

2  
3 SUBSTITUTE FOR SB1  
4  
5  
6  
7

8 SYNOPSIS: This bill would relate to persons charged  
9 with driving under the influence and the use of  
10 ignition interlock devices on vehicles.

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

24 The purpose or effect of this bill would be  
25 to require a new or increased expenditure of local  
26 funds within the meaning of the amendment. However,  
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to  
2 become effective because it comes within one of the  
3 specified exceptions contained in the amendment.  
4

5 A BILL  
6 TO BE ENTITLED  
7 AN ACT  
8

9 Relating to persons charged with driving under the  
10 influence; to amend Section 32-5A-191, as amended by Act  
11 2016-259, 2016 Regular Session, and Section 32-5A-191.4, Code  
12 of Alabama 1975, to further require for the use of ignition  
13 interlock devices; and in connection therewith would have as  
14 its purpose or effect the requirement of a new or increased  
15 expenditure of local funds within the meaning of Amendment 621  
16 of the Constitution of Alabama of 1901, now appearing as  
17 Section 111.05 of the Official Recompilation of the  
18 Constitution of Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 32-5A-191 and 32-5A-191.4, Code  
21 of Alabama 1975, are amended to read as follows:

22 "§32-5A-191.

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

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

27 "(2) Under the influence of alcohol;

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

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

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

10           "(b) A person who is under the age of 21 years shall  
11 not drive or be in actual physical control of any vehicle if  
12 there is 0.02 percent or more by weight of alcohol in his or  
13 her blood. The Alabama State Law Enforcement Agency shall  
14 suspend or revoke the driver's license of any person,  
15 including, but not limited to, a juvenile, child, or youthful  
16 offender, convicted or adjudicated of, or subjected to a  
17 finding of, delinquency based on this subsection.

18 Notwithstanding the foregoing, upon the first violation of  
19 this subsection by a person whose blood alcohol level is  
20 between 0.02 and 0.08, the person's driver's license or  
21 driving privilege shall be suspended for a period of 30 days  
22 in lieu of any penalties provided in subsection (e) of this  
23 section, and there shall be no disclosure, other than to  
24 courts, law enforcement agencies, the person's attorney of  
25 record, and the person's employer, by any entity or person of  
26 any information, documents, or records relating to the

1 person's arrest, conviction, or adjudication of or finding of  
2 delinquency based on this subsection.

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

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

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

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

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

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

16 "(e) Upon first conviction, a person violating this  
17 section shall be punished by imprisonment in the county or  
18 municipal jail for not more than one year, or by fine of not  
19 less than six hundred dollars (\$600) nor more than two  
20 thousand one hundred dollars (\$2,100), or by both a fine and  
21 imprisonment. In addition, on a first conviction, the  
22 Secretary of the Alabama State Law Enforcement Agency shall  
23 suspend the driving privilege or driver's license of the  
24 person convicted for a period of 90 days. The 90-day  
25 suspension shall be stayed if the offender elects to have an  
26 approved ignition interlock device installed and operating on  
27 the designated motor vehicle driven by the offender for ~~six~~

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

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

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

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



1 interlock device installed and operating on the designated  
2 motor vehicle driven by the offender for a period of three  
3 years from the date of issuance of a driver's license  
4 indicating that the person's driving privileges are subject to  
5 the condition of the installation and use of a certified  
6 ignition interlock device on a motor vehicle. After a minimum  
7 of ~~180~~ 60 days of the license revocation or suspension  
8 pursuant to Section 32-5A-304, this section, or both, is  
9 completed, upon receipt of a court order from the convicting  
10 court, upon issuance of an ignition interlock restricted  
11 driver license, and upon proof of installation of an  
12 operational approved ignition interlock device on the  
13 designated vehicle of the person convicted, the mandated  
14 ignition interlock period of three years provided in this  
15 subsection shall start and the suspension period, revocation  
16 period, or both, as required under this subsection shall be  
17 stayed. The remainder of the driver license revocation period,  
18 suspension period, or both, shall be commuted upon the  
19 successful completion of the period of time in which the  
20 ignition interlock device is mandated to be installed and  
21 operational.

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

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

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

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

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

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

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

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

1 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law  
2 Enforcement Agency shall not reissue a driver's license to a  
3 person convicted under this section without receiving proof  
4 that the defendant has successfully completed the required  
5 program.

