

LEGISLATIVE COMMITTEE MINUTES

SB236

Bill as
Introduced

SB 236-FN - AS INTRODUCED

2015 SESSION

15-1000
03/06

SENATE BILL **236-FN**
AN ACT relative to alcohol ignition interlock requirements.
SPONSORS: Sen. Bradley, Dist 3; Rep. Packard, Rock 5
COMMITTEE: Transportation

ANALYSIS

This bill makes various changes relating to enforcement of alcohol ignition interlock requirements.

This bill was requested by the department of safety.

Explanation: Matter added to current law appears in *bold italics*.
 Matter removed from current law appears [~~in brackets and struckthrough.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to alcohol ignition interlock requirements.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Alcohol Ignition Interlock Circumvention. Amend RSA 265-A:37, II to read as follows:

2 II. No person who is subject to an interlock order of the court or of the commissioner and no
3 person who is conspiring with or attempting to permit a person subject to such an interlock order to
4 circumvent the order shall tamper with, or in any way attempt to circumvent the operation of an
5 ignition interlock device that has been installed in a motor vehicle, and no person who is subject to
6 an interlock order shall knowingly drive a vehicle in which the interlock device has been
7 circumvented or otherwise illegally tampered with. *As a condition of having a vehicle equipped*
8 *with an ignition interlock device, the vehicle owner assents to an inspection of the device by*
9 *a representative of the director at reasonable times upon prior notice in order to determine*
10 *that the interlock has not been subject to tampering or circumvention.*

11 2 Alcohol Ignition Interlock Circumvention. Amend RSA 265-A:37, III-a to read as follows:

12 III-a. Upon satisfactory proof that a person who is restricted by law to drive only a motor
13 vehicle equipped with an ignition interlock device has attempted to start a motor vehicle equipped
14 with an ignition interlock device while having an alcohol concentration of greater than ~~[-02]~~ .025, the
15 department, after a hearing, may impose for each occurrence an additional period of up to one year
16 following the expiration of the original interlock order during which the person shall be restricted to
17 driving only a vehicle equipped with an ignition interlock device.

18 3 Violating Order. Amend RSA 265-A:38 to read as follows:

19 265-A:38 Violating ~~[Court]~~ *Interlock* Order.

20 I. Upon written notice, by affidavit, that any person has violated an order of the court *or the*
21 *commissioner* with regard to the installation of an ignition interlock device after the period of
22 revocation or suspension imposed in RSA 265-A:18, 265:79, or 630:3, a hearing shall be scheduled
23 within 14 business days of the notice. Pending the hearing and upon a finding of probable cause that
24 a violation has occurred based upon the affidavit, the ~~[court]~~ *commissioner* shall immediately
25 suspend the defendant's privilege to drive a motor vehicle. After the hearing and upon a finding of
26 violation by a preponderance of the evidence, the privilege to drive shall not be restored until the
27 ~~[court]~~ *commissioner* is satisfied that the person is in compliance with ~~[its]~~ *the* order.

28 II. If it is found that a person required to drive a motor vehicle equipped with an ignition
29 interlock device has failed *without reasonable cause including, but not limited to, illness,*
30 *hospitalization, or incarceration,* to comply with any requirement for the maintenance or
31 calibration of the device, or shows a consistent pattern of failures to pass the breath test provided by

1 the device, the *commissioner after a hearing may order a further license suspension or*
2 *revocation for a period of not more than 12 months. In addition, upon a complaint the*
3 court may order a *show cause* hearing to determine if the person should be held in contempt of
4 court. Upon a finding of contempt, the court may sentence the defendant to up to 6 months in a
5 county department of corrections facility, *and* may make such other orders as necessary to bring
6 about compliance, and *in the absence of a license suspension by the commissioner* may order a
7 further license suspension or revocation for a period of not more than 12 months. The period of
8 suspension or revocation under this section shall be added to any previously ordered suspension or
9 revocation.

10 4 New Subparagraph; Interlock Violations. Amend RSA 265-A:38-a, I by inserting after
11 subparagraph (h) the following new subparagraph:

12 (i) More than one attempt to start the vehicle with a breath alcohol concentration of 0.05
13 or above.

