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261

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

C
HB 261
M

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

April 5, 1988

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

You have asked if the probation that may be imposed under AS 12.55.102, enacted in CSHB 261(Jud), would reduce any mandatory minimum jail time required under other provisions of law. The short answer is no. While the legislation allows a new condition of probation to be imposed, the bill does not reduce the existing mandatory minimum jail time otherwise required to be served. For example, in sections 4 and 6 of CSHB 261(Jud) the existing language requiring that probation may not be granted unless the minimum imprisonment provided in those sections is first served, has not been changed.

Please contact me if you have further questions.

MFF:bb
b4/096

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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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: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Max F. Gruenberg, Jr.

DATE: March 9, 1988

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

I would very much appreciate it if you would schedule a hearing for CSHB 261 as soon as it is possible.

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. Twenty-two other state legislatures are presently considering ignition interlock legislation. Five 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.

CSHB 261 passed the House unanimously. It has the emphatic support of both Anchorage C.H.A.R. and Anchorage M.A.D.D. 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.

My staff attorney, Mark Handley, will call your office today and set up an appointment for us to talk about the bill.

Thank you very much.

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

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 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 liftoff from Pad 36B at Cape Canaveral in threatening weather, a \$78 million, 117-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 to 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."

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: Depr. Gruenberg, Barnes,
Requestor: Donley

Agency Affected: Dept. of Corrections
BRU: _____
Comments: _____

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						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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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.

Prepared by: Susan E. Knighton, Research Analyst IV
Division: Statewide Programs

Phone: 465-3376
Date: 4-21-87

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

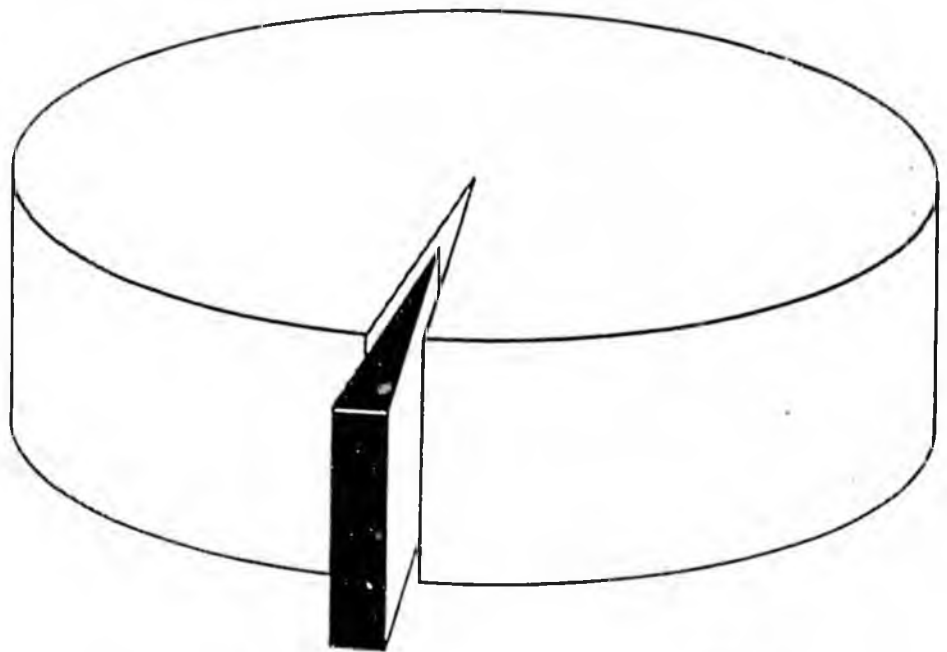
Date: 4-21-87

Distribution (by preparer):

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- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

RESULTS

Guardian Interlock Responsible Driver ProgramSM significantly reduces risk of repeat drunken driving



A STATISTICAL ANALYSIS OF DUI/DWI* offenders in the Guardian Interlock Responsible Driver ProgramSM shows that only 4.6% were rearrested for drunken driving within the 12 months ending December, 1987.

In comparison, many jurisdictions nationwide report that approximately 15% of multiple DUI/DWI offenders subject to only conventional sentencing are rearrested within one year.

The statistics indicate that court officials who sentence offenders to the Responsible Driver Program are three times more likely to reduce the number of repeat drunken driving offenses in their jurisdictions than those who do not use the program.

The analysis involved a sample population of mostly multiple offenders sentenced for at least one year to the program typically as a condition of probation for drunken driving.

