

- SUBJECT:** Requiring an ignition interlock upon conviction of DWI
- COMMITTEE:** Public Safety — committee substitute recommended
- VOTE:** 8 ayes — Merritt, Frost, Burnam, Driver, P. King, Lewis, Rodriguez, Vo
0 nays
1 absent — Mallory Caraway
- WITNESSES:** For — Debra Coffey, Smart Start Ignition Lock; Warren Diepraam, Montgomery County District Attorney’s Office; David Hodges, Bill Lewis, Mothers Against Drunk Driving (MADD); David Thomas, Houston Police Department; (*Registered, but did not testify:* Laura Andersen, San Antonio Police Department; John Chancellor, Kevin Cooper, Texas Police Chiefs Association; Marc Chavez, Lubbock County District Attorney’s Office; Katrina Daniels, Bexar County Criminal District Attorney’s Office; David Mahoney, Austin Police Department; Amy Mills, Tarrant County District Attorney’s Office; Kevin Petroff, Harris County District Attorney’s Office; Ballard C. Shapleigh, 34th Judicial District Attorney’s Office; Gary Tittle, Dallas Police Department; Qiana Wray)
- Against — None
- On — Allen Place, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify:* Jo Heselmeyer, Brenda Musgrove, Sherrie Zgabay, Texas Department of Public Safety)
- BACKGROUND:** Penal Code, secs. 49.04 through 49.08 criminalize driving, flying, or boating while intoxicated, driving while intoxicated with a child passenger, assembling or operating an amusement ride while intoxicated, intoxication assault, and intoxication manslaughter.
- Code of Criminal Procedure, art. 42.12, sec. 13(i) allows a court to require as a condition of community supervision for a person convicted of one of the above offenses that any vehicle the person drives be equipped with an ignition interlock device that will make the vehicle inoperable if ethyl alcohol is detected on the breath of the driver. The court must require

installation of an ignition interlock device as a condition of community supervision when the defendant had an alcohol concentration level of 0.15 or higher when arrested or was convicted of intoxication assault, intoxication manslaughter, or had a previous conviction for driving, flying, or boating while intoxicated and was convicted again of one of those offenses.

Transportation Code, sec. 521.251 requires a suspension of a driver's license for up to six months or one year for second or subsequent convictions of intoxication offenses.

DIGEST:

CSHB 4061 would amend Code of Criminal Procedure, Art. 42.12 and Transportation Code, sec. 521.246 to require installation of an ignition interlock as a condition of community supervision for any conviction of Penal Code, secs. 49.04 through 49.08 intoxication offenses.

An order granting the person an occupational license could not take effect until 45 days after the person's driver's license suspension if it were suspended for an intoxication offense.

The bill would take effect September 1, 2009, and would apply only to offenses that occurred on or after that date.

**SUPPORTERS
SAY:**

Requiring installation of an ignition interlock on a first DWI conviction would help reduce the dangers from repeat drunk drivers in the state. Texas leads the nation in drunk driving fatalities with 1,292 recorded in 2007. MADD reports that repeat drunk drivers account for nearly one-third of those who drive drunk. More than 142,000 drivers in Texas have three or more DWI offenses. An ignition interlock system prevents a driver from starting a car if alcohol is detected, and rolling retests are required six minutes later and at intervals of 15 to 45 minutes. Statistics show only a 5 to 9 percent rate of violations by drivers with the ignition interlocks.

CSHB 4061 would allow Texas to follow the example of other states that adopted the policy. Mandatory interlock requirements took effect in Arkansas during April and in Utah during March, and eight other states, Alaska, Arizona, Colorado, Illinois, Louisiana, Nebraska, New Mexico, and Washington, already have similar provisions.

The bill's requirement would not create additional burdens on state taxpayers because the offenders would be responsible for paying the costs of installation and monthly maintenance and monitoring. The Legislative Budget Board fiscal note estimates that the requirement could net the state \$470,620 from DWI offenders applying for duplicate driver's licenses that show that they are required to have the ignition interlock.

Shortening the "hard suspension" for second or subsequent intoxication offenses from up to a year to 45 days would put Texas in compliance with standards in the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which was reauthorized in 2008. Also, the state's experience with Driver Responsibility Program demonstrates that many continue to drive even when their licenses have been suspended. The combination of the reduced suspensions and the ignition interlocks would allow offenders to travel to work and would improve the safety for other drivers.

Policy decisions of this magnitude should be made on a statewide basis by the Legislature, rather than on a piecemeal basis by individual judges. Courts have the discretion to order additional assessment of DWI offenders.

OPPONENTS
SAY:

The Legislature should exercise caution when taking discretion away from judges. Judges should be allowed to order an assessment of alcohol dependency as part of the decision to require an ignition interlock. There should be way to provide for an alternative to any mandatory standards.

NOTES:

The Legislative Budget Board fiscal note estimates that the requirement could net the state \$470,620 from DWI offenders applying for duplicate driver's licenses that show that they are required to have the ignition interlock.