

1 SB162  
2 165091-1  
3 By Senator Orr  
4 RFD: Judiciary  
5 First Read: 05-MAR-15

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7  
8 SYNOPSIS: Existing law provides penalties for driving  
9 while under the influence of alcohol or controlled  
10 substances.

11 This bill would further define the offense  
12 of driving under the influence.

13 Under existing law, a person may be charged  
14 with driving under the influence when there is a  
15 certain percentage of alcohol in the person's blood  
16 or if the person is under the influence of a  
17 controlled substance that impairs the mental or  
18 physical faculties of the person to the extent that  
19 it renders him or her incapable of safely driving.

20 This bill would define "under the influence"  
21 for the purpose of the offense of driving under the  
22 influence to mean not having the normal use of  
23 mental and physical faculties by reason of the  
24 introduction into the body of alcohol, a controlled  
25 substance, a drug, or any other substance, or a  
26 combination of two or more of those substances.

1           The bill would consolidate the charges of  
2 driving under the influence to specify that a  
3 person may be charged with driving under the  
4 influence if the person is under the influence of  
5 any substance or substances which render the person  
6 incapable of safe driving.

7           This bill also would provide that a person  
8 may be charged with driving under the influence if  
9 he or she has a measurable amount of specified  
10 substances in his or her body unless the person has  
11 a valid prescription for use of the substance or is  
12 otherwise authorized to use the substance.

13           This bill would further increase the minimum  
14 mandatory sentence for a fourth or subsequent  
15 violation of the law from 10 days to 90 days.

16           Existing law provides that a prior  
17 conviction within a five-year period for driving  
18 while under the influence from this state, a  
19 municipality within this state, or another state or  
20 territory or a municipality of another state or  
21 territory would be considered by a court when  
22 imposing a sentence.

23           This bill would remove the requirement that  
24 a prior conviction considered by a court when  
25 imposing a sentence would only be a prior  
26 conviction within a five-year period and would  
27 provide that any prior conviction for driving while

1           impaired from this state, a municipality within  
2           this state, or another state or territory or a  
3           municipality of another state or territory, with or  
4           without the jurisdiction having adopted the law of  
5           Alabama, so long as the offense was in violation of  
6           the law in the respective jurisdiction, would be  
7           considered by a court for imposing a sentence.

8           Existing law provides that a person who  
9           drives a motor vehicle while his or her driver's  
10          license or driving privilege is cancelled, denied,  
11          suspended, or revoked is guilty of a misdemeanor  
12          punishable by a minimum fine of \$100 up to a  
13          maximum of \$500 and imprisonment of no more than  
14          180 days.

15          This bill would provide that a person  
16          convicted for a third or subsequent time for  
17          operating a motor vehicle while his or her license  
18          or driving privilege is cancelled, denied,  
19          suspended, or revoked when his or her license or  
20          driving privilege was cancelled, denied, suspended,  
21          or revoked as a consequence of a DUI-related  
22          offense would be guilty of a Class A misdemeanor  
23          with a minimum mandatory sentence of 30 days in  
24          jail.

25          This bill would also delete a redundant  
26          subsection providing additional penalties when a

1 child under 14 years of age was in the vehicle at  
2 the time of a DUI offense.

