

SENATE No. 1232

By Mr. Norton, a petition (accompanied by bill, Senate, No. 1232) of Thomas C. Norton for legislation relative to the operation of motor vehicles equipped with ignition interlock devices and the reduction of automobile insurance premiums. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT RELATIVE TO THE OPERATION OF MOTOR VEHICLES EQUIPPED WITH IGNITION INTERLOCK DEVICES AND THE REDUCTION OF AUTOMOBILE INSURANCE PREMIUMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 90 of the General Laws is hereby
2 amended by inserting, after section 24 O the following section: —

3 Section 24P. Ignition Interlock Devices

4 (A) Definitions. As used in this act “ignition interlock system”
5 means a constant monitoring device certified by the Department
6 of Public Safety which prevents a motor vehicle from being started
7 at any time without first determining the equivalent blood alcohol
8 level of the operator through the taking of a deep lung breath
9 sample for testing. The system shall be calibrated so that the motor
10 vehicle may not be started if the blood alcohol level of the
11 operator, as measured by the test, reaches a level consistent with
12 section twenty-four of chapter ninety.

13 (B) Ignition interlock devices; requiring.

14 (1) In addition to any other authorized penalties, the court may
15 require that any person who is convicted of driving under the
16 influence in violation of section 24, chapter ninety and who is
17 granted probation shall not operate a motor vehicle during the
18 period of probation unless that vehicle is equipped with a
19 functioning, certified ignition interlock device installed in such a
20 manner that the vehicle will not start if the operator’s blood

21 alcohol level is in excess of the level established in subsection one
22 of this act. The court may require the use of an approved ignition
23 interlock device for the period of probation.

24 (2) If the court imposes the use of an ignition interlock device
25 as a condition of probation, the court shall:

26 (a) Stipulate on the record the requirement for, and the period
27 of, the use of a certified ignition interlock device;

28 (b) Order that the records of the registry reflect such
29 requirement;

30 (c) Order that an ignition interlock device be installed on each
31 vehicle owned or operated by the probationers;

32 (d) If the court imposes the use of an ignition interlock device
33 as a term of probation on a person whose driving privilege is not
34 suspended or revoked, the court shall require the person to
35 provide proof of compliance to the court and the probation office,
36 and the registry within thirty days. If the person fails to provide
37 proof of installation within that period, absent a finding by the
38 court of good cause for the failure which is entered in the court
39 record, the court shall revoke or terminate the person's driving
40 privileges.

41 (e) For the purpose of this paragraph, good cause for failure
42 to comply shall mean any reason the court deems sufficiently
43 justifiable to excuse the person's failure to comply with such order.

44 (3) (a) Where a defendant has been convicted of a second or
45 subsequent offense of operating a motor vehicle while under the
46 influence of intoxicating liquor as defined in section twenty-four,
47 chapter ninety and the registrar has reinstated the person's license
48 prior to the original date of suspension termination, the person
49 shall only operate a vehicle equipped with a certified ignition
50 interlock device.

51 (b) The interlock device shall be required for the remainder of
52 the original term of suspension.

53 (c) The registry shall require proof of installation before
54 reinstatement of the person's driving privilege.

55 (4) Where the use of an ignition interlock system is required
56 under Subsection (B) of this act, the registry shall attach or imprint
57 a notation on the driver's license stating that the person may
58 operate only a motor vehicle equipped with an ignition interlock
59 device.

60 (5) Any person required to install an ignition interlock system
61 shall have the system checked by the manufacturer of such system
62 for proper use and accuracy at least semiannually and more
63 frequently as the court or registry may order. A report of such
64 checks shall be issued by the manufacturer to the court and the
65 registry where the requirement is a condition of probation, or the
66 registry within fourteen days following each such check.

67 (6) In addition to any other provisions of law upon conviction
68 of a violation of this section the registry shall revoke the person's
69 driving privilege for the remainder of the probation or suspension
70 term.

71 (C) Fee.

72 (1) If an ignition interlock is ordered installed pursuant to
73 subsection (B) of this act, the person shall pay the reasonable costs
74 of leasing or buying and installing the system.

75 (2) In addition to any other court or registry fees, the person
76 shall pay to the _____ a fee of \$ _____ to be distributed as
77 provided in subsection (H) of this act.

78 (D) Scope of Employment.

79 Notwithstanding subsection (B) of this act, if a person is
80 required, in the course and scope of the person's employment, to
81 operate a motor vehicle owned by the person's employer, the
82 person may operate that vehicle without installation of an ignition
83 interlock system if:

84 (1) The employer has been notified that the employee is
85 operating with an occupational permit restricted as provided in
86 Section 2 of this act; and

87 (2) The employee has proof of the notification in possession
88 while operating the employer's vehicle in the course of
89 employment.

90 (3) A motor vehicle owned by a business entity which business
91 entity is all or partly owned or controlled by a person otherwise
92 subject to this act is not a motor vehicle owned by the employer
93 subject to the exemption of this section.

94 (E) Unlawful acts; tampering; circumvention.

95 (1) A person commits the offense of tampering with an ignition
96 interlock system if the person does anything to the system that
97 circumvents or affects the operation of the system.

98 (2) A person commits the offense of knowingly furnishing a motor
99 vehicle without an ignition interlock system to someone who is
100 not authorized to drive such a vehicle if the person rents, leases,
101 lends or otherwise furnishes a motor vehicle to someone the
102 person knows to have driving privileges restricted to the use of
103 an ignition interlock system, and the motor vehicle is not equipped
104 with such a system that is in working order.