14 5 New Paragraph; Removal Protocol. Amend RSA 265:38-a, by inserting after paragraph IV the
15 following new paragraph:

16 V. If a person, who is required to have an ignition interlock device installed in any vehicle
17 registered to or used by that person on a regular basis, removes or has the interlock removed without
18 first obtaining a removal certificate, the commissioner may suspend that person's license or driving
19 privilege until such time as the ignition interlock device is reinstalled.

20 6 Effective Date. This act shall take effect January 1, 2016.

LBAO
15-1000
02/03/15

SB 236-FN - FISCAL NOTE

AN ACT relative to alcohol ignition interlock requirements.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, as introduced, at this time. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

SB 236-FN - FINAL VERSION

2015 SESSION

15-1000
03/06

SENATE BILL **236-FN**

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COMMITTEE: Transportation

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Committee Minutes

AMENDED
SENATE CALENDAR NOTICE
TRANSPORTATION

Printed: 02/12/2015 at 3:16 pm

Senator Nancy Stiles Chairman
Senator Regina Birdsell V Chairman
Senator Gary Daniels
Senator David Watters
Senator Dan Feltes

| | |
|--|-----------------------------------|
| For Use by Senate Clerk's Office ONLY | |
| <input type="checkbox"/> | Bill Status |
| <input type="checkbox"/> | Docket |
| <input type="checkbox"/> | Calendar |
| Proof: <input type="checkbox"/> | Calendar <input type="checkbox"/> |
| | Bill Status |

Date: February 12, 2015

HEARINGS

Tuesday

2/17/2015

TRANSPORTATION

LOB 103

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

1:00 PM SB29-FN

relative to fines for motor vehicle offenses.

1:15 PM SB132-FN

relative to dredging projects conducted by the Pease development authority division of ports and harbors.

1:30 PM SB236-FN

relative to alcohol ignition interlock requirements.

Sponsors:

SB29-FN

Sen. Lou D'Allesandro

SB132-FN

Sen. Jeb Bradley

Sen. Martha Fuller Clark

Sen. Nancy Stiles

SB236-FN

Sen. Jeb Bradley

Rep. Sherman Packard

SENATE TRANSPORTATION COMMITTEE

Kerry Vinson, Legislative Aide

SB 236-FN – relative to alcohol ignition interlock requirements.

Hearing Date: February 17, 2015

Time Opened: 1:32pm

Time Closed: 1:45pm

Members of the Committee Present: Senators Stiles, Birdsell, Daniels, Watters, and Feltes.

Members of the Committee Absent: No one

Bill Analysis: This bill makes various changes relating to enforcement of alcohol ignition interlock requirements.

This bill was requested by the department of safety.

Sponsors: Sen. Bradley, Dist 3; Rep. Packard, Rock 5

Who supports the bill: Senator Bradley, Director Rick Bailey (NH DMV), and Howard Zibel (Judicial Branch).

Who opposes the bill: no one.

Summary of testimony presented in support:

Senator Bradley:

- Interlock device technology has improved over the years, oversight needs to improve, and the Department of Safety needs more authority to ensure that the people who are not using these devices appropriately receive further penalties; which is the essence of this bill.
- The point of an interlock device is to allow people with multiple offenses to continue with their life while not endangering people on the road.

Director Rick Bailey, DMV (provided visuals)

- This bill provides further corrections to the current interlock program.
- The interlock program was implemented in 2006 for a narrow set of multiple offender DWI convictions; next January (2016) this program will expand to providing a “limited license” (also known as a “Cinderella” license) enabling someone who has received their first DWI, but meets certain criteria as

determined by the court, to receive a limited license to drive after a 45 day suspension, allowing them to go to work and doctors' appointments; this will significantly expand the use of interlocks within the state.

