

1 SB162
2 166398-4
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 05-MAR-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Section 32-5A-191 of the Code of Alabama
12 1975, as last amended by Act 2014-222 of the 2014 Regular
13 Session, relating to driving while under the influence; to
14 further define the offense and to define the term under the
15 influence for the purpose of unsafe driving; to prohibit a
16 person from driving who has a measurable amount of specified
17 substances in the person's body; to further provide for a
18 minimum mandatory sentence for a fourth or subsequent
19 violation; to remove the requirement that a prior conviction
20 considered by the court when imposing a sentence would only be
21 a prior conviction within a five-year period; to further
22 provide for the offenses that can be considered by a court
23 when imposing a sentence for multiple violations; to amend
24 Section 32-6-19 of the Code of Alabama 1975, relating to
25 violations for driving while license or driving privilege is
26 cancelled, denied, suspended, or revoked; to provide that a
27 person convicted for a third or subsequent time when his or

1 her license or driving privilege was cancelled, denied,
2 suspended, or revoked as a consequence of a DUI-related
3 offense would be guilty of a Class A misdemeanor with a
4 minimum mandatory sentence of 30 days in jail; and in
5 connection therewith would have as its purpose or effect the
6 requirement of a new or increased expenditure of local funds
7 within the meaning of Amendment 621 of the Constitution of
8 Alabama of 1901, now appearing as Section 111.05 of the
9 Official Recompilation of the Constitution of Alabama of 1901,
10 as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 32-5A-191 of the Code of Alabama
13 1975, as last amended by Act 2014-222 of the 2014 Regular
14 Session, is amended to read as follows:

15 "§32-5A-191.

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

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

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

21 ~~"(3) Under the influence of a controlled substance~~
22 ~~to a degree which renders him or her incapable of safely~~
23 ~~driving;~~

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

1 ~~"(5)(2) a.~~ Under the influence of any substance
2 ~~which impairs the mental or physical faculties of such person~~
3 ~~or substances,~~ to a degree which renders him or her incapable
4 of safely driving.

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

7 "1. Not having the normal use of mental or physical
8 faculties by reason of the introduction into the body of
9 alcohol, a controlled substance, a drug, or any other
10 substance, or combination of two or more of those substances;
11 or

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

16 "(i) Alprazolam.

17 "(ii) Hydrocodone.

18 "(iii) Amphetamine/methamphetamine.

19 "(iv) Carisoprodol/meprobamate.

20 "(v) Diazepam/nordiazepam.

21 "(vi) Morphine.

22 "(vii) Cocaine.

23 "(viii) Methadone.

24 "(ix) Oxycodone.

25 "(x) Clonazepam.

26 "(xi) Zolpidem.

27 "(xii) Any other opiate or opioid not listed.

1 "(xiii) Any other benzodiazepine not listed.

2 "(iv) Any Schedule I controlled substance.

3 "It is an affirmative defense to a violation of this
4 subparagraph 2 if the person has a lawful prescription for the
5 substance or is otherwise authorized by law to use the
6 substance. This affirmative defense is strictly limited to
7 subparagraph (a) (2)b.2. A person may be convicted under the
8 provisions of (a) (2)b.1. even if that person possesses a
9 prescription for the substance or substances found in their
10 body.

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

14 "(b) A person who is under the age of 21 years shall
15 not drive or be in actual physical control of any vehicle if
16 there is 0.02 percent or more by weight of alcohol in his or
17 her blood. The Department of Public Safety shall suspend or
18 revoke the driver's license of any person, including, but not
19 limited to, a juvenile, child, or youthful offender, convicted
20 or adjudicated of, or subjected to a finding of, delinquency
21 based on this subsection. Notwithstanding the foregoing, upon
22 the first violation of this subsection by a person whose blood
23 alcohol level is between 0.02 and 0.08, the person's driver's
24 license or driving privilege shall be suspended for a period
25 of 30 days in lieu of any penalties provided in subsection (e)
26 of this section, and there shall be no disclosure, other than
27 to courts, law enforcement agencies, the person's attorney of

1 record, and the person's employer, by any entity or person of
2 any information, documents, or records relating to the
3 person's arrest, conviction, or adjudication of or finding of
4 delinquency based on this subsection.

