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261

STATE OF ALASKA  
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Hess:

January 21, 1988

HB 261      An Act relating to ignition interlock  
              devices; and establishing a class C misdemeanor

File Contents

- 1)            Copy of HB 261
- 2)            Memorandum, Rep. Gruenberg to HESS Committee,  
              5/13/87
- 3)            AS 28.15.181
- 4)            Memo with sectional analysis, Rep. Gruenberg,  
              4/6/87
- 5)            Zero fiscal note, Department of Corrections,  
              4/8/87
- 6)            American Notes article
- 7)            Letter, Alaska Court System (Forsythe) to Rep.  
              Gruenberg, 4/15/87
- 8)            CS for HB 261 (Ford, 5/13/87)

# HOUSE COMMITTEE REPORT

(7)

Date referred: 4/8/87

FURTHER REFERRALS: Judiciary  
Finance

DATE: 1-21-88

The Health, Education and Social Services Committee has considered HB 261

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

**RECOMMENDS:**

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

**ADOPTS:**  \_\_\_\_\_ 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 \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

RODRE ORO  
John Ellis  
John Korman  
Bill Hude  
Max Ehrenberg  
Gene Donley

**SIGNING OTHER RECOMMENDATIONS:**

Debra Stanley - No Rec

John Ellis  
 CO Chairman's signature  
John Korman

WORK DRAFT

WORK

ORK DRAFT

*hisa - This is the  
latest revision of  
HB 261. It allows  
the judge to deduct  
the cost of the device from  
the fine imposed (99).*

5-0634Lv  
ord  
1/3/87

Original sponsors: Gruenberg, Barne  
Donley, et al.

*This is the version Max  
wants in the Committee files.  
March 8 1986*

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IN THE HOUSE

CS FOR HOUSE BILL NO. 261 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

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

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

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

(3) arises out of assault, battery, false imprisonment,  
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  
8 28.15.181 and the vehicle used in commission of the offense may be  
9 forfeited under AS 28.35.036. In addition, the court shall order, and  
10 a 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:  
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(k) Notwithstanding (g) of this section, if the court imposes

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

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

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

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

# 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

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914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
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## MEMORANDUM

DATE: May 13, 1987  
TO: Members of the House HESS Committee  
FROM: Max F. Gruenberg, Jr. *MFG*  
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. California passed a law last year similar to this bill.

In no reported case in which such a device has been installed has the offender been convicted of DWI while the device was on the car. 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 \$360.00 per year for installation and maintenance of the interlock device.

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 and consider co-sponsoring it.

**Sec. 28.15.181. Court suspensions, revocations, and limitations.** (a) Conviction of any of the following offenses is grounds for the immediate revocation of a driver's license:

- (1) manslaughter or negligent homicide resulting from driving a motor vehicle;
- (2) a felony in the commission of which a motor vehicle is used;
- (3) failure to stop and give aid as required by law when a motor vehicle accident results in the death or personal injury of another;
- (4) perjury or making a false affidavit or statement under oath to the department under a law relating to motor vehicles;
- (5) driving a motor vehicle while intoxicated;
- (6) reckless driving;
- (7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer;
- (8) refusal to submit to a chemical test under AS 28.35.032;
- (9) driving while license canceled, suspended, revoked or in violation of a limitation.

(b) A court convicting a person of an offense described in (a)(1) — (4), (6), or (7) of this section shall revoke that person's driver's license for not less than 30 days for the first conviction, unless the court determines that the person's ability to earn a livelihood would be severely impaired and a limitation under AS 28.15.201 can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public. If a court limits a person's license under this subsection, it shall do so for not less than 60 days. Upon a subsequent conviction of a person for any offense described in (a)(1) — (4), (6), (7) of this section occurring within 10 years after a prior conviction, the court shall revoke the person's license and may not grant the person limited license privileges for the following periods:

- (1) not less than one year for the second conviction; and
- (2) not less than three years for a third or subsequent conviction.

