

1 SB1  
2 181691-7  
3 By Senator McClendon  
4 RFD: Judiciary  
5 First Read: 09-JAN-18  
6 PFD: 05/19/2017

1 SB1

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3  
4 ENGROSSED

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6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 32-5A-191, as amended by Act  
24 2016-259, 2016 Regular Session, and Section 32-5A-191.4, Code  
25 of Alabama 1975, are amended to read as follows:

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

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

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

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

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



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

26 "(h) On a fourth or subsequent conviction, a person  
27 convicted of violating this section shall be guilty of a Class

1 C felony and punished by a fine of not less than four thousand  
2 one hundred dollars (\$4,100) nor more than ten thousand one  
3 hundred dollars (\$10,100) and by imprisonment of not less than  
4 one year and one day nor more than 10 years. Any term of  
5 imprisonment may include hard labor for the county or state,  
6 and where imprisonment does not exceed three years confinement  
7 may be in the county jail. Where imprisonment does not exceed  
8 one year and one day, confinement shall be in the county jail.  
9 The minimum sentence shall include a term of imprisonment for  
10 at least one year and one day, provided, however, that there  
11 shall be a minimum mandatory sentence of 10 days which shall  
12 be served in the county jail. The remainder of the sentence  
13 may be suspended or probated, but only if as a condition of  
14 probation the defendant enrolls and successfully completes a  
15 state certified chemical dependency program recommended by the  
16 court referral officer and approved by the sentencing court.  
17 Where probation is granted, the sentencing court may, in its  
18 discretion, and where monitoring equipment is available, place  
19 the defendant on house arrest under electronic surveillance  
20 during the probationary term. In addition to the other  
21 penalties authorized, the Secretary of the Alabama State Law  
22 Enforcement Agency shall revoke the driving privilege or  
23 driver's license of the person convicted for a period of five  
24 years and the offender shall be required to have an ignition  
25 interlock device installed and operating on the designated  
26 motor vehicle driven by the offender for a period of five  
27 years from the date of issuance of a driver's license

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

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

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

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

24           "(k) (1) In addition to the penalties provided  
25 herein, any person convicted of violating this section shall  
26 be referred to the court referral officer for evaluation and  
27 referral to appropriate community resources. The defendant

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

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

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

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

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

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

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



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

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

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

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

1 shall be considered by a court for imposing a sentence  
2 pursuant to this section.

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

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

1 ~~four months following the installation of the ignition~~  
2 ~~interlock device on his or her vehicle, seventy-five dollars~~  
3 ~~(\$75) per month~~ two hundred dollars (\$200), which may be paid  
4 in installments and which shall be divided as follows:

5 "a. ~~Forty-five~~ Seventeen percent to the Alabama  
6 Interlock Indigent Fund.

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

14 "c. ~~Twenty~~ Thirty percent to the Highway Traffic  
15 Safety Fund administered by the Alabama State Law Enforcement  
16 Agency.

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

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

1 ~~during which he or she shall pay one-half the cost for the~~  
2 ~~available indigency period 32-5A-191.4(i)(4).~~

3 "(s) The defendant shall designate the vehicle to be  
4 used by identifying the vehicle by the vehicle identification  
5 number to the court. The defendant, at his or her own expense,  
6 may designate additional motor vehicles on which an ignition  
7 interlock device may be installed for the use of the  
8 defendant.

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

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

22 "(u) (1) The Alabama State Law Enforcement Agency may  
23 set a fee of not more than one hundred fifty dollars (\$150)  
24 for the issuance of a driver's license indicating that the  
25 person's driving privileges are subject to the condition of  
26 the installation and use of a certified ignition interlock  
27 device on a motor vehicle. Fifteen percent of the fee shall be

1 distributed to the general fund of the county where the person  
2 was convicted to be utilized for law enforcement purposes.  
3 Eighty-five percent shall be distributed to the State General  
4 Fund. In addition, at the end of the time the person's driving  
5 privileges are subject to the above conditions, the agency  
6 shall set a fee of not more than seventy-five dollars (\$75) to  
7 reissue a regular driver's license. The fee shall be deposited  
8 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

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

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

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

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

24 "c. Failure to comply with the servicing or  
25 calibration requirements of the ignition interlock device  
26 every 30 days.

