

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 1, 2007  
8:02 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Bob Roses, Vice Chair  
Representative John Coghill  
Representative Kyle Johansen  
Representative Craig Johnson  
Representative Andrea Doll  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 21

"An Act relating to the proper disposal of the state flag."

- HEARD AND HELD

HOUSE BILL NO. 19

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

- MOVED CSHB 19(STA) OUT OF COMMITTEE

HOUSE BILL NO. 38

"An Act relating to legislators and candidates for the legislature and to certain campaign contributions made in exchange for certain agreements."

- HEARD AND HELD

HOUSE BILL NO. 58

"An Act relating to a public officer's taking official action regarding a matter in which the public officer has a financial interest; and defining 'official action' under the Alaska Executive Branch Ethics Act and related law."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 21

SHORT TITLE: DISPOSAL OF STATE FLAG

SPONSOR(s): REPRESENTATIVE(s) HARRIS, HAWKER, DAHLSTROM, WILSON

01/16/07 (H) PREFILE RELEASED 1/5/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) STA  
02/01/07 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 19

SHORT TITLE: LIMITED DRIVER'S LICENSES

SPONSOR(s): REPRESENTATIVE(s) MEYER

01/16/07 (H) PREFILE RELEASED 1/5/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) STA, JUD, FIN  
02/01/07 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 38

SHORT TITLE: IMPROPER CONTRIBUTIONS TO LEGISLATORS

SPONSOR(s): REPRESENTATIVE(s) GARA, CRAWFORD, GARDNER, DOLL,  
KAWASAKI, BUCH, DOOGAN, GRUENBERG

01/16/07 (H) PREFILE RELEASED 1/5/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) STA, JUD, FIN  
02/01/07 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 58

SHORT TITLE: EXEC. BRANCH ETHICS:INTERESTS & ACTIONS

SPONSOR(s): REPRESENTATIVE(s) GARA, GARDNER, KAWASAKI, DOOGAN,  
GRUENBERG

01/16/07 (H) PREFILE RELEASED 1/5/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) STA, JUD  
02/01/07 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

PETER FELLMAN, Staff  
to Representative John Harris  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 21 on behalf of Representative Harris, sponsor.

REPRESENTATIVE KEVIN MEYER  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 19 as sponsor.

MIKE PAWLOWSKI, Staff  
to Representative Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Addressed committee questions on behalf of Representative Meyer, sponsor of HB 19.

WALT MONEGAN, Acting Commissioner  
Department of Public Safety (DPS)  
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 19.

JEFF OTTESEN, Director  
Division of Program Development  
Department of Transportation & Public Facilities (DOT&PF)  
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 19.

BABETTE A. MILLER  
Smart Start of Alaska  
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 19.

NARDA BUTLER  
Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of herself as the person responsible for requesting HB 19.

RODNEY HAYBERT  
(No address provided)

POSITION STATEMENT: Testified on behalf of himself in support of HB 19.

DUANE BANNOCK, Director  
Division of Motor Vehicles  
Department of Administration  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 19.

DOUG WOOLIVER, Administrative Attorney  
Alaska Court System  
Juneau, Alaska

POSITION STATEMENT: Offered feedback regarding Amendment 3 to  
HB 19.

REPRESENTATIVE GARA  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on  
HB 19; introduced HB 38 as co-sponsor; presented HB 58 as co-  
sponsor.

#### **ACTION NARRATIVE**

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at [8:02:18 AM](#). Representatives Roses, Johansen, Johnson, and Lynn were present at the call to order. Representatives Coghill, Gruenberg, and Doll arrived as the meeting was in progress.

#### HB 21-DISPOSAL OF STATE FLAG

[8:03:17 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 21, "An Act relating to the proper disposal of the state flag."

[8:03:26 AM](#)

PETER FELLMAN, Staff to Representative John Harris, Alaska State Legislature, presented HB 21 on behalf of Representative Harris, joint prime sponsor. He revealed that Representative Harris' office was approached by the Veterans of Foreign Wars (VFW) in North Pole, Alaska, with a concern that there is no provision in state law for the proper and legal disposal of tattered and worn Alaska State Flags. The proposed legislation would address that concern by providing language regarding the respectful disposal of the state flag.

[8:04:44 AM](#)

REPRESENTATIVE DOLL asked if the definition of flag refers to a flag of certain dimensions. She noted that she has very small flags that she has distributed during parades, for example.

8:05:24 AM

MR. FELLMAN said he thinks the bill is directed towards flags that fly over state buildings; however, he said he will get back to Representative Doll with an answer.

8:05:47 AM

REPRESENTATIVE ROSES noted that there has been an e-mail circulating throughout the capitol for the last couple days, regarding the desecration of the Alaska State Flag, witnessed by some of the military troops serving in Iraq. He explained that the names of soldiers who had been injured or killed on duty were embroidered on the flag. He reported that through the House Special Committee on Military and Veterans' Affairs, which he chairs, a general in Iraq was contacted, all of the names were removed, and the practice will no longer occur.

