

HB

261

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/19/88

FURTHER REFERRALS:

DATE: 3-1-88

The Finance Committee has considered HB 261

"An Act relating to ignition interlock devices; and establishing a class C misdemeanor."

RECOMMENDS:

- replace with CS HB 261 (JUD) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: Finance letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 1-22-88
- zero with analysis

SIGNING DO PASS:

Pat Pugh

Ronald J. Linn

Charles

Mark Boyer

Steve King

Don

Jay Brown

Mike Davis

SIGNING OTHER RECOMMENDATIONS:

Al Adams - No Rec

Peter Joe V.R.

Al Adams

 Chairman's signature



Official Business

Alaska State Legislature
House of Representatives

Al Adams
Chairman
Committee on Finance

House Finance Committee

Letter of Intent
for
CS HB 261 (Judiciary)

The Legislature recognizes that ignition interlock systems may not function in cold temperatures, that a person may not reside in an area where installation, maintenance and monitoring of these devices is possible, and that routine cold temperature vehicle maintenance may be perceived by these systems as tampering.

It is the intent of the Legislature that before requiring a person to obtain an ignition interlock device, that the court consider these circumstances and not place selected individuals under unreasonable hardship.

A handwritten signature in cursive script, appearing to read "Al Adams".

Al Adams, Chair
House Finance Committee

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 261
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to ignition
interlock devices."
Sponsor: Rep Gruenberg, Barnes, Donley
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department of Corrections will be able to perform the responsibilities described in this bill and supports its concept.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
Division: Administrative Services

Phone: 465-3376
Date: 1-15-88

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 1 12 88

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.50.250 is amended to read:

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
10 or corporation having a contract, quasi-contract, or tort claim
11 against the state may bring an action against the state in the superi-
12 or court. A person who may present the claim under AS 44.77 may not
13 bring an action under this section except as set out in AS 44.77.-
14 040(c). A person who may bring an action under AS 36.30.560 -
15 36.30.695 may not bring an action under this section except as set out
16 in AS 36.30.685. However, an [NO] action may not be brought under
17 this section if the claim

18 (1) is an action for tort, and is based upon an act or
19 omission of an employee of the state, exercising due care, in the
20 execution of a statute or regulation, whether or not the statute or
21 regulation is valid; or is an action for tort, and based upon the
22 exercise or performance or the failure to exercise or perform a dis-
23 cretionary function or duty on the part of a state agency or an em-
24 ployee of the state, whether or not the discretion involved is abused;

25 (2) is for damages caused by the imposition or establish-
26 ment of a quarantine by the state;

27 (3) arises out of assault, battery, false imprisonment,
28 false arrest, malicious prosecution, abuse of process, libel, slander,
29 misrepresentation, deceit, or interference with contract rights; or

1 (4) arises out of the use of an ignition interlock device
2 certified under AS 33.30.020(c).

3 * Sec. 2. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
5 person may not knowingly

6 (1) circumvent or tamper with an ignition interlock device
7 in a manner intended to allow a person on probation under AS 12.55.102
8 to avoid using the device; or

9 (2) rent, loan, or lease a motor vehicle to a person on
10 probation under AS 12.55.102, unless the vehicle is equipped with an
11 ignition interlock device described in AS 12.55.102.

12 (b) A person convicted of violating this section is guilty of a
13 violation.

14 * Sec. 3. AS 12.55 is amended by adding a new section to read:

15 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
16 order as a condition of probation that a defendant convicted of an
17 offense involving the use, consumption, or possession of an alcoholic
18 beverage may not operate a motor vehicle during the period of pro-
19 bation unless the vehicle is equipped with a properly functioning,
20 monitored, and maintained ignition interlock device. A condition of
21 probation imposed under this subsection takes effect after any period
22 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

23 (b) The court, in imposing probation under (a) of this section,
24 may allow the defendant limited privileges to drive a motor vehicle
25 without an ignition interlock device if the court determines that the
26 defendant is required as a condition of employment to drive a motor
27 vehicle owned or leased by the defendant's employer and that the
28 defendant's driving will not create substantial danger. If the court
29 imposes probation described by this subsection, the court shall

1 require the defendant to notify the defendant's employer of the proba-
2 tion, and shall require that the defendant, while driving the em-
3 ployer's vehicle, carry a letter from the employer authorizing the
4 defendant to drive that vehicle.

5 (c) A court imposing a condition of probation under this section
6 shall require the surrender of the driver's license and shall issue to
7 the defendant a certificate valid for the duration of the probation or
8 a copy of the defendant's judgment of conviction. The defendant shall
9 bear all costs associated with fulfilling the condition of probation,
10 including installation, repair, and monitoring of an ignition inter-
11 lock device.

12 (d) The court may include the cost of the ignition interlock
13 device as a part of the fine required to be imposed against the defen-
14 dant under AS 28.35.030(c) or 28.35.032(g).

15 (e) In this section, "ignition interlock device" means equipment
16 designed to prevent a motor vehicle from being operated by a person
17 who has consumed an alcoholic beverage, and that has been certified by
18 the commissioner of corrections under AS 33.05.020.

19 * Sec. 4. AS 28.35.030(c) is amended to read:

20 (c) Upon conviction under this section the court shall impose a
21 minimum sentence of imprisonment of not less than 72 consecutive hours
22 and a fine of not less than \$250 if the person has not been previously
23 convicted in this or another jurisdiction of driving while intoxicated
24 under this or another law or ordinance with substantially similar
25 elements or refusal to submit to a chemical test under AS 28.35.032 or
26 another law or ordinance with substantially similar elements. Upon
27 conviction under this section the court shall impose a minimum sen-
28 tence of imprisonment of not less than 20 consecutive days and a fine
29 of not less than \$500 if, within the preceding 10 years, the person

1 has been previously convicted once in this or another jurisdiction of
2 driving while intoxicated under this or another law or ordinance with
3 substantially similar elements or refusal to submit to a chemical test
4 under AS 28.35.032 or another law or ordinance with substantially
5 similar elements. Upon conviction under this section the court shall
6 impose a minimum sentence of imprisonment of not less than 30 consecu-
7 tive days and a fine of not less than \$1,000 if, within the preceding
8 10 years, the person has been previously convicted in this or another
9 jurisdiction of more than one of the following offenses or has more
10 than once been previously convicted of one of the following offenses:
11 (1) driving while intoxicated under this or another law or ordinance
12 with substantially similar elements; (2) refusal to submit to a chemi-
13 cal test under AS 28.35.032 or another law or ordinance with substan-
14 tially similar elements. The execution of sentence may not be sus-
15 pended nor may probation be granted except on condition that the
16 minimum imprisonment provided in this section is served. Probation
17 may be conditioned as provided in AS 12.55.102. Imposition of sen-
18 tence may not be suspended. In addition, if the offense involved
19 driving a motor vehicle for which a driver's license is required, the
20 person's driver's license shall be revoked in accordance with AS 28.-
21 15.181 and the vehicle used in commission of the offense may be for-
22 feited under AS 28.35.036. In addition, the court shall order, and a
23 person convicted under this section shall undertake, for a term spec-
24 ified by the court, that program of alcohol education or rehabilita-
25 tion that the court, after consideration of any information compiled
26 under (d) of this section, finds appropriate.

