

1 SB117
2 144226-6
3 By Senators Orr, Scofield, Waggoner, Glover, Bussman, Allen
4 and Taylor
5 RFD: Judiciary
6 First Read: 14-JAN-14

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8 SYNOPSIS: Existing law provides penalties for driving
9 while under the influence of alcohol or controlled
10 substances.

11 This bill would further define the offense
12 of driving under the influence.

13 Under existing law, a person may be charged
14 with driving under the influence when there is a
15 certain percentage of alcohol in the person's blood
16 or if the person is under the influence of a
17 controlled substance that impairs the mental or
18 physical faculties of the person to the extent that
19 it renders him or her incapable of safely driving.

20 This bill would define "under the influence"
21 for the purpose of the offense of driving under the
22 influence to mean not having the normal use of
23 mental and physical faculties by reason of the
24 introduction into the body of alcohol, a controlled
25 substance, a drug, or any other substance, or a
26 combination of two or more of those substances.

1 The bill would consolidate the charges of
2 driving under the influence to specify that a
3 person may be charged with driving under the
4 influence if the person is under the influence of
5 any substance or substances which render the person
6 incapable of safe driving.

7 This bill also would provide that a person
8 may be charged with driving under the influence if
9 he or she has a measurable amount of specified
10 substances in his or her body unless the person has
11 a valid prescription for use of the substance or is
12 otherwise authorized to use the substance.

13 This bill would further increase the minimum
14 mandatory sentence for a fourth or subsequent
15 violation of the law from 10 days to 90 days.

16 Existing law provides that a prior
17 conviction within a five-year period for driving
18 while under the influence from this state, a
19 municipality within this state, or another state or
20 territory or a municipality of another state or
21 territory would be considered by a court when
22 imposing a sentence.

23 This bill would remove the requirement that
24 a prior conviction considered by a court when
25 imposing a sentence would only be a prior
26 conviction within a five-year period and would
27 provide that any prior conviction for driving while

1 impaired from this state, a municipality within
2 this state, or another state or territory or a
3 municipality of another state or territory, with or
4 without the jurisdiction having adopted the law of
5 Alabama, so long as the offense was in violation of
6 the law in the respective jurisdiction, would be
7 considered by a court for imposing a sentence.

8 Existing law provides that a person who
9 drives a motor vehicle while his or her driver's
10 license or driving privilege is cancelled, denied,
11 suspended, or revoked is guilty of a misdemeanor
12 punishable by a minimum fine of \$100 up to a
13 maximum of \$500 and imprisonment of no more than
14 180 days.

15 This bill would provide that a person
16 convicted for a third or subsequent time for
17 operating a motor vehicle while his or her license
18 or driving privilege is cancelled, denied,
19 suspended, or revoked when his or her license or
20 driving privilege was cancelled, denied, suspended,
21 or revoked as a consequence of a DUI-related
22 offense would be guilty of a Class A misdemeanor
23 with a minimum mandatory sentence of 30 days in
24 jail.

25 This bill would also delete a redundant
26 subsection providing additional penalties when a

1 child under 14 years of age was in the vehicle at
2 the time of a DUI offense.

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

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 32-5A-191 of the Code of Alabama
2 1975, as last amended by Act 2012-363 of the 2012 Regular
3 Session, relating to driving while under the influence; to
4 further define the offense and to define the term under the
5 influence for the purpose of unsafe driving; to prohibit a
6 person from driving who has a measurable amount of specified
7 substances in the person's body; to further provide for a
8 minimum mandatory sentence for a fourth or subsequent
9 violation; to remove the requirement that a prior conviction
10 considered by the court when imposing a sentence would only be
11 a prior conviction within a five-year period; to further
12 provide for the offenses that can be considered by a court
13 when imposing a sentence for multiple violations; to amend
14 Section 32-6-19 of the Code of Alabama 1975, relating to
15 violations for driving while license or driving privilege is
16 cancelled, denied, suspended, or revoked; to provide that a
17 person convicted for a third or subsequent time when his or
18 her license or driving privilege was cancelled, denied,
19 suspended, or revoked as a consequence of a DUI-related
20 offense would be guilty of a Class A misdemeanor with a
21 minimum mandatory sentence of 30 days in jail; and in
22 connection therewith would have as its purpose or effect the
23 requirement of a new or increased expenditure of local funds
24 within the meaning of Amendment 621 of the Constitution of
25 Alabama of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,
27 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 32-5A-191 of the Code of Alabama
3 1975, as last amended by Act 2012-363 of the 2012 Regular
4 Session, is amended to read as follows:

5 "§32-5A-191.