8:07:02 AM

CHAIR LYNN noted that there is a committee substitute (CS) [Version 25-LS0137\C, Bullock, 1/30/07] in the committee packet, and he asked if anyone would move to bring that CS before the committee. In response to a question from Representative Coghill, he confirmed that the House State Affairs Standing Committee is the only committee of referral for the bill.

8:07:29 AM

REPRESENTATIVE COGHILL offered his understanding that AS 44.09.020 includes language designating the spacing of the stars on the flag, but not the measurements of the flag itself. He said he thinks the committee needs a better definition of "official" as it pertains to the flag.

CHAIR LYNN announced that HB 21 was heard and held.

HB 19-LIMITED DRIVER'S LICENSES

[Contains discussion of HB 85.]

8:08:54 AM

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 19, "An Act relating to ignition interlock limited driver's license privileges."

8:09:39 AM

REPRESENTATIVE KEVIN MEYER, Alaska State Legislature, presented HB 19 as prime sponsor. He said the creation of the bill is credited to the efforts of a constituent. Representative Meyer said he doesn't take the issue of drinking and driving lightly; it is a serious public threat to society. He reported that last year, 5-6,000 Alaskans received a driving under the influence (DUI) citation, and approximately 800 of those Alaskans had a revoked or suspended license. He said he shares the view of his constituent that there must be a better way to deal with those who have multiple DUIs. Representative Meyer said the bill will not change the fact that when people get caught drinking and driving, they will be fined and lose their license. The bill will change how the state deals with the "limited license" portion of the DUI laws.

8:11:41 AM

REPRESENTATIVE MEYER explained that currently there are two parts to the limited license section of the DUI statute. For the first 30 days, a person convicted of driving while intoxicated is not allowed to drive anywhere and must take public transportation or carpool to get to work, for example. Then, for the next 60 days the person is given a limited license, which allows driving to and from work only. Representative Meyer stated, "We're not so concerned where you drive, but how you get there." The proposed legislation, through the use of a device called an "ignition interlock," would enable the person with the DUI to drive anywhere, because the device will not allow them to start the car [if his/her blood alcohol level is too high]. Other states have used the system, and it has been used in Alaska with success.

REPRESENTATIVE MEYER admitted that using the device will not stop people "from still wanting to drive while intoxicated"; however, he argued that currently, people with limited licenses are still driving while intoxicated. At least the ignition interlock system will ensure that the person driving is not intoxicated.

8:14:45 AM

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, addressed committee questions on behalf of Representative Meyer, prime sponsor of HB 19. In response to a question from Chair Lynn, he offered his understanding that the

ignition interlock device costs approximately \$125 to install and \$100 a month in recurring monitoring fees.

[8:15:34 AM](#)

REPRESENTATIVE COGHILL said he wants to talk to the vendor regarding the ability to scam the system and the cost and life span of the device.

[8:16:08 AM](#)

REPRESENTATIVE COGHILL, at the behest of the chair, introduced a group of students from North Pole Alaska, accompanied by their teacher, Barbara Nore.

[A woman named Julie Robinson announced from the back of the room that she was accompanying seven students with the Close Up Program.]

CHAIR LYNN returned to discussion of HB 19.

[8:17:28 AM](#)

REPRESENTATIVE MEYER concluded that he hopes HB 19 will offer a better system for dealing with a public safety problem.

[8:18:53 AM](#)

REPRESENTATIVE MEYER, in response to a question from Representative Doll, reiterated that last year alone, there were 5,000 Alaskans arrested for driving under the influence, thus, that could well be the number of devices installed in the first year.

[8:19:43 AM](#)

MR. PAWLOWSKI, in response to a question from Representative Coghill regarding insurance coverage, said at this point insurance companies are not willing to state whether passage of the bill would have an effect on insurance rates.

[8:20:37 AM](#)

REPRESENTATIVE MEYER, in response to a question from Representative Johansen, confirmed that it is the intent of the bill that the cost of the devices be borne by the offenders.

[8:20:41 AM](#)

REPRESENTATIVE GRUENBERG directed attention to AS 11.76.140, which states that it is a misdemeanor, punishable by 30 days in jail and a fine. If the offender cannot pay both the fine and device, the court has the discretion to allow the offender to only pay for the device. He stated, "What we're interested in is making sure that the offender drives safely."

[8:21:53 AM](#)

REPRESENTATIVE JOHNSON offered his understanding that there is a system for tracking the ignition interlock devices.

[MR. PAWLOWSKI nodded yes.]

REPRESENTATIVE JOHNSON stated his assumption that most of the people using the device are on probation, and he asked if failing the device and trying to use the vehicles anyway would be admissible as evidence in court as grounds for revoking probation.

MR. PAWLOWSKI responded that he believes it would be [admissible]. He said the Division of Motor Vehicles has a regulation wherein it may revoke a person's ignition interlock license if that person "blows over a certain level." He explained, "If I blow into the device and can't start my car, have I committed a crime or haven't I committed a crime?" He said the sponsor is not sure he wants to see the license taken away in that scenario.

