

By: Tinderholt

H.B. No. 4003

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a central database containing information about
3 defendants required to have an ignition interlock device installed
4 on a vehicle and local law enforcement access to that database
5 through a mobile data terminal.

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

7 SECTION 1. Article 17.441, Code of Criminal Procedure, is
8 amended by adding Subsection (e) to read as follows:

9 (e) A magistrate that restricts a defendant to the operation
10 of a motor vehicle equipped with an ignition interlock device under
11 Subsection (a) shall submit the name of the defendant and the date
12 the restriction expires to the Department of Public Safety for
13 inclusion in the central database maintained by the department
14 under Section 411.02091, Government Code.

15 SECTION 2. Article 42A.408, Code of Criminal Procedure, is
16 amended by adding Subsection (i) to read as follows:

17 (i) A court that restricts a defendant to the operation of a
18 motor vehicle equipped with an ignition interlock device under this
19 article shall submit the name of the defendant and the date the
20 restriction expires to the Department of Public Safety for
21 inclusion in the central database maintained by the department
22 under Section 411.02091, Government Code.

23 SECTION 3. Subchapter A, Chapter 411, Government Code, is
24 amended by adding Section 411.02091 to read as follows:

1 Sec. 411.02091. CENTRAL DATABASE OF DEFENDANTS RESTRICTED
2 TO USE OF MOTOR VEHICLE EQUIPPED WITH IGNITION INTERLOCK DEVICE.

3 (a) The department shall maintain a computerized central database
4 containing information regarding defendants who are restricted to
5 the use of a motor vehicle equipped with an ignition interlock
6 device.

7 (b) The database must include:

8 (1) the name of each defendant restricted to the
9 operation of a motor vehicle equipped with an ignition interlock
10 device under Article 17.441 or 42A.408, Code of Criminal Procedure,
11 Section 49.09(h), Penal Code, or Section 521.246, Transportation
12 Code, and the date each restriction expires; and

13 (2) the information provided to the department by a
14 vendor of an ignition interlock device under Section 521.2476,
15 Transportation Code, for each defendant described by Subdivision
16 (1) for whom the vendor has installed an ignition interlock device
17 on the appropriate vehicle.

18 (c) The department shall remove a defendant's name from the
19 central database on the expiration of the ignition interlock
20 restriction for that defendant.

21 (d) The central database must:

22 (1) provide the information in a format that allows a
23 law enforcement agency to make the information available to a peace
24 officer through a mobile data terminal; and

25 (2) promptly reflect any updated information as
26 necessary to ensure a defendant whose ignition interlock
27 restriction has expired is not indicated through the mobile data

1 terminal as a person who is restricted to the operation of a motor
2 vehicle equipped with an ignition interlock device.

3 SECTION 4. Section 49.09(h), Penal Code, as amended by
4 Section 2.84, Chapter 770 (H.B. 2299), and Section 2, Chapter 1067
5 (H.B. 2246), Acts of the 84th Legislature, Regular Session, 2015,
6 is reenacted to conform to Section 1.01, Chapter 770 (H.B. 2299),
7 Acts of the 84th Legislature, Regular Session, 2015, and amended to
8 read as follows:

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

1 that ending date. If the court determines the offender is unable to
2 pay for the ignition interlock device, the court may impose a
3 reasonable payment schedule not to extend beyond the first
4 anniversary of the date of installation. The Department of Public
5 Safety shall approve ignition interlock devices for use under this
6 subsection. Section 521.247, Transportation Code, applies to the
7 approval of an ignition interlock [a] device under this subsection
8 and the consequences of that approval. Failure to comply with an
9 order entered under this subsection is punishable by contempt. For
10 the purpose of enforcing this subsection, the court that enters an
11 order under this subsection retains jurisdiction over the defendant
12 until the date on which the ignition interlock device is no longer
13 required to remain installed. A court that restricts a defendant to
14 the operation of a motor vehicle equipped with an ignition
15 interlock device under this subsection shall submit the name of the
16 defendant and the date the restriction expires to the Department of
17 Public Safety for inclusion in the central database maintained by
18 the department under Section 411.02091, Government Code. To the
19 extent of a conflict between this subsection and Subchapter I,
20 Chapter 42A, Code of Criminal Procedure, this subsection controls.

21 SECTION 5. Section 521.246, Transportation Code, is amended
22 by adding Subsection (g) to read as follows:

23 (g) A judge that restricts a defendant to the operation of a
24 motor vehicle equipped with an ignition interlock device under
25 Subsection (a) shall submit the name of the defendant and the date
26 the restriction expires to the Department of Public Safety for
27 inclusion in the central database maintained by the department

1 under Section 411.02091, Government Code.

2 SECTION 6. Section 521.2476(b), Transportation Code, is
3 amended to read as follows:

4 (b) The minimum standards shall require each vendor to:

5 (1) be authorized by the department to do business in
6 this state;

7 (2) install an ignition interlock [a] device only if
8 the ignition interlock device is approved under Section 521.247;

9 (3) obtain liability insurance providing coverage for
10 damages arising out of the operation or use of ignition interlock
11 devices in amounts and under the terms specified by the department;

12 (4) install the ignition interlock device and activate
13 any anticircumvention feature of the ignition interlock device
14 within a reasonable time after the vendor receives notice that
15 installation is ordered by a court;

16 (4-a) submit to the department for inclusion in the
17 central database maintained by the department under Section
18 411.02091, Government Code, the make, model, vehicle
19 identification number, and license plate number of the vehicle on
20 which the vendor installs the ignition interlock device, and the
21 name of the person who is the subject of the court order requiring
22 installation of the ignition interlock device on the vehicle;

23 (5) install and inspect the ignition interlock device
24 in accordance with any applicable court order;

25 (6) repair or replace an ignition interlock [a] device
26 not later than 48 hours after receiving notice of a complaint
27 regarding the operation of the ignition interlock device;

1 (7) submit a written report of any violation of a court
2 order to that court and to the person's supervising officer, if any,
3 not later than 48 hours after the vendor discovers the violation;

4 (8) maintain a record of each action taken by the
5 vendor with respect to each ignition interlock device installed by
6 the vendor, including each action taken as a result of an attempt to
7 circumvent the ignition interlock device, until at least the fifth
8 anniversary after the date of installation;

9 (9) make a copy of the record available for inspection
10 by or send a copy of the record to any court, supervising officer,
11 or the department on request; and

12 (10) annually provide to the department a written
13 report of each service and ignition interlock device feature made
14 available by the vendor.

15 SECTION 7. The Department of Public Safety of the State of
16 Texas shall design and implement the central database required by
17 Section 411.02091, Government Code, as added by this Act, not later
18 than January 1, 2018.

19 SECTION 8. Articles [17.441](#) and [42A.408](#), Code of Criminal
20 Procedure, Section [49.09](#), Penal Code, and Section 521.246,
21 Transportation Code, as amended by this Act, apply only to a
22 magistrate, court, or judge that orders that a defendant be
23 restricted to the operation of a motor vehicle equipped with an
24 ignition interlock device on or after January 1, 2018. A
25 restriction ordered before January 1, 2018, is governed by the law
26 in effect immediately before the effective date of this Act, and the
27 former law is continued in effect for that purpose.

1 SECTION 9. Section [521.2476](#), Transportation Code, as
2 amended by this Act, applies only to the installation of an ignition
3 interlock device that occurs on or after January 1, 2018. An
4 installation that occurs before January 1, 2018, is governed by the
5 law in effect immediately before the effective date of this Act, and
6 the former law is continued in effect for that purpose.

7 SECTION 10. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section [39](#), Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2017.