6 "(2) Upon conviction, the court shall notify the  
7 Alabama State Law Enforcement Agency if the person convicted  
8 is required to install and maintain an approved ignition  
9 interlock device. The agency shall suspend or revoke a  
10 person's driving privileges until completion of the mandatory  
11 suspension or revocation period required by this section, and  
12 clearance of all other suspensions, revocations,  
13 cancellations, or denials, and proof of installation of an  
14 approved ignition interlock device is presented to the agency.  
15 The agency shall not reissue a driver's license to a person  
16 who has been ordered by a court or is required by law to have  
17 the ignition interlock device installed until proof is  
18 presented that the person is eligible for reinstatement of  
19 driving privileges. Upon presentation of proof and compliance  
20 with all ignition interlock requirements, the agency shall  
21 issue a driver's license with a restriction indicating that  
22 the licensee may operate a motor vehicle only with the  
23 certified ignition interlock device installed and properly  
24 operating. If the licensee fails to maintain the approved  
25 ignition interlock device as required or is otherwise not in  
26 compliance with any order of the court, the court shall notify  
27 the agency of the noncompliance and the agency shall suspend

1 the person's driving privileges until the agency receives  
2 notification from the court that the licensee is in  
3 compliance. The requirement that the licensee use the ignition  
4 interlock device may be removed only when the court of  
5 conviction confirms to the agency that the licensee is no  
6 longer subject to the ignition interlock device requirement.

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

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

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

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



1 or deferral program in any municipal, district, or circuit  
2 court where the individual was charged with a violation of  
3 this section or a corresponding municipal ordinance. The one  
4 hundred dollars (\$100) shall be deposited into the Alabama  
5 Chemical Testing Training and Equipment Fund.

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

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

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

25 "(q) Any person convicted of driving under the  
26 influence of alcohol, or a controlled substance, or both, or  
27 any substance which impairs the mental or physical faculties

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

16 "(r) (1) Any person ordered by the court to have an  
17 ignition interlock device installed on a designated vehicle,  
18 and any person who elects to have the ignition interlock  
19 device installed on a designated vehicle for the purpose of  
20 reducing a period of suspension or revocation of his or her  
21 driver's license, shall pay to the court, ~~for each of the~~  
22 ~~first four months~~ following his or her conviction ~~or the first~~  
23 ~~four months following the installation of the ignition~~  
24 ~~interlock device on his or her vehicle, seventy-five dollars~~  
25 ~~(\$75) per month~~ two hundred dollars (\$200), which may be paid  
26 in installments and which shall be divided as follows:

1            "a. ~~Forty-five~~ Seventeen percent to the Alabama  
2 Interlock Indigent Fund.

3            "b. ~~Twenty~~ For cases in the district or circuit  
4 court, 30 percent to the State Judicial Administration Fund  
5 administered by the Administrative Office of Courts and for  
6 cases in the municipal court, 30 percent to the municipal  
7 judicial administration fund of the municipality where the  
8 municipal court is located to be used for the operation of the  
9 municipal court.

10           "c. ~~Twenty~~ Thirty percent to the Highway Traffic  
11 Safety Fund administered by the Alabama State Law Enforcement  
12 Agency.

13           "d. ~~Fifteen~~ Twenty-three percent to the District  
14 Attorney's Solicitor Fund.

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

26           "(s) The defendant shall designate the vehicle to be  
27 used by identifying the vehicle by the vehicle identification

1 number to the court. The defendant, at his or her own expense,  
2 may designate additional motor vehicles on which an ignition  
3 interlock device may be installed for the use of the  
4 defendant.

5 "(t) (1) Any person who is required to comply with  
6 the ignition interlock provisions of this section as a  
7 condition of restoration or reinstatement of his or her  
8 driver's license, shall only operate the designated vehicle  
9 equipped with a functioning ignition interlock device for the  
10 period of time consistent with the offense for which he or she  
11 was convicted as provided for in this section.

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

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

1 privileges are subject to the above conditions, the agency  
2 shall set a fee of not more than seventy-five dollars (\$75) to  
3 reissue a regular driver's license. The fee shall be deposited  
4 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

5 "(2) The defendant shall provide proof of  
6 installation of an approved ignition interlock device to the  
7 Alabama State Law Enforcement Agency as a condition of the  
8 issuance of a restricted driver's license.

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

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

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

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

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

1           "(w) The provisions in this section and Section  
2 32-5A-191.4 relating to ignition interlock devices shall not  
3 apply to persons who commit violations of this section while  
4 under 19 years of age and who are adjudicated in juvenile  
5 court, unless specifically ordered otherwise by the court.

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

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

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

17           "c. The court of jurisdiction notifies the Alabama  
18 State Law Enforcement Agency that the offender is eligible to  
19 have the driver's license stayed.

20           "d. The Alabama State Law Enforcement Agency issues  
21 an ignition interlock restricted driver's license.

22           "e. The offender remains in compliance of ignition  
23 interlock requirements.

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

1           "(y) (1) Any person charged in a district, circuit,  
2 or municipal court with a violation of this section or a  
3 municipal ordinance adopted in conformance with this section  
4 who is approved for any pretrial diversion program or similar  
5 program shall be required to install an ignition interlock  
6 device for a minimum of six months or the duration of the  
7 pretrial diversion program, whichever is greater, and meet all  
8 the requirements of this section and Section 32-5A-191.4 that  
9 a person convicted of a violation of this section or a  
10 municipal ordinance is required to meet. A participant in a  
11 pretrial diversion program shall be eligible for indigency  
12 status if the program enrolls indigent defendants and waives  
13 fees for indigent defendants.

