

Senate File 2190

S-5065

1 Amend Senate File 2190 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <DIVISION I

5 COUNTY CHEMICAL SUBSTANCE ABUSE MONITORING PILOT  
6 PROGRAMS

7 Section 1. COUNTY CHEMICAL SUBSTANCE ABUSE  
8 MONITORING PILOT PROGRAMS.

9 1. The department of public safety, in  
10 collaboration with the governor's traffic safety  
11 bureau, may, in an effort to reduce the number of  
12 crimes that have a nexus with chemical substance abuse,  
13 adopt rules providing for the creation and approval of  
14 an application from a county for the implementation of  
15 a countywide chemical substance abuse monitoring pilot  
16 program that is available twenty-four hours per day,  
17 seven days per week.

18 2. A chemical substance abuse monitoring pilot  
19 program shall do all of the following:

20 a. Make the program available to a person who has  
21 been charged with, pled guilty to, or been convicted  
22 of a crime that has a nexus with chemical substance  
23 abuse. The program shall require a participating  
24 person to abstain from all chemical substances for  
25 a period of time. A person wishing to participate  
26 in the program shall apply to the court on a form  
27 designed by the county, and the court may order the  
28 person's participation in the program as a component  
29 or condition of pretrial release or probation. The  
30 application form shall include an itemization of all  
31 costs associated with participation in the program.  
32 This paragraph shall not apply to a person who has  
33 been charged with, pled guilty to, or been convicted  
34 of a first offense of operating while intoxicated in  
35 violation of section 321J.2 where the person's alcohol

1 concentration was lower than .15 and no accident  
2 resulting in personal injury or property damage  
3 occurred, unless upon application and a hearing the  
4 court permits participation in the program by such a  
5 person.

6 b. Require the person to be subject to testing  
7 to determine whether a chemical substance is present  
8 in the person's body. The commissioner of public  
9 safety shall approve the use of appropriate devices  
10 and technology for this purpose, and may, in the case  
11 of alcohol concentration testing, designate certain  
12 portable breath test devices for this purpose. Testing  
13 shall occur in the following manner:

14 (1) At least twice per day at a central location.

15 (2) Where testing under subparagraph (1) is  
16 impractical, by continuous transdermal or electronic  
17 monitoring.

18 c. Provide that allegations of a test failure, a  
19 refusal to submit to a test, or a failure to appear for  
20 testing shall be communicated ex parte to a magistrate  
21 as soon as practicable. A magistrate who receives  
22 such a communication may order immediate incarceration  
23 pending a hearing on the allegation but lasting no  
24 longer than twenty-four hours after the issuance of the  
25 order or, if the person failed to appear for testing as  
26 scheduled, the magistrate may issue a warrant for the  
27 arrest of the person for a violation of the terms of  
28 pretrial release or probation, as applicable.

29 d. Require a person participating in the program  
30 to pay program costs, including costs of installation,  
31 monitoring, and deactivation of any testing devices.

32 3. An approved pilot program shall begin on October  
33 1, 2016, or upon the effective date of department  
34 rules, whichever is earlier, and shall be conducted for  
35 a minimum of one year.

1 4. The department of public safety shall adopt  
2 rules pursuant to chapter 17A to implement this section  
3 including but not limited to provisions relating to  
4 applications for, approval of, costs of, and oversight  
5 of the pilot programs and reporting requirements for  
6 participating counties.

7 5. The department of public safety shall submit a  
8 report on the results of the pilot programs and make  
9 recommendations to the general assembly by December 15,  
10 2017.

11 6. For the purposes of this section, "chemical  
12 substance" means any alcoholic beverage as defined in  
13 section 321J.1 and any controlled substance as defined  
14 in section 124.101.

