
Judiciary Committee

HB 1696

Title: An act relating to alcohol-related offenses.

Brief Description: Revising provisions involving alcohol-related offenses.

Sponsors: Representatives Simpson, Delvin and Lovick; by request of Lieutenant Governor.

Brief Summary of Bill

- Expands the mandatory use of ignition interlocks with respect to criminal convictions, administrative actions and deferred prosecutions.
- Creates a "temporary restricted license" which replaces the "occupational license" for drivers who have been convicted of DUI-related offenses and which will be granted only if the applicant has installed an ignition interlock.
- Increases the mandatory fines for DUI convictions, but allows suspension of part of the fine if the offender has installed an ignition interlock.

Hearing Date: 2/18/03

Staff: Bill Perry (786-7123).

Background:

Implied Consent Law.

Any person who operates a motor vehicle in this state is deemed to have given consent for a blood or breath alcohol concentration (BAC) test if he or she is arrested for driving while under the influence of alcohol or drugs (DUI). This provision in the state's motor vehicle code is known as the Implied Consent Law.

A so-called "per se" violation of the DUI law consists of operating a motor vehicle while having a BAC or 0.08 or more for persons over the age of 21, or having a BAC or 0.02 or more for younger drivers. (The BAC measurement is of either grams of alcohol per 210 liters of breath, or grams of alcohol per 100 milliliters of blood.)

If an arresting officer has reasonable grounds to believe a driver has committed DUI, the officer may request the driver to take a BAC test. If the driver refuses the test, his or her driver's license will be administratively suspended or revoked by the Department of Licensing (DOL). If the driver submits to the test and fails it, *i.e.*, registers above the legal BAC limit, the DOL will also administratively suspend or revoke the license. The length of the suspension or revocation is generally longer for a refusal than for a failure of the BAC test. The period of suspension or revocation escalates with successive incidents, ranging from one year for a first refusal and 90 days for a first failure, to two years for a second or subsequent refusal or failure. These administrative sanctions against a person's driving privileges are completely independent of the outcome of any criminal prosecution that may arise out of the same incident. However, periods of license suspension or revocation under these administrative provisions run *consecutively* to any period of suspension or revocation required upon a criminal conviction arising out of the same incident.

Driving While Under the Influence.

The DUI law contains a system of escalating penalties that increase with the number of past offenses and the BAC level of the offender at the time of the current offense. In addition to mandatory periods of incarceration, DUI convictions carry mandatory loss of driving privileges, mandatory fines, mandatory alcohol abuse screening, and mandatory use of ignition interlocks.

DUI is a gross misdemeanor that carries a maximum fine of \$5,000. For each level of the offense, however, a mandatory minimum fine must be imposed. These minimum fines range from \$350 to \$1,500.

Occupational Licenses.

Drivers who have had their licenses suspended may, under certain circumstances, apply for an "occupational" driver's license. Such a license is for the purpose of allowing the person to work, or in some instances to get training or to get treatment for substance abuse.

The authority to drive under such a license is limited to driving that is directly related to employment, training or treatment. The license must be accompanied by specific detailed restrictions on the hours of the day when driving is allowed and by a general description of the permitted routes for traveling to and from work or treatment. An occupational license is good for either the length of the suspension or revocation, or for two years, whichever is shorter.

One main category of persons who may apply for an occupational license is drivers who have had their licenses suspended by the DOL for one of three specified reasons. These reasons include:

- failure to pay a traffic ticket;
- driving without insurance; or
- committing multiple driving offenses with a frequency that indicates a disrespect for traffic laws or a disregard for the safety of others.

A person who has had his or her license suspended for one of these reasons may apply to the DOL for an occupational license if he or she is engaged in an occupation that makes driving essential, or he or she:

- is in an apprenticeship or training program that requires a license;
- has applied for such a program (in which case an occupational license will be good for only 14 days);
- is enrolled in a WorkFirst program that requires a license; or
- is undergoing substance abuse treatment or attending substance abuse meetings and does not have transit services available to get to and from the treatment or meetings.

If the reason for the loss of license was failure to pay a fine, then the applicant must also enter into a payment plan with the court in order for the DOL to issue an occupational license.

The other category of persons who may apply for an occupational license is drivers who have had their licenses suspended or revoked as the result of a conviction for a crime such as DUI or as the result of administrative action for a violation of the Implied Consent Law. A person who has had his or her license suspended for one of these reasons may also apply to the DOL for an occupational license if he or she is engaged in an occupation or trade that makes driving essential, and:

- at least the first 30 days of the suspension or revocation has passed; and
- if the loss of license was through DOL action, it was for the driver's first Implied Consent Law violation.

