

SUBJECT: Ten-year limit on previous offenses to impose ignition interlock device

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Hinojosa, Dunnam, Green, Smith, Talton, Wise

0 nays

3 absent — Garcia, Keel, Nixon

WITNESSES: No public hearing

BACKGROUND: Judges who suspend the driver's licenses of certain repeat offenders who are convicted of driving while intoxicated (DWI), intoxication assault, or intoxication manslaughter must restrict these persons to operating only motor vehicles equipped with an ignition interlock devices. Judges who place on probation certain repeat offenders who commit offenses involving alcohol also must restrict the offender to operating motor vehicles with these devices.

Ignition interlock devices use deep-lung breath analysis mechanisms to make impractical the operation of a motor vehicle if the device detects ethyl alcohol in the breath of the vehicle operator.

DIGEST: HB 3495 would prevent previous convictions that are more than 10 years old from being used to require that certain repeat offenders who are placed on probation and certain repeat offenders whose driver's licenses are suspended can operate only motor vehicles equipped with an interlock ignition devices.

In cases of license suspension, previous offenses could not be used if they were for DWI, intoxication assault, or intoxication manslaughter and occurred more than 10 years before the current offense and the person had not been convicted of driving while intoxicated, intoxication assault, or intoxication manslaughter within the 10 years before the current offense.

For persons placed on probation, previous offenses for driving, flying, and boating while intoxicated, intoxication assault, and intoxication manslaughter could not be used if they occurred more than 10 years before the current offense and the person had not been convicted of driving, flying, and boating

HB 3495
House Research Organization
page 2

while intoxicated, intoxication assault, and intoxication manslaughter within the 10 years before the current offense.

This bill would take effect September 1, 1999, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 3495 would put the requirement that interlock ignition devices be installed in some probation and license suspension cases on par with the requirements used to enhance DWI criminal punishments. Current law, which allows two incidents 30 or 40 years apart to result in the mandatory imposition of an interlock device, is unfair and out of step with Code of Criminal Procedure, art. 49.09, which requires previous convictions used to enhance punishments for a current intoxication offense to occur within 10 years. It is only fair to apply this requirement also to the imposition of interlock ignition devices.

**OPPONENTS
SAY:**

Because the imposition of interlock ignition devices is designed to enhance public safety, not as a punishment, all previous offenses should be considered.