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

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

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1           To amend Section 32-5A-191 of the Code of Alabama  
2 1975, as last amended by Act 2014-222 of the 2014 Regular  
3 Session, relating to driving while under the influence; to  
4 further define the offense and to define the term under the  
5 influence for the purpose of unsafe driving; to prohibit a  
6 person from driving who has a measurable amount of specified  
7 substances in the person's body; to further provide for a  
8 minimum mandatory sentence for a fourth or subsequent  
9 violation; to remove the requirement that a prior conviction  
10 considered by the court when imposing a sentence would only be  
11 a prior conviction within a five-year period; to further  
12 provide for the offenses that can be considered by a court  
13 when imposing a sentence for multiple violations; to amend  
14 Section 32-6-19 of the Code of Alabama 1975, relating to  
15 violations for driving while license or driving privilege is  
16 cancelled, denied, suspended, or revoked; to provide that a  
17 person convicted for a third or subsequent time when his or  
18 her license or driving privilege was cancelled, denied,  
19 suspended, or revoked as a consequence of a DUI-related  
20 offense would be guilty of a Class A misdemeanor with a  
21 minimum mandatory sentence of 30 days in jail; and in  
22 connection therewith would have as its purpose or effect the  
23 requirement of a new or increased expenditure of local funds  
24 within the meaning of Amendment 621 of the Constitution of  
25 Alabama of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of Alabama of 1901,  
27 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 32-5A-191 of the Code of Alabama  
3 1975, as last amended by Act 2014-222 of the 2014 Regular  
4 Session, is amended to read as follows:

5 "§32-5A-191.

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

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

10 ~~"(2) Under the influence of alcohol;~~

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

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

17 ~~"(5)(2) a. Under the influence of any substance  
18 which impairs the mental or physical faculties of such person  
19 or substances to a degree which renders him or her incapable  
20 of safely driving.~~

21 "b. For the purposes of this subdivision, the term  
22 "under the influence" means either of the following:

23 "1. Not having the normal use of mental or physical  
24 faculties by reason of the introduction into the body of  
25 alcohol, a controlled substance, a drug, or any other  
26 substance, or combination of two or more of those substances;  
27 or

1                   "2. There is greater than five nanograms of  
2 Delta-9-tetrahydrocannabinol (THC) per milliliter of blood or  
3 any quantifiable amount of any of the following substances in  
4 the person's blood or oral fluid:

5                   "(i) Alprazolam.

6                   "(ii) Hydrocodone.

7                   "(iii) Amphetamine/methamphetamine.

8                   "(iv) Carisoprodol/meprobamate.

9                   "(v) Diazepam/nordiazepam.

10                  "(vi) Morphine.

11                  "(vii) Cocaine.

12                  "(viii) Methadone.

13                  "(ix) Oxycodone.

14                  "(x) Clonazepam.

15                  "(xi) Zolpidem.

16                  "It is an affirmative defense to a violation of this  
17 subparagraph 2 if the person has a lawful prescription for the  
18 substance or is otherwise authorized by law to use the  
19 substance.

20                  "3. Oral fluids taken pursuant to this section shall  
21 not be used or maintained for the purposes of DNA testing or  
22 any DNA related database.

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, the person's attorney of  
10 record, and the person's employer, by any entity or person of  
11 any information, documents, or records relating to the  
12 person's arrest, conviction, or adjudication of or finding of  
13 delinquency based 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 "(3) Any commutation of suspension or revocation  
20 time as it relates to a court order, approval, and  
21 installation of an ignition interlock device shall not apply  
22 to commercial driving privileges or disqualifications.

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

1           "(e) Upon a first conviction, a person violating  
2 this section shall be punished by imprisonment in the county  
3 or municipal jail for not more than one year, or by fine of  
4 not less than six hundred dollars (\$600) nor more than two  
5 thousand one hundred dollars (\$2,100), or by both a fine and  
6 imprisonment. In addition, on a first conviction, the Director  
7 of Public Safety shall suspend the driving privilege or  
8 driver's license of the person convicted for a period of 90  
9 days. The 90-day suspension shall be stayed if the offender  
10 elects to have an approved ignition interlock device installed  
11 and operating on the designated motor vehicle driven by the  
12 offender for six months. The offender shall present proof of  
13 installation of the approved ignition interlock device to the  
14 Department of Public Safety and obtain an ignition interlock  
15 restricted driver license. The remainder of the suspension  
16 shall be commuted upon the successful completion of the  
17 elected use, mandated use, or both, of the ignition interlock  
18 device. If, on a first conviction, any person refusing to  
19 provide a blood alcohol concentration or if a child under the  
20 age of 14 years was a passenger in the vehicle at the time of  
21 the offense or if someone else besides the offender was  
22 injured at the time of the offense, the Director of the  
23 Department of Public Safety shall suspend the driving  
24 privilege or driver's license of the person convicted for a  
25 period of 90 days and the person shall be required to have an  
26 ignition interlock device installed and operating on the  
27 designated motor vehicle driven by the offender for a period

