



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4921 (Substitute H-1 as passed by the House)
Sponsor: Representative Daniel Acciavatti
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 1-22-08

CONTENT

The bill would amend the Michigan Vehicle Code to all of the following:

- Require the Secretary of State to issue a restricted license to a person whose license was revoked for repeat drunk driving offenses, allowing him or her to operate a vehicle only if it were equipped with an ignition interlock device.**
- Specify that a restricted license issued under the bill would allow a person to drive only to or from work, school, or a treatment program.**
- Specify that successful completion of appropriate rehabilitative programs would not be required before the person could drive a vehicle with an ignition interlock device, and otherwise revise provisions regarding a repeat drunk driver's participation in such programs.**

The bill would take effect on October 1, 2008, and is tie-barred to House Bill 4289. That bill would amend the Vehicle Code to prohibit and provide penalties for operating a motor vehicle without a properly installed ignition interlock device by a person who was allowed to operate a vehicle only if it had such a device; require the impoundment of a vehicle not equipped with a properly installed ignition interlock device if the driver were allowed to operate a vehicle only if it were so equipped; and revise requirements for the Department of State's administration and approval of ignition interlock devices.

Under House Bill 4921 (H-1), "ignition interlock device" would mean an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's alcohol level, calibrated so that the motor vehicle cannot be started if the operator's breath alcohol level, as measured by the test, reaches a level of 0.025 gram per 210 liters of breath, and to which all of the following apply:

- The device meets or exceeds the model specifications for breath alcohol ignition interlock devices (BAIID), 57 FR 11772-11787 (April 7, 1992).
- The device uses alcohol-specific electrochemical fuel sensor technology.
- As its anticircumvention method, which is enabled, the device installation uses a positive-negative-positive air pressure test requirement, a hum tone requirement, or any other anticircumvention method or technology that first becomes commercially available after July 31, 2007, and that is approved by the Department of State as equally or more effective.

Restricted License with Ignition Interlock Device

The bill would require the Secretary of State to issue a restricted license to a person whose license was revoked under the Code for any combination of two drunk driving convictions within seven years or any combination of three drunk driving convictions within 10 years, after the person's license was revoked for at least 45 days. The restricted license would have to be issued after the person's license was revoked for at least 100 days if the 110th U.S. Congress failed to enact amendments to Federal law (23 USC 164) allowing ignition interlock devices to be installed by drunk driving repeat offenders following 45 days of license revocation.

A restricted license could be issued under the bill only if the person equipped his or her motor vehicle with an ignition interlock device that was approved, certified, and installed as required under the Vehicle Code. The restricted license could allow the person to operate only a vehicle equipped with the ignition interlock device, which would have to remain on the vehicle or any replacement vehicle until the Secretary of State issued an unrestricted license.

A restricted license issued under the bill would permit the person to whom it was issued to operate only the vehicle equipped with an ignition interlock device and only for the purpose of driving to or from one or more of the following destinations:

- His or her place of work.
- His or her school.
- An alcohol treatment program.

Currently, if a hearing officer issues a restricted license requiring an ignition interlock device, the initial period for requiring the device must be one year. Under the bill, the initial period would be not less than one year. The bill would delete a provision allowing the hearing officer to continue the ignition interlock device requirement for any length of time after one year, and specifies instead that the device could not be removed until the hearing officer ordered it removed.

(The repeat drunk driving convictions to which the bill would apply include various combinations of the following within seven or 10 years: operating while intoxicated or visibly impaired; operating while intoxicated or visibly impaired and causing another person's death or serious impairment of a body function; operating while intoxicated or visibly impaired with a passenger under 16; operation of a vehicle by a person under 21 with "any bodily alcohol content"; operation by a person with any amount of a Schedule 1 controlled substance or cocaine in his or her body; and operation of a commercial vehicle by a person with an unlawful alcohol content.)

Participation in Rehabilitative Program

Before imposing sentence for a drunk driving violation, the court must order the person to undergo screening and assessment by a person or agency designated by the Office of Substance Abuse Services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and treatment programs. If the person has one or more prior convictions, the court must order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of his or her sentence.

The bill specifies that the required program could include an alcohol treatment program or a self-help program for a period of at least one year. The treatment plan would have to be devised from an assessment performed by an appropriately licensed alcohol assessor and be approved by the court. The bill specifies that these provisions would not require the

successful completion of an ordered rehabilitative program before the person could drive a vehicle with an ignition interlock device on a restricted license.

MCL 257.303 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State resources resulting from the possible hiring of additional staff and programming costs associated with monitoring the installation and removal of ignition interlock devices. The devices would have to be approved and certified by the Department of State, which could require additional staff.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.