15 DIVISION II

16 OPERATING WHILE INTOXICATED

17 Sec. 2. Section 321J.2, subsection 3, paragraph d,  
18 subparagraphs (1) and (2), Code 2016, are amended to  
19 read as follows:

20 (1) A defendant whose alcohol concentration is .08  
21 or more ~~but not more than .10~~ shall not be eligible for  
22 any temporary restricted license for at least thirty  
23 days if a test was obtained and an accident resulting  
24 in personal injury or property damage occurred. ~~The~~  
25 ~~department shall require the defendant to install an~~  
26 ~~ignition interlock device of a type approved by the~~  
27 ~~commissioner of public safety on all vehicles owned~~  
28 ~~or operated by the defendant if the defendant seeks a~~  
29 ~~temporary restricted license.~~ There shall be no such  
30 period of ineligibility if no such accident occurred,  
31 ~~and the defendant shall not be required to install an~~  
32 ~~ignition interlock device.~~

33 (2) ~~A defendant whose alcohol concentration is~~  
34 ~~more than .10 shall not be eligible for any temporary~~  
35 ~~restricted license for at least thirty days if a test~~

1 ~~was obtained, and an accident resulting in personal~~  
2 ~~injury or property damage occurred or the defendant's~~  
3 ~~alcohol concentration exceeded .15. There shall be~~  
4 ~~no such period of ineligibility if no such accident~~  
5 ~~occurred and the defendant's alcohol concentration~~  
6 ~~did not exceed .15. In either case, where~~ Where a  
7 defendant's alcohol concentration is more than .10,  
8 the department shall require the defendant to install  
9 an ignition interlock device of a type approved by the  
10 commissioner of public safety on all vehicles owned  
11 or operated by the defendant if the defendant seeks a  
12 temporary restricted license.

13 Sec. 3. Section 321J.4, subsections 1, 2, and 3,  
14 Code 2016, are amended to read as follows:

15 1. If a defendant is convicted of a violation of  
16 section 321J.2 and the defendant's driver's license or  
17 nonresident operating privilege has not been revoked  
18 under [section 321J.9](#) or [321J.12](#) for the occurrence from  
19 which the arrest arose, the department shall revoke the  
20 defendant's driver's license or nonresident operating  
21 privilege for one hundred eighty days if the defendant  
22 submitted to chemical testing and has had no previous  
23 conviction or revocation under [this chapter](#) and shall  
24 revoke the defendant's driver's license or nonresident  
25 operating privilege for one year if the defendant  
26 refused to submit to chemical testing and has had no  
27 previous conviction or revocation under [this chapter](#).  
28 The defendant shall not be eligible for any temporary  
29 restricted license for at least ninety days if a test  
30 was refused under [section 321J.9](#).

31 a. A defendant whose alcohol concentration is .08  
32 or more ~~but not more than .10~~ shall not be eligible for  
33 any temporary restricted license for at least thirty  
34 days if a test was obtained and an accident resulting  
35 in personal injury or property damage occurred. ~~The~~

1 ~~department shall require the defendant to install an~~  
2 ~~ignition interlock device of a type approved by the~~  
3 ~~commissioner of public safety on all vehicles owned~~  
4 ~~or operated by the defendant if the defendant seeks a~~  
5 ~~temporary restricted license. There shall be no such~~  
6 ~~period of ineligibility if no such accident occurred,~~  
7 ~~and the defendant shall not be required to install an~~  
8 ~~ignition interlock device.~~

9 ~~b. A defendant whose alcohol concentration is~~  
10 ~~more than .10 shall not be eligible for any temporary~~  
11 ~~restricted license for at least thirty days if a test~~  
12 ~~was obtained and an accident resulting in personal~~  
13 ~~injury or property damage occurred or the defendant's~~  
14 ~~alcohol concentration exceeded .15. There shall be~~  
15 ~~no such period of ineligibility if no such accident~~  
16 ~~occurred and the defendant's alcohol concentration~~  
17 ~~did not exceed .15. In either case, where Where a~~  
18 ~~defendant's alcohol concentration is more than .10,~~  
19 ~~the department shall require the defendant to install~~  
20 ~~an ignition interlock device of a type approved by the~~  
21 ~~commissioner of public safety on all vehicles owned~~  
22 ~~or operated by the defendant if the defendant seeks a~~  
23 ~~temporary restricted license.~~

