



Ohio Legislative Service Commission

Bill Analysis

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H.B. 469

130th General Assembly
(As Introduced)

Reps. Johnson and Scherer, Hill, Stinziano, Cera, Barborak, Young, Pillich, Antonio, Bishoff, Smith

BILL SUMMARY

- Defines "first-time offender" for purposes of the bill as a person with no prior OVI (operating a vehicle while impaired) convictions whose license has been suspended for an alcohol-related offense under the state or a municipal OVI law, the state implied consent law if the person tested positive, or under the Ohio out-of-state OVI law.
- For first-time offenders, replaces the offender's right to apply for and the court's power to grant limited driving privileges with the offender's right to apply for and the court's power to grant authority to operate a motor vehicle equipped with a certified ignition interlock device (IID).
- Authorizes a court to double the period of license suspension and the time for which a first-time offender must drive with an IID if the court receives notice from the entity that monitors the IID that the IID was tampered with, circumvented, or prevented the offender from starting the motor vehicle.
- Authorizes a court to require a first-time offender to wear an alcohol monitor upon receipt of notice that the first-time offender tampered with or circumvented the IID, or that an IID prevented the offender from starting the vehicle, and requires the court to order the offender to wear a monitor for a second or subsequent instance.
- Requires the Registrar of Motor Vehicles to issue a restricted license to a first-time offender who presents an order authorizing the first-time offender to drive with a certified IID, and authorizes the offender to use the order in lieu of a license until the restricted license is issued.

- Requires a court to impose mandatory additional court costs of \$2.50 when issuing an order authorizing a first-time offender to drive with an IID, to be used to cover costs associated with the habitual OVI/OMWI offender registry, and authorizes discretionary additional court costs of \$2.50, to be used for court special projects.
- Conforms the bill's provisions governing IIDs for first-time offenders with current law provisions governing limited driving privileges for other OVI offenders with respect to all of the following:
 - License suspension under the implied consent law;
 - The granting of limited driving privileges;
 - Driving without a court-ordered IID or circumventing or tampering with the device;
 - Monitoring of IIDs; and
 - The authorization to drive an employer-owned vehicle without an immobilizing or disabling device.
- Creates exceptions to the prohibition against driving on public roads while under an OVI suspension for persons with a first-time offender IID, limited driving privileges, or an employer-owned vehicle exemption.
- Corrects an erroneous reference to a Revised Code section.

CONTENT AND OPERATION

Introduction

State and municipal "OVI" laws prohibit the operation of a motor vehicle while under the influence of alcohol, illegal drugs, or both. One of the consequences of an OVI conviction is the suspension of driving privileges. During the period of suspension, a court may grant limited driving privileges for certain purposes, such as getting to work. However, the court may grant limited driving privileges only after an offender serves a portion of the offender's suspension. For example, a first-time OVI offender must serve 15 days of the license suspension before the offender is eligible for limited driving privileges. The 15-day period is referred to as a period of "hard suspension."

For a first-time OVI offender whose offense is alcohol-related, the bill replaces limited driving privileges with the authority to drive a vehicle equipped with a certified ignition interlock device (IID) into which the offender must breathe before attempting



to start the vehicle. If the IID detects too much alcohol in the offender's breath, the vehicle will not start and the entity that monitors the device will be informed of the device's reading. The bill also eliminates the period of hard suspension for a first-time OVI offender whose offense is alcohol related. The bill then conforms various sections of the Revised Code to the bill's distinction between the authority to drive with an IID for first-time offenders who commit alcohol-related offenses and limiting driving privileges for other OVI offenders.

Both existing law and the bill use the words *judge*, *court*, and *mayor* (referring to a mayor who conducts a mayor's court) for judicial authority. For convenience, this analysis refers only to courts. Similarly, the phrase *driver's license*, *commercial driver's license*, *temporary instruction permit*, or *nonresident operating privilege* used in both existing law and the bill is reduced in this analysis to *license*.

First-time offenders: driving under suspension with an IID

Petition and order

The bill authorizes a first-time offender whose license has been suspended for an alcohol-related OVI offense to petition the court that has jurisdiction over the offense for the authority to drive with a certified IID during the suspension. The bill then authorizes the court to grant the petition.¹ However, the court may not grant the authority to drive with an IID for the purpose of employment as a driver of a commercial motor vehicle to any person who is disqualified from operating a commercial motor vehicle for having committed certain offenses related to the operation of such a vehicle. An order to a first-time offender under the bill's new provisions does not authorize or permit the offender to operate a vehicle during any time that the offender's license is suspended under any other provision of law.²

The bill defines "first-time offender" as a person whose license has been suspended for an alcohol-related violation under any of the following:

- The state OVI statute, if the offender has no prior OVI convictions;
- The state implied consent law (imputing to a licensed driver's consent to submit to a chemical test if stopped for OVI), following a positive chemical test, if the offender has no prior OVI convictions;
- A municipal OVI ordinance, if the offender has no prior OVI convictions;

¹ R.C. 4510.022(B) and 4511.19(G)(1)(a)(iv).

