

2021 Regular Session

HOUSE BILL NO. 633

BY REPRESENTATIVE WRIGHT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES: Provides relative to ignition interlock devices and maintenance services

1 AN ACT

2 To amend and reenact R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b), R.S.

3 15:307(section heading), (A), (C), (D), and (E), R.S. 32:378.2(A), (B)(1)(a)(ii), (aa),

4 (bb), (M)(2), and (N), 414(A)(1)(c)(i) and (ii), and (D)(1)(b), 667(B)(1)(b) and (c),

5 (3), and (I)(1)(a) and (b), and 668(B)(1)(a)(introductory paragraph) and (i), and (c),

6 and (2), and to enact R.S. 15:307(B)(3), (F), (G), and (H), 307.1, 307.2, and R.S.

7 32:667(K), relative to ignition interlock devices; to provide for the calibration of

8 ignition interlock devices; to provide standards for compliance with ignition

9 interlock devices; to change references to criminal offenses for driving while

10 intoxicated; to provide for a change in time periods that a driver is required to have

11 an ignition interlock device; to provide relative to restricted driver's licenses; to

12 provide for the addition of cameras to ignition interlock devices; to provide for an

13 extension of time that a driver is required to have an ignition interlock device upon

14 notice of a violation reset; to provide relative to first and second offense penalties for

15 operating a vehicle while intoxicated; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b) are hereby

18 amended and reenacted to read as follows:

1 §98.1. Operating while intoxicated; first offense; penalties

2 A.

3 \* \* \*

4 (2)(a) If the offender had a blood alcohol concentration of 0.15 percent or  
5 more but less than 0.20 percent by weight based on grams of alcohol per one hundred  
6 cubic centimeters of blood, at least forty-eight hours of the sentence imposed  
7 pursuant to Paragraph (1) of this Subsection shall be served without the benefit of  
8 parole, probation, or suspension of sentence, and is to be served in addition to any  
9 sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this  
10 Subsection, provided that the total period of imprisonment upon conviction of the  
11 offense, including imprisonment for default in payment of a fine or costs, shall not  
12 exceed six months.

13 (b) In addition to any penalties imposed under this Section, upon conviction  
14 of a first offense violation of R.S. 14:98, if the offender had a blood alcohol  
15 concentration of 0.15 percent or more by weight based on grams of alcohol per one  
16 hundred cubic centimeters of blood, the driver's license of the offender shall be  
17 suspended for two years.

18 (3)

19 \* \* \*

20 (b) In addition to any penalties imposed under this Section, upon conviction  
21 of a first offense, if the offender had a blood alcohol concentration of ~~0.20~~ 0.15  
22 percent or more by weight based on grams of alcohol per one hundred cubic  
23 centimeters of blood, the driver's license of the offender shall be suspended for two  
24 years.

25 \* \* \*

26 §98.2. Operating while intoxicated; second offense; penalties

27 A.

28 \* \* \*



1 the rules promulgated by the secretary of the Department of Public Safety and  
2 Corrections, hereafter referred to as the "secretary".

3 B.

4 \* \* \*

5 (3)(a) An ignition interlock device shall be calibrated for accuracy by using  
6 a dry gas alcohol standard with an alcohol reference value between .020 and .050  
7 g/210L.

8 (b) The calibration process shall consist of the following procedures:

9 (i) Prior to introducing a reference sample into a device, a three second purge  
10 must be expelled from the dry gas standard if using greater than six inches of open  
11 tubing.

12 (ii)(aa) For an "as found" check to introduce the sample into the device  
13 without an adjustment for accuracy, the test must be conducted prior to any  
14 adjustment for accuracy and the results must be recorded on the data logger.

15 (bb) The accuracy check shall consist of reference checks with the result of  
16 each individual check being within plus or minus 0.005 g/210L of the reference  
17 value introduced into the ignition interlock device.

18 (iii) Any ignition interlock device that does not pass calibration after  
19 adjustment shall be removed from service, and the serial number of the device kept  
20 on record for three years. An ignition interlock device removed from service for  
21 failing calibration shall only be placed back in service by the device's manufacturer  
22 if it meets the standards as provided for in this Chapter. All repairs shall be  
23 documented and kept in the record for three years.

24 C. The secretary shall formulate and promulgate a set of rules and  
25 regulations for the proper approval, installation, and use of ignition interlock ~~device~~  
26 devices in full compliance with this Section and R.S. 15:306. The standards shall  
27 include, but not be limited to, requirements that the devices ~~or systems~~:

28 ~~(1) Do not impede the safe operation of the vehicle.~~

29 ~~(2) Correlate with established measures of alcohol impairment.~~

- 1                   ~~(3) Work accurately and reliably in an unsupervised environment.~~
- 2                   ~~(4) Resist tampering and give evidence if tampering is attempted.~~
- 3                   ~~(5) Are difficult to circumvent.~~
- 4                   ~~(6) Minimize inconvenience to a sober user.~~
- 5                   ~~(7) Require a proper, deep lung breath sample or other accurate measure of~~  
6 ~~blood alcohol content equivalence.~~
- 7                   ~~(8) Operate reliably over the range of automobile environments.~~
- 8                   (9) (1) Are manufactured by a party business entity ~~who~~ that will provide  
9 product liability insurance and a bond against malfunction of the device.
- 10                  (2) Are installed in such a manner that it shall not interfere with the normal  
11 operation of the vehicle after it is started.
- 12                  (3) Protect against compromise or circumvention and preserve evidence of  
13 such activity.
- 14                  (4) Are resistant to tampering.
- 15                  (5) Have the ability to work reliably and accurately in an unsupervised  
16 environment.
- 17                  (6) Are designed to permit a restart within three minutes of a stall or when  
18 the ignition has been turned off.
- 19                  (7) Measure a person's breath-alcohol concentration by the delivery of a deep  
20 lung sample directly into the device.
- 21                  (8) Prevent operation of the vehicle if the breath-alcohol concentration of the  
22 sample introduced into the device exceeds 0.02g of alcohol per 210L of breath.
- 23                  (9) Ensure the automatic and complete purge of residual alcohol before  
24 allowing subsequent tests.
- 25                  (10) Allow a minimum of 1200ml or 1.2L of breath for an acceptable breath  
26 sample.
- 27                  (11) Require a random retest as follows:
- 28                  (a) The first retest shall be required at a random variable interval within ten  
29 minutes of starting the vehicle's engine. Subsequent retests shall be required at a

1 random variable interval ranging from ten to forty-five minutes from the previously  
2 requested test for the duration of the travel.

