



State:

Alabama

Statute/Law:

Chapter 32 - Motor Vehicles and Traffic-Section 32-5A-191. *Driving while under influence of alcohol, controlled substances, etc.*

Per Se Law?:

Yes

Statute/Law Language:

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

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

(2) Under the influence of alcohol;

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

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

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

Penalties Following Conviction:

(e) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not less than six hundred dollars (\$600) nor more than two thousand one hundred dollars (\$2,100), or by both a fine and imprisonment. In addition, on a first conviction, the Director of Public Safety shall suspend the driving privilege or driver's license of the person convicted for a period of 90 days. The 90-day suspension shall be stayed if the offender elects to have an approved ignition interlock device installed and operating on the designated motor vehicle driven by the offender for six months. The offender shall present proof of installation of the approved ignition interlock device to the Department of Public Safety and obtain an ignition interlock restricted driver license. The remainder of the suspension shall be commuted upon the successful





completion of the elected use, mandated use, or both, of the ignition interlock device. If, on a first conviction, any person refusing to provide a blood alcohol concentration or if a child under the age of 14 years was a passenger in the vehicle at the time of the offense or if someone else besides the offender was injured at the time of the offense, the Director of the Department of Public Safety shall suspend the driving privilege or driver's license of the person convicted for a period of 90 days and the person shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of two years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of 45 days of the license revocation or suspension pursuant to Section 32-5A-304 or this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of two years provided in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

(f) On a second conviction within a five-year period, a person convicted of violating this section shall be punished by a fine of not less than one thousand one hundred dollars (\$1,100) nor more than five thousand one hundred dollars (\$5,100) and by imprisonment, which may include hard labor in the county or municipal jail for not more than one year. The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than five days or community service for not less than 30 days. In addition the Director of Public Safety shall revoke the driving privileges or driver's license of the person convicted for a period of one year and the offender shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of two years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of 45 days of the license revocation or suspension pursuant to Section 32-5A-304, this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation or an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of two years approved in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.



(g) On a third conviction, a person convicted of violating this section shall be punished by a fine of not less than two thousand one hundred dollars (\$2,100) nor more than ten thousand one hundred dollars (\$10,100) and by imprisonment, which may include hard labor, in the county or municipal jail for not less than 60 days nor more than one year, to include a minimum of 60 days which shall be served in the county or municipal jail and cannot be probated or suspended. In addition, the Director of Public Safety shall revoke the driving privilege or driver's license of the person convicted for a period of three years and the offender shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of three years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of 180 days of the license revocation or suspension pursuant to Section 32-5A-304, this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of three years provided in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

(h) On a fourth or subsequent conviction, a person convicted of violating this section shall be guilty of a Class C felony and punished by a fine of not less than four thousand one hundred dollars (\$4,100) nor more than ten thousand one hundred dollars (\$10,100) and by imprisonment of not less than one year and one day nor more than 10 years. Any term of imprisonment may include hard labor for the county or state, and where imprisonment does not exceed three years confinement may be in the county jail. Where imprisonment does not exceed one year and one day, confinement shall be in the county jail. The minimum sentence shall include a term of imprisonment for at least one year and one day, provided, however, that there shall be a minimum mandatory sentence of 10 days which shall be served in the county jail. The remainder of the sentence may be suspended or probated, but only if as a condition of probation the defendant enrolls and successfully completes a state certified chemical dependency program recommended by the court referral officer and approved by the sentencing court. Where probation is granted, the sentencing court may, in its discretion, and where monitoring equipment is available, place the defendant on house arrest under electronic surveillance during the probationary term. In addition to the other penalties authorized, the Director of Public Safety shall revoke the driving privilege or driver's license of the person convicted for a period of five years and the offender shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of five years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of one year of the license





revocation or suspension pursuant to Section 32-5A-304, this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of five years provided in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

Discretionary Court-Ordered Penalties:

Defendant may be required to pay restitution; Special fine of \$100 mandatory; Court may forbid defendant to drive for a limited period or perpetually. Court may assign community service in addition to, or in lieu of, imprisonment. Where probation is granted, the sentencing court may, in its discretion, and where monitoring equipment is available, place the defendant on house arrest under electronic surveillance during the probationary term.

For more information:

<http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm>

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