² R.C. 4510.022(B); see also R.C. 4506.16.



- The state statute that requires a suspension for an out-of-state OVI conviction, if the offender has no prior convictions in Ohio for OVI or certain other offenses involving the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft while under the influence of alcohol, a drug of abuse, or a controlled substance.³

A court that authorizes a person to drive with a certified IID must give the person a copy of the order and notify the person that the court may do the following if it receives notice from the entity that monitors the IID (see "**Monitoring of IID**," below) that the IID was tampered with, circumvented, or prevented the offender from starting the motor vehicle:

(1) Double the period of suspension of the person's license;

(2) If the court doubles the suspension, double the period of time during which the person must drive with a certified IID, but in no case longer than the period of suspension.⁴

The court must notify the Bureau of Motor Vehicles of any of the foregoing determinations it makes.⁵

A person may present an order authorizing the person to drive with an IID to the Registrar of Motor Vehicles or to a deputy registrar. Upon presentation of the order, the Registrar or deputy registrar must issue to the person a restricted license that is identical to an Ohio driver's license, except that it has printed on its face a statement that the person is prohibited during the period specified in the order from operating any motor vehicle that is not equipped with a certified IID and also has conspicuously indicated on its face the dates on which the suspension period begins and ends. Until the restricted license is issued, the person may use a copy of the order in lieu of a license.⁶

Consequences for violating an order or circumventing or tampering with IID

The bill prohibits a person who is granted the authority to drive with a certified IID under the bill's provisions from operating a motor vehicle that is not equipped with an IID and from circumventing or tampering with the device. If a person violates any of

³ R.C. 4510.022(A).

⁴ R.C. 4510.022(C).

⁵ R.C. 4510.022(D)(1).

⁶ R.C. 4510.022(D).

these prohibitions or if the court receives notice from the entity that monitors the IID that a certified IID prevented the person from starting a motor vehicle, the consequences are as follows:

- On a first instance, the court may require the person to wear a monitor that provides remote continuous alcohol monitoring.
- On a second instance, the court must require the person to wear a monitor that provides remote continuous alcohol monitoring for at least 40 days.
- On a third or subsequent instance, the court must require the person to wear a monitor that provides remote continuous alcohol monitoring for at least 60 days.⁷

Additional court costs

The bill requires a court, when issuing an order authorizing a person to drive with a certified IID, to impose an additional court cost of \$2.50 on the offender. The court may not waive this payment unless it determines that the offender is indigent and it waives the payment of all court costs. The court clerk must transmit all such additional court costs collected during a month on or before the 23rd day of the following month to the state treasury to be credited to the State Highway Safety Fund. The Department of Public Safety must use the amounts collected to cover costs associated with maintaining the habitual OVI/OMWI offender registry. The bill also authorizes the court to impose on the offender another additional court cost of \$2.50. The court clerk must deposit this discretionary cost in the court's special projects fund.⁸

Suspension under implied consent law

Under existing law, a person whose license is suspended under the implied consent law for refusing to submit to a chemical test may petition a court for limited driving privileges, regardless of whether the person has appealed the suspension or the appeal has been heard. The person must pay the costs of the proceeding and send the Registrar of Motor Vehicles a copy of the petition. The bill takes first-time offenders arrested for alcohol-related offenses out of these provisions and creates for them parallel provisions allowing petitions to drive with a certified IID.⁹ (See **COMMENT**.)

⁷ R.C. 4510.022(E).

⁸ R.C. 4510.022(F).

⁹ R.C. 4511.197(E).



Limited driving privileges and period of "hard suspension"

Existing law allows a court to grant limited driving privileges for employment and other specified purposes to a person whose license has been suspended, unless the grant of such privileges is expressly prohibited by statute. The bill adds that limited driving privileges may not be granted if the bill's new provisions relating to driving with a certified IID apply.¹⁰ In other words, in cases involving first-time OVI offenders where the offense is alcohol-related, the court may not grant limited driving privileges but may grant the authority to drive with a certified IID. The bill retains the court's authority to grant limited driving privileges to a first-time OVI offender who is convicted of operating a motor vehicle with a prohibited concentration of a controlled substance or metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine.¹¹

Under existing law, a court may not grant limited driving privileges to an OVI offender until the offender serves a portion of the offender's suspension. This period of time is referred to as a period of "hard suspension." For a first-time OVI offender, this period under current law is 15 days. The bill eliminates the 15-day period of hard suspension for a first-time offender whose offense is alcohol-related. The bill permits such an offender to drive immediately without serving a period of hard suspension provided the offender's motor vehicle is equipped with a court-ordered certified IID. The bill retains the 15-day period of hard suspension for a first-time OVI offender who is convicted of operating a motor vehicle with a prohibited concentration of a controlled substance or metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine.¹²

Another person breathing into device

Existing law prohibits a person with limited driving privileges from requesting another person to breathe into an IID or other immobilizing or disabling device in order to make the vehicle operable, and it prohibits another person from breathing into the device for that purpose. The bill extends the prohibitions to situations in which a first-time offender has been granted authority to drive with a certified IID under the bill.¹³

¹⁰ R.C. 4510.021(A).