3 (b) The device shall allow five minutes for the retest to be completed during  
4 which the device will allow unlimited breath tests when a retest is in progress.

5 (c) The retest set point value shall be the same as the alcohol set point.

6 (d) A distinct audible or visual indicator shall come on to alert the driver that  
7 a retest is in progress. Once a retest is in progress, failure to deliver a breath sample  
8 below the alcohol set point within the time frame allowed shall:

9 (i) Activate the vehicle's horn to sound repeatedly, or activate a unique  
10 audible or visual indicator inside the passenger compartment of the vehicle until the  
11 engine is shut down.

12 (ii) Record a retest violation in the data storage system.

13 (iii) Disable the restart.

14 (e) If a circumvention is recorded, the random retest shall function as  
15 prescribed in Paragraph (C)(11) of this Section for the duration of travel.

16 (12) Include a supply of two disposable mouth pieces upon installation,  
17 designed to minimize the introduction of saliva into an ignition interlock device.

18 (13) Have all primary components, as identified by the Department of Public  
19 Safety and Corrections, office of state police, applied technology unit, with a unique  
20 serial number, which includes, but is not limited to, the storage device, handset, and  
21 camera.

22 (14) Enter a permanent lockout if the ignition interlock device has not been  
23 calibrated and serviced within a period of thirty-five days subsequent to its  
24 installation or last calibration or inspection, whichever occurs first.

25 (15) Uniquely identify and record the following:

26 (a) Each time the vehicle has a start attempt or is actually started.

27 (b) The results of all tests and retests violations.

28 (c) The length of time the vehicle was operated.

1           (d) Any indication of circumvention or tampering with the ignition interlock  
2           device or tests.

3           (16) On or before January 1, 2022, the secretary shall require a restricted  
4           operator to wait five minutes before attempting to start the vehicle a second or third  
5           time, and thirty minutes prior to any subsequent attempts to start the vehicle after the  
6           initial start failure occurs.

7           (17) Visibly indicate to the user or any qualified person that:

8           (a) The unit is on.

9           (b) The unit is in need of service or calibration.

10          (c) Passage or failure of the breath alcohol content threshold on the breath  
11          sample introduced.

12          (d) The unit may augment visible signals or indications with audible ones or  
13          any other indication required by the department.

14          (18) Enter into violation reset if any of the following occurs:

15          (a) The restricted operator fails to have the ignition interlock device serviced  
16          within the time period provided for in this Section.

17          (b) Any circumvention is recorded by the device.

18          (c) The device has recorded any of the following, or any combination of the  
19          following, three or more times in a thirty day period:

20          (i) A random retest fail or skip.

21          (ii) An initial start failure prior to starting the vehicle unless a second breath  
22          test below the alcohol set point is recorded within ten minutes of the initial start  
23          failure.

24          (19) Enter into a permanent lockout within five days unless the device is  
25          serviced at a mobile or fixed site service center by an ignition interlock technician  
26          or calibration technician where it will be calibrated and downloaded if a violation  
27          reset occurs.

1           (20) Incorporate a camera as prescribed in this Section. The camera shall not  
2           distract or impede the driver in any manner from the safe and legal operation of the  
3           vehicle and shall:

4           (a) Encode a digital or photographic image of the vehicle driver including  
5           the time, date, and breath alcohol content level of all breath attempts. All images  
6           and data shall be stored in the device's memory for a thirty day period to be  
7           downloaded and stored by the manufacturer for three years.

8           (b) Capture a digital image or photograph of the driver during the following  
9           circumstances:

10           (i) At the time a sample is introduced to start the vehicle.

11           (ii) Upon introducing a random retest sample.

12           (iii) When a violation reset condition is initiated.

13           (iv) Randomly at the discretion of the manufacturer.

14           (c) Produce a digital image, identifiable verification, or a photograph of the  
15           restricted driver in all lighting conditions including extreme brightness, darkness,  
16           and low light conditions.

17           D. The camera shall be required as follows:

18           (1) Any new ignition interlock device installation beginning January 1, 2022.

19           (2) All ignition interlock devices by March 31, 2022.

20           E.(1) The manufacturer, vendor, ignition interlock technician, or calibration  
21           technician shall notify the originating court of such violation reset conditions, if any,  
22           within five days of servicing the ignition interlock device. The manufacturer,  
23           vendor, ignition interlock technician, or calibration technician shall provide  
24           notification to the Department of Public Safety and Corrections, office of motor  
25           vehicles, and the Department of Public Safety and Corrections, office of state police,  
26           applied technology unit in an acceptable electronic format should the office of motor  
27           vehicles or the office of state police, applied technology unit promulgate rules  
28           requiring such notification of a violation reset condition.



1           (2) In addition to any other information required by the office of motor  
2           vehicles, the office of state police, applied technology unit, or the originating court,  
3           all reports concerning a particular ignition interlock device shall include all of the  
4           following:

5           (a) The full name, address, and driver's license number of the restricted  
6           operator and lessee.

7           (b) The registration number of the motor vehicle in which the ignition  
8           interlock device was installed.

9           (c) The unique serial number of the ignition interlock device.

