

As Introduced

**128th General Assembly
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H. B. No. 78

Representatives Hottinger, Weddington

Cosponsors: Representatives Evans, Snitchler, Chandler

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A B I L L

To amend sections 4510.13 and 4510.46 of the Revised Code to require first-time OVI offenders and other OVI offenders to use a certified ignition interlock device and to wear a continuous alcohol monitor if the offender tampers with or otherwise violates an ignition interlock device and to make other changes to OVI law.

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

Section 1. That sections 4510.13 and 4510.46 of the Revised Code be amended to read as follows:

Sec. 4510.13. (A)(1) Divisions (A)(2) to (9) of this section apply to a judge or mayor regarding the suspension of, or the grant of limited driving privileges during a suspension of, an offender's driver's or commercial driver's license or permit or nonresident operating privilege imposed under division (G) or (H) of section 4511.19 of the Revised Code, under division (B) or (C) of section 4511.191 of the Revised Code, or under section 4510.07 of the Revised Code for a conviction of a violation of a municipal OVI ordinance.

(2) No judge or mayor shall suspend the following portions of

the suspension of an offender's driver's or commercial driver's 20
license or permit or nonresident operating privilege imposed under 21
division (G) or (H) of section 4511.19 of the Revised Code or 22
under section 4510.07 of the Revised Code for a conviction of a 23
violation of a municipal OVI ordinance, provided that division 24
(A)(2) of this section does not limit a court or mayor in 25
crediting any period of suspension imposed pursuant to division 26
(B) or (C) of section 4511.191 of the Revised Code against any 27
time of judicial suspension imposed pursuant to section 4511.19 or 28
4510.07 of the Revised Code, as described in divisions (B)(2) and 29
(C)(2) of section 4511.191 of the Revised Code: 30

(a) The first six months of a suspension imposed under 31
division (G)(1)(a) of section 4511.19 of the Revised Code or of a 32
comparable length suspension imposed under section 4510.07 of the 33
Revised Code; 34

(b) The first year of a suspension imposed under division 35
(G)(1)(b) or (c) of section 4511.19 of the Revised Code or of a 36
comparable length suspension imposed under section 4510.07 of the 37
Revised Code; 38

(c) The first three years of a suspension imposed under 39
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 40
or of a comparable length suspension imposed under section 4510.07 41
of the Revised Code; 42

(d) The first sixty days of a suspension imposed under 43
division (H) of section 4511.19 of the Revised Code or of a 44
comparable length suspension imposed under section 4510.07 of the 45
Revised Code. 46

(3) No judge or mayor shall grant limited driving privileges 47
to an offender whose driver's or commercial driver's license or 48
permit or nonresident operating privilege has been suspended under 49
division (G) or (H) of section 4511.19 of the Revised Code, under 50

division (C) of section 4511.191 of the Revised Code, or under 51
section 4510.07 of the Revised Code for a municipal OVI conviction 52
if the offender, within the preceding six years, has been 53
convicted of or pleaded guilty to three or more violations of one 54
or more of the Revised Code sections, municipal ordinances, 55
statutes of the United States or another state, or municipal 56
ordinances of a municipal corporation of another state that are 57
identified in divisions (G)(2)(b) to (h) of section 2919.22 of the 58
Revised Code. 59

Additionally, no judge or mayor shall grant limited driving 60
privileges to an offender whose driver's or commercial driver's 61
license or permit or nonresident operating privilege has been 62
suspended under division (B) of section 4511.191 of the Revised 63
Code if the offender, within the preceding six years, has refused 64
three previous requests to consent to a chemical test of the 65
person's whole blood, blood serum or plasma, breath, or urine to 66
determine its alcohol content. 67

(4) No judge or mayor shall grant limited driving privileges 68
for employment as a driver of commercial motor vehicles to an 69
offender whose driver's or commercial driver's license or permit 70
or nonresident operating privilege has been suspended under 71
division (G) or (H) of section 4511.19 of the Revised Code, under 72
division (B) or (C) of section 4511.191 of the Revised Code, or 73
under section 4510.07 of the Revised Code for a municipal OVI 74
conviction if the offender is disqualified from operating a 75
commercial motor vehicle, or whose license or permit has been 76
suspended, under section 3123.58 or 4506.16 of the Revised Code. 77