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

19 "(f) On a second conviction ~~within a five-year~~  
20 ~~period~~, a person convicted of violating this section shall be  
21 punished by a fine of not less than one thousand one hundred  
22 dollars (\$1,100) nor more than five thousand one hundred  
23 dollars (\$5,100) and by imprisonment, which may include hard  
24 labor in the county or municipal jail for not more than one  
25 year. The sentence shall include a mandatory sentence, which  
26 is not subject to suspension or probation, of imprisonment in  
27 the county or municipal jail for not less than five days or

1 community service for not less than 30 days. In addition the  
2 Director of Public Safety shall revoke the driving privileges  
3 or driver's license of the person convicted for a period of  
4 one year and the offender shall be required to have an  
5 ignition interlock device installed and operating on the  
6 designated motor vehicle driven by the offender for a period  
7 of two years from the date of issuance of a driver's license  
8 indicating that the person's driving privileges are subject to  
9 the condition of the installation and use of a certified  
10 ignition interlock device on a motor vehicle. After a minimum  
11 of 45 days of the license revocation or suspension pursuant to  
12 Section 32-5A-304, this section, or both, is completed, upon  
13 receipt of a court order from the convicting court, upon  
14 issuance of an ignition interlock restricted driver license,  
15 and upon proof of installation or an operational approved  
16 ignition interlock device on the designated vehicle of the  
17 person convicted, the mandated ignition interlock period of  
18 two years approved in this subsection shall start and the  
19 suspension period, revocation period, or both, as required  
20 under this subsection shall be stayed. The remainder of the  
21 driver license revocation period, suspension period, or both,  
22 shall be commuted upon the successful completion of the period  
23 of time in which the ignition interlock device is mandated to  
24 be installed and operational.

25 "(g) On a third conviction, a person convicted of  
26 violating this section shall be punished by a fine of not less  
27 than two thousand one hundred dollars (\$2,100) nor more than

1 ten thousand one hundred dollars (\$10,100) and by  
2 imprisonment, which may include hard labor, in the county or  
3 municipal jail for not less than 60 days nor more than one  
4 year, to include a minimum of 60 days which shall be served in  
5 the county or municipal jail and cannot be probated or  
6 suspended. In addition, the Director of Public Safety shall  
7 revoke the driving privilege or driver's license of the person  
8 convicted for a period of three years and the offender shall  
9 be required to have an ignition interlock device installed and  
10 operating on the designated motor vehicle driven by the  
11 offender for a period of three years from the date of issuance  
12 of a driver's license indicating that the person's driving  
13 privileges are subject to the condition of the installation  
14 and use of a certified ignition interlock device on a motor  
15 vehicle. After a minimum of 180 days of the license revocation  
16 or suspension pursuant to Section 32-5A-304, this section, or  
17 both, is completed, upon receipt of a court order from the  
18 convicting court, upon issuance of an ignition interlock  
19 restricted driver license, and upon proof of installation of  
20 an operational approved ignition interlock device on the  
21 designated vehicle of the person convicted, the mandated  
22 ignition interlock period of three years provided in this  
23 subsection shall start and the suspension period, revocation  
24 period, or both, as required under this subsection shall be  
25 stayed. The remainder of the driver license revocation period,  
26 suspension period, or both, shall be commuted upon the  
27 successful completion of the period of time in which the