REPRESENTATIVE JOHNSON said he would like to know if failing the blow test would be sufficient evidence to revoke [probation].

[8:23:52 AM](#)

REPRESENTATIVE GRUENBERG noted that he introduced the original interlock device bill, which passed in 1989, and the answer to Representative Johnson's question is yes, the judge could revoke the person's probation.

REPRESENTATIVE JOHNSON suggested that in itself might be a deterrent.

REPRESENTATIVE GRUENBERG mentioned that he and Representative Les Gara are going to introduce HB 85, which would extend the period during which the ignition interlock device could be used in a vehicle.

8:25:17 AM

REPRESENTATIVE DOLL expressed concern that the individual may not even own a car and would use other people's cars. She said she is also concerned about the [work] load of probation officers. She referred to [page 2, lines 16-19], which read as follows:

(B) the person is required to maintain the ignition interlock device throughout the period of the limited license, to keep up-to-date records in each vehicle showing that any required service and calibration is current, and to produce these records immediately on request;

8:26:35 AM

REPRESENTATIVE MEYER suggested that a representative from the Department of Public Safety would be available to address those concerns.

8:27:15 AM

MR. PAWLOWSKI, in response to questions from Representative Roses, confirmed that the Department of Corrections certifies [those who install the devices] and the vendor of the devices bears the cost of that certification. Furthermore, he said, the State of Alaska is not subject by civil suit "over a decision by the commissioner." He said the function of the devices was "fleshed out" under state law years ago.

8:27:50 AM

REPRESENTATIVE GRUENBERG confirmed that the aforementioned bill, passed back in 1989, stipulated a department would oversee the certifications; however, because of contention between the Department of Public Safety and the Department of Corrections, over which department was responsible, the bill was not implemented for "a year or two."

MR. PAWLOWSKI said, "... The citation on that statute is [AS] 33.05.020."

8:28:43 AM

REPRESENTATIVE JOHNSON said he has read about new tests whereby the alcohol content is "read" through a skin test. He asked if the language of the bill will allow for better technology down the road.

MR. PAWLOWSKI answered no. He explained that in order to avoid "false positives," the sponsor wants any new technology brought before the legislature for consideration.

REPRESENTATIVE MEYER confirmed that future technology, once it has proven itself, can be proposed through a future bill.

[8:30:23 AM](#)

WALT MONEGAN, Acting Commissioner, Department of Public Safety (DPS), stated that it takes a collective effort to get the drunk driving situation under control. He reported that Alaska's fatality rates [due to drunk driving accidents] have been reduced significantly. He said HB 19 is another piece to that puzzle. He said [the ignition interlock device could possibly be circumvented; however, he point out that those who would do so would also do the same with any other device installed. Regarding Representative Johnson's mention of a skin test on the steering wheel, Acting Commissioner Monegan suggested it may be possible that a false reading could result from someone who had just put aftershave on [an alcohol-based product]. He stated support for the proposed legislation.

[8:32:13 AM](#)

COMMISSIONER MONEGAN, in response to a question from Representative Coghill, confirmed that the license carried by an individual who uses the device would alert a police officer to that fact. In response to a follow-up question from Representative Coghill, he said other members of the individual's family could use the vehicle, and he offered his understanding that an individual with several cars would have to have a device installed in each of the cars.

[8:33:30 AM](#)

REPRESENTATIVE GRUENBERG, regarding Representative Johnson's previous question about future advanced technology, noted that the definition of ignition interlock device is found in [AS 12.55.102(e)(1)], which read as follows:

(1) "ignition interlock device" means equipment designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage, and that has been certified by the commissioner of corrections under AS 33.05.020(c);

REPRESENTATIVE GRUENBERG concluded, "So, the commissioner of [the Department of] Corrections could, by regulation, ... use advance technology, as you're discussing; we wouldn't have to deal with it in the legislature."

8:34:49 AM

JEFF OTTESEN, Director, Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), told the committee that he oversees the Alaska Highway Safety Office. He apologized for the necessity of making a correction, and explained as follows:

We issued a fiscal note to you on Monday that said that this ... law, if passed, would cause one of our highway safety sanctions to be relaxed, that is, the federal government would no longer sanction us on this issue. I received the e-mail this morning as I was driving here, indirectly from the Office of Chief Counsel of the National Highway Traffic Safety Administration that rebuts that. It's their review that this law would not meet the federal requirements of what is known as Section 154, thus, the sanction would still apply. That doesn't mean that it isn't a good step forward in advancing highway safety; but there would be no relaxation of that safety issue.

CHAIR LYNN asked, "What would be required to have these sanctions lifted?"

MR. OTTESEN responded:

This is per the Office of Chief Counsel of the National Highway Traffic Safety Administration, and the three points they point out [are] that: it would permit a repeat offender to drive before the mandatory one-year minimum suspension period expected in the federal law; it would not mandate that the ignition air lock apply to all repeat offenders across the state; and it would not require that the ignition

interlock apply to all vehicles owned by the repeat offender.