(5) No judge or mayor shall grant limited driving privileges 78
to an offender whose driver's or commercial driver's license or 79
permit or nonresident operating privilege has been suspended under 80
division (G) or (H) of section 4511.19 of the Revised Code, under 81
division (C) of section 4511.191 of the Revised Code, or under 82

section 4510.07 of the Revised Code for a conviction of a 83
violation of a municipal OVI ordinance during any of the following 84
periods of time: 85

(a) The first fifteen days of a suspension imposed under 86
division (G)(1)(a) of section 4511.19 of the Revised Code or a 87
comparable length suspension imposed under section 4510.07 of the 88
Revised Code, or of a suspension imposed under division (C)(1)(a) 89
of section 4511.191 of the Revised Code. On or after the sixteenth 90
day of the suspension, the court may grant limited driving 91
privileges, ~~but the~~ and either of the following applies: 92

(i) If the underlying arrest is alcohol-related, the court 93
may require shall issue an order that the offender shall not 94
exercise the privileges unless the vehicles the offender operates 95
are equipped with immobilizing or disabling devices that monitor 96
the offender's alcohol consumption or any other type of 97
immobilizing or disabling devices, except as provided in division 98
(C) of section 4510.43 of the Revised Code, for the remainder of 99
the period of suspension the offender shall not exercise the 100
privileges unless the vehicles the offender operates are equipped 101
with a certified ignition interlock device. 102

(ii) If the underlying arrest is drug-related, the court in 103
its discretion may issue an order that, except as provided in 104
division (C) of section 4510.43 of the Revised Code, for the 105
remainder of the period of suspension the offender shall not 106
exercise the privileges unless the vehicles the offender operates 107
are equipped with a certified ignition interlock device. 108

(b) The first forty-five days of a suspension imposed under 109
division (C)(1)(b) of section 4511.191 of the Revised Code. On or 110
after the ~~thirty-first~~ forty-sixth day of suspension, the court 111
may grant limited driving privileges, but the court may require 112
that the offender shall not exercise the privileges unless the 113
vehicles the offender operates are equipped with immobilizing or 114

disabling devices that monitor the offender's alcohol consumption 115
or any other type of immobilizing or disabling devices, except as 116
provided in division (C) of section 4510.43 of the Revised Code. 117

(c) The first sixty days of a suspension imposed under 118
division (H) of section 4511.19 of the Revised Code or a 119
comparable length suspension imposed under section 4510.07 of the 120
Revised Code. 121

(d) The first one hundred eighty days of a suspension imposed 122
under division (C)(1)(c) of section 4511.191 of the Revised Code. 123
On or after the ~~first~~ one hundred ~~eighty days~~ eighty-first day of 124
suspension, the court may grant limited driving privileges, and 125
either of the following applies: 126

(i) If the underlying arrest is alcohol-related, the court 127
shall issue an order that, except as provided in division (C) of 128
section 4510.43 of the Revised Code, for the remainder of the 129
period of suspension the offender shall not exercise the 130
privileges unless the vehicles the offender operates are equipped 131
with a certified ignition interlock device. 132

(ii) If the underlying arrest is drug-related, the court in 133
its discretion may issue an order that, except as provided in 134
division (C) of section 4510.43 of the Revised Code, for the 135
remainder of the period of suspension the offender shall not 136
exercise the privileges unless the vehicles the offender operates 137
are equipped with a certified ignition interlock device. 138

(e) The first forty-five days of a suspension imposed under 139
division (G)(1)(b) of section 4511.19 of the Revised Code or a 140
comparable length suspension imposed under section 4510.07 of the 141
Revised Code. On or after the forty-sixth day of the suspension, 142
the court may grant limited driving privileges, and either of the 143
following applies: 144

(i) If the underlying conviction is alcohol-related, the 145

court shall issue an order that, except as provided in division 146
(C) of section 4510.43 of the Revised Code, for the remainder of 147
the period of suspension the offender shall not exercise the 148
privileges unless the vehicles the offender operates are equipped 149
with a certified ignition interlock device. 150

