

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

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

12 This bill would: Require each person  
13 approved for a pretrial diversion program to be  
14 required to have an ignition interlock device  
15 installed for a certain period of time; provide  
16 that a portion of the court fee would be  
17 distributed to the municipal court if the case is a  
18 municipal court case when the person is ordered or  
19 agrees to have an ignition interlock device; delete  
20 the requirement for indigents to pay for the  
21 services; provide that a person convicted of a  
22 third offense would be authorized or required to  
23 obtain an ignition interlock device after the  
24 completion of his or her incarceration; would  
25 require manufacturers to provide ignition interlock  
26 services to indigent under certain conditions  
27 without charge; and would specify the number of

1 violations for extension of ignition interlock  
2 requirements to be consistent with Department of  
3 Forensic Sciences rules.

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

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

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§32-5A-191.

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

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

"(2) Under the influence of alcohol;

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

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

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

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

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

26           "All persons, except as otherwise provided in this  
27 subsection for a first offense, including, but not limited to,

1 a juvenile, child, or youthful offender, convicted or  
2 adjudicated of or subjected to a finding of delinquency based  
3 on this subsection shall be fined pursuant to this section,  
4 notwithstanding any other law to the contrary, and the person  
5 shall also be required to attend and complete a DUI or  
6 substance abuse court referral program in accordance with  
7 subsection (k).

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

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

1 vehicle shall be governed by the remainder of this section if  
2 the person is guilty of a violation of another provision of  
3 this section.

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

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

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

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



1 shall be commuted upon the successful completion of the period  
2 of time in which the ignition interlock device is mandated to  
3 be installed and operational.

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

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

11 "(g) On a third conviction, a person convicted of  
12 violating this section shall be punished by a fine of not less  
13 than two thousand one hundred dollars (\$2,100) nor more than  
14 ten thousand one hundred dollars (\$10,100) and by  
15 imprisonment, which may include hard labor, in the county or  
16 municipal jail for not less than 60 days nor more than one  
17 year, to include a minimum of 60 days which shall be served in  
18 the county or municipal jail and cannot be probated or  
19 suspended. In addition, 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 three  
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 three  
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 ~~180~~ 60 days of the license revocation or suspension  
3 pursuant to Section 32-5A-304, this section, or both, is  
4 completed, upon receipt of a court order from the convicting  
5 court, upon issuance of an ignition interlock restricted  
6 driver license, and upon proof of installation of an  
7 operational approved ignition interlock device on the  
8 designated vehicle of the person convicted, the mandated  
9 ignition interlock period of three years provided in this  
10 subsection shall start and the suspension period, revocation  
11 period, or both, as required under this subsection shall be  
12 stayed. The remainder of the driver license revocation period,  
13 suspension period, or both, shall be commuted upon the  
14 successful completion of the period of time in which the  
15 ignition interlock device is mandated to be installed and  
16 operational.

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

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

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

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

19 "(i) When any person convicted of violating this  
20 section is found to have had at least 0.15 percent or more by  
21 weight of alcohol in his or her blood while operating or being  
22 in actual physical control of a vehicle, he or she shall be  
23 sentenced to at least double the minimum punishment that the  
24 person would have received if he or she had had less than 0.15  
25 percent by weight of alcohol in his or her blood. Upon the  
26 first violation of this subsection, the offender shall be  
27 ordered by the court to have an ignition interlock device

1 installed and operating on his or her designated motor vehicle  
2 for a period of two years from the date of issuance of an  
3 ignition interlock-restricted driver's license. If the  
4 adjudicated offense is a misdemeanor, the minimum punishment  
5 shall be imprisonment for one year, all of which may be  
6 suspended except as otherwise provided for in subsections (f)  
7 and (g).

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

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

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

1 conviction confirms to the agency that the licensee is no  
2 longer subject to the ignition interlock device requirement.

