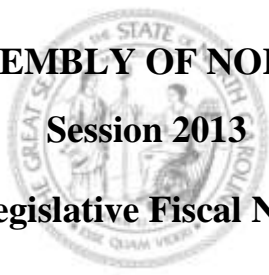


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 536 (Third Edition)

SHORT TITLE: Ignition Interlock Req'd/All DWIs.

SPONSOR(S): Representatives Faircloth, Jordan, and Jackson

FISCAL IMPACT					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
Highway Fund Revenues:					
Highway Fund Expenditures:					
State Positions:					
NET STATE IMPACT	Likely budget cost. See Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
Division of Motor Vehicles: Hearings/Adjudication; Ignition Interlock Program; Telecommunication Call Center; and DOT					
EFFECTIVE DATE: December 1, 2013					
TECHNICAL CONSIDERATIONS: None					

BILL SUMMARY:

Section 1 of the bill would amend the law concerning implied consent to chemical analysis and the mandatory revocation of license. Under current law, if a person has an alcohol concentration of .15 or more, the law enforcement officer and the chemical analyst are required to go before an official and execute an affidavit as to the facts of the arrest, and the results of any tests given. Upon receipt of the affidavit by DMV, the license of the person with an alcohol concentration of .15 or more is revoked for 12 months. Section 1 of the bill would lower the threshold that triggers the affidavit, reducing the alcohol concentration from .15 or more to .08 or more.

Section 2 of the bill would amend the law concerning limited driving privileges for persons who refuse to submit to chemical analysis. Under current law, a person may apply for a limited driving privilege after 6 months if specified requirements are met. This section of the bill would eliminate the 6-month waiting period, remove disqualifying conditions concerning prior refusals or impaired driving offenses within the preceding years, and require that all vehicles the person would be authorized to drive must be equipped with ignition interlock.

Section 3 of the bill would allow a person subject to immediate civil license revocation for refusal to consent to chemical analysis to apply for a limited driving privilege, eliminating the requirement that the person's license be revoked for at least a specified period, and eliminating the hardship requirement. The bill also requires that vehicles the person will be authorized to drive must be equipped with ignition interlock.

Section 4 of the bill would:

- Apply the ignition interlock requirement to persons who have a DWI revocation where the alcohol concentration was .08 or more.
- Apply the ignition interlock requirement to a person under 21 whose license is revoked as the result of a conviction of driving after consuming alcohol.

Under current law, a person subject to the ignition interlock requirement as a condition of restoration of the driver's license is generally required to have all registered vehicles owned by the person equipped with a functioning ignition interlock system, and the person is also subject to an alcohol concentration restriction. **Section 4** of the bill would also:

- Raise the alcohol concentration restriction that applies to certain drivers from 0.00 to 0.02.
- Require that DMV not issue a drivers license with an ignition interlock restriction unless the applicant proves that the interlock system has been installed on all vehicles he or she owns.
- Provide for revocation of the person's license if the ignition interlock system is disabled or removed from a vehicle in which it is required to be installed.
- Provide that a person who disables or removes an ignition interlock system, and is not charged with driving while license is revoked as a result of the violation, will have his or her license revoked for one year.
- Amend the law concerning a DMV hearing after a violation of the ignition interlock requirement imposed upon restoration of the drivers license, to allow DMV to consider whether the person has allowed an ignition interlock system to be disabled or removed.

Section 5 of the bill would amend the law concerning driving by a person less than 21 years old after consuming alcohol or drugs. It would require that in order to obtain a limited driving privilege all vehicles to be operated under the limited driving privilege must be equipped with ignition interlock systems.

Section 6 of the bill would amend the law concerning limited driving privilege for persons convicted of driving while impaired. It would require that the person have an ignition interlock system installed on all vehicles subject to ignition interlock requirements to be operated under a limited driving privilege.

Section 7 of the bill would amend the law concerning when ignition interlock is required for a limited driving privilege, lowering the threshold from .15 or more to .08 or more, and also making it applicable to persons who refused to submit to a chemical analysis.

Section 8 of the bill would specify that a person ordered to install ignition interlock would be responsible for costs of installation and monitoring of the system. It would also authorize DMV to impose an administrative fee and create a Fund to cover the costs of installation of ignition interlock systems for indigent persons.