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

6           "(w) The provisions in this section and Section  
7 32-5A-191.4 relating to ignition interlock devices shall not  
8 apply to persons who commit violations of this section while  
9 under 19 years of age and who are adjudicated in juvenile  
10 court, unless specifically ordered otherwise by the court.

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

16           "a. The offender files an appeal with the court of  
17 jurisdiction requesting all prior suspensions or revocation,  
18 or both, be stayed upon compliance with the ignition interlock  
19 requirement.

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

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

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

1            "e. The offender remains in compliance of ignition  
2 interlock requirements.

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

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

20            "(2) Upon receipt of a court order or an agreement  
21 from the district attorney or prosecutor indicating the  
22 offender has entered a pretrial diversion program or any other  
23 form of deferred prosecution agreement, the Secretary of the  
24 Alabama State Law Enforcement Agency shall indicate as the  
25 agency shall determine that the person's driving privileges  
26 are subject to the condition of the installation and use of a  
27 certified ignition interlock device on a motor vehicle. Any

1 driver's license suspension period pursuant to Section  
2 32-5A-304 shall be stayed and then commuted upon the  
3 successful completion of a pretrial diversion program or any  
4 other form of deferred prosecution agreement.

5 "(z) This section shall be repealed five years from  
6 the effective date of this act."

7 "§32-5A-191.4.

8 "(a) As used in Section 32-5A-191, the term,  
9 "ignition interlock device" means a constant monitoring device  
10 that prevents a motor vehicle from being started at any time  
11 without first determining the equivalent blood alcohol level  
12 of the operator through the taking of a breath sample for  
13 testing. The system shall be calibrated so that the motor  
14 vehicle may not be started if the blood alcohol level of the  
15 operator, as measured by the test, reaches a blood alcohol  
16 concentration level of 0.02.

17 "(b) The ignition interlock device shall be  
18 installed, calibrated, and monitored directly by trained  
19 technicians who shall train the offender for whom the device  
20 is being installed in the proper use of the device. The use of  
21 a mail in or remote calibration system where the technician is  
22 not in the immediate proximity of the vehicle being calibrated  
23 is prohibited. The Department of Forensic Sciences shall  
24 promulgate rules for punishment and appeal for ignition  
25 interlock providers relating to violation of this subsection.

26 "(c) The Department of Forensic Sciences shall  
27 formulate and promulgate rules for the proper approval,



1 installation, and use of ignition interlock devices.

2 Additionally, the Department of Forensic Sciences shall  
3 maintain and make public the list of approved ignition  
4 interlock devices.

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

9 "(e) The Department of Forensic Sciences shall  
10 promulgate rules regulating approved ignition interlock  
11 providers related to areas of consumer coverage. The rules  
12 shall address areas of consumer coverage and shall provide for  
13 a two-year period from July 1, 2014, to allow provider  
14 compliance.

15 "(f) The Department of Forensic Sciences shall  
16 charge an application fee of two thousand dollars (\$2,000) to  
17 any ignition interlock provider to evaluate the instrument.  
18 Any ignition interlock provider whose ignition interlock  
19 device is approved by the Department of Forensic Sciences  
20 shall be permitted to install and calibrate its approved  
21 device in Alabama. Each year during the month of April, the  
22 Department of Forensic Sciences may receive applications and  
23 instruments to review for approval.

24 "(g) The ~~Department of Public Safety~~ Alabama State  
25 Law Enforcement Agency shall be responsible for enforcing the  
26 rules promulgated by the Department of Forensic Sciences  
27 related to ignition interlock devices and providers. The

1 ~~Department of Public Safety~~ Alabama State Law Enforcement  
2 Agency shall promulgate rules regulating the inspection and  
3 enforcement of approved ignition interlock providers and any  
4 associate service locations.

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

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

1 vehicle only when an approved ignition interlock device is  
2 installed and properly operating. Nothing in this subsection  
3 shall permit a person who does not own a vehicle or otherwise  
4 have an ignition interlock device installed on a motor vehicle  
5 to operate a motor vehicle without an approved ignition  
6 interlock device installed and properly operating.

