

1 SB164
2 216730-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 02-FEB-22

8 SYNOPSIS: Under existing law, there are circumstances
9 where a defendant is required to install an
10 ignition interlock device if convicted of driving
11 under the influence.

12 This bill would give the court the option to
13 order a defendant to install an ignition interlock
14 device or any other alcohol monitoring device
15 approved by the court.

16 Under existing law, when a defendant charged
17 with driving under the influence enters any
18 pretrial diversion or similar program, the
19 defendant is required to install an ignition
20 interlock device.

21 This bill would provide that the defendant
22 may be required by the court to install any other
23 alcohol monitoring device in lieu of an ignition
24 interlock device.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, as amended by Amendment 890, now appearing
27 as Section 111.05 of the Official ReCompilation of

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

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to persons charged with driving under the
24 influence; to amend Sections 32-5A-191 and 32-5A-191.4, Code
25 of Alabama 1975, to require and provide for the use of
26 ignition interlock devices or any other device approved for
27 alcohol monitoring; and in connection therewith would have as

1 its purpose or effect the requirement of a new or increased
2 expenditure of local funds within the meaning of Amendment 621
3 of the Constitution of Alabama of 1901, as amended by
4 Amendment 890, now appearing as Section 111.05 of the Official
5 Recompilation of the Constitution of Alabama of 1901, as
6 amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 32-5A-191, Code of Alabama 1975,
9 effective until July 1, 2023, is amended to read as follows:

10 "§32-5A-191.

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

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

15 "(2) Under the influence of alcohol;

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

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

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

25 "(b) (1) A person who is under the age of 21 years
26 shall not drive or be in actual physical control of any
27 vehicle if there is 0.02 percent or more by weight of alcohol

1 in his or her blood. The Alabama State Law Enforcement Agency
2 shall suspend or revoke the driver's license of any person,
3 including, but not limited to, a juvenile, child, or youthful
4 offender, convicted or adjudicated of, or subjected to a
5 finding of, delinquency based on this subsection.

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

17 "(2) All persons, except as otherwise provided in
18 this subsection for a first offense, including, but not
19 limited to, a juvenile, child, or youthful offender, convicted
20 or adjudicated of or subjected to a finding of delinquency
21 based on this subsection shall be fined pursuant to this
22 section, notwithstanding any other law to the contrary, and
23 the person shall also be required to attend and complete a DUI
24 or substance abuse court referral program in accordance with
25 subsection (k).

26 "(c) (1) A school bus or day care driver shall not
27 drive or be in actual physical control of any vehicle while in

1 performance of his or her duties if there is greater than 0.02
2 percent by weight of alcohol in his or her blood. A person
3 convicted pursuant to this subsection shall be subject to the
4 penalties provided by this section, except that on the first
5 conviction the Secretary of the Alabama State Law Enforcement
6 Agency shall suspend the driving privilege or driver's license
7 for a period of one year.

8 "(2) A person shall not drive or be in actual
9 physical control of a commercial motor vehicle, as defined in
10 49 CFR Part 383.5 of the Federal Motor Carrier Safety
11 Regulations as adopted pursuant to Section 32-9A-2, if there
12 is 0.04 percent or greater by weight of alcohol in his or her
13 blood. Notwithstanding the other provisions of this section,
14 the commercial driver's license or commercial driving
15 privilege of a person convicted of violating this subdivision
16 shall be disqualified for the period provided in accordance
17 with 49 CFR Part 383.51, as applicable, and the person's
18 regular driver's license or privilege to drive a regular motor
19 vehicle shall be governed by the remainder of this section if
20 the person is guilty of a violation of another provision of
21 this section.

22 "(3) Any commutation of suspension or revocation
23 time as it relates to a court order, approval, and
24 installation of an ignition interlock device or any other
25 alcohol monitoring device approved by the court shall not
26 apply to commercial driving privileges or disqualifications.

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

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

1 conviction, any person refusing to provide a blood alcohol
2 concentration, if a child under the age of 14 years was a
3 passenger in the vehicle at the time of the offense, if
4 someone else besides the offender was injured at the time of
5 the offense, or if the offender is found to have had at least
6 0.15 percent or more by weight of alcohol in his or her blood
7 while operating or being in actual physical control of a
8 vehicle, the Secretary of the Alabama State Law Enforcement
9 Agency shall suspend the driving privilege or driver's license
10 of the person convicted for a period of 90 days and the person
11 shall be required to either have an ignition interlock device
12 installed and operating on the designated motor vehicle driven
13 by the offender for a period of one year from the date of
14 issuance of a driver's license indicating that the person's
15 driving privileges are subject to the condition of the
16 installation and use of a certified ignition interlock device
17 on a motor vehicle or have any other alcohol monitoring device
18 approved by the court purchased or leased and operational for
19 a period of one year from the date the offender provides proof
20 of installation, purchase, or lease of the alcohol monitoring
21 device to the court and the agency. Upon receipt of a court
22 order from the convicting court, upon issuance of an ignition
23 interlock restricted driver license, and upon proof of
24 installation of an operational approved ignition interlock
25 device on the designated vehicle of the person convicted, the
26 mandated ignition interlock period of one year provided in
27 this subsection shall start and the suspension period,

1 revocation period, or both, as required under this subsection
2 shall be stayed. If the court ordered any other alcohol
3 monitoring device in lieu of an ignition interlock device,
4 upon receipt of a court order from the convicting court that
5 the person convicted has provided proof of installation,
6 purchase, or lease of an alcohol monitoring device approved by
7 the court, the mandated ignition interlock period of one year
8 provided in this subsection shall start and the suspension
9 period, revocation period, or both, as required under this
10 subsection shall be stayed. The remainder of the driver
11 license revocation period, suspension period, or both, shall
12 be commuted upon the successful completion of the period of
13 time in which the ignition interlock device is mandated to be
14 installed and operational or the period of time any other
15 alcohol monitoring device approved by the court is mandated to
16 be operational.

17 "(f) On a second conviction, a person convicted of
18 violating this section shall be punished by a fine of not less
19 than one thousand one hundred dollars (\$1,100) nor more than
20 five thousand one hundred dollars (\$5,100) and by
21 imprisonment, which may include hard labor in the county or
22 municipal jail for not more than one year. The sentence shall
23 include a mandatory sentence, which is not subject to
24 suspension or probation, of imprisonment in the county or
25 municipal jail for not less than five days or community
26 service for not less than 30 days. In addition, the Secretary
27 of the Alabama State Law Enforcement Agency shall revoke the