THE RESPONSIBLE DRIVER PROGRAM provides for installation of the Guardian InterlockTM in an offender's vehicle and monitors his or her use of the computerized device. Guardian Technologies, Inc., manufacturer of the device, reports the results

GUARDIAN INTERLOCK RESPONSIBLE DRIVER PROGRAM SAMPLE POPULATION OVER 12 MONTH PERIOD

REARREST RATE 4.6%

of these monitoring checks to the court every 60 days.

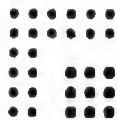
More than 100 courts in eight states are including the program in their sentencing of offenders to deter further drunken driving offenses. The program can be used as an alternative to traditional sentencing or to supplement and enhance such measures as alcohol treatment.

The Guardian Interlock, which requires a breath test before a vehicle will start, is tamper-resistant. As an

added safeguard, it features technology which can detect attempted tampering and circumvention.

For more information on the Guardian Interlock Responsible Driver Program, call toll-free (800) 457-0001; In Colorado, call (303) 831-6333. Or write: Program Development, Guardian Technologies, Inc., 1009 Grant Street, Denver, CO 80203. Results on the program will be updated periodically.

*Driving Under the Influence/Driving While Intoxicated.



GUARDIAN TECHNOLOGIES, INC.

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RG 88122

HOUSE HEALTH, EDUCATION, & SOCIAL SERVICES COMMITTEE MEETING - MAY 14, 1987

Rep. Ellis brings HB 261 before the committee.

Rep. Gruenberg states that HB 261 is modeled after California legislation that would allow a judge to require, as a measure of probation, a person convicted of a alcohol related offense to install a breathalyzer in his or her car. People would be able to start their car unless they "blow clean." Other states have done this. Rep. Gruenberg states that there is a videotape about the breathalyzer.

Rep. Gruenberg mentions that there is a proposed committee substitute for HB 261 which takes care of the Court Systems problems. On page 2, line 23 language has been added so that additional certificates would not be required.

Rep. Koponen (who has rejoined the committee) asks Nancy Nogg to testify via teleconference.

Ms. Nogg explains that the breathalyzer is wired into the ignition system. The driver must give a deep lung sample that is below a set amount of alcohol content before the engine will start. There is a patterned breath code also required so that a drunk person cannot get some one else to start the car. The breathalyzer is inspected every 60 days for signs of tampering. Three states have passed legislation regarding the use of these devices. Ms. Nogg reports that in the five states that have used the devices, the only repeat offense was caught walking drunk. The device can be fitted for all-terrain vehicles also.

Rep. Gruenberg asks how the device works in cold weather. Ms. Nogg replies that it will read at minus 40 degrees. It will not interfere with the engine heater.

Committee members view the videotape.

Rep. Gruenberg comments that he is impressed with the zero recidivism.

Rep. Koponen asks about rental cars. Ms. Nogg reports that other states have required notification on the person's drivers license and the rental car agency would be prohibited to rent a car to that person unless it had a breathalyzer. Rep. Gruenberg notes that HB 261 proposes to have it a class C misdemeanor to sell, rent or lease a car when the person knows they are to have a breathalyzer.

Rep. Hudson asks if anyone else will be able to start and use the car. Ms. Nogg replies that a family member may be trained. It does eliminate the passersby though.

Rep. Koponen asks Jan Wrentmore to testify.

Rep. Hudson asks what the fiscal implications of the bill are. Rep. Gruenberg replies that there is a zero fiscal note from the Department of Correction. Rep. Gruenberg corrects his previous statement and says that it is the Department of Corrections and not the Department of Public Safety that does the certification.

Rep. Koponen moves that the committee substitute for HB 261 be passed with individual recommendations. Seeing no objections, it is so ordered.

HOUSE JUDICIARY COMMITTEE MEETING - FEBRUARY 12, 1988

HB 261

Vice-chair Ulmer announced the committee would take testimony on HB 261 over teleconference after Representative Gruenberg gave an overview of the bill.

Representative Gruenberg, sponsor of HB 261, explained that HB 261 would allow a judge, as a condition of probation in alcohol offenses, to require installation of an ignition interlock device, which is basically a mini-breathalyzer. A car with this device cannot be started unless it's blown clean; it will not allow a drunk person to drive. He explained that most devices are breath activated and they have specific individual codes that are required to start the car. He noted that the bill has provisions that make it a crime to lend a vehicle without a device to a person knowing they are required to have an interlock device, and to activate the breathalyzer for another person. The penalty is a \$500 fine and thirty days in jail. HB 261 is not intended to take the place of present DWI penalties, but is in addition to them as a positive step towards drunk driving.

