

Memo

Subject: HB 388 OVI Offenders – Ignition Interlock

From: Adam Hewit

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## ACT SUMMARY

The "OVI" law prohibits a person from operating a motor vehicle if the person is under the influence of alcohol, drugs, or both. One of the penalties imposed for an OVI violation is the suspension of the offender's driver's license. However, during the suspension, the court may grant the offender limited driving privileges for specified purposes, such as getting to and from work. If the court grants limited driving privileges during a suspension that is imposed for a second or subsequent OVI offense and the offense is alcohol-related, the court must require the offender to use a certified ignition interlock device (IID), which prevents the offender's vehicle from starting if a specified amount of alcohol is detected on the offender's breath. With respect to a first time alcohol-related OVI offender and with respect to all drug-related OVI offenders, a court is authorized, but not required, to order that the offender use an IID as a condition of limited driving privileges.

The act establishes an alternative to limited driving privileges for a first-time OVI offender: unlimited driving privileges with an IID. The act also makes changes to the requirements related to limited driving privileges granted under the condition that the offender use an IID, including requiring the offender to obtain a restricted driver's license and enhancing the penalties for an IID violation. Notably, if an offender who has been granted limited or unlimited driving privileges with an IID commits an IID violation within 60 days prior to the end of the applicable driver's license suspension, the act requires the court to automatically extend the offender's suspension and the required use of an IID for a period of 60 days after the violation. The act also modifies the process for monitoring and reporting IID violations and establishes additional requirements governing unlimited driving privileges.

The act makes additional changes to the OVI law by increasing the "lookback" period for OVI and OVI-related offenses from six to ten years, extending the possible term of suspension for a first, second, or third-time OVI offender, and eliminating the restricted license plate requirement for second-time "standard level" OVI offenders. The law becomes effective 4/6/17.

### **Unlimited driving privileges with an IID (for a first-time OVI offender)**

- Allows a first-time OVI (operating a vehicle while intoxicated) offender to petition the court for unlimited driving privileges with a certified ignition interlock device (IID) during the offender's driver's license suspension.
- Authorizes the court to grant unlimited driving privileges with an IID to a first-time OVI offender under any circumstance in which the court is authorized under continuing law to grant limited driving privileges, which allow an offender to drive only for specified purposes (for example, getting to and from work).
- If the court grants a first-time offender unlimited driving privileges with an IID, both of the following apply:

--The court must suspend any jail term imposed for the OVI offense; and

--The court may reduce a first-time offender's suspension by up to half.

- If a first-time offender violates any term or condition imposed by the court during the suspension, requires the court to order the offender to serve the suspended jail term.
- Requires a first-time offender who is granted unlimited driving privileges with an IID to obtain a restricted driver's license that indicates on its face that the offender is required to use the IID.
- Prohibits a first-time offender who has been granted unlimited driving privileges with an IID from operating a motor vehicle prior to obtaining a restricted driver's license, and applies the penalties for driving under an OVI suspension to a person who violates the prohibition.

#### **Limited driving privileges with an IID**

- Prohibits an OVI offender who has been granted limited driving privileges with an IID from operating a motor vehicle prior to obtaining a restricted driver's license, and applies the penalties for driving under an OVI suspension to a person who violates the prohibition.

#### **Penalties for an IID violation**

- Applies the existing penalties for an IID violation to first-time OVI offenders, underage OVI offenders, and offenders who commit an OVI violation in another state.
- Establishes a compliance-based removal system, whereby any IID violation committed by an offender within the last 60 days of the offender's suspension extends the suspension for 60 days from the violation.
- Modifies the process for appealing an IID violation that results in an increase of the offender's driver's license suspension.

#### **New requirements related to IIDs**

- Requires an IID manufacturer, as part of its application for a license issued by the Department of Public Safety (DPS), to agree to do both of the following:
  - Install and monitor all IIDs produced by that manufacturer; and
  - Charge a reduced fee for an IID, established by DPS, to any person who is deemed to be an indigent offender by the court.
- Requires the Director of Public Safety to establish a certificate of installation, and requires the manufacturer to use the certificate to certify proper installation of the device.
- Requires the Director to establish procedures for confirming and inspecting the installation of an IID.
- Requires an IID manufacturer to monitor each IID that it installs in an offender's vehicle, rather than requiring a governmental agency, bureau, department, or office, or a private corporation, or other entity to monitor IIDs as under prior law.

- Requires a manufacturer to inform the court and the Registrar of Motor Vehicles as soon as practicable after an IID violation occurs.
- Requires DPS to reject a manufacturer's application for licensure if it is not accompanied by the agreement specified above or if the application is a renewal application and the manufacturer failed to monitor or report IID violations.
- Allows DPS to reject a manufacturer's application for licensure if the manufacturer has a history of failing to properly install immobilizing or disabling devices.
- Beginning January 1, 2020, requires IIDs to be equipped with a camera.

#### Other OVI-related provisions

- Extends the "lookback" period for OVI and OVI-related offenses from six to ten years.
- Modifies the permissive length of time of a required driver's license suspension for a first, second, or third OVI offense.
- Eliminates the requirement that a second-time "standard level" OVI offender who is granted limited driving privileges must display restricted license plates.
- Requires the Director of Public Safety to study the act's effect on the number of IIDs installed in Ohio, the number of drunk driving accidents and deaths, and the recidivism rate for OVI offenses, and to issue a report by April 6, 2021.

#### **Notice from a salvage motor vehicle auction**

- Requires a salvage motor vehicle auction that is seeking a salvage title to a motor vehicle to send a written request for the removal of a motor vehicle to the owner of the vehicle and any known lienholder using a nationally recognized courier service, rather than by certified mail, return receipt requested, as under prior law.