

DUI offenses.

SB 133 GA provides the person may retain valid license plate(s) for all vehicles he solely or jointly owns while holding a valid ignition interlock license.

SB 133 GA provides that a person may apply for an ignition interlock license following any period of incarceration related to the DUI offense.

SB 133 GA provides that a person will be unable to obtain a device during the license suspension period resulting from refusal to submit to an alcohol concentration or substance test. However, the person at the time of arraignment may waive judicial review of the suspension after which the court in its discretion may allow the individual to apply for an ignition interlock license. Conversely, if a test is taken, the offender may immediately apply for an ignition interlock license and may receive credit for the number of days the conditional license was held if convicted.

SB 133 GA provides that a person may apply for an ignition interlock license during any periods of suspension or revocation arising from the same incident, and that the cabinet may issue an ignition interlock license during any period of suspension or revocation arising from the same incident. The person may receive a day-to-day credit toward any ignition interlock requirement for any period the person held a valid ignition interlock license or that the person was prohibited from operating a motor vehicle or motorcycle without a functioning device during any period of suspension or revocation arising from the same incident.

SB 133 GA requires the applicant to pay the cost of leasing or buying the device as well as installing, servicing, and maintaining the device. All persons applying for an ignition interlock license shall pay a nonrefundable application fee to the cabinet not to exceed \$200.

SB 133 GA expands the definitions to include *“Ignition Interlock Certification of Installation”* as proof that the installed device is certified for use in Kentucky and *“Device Provider”* as any entity engaged in the manufacturing, selling, leasing, servicing, or monitoring devices within Kentucky.

SB 133 GA provides that no person shall **start or operate** a motor vehicle or motorcycle without a functioning device if prohibited to do so. A first offense violation will be guilty of a Class B misdemeanor. A second or subsequent offense will be guilty of a Class A misdemeanor.

SB 133 GA provides that no person shall knowingly install or direct to be installed a defective device or tamper with an installed device with the intent to render it defective. A first offense violation will be guilty of a Class B misdemeanor. A second or subsequent offense will be guilty of a Class A misdemeanor and be prohibited from installing or directing others in the installation of devices.

SB 133 GA provides that a person must wait thirty days from the date of issuance of an ignition interlock license before using an employer’s vehicle NOT equipped with a device for a first offense; twelve months for a second or subsequent offense.

SB 133 GA provides that no one shall be granted permission to operate motor vehicles or motorcycles equipped with devices unless proof of issuance is provided, the operator has applied for an ignition interlock license, and a certificate of installation is provided.

SB 133 GA provides that an installed device shall be serviced within the first thirty days of installation and every sixty days thereafter. Only if these requirements are met for the person's personal vehicle will the person be allowed to use an employer's vehicle not equipped with a device.

SB 133 GA provides that the court shall forward to the cabinet its court order and information that the person may only operate motor vehicles or motorcycles equipped with a functioning device, and if the person may drive an employer's vehicle not equipped with a device, the license shall indicate the exception.

SB 133 GA creates a new section of KRS Chapter 189A which provides the cabinet to issue all necessary forms to implement ignition interlock licenses; create a uniform certificate of application, create an ignition interlock license, certify devices for use in Kentucky, include on the cabinet's web site a list of certified device providers, and promulgate regulations.

SB 133 GA provides that in bidding for the contract to provide and service devices, the bidder take into account not all persons will be able to pay the full cost as determined by the court authorizing the device. Furthermore, the provider may not increase the cost of the device during the contract duration.

SB 133 GA provides that the provider electronically transmit reports on driving activity within 7 days of servicing a device to the respective court, prosecuting attorney, and defendant.

SB 133 GA provides the provider shall ensure continuous monitoring if the provider leaves the state. The provider shall also provide a minimum 45 days notice of any material change to the device or the installation, servicing, or monitoring or the device capabilities of the vendor.

SB 133 GA provides that the provider have and maintain vendor's public liability and property damage insurance. The provider shall hold harmless any state or local government or officer / employee thereof from all claims, demands, and action resulting from damage or injury to persons or property arising from the installation, service, repair, use, or removal of a device.

SB 133 GA provides that a warning label be affixed to each device upon installation containing a warning that any person tampering, circumventing, or misusing the device commits a violation. A first offense violation will be guilty of a Class B misdemeanor. A second or subsequent offense will be guilty of a Class A misdemeanor.

SB 133 GA provides that a provider will remove a device without cost if the device is found defective.

SB 133 GA permits the court to grant the person hardship driving privileges for the balance of

the suspension period if revocation would hinder a person's ability to continue employment, attend school, obtain medical care, attend driver improvement, alcohol, or substance abuse programs, or attend court-ordered counseling. The person must provide to the court sworn statements from the employer, educational entity, medical professional, alcohol or substance abuse treatment provider, or counselor detailing the necessity to drive.

SB 133 GA provides that the court NOT issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

SB 133 GA provides that the hardship license provisions are for the following original offenses regarding operating or in control of a motor vehicle:

KRS 189A.010(c): While under the influence of any other substance or combination of substances which impairs one's driving ability.

KRS 189A.010(d): While the presence of a controlled substance listed in subsection (12) of this section is detected in the blood, as measured by a scientifically reliable test, or tests, taken within two (2) hours of cessation of operation or physical control of a motor vehicle.

SB133 HCS retains the major provisions of the measure as passed by the Senate and makes the following changes in the bill:

SB 133 HCS extends the provisions allowing for a hardship license to include the following first time offenses within a five-year period:

KRS 189A.010(a): Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle.

KRS 189A.010(b) While under the influence of alcohol.

KRS 189A.010(e) While under the combined influence of alcohol and any other substance which impairs one's driving ability.

SB 133 HCS further provides that in order to obtain an hardship license, the following aggravating circumstances were **NOT** present while the person was operating or in control of a motor vehicle:

- Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;
- Operating a motor vehicle in the wrong direction on a limited access highway;
- Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;
- Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.15 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

- Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and
- Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of SB 133 HCS on local government is expected to be minimal.

All cost to install and maintain the device will be paid by the applicant. The device is optional and the court may establish a payment schedule for the applicant. The cost involved to install and maintain might be a hardship on some applicants. Given that, this might be construed as a means of giving financially secure applicants the means to drive if convicted of a DUI. Those convicted of a DUI, but not as financially secure, may not be able to apply for an ignition interlock license. Typically, the installation costs are around \$50 to \$200. Monthly rental and monitoring fees range from \$50 to \$100. The device will normally need to be checked and calibrated every 60 days. Current law provides for an application cost not to exceed the actual cost of issuing the device up to \$200.

Any fees currently retained by local agencies will not be affected. Beyond increasing the license revocation period for first time offenders, there are no further changes to penalties for not abiding by the requirements of the device or the corresponding license.

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky's 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

Data Source(s): _____.

Preparer: _____ **Reviewer:** MCY **Date:** 3/23/15