

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 536
PROPOSED COMMITTEE SUBSTITUTE H536-PCS80369-MLf-21

Short Title: Ignition Interlock Req'd/All DWIs.

(Public)

Sponsors:

Referred to:

April 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE PERSONS CONVICTED OF DRIVING AFTER CONSUMING
3 ALCOHOL BEING LESS THAN TWENTY-ONE YEARS OF AGE, AND CERTAIN
4 PERSONS WHO REFUSE A CHEMICAL ANALYSIS OR ARE CONVICTED OF
5 DRIVING WHILE IMPAIRED OR ANY OTHER IMPAIRED DRIVING OFFENSE, TO
6 HAVE AN IGNITION INTERLOCK SYSTEM INSTALLED ON EVERY VEHICLE
7 THAT PERSON MAY DRIVE BEFORE THAT PERSON CAN GET A LIMITED
8 DRIVING PRIVILEGE; TO REMOVE THE WAITING PERIOD BEFORE A PERSON
9 MAY APPLY FOR A LIMITED DRIVING PRIVILEGE; AND TO PROVIDE FOR THE
10 PAYMENT OF AN ADMINISTRATIVE FEE AND COSTS ASSOCIATED WITH AN
11 IGNITION INTERLOCK SYSTEM AND CREATE AN IGNITION INTERLOCK
12 DEVICE FUND TO ASSIST INDIGENT PERSONS.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 20-16.2(c1) reads as rewritten:

15 "(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person
16 refuses to submit to a chemical analysis, a person has an alcohol concentration of ~~0.15~~0.13
17 or more, or a person's drivers license has an alcohol concentration restriction and the results of the
18 chemical analysis establish a violation of the restriction, the law enforcement officer and the
19 chemical analyst shall without unnecessary delay go before an official authorized to administer
20 oaths and execute an affidavit(s) stating that:

- 21 (1) The person was charged with an implied-consent offense or had an alcohol
22 concentration restriction on the drivers license;
23 (2) A law enforcement officer had reasonable grounds to believe that the person
24 had committed an implied-consent offense or violated the alcohol
25 concentration restriction on the drivers license;
26 (3) Whether the implied-consent offense charged involved death or critical
27 injury to another person, if the person willfully refused to submit to chemical
28 analysis;
29 (4) The person was notified of the rights in subsection (a); and
30 (5) The results of any tests given or that the person willfully refused to submit to
31 a chemical analysis.

32 If the person's drivers license has an alcohol concentration restriction, pursuant to
33 G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a
34 provision of that restriction other than violation of the alcohol concentration level, the officer
35 and chemical analyst shall complete the applicable sections of the affidavit and indicate the
36 restriction which was violated. The officer shall immediately mail the affidavit(s) to the



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1 Division. If the officer is also the chemical analyst who has notified the person of the rights
2 under subsection (a), the officer may perform alone the duties of this subsection."

3 **SECTION 2.** G.S. 20-16.2(e1) reads as rewritten:

4 "(e1) Limited Driving Privilege ~~after Six Months~~ in Certain Instances. – A person whose
5 driver's license has been revoked under this section may apply for and a judge authorized to do
6 so by this subsection may issue a limited driving privilege ~~if~~ if all of the following
7 requirements are met:

- 8 (1) At the time of the refusal the person held either a valid drivers license or a
9 license that had been expired for less than one ~~year;~~ year.
- 10 (2) ~~At the time of the refusal, the person had not within the preceding seven~~
11 ~~years been convicted of an offense involving impaired driving;~~
- 12 (3) ~~At the time of the refusal, the person had not in the preceding seven years~~
13 ~~willfully refused to submit to a chemical analysis under this section;~~
- 14 (4) The implied consent offense charged did not involve death or critical injury
15 to another ~~person;~~ person.
- 16 (5) The underlying charge for which the defendant was requested to submit to a
17 chemical analysis has been finally disposed of:
 - 18 a. Other than by conviction; or
 - 19 b. By a conviction of impaired driving under G.S. 20-138.1, at a
20 punishment level authorizing issuance of a limited driving privilege
21 under G.S. 20-179.3(b), and the defendant has complied with at least
22 one of the mandatory conditions of probation listed for the
23 punishment level under which the defendant was
24 ~~sentenced;~~ sentenced.
- 25 (6) Subsequent to the refusal the person has had no unresolved pending charges
26 for or additional convictions of an offense involving impaired
27 ~~driving;~~ driving.
- 28 (7) ~~The person's license has been revoked for at least six months for the refusal;~~
29 ~~and~~
- 30 (8) The person has obtained a substance abuse assessment from a mental health
31 facility and successfully completed any recommended training or treatment
32 program.
- 33 (9) All vehicles that the person will be authorized to drive have been equipped
34 with a type of ignition interlock system approved by the Commissioner.