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

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

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

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

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

14 "(d) The fact that any person charged with violating
15 this section is or has been legally entitled to use alcohol or
16 a controlled substance shall not constitute a defense against
17 any charge of violating this section except as set out in
18 (a) (2)b.2.

19 "(e) Upon a first conviction, a person violating
20 this section shall be punished by imprisonment in the county
21 or municipal jail for not more than one year, or by fine of
22 not less than six hundred dollars (\$600) nor more than two
23 thousand one hundred dollars (\$2,100), or by both a fine and
24 imprisonment. In addition, on a first conviction, the Director
25 of Public Safety shall suspend the driving privilege or
26 driver's license of the person convicted for a period of 90
27 days. The 90-day suspension shall be stayed if the offender

1 elects to have an approved ignition interlock device installed
2 and operating on the designated motor vehicle driven by the
3 offender for six months. The offender shall present proof of
4 installation of the approved ignition interlock device to the
5 Department of Public Safety and obtain an ignition interlock
6 restricted driver license. The remainder of the suspension
7 shall be commuted upon the successful completion of the
8 elected use, mandated use, or both, of the ignition interlock
9 device. If, on a first conviction, any person refusing to
10 provide a blood alcohol concentration or if a child under the
11 age of 14 years was a passenger in the vehicle at the time of
12 the offense or if someone else besides the offender was
13 injured at the time of the offense, the Director of the
14 Department of Public Safety shall suspend the driving
15 privilege or driver's license of the person convicted for a
16 period of 90 days and the person shall be required to have an
17 ignition interlock device installed and operating on the
18 designated motor vehicle driven by the offender for a period
19 of two years from the date of issuance of a driver's license
20 indicating that the person's driving privileges are subject to
21 the condition of the installation and use of a certified
22 ignition interlock device on a motor vehicle. After a minimum
23 of 45 days of the license revocation or suspension pursuant to
24 Section 32-5A-304 or this section, or both, is completed, upon
25 receipt of a court order from the convicting court, upon
26 issuance of an ignition interlock restricted driver license,
27 and upon proof of installation of an operational approved

1 ignition interlock device on the designated vehicle of the
2 person convicted, the mandated ignition interlock period of
3 two years provided in this subsection shall start and the
4 suspension period, revocation period, or both, as required
5 under this subsection shall be stayed. The remainder of the
6 driver license revocation period, suspension period, or both,
7 shall be commuted upon the successful completion of the period
8 of time in which the ignition interlock device is mandated to
9 be installed and operational.

10 "(f) On a second conviction ~~within a five-year~~
11 ~~period~~, a person convicted of violating this section shall be
12 punished by a fine of not less than one thousand one hundred
13 dollars (\$1,100) nor more than five thousand one hundred
14 dollars (\$5,100) and by imprisonment, which may include hard
15 labor in the county or municipal jail for not more than one
16 year. The sentence shall include a mandatory sentence, which
17 is not subject to suspension or probation, of imprisonment in
18 the county or municipal jail for not less than five days or
19 community service for not less than 30 days. In addition the
20 Director of Public Safety shall revoke the driving privileges
21 or driver's license of the person convicted for a period of
22 one year and the offender shall be required to have an
23 ignition interlock device installed and operating on the
24 designated motor vehicle driven by the offender for a period
25 of two years from the date of issuance of a driver's license
26 indicating that the person's driving privileges are subject to
27 the condition of the installation and use of a certified

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

16 "(g) On a third conviction, a person convicted of
17 violating this section shall be punished by a fine of not less
18 than two thousand one hundred dollars (\$2,100) nor more than
19 ten thousand one hundred dollars (\$10,100) and by
20 imprisonment, which may include hard labor, in the county or
21 municipal jail for not less than 60 days nor more than one
22 year, to include a minimum of 60 days which shall be served in
23 the county or municipal jail and cannot be probated or
24 suspended. In addition, the Director of Public Safety shall
25 revoke the driving privilege or driver's license of the person
26 convicted for a period of three years and the offender shall
27 be required to have an ignition interlock device installed and

1 operating on the designated motor vehicle driven by the
2 offender for a period of three years from the date of issuance
3 of a driver's license indicating that the person's driving
4 privileges are subject to the condition of the installation
5 and use of a certified ignition interlock device on a motor
6 vehicle. After a minimum of 180 days of the license revocation
7 or suspension pursuant to Section 32-5A-304, this section, or
8 both, is completed, upon receipt of a court order from the
9 convicting court, upon issuance of an ignition interlock
10 restricted driver license, and upon proof of installation of
11 an operational approved ignition interlock device on the
12 designated vehicle of the person convicted, the mandated
13 ignition interlock period of three years provided in this
14 subsection shall start and the suspension period, revocation
15 period, or both, as required under this subsection shall be
16 stayed. The remainder of the driver license revocation period,
17 suspension period, or both, shall be commuted upon the
18 successful completion of the period of time in which the
19 ignition interlock device is mandated to be installed and
20 operational.

