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HOUSE BILL NO. 768

Offered January 25, 1994

A *BILL* to amend the Code of Virginia by adding sections numbered 18.2-270.1 and 18.2-270.2, relating to an ignition interlock system; penalty.

Patrons—Almand, Connally, Dillard, Mims and Plum; Senators: Holland, E.M. and Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-270.1 and 18.2-270.2 of the Code of Virginia are amended as follows:

§ 18.2-270.1. Ignition interlock systems; penalty.

A. For purposes of this section and § 18.2-170.2, "ignition interlock system" means a device that (i) connects a motor vehicle ignition system to a breath analyzer that measures a driver's blood alcohol level and (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device.

B. In addition to any other penalty provided for conviction of a first offense under § 18.2-266, the court may prohibit any such offender from operating a motor vehicle that is not equipped with an ignition interlock system for any period not to exceed three years.

C. In any case where the court requires use of an ignition interlock system, the court order shall direct the defendant not to operate a motor vehicle which is not equipped with such a system for a specified period of time which shall not exceed three years. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order which shall become a part of the permanent records of the Department. The Department shall issue to the defendant for the period required in the court order a special operator's license which shall appropriately set forth the restrictions required by the court under this subsection and also set forth any exception granted by the court under subsection F.

D. The Department of Motor Vehicles shall require proof from the defendant of the installation of such system and periodic reporting by the defendant for verification of the proper operation of the system. The Department shall also require the defendant to have the system monitored for proper use at least semiannually by an entity approved by the Department under the provisions of § 18.2-270.2, and the defendant shall pay the reasonable cost of leasing, buying, monitoring and maintaining the system. A payment schedule may be used.

E. A person prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system shall not solicit or have another person attempt to start or start a motor vehicle equipped with an ignition interlock system. A person shall not attempt to start or start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system. A person shall not tamper with, or in any way attempt to circumvent, the operation of an ignition interlock system that has been installed in the motor vehicle of a person under this section. Except as authorized in subsection F, no person shall furnish a motor vehicle not equipped with a functioning ignition interlock system to any person he knows to be prohibited under subsection A from operating any motor vehicle which is not equipped with such system. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

F. Any person prohibited from operating a motor vehicle under subsection A may operate a motor vehicle required in the course of his employment which is owned or provided by his employer without installation of an ignition interlock system if the court expressly permits such operation in its order.

§ 18.2-270.2. Ignition interlock system; certification by DMV; regulations; sale or lease; monitoring use; reports.

A. The Commissioner of the Department of Motor Vehicles or his designee shall certify ignition interlock systems for use in this Commonwealth and adopt regulations for the certification of the ignition interlock systems.

The regulations adopted shall include requirements that ignition interlock systems:

1. Do not impede the safe operation of the vehicle;
2. Minimize opportunities to be bypassed;
3. Correlate accurately with established measures of blood alcohol levels;
4. Work accurately and reliably in an unsupervised environment;
5. Require a proper and accurate measure of blood alcohol levels;
6. Resist tampering and provide evidence of attempted tampering;
7. Are difficult to circumvent, and require premeditation to circumvent;

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- 60 8. Minimize inconvenience to a sober user;
61 9. Are manufactured by a party responsible for installation, user training, service, and maintenance;
62 10. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing
63 standards;
64 11. Are manufactured by a person who is adequately insured for products liability; and
65 12. Provide the option of an electronic log of the driver's experience with the system.
66 The Department of Motor Vehicles shall design and adopt a warning label to be affixed to an
67 ignition interlock system upon installation.
68 The warning label shall state that a person tampering with, circumventing, or otherwise misusing the
69 ignition interlock system shall be guilty of a misdemeanor and, upon conviction, shall be subject to a
70 fine or imprisonment or both.
71 The Department of Motor Vehicles shall publish a list of certified ignition interlock systems. A
72 manufacturer of an ignition interlock system that seeks to sell or lease the ignition interlock system to
73 persons subject to the provisions of § 18.2-270.1 shall pay the costs of obtaining the required
74 certification.
75 B. A person may not sell or lease or offer to sell or lease an ignition interlock system to any person
76 subject to the provisions of § 18.2-270.1 unless:
77 1. The system has been certified by the Department of Motor Vehicles; and
78 2. A warning label approved by the Department is affixed to the system stating that a person who
79 tampers, circumvents, or otherwise misuses the system is guilty of a Class 1 misdemeanor and, upon
80 conviction, is subject to a fine or imprisonment or both.
81 C. Any person who sells or leases an ignition interlock system under the provisions of this article
82 shall (i) monitor the use of the system as required by the Department of Motor Vehicles and (ii) issue a
83 report of the results of such monitoring to the appropriate clerk of court.