14           "(2) Upon receipt of a court order or an agreement  
15 from the district attorney or prosecutor indicating the  
16 offender has entered a pretrial diversion program or any other  
17 form of deferred prosecution agreement, the Secretary of the  
18 Alabama State Law Enforcement Agency shall indicate as the  
19 agency shall determine that the person's driving privileges  
20 are subject to the condition of the installation and use of a  
21 certified ignition interlock device on a motor vehicle. Any  
22 driver's license suspension period pursuant to Section  
23 32-5A-304 shall be stayed and then commuted upon the  
24 successful completion of a pretrial diversion program or any  
25 other form of deferred prosecution agreement.

26           "(3) Upon receipt of a court order detailing any  
27 ignition interlock violation of the requirements of this

1 section or Section 32-5A-191.4 or termination of the  
2 participation in any pretrial diversion program, the Alabama  
3 State Law Enforcement Agency shall suspend or revoke driving  
4 privileges pursuant to this section and Section 32-5A-304.

5 "(4) Nothing in this section shall be construed to  
6 require the Alabama State Law Enforcement Agency to issue an  
7 ignition interlock license or stay or commute any license  
8 suspension or revocation period of a holder of a commercial  
9 driver's license, an operator of a commercial motor vehicle,  
10 or a commercial driver learner permit holder in violation of  
11 other state or federal laws.

12 (z) Notwithstanding the ignition interlock  
13 requirements of this section, no person may be required to  
14 install an ignition interlock device if there is not a  
15 certified ignition interlock provider available within a 50  
16 mile radius of his or her place of residence or place of  
17 business or employment.

18 "§32-5A-191.4.

19 "(a) As used in Section 32-5A-191, the term,  
20 "ignition interlock device" means a constant monitoring device  
21 that prevents a motor vehicle from being started at any time  
22 without first determining the equivalent blood alcohol level  
23 of the operator through the taking of a breath sample for  
24 testing. The system shall be calibrated so that the motor  
25 vehicle may not be started if the blood alcohol level of the  
26 operator, as measured by the test, reaches a blood alcohol  
27 concentration level of 0.02.



1           "(b) The ignition interlock device shall be  
2 installed, calibrated, and monitored directly by trained  
3 technicians who shall train the offender for whom the device  
4 is being installed in the proper use of the device. The use of  
5 a mail in or remote calibration system where the technician is  
6 not in the immediate proximity of the vehicle being calibrated  
7 is prohibited. The Department of Forensic Sciences shall  
8 promulgate rules for punishment and appeal for ignition  
9 interlock providers relating to violation of this subsection.

10           "(c) The Department of Forensic Sciences shall  
11 formulate and promulgate rules for the proper approval,  
12 installation, and use of ignition interlock devices.  
13 Additionally, the Department of Forensic Sciences shall  
14 maintain and make public the list of approved ignition  
15 interlock devices.

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

20           "(e) The Department of Forensic Sciences shall  
21 promulgate rules regulating approved ignition interlock  
22 providers related to areas of consumer coverage. The rules  
23 shall address areas of consumer coverage and shall provide for  
24 a two-year period from July 1, 2014, to allow provider  
25 compliance.

26           "(f) The Department of Forensic Sciences shall  
27 charge an application fee of two thousand dollars (\$2,000) to

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

8 "(g) The ~~Department of Public Safety~~ Alabama State  
9 Law Enforcement Agency shall be responsible for enforcing the  
10 rules promulgated by the Department of Forensic Sciences  
11 related to ignition interlock devices and providers. The  
12 ~~Department of Public Safety~~ Alabama State Law Enforcement  
13 Agency shall promulgate rules regulating the inspection and  
14 enforcement of approved ignition interlock providers and any  
15 associate service locations.

16 "(h) In the absence of negligence, wantonness, or  
17 willful misconduct, no person or employer or agent of a person  
18 who installs an ignition interlock device pursuant to Section  
19 32-5A-191 shall be liable for any occurrence related to the  
20 device, including, but not limited to, occurrences resulting  
21 from or related to a malfunction of the device or use of,  
22 misuse of, or failure to use the device or the vehicle in  
23 which the device was installed.

24 "(i) (1) When the court imposes the use of an  
25 ignition interlock device as required by Section 32-5A-191,  
26 the court shall require that the person provide proof of  
27 installation of a device to the court or a probation officer

1 within 30 days of the date the defendant becomes eligible to  
2 receive an ignition interlock-restricted license from the  
3 Department of Public Safety. If the person fails to provide  
4 proof of installation within that period, absent a finding by  
5 the court of good cause for that failure which is entered into  
6 the court record, the court may revoke the person's probation  
7 where applicable after a petition to revoke probation has been  
8 filed and the defendant has been given notice and an  
9 opportunity to be heard on the petition. The court in which  
10 the defendant is convicted shall notify the department that  
11 the defendant is restricted to the operation of a motor  
12 vehicle only when an approved ignition interlock device is  
13 installed and properly operating. Nothing in this subsection  
14 shall permit a person who does not own a vehicle or otherwise  
15 have an ignition interlock device installed on a motor vehicle  
16 to operate a motor vehicle without an approved ignition  
17 interlock device installed and properly operating.