MR. OTTESEN said he just checked the law, which addresses vehicles operated by the repeat offender, rather than those owned.

[8:36:47 AM](#)

REPRESENTATIVE GRUENBERG asked for copy of that e-mail. Regarding owner versus operator, he said he could foresee a parent owning a vehicle driven only by a son or daughter. He said, "It should be the ones that the offender operates, regardless of who owns them."

[8:38:23 AM](#)

REPRESENTATIVE JOHNSON asked, "Is it your understanding that we have to satisfy all three of those requirements, or is it a best two of three, to receive this?"

[8:38:33 AM](#)

MR. OTTESEN stated his understanding that all three requirements must be met. He said there may be "a perverse benefit to all this." He continued:

Right now, because we're sanctioned, the dollars in question - a little more than \$4 million - are taken away from us for highway purposes and given back to us for highway safety purposes. Those dollars are now being spread across the state, [from] the police departments, to the Department of Public Safety, to the DUI teams that are out there. We're achieving tremendous benefits from those dollars. What we're not able to do with them is rebuild highways. So, ... if we lift the sanction, the dollars will stay in the state, the dollars flowing to safety programs will cease, [and] the dollars flowing to highway construction will increase. It's like, "Which of your children do you like the most?" They're both important programs.

[8:39:23 AM](#)

REPRESENTATIVE GRUENBERG asked if the state would have more flexibility in spending the money if the sanctions were to be lifted.

[8:39:48 AM](#)

MR. OTTESEN answered no. He explained:

The dollars - if they stay in the highway side - are strictly available to highway construction, reconstruction, and highway safety improvements - things like intersection improvements [and] guardrail[s] .... If they get sanctioned, the dollars actually flow to the National Highway Traffic Safety Administration, and then they give them to us. And they require that we ... then identify what is known as a split. We can split those dollars between the Alaska Highway Safety Office, which is strictly programs that address behavior - things like enforcement patrols, educational efforts, those kinds of activities - or we can split some of the dollars back to highway safety. And when I say safety, I mean projects targeted specifically to documented safety problems, where we have a trail of evidence through crash reports that tells us there's a safety program. So, these dollars can come back to the highway program, but in a very narrow sense. They can't be used for repaving a road or widening a road or something like that.

[8:41:02 AM](#)

REPRESENTATIVE ROSES, referring to a scenario wherein the sanctions are not met and the \$4 million dollars go toward highway safety, asked, "Are those \$4 million counted in part of the highway matching funds that you have, or would it now not be?"

[8:41:23 AM](#)

MR. OTTESEN responded as follows:

The dollars that go to highway safety do require a match, as well. But at that point the dollars are being administered by a different federal agency than the Federal Highway Administration; they're being administered by the National Highway Traffic Safety

Administration. And ... all this then actually becomes targeted to DUIs - it's largely where it has to be spent. So, we spend a great deal of these dollars on DUI patrols.

Commissioner Monegan was just here. We have DUI patrols in his department that are producing fantastic results. In the past two years, Alaska's fatal accident rate has dropped from about 95 ... fatalities per year to about 75 or 72. That was a one-year drop a year ago; it was the largest percentage drop in the nation. And we think the DUI patrols was a big part of that. In '06 we sustained that rate. We didn't better it, but we at least sustained it, so it wasn't just an aberration. Being a small state with a relatively small number of fatalities, you can get aberrations; you can have a single accident with five or six people in it and really kind of skew your numbers. We've now held that number for two years.

And we see the result also -- I believe Representative Meyer has talked about the increase in the number of DUI arrests. Well, that's in part the result of the DUI patrols. We've got more eyes on the road, specifically looking for drivers who drink. So, tremendous safety benefit, just a phenomenal safety benefit. Like I said, don't ask me to choose between my children; they're both very important.

[8:43:06 AM](#)

REPRESENTATIVE COGHILL, regarding the issue of a one-year suspension, asked if there is something beyond a one-year suspension mandate.

[8:43:18 AM](#)

MR. OTTESEN stated his belief that there is a mandatory one-year suspension [of the person's driver's license] before driving with the ignition interlock device. He said, "They want a harsher penalty at the start."

[8:43:41 AM](#)

REPRESENTATIVE COGHILL said, "It was brought to my attention that not only is it a change in the suspension ... [to allow]

early driving; there might be some issue on what to do during the probationary time."

8:44:13 AM

REPRESENTATIVE JOHNSON indicated that he finds the related issues of money and "smoking mirrors" to be perplexing.

8:44:50 AM

MR. OTTESEN, in response to a question from Representative Johnson, stated:

The lack of having a primary seatbelt law did not result in a sanction; there [were] no dollars being sanctioned for that omission in the eyes of the federal government. There was a ... one-time carrot [dangled] for passing the primary seatbelt law of ... a little over \$3 million, and we received those dollars at the end of federal year 2006, just in September of last year.

