

1 SB401
2 149716-3
3 By Senators Holtzclaw, Glover, Ward, Waggoner, Ross, Keahey,
4 Williams and Taylor
5 RFD: Commerce, Transportation, and Utilities
6 First Read: 04-APR-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(q)(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.