

HB

2

HOUSE COMMITTEE REPORT

(7)
Date Referred: January 9, 1989
FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 2 [IGNITION INTERLOCK DEVICES]
"An Act relating to ignition interlock devices."

be replaced with CSHB 2 (HESS) the same title
 a new title

have attached amendment(s)

- 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
- (4) zero fiscal notes
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

Mark G. ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Walt ...

Peter ...

Mark ... (no rec)

George ... (no rec)

J.P. ... (no rec)

J. Ellis

Chairman's signature

6-0010E ✓

Ford
1/23/89

Original sponsors: Gruenberg, Koponen,
Ulmer, et al.

(2)

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 2 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH 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 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 - 36.-
16 30.695 may not bring an action under this section except as set out in
17 AS 36.30.685. However, an [NO] action may not be brought under this
18 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 33.05.020(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 11.81.250(a) is amended to read:

16 (a) For purposes of sentencing under AS 12.55, all offenses
17 defined in this title, except murder in the first and second degree,
18 attempted murder in the first degree, sexual assault in the first
19 degree, sexual abuse of a minor in the first degree, misconduct
20 involving a controlled substance in the first degree, and kidnapping,
21 are classified on the basis of their seriousness, according to the
22 type of injury characteristically caused or risked by commission of
23 the offense and the culpability of the offender. Except for murder in
24 the first and second degree, attempted murder in the first degree,
25 sexual assault in the first degree, sexual abuse of a minor in the
26 first degree, misconduct involving a controlled substance in the first
27 degree, and kidnapping, the offenses in this title are classified into
28 the following categories:

29 (1) class A felonies, which characteristically involve

1 conduct resulting in serious physical injury or a substantial risk of
2 serious physical injury to a person;

3 (2) class B felonies, which characteristically involve
4 conduct resulting in less severe violence against a person than class
5 A felonies, aggravated offenses against property interests, or
6 aggravated offenses against public administration or order;

7 (3) class C felonies, which characteristically involve
8 conduct serious enough to deserve felony classification but not
9 serious enough to be classified as A or B felonies;

10 (4) class A misdemeanors, which characteristically involve
11 less severe violence against a person, less serious offenses against
12 property interests, less serious offenses against public
13 administration or order, or less serious offenses against public
14 health and decency than felonies;

15 (5) class B misdemeanors, which characteristically involve
16 a minor risk or physical injury to a person, minor offenses against
17 property interests, minor offenses against public administration or
18 order, or minor offenses against public health and decency;

19 (6) class C misdemeanors, which characteristically involve
20 conduct serious enough to deserve classification as a crime but not
21 serious enough to be classified as A or B misdemeanors;

22 (7) violations, which characteristically involve conduct
23 inappropriate to an orderly society but which do not denote
24 criminality in their commission.

25 * Sec. 4. AS 12.55.035(b) is amended to read:

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

29 (1) \$75,000 for murder in the first or second degree,

1 attempted murder in the first degree, sexual assault in the first
2 degree, sexual abuse of a minor in the first degree, kidnapping, or
3 misconduct involving a controlled substance in the first degree;

4 (2) \$50,000 for a class A, B, or C felony;

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

6 (4) \$1,000 for a class B misdemeanor;

7 (5) \$500 for a class C misdemeanor;

8 (6) \$300 for a violation.

9 * Sec. 5. AS 12.55 is amended by adding a new section to read:

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

18 (b) The court, in imposing probation under (a) of this section,
19 may allow the defendant limited privileges to drive a motor vehicle
20 without an ignition interlock device if the court determines that the
21 defendant is required as a condition of employment to drive a motor
22 vehicle owned or leased by the defendant's employer and that the
23 defendant's driving will not create substantial danger. If the court
24 imposes probation described by this subsection, the court shall re-
25 quire the defendant to notify the defendant's employer of the proba-
26 tion, and shall require that the defendant, while driving the em-
27 ployer's vehicle, carry a letter from the employer authorizing the
28 defendant to drive that vehicle.