8:45:34 AM

BABETTE A. MILLER, Smart Start of Alaska, said Smart Start is a vendor certified through the Department of Corrections to install, monitor, and service ignition interlock devices. The device keeps track of any individual assigned to it and allows any authority to log in and check on the status of that individual to determine when and where the vehicle is being driven. Probation officers have access to the individual's driving history prior to the probation appointment.

MS. MILLER, in response to a previous question regarding how many vehicles must have the device installed, stated that currently, Smart Start is installing the devices in the vehicle that the individual operates. If Smart Start notices that the vehicle is not used frequently, that may be an alert that the individual may be driving one of his/her other vehicles. Regarding the concern that aftershave may trigger the device to register as though the person failed a sobriety test, she assured the committee that the Smart Start ignition interlock device is "alcohol specific," and the wearing of copious amounts of aftershave will not affect breath samples taken.

MS. MILLER noted that currently there are quite a few clients assigned to ignition interlock devices who have been issued

limited licenses. She explained that those individuals are only allowed to drive to and from work and cannot drive to treatment centers or the grocery store, for example. She remarked, "It almost seems to me that it defeats the purpose." She pointed out that treatment is usually court ordered or required by DMV in order for the individual to keep his/her license.

[8:50:32 AM](#)

MS. MILLER, in response to a concern that the individual assigned to a device might try to cheat the system by having someone else blow into it, explained that the device asks for "rolling retests." If the person fails the test while driving, he/she must repeat the test until passing it, or pull over and turn off the ignition. Ms. Miller said the first [rolling retest] occurs between 1 to 15 minutes after the vehicle has been started, and from thereafter it occurs every 1 to 45 minutes for the duration of the operation of the vehicle. She said this feature usually prevents the individual from having someone else start the car.

MS. MILLER said the device uses a "voice-tone anti-circumvention" feature; therefore, the individual cannot fill air into a balloon from an oxygen tank and try to use that to pass the test. There must be a voice tone, and it must be at a certain level, she related. She mentioned a new unit that has recently been released in Texas, which takes a photo of the individual who is blowing into the unit.

[8:51:48 AM](#)

MS. MILLER said there are six clients using the device who have voluntarily chosen to do so after being eligible to have it removed. She told of one person who could not drive for the first four months with the device until he/she figured out how far in advance to stop drinking in order to pass the breath test and be able to drive to work. Other people, she said can't wait to get the device off of their vehicle.

[8:53:38 AM](#)

MS. MILLER, in response to a question from Chair Lynn, said the device is manufactured in Texas. In response to follow-up questions, she said there are other vendors of similar devices; however, only two vendors have units certified to operate to [a temperature of] "45 below." Monitoring, she said is done by downloading the data from the device to be interpreted.

[8:55:16 AM](#)

REPRESENTATIVE COGHILL asked what the technology is that allows someone not under court order to use the device to drive a car with the device installed.

[8:55:40 AM](#)

MS. MILLER said the individual who is assigned the device is responsible for every breath sample given to the device. She reiterated that the device uses voice tone recognition and the testing while the vehicle is in operation occurs randomly.

[8:56:59 AM](#)

MS. MILLER, in response to a request for clarification from Representative Doll, said in the beginning, the Smart Start people ask that anyone who is going to use the vehicle come in to the office, watch a video, and be trained in the operation of the unit. She stated, "Because there is no camera in the car that can positively identify the individual that is using the unit, that if they get into the car and blow alcohol, the individual that is required to have the ignition interlock is responsible for that breath sample." In response to a follow-up question, she said Smart Start charges \$100 for installation and \$125 a month for operation.

[8:58:34 AM](#)

REPRESENTATIVE GRUENBERG drew attention to AS 33.05.020(d), which read:

(d) The regulations in (c) of this section must require that the ignition interlock device operate reliably over the range of automobile environments, otherwise known as automobile manufacturing standards, for the geographic area for which the device is certified.

REPRESENTATIVE GRUENBERG noted that it gets colder in some parts of the state than in others.

[9:00:51 AM](#)

MS. MILLER offered her understanding that statute provides a blanket statement regarding the temperature.

REPRESENTATIVE GRUENBERG said that is too restrictive. He said other companies should be allowed to sell their product in Southeast Alaska.

CHAIR LYNN pointed out that an individual with the device needs to be able to drive anywhere in the state.

REPRESENTATIVE GRUENBERG said he would like to explore that issue.

[9:02:34 AM](#)

MS. MILLER, in response to questions from Representative Johnson, listed the areas that Smart Start operates in Alaska. She said there are a lot of areas in which only one individual needs the interlock device and Smart Start's competitor sometimes covers those areas. She talked about the cost of flying to locations where there are only one or two clients.

[9:04:20 AM](#)

MS. MILLER, in response to Representative Roses, clarified that in Alaska, the device must work in temperatures ranging from negative 40 Celsius to positive 85 Celsius. She said the units have never malfunctioned due to cold in Fort Yukon, where it is very cold.

REPRESENTATIVE COGHILL offered his understanding that negative 40 Celsius and Fahrenheit are the same temperature.

