

HOUSE FINANCE COMMITTEE
March 5, 2007
1:40 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:40:13 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Harry Crawford
Representative Les Gara
Representative Mike Hawker
Representative Reggie Joule
Representative Mary Nelson
Representative Bill Thomas, Jr.

MEMBERS ABSENT

Representative Mike Kelly
Representative Richard Foster

ALSO PRESENT

Michael Pawlowski, Staff, Co-Chair Meyer; Dirk Moffatt, Staff, Representative Bob Lynn; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; Doug Wooliver, Administrative Attorney, Alaska Court System

PRESENT VIA TELECONFERENCE

Narda Butler, Anchorage; Babette Miller, Smart Start Alaska, LLC; Duane Bannock, Director, Division of Motor Vehicles, Department of Administration; Lieutenant Rodney Dial, Alaska State Troopers, Department of Public Safety

SUMMARY

HB 19 "An Act relating to ignition interlock limited driver's license privileges."

CSHB 19(JUD) was heard and HELD in Committee for further consideration.

HB 7 "An Act relating to false caller identification."

CSHB 7(FIN) was REPORTED out of Committee with "no recommendation" and with the following fiscal notes: zero note #1 by the Department of

Administration, zero note # 2 by the Department of Law, indeterminate note # 3 by the Department of Public Safety, and new zero fiscal notes by the Department of Administration, Department of Correction, Department of Law, and Alaska Court System.

HJR 10 Relating to reauthorization of federal funding for children's health insurance; and encouraging the Governor to support additional funding for and access to children's health insurance.

HJR 10 was scheduled but not heard.

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HOUSE BILL NO. 19

"An Act relating to ignition interlock limited driver's license privileges."

MICHAEL PAWLOWSKI, STAFF, CO-CHAIR MEYER, explained that HB 19 was the result of concerns brought to the sponsor by a constituent. He related the current process to obtain a limited license, which is based on having employment, and limits where one can drive. The ignition interlock limited license works by testing for blood alcohol and preventing the car from starting. There are two vendors in Alaska. This bill requires any limited license granted to require an ignition interlock device on the car. He referred to successes with the use of such a device in Canada. The bill provides an opportunity to drive legally and safely.

Representative Nelson asked who bears the cost for the device. Mr. Pawlowski replied that the offender would bear the cost of installing and maintaining the device. Representative Nelson asked if the car has to be new. Mr. Pawlowski thought it would work with all vehicles. He added that the court has the ability to reduce a person's fines by the cost of the device. Representative Nelson asked if it is hard to find a vendor to install them in remote Alaska. Mr. Pawlowski reported that vendors do fly to the villages and are located all around the state.

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Representative Gara voiced a concern about adequate service of future vendors. He proposed to draft an amendment that would address the problem of vendors not able or willing to fly to a small community.

Co-Chair Meyer suggested hearing from the vendors first.

Representative Thomas asked about the various degrees of revocation. Mr. Pawlowski explained license suspensions as they apply to ignition interlock limited licenses. The first offense is a 90-day revocation and a limited license cannot be issued during the first 30 days of that revocation. On the second offense, it is 90 days before a limited license can be obtained. Representative Thomas asked about the third offense. Mr. Pawlowski replied that it depends on when the last DUI was given. Representative Thomas wondered if a person with multiple convictions should be able to use a locking device. He thought the penalty should be stronger.

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Mr. Pawlowski referred to page 3, lines 14 and 15 of the bill, to explain that if a person violates when having an ignition interlock limited license, they are not able to ever get another one. This bill provides that concept in statute.

Co-Chair Meyer summarized that some offenders are driving to places other than work and some are offending again. This bill helps ensure that the person is driving when sober, no matter where they drive.

Co-Chair Chenault indicated that the penalty for tampering with the device is to not ever be able to use the device again. Mr. Pawlowski said that is correct. Co-Chair Chenault asked if tampering with the device is a Class A misdemeanor. Mr. Pawlowski said yes.

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Representative Joule asked if the bill presumes ownership of a vehicle. Mr. Pawlowski said it applies to a vehicle that is being operated. Representative Joule provided an example of a person who drives someone else's vehicle. Mr. Pawlowski explained that a device would have to be installed on a family member's vehicle.

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Representative Gara noted two parts to the bill, during the license revocation period and after, as a possible condition of probation. He wondered if a standard for the court is removed in HB 19, and if a judge should still have discretion to refuse the use of the ignition interlock limited license. Mr. Pawlowski explained that there are two entities that grant a limited license. He thought there was a difference between when the court and when the DMV granted a limited license. He thought the limitation on "safety of the public" was not put on DMV. He offered to provide more information.