1 driving privileges or driver's license of the person convicted
2 for a period of one year and the offender shall be required to
3 either have an ignition interlock device installed and
4 operating on the designated motor vehicle driven by the
5 offender for a period of two years from the date of issuance
6 of a driver's license indicating that the person's driving
7 privileges are subject to the condition of the installation
8 and use of a certified ignition interlock device on a motor
9 vehicle or have any other alcohol monitoring device approved
10 by the court purchased or leased and operational for a period
11 of two years from the date the offender provides proof of
12 installation, purchase, or lease of the alcohol monitoring
13 device to the court and the agency. After a minimum of 45 days
14 of the license revocation or suspension pursuant to Section
15 32-5A-304, this section, or both, is completed, upon receipt
16 of a court order from the convicting court, upon issuance of
17 an ignition interlock restricted driver license, and upon
18 proof of installation of an operational approved ignition
19 interlock device on the designated vehicle of the person
20 convicted, the mandated ignition interlock period of two years
21 ~~approved~~ provided in this subsection shall start and the
22 suspension period, revocation period, or both, as required
23 under this subsection shall be stayed. If the court ordered
24 any other alcohol monitoring device in lieu of an ignition
25 interlock device, upon receipt of a court order from the
26 convicting court that the person convicted has provided proof
27 of installation, purchase, or lease of an alcohol monitoring

1 device approved by the court, the mandated ignition interlock
2 period of two years provided in this subsection shall start
3 and the suspension period, revocation period, or both, as
4 required under this subsection shall be stayed. The remainder
5 of the driver license revocation period, suspension period, or
6 both, shall be commuted upon the successful completion of the
7 period of time in which the ignition interlock device is
8 mandated to be installed and operational or the period of time
9 any other alcohol monitoring device approved by the court is
10 mandated to be 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 either have an
23 ignition interlock device installed and operating on the
24 designated motor vehicle driven by the offender for a period
25 of three 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 or have any other
2 alcohol monitoring device approved by the court purchased or
3 leased and operational for a period of three years from the
4 date the offender provides proof of installation, purchase, or
5 lease of the alcohol monitoring device to the court and the
6 agency. After a minimum of 60 days of the license revocation
7 or suspension pursuant to Section 32-5A-304, this section, or
8 both, is completed, upon receipt of a court order from the
9 convicting court, upon issuance of an ignition interlock
10 restricted driver license, and upon proof of installation of
11 an operational approved ignition interlock device on the
12 designated vehicle of the person convicted, the mandated
13 ignition interlock period of three years provided in this
14 subsection shall start and the suspension period, revocation
15 period, or both, as required under this subsection shall be
16 stayed. If the court ordered any other alcohol monitoring
17 device in lieu of an ignition interlock device, upon receipt
18 of a court order from the convicting court that the person
19 convicted has provided proof of installation, purchase, or
20 lease of an alcohol monitoring device approved by the court,
21 the mandated ignition interlock period of three years provided
22 in this subsection shall start and the suspension period,
23 revocation period, or both, as required under this subsection
24 shall be stayed. The remainder of the driver license
25 revocation period, suspension period, or both, shall be
26 commuted upon the successful completion of the period of time
27 in which the ignition interlock device is mandated to be

1 installed and operational or the period of time any other
2 alcohol monitoring device approved by the court is mandated to
3 be operational.

4 "(h) (1) On a fourth or subsequent conviction, or if
5 the person has a previous felony DUI conviction, a person
6 convicted of violating this section shall be guilty of a Class
7 C felony and punished by a fine of not less than four thousand
8 one hundred dollars (\$4,100) nor more than ten thousand one
9 hundred dollars (\$10,100) and by imprisonment of not less than
10 one year and one day nor more than 10 years. Any term of
11 imprisonment may include hard labor for the county or state,
12 and where imprisonment does not exceed three years,
13 confinement may be in the county jail. Where imprisonment does
14 not exceed one year and one day, confinement shall be in the
15 county jail. The minimum sentence shall include a term of
16 imprisonment for at least one year and one day, provided,
17 however, that there shall be a minimum mandatory sentence of
18 10 days which shall be served in the county jail. The
19 remainder of the sentence may be suspended or probated, but
20 only if as a condition of probation the defendant enrolls and
21 successfully completes a state certified chemical dependency
22 program recommended by the court referral officer and approved
23 by the sentencing court. Where probation is granted, the
24 sentencing court may, in its discretion, and where monitoring
25 equipment is available, place the defendant on house arrest
26 under electronic surveillance during the probationary term. In
27 addition to the other penalties authorized, the Secretary of

1 the Alabama State Law Enforcement Agency shall revoke the
2 driving privilege or driver's license of the person convicted
3 for a period of five years and the offender shall be required
4 to either have an ignition interlock device installed and
5 operating on the designated motor vehicle driven by the
6 offender for a period of four years from the date of issuance
7 of a driver's license indicating that the person's driving
8 privileges are subject to the condition of the installation
9 and use of a certified ignition interlock device on a motor
10 vehicle or have any other alcohol monitoring device approved
11 by the court purchased or leased and operational for a period
12 of four years from the date the offender provides proof of
13 installation, purchase, or lease of the alcohol monitoring
14 device to the court and the agency. After a minimum of one
15 year of the license revocation or suspension pursuant to
16 Section 32-5A-304, this section, or both, is completed, upon
17 receipt of a court order from the convicting court, upon
18 issuance of an ignition interlock restricted driver license,
19 and upon proof of installation of an operational approved
20 ignition interlock device on the designated vehicle of the
21 person convicted, the mandated ignition interlock period of
22 four years provided in this subsection shall start and the
23 suspension period, revocation period, or both, as required
24 under this subsection shall be stayed. If the court ordered
25 any other alcohol monitoring device in lieu of an ignition
26 interlock device, upon receipt of a court order from the
27 convicting court that the person convicted has provided proof

1 of installation, purchase, or lease of an alcohol monitoring
2 device approved by the court, the mandated ignition interlock
3 period of four years provided in this subsection shall start
4 and the suspension period, revocation period, or both, as
5 required under this subsection shall be stayed. The remainder
6 of the driver license revocation period, suspension period, or
7 both, shall be commuted upon the successful completion of the
8 period of time in which the ignition interlock device is
9 mandated to be installed and operational or the period of time
10 any other alcohol monitoring device approved by the court is
11 mandated to be operational.

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

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

1 percent by weight of alcohol in his or her blood. This
2 subsection does not apply to the duration of time an ignition
3 interlock device or any other alcohol monitoring device
4 approved by the court is required by this section. If the
5 adjudicated offense is a misdemeanor, the minimum punishment
6 shall be imprisonment for one year, all of which may be
7 suspended except as otherwise provided for in subsections (f)
8 and (g).

9 "(j) When any person over the age of 21 years is
10 convicted of violating this section and it is found that a
11 child under the age of 14 years was a passenger in the vehicle
12 at the time of the offense, the person shall be sentenced to
13 at least double the minimum punishment that the person would
14 have received if the child had not been a passenger in the
15 motor vehicle. This subsection does not apply to the duration
16 of time an ignition interlock device or any other alcohol
17 monitoring device approved by the court is required by this
18 section.

