

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1368

STATE OF NEW JERSEY

216th LEGISLATURE

DATED: JULY 3, 2014

SUMMARY

Synopsis: Revises penalty provisions for certain drunk driving offenses, including use of and applicable time periods covering driver's license suspensions and installations of ignition interlock devices on motor vehicles.

Type of Impact: Increased State Costs

Agencies Affected: New Jersey Motor Vehicle Commission, Judiciary, County Jails

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

- The Judiciary would likely incur indeterminate but nominal costs for court time in processing these cases.
- The New Jersey Motor Vehicle Commission (MVC) would incur costs for a minor redesign of the existing driver's license in order to indicate a driver's restricted use status. The MVC has existing staff capable of designing the license, but that would consume MVC staff hours. Once a location for a restricted use designation is decided, it would be necessary to work with the current driver's license vendor to revise the software that produces driver's licenses in order to incorporate those changes.
- The MVC would also incur staffing expenses to monitor and inspect the installation of interlock devices.

BILL DESCRIPTION

The First Reprint of the Assembly Committee Substitute for Assembly Bill No. 1368 of 2014 revises the penalty provisions for various drunk driving offenses, particularly making changes concerning the use of, and applicable time periods covering, driver's license suspensions and installations of ignition interlock devices on motor vehicles owned or operated by these drivers.

Drunk Driving

The bill revises the relevant penalty provisions for driving under the influence of alcohol or drugs as follows:

For a first offense, if that offense involved a person's blood alcohol concentration of 0.08 percent or higher but less than 0.10 percent, or otherwise operating a motor vehicle while under the influence of intoxicating liquor, the court would order a 10-day license suspension, during which the person would have to install an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever vehicle the person most often operates, for three months, unless the court was clearly convinced, based on a series of aggravating factors outweighing mitigating ones as set forth in the bill, to instead order a license suspension of three months (the three month suspension would also apply instead of device installation if the person did not own or lease a motor vehicle and there was no motor vehicle the person principally operated).

If the first offense involved a person's blood alcohol concentration of 0.10 percent or higher but less than 0.15 percent, the court would order a 10-day license suspension, during which the person would have to install an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever vehicle the person most often operates, for not less than seven months or more than one year.

If the first offense involved a person's blood alcohol concentration of 0.15 percent or higher, the court would order a 10-day license suspension, during which the person would have to install an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever vehicle the person most often operates, and maintain installation of the device during a period of license suspension of not less than seven months or more than one year and after license suspension for an additional period of not less than seven months or more than one year, unless there was no such vehicle, in which case the person would receive an initial period of suspension plus an additional period of suspension equal to the total period the person would have had an ignition interlock device installed.

With respect to the license suspension of a person with a blood alcohol concentration of 0.15 percent or higher, the person would have the opportunity, beginning 90 days after the start of the suspension, to petition the court to reinstate the person's driving privileges for the duration of the initially ordered suspension period, subject to the person maintaining the installation of the ignition interlock device in the person's motor vehicle both for the remainder of the initially ordered suspension period and afterward for the additional seven-month to one-year period. Additionally, a person whose driving privileges were suspended for an additional period because the person does not own or lease a motor vehicle and there is no motor vehicle the person principally operates, may petition the court that established the forfeiture period, upon proof of owning, leasing, or principally operating a motor vehicle, to reinstate the person's driving privileges for the duration of the initial and additional suspension period, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

If the offense involved a "drugged" driver (i.e., operating a motor vehicle under the influence of a narcotic, hallucinogenic, or habit-producing drug), the court would order a license

suspension of not less than seven months or more than one year, with no option to instead operate a motor vehicle with an ignition interlock device installed.

For any such first offense of drunk or “drugged” driving occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other first offenses.

For a second offense, the bill increases, for all drunk and “drugged” drivers, the period of license suspension from the current law’s two years to instead a period of not less than two years or more than four years. The court would order a 10-day license suspension, during which the person would have to install an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the two to four year suspension period, and to remain installed afterward for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive an initial period of suspension plus an additional period of suspension equal to the total period the person would have had an ignition interlock device installed.

With respect to a second offender’s license suspension, a person who does not own or lease a motor vehicle or have a motor vehicle the person operates may petition the court that established the forfeiture period, upon proof of owning, leasing, or operating a motor vehicle, to reinstate the person’s driving privileges for the duration of the additional one to three year suspension period (not the initial two to four year period), subject to the person maintaining the installation of an ignition interlock device in that vehicle.

A person who is a second offender ordered to install an ignition interlock device could only reinstate a driver’s license through the MVC upon showing proof of such installation, and could have the installation period extended by an additional period equal to one-third of the originally designated period in the same manner as previously described for a first offender.

