

S.103

Introduced by Senators Illuzzi and Sears

Referred to Committee on Transportation

Date: February 24, 2009

Subject: Motor vehicles; operation of vehicles; ignition interlock devices

Statement of purpose: This bill proposes to allow the department of motor vehicles to issue an ignition interlock driver's license to a person whose driver's license has been suspended for operating under the influence. An ignition interlock system is a device similar to a breathalyzer which is installed in a vehicle's dashboard. It allows a motor vehicle to be operated only after the driver has blown into it and the device determines that the driver's blood alcohol is below a certain limit. The bill would require the person receiving the ignition interlock driver's license to pay the costs of installing, removing, and leasing the ignition interlock device.

An act relating to the study and recommendation of ignition interlock device legislation

~~An act relating to ignition interlock drivers' licenses~~

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 23 V.S.A. § 1200 is amended to read:~~

~~§ 1200. DEFINITIONS~~

~~As used in this subchapter:~~

~~* * *~~

~~(8) "Department" means the department of motor vehicles.~~

~~(9) "Ignition interlock driver's license" means a permit issued to a~~

~~person by the department that allows the person to operate a noncommercial~~

1 ~~motor vehicle with an ignition interlock device while the person's regular~~
2 ~~driver's license is suspended or revoked.~~

3 Sec. 2. 23 V.S.A. § 1207 is added to read:

4 § 1207. IGNITION INTERLOCK DRIVER'S LICENSE

5 (a) Any person whose operator's license has been suspended or revoked for
6 operating a motor vehicle while under the influence of intoxicating liquor in
7 violation of section 1201 of this title, other than for a violation with death
8 resulting under subsection 1210(e) of this title, may submit an application to
9 the department for an ignition interlock driver's license. The department, upon
10 receipt of a \$100.00 fee and upon determining that the petitioner is eligible to
11 receive the license, may issue an ignition interlock driver's license.

12 (b) A person who is eligible for an ignition interlock driver's license may
13 apply for the license at anytime, including immediately after receiving notice
14 of suspension under section 1205 of this title, or after his or her license is
15 suspended or revoked. A person receiving an ignition interlock driver's
16 license waives his or her right to an appeal under section 1205 of this title.

17 (c) An applicant under this section shall provide proof to the department
18 that a functioning ignition interlock device has been installed on all vehicles
19 operated by the person.

20 (d) The department shall require the person to maintain the ignition
21 interlock device on all vehicles operated by the person and shall restrict the

1 ~~person to operating only vehicles which are equipped with the device for the~~
2 ~~remainder of the period of suspension or revocation.~~

3 ~~(e) An ignition interlock driver's license issued pursuant to this section~~
4 ~~shall remain valid through the remaining portion of any concurrent or~~
5 ~~consecutive suspension or revocation that is in effect at the time the person~~
6 ~~applied for the license. The license shall expire on the day after the expiration~~
7 ~~of the suspension or revocation period.~~

8 ~~(f) An applicant for an ignition interlock driver's license under subsection~~
9 ~~(a) of this section is eligible to receive a license only if:~~

10 ~~(1) the applicant has not committed grossly negligent operation with~~
11 ~~death resulting in violation of subsection 1091(b) of this title or operating a~~
12 ~~motor vehicle under the influence of intoxicating liquor death resulting in~~
13 ~~violation of subsection 1210(e) of this title within the seven years preceding~~
14 ~~the date that the person applies for the ignition interlock driver's license; and~~
15 ~~(2) the applicant files proof of financial responsibility under section 800~~
16 ~~of this title.~~

17 ~~(g) If the department determines that a holder of an ignition interlock~~
18 ~~driver's license no longer has a functioning ignition interlock device installed~~
19 ~~on all vehicles operated by the driver, the department shall give written notice~~
20 ~~by first-class mail to the driver that the ignition interlock driver's license shall~~
21 ~~be cancelled. The effective date of cancellation shall be 15 days from the date~~

1 ~~of mailing the notice. If at any time before the cancellation goes into effect the~~
2 department determines that a functioning ignition interlock device has been
3 installed on all vehicles operated by the driver, the cancellation shall be
4 rescinded. If the cancellation becomes effective, the department may issue, at
5 no additional charge to the driver, a new ignition interlock driver's license if it
6 determines that a functioning ignition interlock device has been installed on all
7 vehicles operated by the driver.

8 (h) A person who is denied an ignition interlock driver's license may
9 request a hearing before the commissioner pursuant to section 105 of this title.

10 (i) The department shall cancel an ignition interlock driver's license upon
11 receipt of notice that the license holder has been convicted of operating a
12 motor vehicle in violation of its restrictions, or of a separate offense under this
13 title that would warrant suspension or revocation of a regular operator's
14 license.

15 (j) Unless costs are waived by the ignition interlock company, the applicant
16 shall pay the cost of installing, removing, and leasing the ignition interlock
17 device and shall pay an additional fee of \$20.00 per month. The company
18 shall remit the additional \$20.00 fee to the department, which shall deposit the
19 fees into the ignition interlock device revolving fund established pursuant to
20 section 1207a of this title.

~~(k) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the court administrator, the Vermont state police, the department of state's attorneys and sheriffs, the defender general, ignition interlock companies, and any other organizations or entities the department deems appropriate.~~

Sec. 3. 23 V.S.A. § 1207a is added to read:

§ 1207a. IGNITION INTERLOCK DEVICE REVOLVING FUND

There is established an ignition interlock device revolving fund within the department of motor vehicles to help indigent persons pay for ignition interlock licensing fees and the costs of installing, removing, and leasing ignition interlock devices. The department shall deposit into the fund all fees received from ignition interlock companies pursuant to subsection 1207(j) of this section. Expenditures from the fund may be used only to administer and operate the ignition interlock device revolving fund program. The department shall adopt rules to administer the fund consistent with this section.

