

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/17/15 H3/25/15

A Bill

SENATE BILL 877

By: Senator Hickey

For An Act To Be Entitled

AN ACT CONCERNING THE USE OF AN IGNITION INTERLOCK
DEVICE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE USE OF AN IGNITION
INTERLOCK DEVICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-65-118, as amended by Act 299 of 2015, is amended to read as follows:

5-65-118. Additional penalties – Ignition interlock devices.

(a)(1)(A)(i) The Office of Driver Services ~~may~~ shall place a restriction on a person who has violated § 5-65-103 for a first or second offense that requires the person's motor vehicle to be equipped with a functioning ignition interlock device in addition to any other penalty authorized by this chapter.

(ii) ~~The restriction may continue for a period of up to one (1) year after the person's driving privilege is no longer suspended or restricted under § 5-65-104 shall continue until the person has completed his or her mandatory period for using an ignition interlock device.~~

(iii) The restriction under subdivision (a)(1)(A)(i) of this section does not apply to a person who is arrested for violating § 5-65-103 for a first or second offense if the person was intoxicated by the ingestion of or by the use of a controlled substance.

(B)(i) The office ~~may~~ shall place a restriction on a person who has violated § 5-65-103 for a third or subsequent offense that requires the



person's motor vehicle to be equipped with a functioning ignition interlock device in addition to any other penalty authorized by this chapter ~~and after finding that the person is financially able to afford the ignition interlock device.~~

(ii) ~~The restriction may continue for a period of up to one (1) year after the person's driving privilege is no longer suspended or restricted under § 5-65-104 shall continue until the person has completed his or her mandatory period for using an ignition interlock device.~~

(iii) The restriction under subdivision (a)(1)(B)(i) of this section does not apply to a person who is arrested for violating § 5-65-103 for a third or subsequent offense if the person was intoxicated by the ingestion of or by the use of a controlled substance.

(2) The office may issue an ignition interlock restricted license to the person only after the person has verified installation of a functioning ignition interlock device to the office in any motor vehicle the person intends to operate, except for an exemption allowed under § 5-65-123(f).

(3) The office shall establish:

(A) A specific calibration setting no lower than two hundredths of one percent (0.02%) nor more than five hundredths of one percent (0.05%) of alcohol in the person's blood at which the ignition interlock device will prevent the motor vehicle's being started; and

(B) The period of time that the person is subject to the restriction.

(b) The office shall do the following after restricting a person's driving by requiring the use of an ignition interlock device:

(1)(A) State on the record the requirement for and the period of use of the ignition interlock device.

(B) However, if the office restricts the person to using an ignition interlock device in conjunction with the issuance of an ignition interlock restricted license under § 5-65-104, the time the person is required to use the ignition interlock device shall be ~~at least the time period remaining on~~ until the original suspension imposed under § 5-65-104 has been completed;

(2) Ensure that the records of the office reflect that the person may not operate a motor vehicle that is not equipped with an ignition

interlock device;

(3) Attach or imprint a notation on the driver's license of a person restricted under this section stating that the person may operate a motor vehicle only if it is equipped with an ignition interlock device;

(4) Require that the person restricted under this section show proof of installation of a certified ignition interlock device prior to the issuance of an ignition interlock restricted license by the office under § 5-65-104;

(5)(A) Require both proof of the installation of an ignition interlock device and periodic reporting by the person for verification of the proper operation of the ignition interlock device.

(B) Proof of the installation of the ignition interlock device for the entire period required by law shall be provided before the person's driving privileges are reinstated;

(6) Require the person to have the ignition interlock device serviced and monitored at least every sixty-seven (67) days for proper use and accuracy by an entity approved by the Department of Health; and

(7)(A) Require the person to pay the reasonable cost of leasing or buying and monitoring and maintaining the ignition interlock device.

(B) The office may establish a payment schedule for the reasonable cost of leasing or buying and monitoring and maintaining the ignition interlock device.

(c) If the person whose driving privilege is restricted under this section cannot provide proof of installation of a functioning ignition interlock device to the office under subsection (a) of this section, the office shall not issue an ignition interlock restricted license as authorized under this section.

(d) The office shall revoke the ignition interlock restricted license and reinstate a driving privilege suspension for the term of the original driving privilege suspension if it finds that a person has violated § 5-65-123.

(e) A person who has had his or her driving privilege suspended or revoked under § 5-65-104 who would otherwise be eligible to obtain an ignition interlock restricted license may petition the office for a hearing and the office may issue an ignition interlock restricted license as authorized under §§ 5-65-104 and 5-65-205.

(f)(1) The department shall:

(A) Certify the ignition interlock devices for use in this state;

(B) Approve the entities that install and monitor the ignition interlock devices; and

(C) Adopt rules for the certification of the ignition interlock devices and ignition interlock device installation.

(2) The rules shall require an ignition interlock device, at a minimum, to:

(A) Not impede the safe operation of the motor vehicle;

(B) Minimize the opportunities to be bypassed;

(C) Work accurately and reliably in an unsupervised environment;

(D) Properly and accurately measure the person's blood alcohol levels;

(E) Minimize the inconvenience to a sober user; and

(F) Be manufactured by an entity that is responsible for installation, user training, and servicing and maintenance of the ignition interlock device, and that is capable of providing monitoring reports to the office.

(3) The department shall develop a warning label to be affixed to any ignition interlock device used in the state to warn any person of the possible penalties for tampering with or attempting to circumvent the ignition interlock device.

(4) The department shall:

(A) Publish and update a list of certified ignition interlock device manufacturers and approved ignition interlock device installers; and

(B) Periodically provide the list required by subdivision (f)(4)(A) of this section to the office.

/s/Hickey