27 * Sec. 5. AS 28.35.030 is amended by adding a new subsection to read:

28 (h) Notwithstanding (c) of this section, if the court imposes
29 probation under AS 12.55.102 the court may reduce the fine required to

1 be imposed under (c) of this section by the cost of the ignition
2 interlock device.

3 * Sec. 6. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court
5 shall impose a minimum sentence of imprisonment of not less than 72
6 consecutive hours and a fine of not less than \$250 if the person has
7 not been previously convicted in this or another jurisdiction of
8 driving while intoxicated under AS 28.35.030 or another law or ordi-
9 nance with substantially similar elements or refusal to submit to a
10 chemical test under this section or another law or ordinance with
11 substantially similar elements. Upon conviction under this section the
12 court shall impose a minimum sentence of imprisonment of not less than
13 20 consecutive days and a fine of not less than \$500 if, within the
14 preceding 10 years, the person has been previously convicted once in
15 this or another jurisdiction of driving while intoxicated under
16 AS 28.35.030 or another law or ordinance with substantially similar
17 elements or refusal to submit to a chemical test under this section or
18 another law or ordinance with substantially similar elements. Upon
19 conviction under this section the court shall impose a minimum sen-
20 tence of imprisonment of not less than 30 consecutive days and a fine
21 of not less than \$1,000, if, within the previous 10 years, the person
22 has been previously convicted in this or another jurisdiction of more
23 than one of the following offenses or has more than once been previ-
24 ously convicted of one of the following offenses: (1) driving while
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-
26 stantially similar elements; (2) refusal to submit to a chemical test
27 under this section or another law or ordinance with substantially
28 similar elements. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that the minimum

1 imprisonment provided in this section is served. Probation may be
2 conditioned as provided in AS 12.55.102. Imposition of sentence may
3 not be suspended. If the offense involved driving a motor vehicle for
4 which a driver's license is required, the person's driver's license
5 shall be revoked under AS 28.15.181. In addition, the court shall
6 order, and a person convicted under this section shall undertake, for
7 a term specified by the court, that program of alcohol education or
8 rehabilitation that the court, after consideration of any information
9 compiled under (h) of this section, finds appropriate. The sentence
10 imposed by the court under this subsection shall run consecutively
11 with any other sentence of imprisonment imposed on the committed
12 person.

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

14 (k) Notwithstanding (g) of this section, if the court imposes
15 probation under AS 12.55.102 the court may reduce the fine required to
16 be imposed under (g) of this section by the cost of the ignition
17 interlock device.

18 * Sec. 8. AS 33.05.020 is amended by adding new subsections to read:

19 (c) The commissioner shall by regulation establish standards for
20 calibration, certification, maintenance, and monitoring of ignition
21 interlock devices required as a condition of probation under AS 12.-
22 55.102. The manufacturer of the interlock ignition device shall
23 reimburse the state for the cost of certification. The department
24 shall notify the manufacturer of the ignition interlock device when
25 the device is certified.

26 (d) The commissioner may not certify an ignition interlock
27 device unless the device displays a label warning that a person cir-
28 cumventing or tampering with the device in violation of AS 11.76.140
29 is guilty of a violation.

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

M E M O R A N D U M

TO: - Members of the House Finance Committee

FROM: Max F. Gruenberg, Jr. *MFG*

DATE: February 22, 1988

RE: Sectional Analysis for CSHB 261 (Judiciary) "An Act relating to sentencing in criminal actions involving alcohol."

Section 1

AS.09.50.250 (4) Provides the state with immunity in civil actions arising from the use of an ignition interlock system which has been certified by the Department of Corrections.

Section 2

AS 11.76.130 Makes it a violation to tamper with an ignition interlock system or rent or loan a motor vehicle with the knowledge that to do so would help someone violate their probation.

Section 3

AS 12.55.102 (a) Allows the court to require, as a condition of probation, that a person convicted of any alcohol-related offense, only drive a vehicle equipped with a certified ignition interlock system.

AS 12.55.102 (b) Allows the court to permit a limited exemption for a person to drive their employer's vehicle on the job.

AS 12.55.102 (c) Requires the surrender of the driver's license and the issuing of a special driver's certificate or a

copy of the defendant's judgment of a conviction while the ignition interlock driving restriction applies. The defendant must bear all costs of installing and maintaining the device.

AS 12.55.120 (c) Defines ignition interlock device as a device certified by the Commissioner of Corrections that will prevent a motor vehicle from starting if the driver has consumed alcohol.

AS 12.55.120 (d) Allows a court to deduct the cost of an ignition interlock device as part of the fine imposed against the defendant.

Section 4

AS 28.35.030 Amends the DWI statute to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 5

AS 28.35.030 (h) Amends the statute that sets minimum fines for a DWI conviction in order to allow the court to deduct the cost of an ignition interlock device from the fine imposed.

Section 6

AS 28.35.032 (g) Amends the statute that sets minimum fines for refusal to submit to a chemical test to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 7

AS 28.35.032 (k) Amends the statute that sets the minimum fines for refusal to submit to a chemical test in order to allow the court to deduct the cost of an ignition interlock device from the fine imposed.

Section 8

AS 33.05.020 (c) Requires the Commissioner of Corrections to adopt regulations for the certification, maintenance, and monitoring of ignition interlock devices. Requires the manufacturer of the interlock device to bear the cost of the certification.

AS 33.05.020 (d) Requires that a warning label that states the penalties for circumventing or tampering with an ignition interlock device be affixed to the device as a condition of certification.

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

September 2, 1987

SUBJECT: CSHB 261 - Ignition interlock devices
TO: Representative Max Gruenberg
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The attached draft contains the changes requested in your letter dated July 20, 1987. You indicated that you wanted the court to be able to reduce the minimum fine imposed under AS 28.35.030 and 28.35.032 by the cost of the ignition interlock device. Under present law, the court does not have the authority to substitute the cost of an ignition interlock device for the minimum fine required by law. Therefore I have amended these sections to allow the court to reduce the fine in this manner, I have also added language regarding certification of the device, payment of costs by the manufacturer, and requiring a warning label. Finally, I have added a new section regarding the liability of the state for certifying the device, under AS 09.50.250.

Please contact me if you have questions or wish further changes to the draft.

MFF:mkr
m12/109

Attachment

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

M E M O R A N D U M

TO: Members of the House Judiciary Committee

FROM: Max F. Gruenberg, Jr. *MFG*

DATE: February 8, 1988

RE: HB 261, "An Act relating to ignition interlock devices: and establishing a class C misdemeanor."

As explained in the enclosed Time Magazine article, HB 261 will allow judges to require persons convicted of alcohol-related offenses to install, at their expense, an "ignition interlock device" on their motor vehicles. This "mini-breathalyzer" prevents the car from starting unless the driver "blows clean."

Courts around the country have started to require these devices. Nineteen other state legislatures are presently considering ignition interlock legislation. Four states have already enacted laws establishing an interlock program. Four states have started ignition interlock programs through their court systems without statutes and two states have passed resolutions to start study programs.

Nationwide studies show that multiple DWI offenders sentenced to an ignition interlock program are three times less likely to be reconvicted than are those sentenced under conventional DWI sentencing practices. Moreover, a survey of offenders who have installed the device shows that most believe this is an effective method of preventing DWI's.

The cost to the defendant is about \$500.00 per year for installation and maintenance of the interlock device. The judge may deduct this cost from the defendant's fine.