Representative Gruenberg discussed statistics, pointing out that recidivism is cut by two-thirds. Laws for interlock devices are relatively new, with California passing the first in 1986, and several other states now have provision. HB 261 also provides for the Department of Corrections to certify manufacturers who produce eligible interlock devices in Alaska. They will set standards and the devices will undergo testing at manufacturers expense to make sure they meet the requirements established by the department. The devices will have a warning label regarding tampering. A judge can assign a device, to be installed at the defendant's expense for \$500 per year. There is a also provision that the judge may suspend a fine to allow a defendant to pay for the cost of the device.

Laurel Nelson, Manager of Governmental Affairs at Guardian Technologies, stated that they manufacture technological devices used within the criminal justice system, including home arrest systems, and are one of three manufacturers of ignition interlock systems. She said that twenty-two states have introduced similar legislation. Last year,

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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Rep. Koponen asks Jan Wrentmore to testify.

Ms. Wrentmore supports the legislation. She states that a lot of alcohol related accidents in this state are caused by repeat offenders. People cannot reason with drunks and they often insist on driving.

Rep. Koponen asks Jerr Reinwand to testify.

Mr. Reinwand supports HB 261.

Rep. Hudson asks if the breathalyzer would work with some one using drugs. Ms. Nogg replies that alcohol is different from other drugs in how it is absorbed into the blood stream and that is why a breathalyzer works. Using a breathalyzer for other drugs is still being researched. However, people who use drugs often also drink.

Ms. Nogg explains again how members of a family can be trained to use the device so they can drive the car. The code is a series of breaths which are based in volume.

Rep. Gruenberg asks that HB 261 be held over for interim hearings and public education. Rep. Koponen appoints a subcommittee of Representatives Gruenberg, Ellis and Hanley. Committee members discuss needed materials and how to educate the public.

Rep. Koponen reminds committee members that the meeting tomorrow is at 7:30 a.m. for the federal social service block grant hearing. Interim work will also be discussed along with newly referred bills from the Senate.

HOUSE H.E.S.S. COMMITTEE MEETING - JANUARY 21, 1988

HB 261

Rep. Ellis brings HB 261 before the committee and asks Rep. Gruenberg to make his presentation.

Rep. Gruenberg reviews the 9/3/87 draft of the bill. The first change is that the court is allowed to reduce the fine by the cost of the interlock device. This will alleviate the problem of people not being able to afford the device. Secondly, the Department of Public Safety must establish regulations for the standards on the device in order to be certified. The manufacturers must show that they meet the standards and to get certified. The cost of certification is borne by the manufacturer. Finally, a warning label must be displayed stating that anyone tapering with the device is guilty of a class C misdemeanor.

Rep. Gruenberg moves that the 9/3/87 version of HB 261 be adopted as the committee substitute. Seeing no objections, it is so ordered.

Rep. Ellis notes that the committee did work on HB 261 during the interim.

Rep. Hudson asks what the fiscal implications of the bill are. Rep. Gruenberg replies that there is a zero fiscal note from the Department of Correction. Rep. Gruenberg corrects his previous statement and says that it is the Department of Corrections and not the Department of Public Safety that does the certification.

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Laurel Nelson, Manager of Governmental Affairs at Guardian Technologies, stated that they manufacture technological devices used within the criminal justice system, including home arrest systems, and are one of three manufacturers of ignition interlock systems. She said that twenty-two states have introduced similar legislation. Last year,

California followed up their initial legislation with an Assembly bill, which is similar to the provisions in HB 261, to reduce fines. Oregon has strong legislation. They have a pilot program where eleven counties are gathering statistics for the legislature's review in a year. There is a requirement for an interlock device when a defendant receives an occupational driving privilege. The devices will also be installed in conjunction with first offense diversion programs in some instances. Some financial assistance based on an indigency standard is also provided for in Oregon.

Ms. Nelson noted that some states are using interlock systems without enabling legislation and it expected that twenty-eight states will be considering provisions this year. She discussed statistics which strongly indicate positive behavior modification among drivers. Other studies have shown lower re-arrest rates. One jurisdiction that has been using the program for two years offer it for defendants who have been convicted of first offenses of alcohol blood level above .20 percent, multiple offenders, and for refusal cases. They offer to return revoked licenses sooner with use of the interlock system. She further discussed statistics and various usage of the system as a deterrent or preventative tool.

