

# ENACTMENT NEWS

## House Bill 436

### Vehicle Immobilization & Driving Privileges

Effective April 6, 2017

On January 4, 2017, Governor Kasich signed H.B. 436 into law. An OJC Legislative Platform item, H.B. 436 takes effect in April, 2017.

Current law allows a court to grant limited driving privileges to a second-time OVI offender after 45 days of the mandatory driver's license suspension. However, the offender's vehicle is required to be immobilized for 90 days.

H.B. 436 corrects this inconsistency by allowing the court, upon the granting of limited driving privileges, to order the termination of the 90-day immobilization. If the court terminates the suspension and the offender subsequently violates a condition of the driving privileges, the court may reinstate the balance of the immobilization period that had been terminated.

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## House Bill 388

### Ignition Interlock Device Driving Privileges – “Annie’s Law”

Effective April 6, 2017

On January 4, 2017, Governor Kasich signed H.B. 388 into law. Known as “Annie’s Law,” the bill modifies OVI sentencing law, and is intended to incentive the use of ignition-interlock devices.

#### “Unlimited” IID privileges

Under existing law, first-time OVI offenders are subject to a mandatory driver's license suspension. A court may grant “limited” driving privileges, allowing the offender to drive for occupational, educational, vocational, or medical purposes, to take a driver's license examination, to attend court-ordered treatment, or any other purpose that the court determines to be appropriate (R.C. 4510.021(A)).

As an alternative to these “limited” driving privileges, H.B. 388 now allows first-time OVI offenders to petition the court for “unlimited driving privileges” with an ignition-interlock device (“IID”). Under these unlimited driving privileges, offenders can drive without limitation as to time, place, or purpose, provided they have IIDs installed in their vehicles. A court granting unlimited driving privileges may still impose other reasonable conditions upon the privileges, such as maintaining insurance and refraining from committing further traffic violations. Any mandatory jail time

associated with the underlying OVI offense is to be suspended pending successful (i.e. no IID violations) completion of the licensee's suspension period, and the court shall maintain jurisdiction over the offender until the expiration of the suspension period. If the offender violates any term or condition the court has imposed on the driving privileges, the court shall require the offender to serve the jail term. Additionally, courts may shorten the length of suspension for offenders on unlimited driving privileges (see below).

H.B. 388 does nothing to change the existing options pertaining to driving privileges during a mandatory suspension for first-time OVI offenders. That is, the court still has the discretion to deny any driving privileges all together, to grant "limited" driving privileges as they exist in current law, and, now, to grant "unlimited" driving privileges with an IID. Upon issuing an order requiring the use of an IID, the court shall provide notice to the offender of all the actions a court is authorized or required to take if the offender commits an IID violation (see below).

An offender who is granted unlimited-with-IID privileges is required to obtain from the Bureau of Motor Vehicles a restricted license. An offender who operates a vehicle before obtaining such a license is subject to the existing penalties for driving under OVI suspension (R.C. 4510.14).

### **IID violations**

The bill defines an "ignition interlock device violation" as a certified device, installed in an offender's vehicle, indicating that it has prevented the offender from starting a motor vehicle because the device was tampered with or circumvented, or the device detected the presence of alcohol on the offender's breath. The manufacturer of the IID shall inform the court of any violations that occur. The penalties for an IID violation remain the same as in current law (R.C. 4510.13).

Upon any such IID violation, existing law allows the court to increase both the license suspension and the period of time which the offender is prohibited from exercising any limited driving privileges by a factor of two. Any increase in the suspension length cannot result in a suspension that is longer than what the court was originally authorized to order. If, however, the violation occurs within sixty days of the end of the suspension period, and the court does not impose an increased suspension by a factor of two, H.B. 388 requires the court to issue an order extending the suspension so that the suspension terminates sixty days from the date of the IID violation, regardless of whether this extension results in a suspension longer than what the court was originally authorized to order.

### **Change in ranges of suspension length**

Under current law, a first OVI offense is subject to a suspension of six months to three years, a second offense is one to five years, and a third offense is two to ten years. H.B. 388 modifies these ranges as follows:

- First OVI offense: 1 to 3 years
- Second OVI offense: 1 to 7 years
- Third OVI offense: 2 to 12 years

If, however, a first-time OVI offender requests and is granted unlimited-with-IID privileges, the court may reduce the minimum length of the suspension by half (thus a minimum six-month suspension for unlimited-with-IID privileges).

### **10-year "lookback" period**

The bill also modifies the "lookback" period for purposes of enhanced penalties for repeat OVI-related offenses. Under existing law, that period is six years, while H.B. 388 changes that period to ten years.

**Additional court costs**

When granting unlimited-with-IID privileges, H.B. 388 requires courts to impose an additional court cost of \$2.50, which may not be waived unless the offender is found to be indigent. This cost is to be used to fund the Department of Public Safety's habitual OVI-offender registry. The court may also impose an addition \$2.50 cost to be deposited in the court's special projects fund.

**Restricted plates**

The bill removes the requirement that an offender display restricted license plates following a second OVI offense. The bill retains the requirement for second-time offenders if the offender committed a "high test" violation or if the offender refused to submit to a chemical test and had previously committed an OVI offense within the preceding 20 years.