29 (c) A court imposing a condition of probation under this section

1 shall require the surrender of the driver's license and shall issue to
2 the defendant a certificate valid for the duration of the probation or
3 a copy of the defendant's judgment of conviction. The defendant shall
4 pay all costs associated with fulfilling the condition of probation,
5 including installation, repair, and monitoring of an ignition inter-
6 lock device.

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

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

14 * Sec. 6. AS 12.55.135 is amended by adding a new subsection to read:

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

19 * Sec. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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 class C misdemeanor.

3

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to ignition interlock devices."
Sponsor: Rep. Gruenberg, Koponen, Ulmer,
Requestor: et al

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation will have no fiscal impact upon the Department of Corrections.

Susan E. Knighton

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

Phone: 465-3376
Date: 1-23-89

Approved by Commissioner: *Stephen Barnett*
Agency: Department of Corrections

Date: 1-23-89

Distribution (by preparer):

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

(4)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to ignition
interlock devices.:"
Sponsor: Gruenberg, et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: Alcohol & Drug Abuse Services
Components: Alcohol Safety Action
Program (ASAP)

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: M. Felix Coordinator Phone: 586-6201
Division: Office of Alcoholism & Drug Abuse Date: 1/23/89
Approved by Commissioner: M. M. Munn Date: 1/23/89
Agency: Health & Social Services Phone: 465-3030

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: Bill Version: HB 2
 Publish Date: 1/9/89

Revision Date: Agency Affected: Alaska Court System
 Title: An act relating to ignition BRU: Trial Courts
 interlock devices
 Sponsor: Gruenberg, Koponen, Ulmer, .. Components:
 Requestor: House Health & Social Services

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	

CAPITAL
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REVENUE
---------	---------	---------	---------	---------	---------	---------

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
 Jan Strandberg, General Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/23/89

Approved by: *Stephanie Cole, for*
 Arthur H. Snowden, II, Administrative Director Date: 01/23/89
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

6

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 2
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: "An Act relating to ignition
interlock devices."
Sponsor: Representative Gruenberg
Requestor: House HESS

Agency Affected: Public Safety
BRU: Highway Safety Planning Agency,
Alaska State Troopers
Component:

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact for the Department of Public Safety.

Prepared by: T. Michael Lewis, Program Director
Division: Highway Safety Planning Agency

Phone: 465-4374
Date: 1/15/89

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1-20-89



Alaska State Legislature

HOUSE OF REPRESENTATIVES

7

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

January 23, 1989

MEMORANDUM

To: House HESS Committee Members

From: Max Gruenberg *me*

Re: HB 2 "An Act relating to ignition interlock devices."

HB 2 is identical to CS HB 261 (Judiciary), which passed the House 38 to 0 last session.

HB 2 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. At least six other state legislatures are presently considering ignition interlock legislation. Eleven states have already enacted laws establishing an interlock program. California passed the first ignition interlock statute in 1986. It was followed in 1987 by Texas, Iowa, Idaho, Kansas, Maryland, Michigan, New York, Ohio, Oregon and Washington. Pennsylvania has started an ignition interlock program through its court system without a statute.

Nationwide studies show that multiple DWI offenders sentenced to an ignition interlock program are at least three times less likely to be reconvicted than are those sentenced under conventional DWI sentencing practices. The DWI recidivism rate nationally is 15 per cent. Preliminary recidivism results in jurisdictions with ignition interlock programs range from 1.2 per cent to 4 per cent. Moreover, a survey of offenders who have installed the device shows that most

offenders themselves believe this is an effective method of preventing DWI's.

The cost to the defendant is about \$500 per year for installation and maintenance of the interlock device. The judge may deduct this cost from the defendant's fine if the defendant cannot afford it. There is no cost to the state.

HB 2 has zero fiscal notes from the Departments of Corrections and HESS. The court system has not yet submitted a fiscal note this year; it submitted a zero fiscal note last year.

HB 2 has the support of both Anchorage CHAR and Anchorage MADD. If we can keep people with known alcohol-related problems from driving while intoxicated, we can save many lives.

A letter of intent similar to that passed by the House last year is also enclosed in your bill packet.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

8

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Members of the House HESS Committee

FROM: Max F. Gruenberg, Jr.