(ii) If the underlying conviction is drug-related, the court 151
in its discretion may issue an order that, except as provided in 152
division (C) of section 4510.43 of the Revised Code, for the 153
remainder of the period of suspension the offender shall not 154
exercise the privileges unless the vehicles the offender operates 155
are equipped with a certified ignition interlock device. 156

(f) The first one hundred eighty days of a suspension imposed 157
under division (G)(1)(c) of section 4511.19 of the Revised Code or 158
a comparable length suspension imposed under section 4510.07 of 159
the Revised Code. On or after the one hundred eighty-first day of 160
the suspension, the court may grant limited driving privileges, 161
and either of the following applies: 162

(i) If the underlying conviction is alcohol-related, the 163
court shall issue an order that, except as provided in division 164
(C) of section 4510.43 of the Revised Code, for the remainder of 165
the period of suspension the offender shall not exercise the 166
privileges unless the vehicles the offender operates are equipped 167
with a certified ignition interlock device. 168

(ii) If the underlying conviction is drug-related, the court 169
in its discretion may issue an order that, except as provided in 170
division (C) of section 4510.43 of the Revised Code, for the 171
remainder of the period of suspension the offender shall not 172
exercise the privileges unless the vehicles the offender operates 173
are equipped with a certified ignition interlock device. 174

(g) The first three years of a suspension imposed under 175
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 176

or a comparable length suspension imposed under section 4510.07 of 177
the Revised Code, or of a suspension imposed under division 178
(C)(1)(d) of section 4511.191 of the Revised Code. On or after the 179
first three years of suspension, the court may grant limited 180
driving privileges, and either of the following applies: 181

(i) If the underlying conviction is alcohol-related, the 182
court shall issue an order that, except as provided in division 183
(C) of section 4510.43 of the Revised Code, for the remainder of 184
the period of suspension the offender shall not exercise the 185
privileges unless the vehicles the offender operates are equipped 186
with a certified ignition interlock device. 187

(ii) If the underlying conviction is drug-related, the court 188
in its discretion may issue an order that, except as provided in 189
division (C) of section 4510.43 of the Revised Code, for the 190
remainder of the period of suspension the offender shall not 191
exercise the privileges unless the vehicles the offender operates 192
are equipped with a certified ignition interlock device. 193

(6) No judge or mayor shall grant limited driving privileges 194
to an offender whose driver's or commercial driver's license or 195
permit or nonresident operating privilege has been suspended under 196
division (B) of section 4511.191 of the Revised Code during any of 197
the following periods of time: 198

(a) The first thirty days of suspension imposed under 199
division (B)(1)(a) of section 4511.191 of the Revised Code; 200

(b) The first ninety days of suspension imposed under 201
division (B)(1)(b) of section 4511.191 of the Revised Code; 202

(c) The first year of suspension imposed under division 203
(B)(1)(c) of section 4511.191 of the Revised Code; 204

(d) The first three years of suspension imposed under 205
division (B)(1)(d) of section 4511.191 of the Revised Code. 206

(7) In any case in which a judge or mayor grants limited driving privileges to an offender whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under division (G)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code, under division (G)(1)(a) of section 4511.19 of the Revised Code for a violation of division (A)(1)(f), (g), (h), or (i) of that section, or under section 4510.07 of the Revised Code for a municipal OVI conviction for which sentence would have been imposed under division (G)(1)(a)(ii) or (G)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code had the offender been charged with and convicted of a violation of section 4511.19 of the Revised Code instead of a violation of the municipal OVI ordinance, the judge or mayor shall impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under section 4503.231 of the Revised Code, except as provided in division (B) of that section.