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

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

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

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

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

17 ~~"(5) (2) a. Under the influence of any substance
18 which impairs the mental or physical faculties of such person
19 or substances to a degree which renders him or her incapable
20 of safely driving.~~

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

23 "1. Not having the normal use of mental or physical
24 faculties by reason of the introduction into the body of
25 alcohol, a controlled substance, a drug, or any other
26 substance, or combination of two or more of those substances;
27 or

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

5 "(i) Alprazolam.

6 "(ii) Hydrocodone.

7 "(iii) Amphetamine/methamphetamine.

8 "(iv) Carisoprodol/meprobamate.

9 "(v) Diazepam/nordiazepam.

10 "(vi) Morphine.

11 "(vii) Cocaine.

12 "(viii) Methadone.

13 "(ix) Oxycodone.

14 "(x) Clonazepam.

15 "(xi) Zolpidem.

16 "It is an affirmative defense to a violation of this
17 subparagraph 2 if the person has a lawful prescription for the
18 substance or is otherwise authorized by law to use the
19 substance.

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

23 "(b) A person who is under the age of 21 years shall
24 not drive or be in actual physical control of any vehicle if
25 there is 0.02 percent or more by weight of alcohol in his or
26 her blood. The Department of Public Safety shall suspend or
27 revoke the driver's license of any person, including, but not

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

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

23 "(c) (1) A school bus or day care driver shall not
24 drive or be in actual physical control of any vehicle while in
25 performance of his or her duties if there is greater than 0.02
26 percent by weight of alcohol in his or her blood. A person
27 convicted pursuant to this subsection shall be subject to the

1 penalties provided by this section, except that on the first
2 conviction the Director of Public Safety shall suspend the
3 driving privilege or driver's license for a period of one
4 year.

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

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

23 "(e) Upon a first conviction, a person violating
24 this section shall be punished by imprisonment in the county
25 or municipal jail for not more than one year, or by fine of
26 not less than six hundred dollars (\$600) nor more than two
27 thousand one hundred dollars (\$2,100), or by both a fine and

1 imprisonment. In addition, on a first conviction, the Director
2 of Public Safety shall suspend the driving privilege or
3 driver's license of the person convicted for a period of 90
4 days. If, on a first conviction, any person refusing to
5 provide a blood alcohol concentration or if a child under the
6 age of 14 years was present in the vehicle at the time of the
7 offense or if someone else besides the offender was injured at
8 the time of the offense, the Director of the Department of
9 Public Safety shall suspend the driving privilege or driver's
10 license of the person convicted for a period of 90 days and
11 the person shall be required to have an ignition interlock
12 device installed and operating on the designated motor vehicle
13 driven by the offender for a period of two years from the date
14 of 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.

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

1 Director of Public Safety shall revoke the driving privileges
2 or driver's license of the person convicted for a period of
3 one year and the offender shall be required to have an
4 ignition interlock device installed and operating on the
5 designated motor vehicle driven by the offender for a period
6 of two years from the date of issuance of a driver's license
7 indicating that the person's driving privileges are subject to
8 the condition of the installation and use of a certified
9 ignition interlock device on a motor vehicle.

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

1 "(h) On a fourth or subsequent conviction, a person
2 convicted of violating this section shall be guilty of a Class
3 C felony and punished by a fine of not less than four thousand
4 one hundred dollars (\$4,100) nor more than ten thousand one
5 hundred dollars (\$10,100) and by imprisonment of not less than
6 one year and one day nor more than 10 years. Any term of
7 imprisonment may include hard labor for the county or state,
8 and where imprisonment does not exceed three years confinement
9 may be in the county jail. Where imprisonment does not exceed
10 one year and one day, confinement shall be in the county jail.
11 The minimum sentence shall include a term of imprisonment for
12 at least one year and one day, provided, however, that there
13 shall be a minimum mandatory sentence of ~~10~~ 90 days which
14 shall be served in the county jail. The remainder of the
15 sentence may be suspended or probated, but only if as a
16 condition of probation the defendant enrolls and successfully
17 completes a state certified chemical dependency program
18 recommended by the court referral officer and approved by the
19 sentencing court. Where probation is granted, the sentencing
20 court may, in its discretion, and where monitoring equipment
21 is available, place the defendant on house arrest under
22 electronic surveillance during the probationary term. In
23 addition to the other penalties authorized, the Director of
24 Public Safety shall revoke the driving privilege or driver's
25 license of the person convicted for a period of five years and
26 the offender shall be required to have an ignition interlock
27 device installed and operating on the designated motor vehicle

1 driven by the offender for a period of five years from the
2 date of issuance of a driver's license indicating that the
3 person's driving privileges are subject to the condition of
4 the installation and use of a certified ignition interlock
5 device on a motor vehicle.