24 ~~c. If the defendant is under the age of twenty-one,~~  
25 ~~the defendant shall not be eligible for a temporary~~  
26 ~~restricted license for at least sixty days after the~~  
27 ~~effective date of revocation.~~

28 ~~2. If a defendant is convicted of a violation~~  
29 ~~of [section 321J.2](#), and the defendant's driver's~~  
30 ~~license or nonresident operating privilege has not~~  
31 ~~already been revoked under [section 321J.9](#) or [321J.12](#)~~  
32 ~~for the occurrence from which the arrest arose, the~~  
33 ~~department shall revoke the defendant's driver's~~  
34 ~~license or nonresident operating privilege for one~~  
35 ~~year if the defendant submitted to chemical testing~~

1 and has had a previous conviction or revocation under  
2 this chapter and shall revoke the defendant's driver's  
3 license or nonresident operating privilege for two  
4 years if the defendant refused to submit to chemical  
5 testing and has had a previous revocation under this  
6 chapter. The defendant shall not be eligible for any  
7 temporary restricted license for forty-five days after  
8 the effective date of revocation if the defendant  
9 submitted to chemical testing and an accident resulting  
10 in personal injury or property damage occurred and  
11 shall not be eligible for any temporary restricted  
12 license for ninety days after the effective date of  
13 revocation if the defendant refused chemical testing.  
14 The temporary restricted license shall be issued in  
15 accordance with [section 321J.20, subsection 2](#). The  
16 department shall require the defendant to install an  
17 ignition interlock device of a type approved by the  
18 commissioner of public safety on all vehicles owned  
19 or operated by the defendant if the defendant seeks a  
20 temporary restricted license at the end of the minimum  
21 period of ineligibility. A temporary restricted  
22 license shall not be granted by the department until  
23 the defendant installs the ignition interlock device.

24 3. If the court defers judgment pursuant to section  
25 907.3 for a violation of [section 321J.2](#), and if the  
26 defendant's driver's license or nonresident operating  
27 privilege has not been revoked under [section 321J.9](#)  
28 or [321J.12](#), or has not otherwise been revoked for the  
29 occurrence from which the arrest arose, the department  
30 shall revoke the defendant's driver's license or  
31 nonresident operating privilege for a period of not  
32 less than thirty days nor more than ninety days. The  
33 defendant shall not be eligible for any temporary  
34 restricted license for at least ninety days if a test  
35 was refused.

1 a. A defendant whose alcohol concentration is .08  
2 or more ~~but not more than .10~~ shall not be eligible for  
3 any temporary restricted license for at least thirty  
4 days if a test was obtained and an accident resulting  
5 in personal injury or property damage occurred. ~~The~~  
6 ~~department shall require the defendant to install an~~  
7 ~~ignition interlock device of a type approved by the~~  
8 ~~commissioner of public safety on all vehicles owned~~  
9 ~~or operated by the defendant if the defendant seeks a~~  
10 ~~temporary restricted license.~~ There shall be no such  
11 period of ineligibility if no such accident occurred,  
12 ~~and the defendant shall not be required to install an~~  
13 ~~ignition interlock device.~~

14 b. ~~A defendant whose alcohol concentration is~~  
15 ~~more than .10 shall not be eligible for any temporary~~  
16 ~~restricted license for at least thirty days if a test~~  
17 ~~was obtained and an accident resulting in personal~~  
18 ~~injury or property damage occurred or the defendant's~~  
19 ~~alcohol concentration exceeded .15.~~ There shall be  
20 ~~no such period of ineligibility if no such accident~~  
21 ~~occurred and the defendant's alcohol concentration~~  
22 ~~did not exceed .15.~~ In either case, ~~where~~ Where a  
23 defendant's alcohol concentration is more than .10,  
24 the department shall require the defendant to install  
25 an ignition interlock device of a type approved by the  
26 commissioner of public safety on all vehicles owned  
27 or operated by the defendant if the defendant seeks a  
28 temporary restricted license.