(8) In any case in which ~~the~~ an offender who is required to use an ignition interlock device operates a motor vehicle that is not equipped with an ignition interlock device, circumvents the device, or tampers with the device or in any case in which the court receives notice pursuant to section 4510.46 of the Revised Code that a certified ignition interlock device required by an order issued under division (A)(5)(a), (e), (f), or (g) of this section prevented an offender from starting a motor vehicle, the following applies:

(a) If the offender was sentenced under division (G)(1)(a) or (b) of section 4511.19 of the Revised Code, on a first instance the court may require the offender to wear a monitor that provides continuous alcohol monitoring that is remote. On a second instance, the court shall require the offender to wear a monitor

that provides continuous alcohol monitoring that is remote for a 239
minimum of forty days. On a third instance or more, the court 240
shall require the offender to wear a monitor that provides 241
continuous alcohol monitoring that is remote for a minimum of 242
sixty days. 243

(b) If the offender was sentenced under division (G)(1)(c), 244
(d), or (e) of section 4511.19 of the Revised Code, on a first 245
instance the court shall require the offender to wear a monitor 246
that provides continuous alcohol monitoring that is remote for a 247
minimum of forty days. On a second instance or more, the court 248
shall require the offender to wear a monitor that provides 249
continuous alcohol monitoring that is remote for a minimum of 250
sixty days. 251

(9) In any case in which the court issues an order under this 252
section prohibiting an offender from exercising limited driving 253
privileges unless the vehicles the offender operates are equipped 254
with an immobilizing or disabling device, including a certified 255
ignition interlock device, or requires an offender to wear a 256
monitor that provides continuous alcohol monitoring that is 257
remote, the court shall impose an additional court cost of two 258
dollars and fifty cents upon the offender. The court shall not 259
waive the payment of the two dollars and fifty cents unless the 260
court determines that the offender is indigent and waives the 261
payment of all court costs imposed upon the indigent offender. The 262
clerk of court shall retain one hundred per cent of this court 263
cost. The clerk of court shall transmit one hundred per cent of 264
this court cost collected during a month on the first business day 265
of the following month to the state treasury to be credited to the 266
state highway safety fund created under section 4501.06 of the 267
Revised Code, to be used by the department of public safety to 268
cover costs associated with maintaining the habitual OVI/OMWI 269
offender registry created under section 5502.10 of the Revised 270

Code. In its discretion the court may impose an additional court 271
cost of two dollars and fifty cents upon the offender. The clerk 272
of court shall retain this two dollar and fifty cent court cost, 273
if imposed, and shall deposit it in the court's special projects 274
fund that is established under division (E)(1) of section 2303.201 275
or division (B)(1) of section 1901.26 of the Revised Code. 276

(10) In any case in which the court issues an order under 277
this section prohibiting an offender from exercising limited 278
driving privileges unless the vehicles the offender operates are 279
equipped with an immobilizing or disabling device, including a 280
certified ignition interlock device, the court shall notify the 281
offender at the time the offender is granted limited driving 282
privileges that, in accordance with section 4510.46 of the Revised 283
Code, if the court receives notice that the device prevented the 284
offender from starting the motor vehicle because the device was 285
tampered with or circumvented or because the analysis of the 286
deep-lung breath sample or other method employed by the device to 287
measure the concentration by weight of alcohol in the offender's 288
breath indicated the presence of alcohol in the offender's breath 289
in a concentration sufficient to prevent the device from 290
permitting the motor vehicle to be started, the court may increase 291
the period of suspension of the offender's driver's or commercial 292
driver's license or permit or nonresident operating privilege from 293
that originally imposed by the court by a factor of two and may 294
increase the period of time during which the offender will be 295
prohibited from exercising any limited driving privileges granted 296
to the offender unless the vehicles the offender operates are 297
equipped with a certified ignition interlock device by a factor of 298
two. 299

(B) Any person whose driver's or commercial driver's license 300
or permit or nonresident operating privilege has been suspended 301
pursuant to section 4511.19 or 4511.191 of the Revised Code or 302

under section 4510.07 of the Revised Code for a violation of a 303
municipal OVI ordinance may file a petition for limited driving 304
privileges during the suspension. The person shall file the 305
petition in the court that has jurisdiction over the place of 306
arrest. Subject to division (A) of this section, the court may 307
grant the person limited driving privileges during the period 308
during which the suspension otherwise would be imposed. However, 309
the court shall not grant the privileges for employment as a 310
driver of a commercial motor vehicle to any person who is 311
disqualified from operating a commercial motor vehicle under 312
section 4506.16 of the Revised Code or during any of the periods 313
prescribed by division (A) of this section. 314