6 "The Alabama habitual felony offender law shall not
7 apply to a conviction of a felony pursuant to this subsection,
8 and a conviction of a felony pursuant to this subsection shall
9 not be a felony conviction for purposes of the enhancement of
10 punishment pursuant to Alabama's habitual felony offender law.

11 "(i) When any person convicted of violating this
12 section is found to have had at least 0.15 percent or more by
13 weight of alcohol in his or her blood while operating or being
14 in actual physical control of a vehicle, he or she shall be
15 sentenced to at least double the minimum punishment that the
16 person would have received if he or she had had less than 0.15
17 percent by weight of alcohol in his or her blood. If the
18 adjudicated offense is a misdemeanor, the minimum punishment
19 shall be imprisonment for one year, all of which may be
20 suspended except as otherwise provided for in Section
21 32-5A-191(f) and Section 32-5A-191 (g). In addition, the
22 Director of Public Safety shall revoke the driving privileges
23 or driver's license of the person convicted for a period of
24 not less than one year.

25 "(j) When any person over the age of 21 years is
26 convicted of violating this section and it is found that a
27 child under the age of 14 years was present in the vehicle at

1 the time of the offense, the person shall be sentenced to at
2 least double the minimum punishment that the person would have
3 received if the child had not been present in the motor
4 vehicle.

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

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

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

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

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

1 percent of any fine assessed and collected for any DUI offense
2 charged by municipal ordinance violation in district or
3 circuit court shall be computed only on the amount assessed
4 over the minimum fine authorized, and upon collection shall be
5 distributed to the municipal general fund with the remaining
6 10 percent distributed to the State General Fund.

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

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

20 ~~"(p) When any person over the age of 21 years is~~
21 ~~convicted pursuant to this section and a child under the age~~
22 ~~of 14 years was present in the vehicle at the time of the~~
23 ~~offense, the defendant shall be sentenced to double the~~
24 ~~minimum punishment that the person would have received if the~~
25 ~~child had not been present in the motor vehicle.~~

26 ~~"(q) A prior conviction within a five-year period~~
27 ~~for driving under the influence of alcohol or drugs from this~~

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

5 "(p) Any prior conviction for an offense of driving
6 while impaired from this state, a municipality within this
7 state, or another state or territory or a municipality of
8 another state or territory, with or without the jurisdiction
9 having adopted the law of Alabama, so long as the offense was
10 in violation of the law in the respective jurisdiction,
11 including, but not limited to, the following offenses shall be
12 considered by a court for imposing a sentence pursuant to this
13 section:

14 "(1) Driving while the blood alcohol level of the
15 defendant was at or in excess of the legal limit imposed by
16 law of the jurisdiction in which the offense occurred at the
17 time the offense occurred.

18 "(2) Driving while under the influence of alcohol.

19 "(3) Driving while under the influence of a
20 controlled substance to a degree which renders him or her
21 incapable of safely driving.

22 "(4) Driving while under the combined influence of
23 alcohol and a controlled substance to a degree which renders
24 him or her incapable of safely driving.

25 "(5) Driving while under the influence of any
26 substance which impairs the mental or physical faculties of

1 such person to a degree which renders him or her incapable of
2 safely driving.

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

21 ~~"(s)(r)~~ Any person ordered by the court to have an
22 ignition interlock device installed on a designated vehicle
23 shall pay to the court, during the first four months his or
24 her license is suspended, seventy-five dollars (\$75) per
25 month, which shall be divided as follows:

26 "(1) Forty percent to the Alabama Interlock Indigent
27 Fund.

1 "(2) Twenty-five percent to the court of
2 jurisdiction.

3 "(3) Twenty percent to the Department of Public
4 Safety.

5 "(4) Fifteen percent to the district attorney of
6 jurisdiction.