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

23 "(3) A defendant who is determined by the court to  
24 be indigent for the purpose of ignition interlock may have an  
25 ignition interlock device installed by an ignition interlock  
26 provider as provided in this subsection. Criteria for  
27 determining indigency for the purpose of ignition interlock

1 shall be the same criteria as set forth in Section 15-12-5(b)  
2 and (c) after the report is complete. In determining whether  
3 the defendant is indigent for the purpose of ignition  
4 interlock, the judge shall require an investigation and report  
5 by a sheriff, adult probation officer, or other officer of the  
6 court. The report may include input from the district attorney  
7 or municipal prosecutor. The defendant shall execute an  
8 affidavit of substantial hardship on a form approved by the  
9 Supreme Court. The completed affidavit of substantial hardship  
10 and the subsequent order of the court either denying or  
11 granting indigency status for the purpose of ignition  
12 interlock to the offender shall become a part of the official  
13 court record in the case and shall be submitted by the  
14 offender to the interlock provider.

15 "(4) Any offender granted indigency status for the  
16 purpose of ignition interlock shall ~~pay one-half of~~ not be  
17 required to pay the costs associated with installing and  
18 maintaining an interlock device for ~~a~~ the period of ~~no more~~  
19 ~~than two years at which time the offender shall pay the full~~  
20 ~~remaining cost for~~ any sentence ~~left~~ for ignition interlock.  
21 The defendant shall pay any fees for any violation of ignition  
22 interlock requirements and for any optional services elected  
23 by the defendant and for any missing or damaged equipment.  
24 This section shall not affect any fees associated with the  
25 driver's license of the defendant.

26 "(5) a. ~~All interlock providers shall be required to~~  
27 ~~pay one and one-half percent of all payments collected less~~

1 ~~any payments made by a defendant determined as indigent for~~  
2 ~~the purpose of ignition interlock to the Alabama Ignition~~  
3 ~~Interlock Indigent Fund in the State Treasury. The Alabama~~  
4 State Law Enforcement Agency (ALEA) shall require each  
5 approved manufacturer to provide at least a minimum number of  
6 indigent defendants with ignition interlock services,  
7 including installation, lease, calibration, and removal at no  
8 cost to the indigent defendant. The minimum number of indigent  
9 defendants provided services shall be equal to five percent of  
10 the total installations provided by the manufacturer during  
11 the prior calendar year.

12 "b. ALEA shall oversee the administration of  
13 indigent services on an annual basis by doing all of the  
14 following:

15 "1. Verifying the total number of installations  
16 provided by the manufacturer each year.

17 "2. Verifying the number of installations for  
18 indigent defendants provided each year by each manufacturer.

19 "3. Conducting random audits of payments based on  
20 the list of indigent defendants serviced by each manufacturer.

21 "c. Each manufacturer who fails to meet the five  
22 percent threshold for indigent defendants shall be subject to  
23 a civil penalty of five hundred dollars (\$500) for each  
24 indigent defendant the manufacturer failed to provided  
25 services below the five percent threshold. All fines shall be  
26 collected by ALEA and deposited in the Alabama Ignition  
27 Interlock Indigent Fund.

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

21           "1. Thirty percent to the Highway Traffic Safety  
22 Fund administered by the ~~Department of Public Safety~~ Alabama  
23 State Law Enforcement Agency.

24           "2. Twenty percent to the Alabama Chemical Testing  
25 Training and Equipment Trust Fund administered by the  
26 Department of Forensic Sciences.

1                   "3. Thirty percent to the District Attorney's  
2 Solicitor's Fund.

3                   "4. Twenty percent to the Office of Prosecution  
4 Services.

5                   "e. Notwithstanding the provisions of paragraph d.,  
6 10 percent of the first five hundred thousand dollars  
7 (\$500,000) collected in the fund each year may be used by ALEA  
8 for any of the following additional purposes on an annual  
9 basis:

10                   "1. Annual reporting and assessment of manufacturer  
11 compliance with indigent service requirements.

12                   "2. Notice and collection of any fines for  
13 noncompliance.

14                   "3. Annual inspection of interlock service centers  
15 by ALEA.

16                   "(6) Any defendant who does not own a vehicle or  
17 otherwise have an ignition interlock device installed on a  
18 vehicle shall be required to pay seventy-five dollars (\$75)  
19 per month for the entire period the defendant is required or  
20 elects to have an ignition interlock device. The defendant  
21 shall still serve all license suspension or revocation, or  
22 both, during this period. Any monies paid pursuant to this  
23 subdivision shall be paid to the court clerk and shall be  
24 deposited in the Alabama Impaired Driving Prevention and  
25 Enforcement Fund in the State Treasury to be used by the  
26 Department of Public Safety for impaired driving education and  
27 enforcement.