Representative Crawford asked how the crime of refusal is handled in this bill. Mr. Pawlowski said that was looked at and the current system was mirrored. He explained that this device is a safety factor.

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NARDA BUTLER, ANCHORAGE, spoke in favor of HB 19. She referred to research that shows people who have been convicted of a DUI still have a need to drive. She considers this device preventative. She recalled Rodney Hebert who has acquired sobriety, but still cannot drive. This bill would benefit his ability to become a more productive member of society.

BABETTE MILLER, SMART START ALASKA, LLC, explained that the ignition interlock device can be installed on any vehicle, except for snowmobiles and ATV's.

Representative Nelson repeated her question about serving remote areas. Ms. Miller reported that the devices are currently being installed in remote communities. Representative Nelson asked if the offender pays for the airfare. Ms. Miller explained that her business absorbs the travel expense. Ms. Miller explained how the communities are served.

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Representative Gara asked about the order of installation. Ms. Miller reported that they do two at a time. Representative Gara asked if they would install for only one person. Ms. Miller said yes. Representative Gara inquired about installation costs. Ms. Miller said \$100 is charged for the installation on the road system, \$150 if they have to fly to a community.

Representative Gara asked how the charge is determined for remote communities. Ms. Miller replied that it is negotiated in their contract.

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Representative Gara asked how well the devices perform in cold temperatures. Ms. Miller reported that the breathalyzer can be disconnected and taken inside if it is too cold; otherwise it takes a couple of minutes to warm up before an individual can blow into it.

Representative Gara asked where the installation locations are. Ms. Miller responded, Anchorage, Kenai, Homer, Fairbanks, Valdez, Sitka, Ketchikan, Juneau, Dillingham, Kodiak, and any other requests.

Co-Chair Meyer asked who other the vendor is. Ms. Miller said Alaska Monitoring. Co-Chair Meyer asked for an explanation of their working relationship and Ms. Miller complied.

In response to a question from Representative Nelson, Ms. Miller explained how the device works and its cost.

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Mr. Pawlowski reported that the statute currently does not allow a person to get a limited license if they have a refusal conviction.

Representative Gara wondered if there are limits to when an ignition interlock device could be obtained.

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, reported that it is at the court's discretion. She agreed that there were no standards stating whether or not to allow the interlock device. It does not require a finding with regard to public safety.

Mr. Pawloski reported that AS 28.15.201(a) addresses the issue and references AS 28.15.181(b).

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Representative Gara suggested putting language in which would allow a certain standard of safety. Ms. Carpeneti referred to pages 2 and 3 of the bill. She explained that those conditions under Section 3, (1), (2), (3), and (4), allow for a certain standard of safety when granting a limited license under HB 19. Under AS 28.15.201(a), it cross references AS 28.15.181(b). She offered to research this further. Ms. Pawloski noted that AS 28.15.201(a) is not repealed, but AS 28.15.201(d) is. Further discussion of the statutes ensued.

Representative Gara suggested language that might help. Mr. Pawlowski replied that the limitation suggested does not currently exist.

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Representative Nelson asked who is alerted if someone fails the test. Mr. Pawlowski replied that there is a monitoring system in place recorded by the computer and sent to the Department of Corrections.

Representative Thomas wondered if an intoxicated person in a vehicle with a key in the ignition violates the law. Ms. Carpeneti said that situation would qualify as a violation.

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Representative Stoltze asked if the Department of Public Safety should bear the cost of this device. Co-Chair Meyer noted the cost of special equipment and personnel. He recalled the costs of a DUI to an offender.

Co-Chair Chenault asked what effect this would have on commercial licenses or motorcycle endorsements. In the case of commercial licenses, Mr. Pawlowski thought that would have to be worked out with the employer.

DUANE BANNOCK, DIRECTOR, DIVISION OF MOTOR VEHICLES, DEPARTMENT OF ADMINISTRATION, responded to Co-Chair Chenault's question. He noted that this device is not allowed with a commercial driver's license. A motorcycle would have to be equipped with the device if a person were to drive it.

Ms. Miller reported that the devices are not able to be installed on motorcycles, snowmobiles, or ATV's. She added that the device is plastic, not metal.

Mr. Pawlowski thought that persons with only a motorcycle would not be allowed to drive.

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Co-Chair Meyer MOVED to ADOPT Amendment 1:

Page 3, line 16

Insert:

(5) The ignition interlock limited license is not granted during the first 30 days of the period of revocation.

Representative Stoltze OBJECTED for discussion purposes.

Mr. Pawlowski explained the intent of the amendment is to not grant the ignition interlock limited license for the first 30 days of revocation.

Representative Stoltze WITHDREW his OBJECTION.