If we can keep persons with known alcohol-related problems from driving while intoxicated, we can save many lives. I hope you will support the bill.

Enclosure

American Notes



Mayor Washington at a rally with senior citizens



The doomed Atlas-Centaur



If she had one for the road, her car won't start

CRIME

Etta Smith's Fatal Vision

Etta Louise Smith, the nightmare began shortly before Christmas 1980, when she claims to have had a vision of something white, covered by brush. A Lockheed aerospace worker in Burbank, Calif., Smith does not consider herself a psychic. Yet after she heard radio reports about Nurse Melanie Uribe, 31, who had vanished on her way to work, Smith was convinced she knew where the body could be found. She took her information to the police, who put her off.

Smith then organized a search with two of her young children and a 20-year-old niece. In remote Lopez Canyon, 18 miles north of Los Angeles, her daughter spotted a white heap that turned out to be Uribe—robbed, raped and beaten to death. Smith told police of her discovery and was arrested for the murder.

While she was held in jail for four days, the killers—three men with prior arrest records—turned up. Smith, 39, filed a suit for false arrest. Last week Los Angeles County Superior Court Judge Joel Rudof ruled that despite Smith's detailed account of the murder of a woman she never knew or saw, police did not have probable cause to lock her up. Smith's attorney has asked for \$750,000 in damages; the jury's verdict is expected this week.

SPACE

A Bolt In the Blue

Atlas-Centaur rockets have been launching U.S. satellites into orbit for the past 25 years, but last week the sturdy workhorse suffered a rare failure. Less than a minute after lift-off from Pad 36B at Cape Canaveral in threatening weather, a \$78 million, 137-ft. rocket disappeared into rain-swollen thunderheads and went out of control. A range safety officer hit the destruct button, and the rocket exploded along with its payload, an \$83 million communications satellite. For NASA, struggling to recover from the loss of the *Challenger* shuttle 14 months ago, the aborted flight broke a string of seven successful launches since September. The cause was not immediately known, although a leading suspect was lightning.

INVENTIONS

Drunkproofing Automobiles

The crusade against drunk driving has gained an ingenious new weapon: the breath-test ignition lock. The auto's ignition is linked to a breath-alcohol measuring device, and it becomes impossible to start a car unless the driver is sober. Already used in some states, in-

cluding Ohio, Maryland and Michigan, and pending in a dozen or so others, the locks will undergo their first systematic trial in California by summer.

Intended as an alternative to jail terms and suspended licenses for drunk drivers, the locks have mouthpieces into which drivers must exhale to measure their breath-alcohol level. The manufacturers, Guardian Interlock Systems of Denver and Safety Interlock of Carmel, Calif., claim that built-in safeguards make it difficult for drivers to use compressed air or borrow a breath of fresh air from a friend. One unsolved problem: how to prevent a tipsy driver from borrowing a car that has not been drunkproofed.

CALIFORNIA

What's Yours Is Mine

Mount Pico Blanco near Big Sur contains 600 million tons of limestone, one of the largest deposits in the U.S. The Granite Rock Co. wants to quarry the scenic mountain, which is on federal land, while the California coastal commission wants to protect it. Last week the Supreme Court ruled 5 to 4 for the coastal commission, upholding the right of states to enforce environmental requirements even on federal property. California can require the mining company to obtain a state permit, even

though it had received a federal go-ahead. Fully 19 states, along with the National Governors' Association, had filed briefs as friends of the court on behalf of the coastal commission.

CHICAGO

Dishonorable Opponents

Chicago has never been known for civics-textbook politics, but this year's mayoral race amounts to a demolition derby. After winning February's Democratic primary, black Mayor Harold Washington has been challenged by two white opponents from his own party for the April 7 election, although both are running under minor-party labels. Yet Cook County Tax Assessor Thomas Hynes and Alderman Edward Vrdolyak are spending most of their time attacking each other.

After Vrdolyak accused Hynes of using his office as county tax assessor to gain more business for his law firm, Hynes was quoted in the *Chicago Sun Times* suggesting that Vrdolyak had met with a Mafia boss. Vrdolyak sued for libel and accused Hynes of being a "liar and a sleaze." Even Washington, who leads Hynes by 35% and Vrdolyak by 39%, could not resist stooping for a shot at his longtime enemy Vrdolyak. Said the mayor: "He's slime."

Breath conviction: It just might work

It is one of the most disturbing issues affecting modern society: the drunken driver.

Despite nationwide efforts to keep drunks from behind the wheel, they are still responsible for nearly half of America's traffic fatalities.

Thanks to recently signed legislation, California judges soon will have another weapon in their arsenal for combating drunken driving.

It is a breath analyzer that attaches to the ignition system of a car, preventing a person from starting his vehicle if he is drunk.

By February or March, Humboldt County judges will be able to order this unit installed on a drunken driver's car as a term of probation.

The apparatus, about the size of a car radio, would be installed at the driver's expense. It would be leased to him at a cost of roughly \$400 to \$500 per year.

Each time the driver wanted to start his car, he first would have to breathe into a small cup attached to the unit.

A breath analyzer would measure the alcoholic content of the breath and electronically prevent the ignition system from firing if the driver's blood alcohol level exceeded .03 percent. This is well below the state-defined level of intoxication for drivers, which is .10 percent.

The driver would have to learn a secret code of short and long breaths to start his car, which would limit the probability of a friend starting the car and then turning over the keys.

Can it work?

That's hard to say. There are some obvious pitfalls. An individual could always use another car to drive to his favorite bar — although that would be illegal and would jeopardize the person's probation.

Is it too costly?

Obviously \$400 to \$500 isn't chicken feed. But in the context of the present drunken driving fines and related fees, it is not exorbitant. Those costs commonly exceed

\$1,000 and can double if an individual hires an attorney. It is also possible that insurance companies would take the device into account when readjusting insurance premiums after a drunken-driving conviction.

The program would be particularly cost-effective if the breath analyzer were to become an alternative to having one's license taken away. It could allow a driver the ability to continue earning his paycheck by having the use of his car to get to work.

Under the new law, the device can be used as an added restriction during probation. Whether it eventually might substitute for license revocation depends on the success of a planned test program.

Four counties — yet to be named — will participate in a two-year pilot project using the new device. They will keep records to see if there is a reduction in repeat offenses as a result of its use.

A drop of 25 percent will be considered "extremely successful" and a decline of 10 percent will be termed merely "successful." These results could lead the state Legislature to enact laws making the device mandatory in certain instances.

While some might view the device as a technological invasion of privacy, it is really a form of public protection. Repeat offenders have a serious problem. They often cannot properly judge when they are fit to drive. A device that tells them when they have had too much to drink is in their best interest as well as that of other motorists.

Humboldt's Municipal Court judges should give the program a try on an experimental basis. A resolution of support from local supervisors might encourage them.

As a county, we should be ready to explore all available options for counteracting a serious social problem.

This new device may prove to be an effective tool in that effort.

Device can lock out drunken drivers

BY DAVID WELLS

The Cincinnati Enquirer

An electronic device that keeps a drunken driver from starting his car may offer some hope for decreasing the burgeoning numbers of DUI offenders crowding Hamilton County's jails, Presiding Municipal Court Judge Timothy Hogan said Monday.

The Guardian Interlock is a breath tester hooked into a car's ignition system. A driver must test alcohol free on the machine before it will allow the car to start.

