

HB

2

STATE OF ALASKA  
THE LEGISLATURE

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Mary Van Nimwegen

HB 2

H. Judiciary

1/24/89



## Texas, Michigan, Oregon pass 'interlock' bills!

Since mid-June, three more states have passed legislation regarding use of ignition interlock technology to help stop drunken driving.

Governors James Blanchard of Michigan and Bill Clements of Texas have signed bills giving all judges who preside over drunken driving cases in their states the authority to order convicted offenders to have their vehicles equipped with ignition interlock devices.

Additionally, Gov. Neil Goldschmidt of Oregon has signed a bill, H.B. 2449, sponsored by Rep. Richard Springer, to set up a statewide pilot program to evaluate the impact of the technology on repeat drunken driving offenses. The technology will be deemed "a success" if it reduces the recidivism rate by at least 10 percent within one year. In the next few months, a state agency will determine the counties or jurisdictions to be included in the pilot project.

California passed the first "interlock" bill in the nation in September, 1986; Washington state passed the second such bill last April. The Michigan and Texas bills are similar in that they give judges the option to require use of the devices "as a reasonable condition of probation" for drunken driving offenders, according to Laurel Nelson, legislative specialist at Guardian Interlock Systems, Inc. Both states, as well as Oregon, also provide a means for certifying the devices to assess their accuracy, safety and ability to deter tampering and circumvention.

"The best thing about the Michigan bill is that it hopes to resolve the quandary judges face with granting restricted licenses to drunken driving offenders," says Rep. David Honigman, sponsor of the Michigan bill, H.B. 4469. "Judges don't



**Rep. David Honigman:** "Interlock devices constitute an extremely effective method to deter drunken driving, even by alcoholics."

want the offenders to lose their means of livelihood, yet they worry about the possibility of their drinking and driving despite restricted driving privileges. Interlocks offer the best of both worlds by allowing a person to work while helping to ensure he or she can no longer drink and drive."

The Texas bill, H.B. 655, hailed by its sponsor, Rep. Betty Denton of Waco, as a "huge stride" for the Lone Star state, allows a judge "to utilize the ignition interlock system" in the sentencing of second and subsequent offenders as an alternative or adjunct to traditional sanctions.

Dallas Judge Harold Entz, has been ordering DWI (driving-while-intoxicated) offenders to use ignition interlock devices beginning July, 1987. "Under Texas law, a person whose license is suspended for DWI may petition the court to get an occupational restricted license for job-related purposes," he says. "I have begun making the interlock a required condition of that occupational license. If you want to drive to work, you can only do so with an occupational license and with the Guardian Interlock in your car."

## Guardian Interlock good for first offenders

The Guardian Interlock<sup>SM</sup> is as appropriate for first-time offenders with suspected drinking problems as it is for repeat offenders, according to Delbert Elliott, Ph.D., a sociologist with the University of Colorado Institute of Behavioral Science.

"Many of those arrested for the first time for driving under the influence of alcohol are problem drinkers," says Elliott. "When a person is identified as a problem drinker, even on a first arrest, it is essential that we intervene now because that person will be drinking and driving again."

Currently, judges and magistrates are sentencing mostly repeat offenders to the Guardian Interlock Responsible Driver Program<sup>SM</sup>, a program launched last year to monitor those using the company's product.

"Our track record is very promising," says Gary Schlatter, vice president of marketing at Guardian Interlock Systems. "Our re-arrest rate for those offenders using the Guardian Interlock is less than

two percent within 15 months." (Since the last newsletter, a few offenders in the Guardian Interlock program have been re-arrested for drunken driving.) In comparison, a study released by the National Highway Traffic Safety Administration (NHTSA) shows that, of those with previous arrests for drunken driving, an average of 20 percent are re-arrested for the same offense within 15 months, and more than 50 percent are re-arrested within three years.

