

1 SB151
2 133447-1
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 07-FEB-12

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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 increase the minimum
12 mandatory sentence for a fourth or subsequent
13 violation of the law from 10 days to 90 days.

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

21 This bill would remove the requirement that
22 a prior conviction considered by a court when
23 imposing a sentence would only be a prior
24 conviction within a five-year period and would
25 provide that any prior conviction for driving while
26 impaired from this state, a municipality within
27 this state, or another state or territory or a

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

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

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

23 This bill would also delete a redundant
24 subsection providing additional penalties when a
25 child under 14 years of age was in the vehicle at
26 the time of a DUI offense.

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

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

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 To amend Section 32-5A-191 of the Code of Alabama
27 1975, as last amended by Act 2011-613 and Act 2011-621 of the

1 2011 Regular Session, relating to driving while under the
2 influence; to further provide for a minimum mandatory sentence
3 for a fourth or subsequent violation; to remove the
4 requirement that a prior conviction considered by the court
5 when imposing a sentence would only be a prior conviction
6 within a five-year period; to further provide for the offenses
7 that can be considered by a court when imposing a sentence for
8 multiple violations; to amend Section 32-6-19 of the Code of
9 Alabama 1975, relating to violations for driving while license
10 or driving privilege is cancelled, denied, suspended, or
11 revoked; to provide that a person convicted for a third or
12 subsequent time when his or her license or driving privilege
13 was cancelled, denied, suspended, or revoked as a consequence
14 of a DUI-related offense would be guilty of a Class A
15 misdemeanor with a minimum mandatory sentence of 30 days in
16 jail; and in connection therewith would have as its purpose or
17 effect the requirement of a new or increased expenditure of
18 local funds within the meaning of Amendment 621 of the
19 Constitution of Alabama of 1901, now appearing as Section
20 111.05 of the Official Recompilation of the Constitution of
21 Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 32-5A-191 of the Code of Alabama
24 1975, as last amended by Act 2011-613 and Act 2011-621 of the
25 2011 Regular Session, is amended to read as follows:

26 "§32-5A-191.

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

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

5 "(2) Under the influence of alcohol;

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

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

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

14 "(b) A person who is under the age of 21 years shall
15 not drive or be in actual physical control of any vehicle if
16 there is 0.02 percent or more by weight of alcohol in his or
17 her blood. The Department of Public Safety shall suspend or
18 revoke the driver's license of any person, 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. Notwithstanding the foregoing, upon
22 the first violation of this subsection by a person whose blood
23 alcohol level is between 0.02 and 0.08, the person's driver's
24 license or driving privilege shall be suspended for a period
25 of 30 days in lieu of any penalties provided in subsection (e)
26 of this section, and there shall be no disclosure, other than
27 to courts, law enforcement agencies, and the person's

1 employer, by any entity or person of any information,
2 documents, or records relating to the person's arrest,
3 conviction, or adjudication of or finding of delinquency based
4 on this subsection.

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

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

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

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

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

14 "(e) Upon a first conviction, a person violating
15 this section shall be punished by imprisonment in the county
16 or municipal jail for not more than one year, or by fine of
17 not less than six hundred dollars (\$600) nor more than two
18 thousand one hundred dollars (\$2,100), or by both a fine and
19 imprisonment. In addition, on a first conviction, the Director
20 of Public Safety shall suspend the driving privilege or
21 driver's license of the person convicted for a period of 90
22 days. If, on a first conviction, the person provides blood
23 alcohol concentration of 0.15 or greater or any person
24 refusing to provide a blood alcohol concentration or if a
25 child under the age of 14 years was present in the vehicle at
26 the time of the offense or if someone else besides the
27 offender was injured at the time of the offense, the Director

