

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 2427

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2013

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2427 (2R).

This bill, as amended, revises penalties for various drunk driving offenses. These revisions include mandating the installation of an ignition interlock device in the one or more motor vehicles owned, leased, or principally operated by the offender and the operation of such vehicles, for some offenders, under a restricted use driver's license, or alternatively, mandating the offender's forfeiture of the right to operate a motor vehicle if the offender instead does not own or lease a motor vehicle and there is no vehicle the offender principally operates.

As amended by the committee, the bill provides that whenever a person commits the offense of driving under the influence of alcohol or drugs (R.S.39:50-4) or refusing to submit to a breath test (section 2 of P.L.1966, c.142 (C.39:4-50.2)), the person would be required to install an ignition interlock device: in one motor vehicle owned, leased, or principally operated by the person, whichever vehicle the person most often operates, if a first offender; and in each motor vehicle owned, leased, or principally operated, if a second or subsequent offender.

For a first or second offense, a court would initially order the suspension of the person's driver's license for a period of 10 days, during which period the person would have to install the appropriate number of devices, unless the person presented to the court at the time of sentencing satisfactory proof that the one or more devices are already installed; and additionally, for a second offense, the person during this same 10-day period would be required to obtain a restricted use driver's license with various court ordered driving restrictions, issued by the Chief Administrator of the Motor Vehicle Commission in order to operate each affected motor vehicle.

For a third offense, the court would continue to follow existing law and suspend the person's driver's license for a period of 10 years along with ordering the installation of interlock devices.

If the person did not own or lease a motor vehicle and there was no vehicle the person principally operated, the court, instead of ordering any interlock device installation, would order the person to forfeit his right to operate a motor vehicle over the highways of this State.

For a first offender whose blood alcohol concentration is 0.08% or higher but less than 0.10%, the device would remain installed for a period of not less than three months or more than six months, commencing immediately upon the restoration of the offender's driver's license after the 10-day period of license suspension or as indicated on the court order if no suspension occurs due to the prior installation of the device (with satisfactory proof of installation to the court). This designated installation period would be subject to possible extension for an additional period equal to one-third of the originally designated period, for attempting to operate the affected motor vehicle with a blood alcohol concentration of 0.08% or higher during the last one-third of the installation period, or for failing to present the affected vehicle for device servicing at any time during the installation period. This extension would occur without need of further court order, following notification of the event to the court by the chief administrator, which notification would be supported by a certification from the ignition interlock device manufacturer, installer, or other party set forth in regulation responsible for the servicing or monitoring of the device.

For a first offender whose blood alcohol concentration is 0.10% or higher, or for driving under the influence of drugs, or for refusing to submit to a breath test, the ignition interlock device would remain installed for a period of not less than seven months or more than one year, again commencing immediately upon the restoration of the offender's driver's license after the 10-day period of license suspension or as indicated on the court order if no suspension occurs due to the prior installation of the device (with satisfactory proof of installation to the court). As before, the designated installation period would be subject to possible extension in the same manner as stated above.

For any first offender who does not own or lease a motor vehicle, or if there is no motor vehicle the offender principally operates, the court would instead order forfeiture of the offender's right to operate a motor vehicle, with the period of forfeiture being the same as the period for which the ignition interlock device would have been installed (not less than three months or more than six months; or not less than seven months or more than one year, if a higher blood alcohol concentration, under the influence of drugs, or refusing to submit to a breath test).

For a second offender, regardless of the level of blood alcohol concentration, or for driving under the influence of drugs, or for refusing to submit to a breath test, the one or more devices would remain installed for a period of not less than two years or more than

four years, subject to possible extension in the same manner as stated above, and the offender would also be required to obtain a restricted use driver's license, which the offender would use to operate each affected motor vehicle for at least the first year of the ignition interlock installation period but for not more than the maximum duration of that period, as ordered by the court. Similar to the possible extension of the designated ignition interlock installation period, the period for operating with a restricted use driver's license would be subject to extension, via notice by the chief administrator to the court, for an additional period equal to one-third of the originally designated restricted use driver's license period, for attempting to operate the affected motor vehicle with a blood alcohol concentration of 0.08% or higher during the last one-third of the device installation period, or for failing to present each affected vehicle for device servicing at any time during the installation period.

During the restricted use licensing period, such license would limit the offender to driving for the purpose of traveling to and from the offender's place of employment or for pursuing employment, and as otherwise permitted as set forth in the court order. For a second offender who does not own or lease a motor vehicle, or if there is no motor vehicle the offender principally operates, the period of forfeiture of the right to operate a motor vehicle on the second offense would be the same as the period for which the ignition interlock device would have been installed (not less than two years or more than four years).

Under the amendments, third and subsequent offenders would remain subject to the penalty provisions of current law: a fine of \$1,000; imprisonment for a term of not less than 180 days in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center; and loss of the offender's driver's license for 10 years. During this 10-year suspension period, the person also would be required to install an ignition interlock device on each motor vehicle. The device would also be required to remain installed for not less than one year or more than three years, commencing immediately upon the return of the offender's driver's license after the suspension period has been served.