10          (d) The toll free telephone number of a representative that can explain the  
11          report from an ignition interlock device.

12          ~~D. F.~~ The secretary may adopt in whole or relevant part the guidelines, rules,  
13          regulations, studies, or independent laboratory tests performed or relied upon by  
14          other states, their agencies or commissions.

15          ~~E. G.~~ The secretary shall design and adopt by regulation a warning label  
16          which shall be affixed to each ignition interlock device upon installation. The label  
17          shall contain a warning that any person tampering with, defeating, or otherwise  
18          circumventing the device is guilty of a criminal offense and subject to criminal  
19          penalty and civil liability.

20          H. The deputy secretary is hereby authorized to set and collect fees, in  
21          accordance with this Subsection, applicable to the certification, renewal or  
22          recertification of ignition interlock devices, service centers, and technicians  
23          beginning September 1, 2021, unless otherwise specified in this Section.

24          (1) All fees described in this Section are nonrefundable and shall be remitted  
25          by the manufacturer, vendor, or service center to the office of state police, applied  
26          technology unit on or before the twenty-fifth day of each month.

27          (2) Fees established by the department shall be based on a calendar year and  
28          shall not exceed the following for each designated fee:

29          (a) One thousand dollars for an initial device certification.

- 1           (b) Five hundred dollars for an annual device certification renewal.
- 2           (c) Two hundred fifty dollars for an initial service center certification, when  
3           certified between January 1st and June 30th.
- 4           (d) One hundred twenty-five dollars for an initial service center certification,  
5           when certified between July 1st and December 31st.
- 6           (e) Seventy-five dollars for annual service center certification renewal.
- 7           (f) Fifty dollars for an initial ignition interlock technician certification.
- 8           (g) Twenty-five dollars for an annual ignition interlock technician  
9           certification renewal.
- 10          (h) Twenty-five dollars for an initial calibration technician certification.
- 11          (i) Ten dollars for an annual calibration technician certification renewal.
- 12          (j) Ten dollars for an installation verification form.
- 13          (k) Five dollars for a thirty day calibration.
- 14          (3) When the office of state police has performed a certification, renewal of  
15          certification, or received an installation verification fee or thirty day calibration fee  
16          for which special costs are assessed in accordance with this Section, such costs shall  
17          be forwarded, on or before the twenty-fifth day of each month following their  
18          collection, to the state treasurer for immediate deposit in the state treasury.
- 19          (4)(a) After compliance with the requirements of Article VII, Section 9(B)  
20          of the Constitution of Louisiana relative to the Bond Security and Redemption Fund  
21          and prior to monies being placed in the state general fund, the treasurer shall credit  
22          an amount equal to the total amount of such costs received to a special fund which  
23          is hereby created in the state treasury and designated as the Public Safety Ignition  
24          Interlock Regulation Fund. The monies in the fund shall be used solely to fund  
25          activities of the office of state police, applied technology unit in executing its  
26          responsibilities in the regulation of ignition interlock devices, service centers, and  
27          technicians, including the following:
- 28          (i) The purchase and maintenance of equipment and supplies.

1           (ii) Salaries and the cost to equip personnel responsible for certifying,  
2           inspecting, investigating, or otherwise regulating ignition interlock manufacturers,  
3           service centers, or technicians.

4           (iii) Training in the maintenance and usage of testing equipment.

5           (iv) Establishing and maintaining certification tests as required.

6           (v) Other such related expenses as may be necessary in the efficient and  
7           effective administration of those duties.

8           (b) The monies in the fund shall be used only in the amounts appropriated  
9           by the legislature. All unexpended and unencumbered monies in the fund at the end  
10           of the fiscal year shall remain in the fund. The monies in the fund shall be invested  
11           by the state treasurer in the same manner as monies in the state general fund. All  
12           interest earned on monies in the fund invested by the state treasurer shall be credited  
13           to the Public Safety Ignition Interlock Regulation Fund.

14           §307.1. Ignition interlock devices; standards; compliance

15           A. The Department of Public Safety and Corrections, office of state police,  
16           by rule shall:

17           (1) Provide standards for the certification, installation, repair, maintenance,  
18           monitoring, inspection, and removal of ignition interlock devices, as provided in R.S.  
19           15:307 and LAC 55:I.601 et seq., and equipment as provided in this Section.

20           (2) Inspect the records and equipment of manufacturers and vendors during  
21           regular business hours for compliance with related statutory provisions and rules and  
22           regulations.

23           (3) Suspend or revoke certification for any noncompliance.

24           B.(1) When an ignition interlock technician is found to be out of compliance,  
25           the installation privileges of that ignition interlock technician may be suspended or  
26           revoked until the ignition interlock technician comes into compliance. During any  
27           suspension or revocation period, the manufacturer or vendor is responsible for  
28           notifying affected customers of any changes in their service agreement.

1           (2) An ignition interlock technician, whose certification is suspended or  
2           revoked for noncompliance, has a right to an administrative hearing under R.S.  
3           49:950 et seq., to contest the suspension or revocation, or both. For the  
4           administrative hearing, the procedure and rules of evidence shall be as provided for  
5           in R.S. 49:950 et seq., except as otherwise provided in this Chapter. Any request for  
6           an administrative hearing shall be made in writing and received by the Department  
7           of Public Safety and Corrections, office of state police, within twenty days after the  
8           receipt of the notice of suspension or revocation.

9           C.(1) An ignition interlock device shall employ:

10           (a) Fuel cell technology which is specific for alcohols.

11           (b) Other alcohol specific technology approved by the Department of Public  
12           Safety and Corrections, office of state police, applied technology unit, which meets  
13           the National Highway Traffic Safety Administration's model specifications for  
14           breath alcohol ignition interlock devices as published in the Federal Register,  
15           Volume 78, Number 89, including any amendments thereto.