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

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~~ 90 days which  
16 shall be served in the county jail. The remainder of the  
17 sentence may be suspended or probated, but only if as a  
18 condition of probation the defendant enrolls and successfully  
19 completes a state certified chemical dependency program  
20 recommended by the court referral officer and approved by the  
21 sentencing court. Where probation is granted, the sentencing  
22 court may, in its discretion, and where monitoring equipment  
23 is available, place the defendant on house arrest under  
24 electronic surveillance during the probationary term. In  
25 addition to the other penalties authorized, the Director of  
26 Public Safety shall revoke the driving privilege or driver's  
27 license of the person convicted for a period of five years and

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

22 "The Alabama habitual felony offender law shall not  
23 apply to a conviction of a felony pursuant to this subsection,  
24 and a conviction of a felony pursuant to this subsection shall  
25 not be a felony conviction for purposes of the enhancement of  
26 punishment pursuant to Alabama's habitual felony offender law.  
27 However, prior misdemeanor or felony convictions for driving



1 under the influence may be considered as part of the  
2 sentencing calculations or determinations under the Alabama  
3 Sentencing Guidelines or rules promulgated by the Alabama  
4 Sentencing Commission.

5 "(i) When any person convicted of violating this  
6 section is found to have had at least 0.15 percent or more by  
7 weight of alcohol in his or her blood while operating or being  
8 in actual physical control of a vehicle, he or she shall be  
9 sentenced to at least double the minimum punishment that the  
10 person would have received if he or she had had less than 0.15  
11 percent by weight of alcohol in his or her blood. Upon the  
12 first violation of this subsection, the offender shall be  
13 ordered by the court to have an ignition interlock device  
14 installed and operating on his or her designated motor vehicle  
15 for a period of two years from the date of issuance of an  
16 ignition interlock-restricted driver's license. If the  
17 adjudicated offense is a misdemeanor, the minimum punishment  
18 shall be imprisonment for one year, all of which may be  
19 suspended except as otherwise provided for in subsections (f)  
20 and (g).

21 "(j) When any person over the age of 21 years is  
22 convicted of violating this section and it is found that a  
23 child under the age of 14 years was a passenger in the vehicle  
24 at the time of the offense, the person shall be sentenced to  
25 at least double the minimum punishment that the person would  
26 have received if the child had not been a passenger in the  
27 motor vehicle.

1           "(k) (1) In addition to the penalties provided  
2 herein, any person convicted of violating this section shall  
3 be referred to the court referral officer for evaluation and  
4 referral to appropriate community resources. The defendant  
5 shall, at a minimum, be required to complete a DUI or  
6 substance abuse court referral program approved by the  
7 Administrative Office of Courts and operated in accordance  
8 with provisions of the Mandatory Treatment Act of 1990,  
9 Sections 12-23-1 to 12-23-19, inclusive. The Department of  
10 Public Safety shall not reissue a driver's license to a person  
11 convicted under this section without receiving proof that the  
12 defendant has successfully completed the required program.

13           "(2) Upon conviction, the court shall notify the  
14 Department of Public Safety if the person convicted is  
15 required to install and maintain an approved ignition  
16 interlock device. The department shall suspend or revoke a  
17 person's driving privileges until completion of the mandatory  
18 suspension or revocation period required by this section, and  
19 clearance of all other suspensions, revocations,  
20 cancellations, or denials, and proof of installation of an  
21 approved ignition interlock device is presented to the  
22 department. The department shall not reissue a driver's  
23 license to a person who has been ordered by a court or is  
24 required by law to have the ignition interlock device  
25 installed until proof is presented that the person is eligible  
26 for reinstatement of driving privileges. Upon presentation of  
27 proof and compliance with all ignition interlock requirements,

1 the department shall issue a driver's license with a  
2 restriction indicating that the licensee may operate a motor  
3 vehicle only with the certified ignition interlock device  
4 installed and properly operating. If the licensee fails to  
5 maintain the approved ignition interlock device as required or  
6 is otherwise not in compliance with any order of the court,  
7 the court shall notify the department of the noncompliance and  
8 the department shall suspend the person's driving privileges  
9 until the department receives notification from the court that  
10 the licensee is in compliance. The requirement that the  
11 licensee use the ignition interlock device may be removed only  
12 when the court of conviction confirms to the department that  
13 the licensee is no longer subject to the ignition interlock  
14 device requirement.

