

SUBJECT: Requiring certain intoxication offenders to use ignition interlock devices

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray

0 nays

WITNESSES: For — David McGinty, City of Arlington Police Department; Patty Carter, Tamberly Robinson, Colleen Sheehey-Church, and JT Griffin, Mothers Against Drunk Driving (MADD); Dib Waldrip, Texas Association of Drug Court Professionals; David Hodges; (*Registered, but did not testify*: Anne ORyan, AAA Texas; Dottie McDonald, Coalition for Ignition Interlock Manufacturers, Smart Start, Inc.; Debra Coffey, Coalition of Ignition Interlock Manufacturers; Lorrie Calderon, Carlton Caudle, Jason Derscheid, Jaime Gutierrez, Frank Harris, Elizabeth Haverkamp, Becky Iannotta, Anna Smith, Gary Smith, Graciela Talamantes, Gloria Vasquez, Vanessa Marquez, Mandy Fultz, Arturo Huerta, Dorene Ocamb, Karah Ricketts, Tracy Sheets, and Ben Smith, Mothers Against Drunk Driving (MADD); Cathy Dewitt, Texas Association of Business; Shanna Igo, Texas Municipal League)

Against — Ray Allen and Rodney Thompson, Texas Probation Association

On — Rebekah Hibbs, Texas Department of Public Safety

BACKGROUND: An ignition interlock device connects to a vehicle's ignition system and prevents a vehicle from starting unless the device registers a blood alcohol concentration (BAC) below a preset level after the driver blows into it. The level is often set at a BAC of 0.02.

Under Transportation Code, sec. 521.246, a judge has discretion to restrict a person to operating a vehicle equipped with an ignition interlock device

if the person's license has been suspended following a first conviction of driving while intoxicated, intoxication assault, or intoxication manslaughter. Ignition interlock devices are required to be ordered for a person with two or more convictions for an offense of driving while intoxicated, intoxication assault, or intoxication manslaughter or if the person's license has been suspended after a conviction for driving while intoxicated for which the person received an enhanced penalty. The court must order the ignition interlock device to remain installed for at least half of the period of supervision.

Code of Criminal Procedure, art. 42.12, sec. 13(i) requires interlock devices as a condition of probation for first-time offenders with a blood alcohol concentration of 0.15 or greater.

DIGEST:

CSHB 2246 would make changes to certain restrictions in current law related to driving after convictions of intoxication offenses.

A judge would be required, rather than allowed, to restrict a person to operating a vehicle with an ignition interlock device installed if the person's license had been suspended after conviction of a first intoxication offense. The court would have to order that a device remain installed for the entire period of suspension, instead of at least half of the period as under current law.

As a condition of probation, a person whose license had been suspended for certain intoxication offenses could operate a motor vehicle if the person used an ignition interlock device for the entire period of the suspension and obtained an occupational driver's license with an ignition interlock designation. The applicable intoxication offenses would be:

- driving while intoxicated;
- driving while intoxicated with a child passenger;
- flying while intoxicated;
- boating while intoxicated;
- assembling or operating an amusement park ride while intoxicated;
- intoxication assault; and

- intoxication manslaughter.

Those convicted of any of the offenses listed above would not be eligible to apply for an occupational license through a verified petition, whereas current law applies this restriction only to the offense of driving while intoxicated.

A person who was convicted of an intoxication offense and was restricted to operating a vehicle with an ignition interlock device could receive an occupational license without requiring a finding that an essential need existed for that person, as long as the person showed evidence of financial responsibility and proof that the person had a device installed on each vehicle they owned or operated.

A special restricted license for a person limited to operating a vehicle with an ignition interlock device would have to indicate conspicuously that the person was authorized to operate only a motor vehicle that was equipped with a device. A person who was restricted to operating a vehicle with a device could not be subject to certain restrictions on time of travel, reason for travel, or location of travel.

A court could issue an occupational license to someone who submitted proof that the person had a device installed on each vehicle the person owned or operated. The court could revoke the occupational license and reinstate the driver's license suspension if the person failed to maintain an installed ignition interlock device on each vehicle they owned or operated.

The bill also would expand the applicability of other sections of law, including those governing the effective date of occupational licenses, which currently apply only to certain intoxication offenses to include the additional intoxication offenses.

The bill would take effect on September 1, 2015, and would apply only to a person whose driver's license was suspended on or after that date.

SUPPORTERS CSHB 2246 would prevent those whose licenses had been suspended due

SAY: to an intoxication offense from continuing to drive with a suspended license and endangering their communities. Many individuals with suspended licenses for intoxication offenses continue to drive, and an ignition interlock device would be more effective than a license suspension alone. A significant number of drunk driving deaths in the United States happen in Texas, and this bill would protect other drivers by helping to prevent drunk driving.

Ignition interlock devices use effective technology to detect unsafe levels of alcohol in a person's system, and they are difficult to sidestep. The devices are equipped with anti-circumvention technology, such as a camera that snaps a photo of the individual blowing into the device to verify the identity of the driver. Studies have shown these devices to be highly effective at reducing re-arrest rates for alcohol-impaired driving. Defendants would be compliant with the interlock device system because they could not get an occupational license without first proving that they had installed one in their vehicle.

HB 2246 would not increase supervisory costs for probation departments. At the time a judge orders an occupational license, the judge may order a supervisory fee to help cover costs of supervision. Eventually the bill would actually reduce the caseloads of probation departments by reducing the number of defendants driving without a license and without insurance.

The ignition interlock devices would not be mandatory for anyone, although the use of such a device would allow certain individuals whose licenses were suspended for an intoxication offense to maintain driving privileges if they wished. An individual who chose not to continue driving after a license suspension would not be required to apply for an occupational license.

CSHB 2246 would not burden taxpayers because offenders would be required to buy their own devices. Vendors likely would work with individuals who could not afford an ignition interlock device to assist them in purchasing and installing the device in their vehicles. Because applying for an occupational license with an interlock device would be

discretionary for defendants, if they felt they could not afford it, they could remain with a suspended license without cost.

Public transportation is not available in many parts of Texas, and most people depend on their cars to fulfill daily responsibilities. The bill would allow individuals who had their licenses suspended because of an intoxication offense to continue driving to work, to attend school or treatment, and to continue supporting themselves and their families.

Similar laws in other states have proven successful in reducing drunk driving deaths. This bill would help to avoid these tragedies in Texas.

OPPONENTS
SAY:

CSHB 2246 could expand the caseload for probation departments without providing an increase in funding. It could require greater supervision by probation departments of first-time offenders and reduce focus on high-risk repeat offenders. Most first-time DWI offenders will never re-offend, and mandating interlock devices for these individuals would require supervision that could dilute the resources of probation departments.

CSHB 2246 also would remove the discretion of judges to determine when an interlock device was necessary. This decision should be made under judicial authority instead of mandating the devices for all offenders.

The bill may not be effective in preventing drunk driving because the ignition interlock device may not be reliable and a number of ignition interlock users do not actually comply with current law that requires these devices. There is better, newer technology that could be used instead. Also, the locking device can be circumvented if a sober individual blows into the device in place of the driver.

The bill could create a costly burden on offenders who need to drive to maintain their daily activities and support their families. The cost of the device is placed on the offenders who might not be able to afford to buy them or have them installed in their vehicles.