16           (c) Technology capable of taking a photograph identifying the user providing  
17           the breath sample and recording the time the breath sample was provided.

18           (d) Technology capable of providing the global positioning coordinates at  
19           the time of each rolling retest refusal or circumvention when required by the  
20           originating court, the Department of Public Safety and Corrections, office of motor  
21           vehicles, or the Department of Public Safety and Corrections, office of state police,  
22           applied technology unit. The coordinates for events that result in a violation reset  
23           as defined in R.S. 15:307 shall be displayed within the data log that is downloaded  
24           by the manufacturer and shall be made available to the office of state police, applied  
25           technology unit, to be used for circumvention and tampering investigations.

26           (2) To be certified, an ignition interlock device shall:

27           (a) Meet or exceed the minimum test standards according to rules adopted  
28           by the office of state police, applied technology unit. Only a notarized statement  
29           from a laboratory that is accredited and certified under the current edition of the

1 International Organization of Standardization 17025 standard for testing and  
2 calibration laboratories and is capable of performing the specified tests shall be  
3 accepted as proof of meeting or exceeding the standards set forth in the model for  
4 specifications for breath alcohol ignition interlock devices as published by the  
5 National Highway Traffic Safety Administration in the federal register. The  
6 notarized statement shall include the name and signature of the person in charge of  
7 the tests under the certification statement. The Department of Public Safety and  
8 Corrections, office of state police, applied technology unit, shall adopt, by rule, the  
9 required language of the certification statement that shall, at a minimum, outline that  
10 the testing meets or exceeds all specifications listed in the federal register adopted,  
11 by rule, by the Department of Public Safety and Corrections, office of state police,  
12 applied technology unit.

13 (b) Be maintained in accordance with the rules and standards adopted by the  
14 office of state police.

15 §307.2. Ignition interlock affordability; standards; compliance

16 A. The Department of Public Safety and Corrections, office of state police,  
17 by rule, shall provide standards and monitor compliance of an ignition interlock  
18 affordability plan for individuals required to install an ignition interlock device that  
19 demonstrate economic hardship.

20 B. Economic hardship shall apply to an individual required to have the  
21 ignition interlock device being eligible for the Supplemental Nutrition Assistance  
22 Program or Medicaid.

23 C. Individuals that meet the economic hardship standard shall be required  
24 to pay no more than fifty-percent of fees assessed by the ignition interlock service  
25 center for installation, monthly calibration, lease, and removal of the device.

26 D. Individuals that meet the economic hardship standard are responsible for  
27 any optional services an individual elects, fees related to any violation reset or  
28 permanent lockout as defined in R.S. 15:307, state mandated fees, and any costs

1 related to damaged, missing or unreturned equipment, and recovery of such  
2 equipment.

3 E. Individuals become eligible for the affordability plan on the date that the  
4 individual provides the ignition interlock manufacturer, or ignition interlock service  
5 center, acceptable documentation verifying that the individual meets the standard for  
6 economic hardship. Continued eligibility may be verified at the discretion of the  
7 ignition interlock manufacturer or ignition interlock service center. Acceptable  
8 forms of documentation shall include an eligibility card or qualifying letter for the  
9 Supplemental Nutrition Assistance Program (SNAP) or Medicaid. If the  
10 documentation does not name the individual required to install the ignition interlock  
11 device specifically, the individual shall be required to sign a notarized affidavit  
12 provided by the Department of Public Safety and Corrections attesting to his  
13 eligibility for SNAP or Medicaid on a state approved form.

14 F. An ignition interlock manufacturer or ignition interlock service center  
15 shall not refuse service to an individual that has demonstrated eligibility for the  
16 affordability plan in accordance with this Section.

17 G. An individual who feels that he has been refused service, after providing  
18 the documentation required in this Section, to an ignition interlock manufacturer or  
19 ignition interlock service center, may file a complaint with the Department of Public  
20 Safety and Corrections, office of state police, applied technology unit. All  
21 complaints for refusal of service shall be investigated by the office of state police,  
22 applied technology unit, within thirty days of receipt of the complaint.

23 H. If the investigation substantiates the refusal of service, the Department  
24 of Public Safety and Corrections, office of state police, applied technology unit, may  
25 issue a warning, suspension, or revocation of the certification for the ignition  
26 interlock manufacturer or the ignition interlock service center based on the facts of  
27 the investigation and the history of such complaints related to the manufacturer or  
28 service center. An ignition interlock manufacturer or ignition interlock service

1 center may appeal any suspension or revocation pursuant to this Section in  
2 accordance with R.S. 15:307.1(B)(2).

3 Section 3. R.S. 32:378.2(A), (B)(1)(a)(ii), (aa), (bb), (M)(2), and (N),  
4 414(A)(1)(c)(i) and (ii), and (D)(1)(b), 667(B)(1)(b), and (c), (3), and (I)(1)(a) and  
5 (b), and 668(B)(1)(a)(introductory paragraph) and (i), and (c), and (2) are hereby  
6 amended and reenacted and R.S. 32:667(K) is hereby enacted to read as follows:

7 §378.2. Ignition interlock devices; condition of probation for certain DWI  
8 offenders; restricted license

9 A. In addition to any other provisions of law and except as otherwise  
10 provided in Subsection I of this Section, the court may require that any person who  
11 is placed on probation as provided in ~~R.S. 14:98(B)~~ R.S. 14:98.1, and the court shall  
12 require that any person who is placed on probation as provided by ~~R.S. 14:98(C)~~ R.S.  
13 14:98.2 not operate a motor vehicle during the period of probation unless the vehicle  
14 is equipped with a functioning ignition interlock device as provided in this Section.