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

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

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

1 approved ignition interlock device as required or is otherwise
2 not in compliance with any order of the court, the court shall
3 notify the agency of the noncompliance and the agency shall
4 suspend the person's driving privileges until the agency
5 receives notification from the court that the licensee is in
6 compliance. If the court ordered any other alcohol monitoring
7 device in lieu of an ignition interlock device, upon
8 presentation of proof and compliance with all alcohol
9 monitoring device requirements, the agency shall issue a
10 driver's license to the offender. If the licensee fails to
11 maintain the approved alcohol monitoring device as required,
12 or is otherwise not in compliance with any order of the court,
13 the court shall notify the agency of the noncompliance and the
14 agency shall suspend the person's driving privileges until the
15 agency receives notification from the court that the licensee
16 is in compliance. The requirement that the licensee use the
17 ignition interlock device or any other alcohol monitoring
18 device approved by the court may be removed only when the
19 court of conviction confirms to the agency that the licensee
20 is no longer subject to the ignition interlock device
21 requirement or alcohol monitoring device requirement.

22 "(l) Neither reckless driving nor any other traffic
23 infraction is a lesser included offense under a charge of
24 driving under the influence of alcohol or of a controlled
25 substance.

26 "(m) (1) Except for fines collected for violations of
27 this section charged pursuant to a municipal ordinance, fines

1 collected for violations of this section shall be deposited to
2 the State General Fund; however, beginning October 1, 1995, of
3 any amount collected over two hundred fifty dollars (\$250) for
4 a first conviction, over five hundred dollars (\$500) for a
5 second conviction within 10 years, over one thousand dollars
6 (\$1,000) for a third conviction within 10 years, and over two
7 thousand dollars (\$2,000) for a fourth or subsequent
8 conviction within 10 years, the first one hundred dollars
9 (\$100) of that additional amount shall be deposited to the
10 Alabama Chemical Testing Training and Equipment Trust Fund,
11 after three percent of the one hundred dollars (\$100) is
12 deducted for administrative costs, and beginning October 1,
13 1997, and thereafter, the second one hundred dollars (\$100) of
14 that additional amount shall be deposited in the Alabama Head
15 and Spinal Cord Injury Trust Fund after deducting five percent
16 of the one hundred dollars (\$100) for administrative costs and
17 the remainder of the funds shall be deposited to the State
18 General Fund.

19 "(2) Fines collected for violations of this section
20 charged pursuant to a municipal ordinance where the total fine
21 is paid at one time shall be deposited as follows: The first
22 three hundred fifty dollars (\$350) collected for a first
23 conviction, the first six hundred dollars (\$600) collected for
24 a second conviction within 10 years, the first one thousand
25 one hundred dollars (\$1,100) collected for a third conviction,
26 and the first two thousand one hundred dollars (\$2,100)
27 collected for a fourth or subsequent conviction shall be

1 deposited to the State Treasury with the first one hundred
2 dollars (\$100) collected for each conviction credited to the
3 Alabama Chemical Testing Training and Equipment Trust Fund and
4 the second one hundred dollars (\$100) to the Alabama Head and
5 Spinal Cord Injury Trust Fund after deducting five percent of
6 the one hundred dollars (\$100) for administrative costs and
7 depositing this amount in the general fund of the
8 municipality, and the balance credited to the State General
9 Fund. Any amounts collected over these amounts shall be
10 deposited as otherwise provided by law.

11 "(3) Fines collected for violations of this section
12 charged pursuant to a municipal ordinance, where the fine is
13 paid on a partial or installment basis, shall be deposited as
14 follows: The first two hundred dollars (\$200) of the fine
15 collected for any conviction shall be deposited to the State
16 Treasury with the first one hundred dollars (\$100) collected
17 for any conviction credited to the Alabama Chemical Testing
18 Training and Equipment Trust Fund and the second one hundred
19 dollars (\$100) for any conviction credited to the Alabama Head
20 and Spinal Cord Injury Trust Fund after deducting five percent
21 of the one hundred dollars (\$100) for administrative costs and
22 depositing this amount in the general fund of the
23 municipality. The second three hundred dollars (\$300) of the
24 fine collected for a first conviction, the second eight
25 hundred dollars (\$800) collected for a second conviction, the
26 second one thousand eight hundred dollars (\$1,800) collected
27 for a third conviction, and the second three thousand eight

1 hundred dollars (\$3,800) collected for a fourth conviction
2 shall be divided with 50 percent of the funds collected to be
3 deposited to the State Treasury to be credited to the State
4 General Fund and 50 percent deposited as otherwise provided by
5 law for municipal ordinance violations. Any amounts collected
6 over these amounts shall be deposited as otherwise provided by
7 law for municipal ordinance violations.

8 "(4) Notwithstanding any provision of law to the
9 contrary, 90 percent of any fine assessed and collected for
10 any DUI offense charged by municipal ordinance violation in
11 district or circuit court shall be computed only on the amount
12 assessed over the minimum fine authorized, and upon collection
13 shall be distributed to the municipal general fund with the
14 remaining 10 percent distributed to the State General Fund.

15 "(5) In addition to fines imposed pursuant to this
16 subsection, a mandatory fee of one hundred dollars (\$100)
17 shall be collected from any individual who successfully
18 completes any pretrial diversion or deferral program in any
19 municipal, district, or circuit court where the individual was
20 charged with a violation of this section or a corresponding
21 municipal ordinance. The one hundred dollars (\$100) shall be
22 deposited into the Alabama Chemical Testing Training and
23 Equipment Fund.

24 "(6) In addition to the fines and fees imposed
25 pursuant to this subsection, a mandatory fee of one hundred
26 dollars (\$100) shall be collected from any individual who
27 successfully completes any pretrial diversion or deferral

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

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

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

19 "(p) (1) Except as provided in subdivision (2), a
20 prior conviction for driving under the influence from this
21 state, a municipality within this state, or another state or
22 territory or a municipality of another state or territory
23 shall be considered by a court for imposing a sentence
24 pursuant to this section if the prior conviction occurred
25 within 10 years of the date of the current offense.

26 "(2) If the person has a previous felony DUI
27 conviction, then all of the person's subsequent DUI

1 convictions shall be treated as felonies regardless of the
2 date of the previous felony DUI conviction.

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 10-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 or any
20 other alcohol monitoring device approved by the court, for the
21 duration of the offender's driver's license suspension period.

22 "(r) (1) Any person ordered by the court to have an
23 ignition interlock device installed on a designated vehicle or
24 use any other alcohol monitoring device approved by the court,
25 and any person who elects to have the ignition interlock
26 device installed on a designated vehicle or use any other
27 alcohol monitoring device approved by the court for the

1 purpose of reducing a period of suspension or revocation of
2 his or her driver's license, shall pay to the court, following
3 his or her conviction, two hundred dollars (\$200), which may
4 be paid in installments and which shall be divided as follows:

5 "a. Seventeen percent to the Alabama Interlock
6 Indigent Fund.

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

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

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

18 "(2) In addition to paying the court clerk the fee
19 required in subdivision (1) following the conviction or the
20 voluntary installation of the ignition interlock device or any
21 other alcohol monitoring device approved by the court, the
22 defendant shall pay all costs associated with the
23 installation, purchase, maintenance, or lease of the ignition
24 interlock ~~devices~~ device to an approved ignition interlock
25 provider pursuant to the rules of the Department of Forensic
26 Sciences, unless the defendant is subject to Section

1 32-5A-191.4(i) (4) or to the alcohol monitoring device provider
2 approved by the court.