For a third or subsequent offense, the bill increases, for all drunk and “drugged” drivers, the period of license suspension from the current law’s 10 years to instead a period of not less than 10 years or more than 20 years. The court would order a 10-day license suspension, during which the person would have to install an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the 10 to 20 year suspension period, and to remain installed afterwards for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive an initial period of suspension plus an additional period of suspension equal to the total period the person would have had an ignition interlock device installed.

With respect to a third or subsequent offender’s license suspension, a person who does not own or lease a motor vehicle or have a motor vehicle the person operates may petition the court that established the forfeiture period, upon proof of owning, leasing, or operating a motor vehicle, to reinstate the person’s driving privileges for the duration of the additional one to three year suspension period (not the initial 10 to 20 year period), subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above for both first and second offenders, a person who is a third or subsequent offender ordered to install an ignition interlock device could only reinstate a driver’s license through the MVC upon showing proof of such installation, and could have the installation period extended by an additional period equal to one-third of the originally designated period in the same manner as previously described for first and second offenders.

Ignition Interlock Device Installation – License Reinstatement

With respect to all cases for which a person has been ordered to install one or more ignition interlock devices, the court would notify the Chief Administrator of the MVC. The commission would thereafter require that the one or more devices be installed before the reinstatement of the

person's driver's license, whether after a 10-day suspension period or some longer period as applicable to the specific offense. The commission would imprint a notation on the reinstated driver's license stating that the person could not operate a motor vehicle unless it is equipped with an ignition interlock device, and would enter this requirement in the person's driving record.

Ignition Interlock Device – Failure to Install, Tampering

Lastly, a person who fails to install an ignition interlock device as ordered by a court, or who drives a device-equipped vehicle after being started by means other than the person blowing into the device, or who drives an unequipped vehicle, would be guilty of a disorderly persons offense. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both. Furthermore, the court would suspend the person's driver's license for the period of time associated with a drunk driving offense under R.S.39:4-50, except that the applicable period applied by the court would be the period for a second offense (not less than two years or more than four years) if the underlying act was committed by a first offender drunk driver/breath test refusal, and would be the period for a third or subsequent offense (not less than 10 years or more than 20 years) if the underlying act was committed by a second offender drunk driver/breath test refusal; the suspension period for a third or subsequent offender drunk driver/breath test refusal would not be enhanced (remaining not less than 10 years or more than 20 years).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) states that the cost to the MVC is indeterminate at this time. The OLS notes that the bill would require a minor redesign of the existing driver's license in order to identify a location on the license for the display of a driver's restricted use status. The MVC has existing staff capable of that design work on the license, but that would consume MVC staff hours. Once a location for the designation is decided, it would be necessary to work with the current driver's license vendor to redesign the software that produces driver's licenses in order to incorporate those changes. The MVC periodically makes change orders of this type, but the OLS does not have access to the cost or nature of these change orders, so it is not possible to derive an estimate from a comparable change order. The Judiciary would incur indeterminate, but nominal expenses to process these cases, specifically, those related to violations for failure to install, or tampering with, the ignition interlock device. These costs are expected to be largely mitigated by the fines that may be imposed by the Judiciary for such violations.

The OLS also notes that the MVC must accommodate this change in the ongoing upgrades to its technology system, known as MATRX. These upgrades include actions such as updating the computer language used on legacy MVC databases, allowing the MVC to conduct basic transactions online, and developing a computer framework that would allow for mobile or temporary MVC locations. Based on consultation with the MVC staff, it appears that any MATRX related programming can be conducted by the Office of Information Technology (OIT),

but would likely require an eventual change order to be filed with the MATRX vendor. The MVC has indicated that a change order would be similar in scope to other orders that the MVC has made, and that the order would not be billed separately, but is likely to be batched with those other orders as part of a negotiated cost package. This would make it difficult to identify the cost of the change orders, even after the work has been performed.

Based upon information provided to OLS in the past by the MVC, the cost of the programming changes could range from \$25,000 to over \$100,000; however OLS lacks the information necessary to independently verify these price ranges. While there would be an additional burden on direct customer service staff to serve those requiring restricted licenses, it is expected that the impact of that workload would not entail the hiring of additional employees. It may be necessary for the MVC to hire an additional professional staff member to administer the ignition interlock program, and the expected cost of a manager at that level would be roughly \$60,000 with an additional \$30,000 in benefits, supplies, etc. for a total cost of employment of approximately \$90,000. This would result in a rough estimate for the full cost of the bill to a range of between \$115,000 - \$190,000 in the first year, with recurring costs of approximately \$95,000 composed of \$90,000 for a dedicated staff member and \$5,000 for program materials.

Section: Authorities, Utilities, Transportation and Communications

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).