29 c. If the defendant is under the age of twenty-one,  
30 the defendant shall not be eligible for a temporary  
31 restricted license for at least sixty days after the  
32 effective date of the revocation.

33 Sec. 4. Section 321J.12, subsections 1 and 2, Code  
34 2016, are amended to read as follows:

35 1. Upon certification, subject to penalty for

1 perjury, by the peace officer that there existed  
2 reasonable grounds to believe that the person had been  
3 operating a motor vehicle in violation of section  
4 321J.2, that there existed one or more of the necessary  
5 conditions for chemical testing described in section  
6 321J.6, subsection 1, and that the person submitted to  
7 chemical testing and the test results indicated the  
8 presence of a controlled substance or other drug, or  
9 an alcohol concentration equal to or in excess of the  
10 level prohibited by [section 321J.2](#), or a combination  
11 of alcohol and another drug in violation of section  
12 321J.2, the department shall revoke the person's  
13 driver's license or nonresident operating privilege for  
14 the following periods of time:

15     a. One hundred eighty days if the person has had no  
16 revocation under [this chapter](#).

17     b. One year if the person has had a one previous  
18 revocation under [this chapter](#).

19     c. Two years if the person has had two or more  
20 previous revocations under this chapter.

21     2. a. A person whose driver's license or  
22 nonresident operating privileges have been revoked  
23 under [subsection 1](#), paragraph "a", whose alcohol  
24 concentration is .08 or more ~~but not more than .10~~  
25 shall not be eligible for any temporary restricted  
26 license for at least thirty days after the effective  
27 date of the revocation if a test was obtained and an  
28 accident resulting in personal injury or property  
29 damage occurred. ~~The department shall require the~~  
30 ~~defendant to install an ignition interlock device of~~  
31 ~~a type approved by the commissioner of public safety~~  
32 ~~on all vehicles owned or operated by the defendant if~~  
33 ~~the defendant seeks a temporary license. There shall~~  
34 be no such period of ineligibility if no such accident  
35 occurred, ~~and the defendant shall not be required to~~



1 ~~install an ignition interlock device.~~

2 ~~b. A defendant whose alcohol concentration is~~  
3 ~~more than .10 shall not be eligible for any temporary~~  
4 ~~restricted license for at least thirty days if a test~~  
5 ~~was obtained and an accident resulting in personal~~  
6 ~~injury or property damage occurred or the defendant's~~  
7 ~~alcohol concentration exceeded .15. There shall be~~  
8 ~~no such period of ineligibility if no such accident~~  
9 ~~occurred and the defendant's alcohol concentration~~  
10 ~~did not exceed .15. In either case, where Where a~~  
11 ~~defendant's alcohol concentration is more than .10,~~  
12 ~~the department shall require the defendant to install~~  
13 ~~an ignition interlock device of a type approved by the~~  
14 ~~commissioner of public safety on all vehicles owned~~  
15 ~~or operated by the defendant if the defendant seeks a~~  
16 ~~temporary restricted license.~~

17 ~~c. If the person is under the age of twenty-one,~~  
18 ~~the person shall not be eligible for a temporary~~  
19 ~~restricted license for at least sixty days after the~~  
20 ~~effective date of the revocation.~~

21 ~~d. A person whose license or privileges have been~~  
22 ~~revoked under subsection 1, paragraph "b", for one year~~  
23 ~~shall not be eligible for any temporary restricted~~  
24 ~~license for forty-five days after the effective date~~  
25 ~~of the revocation, and if a test was obtained and an~~  
26 ~~accident resulting in personal injury or property~~  
27 ~~damage occurred. If a person's license or privileges~~  
28 ~~have been revoked under subsection 1, paragraph "b",~~  
29 ~~the department shall require the person to install an~~  
30 ~~ignition interlock device of a type approved by the~~  
31 ~~commissioner of public safety on all vehicles owned~~  
32 ~~or operated by the defendant if the defendant seeks a~~  
33 ~~temporary restricted license at the end of the minimum~~  
34 ~~period of ineligibility. The temporary restricted~~  
35 ~~license shall be issued in accordance with section~~

1 321J.20, subsection 2. A temporary restricted license  
2 shall not be granted by the department until the  
3 defendant installs the ignition interlock device.