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

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

18 "(2) The duration of the time an ignition interlock
19 device or any other alcohol monitoring device approved by the
20 court is required by this section shall be one additional year
21 if the offender refused the prescribed chemical test for
22 intoxication.

23 "(u) (1) ~~The~~ If the court orders an offender to
24 install an ignition interlock device, the Alabama State Law
25 Enforcement Agency may set a fee of not more than one hundred
26 fifty dollars (\$150) for the issuance of a driver's license
27 indicating that the person's driving privileges are subject to

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

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

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

21 "a. A breath sample at or above a minimum blood
22 alcohol concentration level of 0.02 recorded four or more
23 times during the monthly reporting period unless a subsequent
24 test performed within 10 minutes registers a breath alcohol
25 concentration lower than 0.02.

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

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

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

9 "(w) The provisions in this section and Section
10 32-5A-191.4 relating to ignition interlock devices or any
11 other alcohol monitoring device approved by the court shall
12 not apply to persons who commit violations of this section
13 while under 19 years of age and who are adjudicated in
14 juvenile court, unless specifically ordered otherwise by the
15 court.

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

23 "a. The offender files an appeal with the court of
24 jurisdiction requesting all prior suspensions or revocation,
25 or both, be stayed upon compliance with the ignition interlock
26 requirement or any other alcohol monitoring device
27 requirements.

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~~ agency that the offender is
5 eligible to have the driver's license stayed.

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

8 "e. The offender remains in compliance of ignition
9 interlock requirements or any other alcohol monitoring device
10 requirements.

11 "(2) The remainder of the driver license revocation,
12 suspension, or both, shall be commuted upon the successful
13 completion of the period of time in which the ignition
14 interlock device or any other alcohol monitoring device
15 approved by the court is mandated to be installed and
16 operational.

17 "(y) (1) Any person charged in a district, circuit,
18 or municipal court with a violation of this section or a
19 municipal ordinance adopted in conformance with this section
20 who is approved for any pretrial diversion program or similar
21 program shall be required to install an ignition interlock
22 device or any other alcohol monitoring device approved by the
23 court for a minimum of six months or the duration of the
24 pretrial diversion program, whichever is greater, and meet all
25 the requirements of this section and Section 32-5A-191.4. A
26 participant in a pretrial diversion program shall be eligible

1 for indigency status if the program enrolls indigent
2 defendants and waives fees for indigent defendants.

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

17 "b. If the court orders any other alcohol monitoring
18 device in lieu of an ignition interlock device, upon receipt
19 of a court order or an agreement from the district attorney or
20 prosecutor indicating the offender has entered a pretrial
21 diversion program or any other form of deferred prosecution
22 agreement, and upon receipt of a court order indicating the
23 offender has provided proof of installation, purchase, or
24 lease of an operational alcohol monitoring device approved by
25 the court, the Secretary of the Alabama State Law Enforcement
26 Agency shall issue a driver license to the offender. Any
27 driver license suspension period pursuant to Section 32-5A-304

1 shall be stayed and then commuted upon the successful
2 completion of the pretrial diversion program, or any other
3 form of deferred prosecution agreement.

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

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

17 "(z) Pursuant to Section 15-22-54, the maximum
18 probation period for persons convicted under this section
19 shall be extended until all ignition interlock requirements or
20 any other alcohol monitoring device requirements have been
21 completed by the offender.

22 "(aa) Notwithstanding the ignition interlock
23 requirements of this section, no person may be required to
24 install an ignition interlock device if there is not a
25 certified ignition interlock provider available within a 50
26 mile radius of his or her place of residence or place of
27 business or employment."

1 Section 2. Section 32-5A-191, Code of Alabama 1975,
2 effective July 1, 2023, is amended to read as follows:

3 "§32-5A-191.

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

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

8 "(2) Under the influence of alcohol;

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

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

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

18 "(b) (1) A person who is under the age of 21 years
19 shall not drive or be in actual physical control of any
20 vehicle if there is 0.02 percent or more by weight of alcohol
21 in his or her blood. The Alabama State Law Enforcement Agency
22 shall suspend or revoke the driver's license of any person,
23 including, but not limited to, a juvenile, child, or youthful
24 offender, convicted or adjudicated of, or subjected to a
25 finding of, delinquency based on this subsection.

26 Notwithstanding the foregoing, upon the first violation of
27 this subsection by a person whose blood alcohol level is

1 between 0.02 and 0.08, the person's driver's license or
2 driving privilege shall be suspended for a period of 30 days
3 in lieu of any penalties provided in subsection (e) of this
4 section, and there shall be no disclosure, other than to
5 courts, law enforcement agencies, the person's attorney of
6 record, and the person's employer, by any entity or person of
7 any information, documents, or records relating to the
8 person's arrest, conviction, or adjudication of or finding of
9 delinquency based on this subsection.

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

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

1 "(2) A person shall not drive or be in actual
2 physical control of a commercial motor vehicle, as defined in
3 49 CFR Part 383.5 of the Federal Motor Carrier Safety
4 Regulations as adopted pursuant to Section 32-9A-2, if there
5 is 0.04 percent or greater by weight of alcohol in his or her
6 blood. Notwithstanding the other provisions of this section,
7 the commercial driver's license or commercial driving
8 privilege of a person convicted of violating this subdivision
9 shall be disqualified for the period provided in accordance
10 with 49 CFR Part 383.51, as applicable, and the person's
11 regular driver's license or privilege to drive a regular motor
12 vehicle shall be governed by the remainder of this section if
13 the person is guilty of a violation of another provision of
14 this section.

15 "(3) Any commutation of suspension or revocation
16 time as it relates to a court order, approval, and
17 installation of an ignition interlock device or any other
18 alcohol monitoring device approved by the court shall not
19 apply to commercial driving privileges or disqualifications.

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

24 "(e) Upon first conviction, a person violating this
25 section shall be punished by imprisonment in the county or
26 municipal jail for not more than one year, or by fine of not
27 less than six hundred dollars (\$600) nor more than two

1 thousand one hundred dollars (\$2,100), or by both a fine and
2 imprisonment. In addition, on a first conviction, the
3 Secretary of the Alabama State Law Enforcement Agency shall
4 suspend the driving privilege or driver's license of the
5 person convicted for a period of 90 days. The 90-day
6 suspension shall be stayed if the offender elects to have an
7 approved ignition interlock device installed and operating on
8 the designated motor vehicle driven by the offender or elects
9 to have any other alcohol monitoring device approved by the
10 court operational for 90 days. The offender shall present
11 proof of installation of the approved ignition interlock
12 device to the ~~Alabama State Law Enforcement Agency~~ agency and
13 obtain an ignition interlock restricted driver license or
14 shall present proof of installation, purchase, or lease of any
15 other alcohol monitoring device approved by the court to the
16 agency. The remainder of the suspension shall be commuted upon
17 the successful completion of the elected use, mandated use, or
18 both, of the ignition interlock device or any other alcohol
19 monitoring device approved by the court. If, on a first
20 conviction, any person refusing to provide a blood alcohol
21 concentration or if a child under the age of 14 years was a
22 passenger in the vehicle at the time of the offense or if
23 someone else besides the offender was injured at the time of
24 the offense, or if the offender is found to have had at least
25 0.15 percent or more by weight of alcohol in his or her blood
26 while operating or being in actual control of a vehicle, the
27 Secretary of the Alabama State Law Enforcement Agency shall