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

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

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

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

22           "(2) A violation of subsection (j) on the first  
23 offense is a Class A misdemeanor and punishable as provided by  
24 law. In addition, the time the defendant is required to use an  
25 ignition interlock device shall be extended by six months.  
26 Upon second conviction of a violation of subsection (j), the  
27 sentence shall include a mandatory sentence, which is not



1 subject to suspension or probation, of imprisonment in the  
2 county or municipal jail for not less than 48 hours and the  
3 time the defendant is required to use an ignition interlock  
4 device shall be extended by six months. Upon a third or  
5 subsequent conviction of a violation of subsection (j), the  
6 sentence shall include a mandatory sentence, which is not  
7 subject to suspension or probation, of imprisonment in the  
8 county or municipal jail for not less than five days and the  
9 time the defendant shall be required to use an ignition  
10 interlock device shall be extended by one year.

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

16 "(m) No person shall intentionally attempt to tamper  
17 with, defeat, or circumvent the operation of an ignition  
18 interlock device.

19 "(n) Any person convicted of a violation of this  
20 section other than subsection (j) shall be punished by  
21 imprisonment for not more than six months or a fine of not  
22 more than five hundred dollars (\$500), or both."

23 Section 2. Five years from the effective date of  
24 this act, Section 32-5A-191, Code of Alabama 1975, as amended  
25 by Section 1 of this act, is further amended to read as  
26 follows:

27 "§32-5A-191.

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

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

5           "(2) Under the influence of alcohol;

6           "(3) Under the influence of a controlled substance  
7 to a degree which renders him or her incapable of safely  
8 driving;

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

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

15           "(b) A person who is under the age of 21 years shall  
16 not drive or be in actual physical control of any vehicle if  
17 there is 0.02 percent or more by weight of alcohol in his or  
18 her blood. The Alabama State Law Enforcement Agency shall  
19 suspend or revoke the driver's license of any person,  
20 including, but not limited to, a juvenile, child, or youthful  
21 offender, convicted or adjudicated of, or subjected to a  
22 finding of, delinquency based on this subsection.

23 Notwithstanding the foregoing, upon the first violation of  
24 this subsection by a person whose blood alcohol level is  
25 between 0.02 and 0.08, the person's driver's license or  
26 driving privilege shall be suspended for a period of 30 days  
27 in lieu of any penalties provided in subsection (e) of this

1 section, and there shall be no disclosure, other than to  
2 courts, law enforcement agencies, the person's attorney of  
3 record, and the person's employer, by any entity or person of  
4 any information, documents, or records relating to the  
5 person's arrest, conviction, or adjudication of or finding of  
6 delinquency based on this subsection.

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

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

25 "(2) A person shall not drive or be in actual  
26 physical control of a commercial motor vehicle, as defined in  
27 49 CFR Part 383.5 of the Federal Motor Carrier Safety

1 Regulations as adopted pursuant to Section 32-9A-2, if there  
2 is 0.04 percent or greater by weight of alcohol in his or her  
3 blood. Notwithstanding the other provisions of this section,  
4 the commercial driver's license or commercial driving  
5 privilege of a person convicted of violating this subdivision  
6 shall be disqualified for the period provided in accordance  
7 with 49 CFR Part 383.51, as applicable, and the person's  
8 regular driver's license or privilege to drive a regular motor  
9 vehicle shall be governed by the remainder of this section if  
10 the person is guilty of a violation of another provision of  
11 this section.

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

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

20 "(e) Upon first conviction, a person violating this  
21 section shall be punished by imprisonment in the county or  
22 municipal jail for not more than one year, or by fine of not  
23 less than six hundred dollars (\$600) nor more than two  
24 thousand one hundred dollars (\$2,100), or by both a fine and  
25 imprisonment. In addition, on a first conviction, the  
26 Secretary of the Alabama State Law Enforcement Agency shall  
27 suspend the driving privilege or driver's license of the

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

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

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

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

19 "(g) On a third conviction, a person convicted of  
20 violating this section shall be punished by a fine of not less  
21 than two thousand one hundred dollars (\$2,100) nor more than  
22 ten thousand one hundred dollars (\$10,100) and by  
23 imprisonment, which may include hard labor, in the county or  
24 municipal jail for not less than 60 days nor more than one  
25 year, to include a minimum of 60 days which shall be served in  
26 the county or municipal jail and cannot be probated or  
27 suspended. In addition, the Secretary of the Alabama State Law