DATE: January 19, 1989

SUBJ: Sectional Analysis for HB 2 "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 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.

Misc.txt/CL



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

House HESS Committee

Letter of Intent
for

HB 2 "An Act Relating to Ignition Interlock Devices"

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, the court consider these circumstances and not place selected individuals under unreasonable hardship.

Johnny Ellis, Chair
House HESS Committee

STATE OF ALASKA
THE LEGISLATURE

POUR LE STATE CAPITOL
BUREAU ALASKA 99500
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 1, 1988

SUBJECT: CSHB 261(Judiciary)
TO: Representative Max Gruenberg
FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked if AS 12.55.102(d) that allows the court to include the cost of an ignition interlock device as a part of the fine imposed against the defendant, creates any due process, equal protection or other constitutional problems. I do not see that this subsection raises a constitutional issue. This is particularly true since the court is already required under AS 12.55.035 to take into account the financial resources of the defendant and the nature of the burden that payment of a fine will impose.

You have also asked if any problems are created by the fact that maintenance and operation of an ignition interlock device may be affected in the colder areas of the state. Again I do not see that this creates any difficulties. Under section 8 of CSHB 261(Jud) the commissioner of corrections has authority to establish standards for ignition interlock devices. This authority appears adequate to meet any particular requirements concerning maintenance or operation of the interlock device.

Please contact if you have further questions.

MFF:bb
wkb3/061

It's customized Home arrest

Several counties in Colorado and Maryland now use Guardian Alternative Technologies home arrest systems, and the company is gearing up to add 10 more jurisdictions in the next 90 days.

The reason we have been so successful is that we emphasize choice," says Guardian Alternative Technologies director Bud Kiebler. "Not all clients are alike, so we offer a number of flexible alternatives for unique problems."

Using innovative technology and customized services, the company (formerly called Guardian Home Arrest Technologies) can tailor its "full menu of services" to suit nearly any jurisdictional need for incarcerating a client in his or her home. Among the options:

-Clients can be "actively tracked" by electronic monitoring. The client wears an ankle bracelet which transmits information by radio frequency to the monitoring center in the client's home if he or she steps beyond the center's 150 feet range, or tampers with the equipment. The home monitoring center, which includes a specially-equipped telephone, in turn "tells" of the violation over the telephone lines to the company's central computers located and operated by personnel at corporate headquarters in Denver. The local corrections officer is provided with an on-line terminal, so he or she can receive information about the client at anytime.

-The central computer can randomly call clients at home to verify their presence with "speaker identification" technology. This technology helps to ensure the client is accurately identified by comparing his or her voice to that of samples stored in the home monitoring center. Because of its "comparison testing" capabilities, the system is completely multi-lingual. Plus, the technology eliminates problems with interference inherent in telephone lines by communicating in nonverbal computer language.

-Clients can be monitored for alcohol use with technology similar to that of the Guardian Interlock. The computer randomly calls the clients and asks them to first pass the speaker identification test, then blow into the breath testing device to determine blood alcohol concentration. The BAC reading is transmitted to the computer.

"We monitor clients 24 hours a day, seven days a week," says Kiebler. "Our level of monitoring would require a jurisdiction to allocate at least five people to do the same job."

Guardian Alternative Technologies offers its systems on a leased basis, requiring no up-front costs, "which makes it an affordable choice," says Kiebler.

Officials in Adams County, Colorado, chose Guardian Alternative Technologies primarily because of its monetary benefits. Sums up Penny Collins, the county jail administrator:

"We see no reason to keep people in jail at \$55 a day when full-service home arrest is available for only a fraction of the cost. It's ridiculous to put work-release people in an overcrowded jail. Our jails are already overcrowded. Home arrest can also significantly reduce our contraband problem."



Please excuse our redundancy, but we owe new readers an explanation! The Guardian Interlock™ connects a hand-held breath analyzer to a vehicle's ignition. Before a person can start a vehicle equipped with the device, he or she must first blow into the breath analyzer. If the would-be driver's blood alcohol concentration (BAC) meets or exceeds the BAC setting on the device, the car will not start. However, even if a person passes the breath test, he or she must also blow a "breath code" into the analyzer to access the system. This code deters others from trying to start the vehicle for the intended driver. A growing number of judges nationwide are requiring drunken driving offenders to have their vehicles equipped with ignition interlocks as a condition of probation, and to help stop repeat drunken driving offenses.