There being NO OBJECTION, Amendment 1 was adopted.

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Co-Chair Meyer MOVED to ADOPT Amendment 2:

Page 1, line 4, through page 2, line 6:

Delete all material and insert:

**** Section 1.** AS 11.76.140 is amended to read:

Sec. 11.76.140. Avoidance of ignition interlock device. (a) A person commits the crime of avoidance of ignition interlock device if the person [MAY NOT] knowingly

(1) circumvents [CIRCUMVENT] or tampers [TAMPER] with an ignition interlock device in a manner intended to allow a person on probation under AS 12.55.102, with a condition of sentence under AS 12.55.102, or who has an ignition interlock limited license to avoid using the device; [OR]

(2) rents [RENT, LOAN, OR LEASE] a motor vehicle to a person and with criminal negligence disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102; or

(3) loans a motor vehicle to a person and recklessly disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102.

(b) Avoidance of ignition interlock device

(1) under (a)(1) of this section is a class A misdemeanor;

(2) under (a)(2) or (3) of this section is [NOTWITHSTANDING AS 11.81.250, A PERSON CONVICTED OF VIOLATING THIS SECTION IS GUILTY OF] a class B misdemeanor and is punishable by a term of imprisonment of not more than [THE MAXIMUM TERM OF IMPRISONMENT THAT MAY BE IMPOSED IS] 30 days and a [THE MAXIMUM] fine of not more than [THAT MAY BE IMPOSED IS] \$500."

Representative Stoltze OBJECTED.

Mr. Pawlowski noted the need to amend Amendment 2, line 12, to delete "disregards the fact".

Co-Chair Meyer MOVED to AMEND Amendment 2 as described.

Representative Hawker OBJECTED for discussion purposes.

Mr. Pawlowski explained that the Judiciary Committee, when the issue of tampering with the device was brought up, brought the existing statute into HB 19. Language about renting, loaning, and leasing of vehicles is on page 1, lines 12-14, and on page 2, line 1. Mr. Pawlowski related the content of the three subsections on page 1 of the bill.

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Co-Chair Meyer questioned if it is the same offense as described under a revoked license. Mr. Pawlowski clarified that the current penalty in statute was kept as depicted on page 2, lines 2-6. In response to a question by Co-Chair Meyer, Mr. Pawlowski agreed that the intent is to prevent someone who knowingly loans or rents a car without a device to a person who is required to use one.

Representative Stoltze suggested that "knowingly" should be included on line 16 as part of the amendment. Co-Chair Meyer agreed.

Mr. Pawlowski read lines 11-15, "rents a motor vehicle to a person and with criminal negligence that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device as described in AS 12.55.102".

Ms. Carpeneti restated line 12 without "and".

Co-Chair Meyer clarified that "and" and "disregards the fact" were being removed in line 12, and "knowingly" is replacing "recklessly" in line 16.

Representative Hawker WITHDREW his OBJECTION to the amendment to Amendment 2. He reserved the right to revisit the amendment before the bill passes from committee.

Representative Stoltze WITHDREW his OBJECTION to Amendment 2.

There being NO OBJECTION, Amendment 2 was adopted.

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Representative Gara MOVED to ADOPT Amendment 3:

Page 2, following line 19:

Insert a new bill section to read:

"* **Sec. 3.** AS 28.15.201(d) is amended to read:

(d) **Notwithstanding (f) of this section, in cases where a person does not live in a place connected by public highway to a business that installs interlock devices and it is not feasible for the person to have an interlock device installed, a person may apply to the** [A] court revoking **the** [A] driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking **the** [A] driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c),

for limited license privileges, and the court or department may grant limited license privileges if

(1) the revocation was for a misdemeanor conviction under AS 28.35.030(a) and not for a violation of AS 28.35.032;

(2) the person has

(A) not been previously convicted and the limited license is not granted during the first 30 days of the period of revocation;

(B) been previously convicted, the limited license is not granted during the first 90 days of the period of revocation, and

(i) the person has successfully completed a court-ordered treatment program under AS 28.35.028 or former AS 28.35.030(p); or

(ii) the court or department requires the person to use an ignition interlock device during the period of the limited license;

(3) the court or the department determines that

(A) the person's ability to earn a livelihood would be severely impaired without a limited license; or

(B) the person has successfully completed a court-ordered treatment program described under AS 28.35.028 or former AS 28.35.030(p) and the person's ability to earn a livelihood, attend school, or provide for family health would be severely impaired without a limited license;

(4) the court or the department determines that a limitation under (a) of this section can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public;

(5) the court or the department determines that the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h); and

(6) the person has not been previously convicted under AS 28.15.291(a)(2), AS 28.35.030, or 28.35.032 while driving or operating a vehicle, aircraft, or watercraft under a limited license issued under this section."