(C)(1) After a driver's or commercial driver's license or 315
permit or nonresident operating privilege has been suspended 316
pursuant to section 2903.06, 2903.08, 2903.11, 2907.24, 2921.331, 317
2923.02, 2929.02, 4511.19, 4511.251, 4549.02, 4549.021, or 5743.99 318
of the Revised Code, any provision of Chapter 2925. of the Revised 319
Code, or section 4510.07 of the Revised Code for a violation of a 320
municipal OVI ordinance, the judge of the court or mayor of the 321
mayor's court that suspended the license, permit, or privilege 322
shall cause the offender to deliver to the court the license or 323
permit. The judge, mayor, or clerk of the court or mayor's court 324
shall forward to the registrar the license or permit together with 325
notice of the action of the court. 326

(2) A suspension of a commercial driver's license under any 327
section or chapter identified in division (C)(1) of this section 328
shall be concurrent with any period of suspension or 329
disqualification under section 3123.58 or 4506.16 of the Revised 330
Code. No person who is disqualified for life from holding a 331
commercial driver's license under section 4506.16 of the Revised 332
Code shall be issued a driver's license under this chapter during 333
the period for which the commercial driver's license was suspended 334

under this section, and no person whose commercial driver's 335
license is suspended under any section or chapter identified in 336
division (C)(1) of this section shall be issued a driver's license 337
under Chapter 4507. of the Revised Code during the period of the 338
suspension. 339

(3) No judge or mayor shall suspend any class one suspension, 340
or any portion of any class one suspension, imposed under section 341
2903.04, 2903.06, 2903.08, or 2921.331 of the Revised Code. No 342
judge or mayor shall suspend the first thirty days of any class 343
two, class three, class four, class five, or class six suspension 344
imposed under section 2903.06, 2903.08, 2903.11, 2923.02, or 345
2929.02 of the Revised Code. 346

(D) The judge of the court or mayor of the mayor's court 347
shall credit any time during which an offender was subject to an 348
administrative suspension of the offender's driver's or commercial 349
driver's license or permit or nonresident operating privilege 350
imposed pursuant to section 4511.191 or 4511.192 of the Revised 351
Code or a suspension imposed by a judge, referee, or mayor 352
pursuant to division (B)(1) or (2) of section 4511.196 of the 353
Revised Code against the time to be served under a related 354
suspension imposed pursuant to any section or chapter identified 355
in division (C)(1) of this section. 356

(E) The judge or mayor shall notify the bureau of motor 357
vehicles of any determinations made pursuant to this section and 358
of any suspension imposed pursuant to any section or chapter 359
identified in division (C)(1) of this section. 360

(F)(1) If a court issues an immobilizing or disabling device 361
order under section 4510.43 of the Revised Code, the order shall 362
authorize the offender during the specified period to operate a 363
motor vehicle only if it is equipped with an immobilizing or 364
disabling device, except as provided in division (C) of that 365
section. The court shall provide the offender with a copy of an 366

immobilizing or disabling device order issued under section 367
4510.43 of the Revised Code, and the offender shall use the copy 368
of the order in lieu of an Ohio driver's or commercial driver's 369
license or permit until the registrar or a deputy registrar issues 370
the offender a restricted license. 371

An order issued under section 4510.43 of the Revised Code 372
does not authorize or permit the offender to whom it has been 373
issued to operate a vehicle during any time that the offender's 374
driver's or commercial driver's license or permit is suspended 375
under any other provision of law. 376

(2) An offender may present an immobilizing or disabling 377
device order to the registrar or to a deputy registrar. Upon 378
presentation of the order to the registrar or a deputy registrar, 379
the registrar or deputy registrar shall issue the offender a 380
restricted license. A restricted license issued under this 381
division shall be identical to an Ohio driver's license, except 382
that it shall have printed on its face a statement that the 383
offender is prohibited during the period specified in the court 384
order from operating any motor vehicle that is not equipped with 385
an immobilizing or disabling device. The date of commencement and 386
the date of termination of the period of suspension shall be 387
indicated conspicuously upon the face of the license. 388

