

By: Anderson of Dallas

H.B. No. 3181

Substitute the following for H.B. No. 3181:

By: Schubert

C.S.H.B. No. 3181

A BILL TO BE ENTITLED

AN ACT

relating to ethyl alcohol monitoring as a condition of community supervision for certain intoxication offenses.

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

SECTION 1. Section 2, Article 42.12, Code of Criminal Procedure, is amended by adding Subdivision (5) to read as follows:

(5) "Ethyl alcohol monitoring device" means:

(A) a device worn by the defendant that detects ethyl alcohol in the defendant's perspiration through transdermal testing; or

(B) a portable ethyl alcohol detection device carried by the defendant that:

(i) requires the defendant at specified or random intervals to submit a breath sample;

(ii) analyzes and records the sample;

(iii) transmits the results of the analysis; and

(iv) is capable of verifying that the breath sample was provided by the defendant.

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

(o)(1) Notwithstanding Subsection (i) and subject to Subdivision (8), if a defendant for whom a judge is required to order the installation and use of an ignition interlock device

1 under Subsection (i) submits an affidavit stating the defendant
2 does not own or regularly drive any motor vehicle, the judge shall,
3 instead of imposing the ignition interlock condition, require the
4 defendant to submit to ethyl alcohol monitoring under this
5 subsection.

6 (2) If a defendant for whom a judge may order the
7 installation and use of an ignition interlock device under
8 Subsection (i) submits an affidavit stating the defendant does not
9 own or regularly drive any motor vehicle, the judge may require the
10 defendant to submit to ethyl alcohol monitoring under this section.

11 (3) For a defendant for whom a judge orders the
12 installation and use of an ignition interlock device under
13 Subsection (i), the judge may additionally order the defendant to
14 submit to ethyl alcohol monitoring under this subsection.

15 (4) The judge must specify the date by which the
16 defendant must begin wearing or using the ethyl alcohol monitoring
17 device ordered under this subsection.

18 (5) The judge may revoke community supervision and
19 order the defendant to the term of confinement specified in the
20 defendant's sentence if:

21 (A) the defendant refuses to wear or use the
22 ethyl alcohol monitoring device;

23 (B) the defendant tampers with or otherwise
24 attempts to disable the device;

25 (C) the device shows that the defendant has
26 violated a condition of community supervision; or

27 (D) the defendant fails to pay the costs of ethyl

1 alcohol monitoring, if:

2 (i) payment is ordered under Subdivision
3 (6) as a condition of community supervision; and

4 (ii) the judge determines that the
5 defendant is not indigent and is financially able to make the
6 payments as ordered.

7 (6) The cost of the ethyl alcohol monitoring device
8 may be ordered paid as a condition of community supervision by the
9 defendant to the court or to the entity designated by the judge
10 under Subdivision (7) or waived or reduced based on the defendant's
11 ability to pay. The court may impose a reasonable payment schedule
12 for the cost of the device, in whole or in part, as applicable, for a
13 period not to exceed twice the period of the court's order requiring
14 ethyl alcohol monitoring.

15 (7) The judge may designate an appropriate entity to
16 verify that the defendant is wearing or using the ethyl alcohol
17 monitoring device appropriately, and to monitor the device.

18 (8) A judge may not order ethyl alcohol monitoring
19 instead of an ignition interlock device under this subsection for a
20 defendant subject to Section 49.09(h), Penal Code, regardless of
21 whether the defendant submits an affidavit stating that the
22 defendant does not own or regularly drive any motor vehicle. The
23 judge may order ethyl alcohol monitoring in addition to the
24 ignition interlock device required under that section.

25 SECTION 3. The change in law made by this Act applies only
26 to a defendant who is placed on community supervision on or after
27 the effective date of this Act, regardless of whether the offense

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1 for which the defendant is placed on community supervision is
2 committed before, on, or after that date.

3 SECTION 4. This Act takes effect September 1, 2015.