1 of the Department of Public Safety shall suspend the driving
2 privilege or driver's license of the person convicted for a
3 period of 90 days and the person 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 "(f) On a second conviction within a five-year
11 period, a person convicted of violating this section shall be
12 punished by a fine of not less than one thousand one hundred
13 dollars (\$1,100) nor more than five thousand one hundred
14 dollars (\$5,100) and by imprisonment, which may include hard
15 labor in the county or municipal jail for not more than one
16 year. The sentence shall include a mandatory sentence, which
17 is not subject to suspension or probation, of imprisonment in
18 the county or municipal jail for not less than five days or
19 community service for not less than 30 days. In addition the
20 Director of Public Safety shall revoke the driving privileges
21 or driver's license of the person convicted for a period of
22 one year and the offender shall be required to have an
23 ignition interlock device installed and operating on the
24 designated motor vehicle driven by the offender for a period
25 of two years from the date of issuance of a driver's license
26 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.

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

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

1 and where imprisonment does not exceed three years confinement
2 may be in the county jail. Where imprisonment does not exceed
3 one year and one day, confinement shall be in the county jail.
4 The minimum sentence shall include a term of imprisonment for
5 at least one year and one day, provided, however, that there
6 shall be a minimum mandatory sentence of ~~10~~ 90 days which
7 shall be served in the county jail. The remainder of the
8 sentence may be suspended or probated, but only if as a
9 condition of probation the defendant enrolls and successfully
10 completes a state certified chemical dependency program
11 recommended by the court referral officer and approved by the
12 sentencing court. Where probation is granted, the sentencing
13 court may, in its discretion, and where monitoring equipment
14 is available, place the defendant on house arrest under
15 electronic surveillance during the probationary term. In
16 addition to the other penalties authorized, the Director of
17 Public Safety shall revoke the driving privilege or driver's
18 license of the person convicted for a period of five years and
19 the offender shall be required to have an ignition interlock
20 device installed and operating on the designated motor vehicle
21 driven by the offender for a period of five years from the
22 date of issuance of a driver's license indicating that the
23 person's driving privileges are subject to the condition of
24 the installation and use of a certified ignition interlock
25 device on a motor vehicle.

26 "The Alabama habitual felony offender law shall not
27 apply to a conviction of a felony pursuant to this subsection,

1 and a conviction of a felony pursuant to this subsection shall
2 not be a felony conviction for purposes of the enhancement of
3 punishment pursuant to Alabama's habitual felony offender law.

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

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

25 "(k) In addition to the penalties provided herein,
26 any person convicted of violating this section shall be
27 referred to the court referral officer for evaluation and

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

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

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

1 1997, and thereafter, the second one hundred dollars (\$100) of
2 that additional amount shall be deposited in the Impaired
3 Drivers Trust Fund after deducting five percent of the one
4 hundred dollars (\$100) for administrative costs and the
5 remainder of the funds shall be deposited to the State General
6 Fund. Fines collected for violations of this section charged
7 pursuant to a municipal ordinance where the total fine is paid
8 at one time shall be deposited as follows: The first three
9 hundred fifty dollars (\$350) collected for a first conviction,
10 the first six hundred dollars (\$600) collected for a second
11 conviction within five years, the first one thousand one
12 hundred dollars (\$1,100) collected for a third conviction, and
13 the first two thousand one hundred dollars (\$2,100) collected
14 for a fourth or subsequent conviction shall be deposited to
15 the State Treasury with the first one hundred dollars (\$100)
16 collected for each conviction credited to the Alabama Chemical
17 Testing Training and Equipment Trust Fund and the second one
18 hundred dollars (\$100) to the Impaired Drivers Trust Fund
19 after deducting five percent of the one hundred dollars (\$100)
20 for administrative costs and depositing this amount in the
21 general fund of the municipality, and the balance credited to
22 the State General Fund. Any amounts collected over these
23 amounts shall be deposited as otherwise provided by law. Fines
24 collected for violations of this section charged pursuant to a
25 municipal ordinance, where the fine is paid on a partial or
26 installment basis, shall be deposited as follows: The first
27 two hundred dollars (\$200) of the fine collected for any