The bill would become effective December 1, 2013, and apply to offenses occurring on or after that date.

Source: Adapted from Research Division summary.

ASSUMPTIONS AND METHODOLOGY:

Ignition interlock is currently a mandatory condition for the granting of limited driving privileges following license revocation due to an impaired driving offense in which the person's blood alcohol concentration (BAC) was 0.15 or more. Interlock is also required for the restoration of licenses which have been revoked due to:

- conviction of an impaired driving offense in which the BAC was 0.15 or more;
- multiple convictions of impaired driving offenses within seven years;
- an aggravated level one sentence; and,
- conviction of habitual impaired driving.

However, interlock is an optional condition for the granting of limited driving privileges following revocation for impaired driving offenses (G.S. 20-138.1) that involve lower BAC levels. Additionally, present alcohol concentration license restrictions currently range from 0.00 to 0.04, depending on the severity of the offense for which the license was revoked.

HB 536 expands the ignition interlock requirement by making it a mandatory condition for license restoration and for eligibility for limited driving privileges following:

- Revocation due to refusal of a chemical analysis;
- Revocation due to conviction of driving while impaired, in which the person's BAC was 0.08 or more;
- Revocation due to conviction of driving after underage consumption of alcohol; and,
- Revocation due to conviction of a driving while impaired offense.

Further, ignition interlock alcohol concentration restrictions are adjusted from 0.00 to 0.02 for license restoration or limited driving privileges following:

- multiple convictions of impaired driving offenses within seven years;
- an aggravated level one sentence;
- conviction of habitual impaired driving; and,
- conviction of certain additional offenses occurring under the same circumstances of the driving while impaired or implied-consent refusal offense.

The 0.02 ignition interlock alcohol concentration restriction is also applied to license restoration following an underage consumption offense.

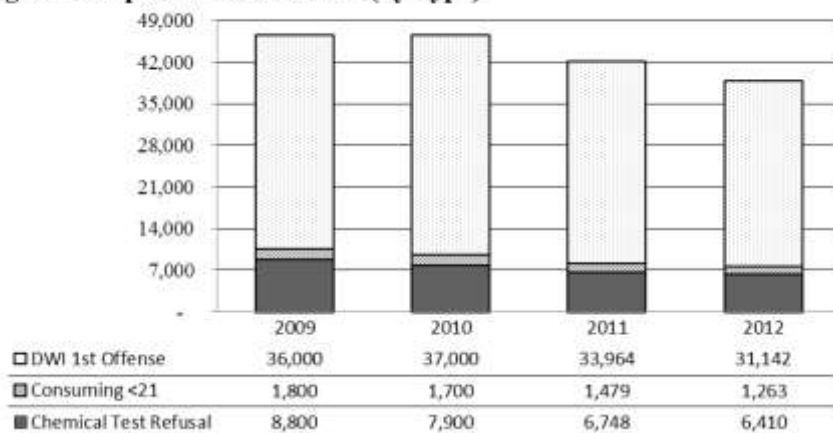
HB 536 also eliminates the current six month revocation period prior to issuance of limited driving privileges following a charge for an implied-consent offense, in addition to other disqualifying conditions. Similarly, Section 3 eliminates the minimum revocation periods which apply to civil license revocations.

Based on the proposed expansion of ignition interlock as a mandatory condition for license restoration and limited driving privilege eligibility, Fiscal Research anticipates potential increases in the frequency of ACR violation and corresponding requests for hearings. Additional workload impacts are anticipated for the monitoring, review, and processing of ACR violations, as well as the resolution of customer service/information inquiries.

Process: Notifications of ACR violations are received from the three current interlock providers (Monitech, Smart Start, and ALCOLOCK) on a daily basis for DMV review and determination of whether the violation requires suspension and entry on the driver record. Alleged violators have the opportunity to request a hearing, and the suspension for the violation is stayed until the hearing decision is rendered. Central Resolution Hearing Officers are required to schedule the hearing immediately upon receipt of the written request to stay the revocation until the assigned Hearing Officer receives the file. According to DMV, on average, one officer can conduct 655 hearings per year.