1 suspend the driving privilege or driver's license of the
2 person convicted for a period of 90 days and the person shall
3 be required to either have an ignition interlock device
4 installed and operating on the designated motor vehicle driven
5 by the offender for a period of one year from the date of
6 issuance of a driver's license indicating that the person's
7 driving privileges are subject to the condition of the
8 installation and use of a certified ignition interlock device
9 on a motor vehicle or have any other alcohol monitoring device
10 approved by the court purchased or leased and operational for
11 a period of one year from the date the offender provides proof
12 of installation, purchase, or lease of the alcohol monitoring
13 device to the court and the agency. ~~After a minimum of 45 days~~
14 ~~of the license revocation or suspension pursuant to Section~~
15 ~~32-5A-304 or this section, or both, is completed, upon~~ 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 one year provided in this subsection shall start and the
22 suspension period, revocation period, or both, as required
23 under this subsection shall be stayed. If the court ordered
24 any other alcohol monitoring device in lieu of an ignition
25 interlock device, upon receipt of a court order from the
26 convicting court that the person convicted has provided proof
27 of installation, purchase, or lease of an alcohol monitoring

1 device approved by the court, the mandated ignition interlock
2 period of one year provided in this subsection shall start and
3 the 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 or the period of time any other
9 alcohol monitoring device approved by the court is mandated to
10 be operational.

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

1 privileges are subject to the condition of the installation
2 and use of a certified ignition interlock device on a motor
3 vehicle or have any other alcohol monitoring device approved
4 by the court purchased or leased and operational for a period
5 of two years from the date the offender provides proof of
6 installation, purchase, or lease of the alcohol monitoring
7 device to the court and the agency. After a minimum of 45 days
8 of the license revocation or suspension pursuant to Section
9 32-5A-304, this section, or both, is completed, upon receipt
10 of a court order from the convicting court, upon issuance of
11 an ignition interlock restricted driver license, and upon
12 proof of installation of an operational approved ignition
13 interlock device on the designated vehicle of the person
14 convicted, the mandated ignition interlock period of two years
15 ~~approved~~ provided in this subsection shall start and the
16 suspension period, revocation period, or both, as required
17 under this subsection shall be stayed. If the court ordered
18 any other alcohol monitoring device in lieu of an ignition
19 interlock device, upon receipt of a court order from the
20 convicting court that the person convicted has provided proof
21 of installation, purchase, or lease of an alcohol monitoring
22 device approved by the court, the mandated ignition interlock
23 period of two years provided in this subsection shall start
24 and the suspension period, revocation period, or both, as
25 required under this subsection shall be stayed. The remainder
26 of the driver license revocation period, suspension period, or
27 both, shall be commuted upon the successful completion of the

1 period of time in which the ignition interlock device is
2 mandated to be installed and operational or the period of time
3 any other alcohol monitoring device approved by the court is
4 mandated to be operational.

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

1 or suspension pursuant to Section 32-5A-304, this section, or
2 both, is completed, upon receipt of a court order from the
3 convicting court, upon issuance of an ignition interlock
4 restricted driver license, and upon proof of installation of
5 an operational approved ignition interlock device on the
6 designated vehicle of the person convicted, the mandated
7 ignition interlock period of three years provided in this
8 subsection shall start and the suspension period, revocation
9 period, or both, as required under this subsection shall be
10 stayed. If the court ordered any other alcohol monitoring
11 device in lieu of an ignition interlock device, upon receipt
12 of a court order from the convicting court that the person
13 convicted has provided proof of installation, purchase, or
14 lease of an alcohol monitoring device approved by the court,
15 the mandated ignition interlock period of three years provided
16 in this subsection shall start and the suspension period,
17 revocation period, or both, as required under this subsection
18 shall be stayed. The remainder of the driver license
19 revocation period, suspension period, or both, shall be
20 commuted upon the successful completion of the period of time
21 in which the ignition interlock device is mandated to be
22 installed and operational or the period of time any other
23 alcohol monitoring device approved by the court is mandated to
24 be operational.

25 " (h) (1) On a fourth or subsequent conviction, or if
26 the person has a previous felony DUI 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,
7 confinement may be in the county jail. Where imprisonment does
8 not exceed one year and one day, confinement shall be in the
9 county jail. The minimum sentence shall include a term of
10 imprisonment for at least one year and one day; provided,
11 however, that there shall be a minimum mandatory sentence of
12 10 days which shall be served in the county jail. The
13 remainder of the sentence may be suspended or probated, but
14 only if, as a condition of probation, the defendant enrolls
15 and successfully completes a state certified chemical
16 dependency program recommended by the court referral officer
17 and approved by the sentencing court. Where probation is
18 granted, the sentencing court may, in its discretion, and
19 where monitoring equipment is available, place the defendant
20 on house arrest under electronic surveillance during the
21 probationary term. In addition to the other penalties
22 authorized, the Secretary of the Alabama State Law Enforcement
23 Agency shall revoke the driving privilege or driver's license
24 of the person convicted for a period of five years and the
25 offender shall be required to either have an ignition
26 interlock device installed and operating on the designated
27 motor vehicle driven by the offender for a period of four

1 years from the date of issuance of a driver's license
2 indicating that the person's driving privileges are subject to
3 the condition of the installation and use of a certified
4 ignition interlock device on a motor vehicle or have any other
5 alcohol monitoring device approved by the court purchased or
6 leased and operational for a period of four years from the
7 date the offender provides proof of installation, purchase, or
8 lease of the alcohol monitoring device to the court and the
9 agency. After a minimum of one year of the license revocation
10 or suspension pursuant to Section 32-5A-304, this section, or
11 both, is completed, upon receipt of a court order from the
12 convicting court, upon issuance of an ignition interlock
13 restricted driver license, and upon proof of installation of
14 an operational approved ignition interlock device on the
15 designated vehicle of the person convicted, the mandated
16 ignition interlock period of four years provided in this
17 subsection shall start and the suspension period, revocation
18 period, or both, as required under this subsection shall be
19 stayed. If the court ordered any other alcohol monitoring
20 device in lieu of an ignition interlock device, upon receipt
21 of a court order from the convicting court that the person
22 convicted has provided proof of installation, purchase, or
23 lease of an alcohol monitoring device approved by the court,
24 the mandated ignition interlock period of four years provided
25 in this subsection shall start and the suspension period,
26 revocation period, or both, as required under this subsection
27 shall be stayed. The remainder of the driver license

1 revocation period, suspension period, or both, shall be
2 commuted upon the successful completion of the period of time
3 in which the ignition interlock device is mandated to be
4 installed and operational or the period of time any other
5 alcohol monitoring device approved by the court is mandated to
6 be operational.

