

By: Anderson of Dallas

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) This subsection applies to a defendant for whom a judge may order or is required to order the installation and use of an ignition interlock device under Subsection (i).

1 (2) Notwithstanding Subsection (i) and subject to
2 Subdivision (6), in lieu of or in addition to requiring a defendant
3 to install and use an ignition interlock device under that
4 subsection, the judge may require the defendant to submit to ethyl
5 alcohol monitoring under this subsection. The judge must specify
6 the date by which the defendant must begin wearing or using the
7 ethyl alcohol monitoring device.

8 (3) The judge may revoke community supervision and
9 order the defendant to the term of confinement specified in the
10 defendant's sentence if:

11 (A) the defendant refuses to wear or use the
12 ethyl alcohol monitoring device;

13 (B) the defendant tampers with or otherwise
14 attempts to disable the device;

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

17 (D) the defendant fails to pay the costs of ethyl
18 alcohol monitoring, if:

19 (i) payment is ordered under Subdivision
20 (4) as a condition of community supervision; and

21 (ii) the judge determines that the
22 defendant is not indigent and is financially able to make the
23 payments as ordered.

24 (4) The cost of the ethyl alcohol monitoring device
25 may be ordered paid as a condition of community supervision by the
26 defendant to the court or to the entity designated by the judge
27 under Subdivision (5) or waived or reduced based on the defendant's

1 ability to pay. The court may impose a reasonable payment schedule
2 for the cost of the device, in whole or in part, as applicable, for a
3 period not to exceed twice the period of the court's order requiring
4 ethyl alcohol monitoring.

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

8 (6) A judge may not order ethyl alcohol monitoring in
9 lieu of an ignition interlock device under this subsection for a
10 defendant subject to Section 49.09(h), Penal Code. The judge may
11 order ethyl alcohol monitoring in addition to the ignition
12 interlock device required under that section.

13 SECTION 3. The change in law made by this Act applies only
14 to a defendant who is placed on community supervision on or after
15 the effective date of this Act, regardless of whether the offense
16 for which the defendant is placed on community supervision is
17 committed before, on, or after that date.

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