As a service to the courts, Guardian Interlock Systems launched a program more than a year ago to monitor those sentenced to use the company's product. Called the Guardian Interlock Responsible Driver Program,™ the program provides for the installation and calibration of the Guardian Interlock, and it includes scheduled appointments for checking the device for attempted tampering or circumvention.

Service centers open in California, Washington

Guardian Interlock Systems has opened centers near San Diego and San Francisco, Calif., and near Seattle, Wash., to provide for the installation and service of the Guardian Interlock™ for those using it.

"My goal is to ultimately put Guardian Interlocks in the vehicles of all second-time offenders, and in those of first-time offenders when appropriate," says Judge Runston Maino, with the North County Judicial District, San Diego County Municipal Court.

The Guardian Interlock was the first ignition interlock system in the country to meet any state requirement for accuracy and reliability when the device was certified by the California Office of Traffic Safety (OTS) in May, says Greg Manuel, a legislative analyst with OTS.

According to a spokesman with the Califor-

nia office of the National Highway Traffic Safety Administration, ignition interlock technology offers "one of the best" chances to deter drunken driving. "And there's a trend sweeping the country that leans more toward this kind of action," states Al Crancer, the state program coordinator.

The National Highway Traffic Safety Administration, an agency of the U.S. Department of Transportation, will hold a workshop in October at DOT headquarters in Washington, D.C., to review new developments in ignition interlock technology and exchange information about its application. For more information on the workshop, call or write: Dr. James Frank, Research Psychologist, Office of Driver and Pedestrian Research, NHTSA, 400 Seventh St., SW, Washington, DC 20590. (202) 366-5593.



Official Business

COMMITTEE:

House HESS Committee

DATE: January 24, 1989

SIGN-IN

Subject of meeting:

HB 2 - Ignition interlock devices

HB 25 - Ban sale of certain irradiated foods

NAME	ADDRESS- Include ZIP	PHONE	(Include Title) REPRESENTING	If testifying, specify bill
Doug Donegan	P.O. Box 0, Juneau AK 99811	465-2628	DEC	Available to answer questions
Lencie Suppinger	3127 Turwater Ave AK. 99508	433-3366	AK environmental lobby	No
Mark Houtley	Pop Grounds Office P.O. Box V Juneau AK 99811	465-4986	Pop Grounds Office	Available to answer questions
Elizabeth Ward Kafi Kelley	HSS / Public Health Box H-06 Juneau 99811	465-3090	Public Health	available questions irradiated food
Paula Tarnell	P.O. Box V	465-3771	Senator Montford	HB 25 No
Becky Penrose	"	465-3117	SAC	HB 25 No

(2)

13

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to ignition
interlock devices..."
Sponsor: Repr. Gruenberg
Requestor: House Judiciary

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
Division: Administrative Services

Phone: 465-3672
Date: January 23, 1989

Approved by Commissioner: Richard I. Pegues (FOR)
Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Date: January 23, 1989

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 2

This bill amends AS 12.55 by adding a new section that provides that, as a condition of probation for a DWI conviction, a court may require that a convicted defendant may not operate a motor vehicle unless the vehicle is equipped with an ignition interlock device. Such a condition would take effect after any period of license revocation imposed under AS 28.15.165(d) or AS 28.15.181(c). The penalty for violating this section would be a violation. The Department of Law does not anticipate a fiscal impact because prosecution of violations does not usually require attorney time in court, and the number of violations is not expected to be great.