Under the bill, if the driving privilege of a person was already under revocation or suspension for a violation of Title 2C, New Jersey Code of Criminal Justice, or Title 39, Motor Vehicles and Traffic Regulations, at the time of a conviction for a drunk driving offense, the above described 10-day period of license suspension, if applicable, and the requirement to install the one or more ignition interlock devices would commence immediately, and the devices would thereafter remain installed after the date of termination of that existing revocation or suspension for the specified installation period associated with a first, second, third, or subsequent offense; but the

requirement to obtain a restricted use driver's license, if applicable, would commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of imposition of a sentence is less than 17 years of age, the 10-day period of license suspension, if applicable, and requirement to install the device would likewise commence immediately, run through the offender's 17th birthday, and continue from that date for the specified installation period associated with a first, second, third, or subsequent offense; but the requirement to obtain a restricted use driver's license, if applicable, would commence as of the date of termination of the existing forfeiture, suspension, or revocation period.

With respect to all cases for which a person has been ordered to install one or more ignition interlock devices, the court would notify the Chief Administrator of the Motor Vehicle Commission. The commission would thereafter require that the one or more devices be installed before issuance of a restricted use driver's license or the reinstatement of the person's driver's license. The commission would imprint a notation on the restricted use driver's license or reinstated driver's license stating that the person could not operate a motor vehicle unless it is equipped with an ignition interlock device, and would enter this requirement in the person's driving record.

In order to obtain a restricted use driver's license, a person would have to make an application to the chief administrator. The person would have to certify in the application: (1) the one or more vehicles in which the ignition interlock device is installed, as indicated in the court order, and include a copy of the court order with the application; (2) the person's place of employment and the hours during which the person is employed, and the manner in which the person is required to operate a motor vehicle as a condition of employment, if applicable; (3) the hours during which, and the locations between which, it is necessary for the person to personally operate a motor vehicle; and (4) the person's understanding of the limited driving conditions, set forth in the court order supplied with the application, for which the person is permitted to operate any motor vehicle in which an ignition interlock device is installed. The chief administrator would issue the restricted use driver's license upon satisfying all of the above criteria.

The restricted use driver's license would be in a form prescribed by the chief administrator and be issued in accordance with procedures established by the chief administrator. The license would be of a color selected by the chief administrator, which readily distinguishes it from other driver's licenses issued by this State. The chief administrator could impose a fee of not more than \$25 for the issuance of a restricted use driver's license. Along with the restricted use driver's license, the chief administrator would issue a restricted use driver's placard, the size, material, and form of which determined by the chief administrator, to each approved licensee. The licensee would be required to prominently display the placard in the rear window, or other location determined by the chief administrator, of any motor

vehicle equipped with an ignition interlock device for which the restricted use driver's license is issued.

A person who fails to install an ignition interlock device as ordered by a court, or who drives a device-equipped vehicle after being started by means other than the person blowing into the device, or who drives an unequipped vehicle, would be guilty of a disorderly persons offense. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both. Furthermore, the court would suspend the person's driver's license for the period of time associated with a person who does not own or lease a motor vehicle and there is no vehicle that person principally operates, except that the applicable period applied by the court would be the period for a second offense (not less than two years or more than four years) if the underlying act was committed by a first offender, and would be the period for a third or subsequent offense (10 years) if the underlying act was committed by a second offender.

Additionally, with respect to the restricted use driver's license, a person would be guilty of a disorderly persons offense for: (1) deliberately falsifying an application for a restricted use driver's license, including alteration of the court order supplied with the application; (2) operating a motor vehicle corresponding to the restricted use driver's license in a manner that is inconsistent with the court order setting forth the conditions under which the license was obtained and to be used; (3) failing to maintain, while operating that motor vehicle, a copy of the court order, for presentation upon request by a law enforcement officer or other authority, setting forth the conditions for which the person is permitted to operate the motor vehicle, or failing to keep prominently displayed the restricted use driver's placard on the motor vehicle for which the restricted use driver's license is issued; or (4) operating any motor vehicle other than the motor vehicle for which the restricted use driver's license is issued. In addition to other available penalties under the law, the court would immediately suspend the person's restricted use driver's license and order the forfeiture of the person's right to operate a motor vehicle over the highways of this State for a period that is the equivalent of the period of forfeiture imposed upon a person for driving under the influence (R.S.39:4-50) who does not own or lease a motor vehicle and there is no vehicle the person principally operates, except that the applicable period applied by the court would be the period for a third or subsequent offense (10 years).

The bill also addresses periods of incarceration and community service requirements for persons who commit multiple offenses generally (but not those more serious offenses that occur on school property or involve driving through a school crossing (detailed in subsection (g) of R.S.39:4-50)). Under the bill, a person with a second drunk driving related offense would be sentenced to imprisonment for a term of not more than 90 days, except that the court could lower this

term, with no cap on the potential number of days reduced, for each day served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center. Similarly, while a person with a third or subsequent drunk driving offense would be sentenced to imprisonment, the court could also lower this term for each day served participating in an approved drug or alcohol inpatient rehabilitation program. However, there would be a cap of 90 days on the number of days potentially reduced from the term of imprisonment.

COMMITTEE AMENDMENTS:

The committee amendments restore to the current law the penalty provisions concerning the 10-year license suspension (20 years for violations involving school property or school crossings) and ignition interlock device installation, both during and after the license suspension period.

As amended, this bill is identical to A-3835(1R), also released by the committee on this date.