

By: Carter

H.B. No. 982

A BILL TO BE ENTITLED

AN ACT

1
2 relating to creating an offense for failure to install and maintain
3 an ignition interlock device for persons convicted of certain
4 intoxication offenses.

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

6 SECTION 1. Section 49.09(h), Penal Code, is amended to read
7 as follows:

8 (h) This subsection applies only to a person convicted of a
9 second or subsequent offense relating to the operating of a motor
10 vehicle while intoxicated committed within five years of the date
11 on which the most recent preceding offense was committed. The court
12 shall enter an order that requires the defendant to have a device
13 installed, on each motor vehicle owned or operated by the
14 defendant, that uses a deep-lung breath analysis mechanism to make
15 impractical the operation of the motor vehicle if ethyl alcohol is
16 detected in the breath of the operator, and that requires that
17 before the first anniversary of the ending date of the period of
18 license suspension under Section 521.344, Transportation Code, the
19 defendant not operate any motor vehicle that is not equipped with
20 that device. The court shall require the defendant to obtain the
21 device at the defendant's own cost on or before that ending date,
22 require the defendant to provide evidence to the court on or before
23 that ending date that the device has been installed on each
24 appropriate vehicle, and order the device to remain installed on

1 each vehicle until the first anniversary of that ending date. If
2 the court determines the offender is unable to pay for the device,
3 the court may impose a reasonable payment schedule not to extend
4 beyond the first anniversary of the date of installation. The
5 Department of Public Safety shall approve devices for use under
6 this subsection. Section 521.247, Transportation Code, applies to
7 the approval of a device under this subsection and the consequences
8 of that approval. ~~[Failure to comply with an order entered under
9 this subsection is punishable by contempt. For the purpose of
10 enforcing this subsection, the court that enters an order under
11 this subsection retains jurisdiction over the defendant until the
12 date on which the device is no longer required to remain installed.]~~
13 To the extent of a conflict between this subsection and Section
14 13(i), Article 42.12, Code of Criminal Procedure, this subsection
15 controls.

16 SECTION 2. Chapter 49, Penal Code, is amended by adding
17 Section 49.095 to read as follows:

18 Sec. 49.095. FAILURE TO COMPLY WITH COURT ORDER REQUIRING
19 IGNITION INTERLOCK DEVICE. (a) A person who is convicted of an
20 offense under this chapter and required by a court order under
21 Section 49.09(h) to install and keep an ignition interlock device
22 on a vehicle for a specified period commits an offense if the person
23 knowingly:

24 (1) fails to install the device by the date specified
25 in the court order; or

26 (2) fails to keep the device installed on the vehicle
27 during the period specified in the court order.

1 (b) An offense under this section is a Class A misdemeanor.

2 SECTION 3. This Act takes effect September 1, 2011.