4 e. A person whose license or privileges have  
5 been revoked under subsection 1, paragraph "c", for  
6 two years shall not be eligible for any temporary  
7 restricted license for forty-five days after the  
8 effective date of the revocation. The department shall  
9 require the person to install an ignition interlock  
10 device of a type approved by the commissioner of  
11 public safety on all vehicles owned or operated by  
12 the defendant if the defendant seeks a temporary  
13 restricted license at the end of the minimum period  
14 of ineligibility. The temporary restricted license  
15 shall be issued in accordance with section 321J.20,  
16 subsection 2. A temporary restricted license shall  
17 not be granted by the department until the defendant  
18 installs the ignition interlock device.

19 Sec. 5. Section 321J.17, subsection 3, Code 2016,  
20 is amended to read as follows:

21 3. The department shall also require certification  
22 of installation of an ignition interlock device of a  
23 type approved by the commissioner of public safety on  
24 all motor vehicles owned or operated by any person  
25 seeking reinstatement following a second or subsequent  
26 revocation under [section 321J.4](#), [321J.9](#), or [321J.12](#).  
27 The requirement for the installation of an approved  
28 ignition interlock device shall be for one year from  
29 the date of reinstatement unless a longer time period  
30 is required by statute. The one-year period a person  
31 is required to maintain an ignition interlock device  
32 under [this subsection](#) shall be reduced by any period  
33 of time the person held a valid temporary restricted  
34 license during the period of the revocation for the  
35 occurrence from which the arrest arose, including

1 any period in which the person participated in a 24-7  
2 sobriety program, as defined in section 321J.20. The  
3 person shall not operate any motor vehicle which is not  
4 equipped with an approved ignition interlock device  
5 during the period in which an ignition interlock device  
6 must be maintained, and the department shall not grant  
7 reinstatement unless the person certifies installation  
8 of an ignition interlock device as required in this  
9 subsection.

10 Sec. 6. Section 321J.20, subsection 1, paragraph a,  
11 unnumbered paragraph 1, Code 2016, is amended to read  
12 as follows:

13 The department may, on application, issue a  
14 temporary restricted license to a person whose  
15 noncommercial driver's license is revoked under this  
16 chapter allowing the person to drive to and from the  
17 person's home and specified places at specified times  
18 which can be verified by the department and which  
19 are required by the person's full-time or part-time  
20 employment, continuing health care or the continuing  
21 health care of another who is dependent upon the  
22 person, continuing education while enrolled in an  
23 educational institution on a part-time or full-time  
24 basis and while pursuing a course of study leading to a  
25 diploma, degree, or other certification of successful  
26 educational completion, substance abuse treatment,  
27 court-ordered community service responsibilities, and  
28 appointments with the person's parole or probation  
29 officer, and participation in a 24-7 sobriety program,  
30 if the person's driver's license has not been revoked  
31 previously under [section 321J.4](#), [321J.9](#), or [321J.12](#) and  
32 if any of the following apply:

33 Sec. 7. Section 321J.20, subsection 1, paragraph b,  
34 Code 2016, is amended to read as follows:

35 *b.* A temporary restricted license may be issued

1 under [this subsection](#) if the person's noncommercial  
2 driver's license is revoked for two years under section  
3 321J.4, subsection 2, or [section 321J.9, subsection 1,](#)  
4 paragraph "b", and the ~~first three hundred sixty five~~  
5 ~~days of the revocation have~~ minimum period of  
6 ineligibility for issuance of a temporary restricted  
7 license has expired.