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

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

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

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

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

26 "(p) Any prior conviction for an offense of driving
27 while impaired from this state, a municipality within this

1 state, or another state or territory or a municipality of
2 another state or territory, with or without the jurisdiction
3 having adopted the law of Alabama, so long as the offense was
4 in violation of the law in the respective jurisdiction,
5 including, but not limited to, the following offenses shall be
6 considered by a court for imposing a sentence pursuant to this
7 section:

8 "(1) Driving while the blood alcohol level of the
9 defendant was at or in excess of the legal limit imposed by
10 law of the jurisdiction in which the offense occurred at the
11 time the offense occurred.

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

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

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

19 "(5) Driving while under the influence of any
20 substance which impairs the mental or physical faculties of
21 such person to a degree which renders him or her incapable of
22 safely driving.

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

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

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

19 "(1) Forty percent to the Alabama Interlock Indigent
20 Fund.

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

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

25 "(4) Fifteen percent to the district attorney of
26 jurisdiction.

1 "~~(t)~~(s) The defendant shall designate the vehicle to
2 be used by identifying the vehicle by the vehicle
3 identification number to the court.

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

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

16 "~~(v)~~(u) (1) The Department of Public Safety may set a
17 fee of not more than one hundred fifty dollars (\$150) for the
18 issuance of a driver's license indicating that the person's
19 driving privileges are subject to the condition of the
20 installation and use of a certified ignition interlock device
21 on a motor vehicle. Fifteen percent of the fee shall be
22 distributed to the general fund of the county where the person
23 was convicted to be utilized for law enforcement purposes. In
24 addition, at the end of the time the person's driving
25 privileges are subject to the above conditions, the department
26 shall set a fee of not more than seventy-five dollars (\$75) to

1 reissue a regular driver's license. The fee shall be deposited
2 as provided in Sections 32-6-5, 32-6-6, and 32-6-6.1.

3 "(2) The defendant shall provide proof of
4 installation of an approved ignition interlock device to the
5 Department of Public Safety as a condition of the issuance of
6 a restricted driver's license.

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

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

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

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

21 "~~(w)~~ (v) Nothing in this section and Section
22 32-5A-191.4 shall require an employer to install an ignition
23 interlock device in a vehicle owned or operated by the
24 employer for use by an employee required to use the device as
25 a condition of driving pursuant to this section and Section
26 32-5A-191.4."

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

3 "§32-6-19.

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

22 "(2) The additional penalty of fifty dollars (\$50)
23 shall be assessed in all criminal and quasi-criminal
24 proceedings in municipal, district, and circuit courts,
25 including, but not limited to, final bond forfeitures,
26 municipal ordinances violations, wherein the defendant is

1 adjudged guilty or pleads guilty and in all juvenile
2 delinquency and youthful offender adjudications.

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

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

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

1 The vehicle, regardless of ownership or possessory interest of
2 the operator or person present in the vehicle, except when the
3 owner of the vehicle or another family member of the owner is
4 present in the vehicle and presents a valid driver's license,
5 shall be impounded by any duly sworn law enforcement officer.
6 If there is an emergency or medical necessity jeopardizing
7 life or limb, the law enforcement officer may elect not to
8 impound the vehicle.

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

18 "(2) Any towing service or towing company removing
19 the vehicle at the direction of the law enforcement officer in
20 accordance with this section shall have a lien on the motor
21 vehicle for all reasonable and customary fees relating to the
22 towing and storage of the motor vehicle. This lien shall be
23 subject and subordinate to all prior security interests and
24 other liens affecting the vehicle whether evidenced on the
25 certificate of title or otherwise. Notice of any sale or other
26 proceedings relative to this lien shall be given to the
27 holders of all prior security interest or other liens by

1 official service of process at least 15 days prior to any sale
2 or other proceedings."

3 Section 3. 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, now
7 appearing as Section 111.05 of the Official Compilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 4. 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.