15 B.(1) Any person who has had his driver's license suspended, revoked, or  
16 canceled under any of the following conditions shall, upon proof to the Department  
17 of Public Safety and Corrections that his motor vehicle has been equipped with a  
18 functioning ignition interlock device as provided in this Section, be issued a  
19 restricted driver's license:

20 (a)

21 \* \* \*

22 (ii) However, if the offender had a blood alcohol concentration of ~~0.20~~ 0.15  
23 percent or more by weight based on grams of alcohol per one hundred cubic  
24 centimeters of blood the following restrictions shall apply:

25 (aa) Upon first offense, if the offender had a blood alcohol concentration of  
26 ~~0.20~~ 0.15 percent or greater, he shall be issued a restricted driver's license during the  
27 entire period of the two-year driver's license suspension imposed ~~under~~ pursuant to  
28 the provisions of ~~R.S. 14:98(K)(1)~~ R.S. 14:98.1(A)(3)(b) and shall be required to

1 have a functioning ignition interlock device installed on his vehicle during the ~~first~~  
2 ~~twelve-month~~ entire period of the suspension.

3 (bb) Upon second offense, if the offender has a blood alcohol concentration  
4 of ~~0.20~~ 0.15 percent or greater, he shall be eligible for a restricted driver's license for  
5 the period of suspension as imposed under the provisions of ~~R.S. 14:98(K)(2)(b)~~ R.S.  
6 14:98.2(A)(3)(b). The offender may be issued a restricted license during the entire  
7 four years on his suspension and shall be required to have a functioning ignition  
8 interlock device installed on his vehicle during the ~~first three years of the~~ four-year  
9 suspension.

10 \* \* \*

11 M.

12 \* \* \*

13 (2) No credit towards suspension time or any reinstatement requirement shall  
14 be given if the manufacturer reports to the Department of Public Safety and  
15 Corrections that any ~~combination of two~~ of the following violations have occurred  
16 ~~in a one-month period, including any repeat violation of the same type~~ once during  
17 the period of installation:

18 (a) ~~Tampering with the device.~~ The restricted operator fails to have the  
19 ignition interlock device serviced within the time period provided for in this Section.

20 (b) ~~Circumventing the device.~~ The device has recorded any of the following,  
21 or any combination of the following, three or more times in a thirty day period:

22 (c) ~~Failure to bring the ignition interlock device in for required service.~~

23 (d) ~~Failure to take or pass a re-test.~~

24 (e) ~~Failure to pass a breath test.~~

25 (f) ~~Use of the emergency override feature without justification.~~

26 (g) ~~Unauthorized removal of the device.~~

27 (i) A random retest fail or skip.









1 year suspension after he has provided proof that his motor vehicle has been equipped  
2 with an ignition interlock device. A functioning ignition interlock device shall  
3 remain installed on his motor vehicle during the ~~first twelve-month~~ entire period of  
4 his driver's license suspension.

5 (c) If the person submitted to the test as a result of a second violation and the  
6 test results show a blood alcohol level of ~~0.20~~ 0.15 percent or above by weight, he  
7 shall be eligible for a hardship license during the entire four-year period of the  
8 suspension after he has provided proof that his motor vehicle has been equipped with  
9 an ignition interlock device. A functioning ignition interlock device shall remain  
10 installed on his motor vehicle during the ~~first three-years of the four-year~~ entire  
11 period of his driver's license suspension.

12 \* \* \*

13 I.(1) In addition to any other provision of law, an ignition interlock device  
14 shall be installed in any motor vehicle operated by any of the following persons  
15 whose driver's license has been suspended in connection with the following  
16 circumstances as a condition of the reinstatement of such person's driver's license:

17 (a) Any person who has refused to submit to an approved chemical test for  
18 intoxication, after being requested to do so, for a first, second, third, or subsequent  
19 arrest of R.S. 14:98, 14:98.6, or 98.6, or a parish or municipal ordinance that  
20 prohibits operating a vehicle while intoxicated and whose driver's license has been  
21 suspended in accordance with law.

22 (b) Any person who has submitted to an approved chemical test for  
23 intoxication where the results indicate a blood alcohol level of 0.08 percent or above  
24 and whose driver's license has been suspended in accordance with the law for an  
25 arrest for a violation of R.S. 14:98, 14.98.6, 98.6, or a parish or municipal ordinance  
26 that prohibits operating a vehicle while intoxicated ~~occurring within ten years of the~~  
27 ~~first arrest.~~

28 \* \* \*



1 in which the licensee resides may issue an order directing the department to issue the  
2 ignition interlock restricted license either by ex parte order or after contradictory  
3 hearing.

4 (2) However, the department shall immediately cancel and seize the  
5 restricted license upon receiving satisfactory evidence of the removal of the ignition  
6 interlock device prior to the expiration of the license issued pursuant to this  
7 Paragraph or of violation of the restrictions, and no person shall have driving  
8 privileges of any kind for a period of six months from the receipt by the department  
9 of the cancelled restricted license. No violation of this Section shall occur if the  
10 license is reinstated pursuant to R.S. 32:667(H)(1) and (2) prior to the removal of the  
11 ignition interlock device.

12 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 633 Engrossed

2021 Regular Session

Wright

**Abstract:** Provides relative to ignition interlock devices and maintenance services.

Present law defines "ignition interlock device" as a constant monitoring device that prevents a motor vehicle from being started at any time without first determining the equivalent blood alcohol level of the operator through the taking of a breath sample for testing. The system must be calibrated so that the motor vehicle may not be started if the blood alcohol level of the operator, as measured by the test, reaches a level established by the court, consistent with the rules promulgated by the Dept. of Public Safety and Corrections.

Proposed law modifies present law by providing that the definition for ignition interlock device will be the same definition as set forth in proposed law.

Proposed law requires the ignition interlock device be calibrated for accuracy by using a dry alcohol standard with an alcohol reference value between .020 and .050g/210L.