7 "~~(t)~~(s) The defendant shall designate the vehicle to
8 be used by identifying the vehicle by the vehicle
9 identification number to the court.

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

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

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

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

8 "(2) The defendant shall provide proof of
9 installation of an approved ignition interlock device to the
10 Department of Public Safety as a condition of the issuance of
11 a restricted driver's license.

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

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

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

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

26 "~~(w)~~ (v) Nothing in this section and Section
27 32-5A-191.4 shall require an employer to install an ignition

1 interlock device in a vehicle owned or operated by the
2 employer for use by an employee required to use the device as
3 a condition of driving pursuant to this section and Section
4 32-5A-191.4."

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

7 "§32-6-19.

8 "(a) (1) ~~Any~~ Except as otherwise provided in
9 subdivision (4), any person whose driver's or chauffeur's
10 license issued in this or another state or whose driving
11 privilege as a nonresident has been cancelled, denied,
12 suspended, or revoked as provided in this article and who
13 drives any motor vehicle upon the highways of this state while
14 his or her license or privilege is cancelled, denied,
15 suspended, or revoked shall be guilty of a misdemeanor and
16 upon conviction shall be punished by a fine of not less than
17 one hundred dollars (\$100) nor more than five hundred dollars
18 (\$500), and in addition thereto may be imprisoned for not more
19 than 180 days. In addition to all fines, fees, costs, and
20 punishments prescribed by law, there shall be imposed or
21 assessed an additional penalty of fifty dollars (\$50) to be
22 placed in the Traffic Safety Trust Fund and the Peace Officers
23 Standards and Training Fund. Also, at the discretion of the
24 Director of Public Safety, the person's license may be revoked
25 for an additional revocation period of six months.

26 "(2) The additional penalty of fifty dollars (\$50)
27 shall be assessed in all criminal and quasi-criminal

1 proceedings in municipal, district, and circuit courts,
2 including, but not limited to, final bond forfeitures,
3 municipal ordinances violations, wherein the defendant is
4 adjudged guilty or pleads guilty and in all juvenile
5 delinquency and youthful offender adjudications.

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

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

14 "(b) Notwithstanding any provision of law, any
15 person who operates a motor vehicle upon the highways of this
16 state while his or her driver's license or driving privilege
17 is revoked for any reason under the laws of this state or
18 similar laws of any other state or territory, or while his or
19 her driver's license or driving privilege is suspended as a
20 consequence of a DUI-related offense, including, but not
21 limited to, being adjudicated delinquent or a youthful
22 offender based on a DUI-related offense, or while his or her
23 driver's license or driving privilege is suspended as a result
24 of failure to comply with the implied consent law of this
25 state or laws of another state, or who has been adjudicated a
26 delinquent child or a youthful offender based on an offense
27 that if the person had been an adult would have been a

1 conviction of driving under the influence of a controlled
2 substance or alcohol or failure to comply with the implied
3 consent law, shall be immediately removed from the vehicle.
4 The vehicle, regardless of ownership or possessory interest of
5 the operator or person present in the vehicle, except when the
6 owner of the vehicle or another family member of the owner is
7 present in the vehicle and presents a valid driver's license,
8 shall be impounded by any duly sworn law enforcement officer.
9 If there is an emergency or medical necessity jeopardizing
10 life or limb, the law enforcement officer may elect not to
11 impound the vehicle.

12 "(c) (1) The law enforcement officer making the
13 impoundment shall direct an approved towing service to tow the
14 vehicle to the garage of the towing service, storage lot, or
15 other place of safety and maintain custody and control of the
16 vehicle until the registered owner or authorized agent of the
17 registered owner claims the vehicle by paying all reasonable
18 and customary towing and storage fees for the services of the
19 towing company. The vehicle shall then be released to the
20 registered owner or an agent of the owner.

21 "(2) Any towing service or towing company removing
22 the vehicle at the direction of the law enforcement officer in
23 accordance with this section shall have a lien on the motor
24 vehicle for all reasonable and customary fees relating to the
25 towing and storage of the motor vehicle. This lien shall be
26 subject and subordinate to all prior security interests and
27 other liens affecting the vehicle whether evidenced on the

1 certificate of title or otherwise. Notice of any sale or other
2 proceedings relative to this lien shall be given to the
3 holders of all prior security interest or other liens by
4 official service of process at least 15 days prior to any sale
5 or other proceedings."

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

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