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

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

1 interlock to the offender shall become a part of the official  
2 court record in the case and shall be submitted by the  
3 offender to the interlock provider.

4 "(4) Any offender granted indigency status for the  
5 purpose of ignition interlock shall ~~pay one-half of~~ not be  
6 required to pay the costs associated with installing and  
7 maintaining an interlock device for ~~a~~ the period of ~~no more~~  
8 ~~than two years at which time the offender shall pay the full~~  
9 ~~remaining cost for any sentence left~~ for ignition interlock.  
10 The defendant shall pay any fees for any violation of ignition  
11 interlock requirements and for any optional services elected  
12 by the defendant and for any missing or damaged equipment.  
13 This section shall not affect any fees associated with the  
14 driver's license of the defendant.

15 "(5) a. ~~All interlock providers shall be required to~~  
16 ~~pay one and one-half percent of all payments collected less~~  
17 ~~any payments made by a defendant determined as indigent for~~  
18 ~~the purpose of ignition interlock to the Alabama Ignition~~  
19 ~~Interlock Indigent Fund in the State Treasury.~~ The Alabama  
20 State Law Enforcement Agency (ALEA) shall require each  
21 approved manufacturer to provide at least a minimum number of  
22 indigent defendants with ignition interlock services,  
23 including installation, lease, calibration, and removal at no  
24 cost to the indigent defendant. The minimum number of indigent  
25 defendants provided services shall be equal to five percent of  
26 the total installations provided by the manufacturer during  
27 the prior calendar year.

1           "b. ALEA shall oversee the administration of  
2 indigent services on an annual basis by doing all of the  
3 following:

4           "1. Verifying the total number of installations  
5 provided by the manufacturer each year.

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

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

10          "c. Each manufacturer who fails to meet the five  
11 percent threshold for indigent defendants shall be subject to  
12 a civil penalty of five hundred dollars (\$500) for each  
13 indigent defendant the manufacturer failed to provided  
14 services below the five percent threshold. All fines shall be  
15 collected by ALEA and deposited in the Alabama Ignition  
16 Interlock Indigent Fund.

17          "b.d. The Alabama Ignition Interlock Indigent Fund  
18 is created in the State Treasury. The fund shall be  
19 administered by ~~the Department of Public Safety~~ ALEA. ~~All~~  
20 Except as provided in paragraph e., all of the money in the  
21 fund shall be used to reimburse ignition interlock device  
22 providers who have installed devices in vehicles of indigent  
23 persons pursuant to court orders issued under this section. No  
24 provider shall be reimbursed for an interlock device installed  
25 without the completed affidavit of substantial hardship and  
26 the subsequent order of the court granting indigency status.  
27 Payments to interlock device providers pursuant to this

1 subdivision shall be made every three months. If the amount of  
2 money in the fund at the time payments are made is not  
3 sufficient to pay all requests for reimbursement submitted  
4 during that three-month period, the Comptroller shall make  
5 payments on a pro rata basis and those payments shall be  
6 considered payment in full for the requests submitted. At the  
7 end of each fiscal year, all monies above five hundred  
8 thousand dollars (\$500,000) remaining in the Alabama Ignition  
9 Interlock Indigent Fund shall be divided as follows:

10 "1. Thirty percent to the Highway Traffic Safety  
11 Fund administered by the ~~Department of Public Safety~~ Alabama  
12 State Law Enforcement Agency.

13 "2. Twenty percent to the Alabama Chemical Testing  
14 Training and Equipment Trust Fund administered by the  
15 Department of Forensic Sciences.

16 "3. Thirty percent to the District Attorney's  
17 Solicitor's Fund.

18 "4. Twenty percent to the Office of Prosecution  
19 Services.

20 "e. Notwithstanding the provisions of paragraph d.,  
21 10 percent of the first five hundred thousand dollars  
22 (\$500,000) collected in the fund each year may be used by ALEA  
23 for any of the following additional purposes on an annual  
24 basis:

25 "1. Annual reporting and assessment of manufacturer  
26 compliance with indigent service requirements.

1                   "2. Notice and collection of any fines for  
2                   noncompliance.

3                   "3. Annual inspection of interlock service centers  
4                   by ALEA.