Proposed law provides procedures for calibration including a three second purge prior to introducing a reference sample into a device if using more than six inches of open tubing, an "as found" check to introduce the sample into the device without an adjustment for accuracy which consists of reference checks with the result of each check being within plus or minus 0.005g/210L of the reference value introduced into the device, and a requirement to remove any device that does not pass calibration after adjustment while keeping the serial number of the device on record for three years.

Present law requires the rules and regulations that the secretary sets for the proper approval, installation, and use of ignition interlock devices include but not be limited to requirements

that the devices or systems: (1) do not impede the safe operation of the vehicle, (2) correlate with established measures of alcohol impairment, (3) work accurately and reliably in an unsupervised environment, (4) resist tampering and give evidence if tampering is attempted, (5) are difficult to circumvent, (6) minimize inconvenience to a sober user, (7) require a proper, deep lung breath sample or other accurate measure of blood alcohol content equivalence, (8) operate reliably over the range of automobile environments, and (9) are manufactured by a party who will provide product liability insurance and a bond against malfunction of the device.

Proposed law removes the present law requirements and instead mandates the rules and regulations include but are not limited to requiring the devices: (1) are manufactured by a business entity that will provide product liability insurance and a bond against malfunction of the device, (2) are installed in such a manner that it must not interfere with the normal operation of the vehicle after it is started, (3) protects against compromise or circumvention and preserves evidence of such activity, (4) are resistant to tampering, (5) have the ability to work reliably and accurately in an unsupervised environment, (6) are designed to permit a "restart" within three minutes of a stall or when the ignition has been turned off, (7) measure a person's breath-alcohol concentration by the delivery of a deep lung sample directly into the device, (8) prevent operation of the vehicle if the breath-alcohol concentration of the sample introduced into the device exceeds 0.02g of alcohol per 210L of breath, (9) ensure the automatic and complete purge of residual alcohol before allowing subsequent tests, (10) allow a minimum of 1200ml or 1.2L of breath for an acceptable breath sample, (11) require random retests, (12) include a supply of two disposable mouth pieces upon installation, designed to minimize the introduction of saliva into an ignition interlock device, (13) have all primary components, as identified by the Dept. of Public Safety and Corrections, office of state police, applied technology unit, with a unique serial number, which includes, but is not limited to, the storage device, handset, and camera, (14) enter a permanent lockout if the ignition interlock device has not been calibrated and serviced within a period of 35 days subsequent to its installation or last calibration or inspection, whichever occurs first, (15) uniquely identify and record each time the vehicle has a start attempt or is actually started, the results of all tests and retests violations, how long the vehicle was operated, and any indication of circumvention or tampering with the ignition interlock device or tests, (16) on or before January 1, 2021, require a restricted operator to wait five minutes before attempting to start the vehicle a second or third time, and 30 minutes prior to any subsequent attempts to start the vehicle after the initial start failure occurs, (17) visibly indicate to the user or any qualified person that the unit is on, the unit is in need of service or calibration, the passage or failure of the breath alcohol content threshold on the breath sample introduced, and any other indication required by the department, (18) enter into violation reset under certain conditions, (19) if a violation reset occurs, the device must enter into a permanent lockout within five days unless the device is serviced at a mobile or fixed site service center by an ignition interlock technician or calibration technician where it will be calibrated and downloaded, and (20) incorporate a camera that does not distract or impede the driver in any manner from the safe and legal operation of the vehicle.

Proposed law requires a camera be installed on any new ignition interlock device beginning Jan. 1, 2022, and all devices by March 31, 2022.

Proposed law modifies present law by having the device prevent a motor vehicle from operating and requiring it be equipped with a camera capable of recording a digital image of the person using the device.

Proposed law requires the manufacturer, vendor, ignition interlock technician or calibration technician to notify the originating court, if any, of violation reset conditions within five days of servicing an ignition interlock device.

Proposed law further requires the manufacturer, vendor or ignition interlock technician or calibration technician to provide notification to the Dept. of Public Safety and Corrections,

office of motor vehicles, and the Dept. of Public Safety and Corrections, office of state police, applied technology unit in an acceptable electronic format.

Proposed law requires all reports to the originating court, Dept. of Public Safety and Corrections, office of motor vehicles, and the Dept. of Public Safety and Corrections, office of state police, applied technology unit include: (a) the full name, address, and driver's license number of the restricted operator and lessee, (b) the registration number of the motor vehicle in which the ignition interlock device was installed, (c) the unique serial number of the ignition interlock device, and (d) the toll free telephone number of a representative that can explain the report from an ignition interlock device.

Proposed law authorizes the deputy secretary to set and collect nonrefundable fees applicable to the certification, renewal or recertification of ignition interlock devices, service centers, and technicians.

Proposed law further provides the fees must be remitted to the manufacturer, vendor, or service center to the office of state police, applied technology unit on or before the 25th day of each month.

Proposed law requires special costs associated with an installation verification fee or 30 day calibration fee be forwarded on or before the 25th day of each month following their collection to the state treasurer for immediate deposit in the state treasury.

Proposed law requires the treasurer to create a special fund in the state treasury designated as the Public Safety Ignition Interlock Regulation Fund, and to credit an amount equal to the total amount of costs received after compliance with requirements of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

Proposed law further requires the funds in the Public Safety Ignition Interlock Regulation Fund be used solely to fund activities of the office of state police, applied technology unit, in executing its responsibilities in the regulation of ignition interlock devices, service centers and technicians.

Proposed law requires the Dept. of Public Safety and Corrections, office of state police to provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices in accordance with present law.

Proposed law requires a manufacturer or vendor to notify affected customers of any changes in their service agreement during any suspension or revocation period as a result of an ignition interlock device technician that is found to be out of compliance.

Proposed law grants an ignition interlock device technician the right to an administrative hearing pursuant to present law to contest the suspension or revocation, or both. Proposed law further provides standards for requesting a hearing, hearing procedure, and evidence.

