

HOUSE BILL 255

By Casada

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 33 and Title 55, Chapter 10, Part 4, relative to ignition interlock devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 10, Part 4, is amended by adding the following language as a new, appropriately designated section:

§ 55-10-420.

(a) In addition to the penalties imposed by § 55-10-403:

(1) The court may order a person convicted of a violation of § 55-10-401 on or after July 1, 2009, to operate only a motor vehicle or motorcycle which is equipped with a functioning ignition interlock device after a thirty (30) day suspension of the person's driver license for a period of eleven (11) months after such person's license is no longer suspended in lieu of having a restricted license. The person convicted may also request that the court order an ignition interlock device for the above period in lieu of the person having a restricted license. The court shall also order such device to be installed on all vehicles owned or leased by such person;

(2) For conviction on the second offense or on the first offense if the alcohol concentration in such person's blood or breath is twenty hundredths of one percent (.20%) or more, the court shall order a person to operate only a motor vehicle or motorcycle which is equipped with a functioning ignition interlock device after a sixty (60) day suspension of the person's driver license for a period of twenty-two (22) months after such person's license is no longer suspended.

The court shall also order such device to be installed on all vehicles owned or leased by such person;

(3) For conviction on the third offense, the court shall order a person to operate only a motor vehicle or motorcycle which is equipped with a functioning ignition interlock device after a ninety (90) day suspension of the person's driver license for a period of thirty-two (32) months after such person's license is no longer suspended. The court shall also order such device to be installed on all vehicles owned or leased by such person.

(b) The court shall establish the period of time that the person shall be subject to the restriction and a specific calibration setting no lower than point zero two (.02) nor more than point zero five (.05) blood alcohol concentration at which the ignition interlock device will prevent the motor vehicle from being started.

(c) For the purpose of this section, "ignition interlock device" means a device which connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device.

(d) Upon ordering the use of an ignition interlock device, the court shall:

(1) State on the record the requirement for and the period of use of the device, and so notify the department of safety;

(2) Direct that the records of the department reflect:

(A) That the person may not operate a motor vehicle that is not equipped with an ignition interlock device; and

(B) Whether the court has expressly permitted the person to operate a motor vehicle without an ignition interlock device under subsection (k);

(3) Direct the department to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person may operate only a motor vehicle equipped with an ignition interlock device. A person under this section is not restricted as to when and where the person can drive;

(4) Require proof of the installation of the device and periodic reporting by the person for verification of the proper operation of the device;

(5) Require the person to have the system monitored for proper use and accuracy by an entity approved by the department at least semiannually, or more frequently as the circumstances may require;

(6) Inform the person subject to the restriction that the device shall only be removed once the time period is over if the person has had no violations while being registered on the device for thirty (30) days prior to the device being removed; and

(7) Require the person to pay the reasonable cost of leasing or buying, monitoring, and maintaining the device, and establish a payment schedule if necessary.

(e) A person prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock device may not solicit or have another person attempt to start or start a motor vehicle equipped with such a device. Except as provided in subsection (i), a violation of this subsection is a Class A misdemeanor.

(f) A person may not attempt to start or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock device. Except as provided in subsection (i), a violation of this subsection is a Class A misdemeanor.

(g) A person may not tamper with, or in any way attempt to circumvent, the operation of an ignition interlock device that has been installed in a motor vehicle. Except as provided in subsection (i), a violation of this subsection is a Class A misdemeanor.

(h) A person may not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person who the provider of such vehicle knows or should know is prohibited from operating a motor vehicle not equipped with an ignition interlock device. Except as provided in subsection (i), a violation of this subsection is a Class A misdemeanor.

(i) A person who violates subsections (e)-(h) commits a Class A misdemeanor. However, subsections (e)-(h) of this section shall not apply if:

(1) The starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order does not operate the vehicle; or

(2) The court finds that a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle during regular working hours for the purposes of employment without installation of an ignition interlock device, if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person who is prohibited from operating a motor vehicle not equipped with an ignition interlock device.

(k)

(1) Any person subject to the provisions of subdivision (a) may, solely in the course of employment, operate a motor vehicle or motorcycle, which is owned or provided by such person's employer, without installation of an ignition interlock device, if:

(A) The court expressly permits such operation;

(B) The employer has been notified of such driving privilege restriction; and

(C) Proof of that notification is within the vehicle.

(2) This subdivision shall not apply if such employer is an entity wholly or partially owned or controlled by the person subject to the provisions of subsection (a).

(l) The department of safety shall review and approve all ignition interlock device providers in the state. The department shall promulgate rules and regulations to effectuate the provisions of this subsection. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. Tennessee Code Annotated, Section 55-10-403(d), is amended by deleting subdivision (4)(B) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 40-33-211(c)(3), is amended by deleting the language "pursuant to § 55-10-412; provided, however, that the device should not be utilized in lieu of treatment of the person" and replace it with the language "pursuant to § 55-10-420".

SECTION 4. Tennessee Code Annotated, Section 55-10-406, is amended by inserting the following language as new subsection (f):

(f) Notwithstanding any other provision in this section, any court suspending, revoking or restricting a person's driver's license for a violation of this section shall also comply with the requirements of ignition interlocks set forth in § 55-10-420.

SECTION 5. Tennessee Code Annotated, Section 55-10-412, is amended by deleting such section in its entirety.

SECTION 6. This act shall take effect July 1, 2009, the public welfare requiring it.