

House Bill 1162

By: Representatives Powell of the 23rd, Parham of the 94th, and Reece of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for licensing of ignition interlock device provider centers; to
3 provide a short title; to provide for definitions; to provide for certain requirements for
4 operators of provider centers; to provide for a misdemeanor offense; to provide for rules and
5 standards to be set by the commissioner; to provide for related matters; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
10 is amended by inserting a new chapter to read as follows:

11 "CHAPTER 12A

12 43-12A-1.

13 This chapter shall be known and may be cited as the 'Ignition Interlock Device Providers
14 Act.'

15 43-12A-2.

16 As used in this chapter, the term:

17 (1) 'Department' means the Department of Motor Vehicle Safety acting directly or
18 through its duly authorized officers and agents.

19 (2) 'Ignition interlock device' means a constant monitoring device certified by the
20 commissioner of motor vehicle safety which prevents a motor vehicle from being started
21 at any time without first determining the equivalent blood alcohol concentration of the
22 operator through the taking of a deep lung breath sample. The system shall be calibrated
23 so that the motor vehicle may not be started if the blood alcohol concentration of the

1 operator, as measured by the device, exceeds 0.02 grams or if the sample is not a sample
2 of human breath.

3 (3) 'Provider center' means a facility established for the purpose of providing and
4 installing ignition interlock devices when their use is required by or as a result of an order
5 of a court.

6 43-12A-3.

7 No person shall operate a provider center or engage in the practice of providing, installing,
8 or monitoring ignition interlock devices unless a license therefor has been secured from the
9 department.

10 43-12A-4.

11 (a) Every person who desires to operate a provider center shall meet the following
12 requirements:

13 (1) Be of good moral character and be subject to the requirements set forth in Code
14 Section 43-12A-6;

15 (2) Maintain an established place of business in the state which is open to the public;

16 (3) Maintain a general liability policy of insurance, including products and completed
17 operations, with not less than \$500,000.00 of combined single limits and a garagekeeper
18 liability policy on a direct primary basis with not less than \$500,000.00 in limits, with an
19 insurance carrier authorized by the Commissioner of Insurance to write policies in the
20 state. Evidence of such insurance coverage, in the form of a certificate from the insurance
21 carrier, shall be filed with the department; and such certificate shall stipulate that the
22 insurance shall not be canceled except upon ten days' prior written notice to the
23 department;

24 (4) Provide a continuous surety bond in the principal sum of \$20,000.00 for the
25 protection of the contractual rights of individuals required to maintain an ignition
26 interlock device in such form as will meet with the approval of the department and
27 written by a company authorized to do business in this state; provided, however, that the
28 aggregate liability of the surety for all breaches of the condition of the bond in no event
29 shall exceed the principal sum of \$20,000.00 per location, and a single bond at such rate
30 for all locations separately licensed and operated by the same person may be provided in
31 satisfaction of this paragraph. The surety on any such bond may cancel such bond on
32 giving 30 days' notice thereof in writing to the department and shall be relieved of
33 liability for any breach of any condition of the bond which occurs after the effective date
34 of cancellation;

1 (5) Have the equipment and knowledge necessary to provide, install, and monitor
2 ignition interlock devices as prescribed by the department; and

3 (6) Pay to the department an application fee of \$500.00.

4 (b) The department shall conduct a records check for any applicant for certification as a
5 provider center operator. Each applicant shall submit two sets of classifiable fingerprints
6 to the department. The department shall transmit both sets of fingerprints to the Georgia
7 Crime Information Center, which shall submit one set of fingerprints to the Federal Bureau
8 of Investigation for a search of bureau records and an appropriate report and shall retain
9 one set of fingerprints and promptly conduct a search of state records. After receiving a
10 report from the Georgia Crime Information Center and the Federal Bureau of Investigation,
11 the department shall determine whether the applicant may be licensed. The applicant shall
12 be responsible for any fee or other charge allowed by law or rule or regulation promulgated
13 by the department, the Georgia Crime Information Center, or the Federal Bureau of
14 Investigation for the submission, processing, and review of such fingerprints.

15 (c) No applicant shall be licensed or certified who does not meet the requirements set forth
16 in Code Section 43-12A-6.

17 43-12A-5.

18 (a) No provider center shall be permitted to use, adopt, or conduct any business under any
19 name that is like or deceptively similar to any name of a Georgia corporation registered
20 with the Secretary of State.

21 (b) This Code section shall not prohibit the franchising or licensing of any part or all of the
22 name of a provider center by the owner of the rights therein to another licensed provider
23 center.

24 43-12A-6.

25 Every person who desires to operate a provider center or to engage in the practice of
26 providing, installing, or monitoring ignition interlock devices:

27 (1) Shall be of good moral character;

28 (2) Shall not have knowingly made misleading, deceptive, untrue, or fraudulent
29 representations in the practice of a business or profession licensed under this title or on
30 any document connected therewith; or practiced fraud or deceit or intentionally made any
31 false statement in obtaining a license to practice the licensed business or profession; or
32 made a false statement or deceptive registration with the board;

33 (3) Shall not have been convicted of a second or subsequent violation of Code Section
34 40-6-391 within ten years, as measured from the dates of previous arrests for which

1 convictions were obtained to the date of the current arrest for which a conviction is
2 obtained;

3 (4) Shall not have been convicted of any felony or of any crime involving theft, fraud,
4 violence, or moral turpitude in the courts of this state or any other state, territory, or
5 country or in the courts of the United States. As used in this paragraph, the term 'felony'
6 shall mean any offense which, if committed in this state, would be deemed a felony,
7 without regard to its designation elsewhere; and the term 'conviction' shall mean a finding
8 or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction
9 has been sought; and

10 (5) Shall not have been arrested, charged, and sentenced for the commission of any
11 felony, or any crime involving theft, fraud, violence, or moral turpitude, where:

12 (A) First offender treatment without adjudication of guilt pursuant to the charge was
13 granted; or

14 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
15 charge, except with respect to a plea of nolo contendere.