5                   "(6) Any defendant who does not own a vehicle or  
6 otherwise have an ignition interlock device installed on a  
7 vehicle shall be required to pay seventy-five dollars (\$75)  
8 per month for the entire period the defendant is required or  
9 elects to have an ignition interlock device. The defendant  
10 shall still serve all license suspension or revocation, or  
11 both, during this period. Any monies paid pursuant to this  
12 subdivision shall be paid to the court clerk and shall be  
13 deposited in the Alabama Impaired Driving Prevention and  
14 Enforcement Fund in the State Treasury to be used by the  
15 Department of Public Safety for impaired driving education and  
16 enforcement.

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

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

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

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

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



1           "(l) No person shall blow into an ignition interlock  
2 device or start a motor vehicle equipped with the device for  
3 the purpose of providing an operable motor vehicle to a person  
4 who is prohibited from operating a motor vehicle without an  
5 ignition interlock device.

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

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

13           Section 2. Five years from the effective date of  
14 this act, Section 32-5A-191, is added to the Code of Alabama  
15 1975, to read as follows:

16           §32-5A-191.

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

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

21           (2) Under the influence of alcohol;

22           (3) Under the influence of a controlled substance to  
23 a degree which renders him or her incapable of safely 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) Under the influence of any substance which  
2 impairs the mental or physical faculties of such person to a  
3 degree which renders him or her incapable of safely driving.

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

12 Notwithstanding the foregoing, upon the first violation of  
13 this subsection by a person whose blood alcohol level is  
14 between 0.02 and 0.08, the person's driver's license or  
15 driving privilege shall be suspended for a period of 30 days  
16 in lieu of any penalties provided in subsection (e) of this  
17 section, and there shall be no disclosure, other than to  
18 courts, law enforcement agencies, the person's attorney of  
19 record, and the person's employer, by any entity or person of  
20 any information, documents, or records relating to the  
21 person's arrest, conviction, or adjudication of or finding of  
22 delinquency based on this subsection.

23           All persons, except as otherwise provided in this  
24 subsection for a first offense, including, but not limited to,  
25 a juvenile, child, or youthful offender, convicted or  
26 adjudicated of or subjected to a finding of delinquency based  
27 on this subsection shall be fined pursuant to this section,

1 notwithstanding any other law to the contrary, and the person  
2 shall also be required to attend and complete a DUI or  
3 substance abuse court referral program in accordance with  
4 subsection (k).

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

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

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

5           (d) The fact that any person charged with violating  
6 this section is or has been legally entitled to use alcohol or  
7 a controlled substance shall not constitute a defense against  
8 any charge of violating this section.

9           (e) Upon first conviction, a person violating this  
10 section shall be punished by imprisonment in the county or  
11 municipal jail for not more than one year, or by fine of not  
12 less than six hundred dollars (\$600) nor more than two  
13 thousand one hundred dollars (\$2,100), or by both a fine and  
14 imprisonment. In addition, on a first conviction, the  
15 Secretary of the Alabama State Law Enforcement Agency shall  
16 suspend the driving privilege or driver's license of the  
17 person convicted for a period of 90 days. The 90-day  
18 suspension shall be stayed if the offender elects to have an  
19 approved ignition interlock device installed and operating on  
20 the designated motor vehicle driven by the offender for 90  
21 days. The offender shall present proof of installation of the  
22 approved ignition interlock device to the Alabama State Law  
23 Enforcement Agency and obtain an ignition interlock restricted  
24 driver license. The remainder of the suspension shall be  
25 commuted upon the successful completion of the elected use,  
26 mandated use, or both, of the ignition interlock device. If,  
27 on a first conviction, any person refusing to provide a blood