"In selected cases" Hogan believes the interlock mechanism can protect society from a drunken driver without the offender taking up bed space in the jail.

Such bed space is now at a premium in Hamilton County, with overcrowding in the year-old Justice Center already a chronic problem. The sheriff's department regularly sets up more than 100 temporary cots every Friday night to accommodate minor offenders serving weekend sentences.

Convicted drunk drivers account for 20% to 25% of the jail population, Hogan said. It costs the county \$18,250 to jail one prisoner per year, Hogan said, and the county averages about 250 DUI prisoners every day.

The interlock device offers a small bit of such he said, though Hogan emphasized "small." Out of scores of DUI cases he has heard in the past six months, only 12 have been approved by Hogan for use of the interlock. The machine's use has been approved in another 24 cases by other local judges, he said.

"This is definitely designed for people who haven't hurt anyone. Some of these people are hard-working, otherwise law-abiding cit-



The Cincinnati Enquirer/Fred Straub

Municipal Court Judge Timothy Hogan explains the operation of a device that locks the ignition of a motor vehicle unless the driver's breath is free of alcohol.

izens. But when they get in a car with a few drinks they are death," he said.

Judges use the machine primarily as a probation tool, Hogan said. "Usually we order the machine installed for the longest period of time we have control over the person, be that the length of a driving suspension or (jail) probation."

In the case of a driving suspension for a multiple offender, that could mean a driver agrees to keep

the device in his car, and agrees to pay the annual \$486 installation and maintenance fee, for as long as 10 years, Hogan said.

Guardian Spokesman Richard Freund said Monday the machine is considered tamper proof.

"Any attempt at disconnecting it would be noticeable and it would simply lock up and not let you start the car," he said. Freund said the company now has about 200 of the devices being used with court supervision around the company. So far no one has been caught tamper-

ing with one of the devices, Freund said.

Guardian Interlock, headquartered in Denver, is a subsidiary of Cincinnati Microwave, Inc., which also makes radar detectors.

There are competitive brands of the same device on the market in other parts of the country. Hogan said he is not endorsing the specific manufacturer, but is simply using the theory of the device. Any similar device that comes into the local market will be considered as well, he said.



GUARDIAN INTERLOCK SYSTEMS

California, Washington, Texas, Michigan and Oregon have passed legislation to arm courts and state agencies with an innovative tool to deter drunken driving, and many other states are considering such legislation.

Is your state included in this roster of concerned and progressive legislatures?

In the past several years, legislators have been overwhelmed with information linking alcohol consumption with traffic accidents and fatalities nationwide. Although legislators are responding by stiffening penalties for drunken driving, citizens are still being arrested again and again for alcohol related traffic offenses.

Guardian Interlock Systems is a leading manufacturer of an innovative device being used by courts and state agencies across the country. The Guardian Interlock™ Ignition System is a breath analyzer that connects to a vehicle's ignition. The driver of a Guardian Interlock equipped vehicle must pass a breath alcohol test before their car can be started. Additionally, the Guardian Interlock includes a variety of tamper-resistant features to deter all but the intended driver from starting the car. Offenders ordered to use the Guardian Interlock participate in the Guardian Interlock Responsible Driver ProgramSM, which is a comprehen-

sive service providing monitoring of offenders with reports generated for judicial or state agencies.

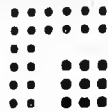
There are many reasons why you should consider ignition interlock legislation.

■ Ignition interlock systems lend assurance to the bench and agencies that, when issuing driving privileges to offenders, the health and welfare of the public and of the state will be protected.

■ Some state officials see the use of ignition interlock legislation as a means of alternative sentencing for drunken drivers. Judges view the device as an option which provides a constant reminder of the drunken driving offense and educates the offender about the physiological effects of alcohol.

■ Studies indicate a promising trend toward permanent behavior change as a result of participating in the Guardian Interlock Responsible Driver Program.

We encourage you to review the enclosed materials and learn more about ignition interlock laws passed in other states. If you would like assistance in drafting legislation or if we can answer any questions concerning the Guardian Interlock Responsible Driver Program, please call our toll free number, 1-800-457-0001 or 303-831-6333.



GUARDIAN INTERLOCK SYSTEMS

The Guardian Interlock Responsible Driver ProgramSM

Program Features

Benefits to the Courts:

- Complete monitoring of offenders on program
- Bi-monthly compliance reports generated for courts
- Administration of program by Guardian Interlock Systems
- Opportunity to grant occupational driver's licenses while protecting society
- Opportunity to alter an offender's drinking/driving behavior through constant reinforcement

Benefits to Drunken Driving Offenders:

- Opportunity to retain driving privileges
- Alternative to lengthy incarceration
- Opportunity to lessen fines
- Optional payment plan
- Education regarding drinking/driving behavior and support for behavior change
- Installation and monitoring appointments made to conveniently fit into work schedule
- Complete training on use of system and program requirements

Guardian InterlockTM Ignition System Features

CBPATM Breath Code

- A learned breath code that must be completed in addition to the breath alcohol test before the vehicle can be started. This deters all but the intended driver from starting the vehicle. Three failures at CBPA deter anyone from starting the vehicle for 45 minutes.

Memo-MinderTM Electronic Program Monitor

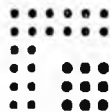
- Reminds the interlock user that it is time to return for a monitoring appointment. Three days before the scheduled due date, a light on the unit begins flashing. For seven days beginning on the due date, a sequence of tones accompanies the flashing light. After the seventh overdue day, the car will not start.

GuardlinkTM Anti-Circumvention Diagnostic

- Detects attempted tampering or circumvention. GUARDLINK pushes the device into MEMO-MINDER so that the car must be brought to the service center for inspection where the act is noted and reported.

Retest Feature

- Requires a driver to retest in 20 minutes if alcohol is detected during a breath test even though the device may permit a person to consume a certain amount of alcohol and still drive. If the driver fails to pull over, turn off the car and retest within a five minute period, the vehicle's horn begins to honk intermittently.



GUARDIAN INTERLOCK SYSTEMS

The Guardian Interlock Responsible Driver ProgramSM Payment Plan

Program Term	Initial Pymt At Installation Payment	Bi-Monthly Payment	Total Program Cost
6 Mo.	\$225.00*	\$105.00	\$ 365.00
12 Mo.	195.00*	75.00	500.00
18 Mo.	190.00*	70.00	680.00
24 Mo.	185.00*	65.00	830.00
36 Mo.	185.00*	65.00	1,220.00
48 Mo.	185.00*	65.00	1,610.00
60 Mo.	185.00*	65.00	2,000.00

*Initial payment includes a \$50.00 installation fee, a \$70.00 refundable security deposit and prepayment of a 60 day lease and maintenance of equipment.

- All programs include auto electrical test, installation/ monitoring checks and removal of system.
- Prices do not include any applicable state or local sales, usage, or service tax.
- All payments, certified check, money order or cashier's check, should be made payable to Guardian Interlock Systems. Visa/MasterCard or American Express accepted. NO PERSONAL CHECKS ACCEPTED.

SAMPLE

STATE OF CALIFORNIA
MUNICIPAL COURT OF
COUNTY OF SAN DIEGO

People of _____
vs

_____ Case number _____
Defendant

ADDENDUM TO CONDITIONS OF PROBATION

At a session of said Court held this _____ day of _____ 19____, the above named defendant having been convicted of the offense of _____ the following terms and conditions shall be required to obtain a restricted driving privilege.