- As they have run the program they have found a number of challenges within the statutes; this legislation continues to look at issues.
- Most people abide by the rules of the interlock program, but some make efforts to circumvent the systems; this legislation gives the Department of Safety the opportunity to manage how they deal with those people.
- Currently there are two vendors authorized to install the interlock systems and these motorists need to comply with monthly checks where information is downloaded and sent to the Department. There have been instances where the systems have obviously been tampered with; however, sometimes, the tampering is not so obvious; this legislation authorizes the Department of Safety to call and make checks if they've found something to have gone wrong within an interlock system based on the data they receive from the inspection.
- The people trying to circumvent the systems do so on a regular basis. This legislation will enable the department to do something about those offenders.
 - Senator Feltes asked for clarification as to what kind of notice the person will receive should the department suspect them of tampering with their system?
 - Director Bailey advised that the notice will be put into writing.
 - Senator Stiles asked for the amount of these offenders clarified.
 - Director Bailey said that receive reports from the two vendors of anyone's machines that show an anomaly, for example, failed tests, power interruptions, rolling retests where they're over the limit multiple times in a month; the reports show the number of instances not the number of offenders.
 - Senator Stiles inquired if this legislation increases the penalty.
 - **Bob Letourneau** (Director of the interlock program) responded that it's not increasing the penalty; just giving the DOS authority to deal with offenders. These systems are installed for multiple offenders, and aggravated DWI offenders, the "bad boys". The court requires them to have the device from 12-24 months; if you have this installed, you bring the installation certificate into the Department along with other requirements, and your license will be restored. If this person removes the device from their car a month later, they still have a valid license and the DOS currently does not have authority to do anything about that. These offenders are taking a chance by essentially circumventing the law, and may not get caught. The whole point of this program is to help these people change their ways. Often times it is effective, but there are situations in which people get away with cheating the law as it currently stands.
 - Senator Stiles asked what is causing the fiscal note in the legislation.

- Director Bailey responded that since this bill will enable the DOS to investigate potential problems with the systems and call the alleged offender into a hearing, this will increase the number of hearings, resulting in a greater number of extensions of the requirement for the interlock device; finding more violators results in more hearings, longer suspensions/in the program longer, incur some indeterminate amount of extra care and feeding through the hearing and restoration processes as a result. The pool of interlock users will be increasing as of January of next year but they are unsure of the fiscal impact; at this point they're thinking it's in the current cost of the administration of the program; however, they are not positive there won't be any increase due to the increase of resources that may be required.

Summary of testimony presented in opposition: none.

Fiscal Note: Please see fiscal note dated 2/3/15

Future Action: the committee recommended that the bill ought to pass by a vote of 5-0. Senator Watters will be bringing it to the floor.

KMV

Date hearing report completed: 2/18/15

[file: SB 236-FN report]

Speakers

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: 2/17/15

THE COMMITTEE ON Transportation

to which was referred Senate Bill 236-FN

AN ACT relative to alcohol ignition interlock requirements.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator David H. Watters
For the Committee

Kerry Vinson 271-3067

New Hampshire General Court - Bill Status System

Docket of SB236

Docket Abbreviations

Bill Title: relative to alcohol ignition interlock requirements.*Official Docket of SB236:*

| Date | Body | Description |
|-------------|-------------|--|
| 2/12/2015 | S | Introduced and Referred to Transportation; SJ 5 |
| 2/18/2015 | S | Committee Report: Ought to Pass, 3/5/15; SC11 |
| 3/5/2015 | S | Ought to Pass: MA, VV; OT3rdg; SJ 7 |
| 3/11/2015 | H | Introduced and Referred to Criminal Justice and Public Safety; HJ 26 , PG. 1274 |
| 3/31/2015 | H | Public Hearing: 4/9/2015 10:00 AM LOB 204 |
| 4/14/2015 | H | Executive Session: 4/21/2015 10:00 AM LOB 204 |
| 4/23/2015 | H | Committee Report: Ought to Pass for Apr 29 (Vote 16-1; RC); HC 32 , PG. 1487 |
| 4/29/2015 | H | Ought to Pass: MA VV; HJ 36 , PG. 1583 |
| 5/6/2015 | H | Enrolled; HJ 41 , PG. 1779 |
| 5/13/2015 | S | Enrolled (In recess 5/7/2015); SJ 14 |
| 6/11/2015 | S | Signed by the Governor on 06/08/2015; Chapter 0118; Effective 01/01/2016 |

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB0236-FM ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

___ - AMENDMENT # ___ ___ - AMENDMENT # ___
___ - AMENDMENT # ___ ___ - AMENDMENT # ___

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED ___ AS AMENDED BY THE HOUSE
 FINAL VERSION ___ AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

DATE DELIVERED TO SENATE CLERK 8/26/15

Lenny Vinson
BY COMMITTEE AIDE