21 "(h) On a fourth or subsequent conviction, a person
22 convicted of violating this section shall be guilty of a Class
23 C felony and punished by a fine of not less than four thousand
24 one hundred dollars (\$4,100) nor more than ten thousand one
25 hundred dollars (\$10,100) and by imprisonment of not less than
26 one year and one day nor more than 10 years. Any term of
27 imprisonment may include hard labor for the county or state,

1 and where imprisonment does not exceed three years confinement
2 may be in the county jail. Where imprisonment does not exceed
3 one year and one day, confinement shall be in the county jail.
4 The minimum sentence shall include a term of imprisonment for
5 at least one year and one day, provided, however, that there
6 shall be a minimum mandatory sentence of ~~10~~ 90 days which
7 shall be served in the county jail. The remainder of the
8 sentence may be suspended or probated, but only if as a
9 condition of probation the defendant enrolls and successfully
10 completes a state certified chemical dependency program
11 recommended by the court referral officer and approved by the
12 sentencing court. Where probation is granted, the sentencing
13 court may, in its discretion, and where monitoring equipment
14 is available, place the defendant on house arrest under
15 electronic surveillance during the probationary term. In
16 addition to the other penalties authorized, the Director of
17 Public Safety shall revoke the driving privilege or driver's
18 license of the person convicted for a period of five years and
19 the offender shall be required to have an ignition interlock
20 device installed and operating on the designated motor vehicle
21 driven by the offender for a period of five years from the
22 date of issuance of a driver's license indicating that the
23 person's driving privileges are subject to the condition of
24 the installation and use of a certified ignition interlock
25 device on a motor vehicle. After a minimum of one year of the
26 license revocation or suspension pursuant to Section
27 32-5A-304, this section, or both, is completed, upon receipt

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

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

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

1 person would have received if he or she had had less than 0.15
2 percent by weight of alcohol in his or her blood. Upon the
3 first violation of this subsection, the offender shall be
4 ordered by the court to have an ignition interlock device
5 installed and operating on his or her designated motor vehicle
6 for a period of two years from the date of issuance of an
7 ignition interlock-restricted driver's license. If the
8 adjudicated offense is a misdemeanor, the minimum punishment
9 shall be imprisonment for one year, all of which may be
10 suspended except as otherwise provided for in subsections (f)
11 and (g).

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

19 "(k) (1) In addition to the penalties provided
20 herein, any person convicted of violating this section shall
21 be referred to the court referral officer for evaluation and
22 referral to appropriate community resources. The defendant
23 shall, at a minimum, be required to complete a DUI or
24 substance abuse court referral program approved by the
25 Administrative Office of Courts and operated in accordance
26 with provisions of the Mandatory Treatment Act of 1990,
27 Sections 12-23-1 to 12-23-19, inclusive. The Department of

1 Public Safety shall not reissue a driver's license to a person
2 convicted under this section without receiving proof that the
3 defendant has successfully completed the required program.

4 "(2) A person convicted of violating this section
5 relating to the use of any controlled substance shall be
6 required to be placed on random drug screen testing and submit
7 to any appropriate treatment while on probation with the court
8 in addition to any ignition interlock requirements required
9 under this section. A positive drug screen shall result in
10 sanctions as the court may deem appropriate to ensure the
11 safety of the public.

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

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

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

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

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

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

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

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

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

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

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

4 "(p) (1) Upon arrest for driving under the
5 influence, a prior driving under the influence conviction
6 occurring within 10 years from the arrest date shall be used
7 in all sentence determinations pursuant to subsections (e)
8 through (h). A prior driving under the influence conviction
9 occurring more than 10 years prior to the arrest may be
10 considered by a court in a sentence determination of a
11 defendant within the appropriate conviction range pursuant to
12 subsections (e) through (h).