1. The defendant will have a Guardian Interlock installed in the vehicle listed below within twenty days of this order.
2. The defendant will only operate a vehicle equipped with a Guardian Interlock System.
3. The defendant will have monitoring checks performed every 60 days.
4. The defendant will not adjust, tamper with, alter, or circumvent the Guardian Interlock System installed or the electrical wiring to the unit, of the unit, or to the ignition system nor remove the unit from the designated vehicle.
5. The defendant agrees to abide by the policies and procedures of the Guardian Interlock Responsible Driver Program.

6. Calibration setting is _____ .03 with CBPA.

7. Program length _____ 6 mo: _____ 12 mo:
_____ 18 mo: _____ 24 mo: _____ 36 mo:

Judge's Signature

Defendant _____
Address _____
City _____ State _____ Zip _____
Telephone _____ h _____ w
Vehicle make _____ model _____ VIN _____
Color _____ Year _____ License Plate No: _____

Date: _____
Defendant Signature

Date: _____
Assigned Monitor
Probation Department
San Diego County

SAMPLE

Guardian Interlock Responsible Driver ProgramSM Policies and Procedures

The following must be fully explained to the defendant, signed and dated.

- 1. APPOINTMENTS.** I understand that I must make all appointments prior to the due date.
 - 2. REPORTING.** I understand that compliance or non-compliance reports regarding my participation in the program will be sent directly to probation.
 - 3. AUTO ELECTRICAL TEST.** I understand that the designated vehicle will be inspected prior to installation. If the vehicle fails to meet the electrical tests, I will repair the vehicle at my own expense.
 - 4. PAYMENTS.** I understand that all financial arrangements are between myself and Guardian Interlock Systems.
- Payment is accepted through VISA, MASTER CARD, AMERICAN EXPRESS, CERTIFIED CHECK OR MONEY ORDER. NO PERSONAL CHECKS ARE ACCEPTED.
- 5. TAXES.** I understand that any applicable sales, usage or service tax will be added to the cost of the program.
 - 6. REFUNDS.** I understand that in the event of license revocation or probation violation there will be no refunds. There will be no refunds on 6 month or 12 month programs. If after 12 months, the court no longer requires that I have the program, I will be entitled to a refund on a pro-rated basis.
 - 7. CHANGE OF VEHICLES.** I understand that if I desire to have the system installed in another vehicle not listed on the probation order, that I will have to obtain written permission to do so from the Court. A charge will be assessed for a re-installation.

- 8. GUARDIAN'S RESPONSIBILITIES.** I understand that effective upon payment of the invoiced amount due, Guardian Interlock will supply me with the system described in the invoice. Guardian Interlock shall cause the system to be installed, mandatory monitoring checks done, de-installation and any warranty and maintenance work required.
- 9. WARRANTY.** I understand that Guardian Interlock will supply me with a warranty at the time of installation.

CONSENT: I HAVE READ OR HAVE HAD EXPLAINED TO ME, THE ABOVE POLICIES AND PROCEDURES OF THE GUARDIAN INTERLOCK RESPONSIBLE DRIVER PROGRAM. I AGREE TO ABIDE BY THESE POLICIES IN ORDER TO SUCCESSFULLY COMPLETE THE PROGRAM. I UNDERSTAND THAT IF I FAIL TO FOLLOW THESE POLICIES I MAY FAIL TO COMPLETE THIS PROGRAM. SUCH A FAILURE WOULD BE A VIOLATION OF MY PROBATIONS. IF YOU HAVE ANY QUESTIONS BEFORE SIGNING THIS AGREEMENT PLEASE CALL 1-800-457-0001 AND ASK FOR CUSTOMER SERVICE.

Date / / Defendant _____

FOR INSTALLATION APPOINTMENT CONTACT
Guardian Interlock Systems, Inc.
Marty Foltz, Manager
4836 Duff Driver, Unit D-1
Cincinnati, OH 45246
(513) 874-7775

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.50.250 is amended to read:

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
10 or corporation having a contract, quasi-contract, or tort claim
11 against the state may bring an action against the state in the superi-
12 or court. A person who may present the claim under AS 44.77 may not
13 bring an action under this section except as set out in AS 44.77.-
14 040(c). A person who may bring an action under AS 36.30.560 -
15 36.30.695 may not bring an action under this section except as set out
16 in AS 36.30.685. However, an [NO] action may not be brought under
17 this section if the claim

18 (1) is an action for tort, and is based upon an act or
19 omission of an employee of the state, exercising due care, in the
20 execution of a statute or regulation, whether or not the statute or
21 regulation is valid; or is an action for tort, and based upon the
22 exercise or performance or the failure to exercise or perform a dis-
23 cretionary function or duty on the part of a state agency or an em-
24 ployee of the state, whether or not the discretion involved is abused;

25 (2) is for damages caused by the imposition or establish-
26 ment of a quarantine by the state;

27 (3) arises out of assault, battery, false imprisonment,
28 false arrest, malicious prosecution, abuse of process, libel, slander,
29 misrepresentation, deceit, or interference with contract rights; or

1 (4) arises out of the use of an ignition interlock device
2 certified under AS 33.30.020(c).

3 * Sec. 2. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
5 person may not knowingly

6 (1) circumvent or tamper with an ignition interlock device
7 in a manner intended to allow a person on probation under AS 12.55.102
8 to avoid using the device; or

9 (2) rent, loan, or lease a motor vehicle to a person on
10 probation under AS 12.55.102, unless the vehicle is equipped with an
11 ignition interlock device described in AS 12.55.102.

12 (b) A person convicted of violating this section is guilty of a
13 violation.

14 * Sec. 3. AS 12.55 is amended by adding a new section to read:

15 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
16 order as a condition of probation that a defendant convicted of an
17 offense involving the use, consumption, or possession of an alcoholic
18 beverage may not operate a motor vehicle during the period of pro-
19 bation unless the vehicle is equipped with a properly functioning,
20 monitored, and maintained ignition interlock device. A condition of
21 probation imposed under this subsection takes effect after any period
22 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

23 (b) The court, in imposing probation under (a) of this section,
24 may allow the defendant limited privileges to drive a motor vehicle
25 without an ignition interlock device if the court determines that the
26 defendant is required as a condition of employment to drive a motor
27 vehicle owned or leased by the defendant's employer and that the
28 defendant's driving will not create substantial danger. If the court
29 imposes probation described by this subsection, the court shall

1 require the defendant to notify the defendant's employer of the proba-
2 tion, and shall require that the defendant, while driving the em-
3 ployer's vehicle, carry a letter from the employer authorizing the
4 defendant to drive that vehicle.

5 (c) A court imposing a condition of probation under this section
6 shall require the surrender of the driver's license and shall issue to
7 the defendant a certificate valid for the duration of the probation or
8 a copy of the defendant's judgment of conviction. The defendant shall
9 bear all costs associated with fulfilling the condition of probation,
10 including installation, repair, and monitoring of an ignition inter-
11 lock device.

12 (d) The court may include the cost of the ignition interlock
13 device as a part of the fine required to be imposed against the defen-
14 dant under AS 28.35.030(c) or 28.35.032(g).

