

Act 2018-517 (SB1) Ignition Interlock Law

Alabama's ignition interlock law first came into effect in September 2011. Since that time, small changes have been made to increase its enforceability. This year, the Ignition Interlock Coalition made a concerted effort to change the law in order to spur an increase in use of ignition interlocks and ultimately to make them more money. All of these new provisions go into effect July 1, 2018.

The first significant addition to the interlock law is the requirement that any DUI admitted to a pretrial diversion program must include an ignition interlock device upon entrance into the program. Even if a jurisdiction does not have a defined pretrial diversion program, any form of deferral is covered under this act and the defendant must install an ignition interlock. Currently, this subsection will sunset after 5 years, but there is a movement to remove this provision in a future legislative session.

The second change effects the time periods of the ignition interlock. Currently, on a first offense that qualifies as a mandatory install of ignition interlock, the length a defendant must have the interlock is 2 years. If a first offender elects to install the interlock, they have to have the interlock for 6 months. According to the new Act, these time periods are reduced to 1 year and 90 days, respectively. On Felony DUI convictions the mandatory interlock period will be reduced from 5 years to 4 years. There is also an elimination of the doubling section as it applies to ignition interlocks. However, the legislature modified 32-5A-191(t)(2) to allow, upon refusal of the prescribed chemical test, for the interlock period to be extended by one year.

The third significant change is the money involved with ignition interlocks. Currently, a defendant makes a payment of \$75 for the first 4 months, and the money is distributed as follows:

- 45% to the Alabama Interlock Indigent Fund;
- 20% to the State Judicial Administration Fund;
- 20% to the Highway Traffic Safety Fund administered by DPS;
- 15% to the DA's Solicitor Fund.

The payment and breakdown changes on July 1st. The fee is reduced to \$200 and the defendant may be allowed to make installment payments. The new breakdown is as follows:

- 17% to the Alabama Interlock Indigent Fund;
- 30% to the State or Municipal Judicial Administration Fund;
- 30% to the Highway Traffic Safety Fund administered by DPS;
- 23% to the DA's Solicitor Fund.

Also, if the court declares the defendant indigent, he or she is not required to pay the court fees associated with interlock, installation fee of the ignition interlock, or the maintenance fees for the interlock. These fees may be waived for those in a pretrial diversion program, as long as the program waives their fees for indigent defendants. The defendant will pay any fees for

violations of ignition interlock requirements, for any elected optional services, and for any missing or damaged equipment.

Finally, a new condition imposed by this legislation is that there must be an interlock provider within 50 miles of his or her residence, business, or employment. If there is not a provider within this radius, a judge does not have to order that an ignition interlock be installed by a defendant. This condition could be very problematic for the interlock companies and gives the judge a way to avoid the interlock requirements all together.

Act 2018-546 (SB90) DUI Lookback

The DUI code section was first adopted in 1980. During the early years of the DUI law, we have determined sentencing ranges based on conviction dates. Since April 28, 2006, there has been a 5 year look back for DUI convictions, meaning that previous DUI convictions cannot be used to determine the appropriate sentencing range if that DUI conviction occurred more than 5 years from the conviction date.

There are three major changes to the DUI law in Act 2018-546; all of which will take effect July 1, 2018. The first change is the time period prosecutors are allowed to lookback and count prior DUI convictions for sentencing purposes. The legislature has extended the lookback from 5 years to 10 years.

Next, the act changes how prosecutors determine how we determine if a conviction is within the range of the lookback. Prosecutors will now look at the offense date of the present offense and lookback 10 years. Any prior DUI convictions within the past 10 years will count toward the defendant's sentencing range. This change allows for the time to stop running at the current offense date, so there is no worry about how long or how many appeals the defendant files in court.

Finally, the DUI law has been amended so that once an individual is now convicted of a Felony DUI, all future DUI arrests will be a felony. Please keep in mind that these changes only effect those offenses that occur after June 30, 2018.