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

1 (f) On a second conviction within a five-year  
2 period, a person convicted of violating this section shall be  
3 punished by a fine of not less than one thousand one hundred  
4 dollars (\$1,100) nor more than five thousand one hundred  
5 dollars (\$5,100) and by imprisonment, which may include hard  
6 labor in the county or municipal jail for not more than one  
7 year. The sentence shall include a mandatory sentence, which  
8 is not subject to suspension or probation, of imprisonment in  
9 the county or municipal jail for not less than five days or  
10 community service for not less than 30 days. In addition, the  
11 Secretary of the Alabama State Law Enforcement Agency shall  
12 revoke the driving privileges or driver's license of the  
13 person convicted for a period of one year and the offender  
14 shall be required to have an ignition interlock device  
15 installed and operating on the designated motor vehicle driven  
16 by the offender for a period of two years from the date of  
17 issuance of a driver's license indicating that the person's  
18 driving privileges are subject to the condition of the  
19 installation and use of a certified ignition interlock device  
20 on a motor vehicle. After a minimum of 45 days of the license  
21 revocation or suspension pursuant to Section 32-5A-304, this  
22 section, or both, is completed, upon receipt of a court order  
23 from the convicting court, upon issuance of an ignition  
24 interlock restricted driver license, and upon proof of  
25 installation or an operational approved ignition interlock  
26 device on the designated vehicle of the person convicted, the  
27 mandated ignition interlock period of two years approved in

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

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

1 receipt of a court order from the convicting court, upon  
2 issuance of an ignition interlock restricted driver license,  
3 and upon proof of installation of an operational approved  
4 ignition interlock device on the designated vehicle of the  
5 person convicted, the mandated ignition interlock period of  
6 three 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 (h) On a fourth or subsequent conviction, a person  
14 convicted of violating this section shall be guilty of a Class  
15 C felony and punished by a fine of not less than four thousand  
16 one hundred dollars (\$4,100) nor more than ten thousand one  
17 hundred dollars (\$10,100) and by imprisonment of not less than  
18 one year and one day nor more than 10 years. Any term of  
19 imprisonment may include hard labor for the county or state,  
20 and where imprisonment does not exceed three years confinement  
21 may be in the county jail. Where imprisonment does not exceed  
22 one year and one day, confinement shall be in the county jail.  
23 The minimum sentence shall include a term of imprisonment for  
24 at least one year and one day, provided, however, that there  
25 shall be a minimum mandatory sentence of 10 days which shall  
26 be served in the county jail. The remainder of the sentence  
27 may be suspended or probated, but only if as a condition of



1 probation the defendant enrolls and successfully completes a  
2 state certified chemical dependency program recommended by the  
3 court referral officer and approved by the sentencing court.  
4 Where probation is granted, the sentencing court may, in its  
5 discretion, and where monitoring equipment is available, place  
6 the defendant on house arrest under electronic surveillance  
7 during the probationary term. In addition to the other  
8 penalties authorized, the Secretary of the Alabama State Law  
9 Enforcement Agency shall revoke the driving privilege or  
10 driver's license of the person convicted for a period of five  
11 years and the offender shall be required to have an ignition  
12 interlock device installed and operating on the designated  
13 motor vehicle driven by the offender for a period of five  
14 years from the date of issuance of a driver's license  
15 indicating that the person's driving privileges are subject to  
16 the condition of the installation and use of a certified  
17 ignition interlock device on a motor vehicle. After a minimum  
18 of one year of the license revocation or suspension pursuant  
19 to Section 32-5A-304, this section, or both, is completed,  
20 upon receipt of a court order from the convicting court, upon  
21 issuance of an ignition interlock restricted driver license,  
22 and upon proof of installation of an operational approved  
23 ignition interlock device on the designated vehicle of the  
24 person convicted, the mandated ignition interlock period of  
25 five years provided in this subsection shall start and the  
26 suspension period, revocation period, or both, as required  
27 under this subsection shall be stayed. The remainder of the

1 driver license revocation period, suspension period, or both,  
2 shall be commuted upon the successful completion of the period  
3 of time in which the ignition interlock device is mandated to  
4 be installed and operational.

5 The Alabama habitual felony offender law shall not  
6 apply to a conviction of a felony pursuant to this subsection,  
7 and a conviction of a felony pursuant to this subsection shall  
8 not be a felony conviction for purposes of the enhancement of  
9 punishment pursuant to Alabama's habitual felony offender law.  
10 However, prior misdemeanor or felony convictions for driving  
11 under the influence may be considered as part of the  
12 sentencing calculations or determinations under the Alabama  
13 Sentencing Guidelines or rules promulgated by the Alabama  
14 Sentencing Commission.