Representative Gruenberg asked if the age of the car made a difference. Ms. Nelson replied that their system is designed to work on older cars. They haven't had any problems with the system not working, except when a malfunctioning battery system already exists with the vehicle. Representative Gruenberg asked if the device will work in extremely cold weather, such as -65" as in Fairbanks. Ms. Nelson was not sure, but they are certified to very low temperatures. She was hesitant to guarantee they would work without additional testing, but they have been successfully tested at -30".

Representative Gruenberg asked if Ms. Nelson had a copy of the bill and referred to Section 10. It states the commissioner shall establish standards. Representative Gruenberg's intent is that the commissioner may limit the use of the devices to areas of the state with compatible temperatures. He asked if her company could respond further regarding temperature. Ms. Nelson recommended the committee consider standard language that appears in many bills that indicates specifically that the commissioner would include minimum standards.

Representative Gruenberg recalled that Oregon statutes were similar to Section 10. The liability insurance requirements are found in regulation. He stated that he would prefer them to stay in regulation unless shown a need to have them in statute. Ms. Nelson replied that it was a

policy decision and read from the Oregon regulations. Representative Gruenberg asked how the devices worked in heavy rainfall areas. Ms. Nelson didn't think there would be a problem with high humidity. Representative Gruenberg noted that, in Alaska, people travel by boat and plane and asked whether the devices had only been used on automobiles. Ms. Nelson affirmed and added that it posed no problem on a conceptual basis to extend beyond automobiles.

Representative Gruenberg asked about the California law that the court may require the installation of an interlock device in a drug related offense. Ms. Nelson replied that until a technological basis is secured for drugs, it would not necessarily address the problem. It would allow law enforcement a means to screen out those who use alcohol.

Vice-chair Ulmer asked if there were others who wished to testify.

Juli Lederhaus, representing ARBA (Anchorage and Bar Association) and CHARR (Cabaret, Hotel and Restaurant Retailers Association), testified in support of HB 261 via teleconference from Anchorage.

Ron Eagley, representing the Spenard Community Council, testified via teleconference from Anchorage in support of HB 261 as a means of prevention for second offenses of drunk driving.

Stephanie Joannides, of the Department of Law, testified that there may be a possible ambiguity regarding HB 261. It was her understanding, in speaking with the sponsor, that there was no intent to affect the mandatory license revocation or any other mandatory penalties now imposed for DWI and refusals. To insure that the drivers license suspension aspect of existing law is not affected, she proposed an amendment to page 2, line 28, by inserting after subsection (a), "subject to AS 28.15.165(d) and AS 28.15.181(c)." AS 28.15.165 deals with mandatory administrative revocation and parallels the mandatory court ordered revocation in AS 28.15.181.

Representative Gruenberg stated that he has discussed the amendment with Ms. Joannides and had no objection to the amendment. He didn't want any ambiguity and requested a CS to reflect the amendment.

There was no further testimony on HB 261 and Vice-chair Ulmer adjourned the meeting at 2:00 p.m.

and Representative Gruenberg. Chairman Sund brought HB 261, which was heard on February 12, before the committee for consideration.

Representative Gruenberg moved that the committee adopt a CS, dated 2/15/88, which incorporated an amendment on page 3, lines 4-7, that read, "A condition of probation imposed under this subsection takes effect after any period of license revocation imposed under AS 28.15.165(d) or 28.15.181(c)." The purpose is to insure that it is not in lieu of a license revocation as requested by the Department of Law.

Representative Barnes and Representative Taylor arrived at 1:36 p.m.

There was no objection to adopt the CS and so it was adopted. Representative Gruenberg discussed the previous hearing on HB 261 and the amendment offered by the Department of Law. He explained the bill and the use of the ignition interlock device.

Chairman Sund asked if there were any questions on HB 261. Representative Ulmer moved to pass the bill from committee with individual recommendations.

Representative Cotten noted that the bill makes it a crime to loan a car to a person who has an interlock device installed. He asked how a person is supposed to know another has the device. Representative Gruenberg discussed the provision. Representative Cotten asked if he loaned his car if he would commit a crime. Representative Gruenberg replied that "knowingly" on page 2, line 6, provides that a person has to know that the device is a condition of probation.

Chairman Sund brought up the operation of the devices in weather below sixty degrees. Representative Gruenberg noted that the bill allows the commissioner to certify the devices for certain areas and conditions where they will operate.