1 Enforcement Agency shall revoke the driving privilege or  
2 driver's license of the person convicted for a period of three  
3 years and the offender shall be required to have an ignition  
4 interlock device installed and operating on the designated  
5 motor vehicle driven by the offender for a period of three  
6 years from the date of issuance of a driver's license  
7 indicating that the person's driving privileges are subject to  
8 the condition of the installation and use of a certified  
9 ignition interlock device on a motor vehicle. After a minimum  
10 of 60 days of the license revocation or suspension pursuant to  
11 Section 32-5A-304, this section, or both, is completed, upon  
12 receipt of a court order from the convicting court, upon  
13 issuance of an ignition interlock restricted driver license,  
14 and upon proof of installation of an operational approved  
15 ignition interlock device on the designated vehicle of the  
16 person convicted, the mandated ignition interlock period of  
17 three years provided in this subsection shall start and the  
18 suspension period, revocation period, or both, as required  
19 under this subsection shall be stayed. The remainder of the  
20 driver license revocation period, suspension period, or both,  
21 shall be commuted upon the successful completion of the period  
22 of time in which the ignition interlock device is mandated to  
23 be installed and operational.

24 "(h) On a fourth or subsequent conviction, a person  
25 convicted of violating this section shall be guilty of a Class  
26 C felony and punished by a fine of not less than four thousand  
27 one hundred dollars (\$4,100) nor more than ten thousand one



1 hundred dollars (\$10,100) and by imprisonment of not less than  
2 one year and one day nor more than 10 years. Any term of  
3 imprisonment may include hard labor for the county or state,  
4 and where imprisonment does not exceed three years confinement  
5 may be in the county jail. Where imprisonment does not exceed  
6 one year and one day, confinement shall be in the county jail.  
7 The minimum sentence shall include a term of imprisonment for  
8 at least one year and one day, provided, however, that there  
9 shall be a minimum mandatory sentence of 10 days which shall  
10 be served in the county jail. The remainder of the sentence  
11 may be suspended or probated, but only if as a condition of  
12 probation the defendant enrolls and successfully completes a  
13 state certified chemical dependency program recommended by the  
14 court referral officer and approved by the sentencing court.  
15 Where probation is granted, the sentencing court may, in its  
16 discretion, and where monitoring equipment is available, place  
17 the defendant on house arrest under electronic surveillance  
18 during the probationary term. In addition to the other  
19 penalties authorized, the Secretary of the Alabama State Law  
20 Enforcement Agency shall revoke the driving privilege or  
21 driver's license of the person convicted for a period of five  
22 years and the offender shall be required to have an ignition  
23 interlock device installed and operating on the designated  
24 motor vehicle driven by the offender for a period of five  
25 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 one year of the license revocation or suspension pursuant  
3 to Section 32-5A-304, this section, or both, is completed,  
4 upon 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 of an operational approved  
7 ignition interlock device on the designated vehicle of the  
8 person convicted, the mandated ignition interlock period of  
9 five years provided 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 The Alabama habitual felony offender law shall not  
17 apply to a conviction of a felony pursuant to this subsection,  
18 and a conviction of a felony pursuant to this subsection shall  
19 not be a felony conviction for purposes of the enhancement of  
20 punishment pursuant to Alabama's habitual felony offender law.  
21 However, prior misdemeanor or felony convictions for driving  
22 under the influence may be considered as part of the  
23 sentencing calculations or determinations under the Alabama  
24 Sentencing Guidelines or rules promulgated by the Alabama  
25 Sentencing Commission.

26 "(i) When any person convicted of violating this  
27 section is found to have had at least 0.15 percent or more by

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

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

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

1 Administrative Office of Courts and operated in accordance  
2 with provisions of the Mandatory Treatment Act of 1990,  
3 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law  
4 Enforcement Agency shall not reissue a driver's license to a  
5 person convicted under this section without receiving proof  
6 that the defendant has successfully completed the required  
7 program.

8           "(2) Upon conviction, the court shall notify the  
9 Alabama State Law Enforcement Agency if the person convicted  
10 is required to install and maintain an approved ignition  
11 interlock device. The agency shall suspend or revoke a  
12 person's driving privileges until completion of the mandatory  
13 suspension or revocation period required by this section, and  
14 clearance of all other suspensions, revocations,  
15 cancellations, or denials, and proof of installation of an  
16 approved ignition interlock device is presented to the agency.  
17 The agency shall not reissue a driver's license to a person  
18 who has been ordered by a court or is required by law to have  
19 the ignition interlock device installed until proof is  
20 presented that the person is eligible for reinstatement of  
21 driving privileges. Upon presentation of proof and compliance  
22 with all ignition interlock requirements, the agency shall  
23 issue a driver's license with a restriction indicating that  
24 the licensee may operate a motor vehicle only with the  
25 certified ignition interlock device installed and properly  
26 operating. If the licensee fails to maintain the approved  
27 ignition interlock device as required or is otherwise not in