15 (i) When any person convicted of violating this  
16 section is found to have had at least 0.15 percent or more by  
17 weight of alcohol in his or her blood while operating or being  
18 in actual physical control of a vehicle, he or she shall be  
19 sentenced to at least double the minimum punishment that the  
20 person would have received if he or she had had less than 0.15  
21 percent by weight of alcohol in his or her blood. Upon the  
22 first violation of this subsection, the offender shall be  
23 ordered by the court to have an ignition interlock device  
24 installed and operating on his or her designated motor vehicle  
25 for a period of two years from the date of issuance of an  
26 ignition interlock-restricted driver's license. If the  
27 adjudicated offense is a misdemeanor, the minimum punishment

1 shall be imprisonment for one year, all of which may be  
2 suspended except as otherwise provided for in subsections (f)  
3 and (g).

4 (j) When any person over the age of 21 years is  
5 convicted of violating this section and it is found that a  
6 child under the age of 14 years was a passenger in the vehicle  
7 at the time of the offense, the person shall be sentenced to  
8 at least double the minimum punishment that the person would  
9 have received if the child had not been a passenger in the  
10 motor vehicle.

11 (k) (1) In addition to the penalties provided herein,  
12 any person convicted of violating this section shall be  
13 referred to the court referral officer for evaluation and  
14 referral to appropriate community resources. The defendant  
15 shall, at a minimum, be required to complete a DUI or  
16 substance abuse court referral program approved by the  
17 Administrative Office of Courts and operated in accordance  
18 with provisions of the Mandatory Treatment Act of 1990,  
19 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law  
20 Enforcement Agency shall not reissue a driver's license to a  
21 person convicted under this section without receiving proof  
22 that the defendant has successfully completed the required  
23 program.

24 (2) Upon conviction, the court shall notify the  
25 Alabama State Law Enforcement Agency if the person convicted  
26 is required to install and maintain an approved ignition  
27 interlock device. The agency shall suspend or revoke a

1 person's driving privileges until completion of the mandatory  
2 suspension or revocation period required by this section, and  
3 clearance of all other suspensions, revocations,  
4 cancellations, or denials, and proof of installation of an  
5 approved ignition interlock device is presented to the agency.  
6 The agency shall not reissue a driver's license to a person  
7 who has been ordered by a court or is required by law to have  
8 the ignition interlock device installed until proof is  
9 presented that the person is eligible for reinstatement of  
10 driving privileges. Upon presentation of proof and compliance  
11 with all ignition interlock requirements, the agency shall  
12 issue a driver's license with a restriction indicating that  
13 the licensee may operate a motor vehicle only with the  
14 certified ignition interlock device installed and properly  
15 operating. If the licensee fails to maintain the approved  
16 ignition interlock device as required or is otherwise not in  
17 compliance with any order of the court, the court shall notify  
18 the agency of the noncompliance and the agency shall suspend  
19 the person's driving privileges until the agency receives  
20 notification from the court that the licensee is in  
21 compliance. The requirement that the licensee use the ignition  
22 interlock device may be removed only when the court of  
23 conviction confirms to the agency that the licensee is no  
24 longer subject to the ignition interlock device requirement.

25 (1) Neither reckless driving nor any other traffic  
26 infraction is a lesser included offense under a charge of

1 driving under the influence of alcohol or of a controlled  
2 substance.

3 (m) Except for fines collected for violations of  
4 this section charged pursuant to a municipal ordinance, fines  
5 collected for violations of this section shall be deposited to  
6 the State General Fund; however, beginning October 1, 1995, of  
7 any amount collected over two hundred fifty dollars (\$250) for  
8 a first conviction, over five hundred dollars (\$500) for a  
9 second conviction within five years, over one thousand dollars  
10 (\$1,000) for a third conviction within five years, and over  
11 two thousand dollars (\$2,000) for a fourth or subsequent  
12 conviction within five years, the first one hundred dollars  
13 (\$100) of that additional amount shall be deposited to the  
14 Alabama Chemical Testing Training and Equipment Trust Fund,  
15 after three percent of the one hundred dollars (\$100) is  
16 deducted for administrative costs, and beginning October 1,  
17 1997, and thereafter, the second one hundred dollars (\$100) of  
18 that additional amount shall be deposited in the Alabama Head  
19 and Spinal Cord Injury Trust Fund after deducting five percent  
20 of the one hundred dollars (\$100) for administrative costs and  
21 the remainder of the funds shall be deposited to the State  
22 General Fund. Fines collected for violations of this section  
23 charged pursuant to a municipal ordinance where the total fine  
24 is paid at one time shall be deposited as follows: The first  
25 three hundred fifty dollars (\$350) collected for a first  
26 conviction, the first six hundred dollars (\$600) collected for  
27 a second conviction within five years, the first one thousand

