

By: Tinderholt

H.B. No. 364

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of a central database containing  
3 information about defendants required to have an ignition interlock  
4 device installed on a motor vehicle and submission of information  
5 to and access to information in that database.

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 509.004(a), Government Code, is amended  
4 to read as follows:

5 (a) The division shall require each department to:

6 (1) keep financial and statistical records determined  
7 necessary by the division;

8 (2) submit a strategic plan and all supporting  
9 information requested by the division;

10 (3) present data requested by the division as  
11 necessary to determine the amount of state aid for which the  
12 department is eligible; and

13 (4) submit periodic financial audits and statistical  
14 reports to the division[~~, and~~

15 [~~(5) submit to the Department of Public Safety the~~  
16 ~~full name, address, date of birth, social security number, and~~  
17 ~~driver's license number of each person restricted to the operation~~  
18 ~~of a motor vehicle equipped with a device that uses a deep-lung~~  
19 ~~breath analysis mechanism to make impractical the operation of the~~  
20 ~~motor vehicle if ethyl alcohol is detected in the breath of the~~  
21 ~~restricted operator].~~

22 SECTION 5. Section 49.09(h), Penal Code, is amended to read  
23 as follows:

24 (h) This subsection applies only to a person convicted of a  
25 second or subsequent offense relating to the operating of a motor  
26 vehicle while intoxicated committed within five years of the date  
27 on which the most recent preceding offense was committed. The court

1 shall enter an order that requires the defendant to have an ignition  
2 interlock [a] device installed, on each motor vehicle owned or  
3 operated by the defendant, that uses a deep-lung breath analysis  
4 mechanism to make impractical the operation of the motor vehicle if  
5 ethyl alcohol is detected in the breath of the operator, and that  
6 requires that before the first anniversary of the ending date of the  
7 period of license suspension under Section 521.344, Transportation  
8 Code, the defendant not operate any motor vehicle that is not  
9 equipped with an ignition interlock [that] device. The court shall  
10 require the defendant to obtain the ignition interlock device at  
11 the defendant's own cost on or before that ending date, require the  
12 defendant to provide evidence to the court on or before that ending  
13 date that the ignition interlock device has been installed on each  
14 appropriate vehicle, and order the ignition interlock device to  
15 remain installed on each vehicle until the first anniversary of  
16 that ending date. If the court determines the offender is unable to  
17 pay for the ignition interlock device, the court may impose a  
18 reasonable payment schedule not to extend beyond the first  
19 anniversary of the date of installation. The Department of Public  
20 Safety shall approve ignition interlock devices for use under this  
21 subsection. Section 521.247, Transportation Code, applies to the  
22 approval of an ignition interlock [a] device under this subsection  
23 and the consequences of that approval. Failure to comply with an  
24 order entered under this subsection is punishable by contempt. For  
25 the purpose of enforcing this subsection, the court that enters an  
26 order under this subsection retains jurisdiction over the defendant  
27 until the date on which the ignition interlock device is no longer

1 required to remain installed. A court that restricts a defendant to  
2 the operation of a motor vehicle equipped with an ignition  
3 interlock device under this subsection shall submit the name of the  
4 defendant and the date the restriction expires to the Department of  
5 Public Safety for inclusion in the central database maintained by  
6 the department under Section 411.02091, Government Code. To the  
7 extent of a conflict between this subsection and Subchapter I,  
8 Chapter 42A, Code of Criminal Procedure, this subsection controls.

9 SECTION 6. Section 521.246, Transportation Code, is amended  
10 by adding Subsection (g) to read as follows:

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

17 SECTION 7. Section 521.2476(b), Transportation Code, is  
18 amended to read as follows:

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

20 (1) be authorized by the department to do business in  
21 this state;

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

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

27 (4) install the ignition interlock device and activate

1 any anticircumvention feature of the ignition interlock device  
2 within a reasonable time after the vendor receives notice that  
3 installation is ordered by a court;

4 (4-a) submit to the department for inclusion in the  
5 central database maintained by the department under Section  
6 411.02091, Government Code, the make, model, vehicle  
7 identification number, and license plate number of the motor  
8 vehicle on which the vendor installs the ignition interlock device,  
9 and the name of the person who is the subject of the court order  
10 requiring installation of the ignition interlock device on the  
11 motor vehicle;

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

14 (6) repair or replace an ignition interlock [~~a~~] device  
15 not later than 48 hours after receiving notice of a complaint  
16 regarding the operation of the ignition interlock device;

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

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

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

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

4           SECTION 8. The Department of Public Safety of the State of  
5 Texas shall design and implement the central database required by  
6 Section 411.02091, Government Code, as added by this Act, not later  
7 than January 1, 2020.

8           SECTION 9. Articles 17.441 and 42A.408, Code of Criminal  
9 Procedure, Section 49.09, Penal Code, and Section 521.246,  
10 Transportation Code, as amended by this Act, apply only to a  
11 magistrate, court, or judge that orders that a defendant be  
12 restricted to the operation of a motor vehicle equipped with an  
13 ignition interlock device on or after January 1, 2020. A  
14 restriction ordered before January 1, 2020, is governed by the law  
15 in effect immediately before the effective date of this Act, and the  
16 former law is continued in effect for that purpose.

17           SECTION 10. Section 521.2476, Transportation Code, as  
18 amended by this Act, applies only to the installation of an ignition  
19 interlock device that occurs on or after January 1, 2020. An  
20 installation that occurs before January 1, 2020, is governed by the  
21 law in effect immediately before the effective date of this Act, and  
22 the former law is continued in effect for that purpose.

23           SECTION 11. This Act takes effect immediately if it  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2019.