

SENATE BILL REPORT

EHB 1940

As Reported By Senate Committee On:
Law & Justice, April 3, 1997

Title: An act relating to driving while under the influence of liquor or drugs.

Brief Description: Integrating ignition interlocks into administrative revocation of drivers' licenses.

Sponsors: Representatives Robertson, Appelwick, Sheahan, Regala, Scott, O'Brien, Ogden, Cooper, Blalock, Costa, Cole, Conway, Cody, Wolfe and Cooke.

Brief History:

Committee Activity: Law & Justice: 4/2/97, 4/3/97 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, McCaslin, Stevens and Zarelli.

Staff: Lidia Mori (786-7755)

Background: Legislation enacted in 1994 gives courts the authority to order ignition interlock or other devices to be installed on the cars of drivers convicted of alcohol-related driving offenses and those who have been granted a deferred prosecution on such a charge. Ignition interlock devices are alcohol analyzing devices designed to prevent a person with alcohol in his or her system from starting a car. Other biological or technical- devices may be installed for the same purpose. If a court orders the installation of one of these devices, the Department of Licensing (DOL) must mark the person's driver's license to indicate the person is allowed to operate a car only if it is equipped with an alcohol analyzing device.

Under the implied consent law, a person arrested for driving under the influence (DUI) is required to submit to a test of his or her breath or blood alcohol concentration (BAC). A person who takes the test and shows a BAC above a certain level is subject to criminal prosecution and to DOL administrative action to suspend or revoke the driver's license. The permissible BAC level for a person 21 years or older is less than .10 and for a person under 21 it is less than .02.

A criminal conviction of DUI results in jail time, a fine, and suspension or revocation of the driver's license. The criminal penalties and the administrative actions resulting from a DUI incident vary depending on the number of prior offenses or refusals to take the BAC test the person has. Criminal penalties also vary depending on the level of the BAC. BACs of more than .15 result in more jail time, longer loss of driving privileges, and larger fines.

A person charged with DUI may petition the court for a deferred prosecution. The petitioner must stipulate to the sufficiency and admissibility of the evidence against him or her and waive various procedural rights. The petitioner must also allege that the conduct that led to the arrest was the result of alcoholism, drug addiction, or mental problems that are amenable to treatment. If the petition is granted, the court will defer prosecution on the condition that the person undergo a two-year treatment program. Failure to comply with the terms of the deferral can result in removal from the deferral and reinstatement of the criminal prosecution.

A person convicted of a first DUI within five years may be eligible for an occupational license. DOL may grant such a license if, among other things, the person's employment makes it essential that he or she be able to drive.

Summary of Bill: Use of ignition interlock devices is expanded, and various periods of license suspension or revocation are increased for implied consent and DUI violations.

Periods of administrative revocation of driver's license for refusing to take a BAC test are increased as follows:

- For a first refusal within five years, from one year to 540 days;
- For a second refusal within five years, from one year to three years; and
- For a third refusal within five years, a new revocation period of four years is created.

Periods of suspension or revocation following a criminal DUI conviction are increased as follows:

- For a first conviction, with a BAC of at least .15, or with no BAC due to refusal, from suspension for 120 days to revocation for one year;
- For a second conviction, with a BAC of less than .15, from revocation for one year to revocation for two years;
- For a second conviction, with a BAC of at least .15 or no BAC due to refusal, from revocation for 450 days to revocation for 900 days;
- For a third conviction, with a BAC of less than .15, from revocation for two years to revocation for three years;
- For a third conviction, with a BAC of at least .15 or no BAC due to refusal, from revocation for three years to revocation for four years.

Occupational licenses are replaced with temporary restricted licenses.— Following an initial prescribed period of a license loss resulting from criminal conviction or administrative action, a person may petition DOL for a temporary restricted license. These prescribed periods range from the first 30 days to the first year of the suspension or revocation. If granted, the temporary restricted license is good for the remainder of the period of suspension or revocation. One requirement for a temporary restricted license is that the petitioner (other than one who was a first-time offender with a BAC of less than .15) must agree to installation of an ignition interlock device on his or her car. The person must also agree to drive no other car for the period of suspension or revocation.

The circumstances under which a temporary restricted license may be used are expanded beyond the employment needs applicable to occupational licenses. The new circumstances

include the necessity of driving to (1) provide continuing health care to the petitioner or a dependent; (2) pursue education; (3) attend substance abuse treatment; or (4) fulfill court-ordered community service responsibilities.

As a condition of granting a deferred prosecution petition, the court may order installation of an ignition interlock device or other biological or technical device authorized in statute. Failure to comply with the interlock installation requirements may lead to removal from deferred prosecution.

Driving a car in violation of the license restrictions that accompany installation of an interlock device is made a misdemeanor.

As part of an alcohol assessment ordered following a DUI conviction, the diagnostic agency must make a recommendation to the sentencing court regarding the possible installation of an ignition interlock device.

A sentencing court may order installation of such a device following the expiration of any period of license suspension or revocation and for up to as long as the court has jurisdiction over the offender.

Appropriation: None.

Fiscal Note: Requested on March 18, 1997

Effective Date: The bill takes effect on January 1, 1998.

Testimony For: This bill expands the options for supervision of these kinds of offenders. The technology is there and it can provide options for maintaining supervision of people who have had their driver's license suspended or revoked.

Testimony Against: None.

Testified: PRO: Representative Robertson; Paul Cary, Ignition Interlock Systems.