Proposed law requires an ignition interlock device to employ: (a) fuel cell technology, specific for alcohols, (b) other alcohol specific technology approved by the Dept. of Public Safety and Corrections, office of state police, applied technology unit, which meets present law federal standards, (c) technology capable of taking a photograph identifying the user providing the breath sample and recording the time the breath sample was provided, and (d) technology capable of providing the global positioning coordinates at the time of each rolling retest refusal or circumvention when required by the originating court, the Dept. of Public Safety and Corrections, office of motor vehicles, or office state police, applied technology unit.

Proposed law requires an ignition interlock device meet or exceed the minimum test standards according to rules adopted by the office of state police, applied technology unit,



and be maintained in accordance with the rules and standards adopted by the office of state police.

Proposed law requires the Dept. of Public Safety and Corrections, office of state police to provide standards and monitor compliance for ignition interlock affordability plans for individuals.

Proposed law provides that economic hardship is defined as an individual that is eligible for Supplemental Nutrition Assistance Program (SNAP) or Medicaid. Proposed law further provides that individuals that meet the economic standard will not be required to pay more than 50% of the assessed fees.

Proposed law provides that individuals that meet the economic hardship standard are responsible for any optional services an individual elects, fees related to any violation reset or permanent lockout as defined in present law, state mandated fees, and any costs related to damaged, missing or unreturned equipment and recovery of such equipment.

Proposed law provides that individuals become eligible for the affordability plan on the date that the individual provides the ignition interlock manufacturer or ignition interlock service center acceptable documentation verifying that the individual meets the standard for economic hardship.

Proposed law prevents an ignition interlock manufacturer or ignition interlock service center from refusing service to an individual that has demonstrated eligibility for the affordability plan in accordance with this proposed law.

Proposed law grants an individual who feels that they have been refused service after providing the documentation required under proposed law the right to file a complaint with the office of state police, applied technology unit. Proposed law further provides that all complaints must be investigated within 30 days of receipt of the complaint.

Proposed law provides that if the investigation substantiates the refusal of service, the office of state police, applied technology unit, may issue a warning, suspension, or revocation of the certification for the ignition interlock manufacturer or service center based on the facts of the investigation and history of similar complaints related to manufacturer or service center.

Present law provides that the court may require any person placed on probation as provided for in present law (R.S. 14:98(B)) and must require any person placed on probation as provided in present law (R.S. 14:98(C)) not operate a motor vehicle during the period of probation unless the vehicle is equipped with a functioning ignition interlock device.

Present law provides that if an offender has a blood alcohol concentration of 0.20 percent or more by body weight on a first offense DWI, the offender must be issued a restricted driver's license for a two-year period and be required to have an ignition interlock device installed on his vehicle for the first 12 months of the two-year period.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight and requiring the ignition interlock device be installed for the entire two-year period.

Present law further provides that if an offender has a blood alcohol concentration of 0.20 percent or more by body weight on a second offense DWI, the offender must be issued a restricted driver's license for a four-year period and be required to have an ignition interlock device installed on his vehicle during the first three years of the four-year period.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight and requiring the ignition interlock device be installed for the entire four-year period.

Present law authorizes an individual who installs a Dept. of Public Safety and Corrections approved ignition interlock device as a requirement of bail, a part of a pre-trial diversion program, or a term of a suspended or deferred sentence as provided in present law, for an offense involving the operation of a motor vehicle under the influence of alcohol, drugs, or both, and was arrested or subsequently convicted of such an offense, to receive credit towards suspension time or any reinstatement requirement that may be imposed if any of the following occurs:

- (1) The installation and monitoring of the ignition interlock device is reported to the Dept. of Public Safety and Corrections by the manufacturer in accordance with present law.
- (2) The individual whose driving privilege is restricted appears at an office of motor vehicle field office and is issued a renewed or duplicate driver's license that contains a restriction code indicating that any vehicle operated by the individual must be equipped with an ignition interlock device.

Present law prohibits an individual from receiving credit towards suspension time or any reinstatement requirement if the manufacturer reports to the Dept. of Public Safety and Corrections that any combination of two of the following violations have occurred in a one-month period, including any repeat violation of the same type:

- (1) Tampering with the device.
- (2) Circumventing the device.
- (3) Failure to bring the ignition interlock device in for required service.
- (4) Failure to take or pass a re-test.
- (5) Failure to pass a breath test.
- (6) Use of the emergency override feature without justification.
- (7) Unauthorized removal of the device.

Proposed law modifies present law to prohibit an individual from receiving credit towards suspension time or any reinstatement requirement if the manufacturer reports to the Dept. of Public Safety and Corrections that any of the following violations have occurred once during the period of installation:

- (1) The restricted operator fails to have the ignition interlock device serviced within the time period prescribed in present law.
- (2) The device has recorded any, or a combination, of the following three or more times in a 30 day period:
  - (a) A random retest fail or skip.
  - (b) An initial start failure before starting the vehicle unless a second breath test below the alcohol limit is recorded within 10 minutes of the initial start failure.

Present law prohibits an individual from receiving credit towards suspension time or any reinstatement requirement if the individual is charged or arrested for any offense involving

the operation of a motor vehicle while under the influence of alcohol, drugs, or both, during the period in which the individual is required to have an ignition interlock device as a requirement of bail, a part of a pre-trial diversion program, or a term of a suspended or deferred sentence as provided in present law.

Present law provides that upon a first conviction or a plea of guilty or no contest and the offender has a blood alcohol concentration of 0.20 percent or more by body weight, the offender must have his driver's license suspended for two years, receive a restricted driver's license for the entire period after proving that he has an ignition interlock device installed on his vehicle, which must remain installed for the first 12 months of the two-year period.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight and requiring the ignition interlock device be installed for the entire two-year period.

