

Amendment No. 1 to HB0353

**Watson
Signature of Sponsor**

AMEND Senate Bill No. 670

House Bill No. 353*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-10-409(b)(2)(B)(i), as created by Chapter __ of the Public Acts of 2013, is amended by deleting the subdivision and substituting instead the following:

(i) The person was convicted of a violation of 55-10-401 and had a blood or breath alcohol concentration of eight hundredths of one percent (.08%) or higher or a combination of alcohol in any amount and marijuana, a controlled substance, controlled substance analogue, drug, or any substance affecting the central nervous system;

SECTION 2. Tennessee Code Annotated, Section 55-10-409(b)(1), as created by Chapter __ of the Public Acts of 2013, is amended by deleting the subdivision in its entirety and substituting instead the following:

(A) Except as provided in subdivision (a), if a person's motor vehicle operator's license has been revoked pursuant to 55-10-404 or 55-10-406, the person may apply to the trial judge for a restricted driver license.

(i) If the person's present conviction for driving under the influence of an intoxicant is an offense for which subdivision (b)(2)(B) requires the court to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device, the trial judge or a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence may order the issuance of a restricted motor vehicle operator's license subject to such limitations. The judge shall have discretion to order additional

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limitations, including but not limited to geographic restrictions, on the restricted motor vehicle license.

(ii) If the person's violation of 55-10-406 or present conviction for driving under the influence of an intoxicant is not an offense for which subdivision (b)(2)(B) requires the court to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device, the trial judge or a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence may order the issuance of a restricted motor vehicle operator's license. The judge shall have discretion to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device or additional limitations, including but not limited to geographic restrictions, on the restricted motor vehicle license.

(B)

(i) A Tennessee resident, whose operator's license has been revoked because of a conviction in another jurisdiction for operating a motor vehicle while under the influence of an intoxicant, may apply for a restricted license to a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence. The judge may order the issuance of a restricted motor vehicle operator's license. The judge shall have discretion to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device or additional limitations, including but not limited to geographic restrictions.

(ii) If a copy of the judgment of conviction certified by the court that tried the case in the other jurisdiction accompanies the restricted license application, the judge may issue such order allowing the person so convicted to operate a motor vehicle including such restrictions ordered by the court that tried the case in the other jurisdiction provided such restrictions do not conflict with Tennessee statutes or regulations.

SECTION 3. Tennessee Code Annotated, Section 55-10-409(c), as created by Chapter ___ of the Public Acts of 2013, is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) A court order issued under subsection (b) may be presented within ten (10) days after the date of issuance to the department, accompanied by a fee of sixty-five dollars (\$65.00) and proof to the satisfaction of the department that a functioning ignition interlock device has been installed and will be maintained on one (1) or more vehicles to be operated by the person for the duration of the restricted license, if such installation and maintenance is required by subdivision (a)(1)(A)(iii) or the court's order. If the person has first successfully completed a driver's license examination, the department shall forthwith issue a restricted license specifying that such restricted license authorizes the person, except as provided in 55-10-415(m)(1), to operate only noncommercial vehicles equipped with a functioning ignition interlock device and embodying additional limitations imposed by the court upon the person.

(2) If the violation resulting in the person's conviction for driving under the influence or the person's violation of 55-10-406 occurred prior to October 1, 2013, the law in effect when the violation occurred shall govern the person's eligibility for a restricted motor vehicle operator license unless the person petitions the court to consider the person's eligibility under the law in effect when the petition is filed.

SECTION 4. Tennessee Code Annotated, Section 55-10-409(a)(2), as created by Chapter ___ of the Public Acts of 2013, is amended by deleting the subdivision and renumbering the subsequent subdivision.

SECTION 5. Tennessee Code Annotated, Section 55-10-409(d), as created by Chapter ___ of the Public Acts of 2013, is amended by deleting the subsection in its entirety and substituting instead the following:

(d)

(1) The trial judge or a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence may order the issuance of a restricted motor vehicle operator's license in accordance with 55-50-502 to any person whose motor vehicle operator's license has been revoked pursuant to 55-10-404 and who has a prior conviction for a violation of § 55-10-401 or § 55-10-418, in this state or a similar offense in any other jurisdiction.

(2)

(i) If the court orders the issuance of a restricted motor vehicle operator's license pursuant to this subsection (d), the court shall also order the person, except as provided in § 55-10-417(m)(1), to operate only a motor vehicle that is equipped with a functioning ignition interlock device. The restriction shall be for the entire period of the restricted license and for a period of one (1) year after the license revocation period has expired if required by § 55-10-417(l).

(ii) Sections 55-10-417, 55-10-418 and 55-10-419 shall apply when a person is ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to this subsection (d).

SECTION 6. Tennessee Code Annotated, Section 55-10-407(c)(1), as created by Chapter ___ of the Public Acts of 2013, is amended by adding the language "person's driver's

license is currently suspended for an" between the language "the" and "implied consent" and by deleting the language "result" and by substituting instead "resulted".

SECTION 7. Tennessee Code Annotated, Section 55-10-407(d)(2) and (3), as created by Chapter ___ of the Public Acts of 2013, are amended by deleting the subdivisions in their entireties.