(c) A court convicting a person of an offense described in (a)(5) or (8) of this section arising out of the operation of a motor vehicle for which a driver's license is required shall revoke that person's driver's license. The revocation may be concurrent with or consecutive to an administrative revocation under AS 28.15.165. The court may not, except as provided in (e) of this section, grant limited license privileges for the following periods:

- (1) not less than 90 days if, within the preceding 10 years, the person has not previously been convicted of an offense
  - (A) described in (a)(5) or (8) of this section; or
  - (B) under a law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section;
- (2) not less than one year if, within the preceding 10 years, the person has been previously convicted of one offense

(A) described in (a)(5) or (8) of this section; or

(B) under a law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section;

(3) not less than 10 years if, within the preceding 10 years, the person has been previously convicted of more than one of the following offenses or has more than once been previously convicted of one of the following offenses:

(A) an offense described in (a)(5) or (8) of this section; or

(B) an offense under another law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section.

(d) A court convicting a person of an offense described in (a)(9) of this section shall revoke that person's driver's license for not less than the minimum period under AS 28.15.291(c).

(e) A court revoking a driver's license under (c) of this section, or sustaining the action of the department under AS 28.15.165(c), may grant limited license privileges for the final 60 days during which the license is revoked if the

(1) revocation was for driving while intoxicated but not if the revocation was for refusal to submit to a chemical test of breath under AS 28.35.032;

(2) person has not been previously convicted within the preceding 10 years of an offense

(A) described in (a)(5) or (8) of this section; or

(B) under a law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section;

(3) court determines that the person's ability to earn a livelihood would be severely impaired; and

(4) court determines that a limitation under AS 28.15.201 can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public.

(f) For purposes of this section, convictions for both driving while intoxicated and for refusal to submit to a chemical test of breath under AS 28.35.031(a), if arising out of a single transaction and a single arrest, are considered one previous conviction. (§ 19 ch 178 SLA 1978; am §§ 7 — 9 ch 117 SLA 1982; am §§ 4 — 7 ch 77 SLA 1983)

**Effect of amendments.** — The 1982 amendment substituted the present provisions of paragraph (a)(5) for the former provisions, which read "driving or operating a motor vehicle while under the influence of alcohol or another drug," substituted "under (a)(1) — (4), (6), or (7) of this section" for "under (a)(1) — (7) of this section" in the first sentence of subsection (b) and for "under (a) of this section" in the

third sentence of subsection (b), and added subsection (c).

The 1983 amendment in subsection (a) rewrote the introductory language and added paragraphs (8) and (9); in subsection (b), in the second sentence substituted "60" for "30" and in the last sentence inserted "occurring within 10 years after a prior conviction"; rewrote subsection (c); and added subsections (d), (e), and (f). The

**Sec. 28.35.030. Operating a vehicle, aircraft or watercraft while intoxicated.** (a) A person commits the crime of driving while intoxicated if the person operates or drives a motor vehicle or operates an aircraft or a watercraft

(1) while under the influence of intoxicating liquor, or any controlled substance listed in AS 11.71.140 — 11.71.190;

(2) when, as determined by a chemical test taken within four hours after the alleged offense was committed, there is 0.10 percent or more by weight of alcohol in the person's blood or 100 milligrams or more of alcohol per 100 milliliters of blood, or when there is 0.10 grams or more of alcohol per 210 liters of the person's breath; or

(3) while the person is under the combined influence of intoxicating liquor and another substance.

(b) Driving while intoxicated is a class A misdemeanor.