Population: DMV reports a total of 38,815 revocations in 2012 due to chemical analysis refusal, driving while impaired, and driving after underage consumption offenses. As shown in Figure 1, a downward trend has emerged since 2009. Average declines for each revocation type suggest that total 2013 revocations could potentially drop to 36,600. However, for the purposes of this analysis, the affected population is held constant at the 2012 level.

Figure 1. Impacted Revocations (by Type)



Violation & Hearing Frequencies: DMV reports that 15,718 drivers are currently subject to ignition interlock requirements – 88% resulting from court orders and 12% from DMV reinstatement requirements. In comparison, approximately 2,500 violations were reported in 2012, representing roughly 16 percent of active interlock drivers. DMV also estimates that the Hearings Unit conducts approximately 1,500 ACR violation cases annually, representing 60 percent of reported violations. Accordingly, this analysis assumes a hearing request frequency of 60 percent for all ACR violations.

Rate of Indigence: To estimate the potential rate of indigence, DMV collected data (i.e. county of offense, file number, and driver customer number) on a sample of 70 active interlock drivers for

matching to Administrative Office of Court records on attorney appointments. Court-appointed attorneys were found in 8 cases, a rate of 11.5 percent. Applying this rate to the current and affected populations suggests that approximately 6,272 persons could be determined indigent.

Device Installation/Removal: DMV estimates that installation and monitoring fees among current ignition interlock providers average \$100.00 per vehicle and \$72.50 monthly. Other incurred vendor charges include: unscheduled services (\$35.00); violation reset (\$45.00); missed appointment (\$100.00); security deposit (\$250.00); early termination (\$145.00); lockout (\$50.00); vehicle transfer (\$75.00); service calls (\$75.00/hr. or \$0.80/mile); and, damages (assessed cost). Because actual interlock provider quotes could not be obtained, this analysis assumes a combined cost of \$150.00 for device installation and removal.

Administrative Fee: Costs incurred for compliance with the proposed interlock requirement are the responsibility of the subject person, unless there is a determination of indigence. In addition, the person must also pay an administrative fee of between \$30.00 and \$60.00, to be set by DMV. The interlock vendor is responsible for fee collection and must remit half of the proceeds to DMV quarterly for administration of the ignition interlock program, with the remaining half credited to a newly created Ignition Interlock Device Fund to offset costs incurred by DMV for the installation and removal of devices on behalf of indigent persons. Because this authorization is limited to installation and removal, this analysis assumes that monitoring and miscellaneous charges would not constitute eligible expenses from the Fund.

Fiscal Research cannot accurately project the potential impacts of the expanded interlock requirements and ACR restriction changes on ACR violation frequency. Accordingly, this analysis provides two scenarios to illustrate the range of potential cost and revenue impacts. The “low” scenario assumes that current estimated ACR violation and hearing frequencies remain constant, resulting in 6,210 ACR violations and 3,726 hearings from the affected population. And, for illustration, the “high” scenario assumes an increased violation frequency of 50 percent, resulting in 19,408 violations and 11,645 hearings.

Table 1 summarizes the revenue assumptions for minimum and maximum authorized fees. Estimates assume that the current interlock driver population represents the baseline for annual interlock orders; however, this assumption may double count an unknown number of drivers for whom interlock was ordered following conviction of a first DWI offense with blood alcohol concentration of 0.15 or higher. As shown, at the \$30.00 fee level, projected device installation and removal costs exceed estimated revenues to the Ignition Interlock Device Fund.

Table 1. Administrative Fee Revenue & Ignition Interlock Outlays

Active Interlock Drivers (Current Offenses)	15,718
Non-Indigent	13,910
Indigent	1,808
Additional Interlock Drivers (Proposed Offenses)	38,815
Non-Indigent	34,351
Indigent	4,464
TOTAL Non-Indigent	48,261
TOTAL Indigent	6,272
Revenue (\$30.00 fee)	1,447,830
Division of Motor Vehicles	723,915
Ignition Interlock Device Fund	723,915
Revenue (\$60.00 fee)	2,895,660
Division of Motor Vehicles	1,447,830
Ignition Interlock Device Fund	1,447,830
Ignition Interlock Device Fund Outlays (6,272 vehicles @ \$150.00)	940,800

Table 2 summarizes the cost components for each hearing scenario. As shown, cost variation is attributable to the number of projected hearings and required field hearing officer and attorney personnel. Non-personnel costs include assigned motor fleet vehicles, office space, utilities, office furniture, and technology (telephone, computers, printers, and scanners). Estimated costs exceed estimated revenues at each fee level.

