

HOUSE BILL 1699

By McCormick

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 shall 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-day suspension of the person's driver license for a period of six (6) 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-day suspension of the person's driver license for a period of twelve (12) 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-day suspension of the person's driver license for a period of sixty (60) 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; and

(4) For conviction on the fourth or subsequent 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 one hundred twenty-day suspension of the person's driver license for a period of one hundred twenty (120) 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) If the court orders an ignition interlock device, the court shall order the department of safety to issue to the defendant a restricted interlock license which indicates the defendant is allowed to operate a motor vehicle only if it is equipped with an ignition interlock device. The order shall remain in effect for the prescribed period of interlock usage: Such order will end and not be extended if the defendant blows alcohol-free for the duration of the period such defendant is prescribed to operate a motor vehicle with an ignition interlock device.

(c) The costs incurred in order to comply with the ignition interlock requirements shall be paid by the person ordered to install an ignition interlock device unless the court has determined the person to be indigent.

(d) A person ordered to install an ignition interlock device shall pay an ignition interlock administrative fee unless the court has determined the defendant to be indigent. The department of safety shall establish the fee, of at least thirty dollars (\$30.00) and not exceeding sixty dollars (\$60.00). The fee shall be collected at time of installation by the vendor installing the ignition interlock device. The vendor shall remit the fees to the department on a quarterly basis. A percentage of the fees shall go towards paying the department's costs to administer the ignition interlock program and a percentage of the fees shall go towards the ignition interlock device fund. Such percentages shall be determined by the department.

(e) The ignition interlock device fund is created, so that all money in the fund shall be used to install and remove the ignition interlock devices of persons deemed by the court as indigent. The administrative office of the courts shall establish guidelines as to what income level and assets or lack thereof make a person "indigent".

(f) Any person caught driving on a revoked or suspended license that was revoked or suspended as a consequence of driving under the influence, along with any person for whom there is probable cause to believe was driving under the influence and refuses to submit to a blood or breath test emanating from such probable cause, must use an ignition interlock device for a minimum of six (6) months as a condition to maintaining a valid driver's license.

(g) Any person restricted to operating a motor vehicle equipped with an ignition interlock device who operates a vehicle on the roads of this state without using such device or who tampers with or alters the interlock device in any way commits a Class E felony and additional time using an ignition interlock device as a condition to getting such person's unrestricted driver's license reinstated.

(h) Any person who drives under the influence while transporting a person under eighteen (18) years of age in such person's motor vehicle will be required to drive with an ignition interlock device for a minimum of six (6) additional months above the appropriate period prescribed in subsection (a).

(i) The authority to administer the ignition interlock program should be vested with the department of safety. The department shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. These regulations shall include ensuring the presence of licensed ignition interlock providers within the state, requiring use of the most modern anti-circumvention fuel cell technology interlock systems, and maintaining reporting systems for those sentenced to use ignition interlock devices

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.