Representative Cotten referred to his previous question and asked if he would have to know a person was on probation under AS 12.55.102 before lending his car. Representative Gruenberg affirmed and said there had to be specific knowledge.

Representative Taylor stated that the bill doesn't give leeway to the court with regard to the ten year mandatory. Chairman Sund remarked that the bill doesn't deal with that issue. Representative Taylor expressed his concern with the cost of the devices and suggested there may be less costly alternatives which should be considered.

Representative Ulmer noted that the devices were an option to the court. Chairman Sund noted that a person can teach their spouse or family members to use the code on the device.

Representative Gruenberg discussed the HESS Committee amendment on page 3, lines 25-27, which gives the judge discretion to have a defendant pay for the device in lieu of a fine. Representative Taylor remarked that, by putting this into statutes, it lays a scenario without consideration of other options. Representative Gruenberg pointed out that a payment plan for the devices is also available.

Representative Cotten asked about the establishment of a class C misdemeanor, where there had never been one before. Representative Gruenberg responded that a bill passed the House last year which already established a class C misdemeanor, although it did not pass the Senate. Chairman Sund asked if it was necessary to have a class C misdemeanor in the bill. Representative Gruenberg replied that it was unless the committee wanted it to be a class B or A and criminalize it more. Representative Cotten wanted to know what offense is being established by a class C misdemeanor. Representative Gruenberg noted it was in Section 2, on page 2, line 4, and that other offenses could be added to that classification later. Chairman Sund restated his question and asked if the bill and the establishment of a new misdemeanor classification were separable ideas. Representative Gruenberg responded, that if separated, the penalty would be heavier and the crime doesn't warrant it. Representative Taylor pointed out that if a violation occurs, the person is already subject to revocation of probation. Representative Gruenberg remarked that the penalty deals with someone other than the person on probation.

Chairman Sund stated that he would hold HB 261 over until tomorrow to work on the class C misdemeanor portion. Representative Ulmer withdrew her motion to pass the bill.

Representative Gruenberg, sponsor of HB 261, stated he wanted to keep the class C misdemeanor in the bill.

Chairman Sund stated that he was biased about establishing a class C misdemeanor in this legislation. He asked, in reference to Section 2, if it was necessary to make it a crime to loan a car to someone. He also asked why it was critical to the bill to create a crime. Representative Gruenberg responded that if someone knowingly loans their car in violation of the law, it basically puts a weapon in the hands of the person under court order to use an interlock device.

Chairman Sund gave an example of present law that says it is a crime for an individual to drive a car with a license but not for someone who loans the car. Representative Gruenberg commented that other states have this provision because these people are not supposed to be driving a car except without the device and it should be a penalty to blow into it for someone else or let them have a car without it.

Chairman Sund noted the two sections of the bill, one dealing with tampering, the other dealing with loaning, and said he was focused more on the loaning penalty. He pointed out the difference of the two with an example. Representative Gruenberg felt it was not a reason to take the provision out of the bill, but perhaps expand it. Representative Taylor stated that he wouldn't support expansion of the bill.

Representative Cotten asked why they should make this offense an exception to establish a class C misdemeanor. He remarked that he wanted more committee time spent on classifications of offenses and that it was one of the two major subjects of the bill. He supported the other part of the bill dealing with the devices.

Representative Gruenberg discussed the options. Chairman Sund asked about making it a class B misdemeanor. Representative Ulmer offered a compromise position. If people aren't comfortable with imposing jail time, they can just make it a fine. Representative Gruenberg stated that he was willing to live with that. Chairman Sund pointed out that this was already in AS 12.55.035(b)(5) in the form of a \$300 fine. Representative Gruenberg stated that Section 3 would have to be stricken and add "guilty of a violation" on line 14. Representative Cotten commented that it would solve his concern. Chairman Sund said Section 5 should also be taken out to take care of the class C misdemeanor.

Representative Ulmer moved to amend the bill by making the suggested changes above. It deletes the class C misdemeanor language and provides that Section 2 be a violation subject to fine.

Chairman Sund asked if there was objection. There being none the amendment was adopted. He asked if there was any other area in the statutes that makes citizens criminally responsible for other's behavior. He discussed the difference between loaning a car to someone with an interlock device and someone without one who is drunk.

Representative Gruenberg stated that the purpose was to make certain that people aren't driving drunk by requiring them to use an interlock device.