15 "(l) Neither reckless driving nor any other traffic  
16 infraction is a lesser included offense under a charge of  
17 driving under the influence of alcohol or of a controlled  
18 substance.

19 "(m) Except for fines collected for violations of  
20 this section charged pursuant to a municipal ordinance, fines  
21 collected for violations of this section shall be deposited to  
22 the State General Fund; however, beginning October 1, 1995, of  
23 any amount collected over two hundred fifty dollars (\$250) for  
24 a first conviction, over five hundred dollars (\$500) for a  
25 second conviction within five years, over one thousand dollars  
26 (\$1,000) for a third conviction within five years, and over  
27 two thousand dollars (\$2,000) for a fourth or subsequent

1 conviction within five years, the first one hundred dollars  
2 (\$100) of that additional amount shall be deposited to the  
3 Alabama Chemical Testing Training and Equipment Trust Fund,  
4 after three percent of the one hundred dollars (\$100) is  
5 deducted for administrative costs, and beginning October 1,  
6 1997, and thereafter, the second one hundred dollars (\$100) of  
7 that additional amount shall be deposited in the Impaired  
8 Drivers Trust Fund after deducting five percent of the one  
9 hundred dollars (\$100) for administrative costs and the  
10 remainder of the funds shall be deposited to the State General  
11 Fund. Fines collected for violations of this section charged  
12 pursuant to a municipal ordinance where the total fine is paid  
13 at one time shall be deposited as follows: The first three  
14 hundred fifty dollars (\$350) collected for a first conviction,  
15 the first six hundred dollars (\$600) collected for a second  
16 conviction within five years, the first one thousand one  
17 hundred dollars (\$1,100) collected for a third conviction, and  
18 the first two thousand one hundred dollars (\$2,100) collected  
19 for a fourth or subsequent conviction shall be deposited to  
20 the State Treasury with the first one hundred dollars (\$100)  
21 collected for each conviction credited to the Alabama Chemical  
22 Testing Training and Equipment Trust Fund and the second one  
23 hundred dollars (\$100) to the Impaired Drivers Trust Fund  
24 after deducting five percent of the one hundred dollars (\$100)  
25 for administrative costs and depositing this amount in the  
26 general fund of the municipality, and the balance credited to  
27 the State General Fund. Any amounts collected over these

1 amounts shall be deposited as otherwise provided by law. Fines  
2 collected for violations of this section charged pursuant to a  
3 municipal ordinance, where the fine is paid on a partial or  
4 installment basis, shall be deposited as follows: The first  
5 two hundred dollars (\$200) of the fine collected for any  
6 conviction shall be deposited to the State Treasury with the  
7 first one hundred dollars (\$100) collected for any conviction  
8 credited to the Alabama Chemical Testing Training and  
9 Equipment Trust Fund and the second one hundred dollars (\$100)  
10 for any conviction credited to the Impaired Drivers Trust Fund  
11 after deducting five percent of the one hundred dollars (\$100)  
12 for administrative costs and depositing this amount in the  
13 general fund of the municipality. The second three hundred  
14 dollars (\$300) of the fine collected for a first conviction,  
15 the second eight hundred dollars (\$800) collected for a second  
16 conviction, the second one thousand eight hundred dollars  
17 (\$1,800) collected for a third conviction, and the second  
18 three thousand eight hundred dollars (\$3,800) collected for a  
19 fourth conviction shall be divided with 50 percent of the  
20 funds collected to be deposited to the State Treasury to be  
21 credited to the State General Fund and 50 percent deposited as  
22 otherwise provided by law for municipal ordinance violations.  
23 Any amounts collected over these amounts shall be deposited as  
24 otherwise provided by law for municipal ordinance violations.  
25 Notwithstanding any provision of law to the contrary, 90  
26 percent of any fine assessed and collected for any DUI offense  
27 charged by municipal ordinance violation in district or