1 compliance with any order of the court, the court shall notify  
2 the agency of the noncompliance and the agency shall suspend  
3 the person's driving privileges until the agency receives  
4 notification from the court that the licensee is in  
5 compliance. The requirement that the licensee use the ignition  
6 interlock device may be removed only when the court of  
7 conviction confirms to the agency that the licensee is no  
8 longer subject to the 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 Alabama Head  
2 and Spinal Cord Injury Trust Fund after deducting five percent  
3 of the one hundred dollars (\$100) for administrative costs and  
4 the remainder of the funds shall be deposited to the State  
5 General Fund. Fines collected for violations of this section  
6 charged pursuant to a municipal ordinance where the total fine  
7 is paid at one time shall be deposited as follows: The first  
8 three hundred fifty dollars (\$350) collected for a first  
9 conviction, the first six hundred dollars (\$600) collected for  
10 a second conviction within five years, the first one thousand  
11 one hundred dollars (\$1,100) collected for a third conviction,  
12 and the first two thousand one hundred dollars (\$2,100)  
13 collected for a fourth or subsequent conviction shall be  
14 deposited to the State Treasury with the first one hundred  
15 dollars (\$100) collected for each conviction credited to the  
16 Alabama Chemical Testing Training and Equipment Trust Fund and  
17 the second one hundred dollars (\$100) to the Alabama Head and  
18 Spinal Cord Injury Trust Fund after deducting five percent of  
19 the one hundred dollars (\$100) for administrative costs and  
20 depositing this amount in the general fund of the  
21 municipality, and the balance credited to the State General  
22 Fund. Any amounts collected over these amounts shall be  
23 deposited as otherwise provided by law. Fines collected for  
24 violations of this section charged pursuant to a municipal  
25 ordinance, where the fine is paid on a partial or installment  
26 basis, shall be deposited as follows: The first two hundred  
27 dollars (\$200) of the fine collected for any conviction shall

1 be deposited to the State Treasury with the first one hundred  
2 dollars (\$100) collected for any conviction credited to the  
3 Alabama Chemical Testing Training and Equipment Trust Fund and  
4 the second one hundred dollars (\$100) for any conviction  
5 credited to the Alabama Head and Spinal Cord Injury Trust Fund  
6 after deducting five percent of the one hundred dollars (\$100)  
7 for administrative costs and depositing this amount in the  
8 general fund of the municipality. The second three hundred  
9 dollars (\$300) of the fine collected for a first conviction,  
10 the second eight hundred dollars (\$800) collected for a second  
11 conviction, the second one thousand eight hundred dollars  
12 (\$1,800) collected for a third conviction, and the second  
13 three thousand eight hundred dollars (\$3,800) collected for a  
14 fourth conviction shall be divided with 50 percent of the  
15 funds collected to be deposited to the State Treasury to be  
16 credited to the State General Fund and 50 percent deposited as  
17 otherwise provided by law for municipal ordinance violations.  
18 Any amounts collected over these amounts shall be deposited as  
19 otherwise provided by law for municipal ordinance violations.  
20 Notwithstanding any provision of law to the contrary, 90  
21 percent of any fine assessed and collected for any DUI offense  
22 charged by municipal ordinance violation in district or  
23 circuit court shall be computed only on the amount assessed  
24 over the minimum fine authorized, and upon collection shall be  
25 distributed to the municipal general fund with the remaining  
26 10 percent distributed to the State General Fund. In addition  
27 to fines imposed pursuant to this subsection, a mandatory fee

1 of one hundred dollars (\$100) shall be collected from any  
2 individual that successfully completes any pretrial diversion  
3 or deferral program in any municipal, district, or circuit  
4 court where the individual was charged with a violation of  
5 this section or a corresponding municipal ordinance. The one  
6 hundred dollars (\$100) shall be deposited into the Alabama  
7 Chemical Testing Training and Equipment Fund.

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

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

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



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

19           "(r) (1) Any person ordered by the court to have an  
20 ignition interlock device installed on a designated vehicle,  
21 and any person who elects to have the ignition interlock  
22 device installed on a designated vehicle for the purpose of  
23 reducing a period of suspension or revocation of his or her  
24 driver's license, shall pay to the court, following his or her  
25 conviction, two hundred dollars (\$200), which may be paid in  
26 installments and which shall be divided as follows:

1            "a. Seventeen percent to the Alabama Interlock  
2 Indigent Fund.

3            "b. For cases in the district or circuit court, 30  
4 percent to the State Judicial Administration Fund administered  
5 by the Administrative Office of Courts and for cases in the  
6 municipal court, 30 percent to the municipal judicial  
7 administration fund of the municipality where the municipal  
8 court is located to be used for the operation of the municipal  
9 court.

10           "c. Thirty percent to the Highway Traffic Safety  
11 Fund administered by the Alabama State Law Enforcement Agency.

12           "d. Twenty-three percent to the District Attorney's  
13 Solicitor Fund.

14           "(2) In addition to paying the court clerk the fee  
15 required above following the conviction or the voluntary  
16 installation of the ignition interlock device, the defendant  
17 shall pay all costs associated with the installation,  
18 purchase, maintenance, or lease of the ignition interlock  
19 devices to an approved ignition interlock provider pursuant to  
20 the rules of the Department of Forensic Sciences, unless the  
21 defendant is subject to Section 32-5A-191.4(i)(4).