SECTION 8. Tennessee Code Annotated, Section 55-10-411(h)(3), as created by Chapter ___ of the Public Acts of 2013, is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) "Functioning ignition interlock device" means a device that 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 and which devices, on all new installations after the effective date of this act, must employ technology capable of taking a photo identifying the person providing the breath sample, recording the date, the time and the test result along with the photo of the person providing the test and storing such information on the device for transfer to remote storage and reporting; provided, however, that the department of safety shall permit the continued installation by an ignition interlock provider of an ignition interlock device that is not capable taking photos or recording and storing the information required by this subdivision for up to six (6) months from the earliest effective date of this act; and

SECTION 9. Tennessee Code Annotated, Section 55-10-417(a)(2), as created by Chapter ___ of the Public Acts of 2013, is amended by deleting the subdivision and substituting the following:

(2) If a person is convicted of a first offense of § 55-10-401, and the person is not required to operate only a motor vehicle with an ignition interlock device pursuant to § 55-10-409(b)(2)(B), and the person is otherwise eligible for a restricted license pursuant to § 55-10-409(b)(1)(A), such person may request and the court may order that

an ignition interlock device be installed on such person's vehicle. A person so requesting shall pay all costs associated with the ignition interlock device and no funds from the interlock assistance fund shall be used to pay any cost associated with the device, regardless of whether or not the person is indigent.

SECTION 10. Tennessee Code Annotated, Section 55-10-417(l), as created by Chapter __ of the Public Acts of 2013, is amended by deleting the language "six (6) months" and by substituting instead the language "one (1) year".

SECTION 11. Tennessee Code Annotated, Section 55-10-417(b), as created by Chapter __ of the Public Acts of 2013, is amended by deleting the subsection in its entirety.

SECTION 12. Tennessee Code Annotated, Section 55-50-502(c)(3)(A), is amended by deleting the language:

to operate a motor vehicle for the purpose of going to and from and working at the person's regular place of employment.

and substituting instead the language:

to operate only a motor vehicle that is equipped with a functioning ignition interlock device.

SECTION 13. Tennessee Code Annotated, Section 55-50-502(c)(3)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) The judge may order the issuance of a restricted license, if based upon the records of the department of safety the person does not have a prior conviction for a violation of § 39-13-106, § 39-13-213(a)(2), or § 39-13-218 in this state, or a similar offense in another state.

SECTION 14. Tennessee Code Annotated, Section 55-50-502(c)(3)(C), is amended by deleting the language "The trial judge" and by substituting instead the language "If the trial judge imposes geographic restrictions, the trial judge".

SECTION 15. Tennessee Code Annotated, Section 55-50-502, is amended by deleting subdivision (c)(3)(D) and by substituting instead the following:

(D) If the violation resulting in the person's conviction for driving under the influence occurred prior to October 1, 2013, the law in effect when the violation occurred shall govern the person's eligibility for a restricted motor vehicle operator license unless the person petitions the court to consider the person's eligibility under the law in effect when the petition is filed.

SECTION 16. Tennessee Code Annotated, Section 55-50-502(c)(3)(E), is amended by deleting the subdivision in its entirety and substituting instead the following:

(E) The person so arrested may obtain a certified copy of the order and within ten (10) days after it is issued present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall forthwith issue a restricted license embodying the limitations imposed in the order.

SECTION 17. Tennessee Code Annotated, Section 55-50-502(c)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4) Where a nonresident whose license has been suspended or revoked by any other state subsequently becomes a bona fide resident of this state, and where the person has been granted a restricted license by the other state if the triggering offense would under the laws of this state provide for the issuance of a restricted driver license upon petition to a judge of the court of general sessions, or its equivalent, for the county wherein the person resides, the judge may order the issuance of a restricted motor vehicle operator's license. The judge shall have discretion to order the person to operate only motor vehicles equipped with a functioning ignition interlock device or additional limitations, including but not limited to geographic restrictions, during the mandatory revocation/suspension period. The person may obtain a certified copy of the order and within thirty (30) days after it is issued present it, together with an application

fee of sixty-five dollars (\$65.00), to the department, which shall then issue a restricted license embodying the limitations imposed in the order.

SECTION 18. Tennessee Code Annotated, Section 55-10-404(a), as created by Chapter ___ of the Public Acts of 2013, is amended by deleting the subsection and substituting instead the following:

(a)

(1) The court shall prohibit any person convicted of a violation of § 55-10-401 from driving a vehicle in this state for a period of:

(A) One (1) year, if the conviction is a first offense;

(B) Two (2) years for a second offense;

(C) Six (6) years for a third offense; and,

(D) Eight (8) years for a fourth or subsequent offense.

(2) In the interest of public safety, a driver who has been prohibited from driving a vehicle in this state pursuant to this subsection (a) may apply for a restricted license subject to § 55-10-409.

SECTION 19. Tennessee Code Annotated, Section 55-10-419(g)(3)(B) and (C), as created by Chapter ___ of the Public Acts of 2013, are amended by deleting the subdivisions and substituting instead the following:

(B) Beginning on October 1, 2013, and annually thereafter, the treasurer shall conduct an analysis to determine the solvency of the interlock assistance fund. The treasurer may declare a surplus if the analysis determines that there is a balance in excess of the amount necessary to maintain the solvency of the fund, and shall report the amount of any surplus to the commissioner of finance and administration for inclusion in the annual budget document prepared pursuant to title 9, chapter 4, part 51.

SECTION 20. Tennessee Code Annotated, Title 55, Chapter 10, Part 4, is amended by adding the following as a new section:

55-10-422.

A person whose license has been suspended pursuant to this part and who applies for a restricted license to operate only a motor vehicle that is equipped with a functioning ignition interlock device shall be required to pay a program development fee of eight dollars (\$8.00) that will be used by the department of safety to implement the provisions of this act. The fee required by this section shall terminate on June 30, 2014.

SECTION 21. Section 20 of this act shall take effect upon becoming law, the public welfare requiring it. All other sections of this act shall take effect October 1, 2013, the public welfare requiring it, and shall apply to offenses committed on or after such date.