

- SUBJECT:** Barring ignition interlock device removal without court order
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Hinojosa, Keel, Talton, Garcia, Green, Kitchen, Martinez Fischer
0 nays
2 absent — Dunnam, Shields
- SENATE VOTE:** On final passage, May 15 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** *(On companion bill, HB 2926:)*
For — Judge Tom Fuller, Dallas County Criminal Court No. 5; *Registered but did not testify:* Pam A. Moody-Scott, Sally Chapman, Debra Coffey, Smart Start of Ignition Interlock Industry; Bill Lewis, Mothers Against Drunk Driving; Andy Kahan, Harris County Inter-Agency Victim Council; Mike Cantrell, Dallas County; Rick A. Watson for Police Chief Terrell Bolton, Dallas Police Department; Dale L. Simcox, Ignition Interlock Group of Texas; Ray Dunn, Guardian Interlock; Richard Alpert, Tarrant County District Attorney’s Office

Against — None
- BACKGROUND:** Penal Code, secs. 49.04 through 49.08 are the statutes criminalizing driving, flying, or boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, and intoxication manslaughter.

Code of Criminal Procedure, art. 42.12, sec. 13 allows a court to require as a condition of community supervision for a person convicted of one of the above offenses that any vehicle the person drives be equipped with a ignition interlock device that will make the vehicle inoperable if ethyl alcohol is detected on the breath of the driver. The court must require installation of an ignition interlock device as a condition of community supervision when the defendant is convicted of intoxication assault, intoxication manslaughter, or has a previous conviction for driving, flying, or boating while intoxicated and is convicted again of one of those offenses.

The defendant must obtain the interlock device at the defendant's own expense before the 30th day after the date of conviction unless the court finds doing so would not be in the best interest of justice. The defendant must provide evidence to the court within the 30-day period that the device has been installed. The court must order the device to remain installed on the vehicle for a period not less than 50 percent of the supervision period.

DIGEST: SB 1531 would require an installed interlock device to remain on a defendant's vehicle until the expiration of the supervision period or until it was ordered removed by the court. A person could not remove the device unless the person held a written order authorizing the removal issued by the court that ordered the device to be installed.

The bill would take effect on September 1, 2001, and would apply only to offenses committed on or after that date.

SUPPORTERS SAY: SB 1531 would send a policy statement to judges that those convicted of drunk driving offenses should keep an interlock device on their vehicles for the duration of their probation. Research shows that interlock devices are as effective as jail time in keeping convicted drunk drivers from driving under the influence. Texans are entitled to roadways that are as safe as possible, and this bill would help ensure that drunk drivers did not get behind the wheel. The bill would not take away a judge's discretion to remove an interlock device at any time during the community supervision if he or she believed it were appropriate.

This bill would provide protection to the ignition interlock industry. Vendors regularly must deal with interlock users to recalibrate machines and download information to send to the courts. Often, defendants will haggle with vendors to have their interlock devices removed, and sometimes vendors feel obligated to remove them because the defendant is the paying customer. This bill would give vendors a place in the law to point to in their defense when a customer wanted the interlock device removed — that removal would have to be mandated by court order.

OPPONENTS SAY: This bill could limit judicial discretion on how long to keep an ignition interlock device on a defendant's vehicle. A judge who believed a defendant partway into his sentence no longer needed an interlock device would have

to take the time and effort to issue a formal order of removal before the sentence was completed.

NOTES:

The companion bill, HB 2926 by J. Jones, passed the House on May 10. It was reported favorably from the Senate Criminal Justice Committee on May 13.