

SENATE BILL 1157

By Henry

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, relative to the use of ignition interlock devices.

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

SECTION 1. Tennessee Code Annotated, Section 55-10-412, is amended by deleting subsection (d) and by substituting instead the following:

(d)(1) In addition to the penalties authorized for violations of this part, if a restricted license is to be issued to an offender, a court shall order a person to operate a motor vehicle that is equipped with a functioning ignition interlock device as a condition of:

(A) The disposition of a person's case whose breath alcohol content is fifteen one-hundredths of one percent (.15%) or greater, or if such person had refused to take the breath alcohol test, and the person is convicted for a first time violation of § 55-10-401. In addition, a court may, in its discretion, upon finding a person whose breath alcohol content is less than fifteen one-hundredths of one percent (.15%), both financially able to afford an ignition interlock device and also guilty of violating the provisions of §§ 55-10-401— §§ 55-10-404, order the person to operate only a motor vehicle with a functioning ignition interlock device; and

(B) The disposition of a person's case if the person is convicted of a second or third violation of the provisions of § 55-10-401, within five (5) years of a prior conviction.

(2) A court, pursuant to this section, shall order a person to operate a motor vehicle that is equipped with a functioning ignition interlock device for the period of revocation of such person's driver license.

(3) If during the period of interlock use the court finds the person violated the terms of the order for proper use of an ignition interlock device, the court may, in addition to any other penalties available to it under law, order the department to revoke the restricted operator's license.

(4) As used in this section, "ignition interlock device" means a device which is hard-wired and soldered and covered with a proprietary seal into the ignition system of a motor vehicle, preventing the motor vehicle from starting if a driver's breath alcohol level exceeds two and one-half-hundredths of one percent (.025%).

(5) Such interlock device shall be specific to the detection of alcohol, and must meet the standards set forth in guidelines for ignition interlock devices published on April 7, 1992 in the Federal Register, and as the same may be from time to time subsequently amended, and shall be capable of providing a rolling retest. Any device used shall be certified by the department of safety to meet these technical specifications. The department of safety shall have the responsibility for establishing a statewide contract(s) for the provision of equipment, installation, monitoring, calibration and other services by an approved service provider of such devices, paid for by persons ordered by the court to install an ignition interlock device. The statewide contract(s) shall be established through a competitive process pursuant to Tennessee Code Annotated, Section 12-4-109.

(6) Any person or entity contracted with by the department of safety who installs, monitors, services and calibrates such device shall be known as an approved service provider and must demonstrate to the department evidence of adequate insurability for product liability and casualty loss for any liability occasioned by the malfunctioning of an interlock device.

(7) An approved service provider shall report any violations under Section 55-10-412 or the department's protocol under this section related to the proper use of a device by a person required to use an ignition interlock device to the sentencing court, probation officer, or to the designated treatment agency, as the court directs.

(8) An approved service provider must be able to provide installation, monitoring, calibration, and service to any person required to install an ignition interlock device under this section. An approved service provider must be capable of providing fixed service locations in any municipality with a population of two hundred fifty thousand (250,000) or greater, and provide such mobile service to the remainder of the state such that no person shall be required to travel more than one (1) hour to obtain service.

(9) Any approved service provider must provide a credit of two percent (2%) of its total revenues each month from interlock usage in this state to be used in the discretion of the court as an indigency credit against the charges for those persons who cannot pay the total amount of fees for interlock use in this state. The credit shall not be cumulative, but shall apply only for the month following the collection of the revenues.

SECTION 2. Tennessee Code Annotated, Section 55-10-403(d)(1), is amended in the first sentence by deleting the language "and such suspension is the result of the person's first conviction for violating §§ 55-10-401— 55-10-404".

SECTION 3. Tennessee Code Annotated, Section 55-10-403(d)(1), is amended in the second sentence by deleting the language "if the conviction for such offense is the person's first".

SECTION 4. Tennessee Code Annotated, Section 55-10-403(d)(1), is amended in the third sentence by deleting the language "; and provided further, that the conviction is the person's first conviction in any jurisdiction for operating a motor vehicle under the influence of an intoxicating liquor or a narcotic drug".

SECTION 5. Tennessee Code Annotated, Section 55-10-403, is amended by adding the following language to the beginning of subsection (d):

Except as provided in § 55-10-412(d),

SECTION 6. This act shall take effect July 1, 1999, the public welfare requiring it and shall apply to all violations of the provisions of Tennessee Code Annotated, Section 55-10-401 occurring on or after such date.