Present law further provides that upon a second conviction or a plea of guilty or no contest and the offender has a blood alcohol concentration of 0.20 percent or more by body weight, the offender must have his driver's license suspended for four years, receive a restricted driver's license after the first 45 days of the four-year suspension after proving that he has an ignition interlock device installed on his vehicle, which must remain installed for the first three years of the four-year period.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight and requiring the ignition interlock device be installed for the entire four-year period.

Present law grants eligibility for a restricted driver's license to any licensee who has had their license suspended for a DWI violation after a period of 12 months upon proof that his vehicle is equipped with an ignition interlock device. Proposed law requires the device remain on the vehicle for six months after issuance of the restricted driver's license.

Proposed law modifies present law by eliminating the 12 month waiting period for the restricted driver's license and requires the device remain on the vehicle for 12 months after issuance of the restricted driver's license.

Present law provides that on or after September 30, 2003, if a person has submitted to a breath alcohol concentration test and the test results show a blood alcohol level of 0.08 percent or above by weight, his driving privileges will be suspended for 90 days from the date of suspension on first offense violation, without eligibility for a hardship license for the first 30 days, and for 365 days from the date of suspension, without eligibility for a hardship license, on second and subsequent violations occurring within five years of the first offense.

Proposed law modifies present law by removing the enacting date, increasing the suspension for a first offense from 90 days to 180 days, removing the provision disallowing a person eligibility for a hardship license.

Present law provides that if a person has submitted to a breath alcohol concentration test and the test results show a blood alcohol level of 0.20 percent or above by weight, his driving privileges will be suspended for two years on a first offense violation and for four years on a second offense violation.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight.

Present law provides that any licensee whose license has been suspended for a first or second DWI offense and either refused to submit to the test or submitted to the test and the test showed a blood alcohol level of less than 0.20 percent must, upon proof that his motor

vehicle has been equipped with a functioning ignition interlock device, be immediately granted a restricted license.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight.

Present law provides that if a person has submitted to the test as a result of a first violation and the test results show a blood alcohol level of 0.20 percent or above by weight, he will be eligible for a hardship license during the entire period of the imposed two-year suspension after he shows proof that his motor vehicle is equipped with an ignition interlock device, which must remain installed on his motor vehicle during the first 12 month period of his driver's license suspension.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight and requiring the device be installed for the entire period of suspension.

Present law provides that if a person has submitted to the test as a result of a second violation and the test results show a blood alcohol level of 0.20 percent or above by weight, he will be eligible for a hardship license during the entire four-year period of the suspension after he shows proof that his motor vehicle is equipped with an ignition interlock device, which must remain installed on his motor vehicle during the first three-years of the four-year suspension.

Proposed law modifies present law by lowering the blood alcohol concentration threshold to 0.15 percent or more by body weight and requiring the device be installed for the entire period of suspension.

Present law provides that any person who has refused to submit to an approved chemical test for intoxication, after being requested to do so, for a second DWI arrest and whose driver's license has been suspended in accordance with law must have an ignition interlock device installed in their motor vehicle.

Proposed law modifies present law by extending this requirement to first, third, or subsequent arrests for DWI violations.

Present law provides that any person who has submitted to an approved chemical test for intoxication where the results indicate a blood alcohol level of 0.08 percent or above and whose driver's license has been suspended in accordance with law for an arrest occurring within 10 years of the first arrest must have an ignition interlock device installed in their motor vehicle.

Proposed law removes the 10 year exception for a first time offender and modifies present law by requiring the arrest be made for a violation of present law (R.S. 14.98 or 98.6) or a parish or municipal ordinance.

Proposed law provides that upon notice to the department that a driver has caused the ignition interlock device to enter a violation reset or a permanent lockout, the department must extend the period the ignition interlock device is required by an additional six months and further restrict the driver's license. Proposed law further requires the department to notify the driver that his driver's license will be restricted for an additional six months.

Present law provides that in a case of first refusal or first submission to a test for intoxication and when there has been no prior suspension of the driver's license, if suspension is otherwise proper, upon proving to the dept. that the suspension of driving privileges would prevent the person from earning a livelihood, the dept. may require the licensee to surrender his regular license and issue, at a cost of \$50.00 plus the cost of the license, a special restricted operator's license to be effective for the remaining period of suspension.

Proposed law modifies present law by requiring the provision also apply to a second offense, removing the requirement of no prior suspension, adding that an ignition interlock device be installed in the vehicle the person will drive, and requiring the licensee surrender his regular license unless it has been previously surrendered.

Present law provides that any licensee who has had his license suspended for a first or second DWI offense must, upon proof of need to the Dept. of Public Safety and Corrections, be issued an ignition interlock restricted license sufficient to maintain livelihood or allow the licensee to maintain the necessities of life.

Proposed law repeals present law.

Present law requires the department immediately cancel and seize the restricted license upon receiving satisfactory evidence of violation of the restrictions, and no person will have driving privileges of any kind for a period of six months from the receipt by the department of the cancelled restricted license.

Proposed law modifies present law by adding the removal of the ignition interlock device prior to the expiration of the restricted license as a reason for the department to cancel and seize a restricted driver's license. Proposed law further provides that no violation of present and proposed law will occur if the license is reinstated pursuant to present law prior to the removal of the ignition interlock device.

(Amends R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b), R.S. 15:307(section heading), (A), (C), (D), and (E), R.S. 32:378.2(A), (B)(1)(a)(ii), (aa), (bb), (M)(2), and (N), 414(A)(1)(c)(i) and (ii), and (D)(1)(b), 667(B)(1)(b) and (c), (3), and (I)(1)(a) and (b), and 668(B)(1)(a)(intro. para.) and (i), and (c), and (2); Adds R.S. 15:307(B)(3), (F), (G), and (H), 307.1, 307.2, and R.S. 32:667(K))