Original sponsors: Gruenberg, Koponen,
Ulmer, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 2 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH 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 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 - 36.-
16 30.695 may not bring an action under this section except as set out in
17 AS 36.30.685. However, an [NO] action may not be brought under this
18 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 33.05.020(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 11.81.250(a) is amended to read:

16 (a) For purposes of sentencing under AS 12.55, all offenses
17 defined in this title, except murder in the first and second degree,
18 attempted murder in the first degree, sexual assault in the first
19 degree, sexual abuse of a minor in the first degree, misconduct
20 involving a controlled substance in the first degree, and kidnapping,
21 are classified on the basis of their seriousness, according to the
22 type of injury characteristically caused or risked by commission of
23 the offense and the culpability of the offender. Except for murder in
24 the first and second degree, attempted murder in the first degree,
25 sexual assault in the first degree, sexual abuse of a minor in the
26 first degree, misconduct involving a controlled substance in the first
27 degree, and kidnapping, the offenses in this title are classified into
28 the following categories:

29 (1) class A felonies, which characteristically involve

1 conduct resulting in serious physical injury or a substantial risk of
2 serious physical injury to a person;

3 (2) class B felonies, which characteristically involve
4 conduct resulting in less severe violence against a person than class
5 A felonies, aggravated offenses against property interests, or
6 aggravated offenses against public administration or order;

7 (3) class C felonies, which characteristically involve
8 conduct serious enough to deserve felony classification but not
9 serious enough to be classified as A or B felonies;

10 (4) class A misdemeanors, which characteristically involve
11 less severe violence against a person, less serious offenses against
12 property interests, less serious offenses against public
13 administration or order, or less serious offenses against public
14 health and decency than felonies;

15 (5) class B misdemeanors, which characteristically involve
16 a minor risk or physical injury to a person, minor offenses against
17 property interests, minor offenses against public administration or
18 order, or minor offenses against public health and decency;

19 (6) class C misdemeanors, which characteristically involve
20 conduct serious enough to deserve classification as a crime but not
21 serious enough to be classified as A or B misdemeanors;

22 (7) violations, which characteristically involve conduct
23 inappropriate to an orderly society but which do not denote
24 criminality in their commission.

25 * Sec. 4. AS 12.55.035(b) is amended to read:

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

29 (1) \$75,000 for murder in the first or second degree,

1 attempted murder in the first degree, sexual assault in the first
2 degree, sexual abuse of a minor in the first degree, kidnapping, or
3 misconduct involving a controlled substance in the first degree;

4 (2) \$50,000 for a class A, B, or C felony;

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

6 (4) \$1,000 for a class B misdemeanor;

7 (5) \$500 for a class C misdemeanor;

8 (6) \$300 for a violation.

9 * Sec. 5. AS 12.55 is amended by adding a new section to read:

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

18 (b) The court, in imposing probation under (a) of this section,
19 may allow the defendant limited privileges to drive a motor vehicle
20 without an ignition interlock device if the court determines that the
21 defendant is required as a condition of employment to drive a motor
22 vehicle owned or leased by the defendant's employer and that the
23 defendant's driving will not create substantial danger. If the court
24 imposes probation described by this subsection, the court shall re-
25 quire the defendant to notify the defendant's employer of the proba-
26 tion, and shall require that the defendant, while driving the em-
27 ployer's vehicle, carry a letter from the employer authorizing the
28 defendant to drive that vehicle.

29 (c) A court imposing a condition of probation under this section

1 shall require the surrender of the driver's license and shall issue to
2 the defendant a certificate valid for the duration of the probation or
3 a copy of the defendant's judgment of conviction. The defendant shall
4 pay all costs associated with fulfilling the condition of probation,
5 including installation, repair, and monitoring of an ignition inter-
6 lock device.

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

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

14 * Sec. 6. AS 12.55.135 is amended by adding a new subsection to read:

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

19 * Sec. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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 ignition interlock 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 class C misdemeanor.

HOUSE COMMITTEE REPORT

11

(7)
Date Referred: January 9, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 2 [IGNITION INTERLOCK DEVICES]
"An Act relating to ignition interlock devices."

be replaced with CSHB 2 (HESS) the same title
 a new title

have attached amendment(s)

- 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
- (4) zero fiscal notes
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

Max G. ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Walt Furman

Peter ...

Mark Boyer (NO REC)

George ... (NO REC)

John ... (no rec)

J. Ellis

Chairman's signature