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

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

25 (n) A person who has been arrested for violating  
26 this section shall not be released from jail under bond or  
27 otherwise, until there is less than the same percent by weight

1 of alcohol in his or her blood as specified in subsection  
2 (a) (1) or, in the case of a person who is under the age of 21  
3 years, subsection (b) hereof.

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

11 (p) A prior conviction within a five-year period for  
12 driving under the influence of alcohol or drugs from this  
13 state, a municipality within this state, or another state or  
14 territory or a municipality of another state or territory  
15 shall be considered by a court for imposing a sentence  
16 pursuant to this section.

17 (q) Any person convicted of driving under the  
18 influence of alcohol, or a controlled substance, or both, or  
19 any substance which impairs the mental or physical faculties  
20 in violation of this section, a municipal ordinance adopting  
21 this section, or a similar law from another state or territory  
22 or a municipality of another state or territory more than once  
23 in a five-year period shall have his or her motor vehicle  
24 registration for all vehicles owned by the repeat offender  
25 suspended by the Alabama Department of Revenue for the  
26 duration of the offender's driver's license suspension period,  
27 unless such action would impose an undue hardship to any



1 individual, not including the repeat offender, who is  
2 completely dependent on the motor vehicle for the necessities  
3 of life, including any family member of the repeat offender  
4 and any co-owner of the vehicle or, in the case of a repeat  
5 offender, if the repeat offender has a functioning ignition  
6 interlock device installed on the designated vehicle for the  
7 duration of the offender's driver's license suspension period.

8 (r) (1) Any person ordered by the court to have an  
9 ignition interlock device installed on a designated vehicle,  
10 and any person who elects to have the ignition interlock  
11 device installed on a designated vehicle for the purpose of  
12 reducing a period of suspension or revocation of his or her  
13 driver's license, shall pay to the court, following his or her  
14 conviction, two hundred dollars (\$200), which may be paid in  
15 installments and which shall be divided as follows:

16 a. Seventeen percent to the Alabama Interlock  
17 Indigent Fund.

18 b. For cases in the district or circuit court, 30  
19 percent to the State Judicial Administration Fund administered  
20 by the Administrative Office of Courts and for cases in the  
21 municipal court, 30 percent to the municipal judicial  
22 administration fund of the municipality where the municipal  
23 court is located to be used for the operation of the municipal  
24 court.

25 c. Thirty percent to the Highway Traffic Safety Fund  
26 administered by the Alabama State Law Enforcement Agency.

1           d. Twenty-three percent to the District Attorney's  
2 Solicitor Fund.

3           (2) In addition to paying the court clerk the fee  
4 required above following the conviction or the voluntary  
5 installation of the ignition interlock device, the defendant  
6 shall pay all costs associated with the installation,  
7 purchase, maintenance, or lease of the ignition interlock  
8 devices to an approved ignition interlock provider pursuant to  
9 the rules of the Department of Forensic Sciences, unless the  
10 defendant is subject to Section 32-5A-191.4(i)(4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           b. The offender wins appeal with the court of  
2 jurisdiction relating to this section.

3           c. The court of jurisdiction notifies the Alabama  
4 State Law Enforcement Agency that the offender is eligible to  
5 have the driver's license stayed.

6           d. The Alabama State Law Enforcement Agency issues  
7 an ignition interlock restricted driver's license.

8           e. The offender remains in compliance of ignition  
9 interlock requirements.

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

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.

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Senate

Read for the first time and referred to the Senate committee on Judiciary.....	09-JAN-18
Read for the second time and placed on the calen- dar.....	11-JAN-18
Read for the third time and passed as amended ....	25-JAN-18

Patrick Harris,  
Secretary.