

SUBJECT: Minimum standards for vendors of ignition interlock devices

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 5 ayes — Berman, Driver, Hupp, P. King, Najera

1 nay — Carter

3 absent — B. Turner, Keel, Gutierrez

WITNESSES: None

BACKGROUND: Chapter 521 of the Transportation Code provides for suspension of a driver's license after a person is convicted of driving while intoxicated, intoxication assault, or intoxication manslaughter. The judge also can restrict a person with at least two previous convictions to the operation of a vehicle equipped with an ignition interlock device. The device must remain installed for at least half the period the license is suspended.

An installed ignition interlock device requires that a breath test for blood alcohol level be performed before the vehicle can be started. The device conducts subsequent tests every 15 to 45 minutes during the vehicle's operation. If any retest shows that the person's blood alcohol level has reached .045, the person is supposed to cease driving. Software in the ignition interlock device records details of the operation of the device. The vendor of the device has access to that information in order to determine whether the vehicle has been operated in violation of a court order.

Current law requires the Department of Public Safety (DPS) to establish and implement rules pertaining to the approval of ignition interlock devices and the calibration and maintenance of the devices. DPS evaluates the efficacy of each authorized device at the beginning of every year.

DIGEST: HB 3492 would require the Department of Public Safety (DPS) to establish minimum standards for vendors of ignition interlock devices who do business in Texas, as well as procedures to ensure compliance, including inspection of a vendor's facilities.

The minimum standards would require each vendor to:

- ! be authorized by DPS to do business in Texas;
- ! install only approved devices;
- ! install and activate a device within a reasonable time after receiving a court order;
- ! install and inspect the device in accordance with the court order;
- ! repair or replace a device within 48 hours of receiving a complaint;
- ! submit a written report of any violation of a court order to the court and the offender's supervising officer within 48 hours of discovering it;
- ! keep records for five years on the vendor's dealings with each device, including the vendor's responses to attempts to circumvent the device;
- ! upon request, make a copy of these records available to the court, the offender's supervising officer, or DPS; and
- ! provide to DPS an annual written report of all services and devices offered by the vendor.

The bill would allow DPS to revoke a vendor's authorization to do business in Texas if the vendor or any of its employees violated an applicable state law or DPS rule. HB 3492 would require a vendor to pay for reasonable costs related to DPS inspection of vendor facilities.

HB 3492 would take effect September 1, 1999.

**SUPPORTERS
SAY:**

Companies that make ignition interlock devices should be regulated. There are nine approved devices now in use in Texas, made by seven different manufacturers. The Department of Public Safety (DPS) has rules on standards for ignition interlock devices, but not on the devices' vendors.

Computer software records information regarding the use of every device, and the vendor is supposed to access this information regularly and report any violations to the court, the offender's supervising officer, and DPS. However, at present, there is nothing in the law that requires companies that sell and install the devices to report an offender's violations of a court order.

Because an offender must pay a monthly lease fee for installed devices, some vendors might choose not to report violations for fear of losing that customer's business.

Establishing minimum requirements for vendors would be good for the offenders and public safety. Vendors who regularly inspect their devices and use records are more likely to recognize “false positives.” These are false indications in the device’s records that a driver was driving under the influence, when, perhaps, the driver had only smoked a cigarette. This could protect the offender from false charges or additional undeserved penalties. Likewise, vendors who inspect regularly are more likely to detect patterns of behavior in a driver who may be circumventing the device and driving under the influence.

Some courts have complained that they do not hear from a vendor about an offender’s compliance with the court order until the offender commits an violation or defaults on payment of the device. If courts had more regular information about an offender’s use of the device, including attempts to circumvent the device, they might be able to prevent an injury or death resulting from drunk driving.

Vendors should be required by law to submit written reports of violations of a device’s use. These records are important if the offender is subject to additional penalties under the law. Some large cities in Texas already are establishing reporting requirements for vendors. It is important for vendors in all parts of the state to report on violations.

Requiring vendors to pay for reasonable costs associated with inspection would offset the cost of the bill’s requirements. Texas is a populous state with a significant drunken driving problem. Vendors know there is a profitable market here, and additional regulations would not drive their business away.

OPPONENTS
SAY:

DPS already has the authority to adopt any of the regulations proposed in this bill. In fact, DPS already requires many of these standards. There is no need for a law that would require standards that DPS has already set and with which vendors are complying.

Requiring vendors to pay for inspections of their facilities would be burdensome. The prospect of inspection fees, coupled with the additional regulations, could drive some businesses out of the state.

**OTHER
OPPONENTS
SAY:**

The bill should require vendors to obtain liability insurance for damages arising out of the operation or use of devices. Currently, vendors are required to keep insurance only on their products.