15 (e) In this section, "ignition interlock device" means equipment
16 designed to prevent a motor vehicle from being operated by a person
17 who has consumed an alcoholic beverage, and that has been certified by
18 the commissioner of corrections under AS 33.05.020.

19 * Sec. 4. AS 28.35.030(c) is amended to read:

20 (c) Upon conviction under this section the court shall impose a
21 minimum sentence of imprisonment of not less than 72 consecutive hours
22 and a fine of not less than \$250 if the person has not been previously
23 convicted in this or another jurisdiction of driving while intoxicated
24 under this or another law or ordinance with substantially similar
25 elements or refusal to submit to a chemical test under AS 28.35.032 or
26 another law or ordinance with substantially similar elements. Upon
27 conviction under this section the court shall impose a minimum sen-
28 tence of imprisonment of not less than 20 consecutive days and a fine
29 of not less than \$500 if, within the preceding 10 years, the person

1 has been previously convicted once in this or another jurisdiction of
2 driving while intoxicated under this or another law or ordinance with
3 substantially similar elements or refusal to submit to a chemical test
4 under AS 28.35.032 or another law or ordinance with substantially
5 similar elements. Upon conviction under this section the court shall
6 impose a minimum sentence of imprisonment of not less than 30 consecu-
7 tive days and a fine of not less than \$1,000 if, within the preceding
8 10 years, the person has been previously convicted in this or another
9 jurisdiction of more than one of the following offenses or has more
10 than once been previously convicted of one of the following offenses:
11 (1) driving while intoxicated under this or another law or ordinance
12 with substantially similar elements; (2) refusal to submit to a chemi-
13 cal test under AS 28.35.032 or another law or ordinance with substan-
14 tially similar elements. The execution of sentence may not be sus-
15 pended nor may probation be granted except on condition that the
16 minimum imprisonment provided in this section is served. Probation
17 may be conditioned as provided in AS 12.55.102. Imposition of sen-
18 tence may not be suspended. In addition, if the offense involved
19 driving a motor vehicle for which a driver's license is required, the
20 person's driver's license shall be revoked in accordance with AS 28.-
21 15.181 and the vehicle used in commission of the offense may be for-
22 feited under AS 28.35.036. In addition, the court shall order, and a
23 person convicted under this section shall undertake, for a term spec-
24 ified by the court, that program of alcohol education or rehabilita-
25 tion that the court, after consideration of any information compiled
26 under (d) of this section, finds appropriate.

27 * Sec. 5. AS 28.35.030 is amended by adding a new subsection to read:

28 (h) Notwithstanding (c) of this section, if the court imposes
29 probation under AS 12.55.102 the court may reduce the fine required to

1 be imposed under (c) of this section by the cost of the ignition
2 interlock device.

3 * Sec. 6. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court
5 shall impose a minimum sentence of imprisonment of not less than 72
6 consecutive hours and a fine of not less than \$250 if the person has
7 not been previously convicted in this or another jurisdiction of
8 driving while intoxicated under AS 28.35.030 or another law or ordi-
9 nance with substantially similar elements or refusal to submit to a
10 chemical test under this section or another law or ordinance with
11 substantially similar elements. Upon conviction under this section the
12 court shall impose a minimum sentence of imprisonment of not less than
13 20 consecutive days and a fine of not less than \$500 if, within the
14 preceding 10 years, the person has been previously convicted once in
15 this or another jurisdiction of driving while intoxicated under
16 AS 28.35.030 or another law or ordinance with substantially similar
17 elements or refusal to submit to a chemical test under this section or
18 another law or ordinance with substantially similar elements. Upon
19 conviction under this section the court shall impose a minimum sen-
20 tence of imprisonment of not less than 30 consecutive days and a fine
21 of not less than \$1,000, if, within the previous 10 years, the person
22 has been previously convicted in this or another jurisdiction of more
23 than one of the following offenses or has more than once been previ-
24 ously convicted of one of the following offenses: (1) driving while
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-
26 stantially similar elements; (2) refusal to submit to a chemical test
27 under this section or another law or ordinance with substantially
28 similar elements. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that the minimum

1 imprisonment provided in this section is served. Probation may be
2 conditioned as provided in AS 12.55.102. Imposition of sentence may
3 not be suspended. If the offense involved driving a motor vehicle for
4 which a driver's license is required, the person's driver's license
5 shall be revoked under AS 28.15.181. In addition, the court shall
6 order, and a person convicted under this section shall undertake, for
7 a term specified by the court, that program of alcohol education or
8 rehabilitation that the court, after consideration of any information
9 compiled under (h) of this section, finds appropriate. The sentence
10 imposed by the court under this subsection shall run consecutively
11 with any other sentence of imprisonment imposed on the committed
12 person.

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

14 (k) Notwithstanding (g) of this section, if the court imposes
15 probation under AS 12.55.102 the court may reduce the fine required to
16 be imposed under (g) of this section by the cost of the ignition
17 interlock device.

18 * Sec. 8. AS 33.05.020 is amended by adding new subsections to read:

19 (c) The commissioner shall by regulation establish standards for
20 calibration, certification, maintenance, and monitoring of ignition
21 interlock devices required as a condition of probation under AS 12.-
22 55.102. The manufacturer of the interlock ignition device shall
23 reimburse the state for the cost of certification. The department
24 shall notify the manufacturer of the ignition interlock device when
25 the device is certified.

26 (d) The commissioner may not certify an ignition interlock
27 device unless the device displays a label warning that a person cir-
28 cumventing or tampering with the device in violation of AS 11.76.140
29 is guilty of a violation.

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 261 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to ignition interlock devices; and
establishing a class C misdemeanor."

7

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

* Section 1. AS 09.50.250 is amended to read:

10

Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person

11

or corporation having a contract, quasi-contract, or tort claim

12

against the state may bring an action against the state in the superi-

13

or court. A person who may present the claim under AS 44.77 may not

14

bring an action under this section except as set out in AS 44.77.-

15

040(c). A person who may bring an action under AS 36.30.560 -

16

36.30.695 may not bring an action under this section except as set out

17

in AS 36.30.685. However, an [NO] action may not be brought under

18

this section if the claim

19

(1) is an action for tort, and is based upon an act or

20

omission of an employee of the state, exercising due care, in the

21

execution of a statute or regulation, whether or not the statute or

22

regulation is valid; or is an action for tort, and based upon the

23

exercise or performance or the failure to exercise or perform a dis-

24

cretionary function or duty on the part of a state agency or an em-

25

ployee of the state, whether or not the discretion involved is abused;

26

(2) is for damages caused by the imposition or establish-

27

ment of a quarantine by the state;

28

(3) arises out of assault, battery, false imprisonment,

29

false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.30.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 12.55.035(b) is amended to read:

16 (b) Upon conviction of an offense, a defendant who is not an
17 organization may be sentenced to pay, unless otherwise specified in
18 the provision of law defining the offense, a fine of no more than

19 (1) \$75,000 for murder in the first or second degree,
20 sexual assault in the first degree, kidnapping, or misconduct involv-
21 ing a controlled substance in the first degree;

22 (2) \$50,000 for a class A, B, or C felony;

23 (3) \$5,000 for a class A misdemeanor;

24 (4) \$1,000 for a class B misdemeanor;

25 (5) \$500 for a class C misdemeanor;

26 (6) \$300 for a violation.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
29 order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device.