Sec. 4510.46. (A) A governmental agency, bureau, department, 389
or office, or a private corporation, or any other entity that 390
monitors certified ignition interlock devices for or on behalf of 391
a court shall inform the court whenever such a device that has 392
been installed in a motor vehicle indicates that it has prevented 393
an offender whose driver's or commercial driver's license or 394
permit or nonresident operating privilege has been suspended by a 395
court under division (G)(1)(a), (b), (c), (d), or (e) of section 396
4511.19 of the Revised Code and who has been granted limited 397

driving privileges under section 4510.13 of the Revised Code from 398
starting the motor vehicle because the device was tampered with or 399
circumvented or because the analysis of the deep-lung breath 400
sample or other method employed by the ignition interlock device 401
to measure the concentration by weight of alcohol in the 402
offender's breath indicated the presence of alcohol in the 403
offender's breath in a concentration sufficient to prevent the 404
ignition interlock device from permitting the motor vehicle to be 405
started. 406

(B) Upon receipt of such information pertaining to an 407
offender whose driver's or commercial driver's license or permit 408
or nonresident operating privilege has been suspended by a court 409
under division (G)(1)(a), (b), (c), (d), or (e) of section 4511.19 410
of the Revised Code and who has been granted limited driving 411
privileges under section 4510.13 of the Revised Code, the court 412
shall send a notice to the offender stating that it has received 413
evidence of an instance described in division (A) of this section. 414
If a court pursuant to division (A)(8) of section 4510.13 of the 415
Revised Code requires the offender to wear an alcohol monitor, the 416
notice shall state that because of this instance the offender is 417
required to wear a monitor that provides for continuous alcohol 418
monitoring in accordance with division (A)(8) of section 4510.13 419
of the Revised Code. The notice shall further state that because 420
of this instance the court may increase the period of suspension 421
of the offender's driver's or commercial driver's license or 422
permit or nonresident operating privilege from that originally 423
imposed by the court by a factor of two and may increase the 424
period of time during which the offender will be prohibited from 425
exercising any limited driving privileges granted to the offender 426
unless the vehicles the offender operates are equipped with a 427
certified ignition interlock device by a factor of two. 428

The notice shall state whether the court will impose these increases and, if so, that these increases will take effect fourteen days from the date of the notice unless the offender files a timely motion with the court, appealing the increases in the time described in this division and requesting a hearing on the matter. Any such motion that is filed within that fourteen-day period shall be considered to be filed in a timely manner, and any such motion that is filed after that fourteen-day period shall be considered not to be filed in a timely manner. If the offender files a timely motion, the court may hold a hearing on the matter. The scope of the hearing is limited to determining whether the offender in fact was prevented from starting a motor vehicle that is equipped with a certified ignition interlock device because the device was tampered with or circumvented or because the analysis of the deep-lung breath sample or other method employed by the ignition interlock device to measure the concentration by weight of alcohol in the offender's breath indicated the presence of alcohol in the offender's breath in a concentration sufficient to prevent the ignition interlock device from permitting the motor vehicle to be started.

If the court finds by a preponderance of the evidence that this instance as indicated by the ignition interlock device in fact did occur, it may deny the offender's appeal and issue the order increasing the relevant periods of time described in this division. If the court finds by a preponderance of the evidence that this instance as indicated by the ignition interlock device in fact did not occur, it shall grant the offender's appeal and no such order shall be issued.

(C) In no case shall any period of suspension of an offender's driver's or commercial driver's license or permit or nonresident operating privilege that is increased by a factor of

two or any period of time during which the offender is prohibited 462
from exercising any limited driving privileges granted to the 463
offender unless the vehicles the offender operates are equipped 464
with a certified ignition interlock device that is increased by a 465
factor of two exceed the maximum period of time for which the 466
court originally was authorized to suspend the offender's driver's 467
or commercial driver's license or permit or nonresident operating 468
privilege under division (G)(1)(a), (b), (c), (d), or (e) of 469
section 4511.19 of the Revised Code. 470

(D) Nothing in this section shall be construed as prohibiting 471
the court from revoking an individual's driving privileges. 472

Section 2. That existing sections 4510.13 and 4510.46 of the 473
Revised Code are hereby repealed. 474