16 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
17 to probation of first offenders, or other first offender treatment shall be conclusive
18 evidence of arrest and sentencing for such crime.

19 43-12A-7.

20 (a) The department shall issue a license certificate to each provider center operator when
21 the department is satisfied that such person has met the qualifications required under this
22 chapter.

23 (b) All licenses issued to operators of provider centers pursuant to this chapter shall be
24 valid for four years from the date of issuance unless sooner canceled, suspended, or
25 revoked under Code Section 43-12A-8. All licenses shall be renewed through the
26 department as provided in subsection (d) of this Code section and shall be valid for four
27 years from the date of renewal.

28 (c) The license of each provider center operator may be renewed subject to the same
29 conditions as the original license and upon payment of a fee of \$100.00.

30 (d) All applications for renewal of a provider center operator's license shall be on a form
31 prescribed by the department and must be filed with the department not more than 60 days
32 nor fewer than ten days preceding the expiration date of the license to be renewed.

33 43-12A-8.

34 The department may cancel, suspend, revoke, or refuse to renew any provider center's
35 license upon good cause being shown and after ten days' notice to the license holder if:

- 1 (1) The department is satisfied that the licensee fails to meet the requirements to receive
 2 or hold a license under this chapter;
- 3 (2) The licensee permits fraud or engages in fraudulent practices, with reference to either
 4 the applicant or the department, or induces or countenances fraud or fraudulent practices
 5 on the part of any applicant for a driver's license or permit;
- 6 (3) The licensee fails to comply with this chapter or any rule of the department made
 7 pursuant thereto;
- 8 (4) The licensee represents himself or herself as an agent or employee of the department
 9 or uses advertising designed to lead, or which would reasonably have the effect of
 10 leading, persons to believe that such licensee is in fact an employee or representative of
 11 the department;
- 12 (5) The licensee or any employee or agent of the licensee directly or indirectly solicits
 13 business by personal solicitation on public property or in any department, agency, or
 14 office of the state which involves the administration of any law relating to motor vehicles,
 15 whether by telephone, mail, or electronic communications. A violation of this paragraph
 16 shall be a misdemeanor. Advertising in any mass media, including, but not limited to,
 17 newspapers, radio, television, magazines, or telephone directories, by a provider center
 18 shall not be considered a violation of this paragraph; or
- 19 (6) The driver's license of the licensee or any employee or agent of the licensee has been
 20 canceled, suspended, or revoked.

21 43-12A-9.

- 22 (a) The commissioner of motor vehicle safety is authorized to prescribe, by rule, standards
 23 for the eligibility, conduct, and equipment required for a person to be licensed to operate
 24 a provider center and to adopt other reasonable rules and regulations to carry out this
 25 chapter. Notwithstanding the foregoing, violations that are minor in nature and committed
 26 by a person, firm, or corporation shall be punished only by a written reprimand unless the
 27 person, firm, or corporation fails to remedy the violation within 30 days, in which case an
 28 administrative fine, not to exceed \$250.00, may be issued.
- 29 (b) The commissioner of the department shall have the authority to assess, after a hearing,
 30 an administrative fine not to exceed \$1,000.00 per violation against any provider center,
 31 agent, or employee that fails to comply with any requirement imposed by or pursuant to
 32 this chapter.
- 33 (c) The hearing and any administrative review thereof shall be conducted in accordance
 34 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia
 35 Administrative Procedure Act.' Any person, firm, or corporation who has exhausted all
 36 administrative remedies available and who is aggrieved or adversely affected by a final

1 order or action of the commissioner shall have the right of judicial review thereof in
2 accordance with Chapter 13 of Title 50. All fines recovered under this Code section shall
3 be paid into the state treasury. The commissioner may file in the superior court:

4 (1) Wherein the person under order resides;

5 (2) If such person is a corporation, in the county wherein the corporation maintains its
6 principal place of business; or

7 (3) In the county wherein the violation occurred

8 a certified copy of a final order of the commissioner, whether unappealed from or affirmed
9 upon appeal, whereupon the court shall render judgment in accordance therewith and notify
10 the parties. Such judgment shall have the same effect, and proceedings in relation thereto
11 shall thereafter be the same as though the judgment had been rendered in an action duly
12 heard and determined by the court. The penalty prescribed in this Code section shall be
13 concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative
14 rights, remedies, forfeitures, or penalties provided, allowed, or available to the
15 commissioner with respect to any violation of this chapter or any order, rules, or
16 regulations promulgated pursuant to this chapter."

17 **SECTION 2.**

18 All laws and parts of laws in conflict with this Act are repealed.