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

17 "(i) When any person convicted of violating this
18 section is found to have had at least 0.15 percent or more by
19 weight of alcohol in his or her blood while operating or being
20 in actual physical control of a vehicle, he or she shall be
21 sentenced to at least double the minimum punishment that the
22 person would have received if he or she had had less than 0.15
23 percent by weight of alcohol in his or her blood. This
24 subsection does not apply to the duration of time an ignition
25 interlock device or any other alcohol monitoring device
26 approved by the court is required by this section. 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. This subsection does not apply to the duration
11 of time an ignition interlock device or any other alcohol
12 monitoring device approved by the court is required by this
13 section.

14 "(k) (1) In addition to the penalties provided
15 herein, any person convicted of violating this section shall
16 be referred to the court referral officer for evaluation and
17 referral to appropriate community resources. The defendant
18 shall, at a minimum, be required to complete a DUI or
19 substance abuse court referral program approved by the
20 Administrative Office of Courts and operated in accordance
21 with provisions of the Mandatory Treatment Act of 1990,
22 Sections 12-23-1 to 12-23-19, inclusive. The Alabama State Law
23 Enforcement Agency shall not reissue a driver's license to a
24 person convicted under this section without receiving proof
25 that the defendant has successfully completed the required
26 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 or any other alcohol monitoring device
5 approved by the court. The agency shall suspend or revoke a
6 person's driving privileges until completion of the mandatory
7 suspension or revocation period required by this section, and
8 clearance of all other suspensions, revocations,
9 cancellations, or denials, and proof of installation of an
10 approved ignition interlock device or proof of installation,
11 purchase, or lease of any other alcohol monitoring device
12 approved by the court is presented to the agency. The agency
13 shall not reissue a driver's license to a person who has been
14 ordered by a court or is required by law to have the ignition
15 interlock device installed or any other alcohol monitoring
16 device approved by the court to be installed, purchased, or
17 leased until proof is presented that the person is eligible
18 for reinstatement of driving privileges. Upon presentation of
19 proof and compliance with all ignition interlock requirements,
20 the agency shall issue a driver's license with a restriction
21 indicating that the licensee may operate a motor vehicle only
22 with the certified ignition interlock device installed and
23 properly operating. If the licensee fails to maintain the
24 approved ignition interlock device as required or is otherwise
25 not in compliance with any order of the court, the court shall
26 notify the agency of the noncompliance and the agency shall
27 suspend the person's driving privileges until the agency

1 receives notification from the court that the licensee is in
2 compliance. If the court ordered any other alcohol monitoring
3 device in lieu of an ignition interlock device, upon
4 presentation of proof and compliance with all alcohol
5 monitoring device requirements, the agency shall issue a
6 driver license to the offender. If the licensee fails to
7 maintain the approved alcohol monitoring device as required,
8 or is otherwise not in compliance with any order of the court,
9 the court shall notify the agency of the noncompliance and the
10 agency shall suspend the person's driving privileges until the
11 agency receives notification from the court that the licensee
12 is in compliance. The requirement that the licensee use the
13 ignition interlock device or any other alcohol monitoring
14 device approved by the court may be removed only when the
15 court of conviction confirms to the agency that the licensee
16 is no longer subject to the ignition interlock device
17 requirement or alcohol monitoring device requirement.

18 "(l) Neither reckless driving nor any other traffic
19 infraction is a lesser included offense under a charge of
20 driving under the influence of alcohol or of a controlled
21 substance.

22 "(m) (1) Except for fines collected for violations of
23 this section charged pursuant to a municipal ordinance, fines
24 collected for violations of this section shall be deposited to
25 the State General Fund; however, beginning October 1, 1995, of
26 any amount collected over two hundred fifty dollars (\$250) for
27 a first conviction, over five hundred dollars (\$500) for a

1 second conviction within 10 years, over one thousand dollars
2 (\$1,000) for a third conviction within 10 years, and over two
3 thousand dollars (\$2,000) for a fourth or subsequent
4 conviction within 10 years, the first one hundred dollars
5 (\$100) of that additional amount shall be deposited to the
6 Alabama Chemical Testing Training and Equipment Trust Fund,
7 after three percent of the one hundred dollars (\$100) is
8 deducted for administrative costs, and beginning October 1,
9 1997, and thereafter, the second one hundred dollars (\$100) of
10 that additional amount shall be deposited in the Alabama Head
11 and Spinal Cord Injury Trust Fund after deducting five percent
12 of the one hundred dollars (\$100) for administrative costs and
13 the remainder of the funds shall be deposited to the State
14 General Fund.

15 "(2) Fines collected for violations of this section
16 charged pursuant to a municipal ordinance where the total fine
17 is paid at one time shall be deposited as follows: The first
18 three hundred fifty dollars (\$350) collected for a first
19 conviction, the first six hundred dollars (\$600) collected for
20 a second conviction within 10 years, the first one thousand
21 one hundred dollars (\$1,100) collected for a third conviction,
22 and the first two thousand one hundred dollars (\$2,100)
23 collected for a fourth or subsequent conviction shall be
24 deposited to the State Treasury with the first one hundred
25 dollars (\$100) collected for each conviction credited to the
26 Alabama Chemical Testing Training and Equipment Trust Fund and
27 the second one hundred dollars (\$100) to the Alabama Head and

1 Spinal Cord Injury Trust Fund after deducting five percent of
2 the one hundred dollars (\$100) for administrative costs and
3 depositing this amount in the general fund of the
4 municipality, and the balance credited to the State General
5 Fund. Any amounts collected over these amounts shall be
6 deposited as otherwise provided by law.

7 "(3) Fines collected for violations of this section
8 charged pursuant to a municipal ordinance, where the fine is
9 paid on a partial or installment basis, shall be deposited as
10 follows: The first two hundred dollars (\$200) of the fine
11 collected for any conviction shall be deposited to the State
12 Treasury with the first one hundred dollars (\$100) collected
13 for any conviction credited to the Alabama Chemical Testing
14 Training and Equipment Trust Fund and the second one hundred
15 dollars (\$100) for any conviction credited to the Alabama Head
16 and Spinal Cord Injury Trust Fund after deducting five percent
17 of the one hundred dollars (\$100) for administrative costs and
18 depositing this amount in the general fund of the
19 municipality. The second three hundred dollars (\$300) of the
20 fine collected for a first conviction, the second eight
21 hundred dollars (\$800) collected for a second conviction, the
22 second one thousand eight hundred dollars (\$1,800) collected
23 for a third conviction, and the second three thousand eight
24 hundred dollars (\$3,800) collected for a fourth conviction
25 shall be divided with 50 percent of the funds collected to be
26 deposited to the State Treasury to be credited to the State
27 General Fund and 50 percent deposited as otherwise provided by

1 law for municipal ordinance violations. Any amounts collected
2 over these amounts shall be deposited as otherwise provided by
3 law for municipal ordinance violations.

4 "(4) Notwithstanding any provision of law to the
5 contrary, 90 percent of any fine assessed and collected for
6 any DUI offense charged by municipal ordinance violation in
7 district or circuit court shall be computed only on the amount
8 assessed over the minimum fine authorized, and upon collection
9 shall be distributed to the municipal general fund with the
10 remaining 10 percent distributed to the State General Fund.

