall require an employer to install an ignition  
11 interlock device in a vehicle owned or operated by the  
12 employer for use by an employee required to use the device as  
13 a condition of driving pursuant to this section and Section  
14 32-5A-191.4.

15            "(w) The provisions in this section and Section  
16 32-5A-191.4 relating to ignition interlock devices shall not  
17 apply to persons who commit violations of this section while  
18 under the age of 19 years of age and are adjudicated in  
19 juvenile court, unless specifically ordered otherwise by the  
20 court.

21            "§32-5A-191.4.

22            "(a) As used in Section 32-5A-191, the term,  
23 "ignition interlock device" means a constant monitoring device  
24 that prevents a motor vehicle from being started at any time  
25 without first determining the equivalent blood alcohol level  
26 of the operator through the taking of a breath sample for  
27 testing. The system shall be calibrated so that the motor

1 vehicle may not be started if the blood alcohol level of the  
2 operator, as measured by the test, reaches a blood alcohol  
3 concentration level of 0.02.

4 "(b) The ignition interlock device shall be  
5 installed, calibrated, and monitored directly by trained  
6 technicians who shall train the offender for whom the device  
7 is being installed in the proper use of the device. The use of  
8 a mail in or remote calibration system where the technician is  
9 not in the immediate proximity of the vehicle being calibrated  
10 is prohibited. Any provider found by the Department of  
11 Forensic Sciences or Department of Public Safety in violation  
12 of this subsection shall have its device or devices  
13 immediately removed from the list of approved ignition  
14 interlock devices for a period of five years.

15 "(c) The Department of Forensic Sciences shall  
16 formulate and promulgate rules for the proper approval,  
17 installation, and use of ignition interlock devices.  
18 Additionally, the Department of Forensic Sciences shall  
19 maintain and make public the list of approved ignition  
20 interlock devices.

21 "(d) The Department of Forensic Sciences may adopt  
22 in whole or relevant part the guidelines, rules, regulations,  
23 studies, or independent laboratory tests performed or relied  
24 upon by other states, their agencies, or commissions.

25 "(e) The Department of Forensic Sciences shall  
26 charge an application fee of two thousand dollars (\$2,000) to  
27 any ignition interlock provider to evaluate the instrument.

1 Any ignition interlock provider whose ignition interlock  
2 device is approved by the Department of Forensic Sciences  
3 shall be permitted to install and calibrate its approved  
4 device in Alabama. Each year during the month of April, the  
5 Department of Forensic Sciences may receive applications and  
6 instruments to review for approval.

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

15 "(g) (1) When the court imposes the use of an  
16 ignition interlock device as required by Section 32-5A-191,  
17 the court shall require that the person provide proof of  
18 installation of a device to the court or ~~a~~ an adult probation  
19 officer within 30 days of the date the defendant becomes  
20 eligible to receive a restricted license from the Department  
21 of Public Safety. If the person fails to provide proof of  
22 installation within that period, absent a finding by the court  
23 of good cause for that failure which is entered into the court  
24 record, the court ~~shall~~ may revoke the person's probation  
25 where applicable after a petition to revoke probation has been  
26 filed and the defendant has been given notice and an  
27 opportunity to be heard on the petition.

1           "(2) Proof of installation for the purpose of this  
2 subsection may be furnished by either a certificate of  
3 installation or a copy of the lease agreement in the name of  
4 the offender for the designated vehicle with an approved  
5 ignition interlock device company.

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

25           "(4) Any offender granted indigency status for the  
26 purpose of ignition interlock shall pay one-half of the costs  
27 associated with installing and maintaining an interlock device

1 for a period of one year at which time the offender shall pay  
2 the full remaining cost. This section shall not affect any  
3 fees associated with the driver's license of the defendant.

4 "(5)a. All interlock providers shall be required to  
5 pay one and one-half percent of all payments collected less  
6 any payments made by a defendant determined as indigent for  
7 the purpose of ignition interlock to the Alabama Interlock  
8 Indigent Fund in the State Treasury.

9 "b. The Alabama Interlock Indigent Fund is created  
10 in the State Treasury. The fund shall be administered by the  
11 Department of Public Safety. All of the money in the fund  
12 shall be used to reimburse ignition interlock device providers  
13 who have installed devices in vehicles of indigent persons  
14 pursuant to court orders issued under this section. No  
15 provider shall be reimbursed for an interlock device installed  
16 without the completed affidavit of substantial hardship and  
17 the subsequent order of the court granting indigency status.  
18 Payments to interlock device providers pursuant to this  
19 subdivision shall be made every three months. If the amount of  
20 money in the fund at the time payments are made is not  
21 sufficient to pay all requests for reimbursement submitted  
22 during that three-month period, the Comptroller shall make  
23 payments on a pro rata basis and those payments shall be  
24 considered payment in full for the requests submitted. At the  
25 end of each fiscal year, all monies above ~~one hundred thousand~~  
26 ~~dollars (\$100,000)~~ five hundred thousand dollars (\$500,000)

1 remaining in the Alabama Interlock Indigent Fund shall be  
2 divided as follows:

3 "a.1. Thirty percent to ~~the Department of Public~~  
4 ~~Safety~~ the Highway Traffic Safety Fund administered by the  
5 Department of Public Safety.