35 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure
36 for application and conduct of the hearing and the restrictions required or authorized to be
37 included in the limited driving privilege apply to applications under this subsection. If the case
38 was finally disposed of in the district court, the hearing shall be conducted in the district court
39 district as defined in G.S. 7A-133 in which the refusal occurred by a district court judge. If the
40 case was finally disposed of in the superior court, the hearing shall be conducted in the superior
41 court district or set of districts as defined in G.S. 7A-41.1 in which the refusal occurred by a
42 superior court judge. A limited driving privilege issued under this section authorizes a person to
43 drive if the person's license is revoked solely under this section or solely under this section and
44 G.S. 20-17(2). If the person's license is revoked for any other reason, the limited driving
45 privilege is invalid."

46 **SECTION 3.** G.S. 20-16.5(p) reads as rewritten:

47 "(p) Limited Driving Privilege. – A person whose drivers license has been revoked for a
48 specified period of 30 or 45 days under this section may apply for a limited driving privilege
49 if if all of the following requirements are met:

- 50 (1) At the time of the alleged offense the person held either a valid drivers
51 license or a license that had been expired for less than one ~~year;~~ year.

- 1 (2) Does not have an unresolved pending charge involving impaired driving
2 except the charge for which the license is currently revoked under this
3 section or additional convictions of an offense involving impaired driving
4 since being charged for the violation for which the license is currently
5 revoked under this ~~section;~~section.
- 6 (3) ~~The person's license has been revoked for at least 10 days if the revocation is~~
7 ~~for 30 days or 30 days if the revocation is for 45 days; and~~
- 8 (4) The person has obtained a substance abuse assessment from a mental health
9 facility and registers for and agrees to participate in any recommended
10 training or treatment program.
- 11 (5) All vehicles that the person will be authorized to drive have been equipped
12 with a type of ignition interlock system approved by the Commissioner.

13 A person whose license has been indefinitely revoked under this section may, after
14 completion of 30 days under subsection (e) or the applicable period of time under subdivision
15 (1), (2), or (3) of subsection (f), apply for a limited driving privilege. In the case of an indefinite
16 revocation, a judge of the division in which the current offense is pending may issue the limited
17 driving privilege only if ~~the privilege is necessary to overcome undue hardship and~~ the person
18 meets the eligibility requirements of G.S. 20-179.3, except that the requirements in
19 G.S. 20-179.3(b)(1)c. and G.S. 20-179.3(e) shall not apply. Except as modified in this
20 subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and
21 conduct of the hearing and the restrictions required or authorized to be included in the limited
22 driving privilege apply to applications under this subsection. Any district court judge
23 authorized to hold court in the judicial district is authorized to issue such a limited driving
24 privilege. A limited driving privilege issued under this section authorizes a person to drive if
25 the person's license is revoked solely under this section. If the person's license is revoked for
26 any other reason, the limited driving privilege is invalid."

27 **SECTION 4.** G.S. 20-17.8 reads as rewritten:

28 "**§ 20-17.8. Restoration of a license after certain driving while impaired convictions;**
29 **ignition interlock.**

30 (a) Scope. – This section applies to a person whose license was revoked as a result of a
31 conviction of driving while impaired, G.S. 20-138.1, and:

- 32 (1) The person had an alcohol concentration of ~~0.15 or more;~~0.13 or more or
33 refused to submit to a chemical analysis;
- 34 (2) The person has been convicted of another offense involving impaired
35 driving, which offense occurred within seven years immediately preceding
36 the date of the offense for which the person's license has been revoked; or
- 37 (3) The person was sentenced pursuant to G.S. 20-179(f3).