¹¹ R.C. 4511.19(G)(1)(a)(iv).

¹² R.C. 4510.13(A)(5) and 4510.17(E)(1) and (4).

¹³ R.C. 4510.44(A).



Monitoring of IID

The Revised Code requires an entity that monitors certified IID devices on behalf of a court to inform the court when a device has prevented an offender with limited driving privileges from starting the vehicle in which the IID has been installed. The court must notify the offender when it receives such information. If the court requires the offender to wear an alcohol monitor, it must state the possible consequences (see "**Consequences for violating an order or circumventing or tampering with IID,**" above) and inform the offender of the right to request a hearing. The bill extends these provisions to first-time offenders who have been granted authority to drive with a certified IID under the bill (see "**First-time offenders: driving under suspension with an IID,**" above).¹⁴

Prohibition against driving under OVI suspension

Existing law prohibits driving on public roads and highways with a license that has been suspended under any of several state OVI-related statutes or a municipal OVI ordinance. The bill retains the prohibition but creates exceptions for driving in accordance with (1) an IID order issued to a first-time offender under the bill's provisions (see "**First-time offenders: driving under suspension with an IID,**" above), (2) limited driving privileges, or (3) the employer-owned vehicle exemption (see "**Employer-owned vehicle exemption,**" below).¹⁵

General prohibition of driving while under suspension

Existing law generally prohibits a person from driving with a suspended license unless the person has been granted limited driving privileges and is driving in accordance with the terms of the limited driving privileges. The bill retains the exception for limited driving privileges and adds as exceptions (1) a first-time offender driving under and in accordance with an order issued under the bill authorizing driving with an IID, and (2) driving in accordance with the employer-owned vehicle exemption (see below).¹⁶

Employer-owned vehicle exemption

The bill modifies the statute that allows a person whose limited driving privileges are conditioned on the use of an immobilizing or disabling device to drive a car that is not equipped with such a device for employment purposes. Under current

¹⁴ R.C. 4510.46.

¹⁵ R.C. 4510.14(A).

¹⁶ R.C. 4510.11(A) and 4510.13(A)(5).



law, an employee may operate the unequipped vehicle if (1) the employee is required to do so in the course and scope of employment, (2) the employer has been notified of the condition, and (3) the employee carries proof of that notification while using the vehicle for normal business purposes. The bill extends this exemption to employees who are first-time offenders under the bill and who otherwise must drive with a certified IID.¹⁷

General prohibitions related to driving with IID

Driving without IID, circumventing, or tampering

Existing law establishes consequences for an offender who drives without a court-ordered IID or circumvents or tampers with the device, but it does not expressly prohibit such behavior. The bill adds an explicit prohibition.¹⁸ Under existing law, the consequences are as follows *for an offender who has a prior conviction under the state OVI statute within the preceding six years*:

- On a first instance, the court may require the person to wear a monitor that provides remote continuous alcohol monitoring.
- On a second instance, the court must require the person to wear a monitor that provides remote continuous alcohol monitoring for at least 40 days.
- On a third or subsequent instance, the court must require the person to wear a monitor that provides remote continuous alcohol monitoring for at least 60 days.

The bill extends these consequences to a first-time offender under the state OVI law who is convicted of operating a motor vehicle with a prohibited concentration of a controlled substance or metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine. The bill also extends these consequences to offenders who received a suspension under the state implied consent law, following a positive chemical test, for first-time OVI offenders and for offenders with one prior OVI conviction within the preceding six years.¹⁹

Under current law, the consequences for an offender who has two or more prior OVI convictions within the preceding six years, five or more OVI convictions within the preceding 20 years, or a felony OVI conviction at any time are as follows:

¹⁷ R.C. 4510.43(C).

¹⁸ R.C. 4510.13(A)(8).

¹⁹ R.C. 4510.13(A)(8)(a).



- On a first instance, the court must require the person to wear a monitor that provides remote continuous alcohol monitoring for at least 40 days.
- On a second or subsequent instance, the court must require the person to wear a monitor that provides remote continuous alcohol monitoring for at least 60 days.

The bill extends these consequences to offenders who received a suspension under the state implied consent law, following a positive chemical test, for offenders with two or more prior OVI convictions within the preceding six years.²⁰

Technical correction

The bill corrects a reference to the section under which a court issues an implied consent immobilizing or disabling device order.²¹

COMMENT

In simplifying the language of R.C. 4511.197(E) (division (E)(1) in the bill), the bill eliminates the time period within which a petition for limited driving privileges may be filed. The deletion appears to be inadvertent. The new provision regarding a petition for authority to drive with an IID (division (E)(2)) also has no filing deadline.

HISTORY

ACTION	DATE
Introduced	03-06-14

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²⁰ R.C. 4510.13(A)(8)(b).

²¹ R.C. 4510.13(F).