1 circuit court shall be computed only on the amount assessed  
2 over the minimum fine authorized, and upon collection shall be  
3 distributed to the municipal general fund with the remaining  
4 10 percent distributed to the State General Fund. In addition  
5 to fines imposed pursuant to this subsection, a mandatory fee  
6 of one hundred dollars (\$100) shall be collected from any  
7 individual that successfully completes any pretrial diversion  
8 or deferral program in any municipal, district, or circuit  
9 court where the individual was charged with a violation of  
10 this section or a corresponding municipal ordinance. The one  
11 hundred dollars (\$100) shall be deposited into the Alabama  
12 Chemical Testing Training and Equipment Fund.

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

19 "(o) Upon verification that a defendant arrested  
20 pursuant to this section is currently on probation from  
21 another court of this state as a result of a conviction for  
22 any criminal offense, the prosecutor shall provide written or  
23 oral notification of the defendant's subsequent arrest and  
24 pending prosecution to the court in which the prior conviction  
25 occurred.

26 ~~"(p) A prior conviction within a five-year period~~  
27 ~~for driving under the influence of alcohol or drugs from this~~

1 ~~state, a municipality within this state, or another state or~~  
2 ~~territory or a municipality of another state or territory~~  
3 ~~shall be considered by a court for imposing a sentence~~  
4 ~~pursuant to this section.~~

5 "(p) Any prior conviction for an offense of driving  
6 while impaired from this state, a municipality within this  
7 state, or another state or territory or a municipality of  
8 another state or territory, with or without the jurisdiction  
9 having adopted the law of Alabama, so long as the offense was  
10 in violation of the law in the respective jurisdiction,  
11 including, but not limited to, the following offenses shall be  
12 considered by a court for imposing a sentence pursuant to this  
13 section:

14 "(1) Driving while the blood alcohol level of the  
15 defendant was at or in excess of the legal limit imposed by  
16 law of the jurisdiction in which the offense occurred at the  
17 time the offense occurred.

18 "(2) Driving while under the influence of alcohol.

19 "(3) Driving while under the influence of a  
20 controlled substance to a degree which renders him or her  
21 incapable of safely driving.

22 "(4) Driving while under the combined influence of  
23 alcohol and a controlled substance to a degree which renders  
24 him or her incapable of safely driving.

25 "(5) Driving while under the influence of any  
26 substance which impairs the mental or physical faculties of

1 such person to a degree which renders him or her incapable of  
2 safely driving.

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

21 "(r) (1) Any person ordered by the court to have an  
22 ignition interlock device installed on a designated vehicle,  
23 and any person who elects to have the ignition interlock  
24 device installed on a designated vehicle for the purpose of  
25 reducing a period of suspension or revocation of his or her  
26 driver's license, shall pay to the court, for each of the  
27 first four months following his or her conviction or the first



1 four months following the installation of the ignition  
2 interlock device on his or her vehicle, seventy-five dollars  
3 (\$75) per month, which shall be divided as follows:

4 "a. Forty-five percent to the Alabama Interlock  
5 Indigent Fund.

6 "b. Twenty percent to the State Judicial  
7 Administration Fund administered by the Administrative Office  
8 of Courts.

9 "c. Twenty percent to the Highway Traffic Safety  
10 Fund administered by the Department of Public Safety.

11 "d. Fifteen percent to the District Attorney's  
12 Solicitor Fund.

