



Ohio Revised Code

Section 4510.46 Monitoring entity to inform court if vehicle operation prevented.

Effective: September 30, 2008

Legislation: Senate Bill 17 - 127th General Assembly

(A) A governmental agency, bureau, department, or office, or a private corporation, or any other entity that monitors certified ignition interlock devices for or on behalf of a court shall inform the court whenever such a device that has been installed in a motor vehicle indicates that it has prevented an offender whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended by a court under division (G)(1)(a), (b), (c), (d), or (e) of section 4511.19 of the Revised Code and who has been granted limited driving privileges under section 4510.13 of the Revised Code from starting the motor vehicle because the device was tampered with or circumvented or because the analysis of the deep-lung breath sample or other method employed by the ignition interlock device to measure the concentration by weight of alcohol in the offender's breath indicated the presence of alcohol in the offender's breath in a concentration sufficient to prevent the ignition interlock device from permitting the motor vehicle to be started.

(B) Upon receipt of such information pertaining to an offender whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended by a court under division (G)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code and who has been granted limited driving privileges under section 4510.13 of the Revised Code, the court shall send a notice to the offender stating that it has received evidence of an instance described in division (A) of this section. If a court pursuant to division (A)(8) of section 4510.13 of the Revised Code requires the offender to wear an alcohol monitor, the notice shall state that because of this instance the offender is required to wear a monitor that provides for continuous alcohol monitoring in accordance with division (A)(8) of section 4510.13 of the Revised Code. The notice shall further state that because of this instance the court may increase the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from that originally imposed by the court by a factor of two and may increase the period of time during which the offender will be prohibited from exercising any limited driving privileges granted to the offender unless the vehicles the offender operates are equipped with a certified



ignition interlock device by a factor of two.

The notice shall state whether the court will impose these increases and, if so, that these increases will take effect fourteen days from the date of the notice unless the offender files a timely motion with the court, appealing the increases in the time described in this division and requesting a hearing on the matter. Any such motion that is filed within that fourteen-day period shall be considered to be filed in a timely manner, and any such motion that is filed after that fourteen-day period shall be considered not to be filed in a timely manner. If the offender files a timely motion, the court may hold a hearing on the matter. The scope of the hearing is limited to determining whether the offender in fact was prevented from starting a motor vehicle that is equipped with a certified ignition interlock device because the device was tampered with or circumvented or because the analysis of the deep-lung breath sample or other method employed by the ignition interlock device to measure the concentration by weight of alcohol in the offender's breath indicated the presence of alcohol in the offender's breath in a concentration sufficient to prevent the ignition interlock device from permitting the motor vehicle to be started.

If the court finds by a preponderance of the evidence that this instance as indicated by the ignition interlock device in fact did occur, it may deny the offender's appeal and issue the order increasing the relevant periods of time described in this division. If the court finds by a preponderance of the evidence that this instance as indicated by the ignition interlock device in fact did not occur, it shall grant the offender's appeal and no such order shall be issued.

(C) In no case shall any period of suspension of an offender's driver's or commercial driver's license or permit or nonresident operating privilege that is increased by a factor of two or any period of time during which the offender is prohibited from exercising any limited driving privileges granted to the offender unless the vehicles the offender operates are equipped with a certified ignition interlock device that is increased by a factor of two exceed the maximum period of time for which the court originally was authorized to suspend the offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (G)(1)(a), (b), (c), (d), or (e) of section 4511.19 of the Revised Code.

(D) Nothing in this section shall be construed as prohibiting the court from revoking an individual's driving privileges.