38 For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as
39 shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the
40 Division to determine that person's alcohol concentration.

41 (a1) Additional Scope. – This section applies to a person whose license was revoked as a
42 result of a conviction of habitual impaired driving, G.S. 20-138.5.

43 (a2) Under Age 21. – The provisions of this section apply to a person whose license was
44 revoked as the result of a conviction of driving by a person less than 21 years old after
45 consuming alcohol pursuant to G.S. 20-138.3.

46 (b) Ignition Interlock Required. – Except as provided in subsection (l) of this section,
47 when the Division restores the license of a person who is subject to this section, in addition to
48 any other restriction or condition, it shall require the person to agree to and shall indicate on the
49 person's drivers license the following restrictions for the period designated in subsection (c):

- 50 (1) A restriction that the person may operate only a vehicle that is equipped with
51 a functioning ignition interlock system of a type approved by the

1 Commissioner. The Commissioner shall not unreasonably withhold approval
2 of an ignition interlock system and shall consult with the Division of
3 Purchase and Contract in the Department of Administration to ensure that
4 potential vendors are not discriminated against.

5 (2) A requirement that the person personally activate the ignition interlock
6 system before driving the motor vehicle.

7 (3) An alcohol concentration restriction as follows:

8 a. If the ignition interlock system is required pursuant only to
9 subdivision (a)(1) of this section, a requirement that the person not
10 drive with an alcohol concentration of 0.04 or greater;

11 b. If the ignition interlock system is required pursuant to subdivision
12 (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a
13 requirement that the person not drive with an alcohol concentration
14 of greater than ~~0.00~~; ~~or~~ 0.02;

15 c. If the ignition interlock system is required pursuant to subdivision
16 (a)(1) of this section, and the person has also been convicted, based
17 on the same set of circumstances, of: (i) driving while impaired in a
18 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21
19 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a
20 violation of G.S. 20-141.4, or (iv) manslaughter or negligent
21 homicide resulting from the operation of a motor vehicle when the
22 offense involved impaired driving, a requirement that the person not
23 drive with an alcohol concentration of greater than ~~0.00~~ 0.02; or

24 d. If the ignition interlock system is required pursuant to subsection (a2)
25 of this section, a requirement that the person not drive with an
26 alcohol concentration greater than 0.02.

27 (c) Length of Requirement. – The requirements of subsection (b) shall remain in effect
28 for:

29 (1) One year from the date of restoration if the original revocation period was
30 one year;

31 (2) Three years from the date of restoration if the original revocation period was
32 four years; or

33 (3) Seven years from the date of restoration if the original revocation was a
34 permanent revocation.

35 (c1) Vehicles Subject to Requirement. – A person subject to this section shall have all
36 registered vehicles owned by that person equipped with a functioning ignition interlock system
37 of a type approved by the Commissioner, unless the Division determines that one or more
38 specific registered vehicles owned by that person are relied upon by another member of that
39 person's family for transportation and that the vehicle is not in the possession of the person
40 subject to this section.

41 (d) Effect of Limited Driving Privileges. – If the person was eligible for and received a
42 limited driving privilege under G.S. 20-179.3, with the ignition interlock requirement contained
43 in G.S. 20-179.3(g5), the period of time for which that limited driving privilege was held shall
44 be applied towards the requirements of subsection (c).

45 (e) Notice of Requirement. – When a court reports to the Division a conviction of a
46 person who is subject to this section, the Division must send the person written notice of the
47 requirements of this section and of the consequences of failing to comply with these
48 requirements. The notification must include a statement that the person may contact the
49 Division for information on obtaining and having installed an ignition interlock system of a
50 type approved by the Commissioner.

1 (e1) Installation of Ignition Interlock System. – The Division shall not issue a drivers
2 license with an ignition interlock restriction unless the applicant presents proof, satisfactory to
3 the Division, that an approved ignition interlock system has been installed on all vehicles
4 subject to the ignition interlock requirements of subsection (c1) of this section.