11 "(5) In addition to fines imposed pursuant to this
12 subsection, a mandatory fee of one hundred dollars (\$100)
13 shall be collected from any individual who successfully
14 completes any pretrial diversion or deferral program in any
15 municipal, district, or circuit court where the individual was
16 charged with a violation of this section or a corresponding
17 municipal ordinance. The one hundred dollars (\$100) shall be
18 deposited into the Alabama Chemical Testing Training and
19 Equipment Fund.

20 "(6) In addition to the fines and fees imposed
21 pursuant to this subsection, a mandatory fee of one hundred
22 dollars (\$100) shall be collected from any individual who
23 successfully completes any pretrial diversion or deferral
24 program in any municipal, district, or circuit court where the
25 individual was charged with a violation of this section or a
26 corresponding municipal ordinance. The one hundred dollars

1 (\$100) shall be deposited into the Alabama Head and Spinal
2 Cord Injury Trust Fund.

3 "(n) (1) 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 subdivision (a) (1) or, in the case of a person who is under
8 the age of 21 years, subsection (b) ~~hereof~~.

9 "(2) A judge may require an offender to install and
10 use a certified ignition interlock device as a condition of
11 bond. In that instance, the Secretary of the Alabama State Law
12 Enforcement Agency shall issue the offender a restricted
13 driver's license indicating the person's driving privileges
14 are subject to the condition of the installation and use of a
15 certified ignition interlock device on a motor vehicle. Any
16 driver's license suspension or revocation period pursuant to
17 Section 32-5A-304 shall be stayed during the period the
18 offender is under the bond condition. The period of time the
19 offender has the ignition interlock device installed as a
20 condition of bond shall not be credited to any requirement to
21 have an ignition interlock device upon conviction.

22 "(o) Upon verification that a defendant arrested
23 pursuant to this section is currently on probation from
24 another court of this state as a result of a conviction for
25 any criminal offense, the prosecutor shall provide written or
26 oral notification of the defendant's subsequent arrest and

1 pending prosecution to the court in which the prior conviction
2 occurred.

3 "(p) (1) Except as provided in subdivision (2), a
4 prior conviction for driving under the influence from this
5 state, a municipality within this state, or another state or
6 territory or a municipality of another state or territory
7 shall be considered by a court for imposing a sentence
8 pursuant to this section if the prior conviction occurred
9 within 10 years of the date of the current offense.

10 "(2) If the person has a previous felony DUI
11 conviction, then all of the person's subsequent DUI
12 convictions shall be treated as felonies regardless of the
13 date of the previous felony DUI conviction.

14 "(q) Any person convicted of driving under the
15 influence of alcohol, or a controlled substance, or both, or
16 any substance which impairs the mental or physical faculties
17 in violation of this section, a municipal ordinance adopting
18 this section, or a similar law from another state or territory
19 or a municipality of another state or territory more than once
20 in a 10-year period shall have his or her motor vehicle
21 registration for all vehicles owned by the repeat offender
22 suspended by the Alabama Department of Revenue for the
23 duration of the offender's driver's license suspension period,
24 unless such action would impose an undue hardship to any
25 individual, not including the repeat offender, who is
26 completely dependent on the motor vehicle for the necessities
27 of life, including any family member of the repeat offender

1 and any co-owner of the vehicle or, in the case of a repeat
2 offender, if the repeat offender has a functioning ignition
3 interlock device installed on the designated vehicle or any
4 other alcohol monitoring device approved by the court, for the
5 duration of the offender's driver's license suspension period.

6 "(r) (1) Any person ordered by the court to have an
7 ignition interlock device installed on a designated vehicle or
8 use any other alcohol monitoring device approved by the court,
9 and any person who elects to have the ignition interlock
10 device installed on a designated vehicle or use any other
11 alcohol monitoring device approved by the court for the
12 purpose of reducing a period of suspension or revocation of
13 his or her driver's license, shall pay to the court, following
14 his or her conviction, two hundred dollars (\$200), which may
15 be paid in 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
26 Fund 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~~ in subdivision (1) following the conviction or
5 the voluntary installation of the ignition interlock device or
6 any other alcohol monitoring device approved by the court, the
7 defendant shall pay all costs associated with the
8 installation, purchase, maintenance, or lease of the ignition
9 interlock ~~devices~~ device to an approved ignition interlock
10 provider pursuant to the rules of the Department of Forensic
11 Sciences, unless the defendant is subject to Section
12 32-5A-191.4(i)(4).

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

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

1 "(2) The duration of the time an ignition interlock
2 device or any other alcohol monitoring device approved by the
3 court is required by this section shall be one additional year
4 if the offender refused the prescribed chemical test for
5 intoxication.

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

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

26 "(3) Any ignition interlock driving violation
27 committed by the offender during the mandated ignition

1 interlock period shall extend the duration of ignition
2 interlock use for six months. Ignition interlock driving
3 violations include any of the following:

4 "a. A breath sample at or above a minimum blood
5 alcohol concentration level of 0.02 recorded four or more
6 times during the monthly reporting period unless a subsequent
7 test performed within 10 minutes registers a breath alcohol
8 concentration lower than 0.02.

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

11 "c. Failure to comply with the servicing or
12 calibration requirements of the ignition interlock device
13 every 30 days.

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

19 "(w) The provisions in this section and Section
20 32-5A-191.4 relating to ignition interlock devices or any
21 other alcohol monitoring device approved by the court shall
22 not apply to persons who commit violations of this section
23 while under 19 years of age and who are adjudicated in
24 juvenile court, unless specifically ordered otherwise by the
25 court.

26 "(x) (1) The amendatory language in Act 2014-222 to
27 this section, authorizing the Alabama State Law Enforcement

1 Agency to stay a driver's license suspension or revocation
2 upon compliance with the ignition interlock ~~requirement~~
3 requirements or any other alcohol monitoring device
4 requirements shall apply retroactively if any of the following
5 occurs:

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

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

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

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

18 "e. The offender remains in compliance of ignition
19 interlock requirements or any other alcohol monitoring device
20 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 or any other alcohol monitoring device
25 approved by the court is mandated to be installed and
26 operational.

1 "(y) Pursuant to Section 15-22-54, the maximum
2 probation period for persons convicted under this section
3 shall be extended until all ignition interlock requirements or
4 any other alcohol monitoring device requirements have been
5 completed by the offender.

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

12 Section 3. Section 32-5A-191.4, Code of Alabama
13 1975, is amended to read as follows:

14 "§32-5A-191.4.

15 "(a) (1) As used in Section 32-5A-191, the term,
16 "ignition interlock device" means a constant monitoring device
17 that prevents a motor vehicle from being started at any time
18 without first determining the equivalent blood alcohol level
19 of the operator through the taking of a breath sample for
20 testing. The system shall be calibrated so that the motor
21 vehicle may not be started if the blood alcohol level of the
22 operator, as measured by the test, reaches a blood alcohol
23 concentration level of 0.02.

24 "(2) In lieu of requiring an offender to install an
25 ignition interlock device, a court may order an offender to
26 install, purchase, or lease any other alcohol monitoring
27 device approved by the court.