(c) Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 72 consecutive hours and a fine of not less than \$250 if the person has not been previously convicted in this or another jurisdiction of driving while intoxicated under this or another law or ordinance with substantially similar elements or refusal to submit to a chemical test under AS 28.35.032 or another law or ordinance with substantially similar elements. Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than \$500 if, within the preceding 10 years, the person has been previously convicted once in this or another jurisdiction of driving while intoxicated under this or another law or ordinance with substantially similar elements or refusal to submit to a chemical test under AS 28.35.032 or another law or ordinance with substantially similar elements. Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 30 consecutive days and a fine of not less than \$1,000 if, within the preceding 10 years, the person has been previously convicted in this or another jurisdiction of more than one of the following offenses or has more than once been previously convicted of one of the following offenses: (1) driving while intoxicated under this or another law or ordinance with substantially similar elements; (2) refusal to submit to a chemical test under AS 28.35.032 or another law or ordinance with substantially similar elements. The execution of sentence may not be suspended nor may probation be granted except on condition that the minimum imprisonment provided in this section is served. Imposition of sentence may not be suspended. In addition, if the offense involved driving a motor vehicle for which a driver's license is required, the person's driver's license shall be revoked in accordance with AS 28.15.181 and the vehicle used in commission of the offense may be forfeited under AS 28.35.036. In addition, the court shall order, and a person convicted under this section shall undertake, for a term specified by the court, that program of

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alcohol education or rehabilitation that the court, after consideration of any information compiled under (d) of this section, finds appropriate.

(d) Except as prohibited by federal law or regulation, every provider of treatment programs to which persons are ordered under (c) of this section shall supply the Alaska court system with the information regarding the condition and treatment of those persons as the supreme court may require by rule. Information compiled under this subsection is confidential and may only be used by a court in sentencing a person convicted under (c) of this section, or by an officer of the court in preparing a presentence report for the use of the court in sentencing a person convicted under (c) of this section.

(e) A person who is sentenced to imprisonment for 72 consecutive hours upon a first conviction under (c) of this section and who is not released from imprisonment after 72 hours may not bring an action against the state or a municipality or its agents, officers, or employees for damages resulting from the additional period of confinement if

(1) the employee or employees who released the person exercised due care and, in releasing the person, followed the standard release procedures of the prison facility; and

(2) the additional period of confinement did not exceed 12 hours.

(f) For purposes of this section, convictions for both driving while intoxicated and for refusal to submit to a chemical test of breath under AS 28.35.031(a), if arising out of a single transaction and a single arrest, are considered one previous conviction.

(g) In this section,

(1) "operate an aircraft" means to use, navigate, pilot, or taxi an aircraft in the airspace over this state, or upon the land or water inside this state;

(2) "operate a watercraft" means to navigate or use a vessel used or capable of being used as a means of transportation on water for recreational or commercial purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or under the jurisdiction of the state. (§ 50-5-3 ACLA 1949; am § 1 ch 107 SLA 1955; am § 1 ch 121 SLA 1967; am § 45 ch 32 SLA 1971; am § 4 ch 74 SLA 1974; am §§ 2, 3 ch 152 SLA 1978; am § 28 ch 94 SLA 1980; am § 10 ch 129 SLA 1980; am § 21 ch 45 SLA 1982; am §§ 13 — 15 ch 117 SLA 1982; am §§ 13 — 15 ch 77 SLA 1983)

Revisor's notes. — In 1984, former subsection (f) was redesignated as present subsection (g) and former subsection (g) was redesignated as present subsection (f).

Cross references. — For sentences for class A misdemeanors, see AS 12.55.035(b)(3) and 12.55.135(a).

Effect of amendments. — The first 1980 amendment, in subsection (a) as it existed prior to the second 1980 amendment, deleted "under AS 11.05.150" from

the end of the third sentence and substituted "AS 28.15.181" for "AS 28.15.210(c)" in the fourth sentence.

The second 1980 amendment rewrote the section.

The first 1982 amendment substituted "or any controlled substance listed in AS 11.71.140 — 11.71.190" for "depressant, hallucinogenic, stimulant or narcotic drug as defined in AS 17.10.230(13) and AS 17.12.150(3)" in subsection (a)(1).