6 "b.2. Twenty percent to the ~~Department of Forensic~~  
7 ~~Sciences~~ Alabama Chemical Testing Training and Equipment Trust  
8 Fund administered by the Department of Forensic Sciences.

9 "c.3. Thirty percent to the ~~district attorney of~~  
10 ~~jurisdiction~~ District Attorney's Solicitor Fund.

11 "d.4. Twenty percent to the Office of Prosecution  
12 Services.

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

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

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

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

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

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

1 device shall be extended by six months. Upon a third or  
2 subsequent conviction of a violation of subsection (h), 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 and the  
6 time the defendant shall be required to use an ignition  
7 interlock device shall be extended by one year.

8 "(j) No person shall blow into an ignition interlock  
9 device or start a motor vehicle equipped with the device for  
10 the purpose of providing an operable motor vehicle to a person  
11 who is prohibited from operating a motor vehicle without an  
12 ignition interlock device.

13 "(k) No person shall intentionally attempt to tamper  
14 with, defeat, or circumvent the operation of an ignition  
15 interlock device.

16 "(l) Any person convicted of a violation of this  
17 section other than subsection (h) shall be punished by  
18 imprisonment for not more than six months or a fine of not  
19 more than five hundred dollars (\$500), or both.

20 "§32-5A-301.

21 "(a) A law enforcement officer who arrests any  
22 person for a violation of Section 32-5A-191 shall within five  
23 days after the day of arrest, excluding weekends and state  
24 holidays, hand deliver, or mail, or submit electronically to  
25 the department a sworn report of all information relevant to  
26 the enforcement action, including information which adequately  
27 identifies the arrested person, a statement of the officer's

1 grounds for belief that the person violated Section 32-5A-191,  
2 ~~a sworn report~~ of the results of any chemical test which was  
3 conducted, a statement if the person refused to submit to a  
4 test, and a copy of the citation or complaint filed with the  
5 court.

6 "(b) The report required by this section shall be  
7 made on forms supplied by the department or in a manner  
8 specified by regulations of the department.

9 "(c) The department shall not take action on any  
10 report not sworn to and not mailed and postmarked or received  
11 by the department within five days after the day of arrest,  
12 excluding weekends and state holidays, ~~and the driver license~~  
13 ~~of the person shall be returned.~~

14 "§32-5A-304.

15 "(a) A driving privilege suspension shall become  
16 effective 45 days after the person has received a notice of  
17 intended suspension as provided in Section 32-5A-303, or is  
18 deemed to have received a notice of suspension by mail as  
19 provided in Section 32-5A-302 if no notice of intended  
20 suspension was served.

21 "(b) The period of driving privilege suspension  
22 under this section shall be as follows:

23 "(1) Ninety days if the driving record of a person  
24 shows no prior alcohol or drug-related enforcement contacts  
25 during the immediately preceding five years.

1           "(2) One year if the driving record of a person  
2 shows one prior alcohol or drug-related enforcement contact  
3 during the immediately preceding five years.

4           "(3) Three years if the driving record of a person  
5 shows two or three alcohol or drug-related enforcement  
6 contacts during the immediately preceding five years.

7           "(4) Five years if the driving record of a person  
8 shows four or more alcohol or drug-related enforcement  
9 contacts during the immediately preceding five years.

10           "(5) For purposes of this section, "alcohol or  
11 drug-related enforcement contacts" shall include any  
12 suspension under this article, any suspension or revocation  
13 entered in this or any other state for a refusal to submit to  
14 chemical testing under an implied consent law, and any  
15 conviction in this or any other state for a violation which  
16 involves driving a motor vehicle while having an unlawful  
17 percent of alcohol in the blood, or while under the influence  
18 of alcohol or drugs, or alcohol and drugs except that no more  
19 than one alcohol or drug-related contact on any one DUI arrest  
20 may be considered by the department in determining the period  
21 of suspension.

22           "(c) If a license is suspended under this section  
23 for having .08 or more by weight of alcohol in the blood of  
24 the person and the person is also convicted on criminal  
25 charges arising out of the same occurrence for a violation of  
26 Section 32-5A-191, the suspension under this section shall be  
27 imposed, ~~but no period of suspension or revocation shall be~~

1 ~~imposed giving credit for suspension time served toward the~~  
2 ~~duration of suspension or revocation required under Section~~  
3 ~~32-5A-191. If a license is suspended under this section for~~  
4 ~~having .08 or more by weight of alcohol in the blood of the~~  
5 ~~person and the criminal charge against the person for~~  
6 ~~violation of Section 32-5A-191 is dismissed, nolle prossed, or~~  
7 ~~the person is acquitted of the charge, the director shall~~  
8 ~~rescind the suspension order and remove the administrative~~  
9 ~~suspension from the person's driving record."~~

10 Section 2. The amendatory language in Section 1 of  
11 this act to Section 32-5A-191, Code of Alabama 1975, regarding  
12 the commutation of driver's license suspensions and  
13 revocations upon compliance with the ignition interlock  
14 requirements shall apply retroactively.

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

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