105 (a) Any person, whose driving privilege is restricted under
106 Section 4 shall notify any other person who rents, leases, or loans
107 a motor vehicle to him or her of the driving restriction imposed
108 under that section.

109 (b) The provisions of this section do not apply if the starting
110 of a motor vehicle, or the request to start a motor vehicle,
111 equipped with an ignition interlock device is done for the purpose
112 of safety or mechanical repair of the device or the vehicle and the
113 person subject to the court order does not operate the vehicle.

114 (3) A person commits the offense of unlawfully soliciting
115 another to blow into an ignition interlock system, if the person
116 has such a system as a condition of receiving an occupational
117 permit and the person requests or solicits another to blow into
118 the system or start the motor vehicle so as to circumvent the
119 system.

120 (4) A person commits the offense of unlawfully blowing into
121 an ignition interlock system or starting a motor vehicle equipped
122 with an ignition interlock system if, for the purpose of providing
123 an operable motor vehicle for someone required under subsection
124 (B) of this act to have such a system the person blows into an
125 ignition interlock device or starts an automobile equipped with
126 the system. The section does not apply to a person who is required
127 to have an ignition interlock system and who blows into or starts
128 the person's own vehicle that is so equipped.

129 (5) Violation of any offense described in this section is a
130 misdemeanor punishable by a fine of not less than \$500 nor more
131 than \$1,000 and/or by imprisonment in jail or house of correction
132 for not more than 60 days.

133 (F) Division of rules and certification.

134 The division of public safety shall certify or cause to be certified
135 ignition interlock systems for use in this state; systems certified

136 shall conform to those standards adopted by the division by rule.

137 (1) The standards shall include but not be limited to,
138 requirements that the systems:

139 (a) Do not impede the safe operation of the vehicle;

140 (b) Have features that make circumventing difficult and that
141 do not interfere with the normal use of the vehicle;

142 (c) Correlate well with established measures of alcohol
143 impairment;

144 (d) Work accurately and reliably in an unsupervised
145 environment;

146 (e) Resist tampering and give evidence if tampering is
147 attempted;

148 (f) Are difficult to circumvent, and require premeditation to do
149 so;

150 (g) Minimize inconvenience to a sober user;

151 (h) Correlate well with established measures of alcohol
152 impairment;

153 (i) Work accurately and reliably in an unsupervised
154 environment;

155 (j) Require a proper, deep lung breath sample or other accurate
156 measure of blood alcohol content equivalence;

157 (k) Operate reliably over the range of automobile environ-
158 ments; and

159 (l) Are manufactured by a party who will provide product
160 liability insurance.

161 (2) The division may, in its discretion, and consistent with the
162 legislative intent of this act, adopt in whole or relevant part, the
163 guidelines, rules, regulations, studies, or independent laboratory
164 tests performed on and relied upon in the certification of ignition
165 interlock devices by other states, their agencies or commissions.

166 (3) A list of certified devices shall be published by the division
167 and the cost of such certification shall be borne by the
168 manufacturers of ignition interlock devices.

169 (G) Sell or lease.

170 No person shall advertise for sale, offer for sale, sell or lease
171 an ignition interlock system in this state unless:

172 (1) The system has been certified by the division as provided
173 in Section 1 and 6 of this act; and

174 (2) The manufacturer of the system has affixed a warning label
175 on the system stating that the tampering, circumventing or other
176 misuse of the system may be a misdemeanor subject to a fine and/
177 or imprisonment.

178 (H) General Fund Account.

179 The Ignition Interlock System Account is created as an
180 account in the federal fund of the state treasury. Of the moneys
181 received by the court or registry, the fee assessed under section
182 3 of this act, shall be paid into the state treasury by the court and
183 credited to this account. All moneys in the account are
184 appropriated continuously to the Registry of Motor Vehicles for
185 carrying out the provisions of this act.

186 (I) Severability.

187 If any provisions of this act or the application thereof to any
188 person or circumstances is held invalid, that invalidity shall not
189 affect other provisions or applications of the act which can be
190 given effect without the invalid provision or application, and to
191 this end the provisions of this act are severable.

1 SECTION 2. Section 113B of Chapter 175 of the General Laws
2 as appearing in the 1986 Official Edition is hereby amended by
3 inserting after the thirteenth paragraph, the following new
4 paragraph: —

5 In fixing and establishing premium charges to be used in
6 accordance with the provisions of this section, the commissioner
7 may consider in establishing said rates, the reduction in losses
8 resulting from the implementation of the ignition interlock
9 program as established pursuant to section 24P of chapter 90 of
10 the General Laws.

1 SECTION 3. Section 4 of Chapter 175E of the General Laws
2 as appearing in the 1986 Official Edition is hereby amended by
3 inserting in subsection (d) of the following paragraph: —

4 In fixing and establishing premium charges to be used in
5 accordance with the provisions of this section, the commissioner
6 may consider in establishing said rates, the reduction in losses
7 resulting from the implementation of the ignition interlock
8 program as established pursuant to section 24P of chapter 90 of
9 the General Laws.

1 SECTION 4. Subsection (F) of section 1, section 2 and section
2 3 of this act shall take effect upon its passage. All other sections
3 and subsections shall take effect on January 1, 1990.

SECRET - NAVAL

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