[9:05:47 AM](#)

NARDA BUTLER, testifying on behalf of herself, revealed that she is the citizen advocate who presented Representative Meyer with the idea for the bill after meeting [Rodney Haybert - testimony following] who is a recovering alcoholic who had his license taken away some years ago. Ms. Butler shared a brief personal history, including the fact that she is a stay-at-home mom who teaches science to home schooled children. She explained that she met Mr. Haybert when he was hired to remodel her family's home and learned that although Mr. Haybert has been sober for five years, unless the law is changed, he will not be able to drive for the rest of his life. She emphasized that her intent in asking for a change in the current law was not to lessen the consequences of poor decision, but was a result of research that led her to the discovery of the ignition interlock technology.

She referred to a handout in the committee packet, entitled, "The Top The Reasons Why Now is the Right Time for an Ignition Interlock Limited License Program in Alaska."

[9:11:31 AM](#)

MS. BUTLER reviewed the handout, which shows that 50-75 percent of drivers whose driver's licenses have been revoked drive anyway, and that over the past five years, 14 percent of all the individuals with DUI arrests have also been charged with driving with a revoked/suspended license. She said those numbers - supplied by the Alaska State Troopers - are not decreasing. She noted that a Maryland study shows a 60 percent reduction in risk of committing an alcohol-related offense with the use of an interlock device, while another study in Ohio demonstrates a 65 percent decrease in the probability of a subsequent DUI for offenders who have the interlock installed in their car. Ms. Butler opined that since interlock devices do not change behavior, they should be installed "as soon as possible for as long as possible." She noted that New Mexico has some of the most comprehensive ignition interlock laws, and that the state has done away with mandatory periods of revocation. Furthermore, New Mexico decided to forego the funds for safety, transferring that money instead to highway construction. Ms. Butler said the most current technology is "alcohol-specific, tamper-resistant, ... and increasingly person-specific."

[9:14:01 AM](#)

MS. BUTLER emphasized that an ignition interlock program that "captures the most number of people" would provide the greatest safety measure possible. The cost of the program would be borne by the offenders, she remarked. The administrative program would allow the Division of Motor Vehicles (DMV) to collect data to "document performance and make data-driven decisions regarding reinstatement." She noted that the second page of the aforementioned handout provides a list of resources for those interested in researching the issue. Ms. Butler concluded that she does not want her children driving on the roads with any more people "driving in a compromised manner," which is why she supports HB 19.

[9:15:32 AM](#)

RODNEY HAYBERT, testifying on behalf of himself, told the committee that he is the aforementioned person who can never drive again [without the adoption of the bill and access to the

ignition interlock system]. He said he depends on co-workers or public transportation to get to and from work, and he is not able to drive himself to Alcoholics Anonymous. He said the ability to drive helps people get off of Welfare and back into society.

[9:17:34 AM](#)

CHAIR LYNN expressed his appreciation of Mr. Haybert's candid testimony. He said it puts a human face on the issue.

[9:17:50 AM](#)

REPRESENTATIVE GRUENBERG thanked Ms. Miller for her efforts toward this bill.

[9:18:38 AM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration, testified in support of HB 19. He said DMV believes that HB 19 can make Alaska a safer place to drive. He noted that currently there is a limited driver's license law in Alaska, which limits [an individual who has been convicted with a DUI] to driving to and from work during predetermined hours. A first time offender has his/her license revoked for 90 days and, after 30 days of riding public transportation, that person may apply for a limited license. A multiple offender has his/her license revoked for a minimum of one year, must be on the public transportation program for a minimum of 90 days, and then is eligible to apply for a limited license to be able to drive to and from work. He noted that the court has the ability to give greater limited licenses, for example, to allow the individual to drive to church or to attend to an ailing loved one. The Division of Motor Vehicles does not have that authority under the current law.

MR. BANNOCK said the proposed legislation would change the connotation of the word "limited," because the individual would be limited to driving a vehicle equipped with an ignition interlock device. He echoed previous testimony that people today with limited licenses are probably going outside of the lines of where and when they can drive. The proposed legislation will allow the individual willing to have the ignition interlock device installed on his/her vehicle to drive where and whenever.

[9:22:23 AM](#)

MR. BANNOCK, in response to a question from Chair Lynn, offered his understanding that the device is leased by the company, thus, it would be returned to that company once the period of leasing ended.

[9:23:11 AM](#)

MR. BANNOCK, in response to a question from Representative Coghill, explained that under current rules, law enforcement can see "internally" that a license is restricted, and there is a national standard regarding that "restriction code." If HB 19 passes, he said, the division will be creating a special driver's license that will be identified as an "ignition interlock device limited license."

REPRESENTATIVE COGHILL recommended there be a connection in identifying both the driver's license and the vehicle license plate.

MR. BANNOCK said that is a good idea; however, he cautioned that the division soon will be forwarding a bill asking the legislature for a lot of money in order to make that connection electronically, because the division's current technology does not allow for that.