Sec. 4. MONITORING AND REPORT

(a) The department of motor vehicles shall monitor compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors. The department shall.

1 (1) review the number of ignition interlock devices that are required to
2 be installed in the state and the number of ignition interlock devices actually
3 installed;
4 (2) work to identify persons who are not complying with the ignition
5 interlock requirements or are repeatedly violating ignition interlock
6 requirements; and
7 (3) identify ways to track compliance and to reduce noncompliance.
8 (b) The department shall report the results of its findings under this section
9 to the house and senate committees on judiciary on or before January 15, 2010,
10 and on or before January 15 of each year thereafter.

Sec. 1. LEGISLATIVE INTENT

It is the intent of the general assembly to require the commissioner of motor vehicles to conduct an in-depth study of the most effective and efficient mechanisms for promoting the use of ignition interlock devices or other devices that prevent impaired driving and implementing legislation related to such devices in Vermont. The commissioner also is directed to formulate recommended legislation by January 15, 2011, to advance the general assembly's goal to pass ignition interlock legislation.

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) In 2008, nearly 12,000 people were killed in crashes attributed to alcohol-impaired driving, which accounted for 32 percent of all traffic fatalities in the United States. Impaired driving is a significant public safety concern.

(2) As a tool to combat impaired driving, 47 states have laws concerning the use of ignition interlock devices. Ignition interlock devices are installed in motor vehicles to prevent them from being started unless the operator blows into the device and the device detects that the operator's alcohol concentration is below a pre-set limit. Devices may be programmed to

require periodic retesting while the car is running. About 146,000 ignition interlock devices currently are in use in the United States.

(3) Vermont is one of just three states that has not enacted ignition interlock legislation.

(4) Research shows that ignition interlock devices reduce subsequent arrest rates among both first-time and repeat DUI offenders by 50 to 90 percent while such devices are installed.

(5) Research estimating the costs versus the benefits of ignition interlock programs suggests a \$3.00 benefit for each \$1.00 in program costs for first-time DUI offenders and a \$4.00 to \$7.00 benefit for each \$1.00 in program costs for other DUI offenders.

Sec. 3. IGNITION INTERLOCK DEVICE STUDY

(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections, the court administrator, the department of public safety, state's attorneys and sheriffs, the defender general, the attorney general, the Vermont bar association, and any other organizations or entities the commissioner deems appropriate, shall study and formulate recommended legislation authorizing use of ignition interlock devices or other devices that prevent impaired driving in Vermont. In carrying out this directive, the commissioner shall:

(1) Review current laws, rules, and regulations, and practices regarding use of ignition interlock devices in other states and attempt to ascertain the factors that contribute to the varying success of states in promoting use of ignition interlock devices.

(2) Consider whether legislation should:

(A) require installation of ignition interlock devices by some or all DUI offenders as a condition of license reinstatement;

(B) authorize operation during a suspension period, and, if so, the period of "hard" suspension that must be served prior to such authorization for different classes of DUI offenders;

(C) authorize or require that some or all DUI offenders, at their request, be allowed to install ignition interlock devices in exchange for a reduced period of license suspension;

(D) authorize or require judges to order installation of ignition interlock devices as a condition of probation for some or all DUI offenders;

(E) authorize or require judges to provide incentives (such as reduced fines) to some or all DUI offenders to encourage installation of such devices;

(F) require devices to be installed for a period in excess of usual suspension periods for some or all offenders;

(G) supplement, or operate as an alternative to, the state's abstinence program for persons whose license has been suspended for life;

(H) apply to all impaired driving offenders (i.e., include those whose violations involve operating under the influence of drugs) or only to those whose offense involved operating under the influence of intoxicating liquor;

(I) limit eligibility to certain classes of DUI offenders (i.e., those whose offense did not result in death of another); or

(J) authorize or require installation of ignition interlock devices under any other circumstances.

(3) Consider how any recommended use of ignition interlock devices should be coordinated with the use of electronic monitoring equipment such as global position monitoring equipment, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment.

(4) Study the costs of ignition interlock devices, including installation, monthly lease charges, periodic recalibration, and data downloads and the relative merits of having such costs borne entirely by DUI offenders or partially borne by the state.

(5) Study whether conditions or restrictions (such as hours of operation or limitation to travel to or from work, school, or a treatment program) should be imposed on some or all DUI offenders operating subject to an ignition interlock device requirement.

(6) Study the administrative tasks that must be performed to implement and carry out ignition interlock legislation and the costs associated with them; which agency or agencies are best suited to perform these tasks; and what additional authority or resources this agency or these agencies will need to perform these tasks.

(7) Consider appropriate penalties for DUI offenders required to operate vehicles equipped with ignition interlock devices who tamper with or otherwise circumvent such devices, or operate a vehicle not equipped with such a device, or whose attempt to operate a vehicle is prevented through the functioning of such device, and the due process to which DUI offenders cited for such activities shall be entitled.

(8) Consider appropriate penalties for third parties who tamper with or otherwise circumvent ignition interlock devices or knowingly provide vehicles not equipped with such devices for DUI offenders required to operate vehicles equipped with such devices, and the due process to which persons cited for such activities shall be entitled.

(9) Consider the degree to which the state should monitor, utilize, and impose sanctions based on data obtained from ignition interlock devices.

(10) Consider and study any other issues deemed relevant to ignition interlock device policy and legislation.

(b) The commissioner shall report his or her findings and recommended legislation to the senate and house committees on transportation, the senate and house committees on judiciary, and the joint corrections oversight committee no later than January 15, 2011.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.