

MS:ty

10/22/2014

1 **AN ACT** *to amend* 110.10 (4) and (5) of the statutes; **relating to:** treatment court
2 access to ignition interlock device reports.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Study Committee on Problem–Solving Courts, Alternatives, and Diversions.

Background

Current law requires a court to order that a person’s operating privileges for the operation of a “Class D” vehicle be restricted to operating vehicles that are equipped with an ignition interlock device and, unless the court finds doing so will cause undue financial hardship, the court must also order that each motor vehicle for which the person’s name appears on the vehicle’s certificate of title or registration be equipped with an ignition interlock device if either of the following applies:

- The person improperly refused to take a chemical test for intoxication while driving or operating a motor vehicle.
- The person has violated prohibitions on operating under the influence of an intoxicant or other drug (OWI), homicide by intoxicated use of a vehicle, or injury by intoxicated use of a vehicle, and either of the following applies:
 - The person had an alcohol concentration of 0.15% or more at the time of the offense.
 - The person is a repeat OWI offender.

The Department of Transportation (DOT) is required to promulgate rules to provide for the implementation of an ignition interlock device program that will be conveniently available to persons throughout this state. The rules must include provisions that include the following:

- Requiring ignition interlock device providers operating in this state to provide the department and law enforcement agencies designated by the with installation, service, tampering and failure reports in a timely manner.

- Requiring ignition interlock device providers to notify the department of any ignition interlock device tampering, circumvention, bypass or violation resets, including all relevant data recorded in the device's memory. Upon receiving notice described in this subsection, the department must immediately provide the notice and data to the assessment agency that is administering the violator's driver safety plan.

DOT rules currently require an ignition interlock service provider (service provider) to provide a certificate of installation or removal to the customer. The rules require the customer to present a copy of the certificate to DOT as a condition of obtaining a license and require the service provider to provide a copy of the certificate to the sheriff of the county where the customer resides. DOT rules also require that a service provider be responsible for all of the following:

- Following the manufacturer's specifications for service and repair.
- Reporting to the sheriff of the county where the customer resides when any failure to report for required servicing occurs. All devices shall be scheduled for service at intervals not to exceed 60 days.
- Each time a device is serviced, reviewing the data recorded in the device's memory and retain a copy of the data in the customer's file. Any tampering, circumvention, bypass or violation resets must be immediately reported to the sheriff in the county where the customer resides.

Bill Draft:

This draft requires DOT to promulgate rules that require ignition interlock device providers operating in this state to provide installation, service, and other requested reports to DOT and, as designated by DOT, courts and law enforcement agencies. These reports must be provided in a timely manner and in a standardized format established by DOT. The draft also requires DOT to promulgate rules requiring ignition interlock device providers operating in this state to notify DOT, and as designated by DOT, courts and law enforcement agencies of any ignition interlock device tampering, circumvention, bypass or violation resets, including all relevant data recorded in the device's memory. The rules must require the information to be provided in a timely manner and in a standardized format established by DOT.

- 1 **SECTION 1.** 110.10 (4) and (5) of the statutes are amended to read:
- 2 110.10 (4) Requiring ignition interlock device providers operating in this state to
- 3 provide the department and, as designated by the department, courts and law enforcement

1 agencies ~~designated by the department~~ with installation, service, tampering and failure and
2 other requested reports in a timely manner and in a standardized format established by the
3 department.

4 (5) Requiring ignition interlock device providers operating in this state to notify the
5 department and, as designated by the department, courts and law enforcement agencies of any
6 ignition interlock device tampering, circumvention, bypass or violation resets, including all
7 relevant data recorded in the device's memory in a timely manner and in a standardized format
8 established by the department. ~~Upon receiving notice described in this subsection, the~~
9 ~~department shall immediately provide the notice and data to the assessment agency that is~~
10 ~~administering the violator's driver safety plan.~~

NOTE: This SECTION requires DOT to promulgate rules that require ignition interlock device providers operating in this state to do the following: (1) provide installation, service, and other requested reports to DOT and, as designated by the department, courts and law enforcement agencies; and (2) notify the department and, as designated by the department, courts and law enforcement agencies of any ignition interlock device, tampering, circumvention bypass or violation resets, including all relevant data recorded in the device's memory in a standardized format established by DOT or an agency designated by DOT.

COMMENT: DOT is currently in the process of reviewing ch. Trans 313, related to breath alcohol ignition interlock devices, and recognizes the need to update the chapter. Does the committee want to include a deadline by which DOT must promulgate rules regarding ignition interlock device reports?