



DATE: March 21, 2019

TO: House Committee on Judiciary

FROM: Amy Joyce, Legislative Liaison

SUBJECT: HB 3005 with -1 Amendment, Ignition Interlock Device Program Oversight

INTRODUCTION

The 2017 legislature directed the Department of Transportation to establish oversight of the ignition interlock device program, and to hand that oversight over to Oregon State Police in 2019. The statutes that created the oversight need adjustment for the program to work as intended.

BACKGROUND

Ignition interlock devices (IIDs) are required by Oregon law for people on DUII Diversion agreements or convicted of DUII. They provide an immediate deterrent from driving under the influence of alcohol, and aid in an offender's progress to making longer-term changes.

An IID vendor installs the device in the offender's vehicle. The person must blow into the device to enable the vehicle to start. If the device registers over a particular level of Blood Alcohol Content (BAC), the vehicle will not start. The person may try again, approximately 10 minutes later. The device will not allow the vehicle to start until the BAC registers under a set level. The device also registers the event recording the BAC failure. The customer has a schedule for returning to the vendor to download the data from the device, calibrate it, etc. Reports are given to the court or DMV, depending on whether the person was convicted or is under Diversion.

The 2017 legislature created a program to oversee both offenders and IID companies to bolster the effectiveness of the IID law and improve outcomes. By terms of that law, ODOT is to stand up the program and then hand over a fully-functioning and fully-funded program to OSP July 1, 2019. The ultimate goal of IIDs and the oversight program is to reduce impaired driving.

DISCUSSION

ODOT has established the oversight program contemplated in the 2017 legislation. As the agency implemented the bill, program staff identified several areas that require small changes to make the program run effectively and as originally intended by the legislative assembly. HB 3005 seeks to make those changes.

The clear intent of the 2017 legislation was that the program become self-supporting through fees. However, as interpreted by Department of Justice, the law provides very limited ability for the agency to assess fees. Therefore, ODOT has begun assessing fees as legally allowed, and back-filling with federal grant dollars. This is a temporary solution, as the program must become self-supporting particularly as the agency hands off the program to OSP. The bill removes the limits on the types of fees that may be assessed, and maintains the limitation that funds may be raised only to the level to pay program costs.

The bill also changes the BAC level that triggers a violation and prevents the vehicle from starting. The 2017 legislation, recognizing that in DUII Diversion a person is to abstain from alcohol, set the test violation at anything over 0.00 BAC. In the unstructured atmosphere of using an IID, the reading can be impacted in very small amounts by, for example, anything the driver has put in their mouth in the few minutes before using the IID. To account for those possibilities, the bill raises the test violation for those on Diversion to anything over 0.02 BAC. So that the IID companies can efficiently process violations regardless of whether the customer is on Diversion or has a DUII conviction (current violation level, depending on the situation, is statutorily set at .04 or .02), the bill sets all test violation levels at anything over 0.02 BAC.

The bill makes several changes to the way the agency regulates the IID companies. The original legislation provided for very limited, but in some cases overly restrictive, criminal history exclusions from employment as a technician. HB 3005 describes a better criminal background check to use, covers more conviction types, and eliminates how long a conviction can exclude a person from this work. The bill also clarifies the certification process for the various levels of IID businesses. HB 3005 distinguishes among the device manufacturer, the manufacturer's representatives (usually large companies), and service centers (storefronts or mobile installers) that are affiliated with a manufacturer's representative. Each has different roles and duties, so the bill clarifies those duties and the appropriate certification for each. The bill changes the business certifications to a one-year renewal rather than two years. Finally, the bill makes provision for OSP to override an IID company's finding of a BAC violation.

SUMMARY

IIDs are an important part of deterring impaired driving. The legislature established an oversight program, looking at both offenders and the IID businesses, to improve outcomes. HB 3005 provides technical fixes to that program to make it more effective.