

HCS HB 87 -- DRIVING WHILE INTOXICATED (Griffith)

COMMITTEE OF ORIGIN: Standing Committee on Crime and Public Safety

Currently, a person who has had his or her driver's license suspended or revoked because of an assessment of points for an intoxication-related traffic offense conviction and who has a prior alcohol-related enforcement contact must show proof to the Director of Revenue that any motor vehicle driven by the person has a certified ignition interlock device installed, and the ignition interlock device must be installed for at least six months. Under this bill, the requirement applies only to a person who has an intoxication-related traffic offense conviction in which the person's blood alcohol content (BAC) was at least .08 but less than .15 and who has a prior alcohol-related enforcement contact or to a person who has an assessment of points for an intoxication-related traffic offense conviction in which the person's BAC was found to be .15 or more.

The bill also prohibits restricted driving privileges to be issued to any person whose driving record shows an intoxication-related traffic offense in which the person's BAC was found to be .15 or more until the person files proof with the Department of Revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device.

The bill also modifies the offense of driving while intoxicated. Currently, the offense is a class E felony if the defendant, while driving intoxicated, acts with criminal negligence, causing physical injury to another person. The bill increases the penalty for this provision to a class D felony. It is currently a class D felony if the defendant, while driving intoxicated, acts with criminal negligence, causing serious physical injury to another person. The bill increases the penalty for this provision to a class C felony. Currently, if the defendant is driving while intoxicated and acts with criminal negligence to cause the death of another person, the defendant is guilty of a class C felony; this bill increases the penalty for that to a class B felony. If the defendant, while driving intoxicated, acts with criminal negligence to cause the death of two or more persons or to cause the death of any person while the defendant has a BAC of at least .15 by weight of alcohol, or the defendant has been previously been found guilty as a habitual offender or of driving while intoxicated and causing the death of another person, the defendant will be guilty of a class A felony.

A person found guilty of driving while intoxicated and acting with criminal negligence to cause the death of another person will not be eligible for probation or parole until the person has served at

least five years' imprisonment. If the person has been found guilty of acting with criminal negligence, while driving while intoxicated, to cause the death of two or more persons or to cause the death of any person while the defendant has a BAC of at least .15 by weight of alcohol, the person will not be eligible for probation or parole until the person has served at least 10 years' imprisonment.

The bill also establishes a criminal case diversion program specifically for cases involving driving while intoxicated. In such cases, the current diversion program available to prosecutors will not apply; instead, the provisions of this bill will apply. A defendant can request to be diverted to the program by submitting a request to the prosecuting or circuit attorney and sending a copy of the request to the Department of Revenue within 15 days of his or her arrest. A prosecutor can divert a criminal case involving driving while intoxicated if certain requirements, specified in the bill, are met. Such diversion can continue for up to two years, and the defendant can be ordered to comply with appropriate terms, conditions, or programs.

One such requirement is the installation of an ignition interlock device for a period of no less than 12 months on any vehicle the defendant operates, and the defendant will be prohibited from operating a vehicle that is not equipped with an ignition interlock device. The installer of the ignition interlock device must notify the Department if the device is removed or indicates that a person has attempted to remove, bypass, or tamper with the device; if the person fails three or more times to comply with any requirement for the maintenance or calibration of the device; or if the device registers a failed start. If the person has a failed start within the last 90 days of the required period of installation of the device, the term will be extended for 90 days.

If the defendant complies with the terms and conditions of the diversion program, the action against the defendant will be dismissed, the dismissal will be recorded, and the record will be transmitted to the Department. If the defendant does not comply with the terms and conditions, a hearing will be held, after notice to the defendant, to determine whether the criminal proceedings will be reinstated. Any defendant found guilty of an intoxication-related traffic offense who has previously utilized the DWI diversion program will be considered a prior offender as defined in Section 577.001, RSMo, if the prior offense occurred within five years of the intoxication-related offense for which the person is charged. Finally, for the limited purpose of determining whether a defendant is a chronic, habitual, persistent, or prior offender under Section 577.001, a criminal case diverted to a DWI diversion

program will be counted as one intoxication-related traffic offense.