22           "(s) The defendant shall designate the vehicle to be  
23 used by identifying the vehicle by the vehicle identification  
24 number to the court. The defendant, at his or her own expense,  
25 may designate additional motor vehicles on which an ignition  
26 interlock device may be installed for the use of the  
27 defendant.

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

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

14           "(u) (1) The Alabama State Law Enforcement Agency may  
15 set a fee of not more than one hundred fifty dollars (\$150)  
16 for the issuance of a driver's license indicating that the  
17 person's driving privileges are subject to the condition of  
18 the installation and use of a certified ignition interlock  
19 device on a motor vehicle. Fifteen percent of the fee shall be  
20 distributed to the general fund of the county where the person  
21 was convicted to be utilized for law enforcement purposes.  
22 Eighty-five percent shall be distributed to the State General  
23 Fund. In addition, at the end of the time the person's driving  
24 privileges are subject to the above conditions, the agency  
25 shall set a fee of not more than seventy-five dollars (\$75) to  
26 reissue a regular driver's license. The fee shall be deposited  
27 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

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

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

10           "a. A breath sample at or above a minimum blood  
11 alcohol concentration level of 0.02 recorded four or more  
12 times during the monthly reporting period.

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

15           "c. Failure to comply with the servicing or  
16 calibration requirements of the ignition interlock device  
17 every 30 days.

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

23           "(w) The provisions in this section and Section  
24 32-5A-191.4 relating to ignition interlock devices shall not  
25 apply to persons who commit violations of this section while  
26 under 19 years of age and who are adjudicated in juvenile  
27 court, unless specifically ordered otherwise by the court.

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

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

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

12          "c. The court of jurisdiction notifies the Alabama  
13 State Law Enforcement Agency that the offender is eligible to  
14 have the driver's license stayed.

15          "d. The Alabama State Law Enforcement Agency issues  
16 an ignition interlock restricted driver's license.

17          "e. The offender remains in compliance of ignition  
18 interlock requirements.

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

23          "~~(y) (1) Any person charged in a district, circuit,~~  
24 ~~or municipal court with a violation of this section or a~~  
25 ~~municipal ordinance adopted in conformance with this section~~  
26 ~~who is approved for any pretrial diversion program or similar~~  
27 ~~program shall be required to install an ignition interlock~~

1 ~~device for a minimum of six months or the duration of the~~  
2 ~~pretrial diversion program, whichever is greater, and meet all~~  
3 ~~the requirements of this section and Section 32-5A-191.4 that~~  
4 ~~a person convicted of a violation of this section or a~~  
5 ~~municipal ordinance is required to meet. A participant in a~~  
6 ~~pretrial diversion program shall be eligible for indigency~~  
7 ~~status if the program enrolls indigent defendants and waives~~  
8 ~~fees for indigent defendants.~~

9 ~~"(2) Upon receipt of a court order or an agreement~~  
10 ~~from the district attorney or prosecutor indicating the~~  
11 ~~offender has entered a pretrial diversion program or any other~~  
12 ~~form of deferred prosecution agreement, the Secretary of the~~  
13 ~~Alabama State Law Enforcement Agency shall indicate as the~~  
14 ~~agency shall determine that the person's driving privileges~~  
15 ~~are subject to the condition of the installation and use of a~~  
16 ~~certified ignition interlock device on a motor vehicle. Any~~  
17 ~~driver's license suspension period pursuant to Section~~  
18 ~~32-5A-304 shall be stayed and then commuted upon the~~  
19 ~~successful completion of a pretrial diversion program or any~~  
20 ~~other form of deferred prosecution agreement.~~

21 ~~"(3) Upon receipt of a court order detailing any~~  
22 ~~ignition interlock violation of the requirements of this~~  
23 ~~section or Section 32-5A-191.4 or termination of the~~  
24 ~~participation in any pretrial diversion program, the Alabama~~  
25 ~~State Law Enforcement Agency shall suspend or revoke driving~~  
26 ~~privileges pursuant to this section and Section 32-5A-304.~~

1           ~~"(4) Nothing in this section shall be construed to~~  
2 ~~require the Alabama State Law Enforcement Agency to issue an~~  
3 ~~ignition interlock license or stay or commute any license~~  
4 ~~suspension or revocation period of a holder of a commercial~~  
5 ~~driver's license, an operator of a commercial motor vehicle,~~  
6 ~~or a commercial driver learner permit holder in violation of~~  
7 ~~other state or federal laws.~~

8           ~~"(z)(y)~~ Notwithstanding the ignition interlock  
9 requirements of this section, no person may be required to  
10 install an ignition interlock device if there is not a  
11 certified ignition interlock provider available within a 50  
12 mile radius of his or her place of residence or place of  
13 business or employment."

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

22           Section 4. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.