LEGISLATIVE REPORTING SERVICE (BILL SUMMARY)

Ignition Inter-
lock devices
(probation)

HOUSE BILL NO. 261, by Reps. Gruenberg, Barnes, Donley, Collins, Hudson, Larson, Martin, Springer, Koponen and Ulmer. Allows the courts to order as a condition of probation for a defendant guilty of an offense involving alcohol that he/she may not operate a motor vehicle unless it is equipped with an ignition interlock device. Such a device is designed to prevent a vehicle from being operated by a person who has consumed alcoholic beverages. Certain exceptions could be made under this section to allow use of an unequipped motor vehicle for work, if it is a condition of employment and the defendant's driving would not pose a substantial danger. A defendant would be required to surrender his driver's license and use a certificate valid for the duration of the probation. The defendant would bear all costs, including installation, repair, and monitoring of an ignition interlock device.

Makes it a class C misdemeanor to knowingly circumvent or tamper with an ignition interlock device to allow a person on probation to avoid using it; or to rent, loan, or lease a motor vehicle to a person on probation under the above section unless the vehicle is equipped with an ignition interlock device. A person convicted of a class C misdemeanor could receive a \$500 fine, or be imprisoned for up to 30 days (unless otherwise specified in the law defining the offense) under this bill. The commissioner of corrections would establish by regulation standards for ignition interlock devices and their use in probation under the above section. Does not provide an effective date (bill becomes law 90 days after being signed by the Governor).

Introduced April 8 and referred to HESS; Judiciary; Finance.

Ignition Inter-
lock Devices
(probation)

HOUSE BILL NO. 261, (see page 518). Reported back to the House January 22, 1988 by Health, Education & Social Services recommending it be replaced with a substitute and that it do pass. concurring: Ellis and Koponen (Co-Chairs), Phillips, Hudson, Grussendorf, Donley. Not concurring: Hanley had no recommendation. To Judiciary.

The HESS substitute adds several new sections:

—amends AS 09.50.250 (Actions Where State a Party. Actionable Claims Against the State) so that an action may not be brought under the section "if the claim . . .(4) arises out of the use of an ignition interlock device certified under AS 33.30.020(c)."

—adds new language that would allow the court to include the cost of the ignition interlock device as part of the fine. Adds a new section amending AS 28.35.030 (Operating a vehicle, aircraft or watercraft while intoxicated) and 28.35.032 (Refusal to submit to chemical test) that would allow the court to reduce the required fines (under minimum sentencing provisions for DWI's) by the cost of the ignition interlock device.

—adds language that would require the commissioner of corrections to establish standards for calibration (as well as for certification, maintenance, and monitoring) of ignition interlock devices. The manufacturer of the device would have to reimburse the state for the cost of certification, and the department of corrections would have to notify the manufacturer when the device is certified. The commissioner of corrections could not certify the device unless it displays a label warning that a person circumventing or tampering with it is guilty of a class C misdemeanor.

Representative Ulmer asked about loaning cars to someone with a suspended license. Chairman Sund replied that it was not a crime or a violation. He gave an example of serving alcohol to a parolee and that it was the parolee who got penalized. He agreed on a penalty for circumventing or tampering with the device, but not with one for loaning a car. Representative Gruenberg said that a car rental agency would know a person shouldn't have a car without an interlock because it would be on his license and that it wasn't unreasonable to require compliance. Representative Ulmer stated that a penalty gives someone another excuse to say no to a drunk driver and it was good public policy.

Representative Taylor talked about never passing a judgment that couldn't be enforced and said this was a good concept but thought it would be hard to supervise and enforce.

Chairman Sund moved to delete the section on page 2, lines 10-12. Representative Gruenberg stated that there was an instance of a similar type of crime established with the law making it illegal to pass school busses. He argued for enforceability of the provisions.

Representative Ulmer asked as a practical matter how many times people loan their cars to someone they don't know very well. She felt it was not only enforceable but also useful.

Representative Cotten said he would support the amendment because he didn't think this was the place to establish a class C misdemeanor.

Chairman Sund called for a vote: in favor were Chairman Sund, Representative Cotten and Representative Taylor; opposed were Representative Ulmer, Representative Gruenberg and Representative Barnes, and so the amendment failed.

Chairman Sund noted that there was no evidence to show that the devices will work in subzero temperatures.

Representative Gruenberg moved to pass the bill as amended with individual recommendations. There was no objection and so CSHB 261(JUD) passed.