Table 2. Hearing Scenarios & Cost Components**"Low" Scenario: 3,726 ACR Hearings Annually**

Position	FTE	Cost	Function/Description
Processing Assistant IV	5	227,850	Processing of monitoring reports/violation notices.
Program Assistant V	2	97,401	Ignition Interlock Program management and customer complaint resolution.
Administrative Officer I	6	361,417	Hearings Resolution Officer - scheduling, hearings by mail, and information requests.
Administrative Officer II	6	406,240	Field Hearings Officers - conduct hearings and oversee interlock provider operations.
Attorney I	2	196,596	Representation in cases appealed to Superior Court.
Subtotal Personnel (Recurring)		1,289,504	
Subtotal Non-Personnel (Recurring)		222,251	
Subtotal Non-Personnel (Non-recurring)		135,775	
TOTAL		1,647,530	

"High" Scenario: 11,645 ACR Hearings Annually

Position	FTE	Cost	Function/Description
Processing Assistant IV	5	227,850	Processing of monitoring reports/violation notices.
Program Assistant V	2	97,401	Ignition Interlock Program management and customer complaint resolution.
Administrative Officer I	12	722,834	Hearings Resolution Officer - scheduling, hearings by mail, and information requests.
Administrative Officer II	23	1,557,253	Field Hearings Officers - conduct hearings and oversee interlock provider operations.
Attorney I	5	491,490	Representation in cases appealed to Superior Court.
Subtotal Personnel (Recurring)		3,096,828	
Subtotal Non-Personnel (Recurring)		671,905	
Subtotal Non-Personnel (Non-recurring)		281,800	
TOTAL		4,050,533	

Additionally, the DOT Information Technology Section (DOT-IT) projects a combined total of 4,124 labor hours and estimated development cost of \$543,780 to modify programming for the State Automated Driver License System (SADLS) and Next Generation Secure Driver License System (NGSDLS) to accommodate the proposed new data elements and processes. Additionally, the NGSDLS vendor must modify current restriction combinations to add new ignition interlock and ACR restrictions to the back of the physical card. The NGSDLS project has declared a “code freeze” on certification-related programs, effective until the end of the project. Because several of the programs that are “frozen” for development purposes are affected by the required changes, DOT does not anticipate completion of the required modifications prior to the December 1, 2013 effective date. Given the current project status, DOT could not provide an alternative implementation target.

The Administrative Office of the Courts finds that the changes proposed by this bill may result in an increased number of license revocations as a result of violating the conditions of the agreement, but the agency is unable to estimate how this may affect the operations of the courts. The agency states that any increase in workload may delay the disposition of cases.

The Office of Indigent Defense Services (IDS) is similarly unable to estimate how this bill may affect workload. IDS states that the bill may increase its costs because indigent first-time offenders who would otherwise plead guilty and get a limited driving privilege may decide to go to trial rather than accept the requirement that they install an interlock system, particularly if they do not have a car on which they can install the system for the mandatory time period or cannot afford the cost of the system. The impact of cost on an indigent defendant's decision to plead or go to trial may depend on how easy it is to obtain funds pursuant to Section 8 of the bill. IDS states that any costs could be offset in theory if installation of the interlock system reduces the number of offenses that would otherwise be committed by first-time DWI offenders during the time period when the interlock is installed. This potential impact will depend on recidivism rates for first-time offenders who do not currently have interlock systems installed and the effectiveness of the interlock system in preventing impaired driving. If most DWI defendants who do not currently have an interlock do not reoffend during the time period covered by the interlock requirement, these off-setting savings would be modest. IDS finds that there may be some negative impact on IDS' recoupment revenues to the extent that defendants who are required to pay for the interlock are less likely to be able to repay attorney fees.

SOURCES OF DATA:

Division of Motor Vehicles, DOT-IT, Administrative Office of the Courts, Office of Indigent Defense Services

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and William Childs

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: June 4, 2013



Signed Copy Located in the NCGA Principal Clerk's Offices