5 (b) The court, in imposing probation under (a) of this section,
6 may allow the defendant limited privileges to drive a motor vehicle
7 without an ignition interlock device if the court determines that the
8 defendant is required as a condition of employment to drive a motor
9 vehicle owned or leased by the defendant's employer and that the
10 defendant's driving will not create substantial danger. If the court
11 imposes probation described by this subsection, the court shall re-
12 quire the defendant to notify the defendant's employer of the proba-
13 tion, and shall require that the defendant, while driving the em-
14 ployer's vehicle, carry a letter from the employer authorizing the
15 defendant to drive that vehicle.

16 (c) A court imposing a condition of probation under this section
17 shall require the surrender of the driver's license and shall issue to
18 the defendant a certificate valid for the duration of the probation or
19 a copy of the defendant's judgment of conviction. The defendant shall
20 bear all costs associated with fulfilling the condition of probation,
21 including installation, repair, and monitoring of an ignition inter-
22 lock device.

23 (d) The court may include the cost of the ignition interlock
24 device as a part of the fine required to be imposed against the defen-
25 dant under AS 28.35.030(c) or 28.35.032(g).

26 (e) In this section, "ignition interlock device" means equipment
27 designed to prevent a motor vehicle from being operated by a person
28 who has consumed an alcoholic beverage, and that has been certified by
29 the commissioner of corrections under AS 33.05.020.

1 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

2 (f) A defendant convicted of a class C misdemeanor may be sen-
3 tenced to a definite term of imprisonment of not more than 30 days
4 unless otherwise specified in the provision of law defining the of-
5 fense.

6 * Sec. 6. AS 28.35.030(c) is amended to read:

7 (c) Upon conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 72 consecutive hours
9 and a fine of not less than \$250 if the person has not been previously
10 convicted in this or another jurisdiction of driving while intoxicated
11 under this or another law or ordinance with substantially similar
12 elements or refusal to submit to a chemical test under AS 28.35.032 or
13 another law or ordinance with substantially similar elements. Upon
14 conviction under this section the court shall impose a minimum sen-
15 tence of imprisonment of not less than 20 consecutive days and a fine
16 of not less than \$500 if, within the preceding 10 years, the person
17 has been previously convicted once in this or another jurisdiction of
18 driving while intoxicated under this or another law or ordinance with
19 substantially similar elements or refusal to submit to a chemical test
20 under AS 28.35.032 or another law or ordinance with substantially
21 similar elements. Upon conviction under this section the court shall
22 impose a minimum sentence of imprisonment of not less than 30 consecu-
23 tive days and a fine of not less than \$1,000 if, within the preceding
24 10 years, the person has been previously convicted in this or another
25 jurisdiction of more than one of the following offenses or has more
26 than once been previously convicted of one of the following offenses:
27 (1) driving while intoxicated under this or another law or ordinance
28 with substantially similar elements; (2) refusal to submit to a chemi-
29 cal test under AS 28.35.032 or another law or ordinance with

1 substantially similar elements. The execution of sentence may not be
2 suspended nor may probation be granted except on condition that the
3 minimum imprisonment provided in this section is served. Probation
4 may be conditioned as provided in AS 12.55.102. Imposition of sen-
5 tence may not be suspended. In addition, if the offense involved
6 driving a motor vehicle for which a driver's license is required, the
7 person's driver's license shall be revoked in accordance with AS 28.-
8 15.181 and the vehicle used in commission of the offense may be for-
9 feited under AS 28.35.036. In addition, the court shall order, and a
10 person convicted under this section shall undertake, for a term
11 specified by the court, that program of alcohol education or reha-
12 bilitation that the court, after consideration of any information
13 compiled under (d) of this section, finds appropriate.

14 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

15 (h) Notwithstanding (c) of this section, if the court imposes
16 probation under AS 12.55.102 the court may reduce the fine required to
17 be imposed under (c) of this section by the cost of the ignition
18 interlock device.

19 * Sec. 8. AS 28.35.032(g) is amended to read:

20 (g) Upon conviction of a person under this section, the court
21 shall impose a minimum sentence of imprisonment of not less than 72
22 consecutive hours and a fine of not less than \$250 if the person has
23 not been previously convicted in this or another jurisdiction of
24 driving while intoxicated under AS 28.35.030 or another law or ordi-
25 nance with substantially similar elements or refusal to submit to a
26 chemical test under this section or another law or ordinance with
27 substantially similar elements. Upon conviction under this section the
28 court shall impose a minimum sentence of imprisonment of not less than
29 20 consecutive days and a fine of not less than \$500 if, within the

1 preceding 10 years, the person has been previously convicted once in
2 this or another jurisdiction of driving while intoxicated under
3 AS 28.35.030 or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under this section or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 30 consecutive days and a fine
8 of not less than \$1,000, if, within the previous 10 years, the person
9 has been previously convicted in this or another jurisdiction of more
10 than one of the following offenses or has more than once been previ-
11 ously convicted of one of the following offenses: (1) driving while
12 intoxicated under AS 28.35.030 or another law or ordinance with sub-
13 stantially similar elements; (2) refusal to submit to a chemical test
14 under this section or another law or ordinance with substantially
15 similar elements. The execution of sentence may not be suspended nor
16 may probation be granted except on condition that the minimum impris-
17 onment provided in this section is served. Probation may be condi-
18 tioned as provided in AS 12.55.102. Imposition of sentence may not be
19 suspended. If the offense involved driving a motor vehicle for which
20 a driver's license is required, the person's driver's license shall be
21 revoked under AS 28.15.181. In addition, the court shall order, and a
22 person convicted under this section shall undertake, for a term speci-
23 fied by the court, that program of alcohol education or rehabilitation
24 that the court, after consideration of any information compiled under
25 (h) of this section, finds appropriate. The sentence imposed by the
26 court under this subsection shall run consecutively with any other
27 sentence of imprisonment imposed on the committed person.

28 * Sec. 9. AS 28.35.032 is amended by adding a new subsection to read:

29 (k) Notwithstanding (g) of this section, if the court imposes

1 probation under AS 12.55.102 the court may reduce the fine required to
2 be imposed under (g) of this section by the cost of the ignition
3 interlock device.

4 * Sec. 10. AS 33.05.020 is amended by adding new subsections to read:

5 (c) The commissioner shall by regulation establish standards for
6 calibration, certification, maintenance, and monitoring of ignition
7 interlock devices required as a condition of probation under AS 12.-
8 55.102. The manufacturer of the interlock ignition device shall
9 reimburse the state for the cost of certification. The department
10 shall notify the manufacturer of the ignition interlock device when
11 the device is certified.

12 (d) The commissioner may not certify an ignition interlock
13 device unless the device displays a label warning that a person
14 circumventing or tampering with the device in violation of AS 11.76.-
15 140 is guilty of a class C misdemeanor.

Introduced: 4/8/87
Referred: Health, Education &
Social Services, Judiciary and
Finance

5-0634A

BY GRUENBERG, BARNES, DONLEY,
COLLINS, HUDSON, LARSON,
MARTIN, SPRINGER, KOPONEN
AND ULMER

1 IN THE HOUSE

2 HOUSE BILL NO. 261

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.76 is amended by adding a new section to read:

10 Sec. 11.76.130. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
11 person may not knowingly

12 (1) circumvent or tamper with an ignition interlock device
13 in a manner intended to allow a person on probation under AS 12.55.102
14 to avoid using the device; or

15 (2) rent, loan, or lease a motor vehicle to a person on
16 probation under AS 12.55.102, unless the vehicle is equipped with an
17 ignition interlock device described in AS 12.55.102.