5 (e2) Disabling or Removing of Ignition Interlock System. – If an ignition interlock
6 system is disabled or removed from a vehicle in which it is required to be installed pursuant to
7 subsection (c1) of this section, the Division shall revoke the drivers license of the person
8 subject to the provisions of this section and shall provide notice in accordance with G.S. 20-48.

9 (f) Effect of Violation of Restriction. – A person subject to this section who violates
10 any of the restrictions of this section commits the offense of driving while license revoked
11 under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that
12 section. If a law enforcement officer has reasonable grounds to believe that a person subject to
13 this section has consumed alcohol while driving or has driven while he has remaining in his
14 body any alcohol previously consumed, the suspected offense of driving while license is
15 revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.
16 If a person subject to this section is charged with driving while license revoked by violating a
17 condition of subsection (b) of this section, and a judicial official determines that there is
18 probable cause for the charge, the person's license is suspended pending the resolution of the
19 case, and the judicial official must require the person to surrender the license. The judicial
20 official must also notify the person that he is not entitled to drive until his case is resolved. An
21 alcohol concentration report from the ignition interlock system shall not be admissible as
22 evidence of driving while license revoked, nor shall it be admissible in an administrative
23 revocation proceeding as provided in subsection (g) of this section, unless the person operated a
24 vehicle when the ignition interlock system indicated an alcohol concentration in violation of the
25 restriction placed upon the person by subdivision (b)(3) of this section. If a person subject to
26 this section is charged with driving while license revoked by violating the requirements of
27 subsection (c1) of this section, and no other violation of this section is alleged, the court may
28 make a determination at the hearing of the case that the vehicle, on which the ignition interlock
29 system was not installed, was relied upon by another member of that person's family for
30 transportation and that the vehicle was not in the possession of the person subject to this
31 section, and therefore the vehicle was not required to be equipped with a functioning ignition
32 interlock system. If the court determines that the vehicle was not required to be equipped with a
33 functioning ignition interlock system and the person subject to this section has committed no
34 other violation of this section, the court shall find the person not guilty of driving while license
35 revoked.

36 (g) Effect of Violation of Restriction When Driving While License Revoked Not
37 Charged. – A person subject to this section who violates any of the restrictions of this section,
38 or who disables or removes an ignition interlock system required by this section, but is not
39 charged or convicted of driving while license revoked pursuant to G.S. 20-28(a), shall have the
40 person's license revoked by the Division for a period of one year.

41 (h) Beginning of Revocation Period. – If the original period of revocation was imposed
42 pursuant to G.S. 20-19(d) or (e), any remaining period of the original revocation, prior to its
43 reduction, shall be reinstated and the revocation required by subsection (f) or (g) of this section
44 begins after all other periods of revocation have terminated.

45 (i) Notification of Revocation. – If the person's license has not already been
46 surrendered to the court, the Division must expeditiously notify the person that the person's
47 license to drive is revoked pursuant to subsection (f) or (g) of this section effective on the tenth
48 calendar day after the mailing of the revocation order.

49 (j) Right to Hearing Before Division; Issues. – If the person's license is revoked
50 pursuant to subsection (g) of this section, before the effective date of the order issued under
51 subsection (i) of this section, the person may request in writing a hearing before the Division.

1 Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the
2 Division that the person's license was surrendered to the court and remained in the court's
3 possession, then the Division shall credit the amount of time for which the license was in the
4 possession of the court against the revocation period required by subsection (g) of this section.
5 If the person properly requests a hearing, the person retains the person's license, unless it is
6 revoked under some other provision of law, until the hearing is held, the person withdraws the
7 request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena
8 any witnesses or documents that the hearing officer deems necessary. The person may request
9 the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at
10 the hearing if the person makes the request in writing at least three days before the hearing. The
11 person may subpoena any other witness whom the person deems necessary, and the provisions
12 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the
13 authority of this section. The hearing officer is authorized to administer oaths to witnesses
14 appearing at the hearing. The hearing must be conducted in the county where the charge was
15 brought, and must be limited to consideration of whether:

16 (1) The drivers license of the person had an ignition interlock requirement; and

17 (2) The person:

- 18 a. Was driving a vehicle that was not equipped with a functioning
19 ignition interlock ~~system; or system;~~
20 b. Did not personally activate the ignition interlock system before
21 driving the ~~vehicle; or vehicle;~~
22 c. Drove the vehicle in violation of an applicable alcohol concentration
23 restriction prescribed by subdivision (b)(3) of this ~~section; or~~
24 d. Allowed an ignition interlock system required by this section to be
25 disabled or removed.