[9:24:49 AM](#)

REPRESENTATIVE GRUENBERG noted that he had suggested to Mr. Bannock on a previous day that those hearing the driver's license cases ultimately should be administrative law judges. He said he thinks that change could be made in phases.

[9:25:37 AM](#)

MR. BANNOCK said he has not had the opportunity to carry that conversation forward, but will do so.

[9:26:42 AM](#)

CHAIR LYNN closed public testimony.

[9:27:25 AM](#)

REPRESENTATIVE ROSES moved to adopt Amendment 1, which read as follows:

Page 2, lines 2 - 3:

Delete all material and insert:

"(f) A court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant ignition"

Page 2, line 6, following "by the":

Insert "court or"

Page 2, line 7, following "The":

Insert "court or"

[9:27:39 AM](#)

REPRESENTATIVE COGHILL objected to Amendment 1 for discussion purposes.

[9:27:49 AM](#)

MR. PAWLOWSKI explained that Amendment 1 corrects an oversight in the bill; it would give the court the authority they maintain under current law.

[9:28:42 AM](#)

REPRESENTATIVE COGHILL removed his objection to Amendment 1.

[9:28:48 AM](#)

CHAIR LYNN announced that there being no objection, Amendment 1 was adopted.

[9:29:48 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 2, which read as follows:

Page 2, Line 8

Delete "or" and add ", "

Page 2, Line 9

After "28.35.032;" and "or similar municipal ordinance;"

REPRESENTATIVE GRUENBERG explained that Amendment 2 would provide the courts and the Division of Motor Vehicles to grant ignition interlock limited licenses in cases that are violations of municipal ordinances in addition to state statute.

REPRESENTATIVE MEYER said he approves of Amendment 2.

[9:31:05 AM](#)

REPRESENTATIVE COGHILL removed his objection to Amendment 2.

There being no further objection, Amendment 2 was adopted.

[9:31:16 AM](#)

REPRESENTATIVE GRUENBERG [moved to adopt] Amendment 3, which would add the following text from HB 85 into HB 19:

**\* Sec. 6.** AS 28.35.030 is amended by adding a new subsection to read:

(u) In addition to penalties provided in (a) or (n) of this section, the court may place a person convicted under those subsections on probation for a period of not more than five years following a term of imprisonment, including any suspended term of imprisonment. The court may place a limitation on the person's driver's license during the term of the probation as provided in AS 28.15.201(d) or (f).

**\* Sec. 7.** AS 28.35.032 is amended by adding a new subsection to read:

(u) In addition to penalties provided in (a) or (p) of this section, the court may place a person convicted under those subsections on probation for a period of not more than five years following a term of imprisonment, including any suspended term of imprisonment. The court may place a limitation on the person's driver's license during the term of the probation as provided in AS 28.15.201(f).

REPRESENTATIVE GRUENBERG explained that [AS 28.35.030] relates to driving while intoxicated (DWI) and DUI, while [AS 28.35.032] addresses refusal to take a breathalyzer test. The amendment, he said, would extend the court's jurisdiction to ensure that people don't drive while intoxicated again. In response to questions from Representative Coghill, he confirmed that the language is from a bill he and Representative Les Gara are co-sponsoring and does not extend beyond probation issues.

[9:33:14 AM](#)

REPRESENTATIVE MEYER said his gut feeling is that he does not object to Amendment 3; however, he noted that someone was available to testify from the court system.

[9:33:37 AM](#)

REPRESENTATIVE COGHILL [objected to Amendment 3].

[9:33:49 AM](#)

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, reminded the committee members that the court does not take positions on a bill. He said, at first glance, he does not see any problem with Amendment 3 from the court's perspective.

REPRESENTATIVE GRUENBERG stated for the record that he is offering Amendment 3 with the understanding that if there is a problem brought to light in the next committee of referral to the House Judiciary Standing Committee - a committee on which he sits - he will not hesitate to remove Amendment 3.

[9:34:41 AM](#)

REPRESENTATIVE JOHNSON asked if the court can currently offer probation of more than five years, and Amendment 3 would limit that to the five years.

MR. WOOLIVER said he doesn't know, but that would be part of what he considers if Amendment 3 is adopted.

MR. JOHNSON said he hopes the reverse would also be true - that if the House State Affairs Standing Committee does not adopt Amendment 3, Representative Gruenberg would introduce it in the House Judiciary Standing Committee.

[9:35:30 AM](#)

REPRESENTATIVE GRUENBERG clarified that it is not his intention to limit the court's jurisdiction, but to expand it.

[9:35:45 AM](#)

REPRESENTATIVE COGHILL said the language seems like an expansion, but "not to exceed five years" would seem to put a

limitation on the court. He said, "What I'll be studying is: If ... you had a lifetime revocation, what would a probationary period look like once we've changed that law?"

[9:36:27 AM](#)

REPRESENTATIVE GRUENBERG recommended that his co-sponsor in HB 85 be allowed to respond.