13 "(2) Subject to subdivision (1), any prior
14 conviction for an offense of driving under the influence or
15 while impaired from this state, a municipality within this
16 state, or another state or territory or a municipality of
17 another state or territory, with or without the jurisdiction
18 having adopted the law of Alabama, so long as the offense was
19 in violation of the law in the respective jurisdiction,
20 including, but not limited to, the following offenses shall be
21 considered by a court for imposing a sentence pursuant to this
22 section:

23 "a. Driving while the blood alcohol level of the
24 defendant was at or in excess of the legal limit imposed by
25 law of the jurisdiction in which the offense occurred at the
26 time the offense occurred.

27 "b. Driving while under the influence of alcohol.

1 "c. Driving while under the influence of a
2 controlled substance to a degree which renders him or her
3 incapable of safely driving.

4 "d. Driving while under the combined influence of
5 alcohol and a controlled substance to a degree which renders
6 him or her incapable of safely driving.

7 "e. Driving while under the influence of any
8 substance which impairs the mental or physical faculties of
9 such person to a degree which renders him or her incapable of
10 safely driving.

11 "(q) Any person convicted of driving ~~under the~~
12 ~~influence of alcohol, or a controlled substance, or both, or~~
13 ~~any substance which impairs the mental or physical faculties~~
14 ~~or being in actual physical control of any vehicle while there~~
15 ~~is 0.08 percent or more by weight of alcohol in his or her~~
16 ~~blood or under the influence of any substance or substances to~~
17 ~~a degree which renders him or her incapable of safely driving~~
18 in violation of this section, a municipal ordinance adopting
19 this section, or a similar law from another state or territory
20 or a municipality of another state or territory more than once
21 in a five-year period shall have his or her motor vehicle
22 registration for all vehicles owned by the repeat offender
23 suspended by the Alabama Department of Revenue for the
24 duration of the offender's driver's license suspension period,
25 unless such action would impose an undue hardship to any
26 individual, not including the repeat offender, who is
27 completely dependent on the motor vehicle for the necessities

1 of life, including any family member of the repeat offender
2 and any co-owner of the vehicle or, in the case of a repeat
3 offender, if the repeat offender has a functioning ignition
4 interlock device installed on the designated vehicle for the
5 duration of the offender's driver's license suspension period.

6 "(r) (1) Any person ordered by the court to have an
7 ignition interlock device installed on a designated vehicle,
8 and any person who elects to have the ignition interlock
9 device installed on a designated vehicle for the purpose of
10 reducing a period of suspension or revocation of his or her
11 driver's license, shall pay to the court, for each of the
12 first four months following his or her conviction or the first
13 four months following the installation of the ignition
14 interlock device on his or her vehicle, seventy-five dollars
15 (\$75) per month, which shall be divided as follows:

16 "a. Forty-five percent to the Alabama Interlock
17 Indigent Fund.

18 "b. Twenty percent to the State Judicial
19 Administration Fund administered by the Administrative Office
20 of Courts.

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

23 "d. Fifteen percent to the District Attorney's
24 Solicitor Fund.

25 "(2) In addition to paying the court clerk
26 seventy-five dollars (\$75) per month for the first four months
27 following the conviction or the voluntary installation of the

1 ignition interlock device, the defendant shall pay all costs
2 associated with the installation, purchase, maintenance, or
3 lease of the ignition interlock devices to an approved
4 ignition interlock provider pursuant to the rules of the
5 Department of Forensic Sciences, unless the defendant is
6 subject to Section 32-5A-191.4(g)(4) during which he or she
7 shall pay one-half the cost for the available indigency
8 period.

9 "(s) The defendant shall designate the vehicle to be
10 used by identifying the vehicle by the vehicle identification
11 number to the court. The defendant, at his or her own expense,
12 may designate additional motor vehicles on which an ignition
13 interlock device may be installed for the use of the
14 defendant.

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

22 "(2) The duration of the time an ignition interlock
23 device is required by this section shall be doubled if the
24 offender refused the prescribed chemical test for
25 intoxication, or if the offender's blood alcohol concentration
26 was 0.15 grams percent or greater unless already doubled by a
27 previous section.

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

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

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

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

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

3 "c. Failure to comply with the servicing or
4 calibration requirements of the ignition interlock device
5 every 30 days.