13 "(2) In addition to paying the court clerk  
14 seventy-five dollars (\$75) per month for the first four months  
15 following the conviction or the voluntary installation of the  
16 ignition interlock device, the defendant shall pay all costs  
17 associated with the installation, purchase, maintenance, or  
18 lease of the ignition interlock devices to an approved  
19 ignition interlock provider pursuant to the rules of the  
20 Department of Forensic Sciences, unless the defendant is  
21 subject to Section 32-5A-191.4(g)(4) during which he or she  
22 shall pay one-half the cost for the available indigency  
23 period.

24 "(s) The defendant shall designate the vehicle to be  
25 used 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 as a  
5 condition of restoration or reinstatement of his or her  
6 driver's license, shall only operate the designated vehicle  
7 equipped with a functioning ignition interlock device for the  
8 period of time consistent with the offense for which he or she  
9 was convicted as provided for in this section.

10 "(2) The duration of the time an ignition interlock  
11 device is required by this section shall be doubled if the  
12 offender refused the prescribed chemical test for  
13 intoxication, or if the offender's blood alcohol concentration  
14 was 0.15 grams percent or greater unless already doubled by a  
15 previous section.

16 "(u) (1) The Department of Public Safety may set a  
17 fee of not more than one hundred fifty dollars (\$150) for the  
18 issuance of a driver's license indicating that the person's  
19 driving privileges are subject to the condition of the  
20 installation and use of a certified ignition interlock device  
21 on a motor vehicle. Fifteen percent of the fee shall be  
22 distributed to the general fund of the county where the person  
23 was convicted to be utilized for law enforcement purposes.  
24 Eighty-five percent shall be distributed to the State General  
25 Fund. In addition, at the end of the time the person's driving  
26 privileges are subject to the above conditions, the department  
27 shall set a fee of not more than seventy-five dollars (\$75) to

1 reissue a regular driver's license. The fee shall be deposited  
2 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

3 "(2) The defendant shall provide proof of  
4 installation of an approved ignition interlock device to the  
5 Department of Public Safety as a condition of the issuance of  
6 a restricted driver's license.

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

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

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

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

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

26 "(w) The provisions in this section and Section  
27 32-5A-191.4 relating to ignition interlock devices shall not

1 apply to persons who commit violations of this section while  
2 under 19 years of age and who are adjudicated in juvenile  
3 court, unless specifically ordered otherwise by the court.

4 "(x) (1) The amendatory language in Act 2014-222 to  
5 this section, authorizing the Department of Public Safety to  
6 stay a driver's license suspension or revocation upon  
7 compliance with the ignition interlock requirement shall apply  
8 retroactively if any of the following occurs:

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

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

15 "c. The court of jurisdiction notifies the  
16 Department Public Safety that the offender is eligible to have  
17 the driver's license stayed.

18 "d. The Department of Public Safety issues an  
19 ignition interlock restricted driver's license.

20 "e. The offender remains in compliance of ignition  
21 interlock requirements.

22 "(2) The remainder of the driver license revocation,  
23 suspension, or both, shall be commuted upon the successful  
24 completion of the period of time in which the ignition  
25 interlock device is mandated to be installed and operational."

26 Section 2. Section 32-6-19 of the Code of Alabama  
27 1975, is amended to read as follows:

1           "§32-6-19.

2           "(a) (1) ~~Any~~ Except as otherwise provided in  
3 subdivision (4), any person whose driver's or chauffeur's  
4 license issued in this or another state or whose driving  
5 privilege as a nonresident has been cancelled, denied,  
6 suspended, or revoked as provided in this article and who  
7 drives any motor vehicle upon the highways of this state while  
8 his or her license or privilege is cancelled, denied,  
9 suspended, or revoked shall be guilty of a misdemeanor and  
10 upon conviction shall be punished by a fine of not less than  
11 one hundred dollars (\$100) nor more than five hundred dollars  
12 (\$500), and in addition thereto may be imprisoned for not more  
13 than 180 days. In addition to all fines, fees, costs, and  
14 punishments prescribed by law, there shall be imposed or  
15 assessed an additional penalty of fifty dollars (\$50) to be  
16 placed in the Traffic Safety Trust Fund and the Peace Officers  
17 Standards and Training Fund. Also, at the discretion of the  
18 Director of Public Safety, the person's license may be revoked  
19 for an additional revocation period of six months.

