

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB736

Hearing Date: January 24, 2008

Committee On: Judiciary

Introducer(s): (Fulton)

Title: Change certain driving under the influence penalties and provide indigent assistance for ignition interlock devices

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

7 Yes	Senators Ashford, Lathrop, McDonald, McGill, Pedersen, Pirsch, Schimek
0 No	
0 Absent	
1 Present, not voting	Senators Chambers

Proponents:

Senator Fulton
Debra Coffey
Russell Zeeb
Nicholas David
Jerry Stanton
Bob Schmill
Matt Strausz

Representing:

Introducer
Smart Start
Sarpy County Sheriff
MADD
Self
Matt's Dream Foundation
Smart Start

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or change:

Legislative Bill 736 proposes to change the drunk driving statutes and provide indigent assistance for ignition interlock devices. LB 736 would change the following sections of statute:

60-6,197.01 is amended to provide for the installation of an ignition interlock device upon the second conviction for driving under the influence, instead of the third conviction requirement currently in statute.

60-6,197.03 is amended to require in addition to license revocation, the installation of an ignition interlock device upon conviction for driving under the influence of alcohol for either a first or second offense. Upon conviction, the court will order the following penalty:

First Offense: Sixty day license revocation or impoundment, followed by required installation and use of an ignition interlock device for one hundred and twenty days. An individual must also obtain a restricted license to allow for driving with an interlock device.

Second Offense or First offense w/ a .15 B.A.C: one hundred twenty days license revocation or impoundment followed by an ignition interlock device and restricted license for a period of two hundred and forty-five days.

LB 736 would also require those individuals who are able to pay all expenses related to the installation, maintenance, and removal of an ignition interlock device to do so and those deemed indigent would still be eligible for the device but would not have to pay.

Explanation of amendments, if any: AMENDED BY AM 2148

Would amend LB 736 utilizing the following sections:

Section 1. Amends 60-480 and creates an Ignition Interlock Permit (IIP). States that an IIP cannot be used to operate a commercial motor vehicle.

Section 2. Amends 60-497.01 to provide that a person who has a probationary order from a court requiring the installation of an ignition interlock device and obtaining an IIP, in a DUI case will not be assessed points on his or her driver record upon presentation of sufficient evidence that he or she has the probationary order, installed the ignition interlock device and has obtained the ignition interlock permit.

Section 3. Provides eligibility for an ignition interlock permit for persons subject to an administrative license revocation (ALR) who have failed a chemical test. Upon presentation of a probationary order from the court in the DUI case for the same arrest, a person with a 90-day ALR may apply for an ignition interlock permit after 30 days of no driving, or if a person has a one-year ALR, a person may apply for an ignition interlock permit after 60 days of no driving. Driving with an interlock permit is limited to driving to school, to work, to alcohol treatment, or to an interlock facility. No interlock permits available for persons who refuse the test.

Section 4. Provides that the fee for an interlock permit will be \$45. \$40 goes to general fund and \$5 goes to DMV. This is the same fee as for a work permit and medical hardship permit. Also creates a \$5 fee for a replacement or duplicate permit and for any change of class, restriction, or endorsement for an employment, medical hardship, or ignition interlock permit.

Section 5. This section tells the DMV to issue an interlock permit after receiving a copy of an order from a court or the Board of Pardons, proof of installation of the ignition interlock permit, and payment of the permit fee. Provides that the permit indicates how it may be used and that it is not valid for operating a commercial motor vehicle. Also provides that a person who is a repeat offender cannot be issued an ignition interlock permit until after one year of revocation has passed.

Section 6. Adds section 11 to the Rules of the Road.

Section 7. Allows issuance of an ignition interlock permit to a repeat offender after one year of revocation has passed.

Section 8. Amends the DUI penalty section so that a person who is convicted of DUI 1st offense may have an ignition interlock permit for operating a motor vehicle with an ignition interlock device. If the person is under .15 BAC the court may order an impoundment with no driving for 6 months or order a six month revocation with eligibility for an ignition interlock permit after 30 days of no driving. If the person is at .15 BAC or over, a convicted person's license is revoked for one year, but he or she may apply for an ignition interlock permit after 60 days of no driving.

Also clarifies that if court orders probation for a DUI at any level of DUI offense, the court shall order the person to obtain an ignition interlock permit to operate a motor vehicle equipped with an ignition interlock device. Repeat DUI offenders would need to serve at least one year of revocation with no driving as provided in Section 7.

Section 9. Amends the section allowing the Board of Pardons to end a fifteen-year license revocation by either reinstating the person's operator's license or ordering a reprieve. The Board of Pardons may place conditions on either the reprieve or the reinstatement.

Section 10. Amends the interlock provision of statute to provide that an ignition interlock permit, not a Class O license with an interlock restriction, will be issued after an order from either the court for a DUI or the Board of Pardons. Provides that the person must obtain an ignition interlock permit and have an ignition interlock device installed on any motor vehicle the person operates. Provides that a court-ordered interlock is limited to operation of a motor vehicle equipped with an ignition interlock to go to work, to school, to alcohol treatment or to an interlock facility.

If the Board of Pardons issues an Ignition Interlock permit, the Board may decide the conditions of the reprieve. Provides that a person who is ordered to have an ignition interlock permit is responsible for the costs.

Section 11. Creates an Ignition Interlock Fund under the authority of the Office of Probation Administration to help the indigent with installation of ignition interlock devices on vehicles. Provides for collection of a fee not to exceed \$50 from ignition interlock dealers to be remitted to the Office of Probation and the Fund each quarter.

Section 12. Harmonizes provisions to provide that if the Board of Pardons issues a reprieve, the Board shall order the person to obtain an ignition interlock permit for operation of a motor vehicle with an ignition interlock

device which shall be issued as provided in Section 5 above. Adds a violation of operating an ignition interlock equipped vehicle without the ignition interlock permit.

Section 13. Added an effective date of January 1, 2009.

Section 14. Repealer.

Senator Brad Ashford, Chairperson