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

11 "(w) The provisions in this section and Section
12 32-5A-191.4 relating to ignition interlock devices shall not
13 apply to persons who commit violations of this section while
14 under 19 years of age and who are adjudicated in juvenile
15 court, unless specifically ordered otherwise by the court.

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

21 "a. The offender files an appeal with the court of
22 jurisdiction requesting all prior suspensions or revocation,
23 or both, be stayed upon compliance with the ignition interlock
24 requirement.

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

1 "c. The court of jurisdiction notifies the
2 Department Public Safety that the offender is eligible to have
3 the driver's license stayed.

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

6 "e. The offender remains in compliance of ignition
7 interlock requirements.

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

12 "(y) Any conviction, sentence, probation, probation
13 revocation, pending charge, treatment condition, or any other
14 proceeding or order instituted under the provisions of this
15 section prior to the effective date of this act adding this
16 subsection shall continue, remain in place, and are generally
17 saved.

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

20 "§32-6-19.

21 "(a) (1) Any Except as otherwise provided in
22 subdivision (4), any person whose driver's or chauffeur's
23 license issued in this or another state or whose driving
24 privilege as a nonresident has been cancelled, denied,
25 suspended, or revoked as provided in this article and who
26 drives any motor vehicle upon the highways of this state while
27 his or her license or privilege is cancelled, denied,

1 suspended, or revoked shall be guilty of a misdemeanor and
2 upon conviction shall be punished by a fine of not less than
3 one hundred dollars (\$100) nor more than five hundred dollars
4 (\$500), and in addition thereto may be imprisoned for not more
5 than 180 days. In addition to all fines, fees, costs, and
6 punishments prescribed by law, there shall be imposed or
7 assessed an additional penalty of fifty dollars (\$50) to be
8 placed in the Traffic Safety Trust Fund and the Peace Officers
9 Standards and Training Fund. Also, at the discretion of the
10 Director of Public Safety, the person's license may be revoked
11 for an additional revocation period of six months.

12 "(2) The additional penalty of fifty dollars (\$50)
13 shall be assessed in all criminal and quasi-criminal
14 proceedings in municipal, district, and circuit courts,
15 including, but not limited to, final bond forfeitures,
16 municipal ordinances violations, wherein the defendant is
17 adjudged guilty or pleads guilty and in all juvenile
18 delinquency and youthful offender adjudications.

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

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

1 "(b) Notwithstanding any provision of law, any
2 person who operates a motor vehicle upon the highways of this
3 state while his or her driver's license or driving privilege
4 is revoked for any reason under the laws of this state or
5 similar laws of any other state or territory, or while his or
6 her driver's license or driving privilege is suspended as a
7 consequence of a DUI-related offense, including, but not
8 limited to, being adjudicated delinquent or a youthful
9 offender based on a DUI-related offense, or while his or her
10 driver's license or driving privilege is suspended as a result
11 of failure to comply with the implied consent law of this
12 state or laws of another state, or who has been adjudicated a
13 delinquent child or a youthful offender based on an offense
14 that if the person had been an adult would have been a
15 conviction of driving under the influence of a controlled
16 substance or alcohol or failure to comply with the implied
17 consent law, shall be immediately removed from the vehicle.
18 The vehicle, regardless of ownership or possessory interest of
19 the operator or person present in the vehicle, except when the
20 owner of the vehicle or another family member of the owner is
21 present in the vehicle and presents a valid driver's license,
22 shall be impounded by any duly sworn law enforcement officer.
23 If there is an emergency or medical necessity jeopardizing
24 life or limb, the law enforcement officer may elect not to
25 impound the vehicle.

26 "(c) (1) The law enforcement officer making the
27 impoundment shall direct an approved towing service to tow the

1 vehicle to the garage of the towing service, storage lot, or
2 other place of safety and maintain custody and control of the
3 vehicle until the registered owner or authorized agent of the
4 registered owner claims the vehicle by paying all reasonable
5 and customary towing and storage fees for the services of the
6 towing company. The vehicle shall then be released to the
7 registered owner or an agent of the owner.

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

20 Section 3. This act shall apply to any offense
21 committed after the effective date of this act.

22 Section 4. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompilation of
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 5. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 05-MAR-15

Read for the second time and placed on the calen-
dar with 1 substitute and..... 02-APR-15

Read for the third time and passed as amended 16-APR-15

Yeas 28
Nays 1

Patrick Harris
Secretary