18 (b) A person convicted of violating this section is guilty of a
19 class C misdemeanor.

20 * Sec. 2. AS 12.55.035(b) is amended to read:

21 (b) Upon conviction of an offense, a defendant who is not an
22 organization may be sentenced to pay, unless otherwise specified in
23 the provision of law defining the offense, a fine of no more than

24 (1) \$75,000 for murder in the first or second degree,
25 sexual assault in the first degree, kidnapping, or misconduct involv-
26 ing a controlled substance in the first degree;

27 (2) \$50,000 for a class A, B, or C felony;

28 (3) \$5,000 for a class A misdemeanor;

29 (4) \$1,000 for a class B misdemeanor;

1 (5) \$500 for a class C misdemeanor;

2 (6) \$300 for a violation.

3 * Sec. 3. AS 12.55 is amended by adding a new section to read:

4 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
5 order as a condition of probation that a defendant convicted of an
6 offense involving the use, consumption, or possession of an alcoholic
7 beverage may not operate a motor vehicle during the period of pro-
8 bation unless the vehicle is equipped with a properly functioning,
9 monitored, and maintained ignition interlock device.

10 (b) The court, in imposing probation under (a) of this section,
11 may allow the defendant limited privileges to drive a motor vehicle
12 without an ignition interlock device if the court determines that the
13 defendant is required as a condition of employment to drive a motor
14 vehicle owned or leased by the defendant's employer and that the
15 defendant's driving will not create substantial danger. If the court
16 imposes probation described by this subsection, the court shall
17 require the defendant to notify the defendant's employer of the
18 probation, and shall require that the defendant, while driving the em-
19 ployer's vehicle, carry a letter from the employer authorizing the
20 defendant to drive that vehicle.

21 (c) A court imposing a condition of probation under this section
22 shall require the surrender of the driver's license and shall issue to
23 the defendant a certificate valid for the duration of the probation.
24 The defendant shall bear all costs associated with fulfilling the
25 condition of probation, including installation, repair, and monitoring
26 of an ignition interlock device.

27 (d) In this section, "ignition interlock device" means equipment
28 designed to prevent a motor vehicle from being operated by a person
29 who has consumed an alcoholic beverage, and that has been certified by

1 the commissioner of corrections under AS 33.05.020.

2 * Sec. 4. AS 12.55.135 is amended by adding a new subsection to read:

3 (f) A defendant convicted of a class C misdemeanor may be sen-
4 tenced to a definite term of imprisonment of not more than 30 days
5 unless otherwise specified in the provision of law defining the of-
6 fense.

7 * Sec. 5. AS 28.35.030(c) is amended to read:

8 (c) Upon conviction under this section the court shall impose a
9 minimum sentence of imprisonment of not less than 72 consecutive hours
10 and a fine of not less than \$250 if the person has not been previously
11 convicted in this or another jurisdiction of driving while intoxicated
12 under this or another law or ordinance with substantially similar
13 elements or refusal to submit to a chemical test under AS 28.35.032 or
14 another law or ordinance with substantially similar elements. Upon
15 conviction under this section the court shall impose a minimum sen-
16 tence of imprisonment of not less than 20 consecutive days and a fine
17 of not less than \$500 if, within the preceding 10 years, the person
18 has been previously convicted once in this or another jurisdiction of
19 driving while intoxicated under this or another law or ordinance with
20 substantially similar elements or refusal to submit to a chemical test
21 under AS 28.35.032 or another law or ordinance with substantially
22 similar elements. Upon conviction under this section the court shall
23 impose a minimum sentence of imprisonment of not less than 30 consecu-
24 tive days and a fine of not less than \$1,000 if, within the preceding
25 10 years, the person has been previously convicted in this or another
26 jurisdiction of more than one of the following offenses or has more
27 than once been previously convicted of one of the following offenses:
28 (1) driving while intoxicated under this or another law or ordinance
29 with substantially similar elements; (2) refusal to submit to a

1 chemical test under AS 28.35.032 or another law or ordinance with
2 substantially similar elements. The execution of sentence may not be
3 suspended nor may probation be granted except on condition that the
4 minimum imprisonment provided in this section is served. Probation
5 may be conditioned as provided in AS 12.55.102. Imposition of sen-
6 tence may not be suspended. In addition, if the offense involved
7 driving a motor vehicle for which a driver's license is required, the
8 person's driver's license shall be revoked in accordance with AS
9 28.15.181 and the vehicle used in commission of the offense may be
10 forfeited under AS 28.35.036. In addition, the court shall order, and
11 a person convicted under this section shall undertake, for a term
12 specified by the court, that program of alcohol education or reha-
13 bilitation that the court, after consideration of any information
14 compiled under (d) of this section, finds appropriate.

15 * Sec. 6. AS 28.35.032(g) is amended to read:

16 (g) Upon conviction of a person under this section, the court
17 shall impose a minimum sentence of imprisonment of not less than 72
18 consecutive hours and a fine of not less than \$250 if the person has
19 not been previously convicted in this or another jurisdiction of
20 driving while intoxicated under AS 28.35.030 or another law or ordi-
21 nance with substantially similar elements or refusal to submit to a
22 chemical test under this section or another law or ordinance with
23 substantially similar elements. Upon conviction under this section the
24 court shall impose a minimum sentence of imprisonment of not less than
25 20 consecutive days and a fine of not less than \$500 if, within the
26 preceding 10 years, the person has been previously convicted once in
27 this or another jurisdiction of driving while intoxicated under
28 AS 28.35.030 or another law or ordinance with substantially similar
29 elements or refusal to submit to a chemical test under this section or

1 another law or ordinance with substantially similar elements. Upon
2 conviction under this section the court shall impose a minimum sen-
3 tence of imprisonment of not less than 30 consecutive days and a fine
4 of not less than \$1,000, if, within the previous 10 years, the person
5 has been previously convicted in this or another jurisdiction of more
6 than one of the following offenses or has more than once been previ-
7 ously convicted of one of the following offenses: (1) driving while
8 intoxicated under AS 28.35.030 or another law or ordinance with sub-
9 stantially similar elements; (2) refusal to submit to a chemical test
10 under this section or another law or ordinance with substantially
11 similar elements. The execution of sentence may not be suspended nor
12 may probation be granted except on condition that the minimum impris-
13 onment provided in this section is served. Probation may be condi-
14 tioned as provided in AS 12.55.102. Imposition of sentence may not be
15 suspended. If the offense involved driving a motor vehicle for which
16 a driver's license is required, the person's driver's license shall be
17 revoked under AS 28.15.181. In addition, the court shall order, and a
18 person convicted under this section shall undertake, for a term speci-
19 fied by the court, that program of alcohol education or rehabilitation
20 that the court, after consideration of any information compiled under
21 (h) of this section, finds appropriate. The sentence imposed by the
22 court under this subsection shall run consecutively with any other
23 sentence of imprisonment imposed on the committed person.

24 * Sec. 7. AS 33.05.020 is amended by adding a new subsection to read:

25 (c) The commissioner shall by regulation establish standards for
26 certification, maintenance, and monitoring of ignition interlock
27 devices required as a condition of probation under AS 12.55.102.