For either category of drivers, the applicant must also:

- meet certain requirements, including having insurance coverage or otherwise showing proof of financial responsibility;
- not have committed within the previous year an offense requiring loss of driving privileges;
- not have committed DUI, Vehicular Assault, or Vehicular Homicide within the previous seven years; and
- show proof of insurance.

Ignition Interlocks.

Under legislation enacted in 1994, courts are given explicit authority to order that ignition interlocks or other devices be installed on the cars of certain drivers. Ignition interlocks are alcohol analyzing devices designed to prevent a person with alcohol in his or her system from starting a car. Other "biological or technical" devices may be installed for the same purpose. If a court orders the installation of one of these devices, the DOL is to mark the person's driver's license indicating that the person is allowed to operate a car only if it is equipped with such a device.

In some instances, the installation and use of interlocks are required. Those instances are cases in which a person has been convicted of or given a deferred prosecution for DUI. First-time DUI offenders with lower amounts of alcohol in their blood or breath, and persons granted a deferred prosecution who have no prior DUI conviction, are not subject to this mandatory provision.

Summary of Bill:

Several changes are made in DUI-related laws regarding license suspensions and revocations,

Implied Consent Law violations, and occupational licenses. Generally, periods of mandatory license suspension or revocation are increased, as are fines for DUI. Increased use of temporary restricted licenses and ignition interlock devices are authorized or required. In some cases, the use of these licenses and devices can partially restore driving privileges and can reduce fines.

Occupational and Temporary Restricted Licenses.

A new "temporary restricted" license is created to replace one category of occupational licenses. The new temporary restricted license is available for persons whose licenses have been suspended or revoked for DUI-related convictions or through administrative action under the Implied Consent Law. The availability of the restricted license is broadened so that prior DUI offenses do not disqualify a person from getting a restricted license.

Availability is also extended to circumstances beyond a person's occupation or trade. An otherwise qualified applicant may get a restricted license if he or she is:

- undergoing health care or is providing health care to a dependent;
- enrolled in an educational program that leads to a diploma, degree or certification;
- undergoing substance abuse treatment;
- fulfilling court-ordered community service;
- in an apprenticeship, on-the-job training, or WorkFirst program; or
- applying for training for which a license is necessary, in which case the restricted license is good for only 14 days.

A temporary restricted license granted after an administrative suspension or revocation extends through the period of any suspension or revocation resulting from a criminal conviction arising out of the same incident, and *vice versa*.

A person may apply for a temporary restricted license only if he or she has had an ignition interlock installed on his or her vehicle.

Occupational licenses remain available, but only for persons whose licenses have been suspended or revoked for failure to pay traffic fines.

Ignition Interlocks.

Both the authorized and mandatory use of ignition interlocks are expanded. The express authorization for courts to order the installation of an interlock is extended to *any* alcohol-related offense, whether or not related to driving. The mandatory use of ignition interlocks is extended to any deferred prosecution for DUI, including first-time deferrals.

Also, as noted above, a person may apply for a temporary restricted license only if he or she gets an interlock installed. As noted below, a person may get a portion of an otherwise mandatory DUI fine suspended only if the person gets an interlock installed.

Implied Consent Law.

The lengths of license suspensions or revocations for refusing or failing a BAC test are increased.

The periods for refusals are changed as follows:

- A first refusal is increased from one year to two years;
- A second refusal is increased from two years to three years;

- A third or subsequent refusal is increased from two years to four years.
- All of these periods are to run *concurrently* with any period of suspension or revocation for a criminal conviction arising out of the same incident.

The periods for failures of the 0.08 BAC standard are changed as follows:

- A first failure is increased from 90 to 180 days;
- A second failure remains at two years.
- A third or subsequent failure is increased from two years to three years.

The periods for failures by persons under age 21 of the 0.02 BAC standard are changed as follows:

- A first failure is increased from 90 to 180 days;
- A second or subsequent failure is increased from one year to two years (or until the person reaches age 21, whichever is longer);

The DOL is given authority to set minimum portions of these periods of suspension or revocation after which a person may apply for a temporary restricted license, conditioned on the installation of an ignition interlock. The DOL is to consider federal regulations regarding eligibility for federal funding when setting the lengths of these minimum portions.

Driving While Under the Influence.

The periods of license suspension or revocation for some DUI convictions are increased.

For a first time offender with a BAC below 0.15, the period of suspension is increased from 90 to 180 days.

For a person convicted of DUI for whom there is no BAC evidence because the person refused the test, the periods of revocation are increased as follows:

- For a first conviction, from one year to two years;
- For a second conviction, from 900 days to three years;
- For a third or subsequent conviction the period remains at four years.

The court is required to impose the maximum \$5,000 fine for any conviction for DUI. A portion of that fine representing the difference between the maximum and the mandatory minimum, however, may be suspended upon the condition that the driver gets a temporary restricted license and has an ignition interlock installed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.