Renumber the following bill sections accordingly.

Page 3, line 28:

Delete "AS 28.15.201(f) [AS 28.15.201(d)]"

Insert "AS 28.15.201(d) or (f)"

Page 4, line 4:

Delete "AS 28.15.201(f) [AS 28.15.201(d)]"

Insert "AS 28.15.201(d) or (f)"

Page 5, line 2:

Delete "AS 28.15.201(d) and 28.15.201(e) are"

Insert "AS 28.15.201(e) is"

Representative Gara explained that Amendment 3 respects the policy call of the bill that the interlock device should replace the limited license requirement, but it carves a narrow exception for rural areas.

Co-Chair Meyer stated that he does not oppose the amendment. He asked for clarification of "feasible". Representative Gara thought the court could decide.

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Representative Hawker thought that feasible meant possible. He suggested "practicable" instead of feasible.

Representative Gara agreed.

Representative Stoltze asked for a definition of "public highway".

Representative Hawker withdrew the suggestion of using "practicable".

Ms. Carpeneti said that in Amendment 3, as drafted, Juneau would qualify as a place not connected by public highway to a business that installs interlock devices.

Representative Stoltze asked if the amendment provides a loophole exempting someone from a rural area having to have the device. Ms. Carpeneti clarified that the amendment appears to provide an alternative - to request a limited license. Representative Stoltze asked if that would apply to driving only in the community with limited access. Ms. Carpeneti said no.

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Representative Gara provided a hypothetical situation.

DOUG WOOLIVER, ADMINISTRATIVE ATTORNEY, ALASKA COURT SYSTEM suggested ensuring that the language depicts the intent of the bill so that the court can carry out the legislature's will.

Co-Chair Meyer said that though he agrees with the idea, he thinks the amendment is not needed.

Representative Thomas noted the extreme distance from a vendor of two communities in his district.

Representative Nelson voiced appreciation of the ideas in the amendment.

Co-Chair Chenault pointed out that persons from Skagway and Haines could not cross the border to drive to a vendor.

Representative Gara thought there might be problems in rural areas concerning HB 19. He agreed to withdraw the amendment and work on the language.

Representative Gara WITHDREW Amendment 3.

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Representative Gara MOVED to ADOPT Amendment 4:

On Page 3, line 15

After "license."

Insert:

"The court may not provide the grant of this privilege to the person if it would, under all the circumstances, endanger the public's safety."

Representative Hawker OBJECTED.

Representative Gara spoke of a concern about "endangering public safety" and wanted to give the court the option to grant the license or not.

Co-Chair Meyer voiced concern about the timing of the court's involvement. Mr. Pawlowski pointed out that DMV would also have to be involved because of the role they play in granting limited licenses. He termed it a policy call.

Representative Hawker found fault with the language "without excessive danger".

Co-Chair Meyer also objected to Amendment 4.

Representative Stoltze suggested bringing the bill back at a later date.

Representative Gara WITHDREW Amendment 4.

CSHB 19(JUD) was heard and HELD in Committee for further consideration.

[2:56:30 PM](#)

HOUSE BILL NO. 7

"An Act relating to false caller identification."

Representative Stoltze MOVED to ADOPT work draft CSHB 7, labeled 25-LS0057\0, Bannister, 2/26/07. There being NO OBJECTION, it was so ordered.

DIRK MOFFATT, STAFF, REPRESENTATIVE LYNN, explained the changes to the committee substitute.

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Co-Chair Meyer noted four new zero fiscal notes: Department of Law, Department of Administration, Department of Corrections, and Alaska Court System.

LIEUTENANT RODNEY DIAL, ALASKA STATE TROOPERS, DEPARTMENT OF PUBLIC SAFETY, explained the Department of Public Safety's indeterminate fiscal note. He explained that \$10,000 would go to train an investigator and a technician, \$6,000 would be for a forensic work station, and \$8,000 would be for software costs.

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Co-Chair Chenault questioned if \$25,000 would be an ongoing annual cost. Mr. Dial noted that investigators would have recertification costs in order to stay current and affirmed that the \$25,000 would be ongoing.

Representative Stoltze MOVED to report CSHB 7 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 7(FIN) was REPORTED out of Committee with a "no recommendation" and with the following fiscal notes: zero note #1 by the Department of Administration, zero note # 2 by the Department of Law, indeterminate note # 3 by the Department of Public Safety, and new zero fiscal notes by the Department of Administration, Department of Correction, Department of Law, and Alaska Court System.

ADJOURNMENT

The meeting was adjourned at 3:04 PM.