

HOUSE BILL 353

By Shipley

AN ACT to amend Tennessee Code Annotated, Title 55,  
relative to ignition interlock.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-403(a)(1)(A)(iii), is amended by deleting the language "first offense".

SECTION 2. Tennessee Code Annotated, Section 55-10-403(a)(1)(A)(iii)(a), is amended by deleting the language "fifteen hundredths of one percent (0.15%)" and substituting instead the language "eight hundredths of one percent (.08%)".

SECTION 3. Tennessee Code Annotated, Section 55-10-403(d)(1)(A), is amended by deleting the subdivision in its entirety and substituting instead the following:

(d)

(1)

(A) Except as provided in subdivision (d)(2), if a person's motor vehicle operator's license has been revoked pursuant to subsection (a), the person may apply to the trial judge for a restricted driver license. The trial judge may order the issuance of a restricted motor vehicle operator's license to operate only a motor vehicle that is equipped with a functioning ignition interlock device, if based upon the records of the department of safety the violation resulting in the person's present conviction for driving under the influence of an intoxicant occurred on or after July 1, 2000;

SECTION 4. Tennessee Code Annotated, Section 55-10-403(d)(1)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B)

(i) A Tennessee resident, whose operator's license has been revoked because of a conviction in another jurisdiction for operating a motor vehicle while under the influence of an intoxicant, may apply for a restricted license to a judge of any court of the county of the person's residence having jurisdiction to try charges for driving under the influence of an intoxicant. The trial judge may order the issuance of a restricted motor vehicle operator's license to operate only a motor vehicle that is equipped with a functioning ignition interlock device if based upon the records of the department the violation resulting in the person's present conviction for driving under the influence of an intoxicant occurred on or after July 1, 2000.

(ii) If a copy of the judgment of conviction certified by the court that tried the case in the other jurisdiction accompanies the restricted license application, the trial judge may issue such order allowing the person so convicted to operate a motor vehicle including such restrictions ordered by the court that tried the case in the other jurisdiction provided such restrictions do not conflict with Tennessee statutes or regulations.

SECTION 5. Tennessee Code Annotated, Section 55-10-403(d)(1)(C) and (D), are amended by deleting the subdivisions in their entirety and substituting instead the following:

(C) The order may be presented within ten (10) days after the date of conviction to the department, accompanied by a fee of sixty-five dollars (\$65.00) and proof to the satisfaction of the department that a functioning ignition interlock device has been installed and will be maintained on one (1) or more vehicles to be operated by the person for the duration of the restricted license. If the person has first successfully completed a driver's license examination, the department shall forthwith issue a restricted license specifying that such restricted license authorizes the person, except as provided in § 55-10-412(n)(1), to operate only noncommercial vehicles equipped with a

functioning ignition interlock device and embodying additional limitations imposed by the court upon the person so convicted.

(D) If the violation resulting in the person's conviction for driving under the influence occurred prior to July 1, 2000, the law in effect when the violation occurred shall govern the person's eligibility for a restricted motor vehicle operator license unless the person petitions the court to consider the person's eligibility under the law in effect when the petition is filed.

SECTION 6. Tennessee Code Annotated, Section 55-10-403(d)(2), is amended by designating the existing language as subdivision (A) and adding the following new subdivision (B):

(B) Notwithstanding subdivision (d)(2)(A), the trial judge may, in the interest of public safety, order the issuance of a restricted motor vehicle operator's license in accordance with § 55-50-502 to any person whose motor vehicle operator's license has been revoked pursuant to subdivision (d)(2)(A) specifying that such restricted license authorizes the person, except as provided in § 55-10-412(n)(1), to operate only motor vehicles equipped with a functioning ignition interlock device and embodying any additional limitations imposed by the court upon the person so convicted.

SECTION 7. Tennessee Code Annotated, Section 55-10-403(d)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4)

(A) Notwithstanding subdivision (d)(3), the trial judge may order the issuance of a restricted motor vehicle operator's license in accordance with § 55-50-502 to any person whose motor vehicle operator's license has been revoked pursuant to subsection (a) for a prior conviction for a violation of § 55-10-401 or § 55-10-418, in this state or a similar offense in any other jurisdiction.

(B)

(i) If the court orders the issuance of a restricted motor vehicle operator's license pursuant to this subdivision (d)(4), the court shall also order the person, except as provided in § 55-10-412(n)(1) to operate only a motor vehicle that is equipped with a functioning ignition interlock device. The restriction shall be for the entire period of the restricted license and for a period of six (6) months after the license revocation period has expired if required by § 55-10-412(m).

