

By: King of Zavala

H.B. No. 1499

A BILL TO BE ENTITLED

AN ACT

relating to the installation and disabling or removal of an ignition interlock device.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 17.441(c), Code of Criminal Procedure, is amended to read as follows:

(c) If the defendant is required to have the device installed, the magistrate shall require that the defendant have the device installed on the appropriate motor vehicle, at the defendant's expense, not later than the third business ~~before the~~ ~~30th~~ day after the date the defendant is released on bond.

SECTION 2. Section 13(i), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(i) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the court may require as a condition of community supervision that the defendant have a device installed, on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and that the defendant not operate any motor vehicle that is not equipped with that device. If it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration

1 level of 0.15 or more at the time the analysis was performed, or if  
2 the person is convicted of an offense under Sections 49.04-49.06,  
3 Penal Code, and punished under Section 49.09(a) or (b), Penal Code,  
4 or of a second or subsequent offense under Section 49.07 or 49.08,  
5 Penal Code, and the person after conviction of either offense is  
6 placed on community supervision, the court shall require as a  
7 condition of community supervision that the defendant have the  
8 device installed on the appropriate vehicle and that the defendant  
9 not operate any motor vehicle unless the vehicle is equipped with  
10 that device. Before placing on community supervision a person  
11 convicted of an offense under Sections 49.04-49.08, Penal Code, the  
12 court shall determine from criminal history record information  
13 maintained by the Department of Public Safety whether the person  
14 has one or more previous convictions under Sections 49.04-49.08,  
15 Penal Code, or has one previous conviction under Sections  
16 49.04-49.07, Penal Code, or one previous conviction under Section  
17 49.08, Penal Code. If it is shown on the trial of the offense that  
18 an analysis of a specimen of the person's blood, breath, or urine  
19 showed an alcohol concentration level of 0.15 or more at the time  
20 the analysis was performed, or if the court determines that the  
21 person has one or more such previous convictions, the court shall  
22 require as a condition of community supervision that the defendant  
23 have that device installed on the motor vehicle owned by the  
24 defendant or on the vehicle most regularly driven by the defendant  
25 and that the defendant not operate any motor vehicle unless the  
26 vehicle is equipped with the device described in this  
27 subsection. The court shall require the defendant to obtain the

1 device at the defendant's own cost not later than the third business  
2 [~~before the 30th~~] day after the date of conviction unless the court  
3 finds that to do so would not be in the best interest of justice and  
4 enters its findings on record. The court shall require the  
5 defendant to promptly provide evidence to the court [~~within the~~  
6 ~~30-day period~~] that the device has been installed on the  
7 appropriate vehicle and order the device to remain installed on  
8 that vehicle for a period not less than 50 percent of the  
9 supervision period. If the court determines the offender is unable  
10 to pay for the device, the court may impose a reasonable payment  
11 schedule not to exceed twice the period of the court's order. The  
12 Department of Public Safety shall approve devices for use under  
13 this subsection. Section 521.247, Transportation Code, applies to  
14 the approval of a device under this subsection and the consequences  
15 of that approval. Notwithstanding the provisions of this section,  
16 if a person is required to operate a motor vehicle in the course and  
17 scope of the person's employment and if the vehicle is owned by the  
18 employer, the person may operate that vehicle without installation  
19 of an approved ignition interlock device if the employer has been  
20 notified of that driving privilege restriction and if proof of that  
21 notification is with the vehicle. This employment exemption does  
22 not apply, however, if the business entity that owns the vehicle is  
23 owned or controlled by the person whose driving privilege has been  
24 restricted. A previous conviction may not be used for purposes of  
25 restricting a person to the operation of a motor vehicle equipped  
26 with an interlock ignition device under this subsection if:

27 (1) the previous conviction was a final conviction

1 under Section 49.04, 49.045, 49.05, 49.06, 49.07, or 49.08, Penal  
2 Code, and was for an offense committed more than 10 years before the  
3 instant offense for which the person was convicted and placed on  
4 community supervision; and

5 (2) the person has not been convicted of an offense  
6 under Section 49.04, 49.045, 49.05, 49.06, 49.07, or 49.08 of that  
7 code, committed within 10 years before the date on which the instant  
8 offense for which the person was convicted and placed on community  
9 supervision.

10 SECTION 3. Section 521.246(d), Transportation Code, is  
11 amended to read as follows:

12 (d) The court shall require the ignition interlock device to  
13 be installed not later than the third business day after the date  
14 the occupational license takes effect and shall order the ignition  
15 interlock device to remain installed for at least half of the period  
16 of supervision.

17 SECTION 4. Subtitle J, Title 7, Transportation Code, is  
18 amended by adding Chapter 731 to read as follows:

19 CHAPTER 731. IGNITION INTERLOCK DEVICE DISABLING OR REMOVAL

20 Sec. 731.001. DEFINITIONS. In this chapter:

21 (1) "Department" means the Department of Public  
22 Safety.

23 (2) "Ignition interlock device" means a deep-lung  
24 breath analysis mechanism installed on a motor vehicle to make  
25 impractical the operation of the motor vehicle if ethyl alcohol is  
26 detected in the breath of the operator.

27 Sec. 731.002. DISABLING OR REMOVAL BY DEPARTMENT. (a) A

1 person who is no longer restricted to the use of a motor vehicle  
2 equipped with an ignition interlock device, as indicated by the  
3 court order imposing the restriction or by a court order removing  
4 the restriction, may have the device disabled or removed by the  
5 department or by a private vendor. To have the device disabled or  
6 removed by the department, the person must submit to the  
7 department:

8 (1) a written request for the department to disable or  
9 remove the device; and

10 (2) a copy of a court order described by Subsection  
11 (a), unless the department received a copy of that order directly  
12 from the court.

13 (b) Not later than the third business day after receipt of a  
14 request under Subsection (a) and a copy of the court order, if  
15 required, the department shall disable or remove the person's  
16 ignition interlock device. The department may require the person  
17 to make an appointment and to deliver the vehicle to a specific  
18 location for the disabling or removal.

19 (c) The department may charge a reasonable fee for the  
20 disabling or removal of the device.

21 Sec. 731.003. RULES. The department may adopt rules to  
22 implement this chapter.

23 SECTION 5. The changes in law made by this Act in amending  
24 Articles 17.441 and 42.12, Code of Criminal Procedure, and Section  
25 521.246, Transportation Code, apply only to a court order entered  
26 on or after the effective date of this Act. A court order entered  
27 before the effective date of this Act is governed by the law in

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1 effect when the court order was entered, and the former law is  
2 continued in effect for that purpose.

3 SECTION 6. This Act takes effect September 1, 2009.