26 If the Division finds that the conditions specified in this subsection are met, it must order
27 the revocation sustained. If the Division finds that the condition of subdivision (1) is not met, or
28 that none of the conditions of subdivision (2) are met, it must rescind the revocation. If the
29 revocation is sustained, the person must surrender the person's license immediately upon
30 notification by the Division. If the revocation is sustained, the person may appeal the decision
31 of the Division pursuant to G.S. 20-25.

32 (k) Restoration After Violation. – When the Division restores the license of a person
33 whose license was revoked pursuant to subsection (f) or (g) of this section and the revocation
34 occurred prior to completion of time period required by subsection (c) of this section, in
35 addition to any other restriction or condition, it shall require the person to comply with the
36 conditions of subsection (b) of this section until the person has complied with those conditions
37 for the cumulative period of time as set forth in subsection (c) of this section. The period of
38 time for which the person successfully complied with subsection (b) of this section prior to
39 revocation pursuant to subsection (f) or (g) of this section shall be applied towards the
40 requirements of subsection (c) of this section.

41 (l) Medical Exception to Requirement. – A person subject to this section who has a
42 medically diagnosed physical condition that makes the person incapable of personally
43 activating an ignition interlock system may request an exception to the requirements of this
44 section from the Division. The Division shall not issue an exception to this section unless the
45 person has submitted to a physical examination by two or more physicians or surgeons duly
46 licensed to practice medicine in this State or in any other state of the United States and unless
47 such examining physicians or surgeons have completed and signed a certificate in the form
48 prescribed by the Division. Such certificate shall be devised by the Commissioner with the
49 advice of those qualified experts in the field of diagnosing and treating physical disorders that
50 the Commissioner may select and shall be designed to elicit the maximum medical information
51 necessary to aid in determining whether or not the person is capable of personally activating an

1 ignition interlock system. The certificate shall contain a waiver of privilege and the
2 recommendation of the examining physician to the Commissioner as to whether the person is
3 capable of personally activating an ignition interlock system.

4 The Commissioner is not bound by the recommendations of the examining physicians but
5 shall give fair consideration to such recommendations in acting upon the request for medical
6 exception, the criterion being whether or not, upon all the evidence, it appears that the person is
7 in fact incapable of personally activating an ignition interlock system. The burden of proof of
8 such fact is upon the person seeking the exception.

9 Whenever an exception is denied by the Commissioner, such denial may be
10 reviewed by a reviewing board upon written request of the person seeking the exception filed
11 with the Division within 10 days after receipt of such denial. The composition, procedures, and
12 review of the reviewing board shall be as provided in G.S. 20-9(g)(4)."

13 **SECTION 5.** G.S. 20-138.3(d) reads as rewritten:

14 "(d) Limited Driving Privilege. – A person who is convicted of violating subsection (a)
15 of this section and whose drivers license is revoked solely based on that conviction may apply
16 for a limited driving privilege as provided in G.S. 20-179.3. This subsection shall apply only if
17 the person meets ~~both~~ each of the following requirements:

- 18 (1) Is 18, 19, or 20 years old on the date of the offense.
- 19 (2) Has not previously been convicted of a violation of this section.
- 20 (3) Has equipped all vehicles to be operated under a limited driving privilege
21 with approved ignition interlock systems.

22 The judge may issue the limited driving privilege only if the person meets the eligibility
23 requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c.
24 G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in
25 G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a
26 limited driving privilege to a person who is convicted of violating subsection (a) of this section
27 and of driving while impaired as a result of the same transaction."