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

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

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

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

25 "(f) The department shall charge an application fee
26 of two thousand dollars (\$2,000) to any ignition interlock
27 provider to evaluate the instrument. Any ignition interlock

1 provider whose ignition interlock device is approved by the
2 department shall be permitted to install and calibrate its
3 approved device in Alabama. Each year during the month of
4 April, the department may receive applications and instruments
5 to review for approval.

6 "(g) The Alabama State Law Enforcement Agency shall
7 be responsible for enforcing the rules ~~promulgated~~ adopted by
8 the department related to ignition interlock devices and
9 providers. The agency shall ~~promulgate~~ adopt rules regulating
10 the inspection and enforcement of approved ignition interlock
11 providers and any associate service locations.

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

21 "(i) (1) When the court imposes the use of an
22 ignition interlock device or any other alcohol monitoring
23 device approved by the court as required by Section 32-5A-191,
24 the court shall require that the person provide proof of
25 installation of a device to the court or a probation officer
26 within 30 days of the date the defendant becomes eligible to
27 receive an ignition ~~interlock-restricted~~ interlock restricted

1 driver license from the agency or within 30 days of the
2 court's order if ordered to install, purchase, or lease or any
3 other alcohol monitoring device approved by the court. If the
4 person fails to provide proof of installation within that
5 period, absent a finding by the court of good cause for that
6 failure which is entered into the court record, the court may
7 revoke the person's probation where applicable after a
8 petition to revoke probation has been filed and the defendant
9 has been given notice and an opportunity to be heard on the
10 petition. The court in which the defendant is convicted shall
11 notify the agency that the defendant is restricted to the
12 operation of a motor vehicle only when an approved ignition
13 interlock device is installed and properly operating or that a
14 defendant is only eligible for a driver license once the
15 defendant has provided proof of the installation, purchase, or
16 lease of any other alcohol monitoring device to the court and
17 the agency. Nothing in this subsection shall permit a person
18 who does not own a vehicle or otherwise have an ignition
19 interlock device installed on a motor vehicle to operate a
20 motor vehicle without an approved ignition interlock device
21 installed and properly operating.

22 "(2) Proof of installation for the purpose of this
23 subsection may be furnished by either a certificate of
24 installation or a copy of the lease agreement in the name of
25 the offender for the designated vehicle with an approved
26 ignition interlock device ~~company~~ provider.

1 "(3) A defendant who is determined by the court to
2 be indigent for the purpose of ignition interlock may have an
3 ignition interlock device installed by an ignition interlock
4 provider as provided in this subsection. Criteria for
5 determining indigency for the purpose of ignition interlock
6 shall be the same criteria as set forth in Section 15-12-5(b)
7 and (c) after the report is complete. The defendant shall
8 execute an affidavit of substantial hardship on a form
9 approved by the Supreme Court. The completed affidavit of
10 substantial hardship and the subsequent order of the court
11 either denying or granting indigency status for the purpose of
12 ignition interlock to the offender shall become a part of the
13 official court record in the case and shall be submitted by
14 the offender to the ignition interlock provider.

15 "(4) Any offender granted indigency status for the
16 purpose of ignition interlock shall not be required to pay the
17 costs associated with installing and maintaining an ignition
18 interlock device nor required to pay any ignition interlock
19 fees charged to a defendant who does not own a vehicle or
20 otherwise have an ignition interlock device installed on a
21 vehicle pursuant to subdivision (6) for the period of any
22 sentence for ignition interlock. The defendant shall pay any
23 fees for any violation of ignition interlock requirements and
24 for any optional services elected by the defendant and for any
25 missing or damaged equipment. This section shall not affect
26 any fees associated with the driver's license of the
27 defendant.

1 "(5)a. The agency shall require each approved
2 ~~manufacturer~~ ignition interlock provider to provide a minimum
3 number of indigent defendants with ignition interlock
4 services, including installation, lease, calibration, and
5 removal, at no cost to the indigent defendant. The minimum
6 number of indigent defendants provided services shall be equal
7 to five percent of the total installations provided by the
8 ~~manufacturer~~ ignition interlock provider during the prior
9 calendar year.

10 "b. The agency shall oversee the administration of
11 indigent services on an annual basis by doing all of the
12 following:

13 "1. Verifying the total number of installations
14 provided by the ~~manufacturer~~ ignition interlock provider each
15 year.

16 "2. Verifying the number of installations for
17 indigent defendants provided each year by each ~~manufacturer~~
18 ignition interlock provider.

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

22 "c. Each ~~manufacturer~~ ignition interlock provider
23 who fails to meet the five percent threshold for indigent
24 defendants shall be subject to a civil penalty of five hundred
25 dollars (\$500) for each indigent defendant the ~~manufacturer~~
26 ignition interlock provider failed to provide services below
27 the five percent threshold. All fines shall be collected by

1 the agency and deposited in the Alabama Ignition Interlock
2 Indigent Fund.

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

23 "1. Thirty percent to the Highway Traffic Safety
24 Fund administered by the Alabama State Law Enforcement Agency.

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

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

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

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

10 "1. Annual reporting and assessment of ~~manufacturer~~
11 ignition interlock provider compliance with indigent service
12 requirements.

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

15 "3. Annual inspection of interlock service centers
16 by the agency.

17 "(6) Any defendant who does not own a vehicle or
18 otherwise have an ignition interlock device installed on a
19 vehicle or who does not install, purchase, or lease any other
20 alcohol monitoring device approved by the court shall be
21 required to pay seventy-five dollars (\$75) per month for the
22 entire period the defendant is required or elects to have an
23 ignition interlock device or any other alcohol monitoring
24 device approved by the court unless the defendant is
25 determined by the court to be indigent as provided for in
26 subdivision (3). The defendant shall still serve all license
27 suspension or revocation, or both, during this period. Any

1 monies paid pursuant to this subdivision shall be paid to the
2 court clerk and shall be deposited in the Alabama Impaired
3 Driving Prevention and Enforcement Fund in the State Treasury
4 to be used by the Alabama State Law Enforcement Agency for
5 impaired driving education and enforcement.

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

9 "(1) Operate, lease, or borrow a motor vehicle
10 unless that vehicle is equipped with a functioning ignition
11 interlock device.

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

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

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

16 "(1) No person shall blow into an ignition interlock
17 device, any other alcohol monitoring device approved by the
18 court, or start a motor vehicle equipped with the device for
19 the purpose of providing an operable motor vehicle to a person
20 who is prohibited from operating a motor vehicle without an
21 ignition interlock device.

22 "(m) No person shall intentionally attempt to tamper
23 with, defeat, or circumvent the operation of an ignition
24 interlock device or any other alcohol monitoring device
25 approved by the court.

26 "(n) Any person convicted of a violation of this
27 section other than subsection (j) shall be punished by

1 imprisonment for not more than six months or a fine of not
2 more than five hundred dollars (\$500), or both."

3 Section 4. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, as amended
7 by Amendment 890, now appearing as Section 111.05 of the
8 Official Recompilation of the Constitution of Alabama of 1901,
9 as amended, because the bill defines a new crime or amends the
10 definition of an existing crime.

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