20           "(2) The additional penalty of fifty dollars (\$50)  
21 shall be assessed in all criminal and quasi-criminal  
22 proceedings in municipal, district, and circuit courts,  
23 including, but not limited to, final bond forfeitures,  
24 municipal ordinances violations, wherein the defendant is  
25 adjudged guilty or pleads guilty and in all juvenile  
26 delinquency and youthful offender adjudications.

1           "(3) If the fifty dollar (\$50) penalty required by  
2 subdivision (1) is not imposed by the court, the clerk of the  
3 court shall automatically assess it upon conviction.

4           "(4) In addition to the other penalties provided in  
5 this subsection, upon a third or subsequent conviction of a  
6 violation of this subsection, a person convicted of violating  
7 this subsection shall be guilty of a Class A misdemeanor and  
8 shall receive a minimum mandatory sentence of 30 days in jail.

9           "(b) Notwithstanding any provision of law, any  
10 person who operates a motor vehicle upon the highways of this  
11 state while his or her driver's license or driving privilege  
12 is revoked for any reason under the laws of this state or  
13 similar laws of any other state or territory, or while his or  
14 her driver's license or driving privilege is suspended as a  
15 consequence of a DUI-related offense, including, but not  
16 limited to, being adjudicated delinquent or a youthful  
17 offender based on a DUI-related offense, or while his or her  
18 driver's license or driving privilege is suspended as a result  
19 of failure to comply with the implied consent law of this  
20 state or laws of another state, or who has been adjudicated a  
21 delinquent child or a youthful offender based on an offense  
22 that if the person had been an adult would have been a  
23 conviction of driving under the influence of a controlled  
24 substance or alcohol or failure to comply with the implied  
25 consent law, shall be immediately removed from the vehicle.  
26 The vehicle, regardless of ownership or possessory interest of  
27 the operator or person present in the vehicle, except when the

1 owner of the vehicle or another family member of the owner is  
2 present in the vehicle and presents a valid driver's license,  
3 shall be impounded by any duly sworn law enforcement officer.  
4 If there is an emergency or medical necessity jeopardizing  
5 life or limb, the law enforcement officer may elect not to  
6 impound the vehicle.

7 "(c) (1) The law enforcement officer making the  
8 impoundment shall direct an approved towing service to tow the  
9 vehicle to the garage of the towing service, storage lot, or  
10 other place of safety and maintain custody and control of the  
11 vehicle until the registered owner or authorized agent of the  
12 registered owner claims the vehicle by paying all reasonable  
13 and customary towing and storage fees for the services of the  
14 towing company. The vehicle shall then be released to the  
15 registered owner or an agent of the owner.

16 "(2) Any towing service or towing company removing  
17 the vehicle at the direction of the law enforcement officer in  
18 accordance with this section shall have a lien on the motor  
19 vehicle for all reasonable and customary fees relating to the  
20 towing and storage of the motor vehicle. This lien shall be  
21 subject and subordinate to all prior security interests and  
22 other liens affecting the vehicle whether evidenced on the  
23 certificate of title or otherwise. Notice of any sale or other  
24 proceedings relative to this lien shall be given to the  
25 holders of all prior security interest or other liens by  
26 official service of process at least 15 days prior to any sale  
27 or other proceedings."

1                   Section 3. Although this bill would have as its  
2                   purpose or effect the requirement of a new or increased  
3                   expenditure of local funds, the bill is excluded from further  
4                   requirements and application under Amendment 621, now  
5                   appearing as Section 111.05 of the Official Recompilation of  
6                   the Constitution of Alabama of 1901, as amended, because the  
7                   bill defines a new crime or amends the definition of an  
8                   existing crime.

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