28 **SECTION 6.** G.S. 20-179.3(b) reads as rewritten:

29 "(b) Eligibility. –

- 30 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is
31 eligible for a limited driving privilege if:
 - 32 a. At the time of the offense he held either a valid driver's license or a
33 license that had been expired for less than one ~~year;~~ year.
 - 34 b. At the time of the offense he had not within the preceding seven
35 years been convicted of an offense involving impaired
36 ~~driving;~~ driving.
 - 37 c. Punishment Level Three, Four, or Five was imposed for the offense
38 of impaired ~~driving;~~ driving.
 - 39 d. Subsequent to the offense he has not been convicted of, or had an
40 unresolved charge lodged against him for, an offense involving
41 impaired ~~driving; and~~ driving.
 - 42 e. The person has obtained and filed with the court a substance abuse
43 assessment of the type required by G.S. 20-17.6 for the restoration of
44 a drivers license.
 - 45 f. The person has installed an approved ignition interlock system on all
46 vehicles subject to ignition interlock requirements to be operated by
47 the applicant under a limited driving privilege.

48 A person whose North Carolina driver's license is revoked because of a
49 conviction in another jurisdiction substantially similar to impaired driving
50 under G.S. 20-138.1 is eligible for a limited driving privilege if he would be
51 eligible for it had the conviction occurred in North Carolina. Eligibility for a

1 limited driving privilege following a revocation under G.S. 20-16.2(d) is
2 governed by G.S. 20-16.2(e1)."

3 **SECTION 7.** G.S. 20-179.3(g5) reads as rewritten:

4 "(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a
5 conviction of G.S. 20-138.1, and the person had an alcohol concentration of ~~0.15~~0.13 or more,
6 or refused to submit to a chemical analysis, a judge shall include all of the following in a
7 limited driving privilege order:

- 8 (1) A restriction that the applicant may operate only a designated motor vehicle.
9 (2) A requirement that the designated motor vehicle be equipped with a
10 functioning ignition interlock system of a type approved by the
11 Commissioner, which is set to prohibit driving with an alcohol concentration
12 of greater than ~~0.00~~0.02. The Commissioner shall not unreasonably
13 withhold approval of an ignition interlock system and shall consult with the
14 Division of Purchase and Contract in the Department of Administration to
15 ensure that potential vendors are not discriminated against.
16 (3) A requirement that the applicant personally activate the ignition interlock
17 system before driving the motor vehicle.

18 For purposes of this subsection, the results of a chemical analysis presented at trial or
19 sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and
20 shall not be subject to modification by any party, with or without approval by the court."

21 **SECTION 8.** Article 3 of Chapter 20 of the General Statutes is amended by adding
22 a new section to read:

23 "**§ 20-179.5. Ignition interlock; administrative fee and costs for installation and**
24 **monitoring; Ignition Interlock Device Fund.**

25 (a) The costs incurred in order to comply with the ignition interlock requirements
26 imposed by the court pursuant to this Article, including costs for installation and monitoring of
27 the ignition interlock system, shall be paid by the person ordered to install the system. The
28 person also shall pay an ignition interlock administrative fee in an amount which shall be
29 determined by the Division and which shall be no less than thirty dollars (\$30.00) nor more
30 than sixty dollars (\$60.00). The administrative fee shall be collected at the time of installation
31 by the vendor installing the ignition interlock system. Costs for installation and monitoring of
32 the ignition interlock system shall be collected under terms agreed upon by the vendor and the
33 person required to install the ignition interlock system.

34 (b) The vendor shall remit fees collected pursuant to subsection (a) of this section to the
35 Division on a quarterly basis. Fifty percent (50%) of the fees collected shall be used to pay
36 costs incurred by the Division in administering the interlock program; the remaining fifty
37 percent (50%) of the fees shall be deposited in the Ignition Interlock Device Fund.

38 (c) There is created in the Department of Transportation the Ignition Interlock Device
39 Fund to be used for the purpose of installing and removing the ignition interlock systems of
40 persons deemed by the court to be indigent. If the court determines that the convicted person is
41 unable to pay for the installation of an ignition interlock system, the court may order that the
42 Division pay the cost of installation out of the Ignition Interlock Device Fund, provided the
43 person agrees to pay the required costs for monitoring the system."

44 **SECTION 9.** This act becomes effective December 1, 2013, and applies to
45 offenses committed on or after that date.