[9:36:50 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, said he has not seen the amendment. Notwithstanding that, he stated that the current bill would only impose the interlock requirement during the DMV administrative period of the license suspension. He explained that there are people who have received DWIs two or three times for being habitual drinkers who drive under the influence. He said it would be wise to have the interlock device requirement during the short period of license revocation, but also to cover other lengths of sentencing. He said the court should have the discretion to consider the facts and decide whether or not to extend the term of interlock use through the probation period and perhaps for another five years after that. He reiterated that he had not seen Amendment 3, but that is how the language was written in HB 85.

REPRESENTATIVE GRUENBERG confirmed that he had just taken the language directly from HB 85.

[9:38:37 AM](#)

MR. BANNOCK, in response to Chair Lynn, said he was reviewing the language from Sections 6 and 7 as Representative Gara was speaking, and it does not appear that the division would be affected by using that language in the bill.

[9:39:51 AM](#)

REPRESENTATIVE COGHILL removed his objection to Amendment 3. There being no further objection, Amendment 3 was adopted.

[9:40:01 AM](#)

REPRESENTATIVE ROSES moved to report HB 19, as amended, out of committee [with individual recommendations and the accompanying fiscal notes]. [There being no objection, CSHB 19(STA) was reported out of the House State Affairs Standing Committee].

HB 38-IMPROPER CONTRIBUTIONS TO LEGISLATORS

[9:40:56 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 38, "An Act relating to legislators and candidates for the legislature and to certain campaign contributions made in exchange for certain agreements."

[9:43:03 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, introduced HB 38 as joint prime sponsor. He said the bill is narrow and aligns with federal law. He explained that currently it is not a crime in Alaska for someone to be asked to change his/her vote in exchange for a campaign contribution, and Representative Gara said it should be. He clarified that it is all right for someone to give a campaign contribution to a candidate with like views on issues, because that contributor is not asking the candidate to change his/her views in order to receive the contribution.

[9:44:31 AM](#)

CHAIR LYNN asked if the bill could also include the offer of giving a fundraiser in exchange for a vote as being illegal.

REPRESENTATIVE GARA said that would be a good idea.

[9:45:27 AM](#)

REPRESENTATIVE COGHILL said the intent of the proposed legislation is already written in AS 11.56.130, and he requested that Representative Gara meet with him to explain why [HB 38] "tightens it up" more than the existing statute.

[9:45:52 AM](#)

CHAIR LYNN said he likes the concept of the bill.

CHAIR LYNN announced that HB 38 was heard and held.

HB 58-EXEC. BRANCH ETHICS:INTERESTS & ACTIONS

[9:46:13 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 58, "An Act relating to a public officer's taking official action regarding a matter in which the public officer has a financial interest; and defining 'official action' under the Alaska Executive Branch Ethics Act and related law."

9:46:22 AM

REPRESENTATIVE LES GARA, Alaska State Legislature, presented HB 58 as joint prime sponsor. He said the bill would close the executive branch ethics loophole discovered after the investigation of Alaska's former attorney general. He reviewed that the ethics code exempts unethical conduct if it involves an insignificant interest in a matter. The attorneys who reviewed the attorney general's case said they could not state whether \$100,000 interest in a coal company was significant or insignificant. Both the Personnel Board and investigating attorneys recommended that the state define the word "significant."

REPRESENTATIVE GARA said Governor Sarah Palin has suggested that significant is anything more than \$5,000; however, he said after some consideration he decided the longer solution provided in HB 58 is the best answer. He said it is not a violation of the ethics code just to have an interest in a matter that is being discussed. He continued:

A separate section of the code that you can't see inside of any of these bills that exist says there are all these series of prohibited conducts. And what they are actions where you intentionally try and benefit yourself.

REPRESENTATIVE GARA said the issue of proving the person tried to benefit his/her own personal financial interest is already in the ethics code and no one is trying to change that part of the language. The second question is whether or not the person should be exempted from that requirement because "the thing you tried to benefit was so insignificant it doesn't matter."

REPRESENTATIVE GARA reiterated that Governor Palin's bill would set the amount at \$5,000. He said the problem with that is that it's not just ownership in a company that matters. He offered the following example:

What happens if you're the attorney general, you negotiate a deal involving a coal company that you're

sitting on the board of? You probably don't make very much money as a board member, but if you try and benefit that company and you're on the board, that should be prohibited, even though ... you don't own \$5,000 of an interest.

What happens if ... you have some sort of employment relationship or contractual relationship with that company [and] you ... negotiate a deal that is aimed to benefit the coal company? That should be a problem, even though you don't own \$5,000 of an interest in the company.

REPRESENTATIVE GARA listed some legislators who have pointed out the aforementioned example. He said HB 58 would label as significant anything that is "more than \$5,000 or ownership" or "if you're a board member or employee, have a contractual relationship with the company," and intend to benefit [from] that interest.

[9:51:24 AM](#)

CHAIR LYNN announced that HB 58 was heard and held.

[9:51:35 AM](#)

REPRESENTATIVE COGHILL spoke about an upcoming subcommittee meeting.

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:52:22 AM](#).