MEMORANDUM

April 6, 1987

TO: Potential Co-Sponsors

FROM: Max F. Gruenberg, Jr.

RE: Sectional Analysis for "An Act relating to sentencing in criminal actions involving alcohol; and establishing Class C misdemeanor."

Section 1

AS 11.76.130 Makes it a Class C misdemeanor 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 2

AS 12.55.035(b) Sets the maximum fine for conviction of a Class C misdemeanor at \$500.00.

Section 3

AS 12.55.102(a) Allows the court to require, as a condition or probation, that a person convicted of any alcohol related offense may 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 issuing a special driver's certificate while the driving restriction applies.

The defendant must bear all costs of installing and maintaining the device.

AS 12.55.120(d) 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.

Section 4

AS 12.55.135(f) Sets the maximum term of imprisonment for a Class 'C' misdemeanor at 30 days.

Section 5

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

Section 6

AS 28.35.032(g) Amends "refusal to submit to a breathalyzer" statute to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 7

AS 33.05.020 Requires the Commissioner of Corrections to adopt regulations for the certification, maintenance, and monitoring of ignition interlock devices.

# STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

**REQUEST:** \_\_\_\_\_

Bill Version: HB 261  
Publish Date: 4-8-87

Revision Date: \_\_\_\_\_  
Title: "An Act relating to ignition  
interlock devices"  
Sponsor: Rep. Gruenberg, Barnes,  
Requestor: Donlev

Agency Affected: Dept. of Corrections  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	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.

Prepared by: Susan E. Knighton, Research Analyst IV *S.E.K.* Phone: 465-3376  
Division: Statewide Programs Date: 4-21-87

Approved by Commissioner: Susan Humphrey-Barnett *S.H.B.* Date: 4-21-87  
Agency: Department of Corrections

**Distribution (by preparer):**

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

## 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

For 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 Rudolf 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."



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

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April 15, 1987

Representative Max F. Gruenberg, Jr.  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

Dear Max:

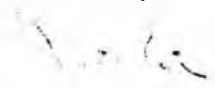
I am writing with regard to House Bill 261, an act relating to ignition interlock devices. There are several minor points regarding this bill that I wanted to bring to your attention.

Paragraph (c) on page 2 provides that a court imposing a condition of probation under this section would issue to the defendant a certificate valid for the duration of the probation. The court system would implement this provision by giving the defendant a copy of the judgment with the conditions of probation on it, rather than a separate piece of paper called a certificate.

On page 4, new language would provide that probation may be conditioned as provided in AS 12.55.102. It is unclear how this provision would impact the AS 28.15.181 prohibition on granting a limited license (except during the last 60 days of the 90-day revocation for a first time DWI offender). The same comment applies to identical language which appears on page 5.

Thank you for the opportunity to comment. Please let me know if you have any questions.

Sincerely,

  
Karla L. Forsythe  
Staff Counsel

KLF:bs

cc: Representative Ramona Barnes  
Representative Dave Donley  
Representative Virginia M. Collins  
Representative Johnny Ellis  
Representative Bill Hudson  
Representative Niilo Koponen  
Susan Miller, Manager, Special  
Projects

Representative Ron Larson  
Representative Terry Martin  
Representative Heinrich Springer  
Representative Fran Ulmer  
Arthur H. Snowden, II, Administrative  
Director

5-0634B ✓  
Ford  
5/13/87

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 - 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 or  
24 a copy of the defendant's judgment of conviction. The defendant shall  
25 bear all costs associated with fulfilling the condition of probation,  
26 including installation, repair, and monitoring of an ignition inter-  
27 lock device.

28 (d) In this section, "ignition interlock device" means equipment  
29 designed to prevent a motor vehicle from being operated by a person

1 who has consumed an alcoholic beverage, and that has been certified by  
2 the commissioner of corrections under AS 33.05.020.

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

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

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

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

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

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

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

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

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

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