3 "(l) Neither reckless driving nor any other traffic  
4 infraction is a lesser included offense under a charge of  
5 driving under the influence of alcohol or of a controlled  
6 substance.

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



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

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

1 hundred dollars (\$100) shall be deposited into the Alabama  
2 Chemical Testing Training and Equipment Fund.

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

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

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

22 "(q) Any person convicted of driving under the  
23 influence of alcohol, or a controlled substance, or both, or  
24 any substance which impairs the mental or physical faculties  
25 in violation of this section, a municipal ordinance adopting  
26 this section, or a similar law from another state or territory  
27 or a municipality of another state or territory more than once

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

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

24 "a. ~~Forty-five~~ Seventeen percent to the Alabama  
25 Interlock Indigent Fund.

26 "b. ~~Twenty~~ For cases in the district or circuit  
27 court, 30 percent to the State Judicial Administration Fund

1 administered by the Administrative Office of Courts and for  
2 cases in the municipal court, 30 percent to the municipal  
3 judicial administration fund of the municipality where the  
4 municipal court is located to be used for the operation of the  
5 municipal court.

6 "c. ~~Twenty~~ Thirty percent to the Highway Traffic  
7 Safety Fund administered by the Alabama State Law Enforcement  
8 Agency.

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

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

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

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

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

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

24           "(w) The provisions in this section and Section  
25 32-5A-191.4 relating to ignition interlock devices shall not  
26 apply to persons who commit violations of this section while

1 under 19 years of age and who are adjudicated in juvenile  
2 court, unless specifically ordered otherwise by the court.

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

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

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

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

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

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

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

25 "(y) Any person charged in a district, circuit, or  
26 municipal court with a violation of this section or a  
27 municipal ordinance adopted in conformance with this section



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

11 "§32-5A-191.4.

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

21 "(b) The ignition interlock device shall be  
22 installed, calibrated, and monitored directly by trained  
23 technicians who shall train the offender for whom the device  
24 is being installed in the proper use of the device. The use of  
25 a mail in or remote calibration system where the technician is  
26 not in the immediate proximity of the vehicle being calibrated  
27 is prohibited. The Department of Forensic Sciences shall

1 promulgate rules for punishment and appeal for ignition  
2 interlock providers relating to violation of this subsection.

3 "(c) The Department of Forensic Sciences shall  
4 formulate and promulgate rules for the proper approval,  
5 installation, and use of ignition interlock devices.  
6 Additionally, the Department of Forensic Sciences shall  
7 maintain and make public the list of approved ignition  
8 interlock devices.

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

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

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

1           "(g) The Department of Public Safety shall be  
2 responsible for enforcing the rules promulgated by the  
3 Department of Forensic Sciences related to ignition interlock  
4 devices and providers. The Department of Public Safety shall  
5 promulgate rules regulating the inspection and enforcement of  
6 approved ignition interlock providers and any associate  
7 service locations.

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

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

1 opportunity to be heard on the petition. The court in which  
2 the defendant is convicted shall notify the department that  
3 the defendant is restricted to the operation of a motor  
4 vehicle only when an approved ignition interlock device is  
5 installed and properly operating. Nothing in this subsection  
6 shall permit a person who does not own a vehicle or otherwise  
7 have an ignition interlock device installed on a motor vehicle  
8 to operate a motor vehicle without an approved ignition  
9 interlock device installed and properly operating.

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

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

1 Supreme Court. The completed affidavit of substantial hardship  
2 and the subsequent order of the court either denying or  
3 granting indigency status for the purpose of ignition  
4 interlock to the offender shall become a part of the official  
5 court record in the case and shall be submitted by the  
6 offender to the interlock provider.

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

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

1 the total installations provided by the manufacturer during  
2 the prior calendar year.

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

6 "1. Verifying the total number of installations  
7 provided by the manufacturer each year.

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

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

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

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

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

12 "1. Thirty percent to the Highway Traffic Safety  
13 Fund administered by the Department of Public Safety.

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

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

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

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

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

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