8 Sec. 8. Section 321J.20, subsection 2, paragraph a,  
9 Code 2016, is amended to read as follows:

10 a. Notwithstanding [section 321.560](#), the department  
11 may, on application, and upon the expiration of  
12 the minimum period of ineligibility for a temporary  
13 restricted license provided for under section  
14 321.560, [321J.4](#), [321J.9](#), or [321J.12](#), issue a temporary  
15 restricted license to a person whose noncommercial  
16 driver's license has either been revoked under this  
17 chapter, or revoked or suspended under [chapter 321](#)  
18 solely for violations of [this chapter](#), or who has been  
19 determined to be a habitual offender under chapter  
20 321 based solely on violations of [this chapter](#) or on  
21 violations listed in [section 321.560, subsection 1,](#)  
22 paragraph "b", and who is not eligible for a temporary  
23 restricted license under [subsection 1](#). However, the  
24 department may not issue a temporary restricted license  
25 under [this subsection](#) for a violation of section  
26 321J.2A or to a person under the age of twenty-one  
27 whose license is revoked under [section 321J.4, 321J.9,](#)  
28 or [321J.12](#). A temporary restricted license issued  
29 under [this subsection](#) may allow the person to drive  
30 to and from the person's home and specified places at  
31 specified times which can be verified by the department  
32 and which are required by the person's full-time or  
33 part-time employment; continuing education while  
34 enrolled in an educational institution on a part-time  
35 or full-time basis and while pursuing a course of study

1 leading to a diploma, degree, or other certification of  
2 successful educational completion; ~~or~~ substance abuse  
3 treatment; or participation in a 24-7 sobriety program.

4 Sec. 9. Section 321J.20, subsection 3, Code 2016,  
5 is amended to read as follows:

6 3. If a person required to install an ignition  
7 interlock device or participate in a 24-7 sobriety  
8 program operates a motor vehicle which does not have  
9 an approved ignition interlock device or while not  
10 in compliance with the 24-7 sobriety program, or if  
11 the person tampers with or circumvents an ignition  
12 interlock device, in addition to other penalties  
13 provided, the person's temporary restricted license  
14 shall be revoked.

15 Sec. 10. Section 321J.20, Code 2016, is amended by  
16 adding the following new subsection:

17 NEW SUBSECTION. 10. Notwithstanding any other  
18 provision of law to the contrary, in any circumstance  
19 in which this chapter requires the installation of an  
20 ignition interlock device in all vehicles owned or  
21 operated by a person as a condition of the person's  
22 license or privilege to operate noncommercial motor  
23 vehicles, the department may accept, in lieu of  
24 installation of an ignition interlock device, a  
25 certification of the person's participation in and  
26 compliance with a 24-7 sobriety program. As used in  
27 this section, "24-7 sobriety program" means as defined  
28 in 23 U.S.C. §164(a), as amended by the federal Fixing  
29 America's Surface Transportation Act, Pub. L. No.  
30 114-94, §1414. The department, in consultation with  
31 the department of public safety, may adopt rules for  
32 issuing and accepting a certification of participation  
33 in and compliance with a 24-7 sobriety program. This  
34 subsection shall be construed and implemented to comply  
35 with 23 U.S.C. §164(a), as amended by the federal

1 Fixing America's Surface Transportation Act, Pub.  
2 L. No. 114-94, §1414, and shall not apply if such  
3 application results in a finding of noncompliance  
4 with 23 U.S.C. §164 that results or will result in  
5 a reservation or transfer of funds pursuant to 23  
6 U.S.C. §164(b). This subsection shall not authorize  
7 the operation of a motor vehicle for any purpose not  
8 otherwise authorized by this chapter.>

9 2. Title page, by striking lines 1 and  
10 2 and inserting <An Act providing for the  
11 establishment of county chemical substance abuse  
12 monitoring pilot programs and modifying temporary  
13 restricted license eligibility requirements for  
14 operating-while-intoxicated offenders.>

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STEVEN J. SODDERS