(ii) Sections 55-10-412, 55-10-420 and 55-10-421 shall apply when a person is ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to subdivision (d)(4)(A).

SECTION 8. Tennessee Code Annotated, Section 55-10-406(a)(7), is amended by adding the language "person's driver's license is currently suspended for an" between the language "the" and "implied consent" and by deleting the language "result" and by substituting instead "resulted".

SECTION 9. Tennessee Code Annotated, Section 55-10-406(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) A person whose license has been suspended by the court under this section may apply to the court in the county where the person resides or to the court in the county suspending the license for a restricted license. The judge of the court may order the issuance of a restricted license allowing the person to operate a motor vehicle specifying that such restricted license authorizes the person, except as provided in § 55-10-412(n)(1), to operate only motor vehicles equipped with a functioning ignition

interlock device and embodying additional limitations imposed by the court upon the person so convicted.

(2) The person may obtain a certified copy of the order, and within ten (10) days after it is issued, present it, along with an application fee of twenty dollars (\$20.00), to the department of safety, and proof to the satisfaction of the department that a functioning ignition interlock device has been installed and will be maintained on one (1) or more vehicles to be operated by the person for the duration of the restricted license, which shall forthwith issue a restricted license embodying the limitations imposed in the order. Any restricted license issued under this section shall be subject to renewal in the same manner as other motor vehicle operator's licenses.

SECTION 10. Tennessee Code Annotated, Section 55-10-406(h), is amended by deleting the subsection in its entirety.

SECTION 11. Tennessee Code Annotated, Section 55-10-412(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(a) For the purpose of this part:

(1) "Functioning ignition interlock device" means a device that connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device and which devices, on all new installations after the effective date of this act, as established by rule by the department of safety, must employ technology capable of taking a photo identifying the person providing the breath sample, recording the date, the time and the test result along with the photo of the person providing the test and storing such information on the device for transfer to remote storage and reporting; and

SECTION 12. Tennessee Code Annotated, Section 55-10-412(m), is amended by deleting the subsection in its entirety and substituting instead the following:

(m) If a person convicted of a violation of § 55-10-401 has a prior conviction for a violation of § 55-10-401 within the past five (5) years, the court shall order the person, or the department of safety shall require the person prior to issuing a motor vehicle operator's license of any kind, to operate only a motor vehicle, during or after the license revocation period, that is equipped with a functioning ignition interlock device for a period of one (1) year.

SECTION 13. Tennessee Code Annotated, Section 55-10-454, is amended by deleting the section in its entirety.

SECTION 14. Tennessee Code Annotated, Section 55-50-502(c)(3)(A), is amended by deleting the language:

to operate a motor vehicle for the purpose of going to and from and working at the person's regular place of employment.

and substituting instead the language:

to operate only a motor vehicle that is equipped with a functioning ignition interlock device.

SECTION 15. Tennessee Code Annotated, Section 55-50-502(c)(3)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) The judge may order the issuance of a restricted license, if based upon the records of the department of safety, the violation resulting in the person's present conviction for driving under the influence of an intoxicant occurred on or after July 1, 2000.

SECTION 16. Tennessee Code Annotated, Section 55-50-502(c)(3)(E), is amended by deleting the subdivision in its entirety and substituting instead the following:

(E) The person so arrested may obtain a certified copy of the order and within ten (10) days after it is issued present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall forthwith issue a restricted license embodying the limitations imposed in the order. Any restricted license issued under this section shall be subject to renewal in the same manner as other motor vehicle operator's licenses.

SECTION 17. Tennessee Code Annotated, Section 55-50-502(c)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4) Where a nonresident whose license has been suspended or revoked by any other state subsequently becomes a bona fide resident of this state, and where the person has been granted a restricted license by the other state if the triggering offense would under the laws of this state provide for the issuance of a restricted driver license upon petition to a judge of the court of general sessions, or its equivalent, for the county wherein the person resides, the judge may, in the judge's discretion, order the issuance of a restricted motor vehicle operator's license allowing the person to operate only motor vehicles equipped with a functioning ignition interlock device during the mandatory revocation/suspension period. The person may obtain a certified copy of the order and within thirty (30) days after it is issued present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall then issue a restricted license embodying the limitations imposed in the order. Any restricted license issued under this subdivision (c)(4) shall be subject to renewal in the same manner as the motor vehicle operator's license.

SECTION 18. This act shall take effect July 1, 2013, the public welfare requiring it.