Elliott is currently investigating whether the Guardian Interlock will show greater success in modifying the behavior of persons with alcohol dependency problems than traditional treatment programs. "The potential significance (of the Guardian Interlock) is that it provides a constant reinforcement day after day, and that it has potentially more power for change," says Elliott. "The Guardian Interlock provides immediate negative consequences when a person is denied the opportunity to start his or her vehicle after drinking."

## The Forum

*Judges view existing laws on driving under the influence of alcohol and drugs (DUI/DUID) as over-emphasizing punishment at the cost of rehabilitation and deterrence. So concluded a 1984 study of 570 judges who hear such cases in California, Colorado, Georgia, Maryland, Pennsylvania and Wisconsin.*

*Lee Perry Robbins, Ph.D., a professor in the Department of Human Resource Administration at Temple University in Philadelphia, presented the results of his '84 study last year at a conference of the National Commission Against Drunk Driving. Among his findings: Although citizen activism focuses on harsh punishment against DUI offenders, there is scant scientific evidence supporting its effectiveness. As a result, Dr. Robbins suggests other alternatives, one being ignition interlock technology. Below, he discusses his study and how this new technology may well help society in its battle against drunken driving.*

**THE STUDY** of 570 judges for which I did the field research through the Wharton School at the University of Pennsylvania showed that judges support a "package" of four sanctions for the typical DUI/DUID offender: license suspension, rehabilitation and education, a fine, and community service or a short jail term. Most of the judges supported mandatory jail sentences for repeat offenders, while only 20 percent supported mandatory jail sentences for first-time offenders.

In each of the six states studied, the majority of judges believed that the law overstresses punitive objectives at the cost of deterrence and rehabilitation.

This viewpoint sharply contrasts with the widespread opinion, not supported by research, that harsher penalties will decrease accidents caused by drunken driving. Most researchers estimate 50 to 80 percent of DUI offenders are

*See "Forum"—back page*



**Dr. Lee Robbins:** "During the '80s, strong citizen activism focused on harsher laws to punish drunken drivers. Legislators, influenced by the activist groups and the media, enacted these laws without researching the viewpoints of judges. Now we see that the success of curbing drunken driving with strong punitive sanctions remains doubtful."

## 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 ft. 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. Sumisup 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 Mario, 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, DC, 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.

## New features enhance benefits of Guardian Interlock

The Guardian Interlock™ now features several more new advances which further enhance its ability to deter drunken driving.

One new feature, called Memo Minder™ reminds the offender of his or her next appointment at the company's nearest service center. Three days before the appointment, a "reminder" light on the device will start flashing. If the offender does not visit the center on the day of the appointment, the device will emit a sequence of tones and the light will continue flashing one week longer. If the offender still fails to show, the device will revert to "standby," and the car will not start.

Another feature has been added to Guardian Interlock's repertoire of tamper-resistant technology. Should an offender attempt to tamper with the device, Guardlink™ will push it into Memo Minder so the user has no other choice than to report to the service center, otherwise, the car will not start. All incidences of attempted tampering or circumvention are reported to the offender's probation officer or other designated person. Other Guardian Interlock features include:

—Coordinated Breath Pulse Access™ CBPA requires the driver to not only pass the initial breath test for sobriety, but also blow into the breath analyzer a short series of "breath pulses." If the correct code is not delivered within three attempts, the vehicle will not start for 45 minutes.

—technology which determines if the driver's blood alcohol level has risen due to alcohol in the stomach not yet absorbed into the bloodstream. If the device has detected alcohol from the driver's previous breath test (although still within legal limits), it will require the driver to retest every 20 minutes. If the driver does not pull over (the system allows ample time), stop the engine and take the breath test, the car's horn will sound until he or she does so.

"Forum"—continued from page 2

problem drinkers and alcoholics. When sober, these individuals lack the ability to avoid harming their health, families and careers by stopping their abuse of alcohol. When drunk, they are unlikely to have the judgment to drive safely.

IN LOS ANGELES, the courts hear over 100,000 DUI/DUID cases a year, more than most states. Here, another side of stronger penalties surfaces. A 1982 California law added mandatory jail and fines, restricted plea bargaining, and required treatment programs. Subsequently, the number of jury trials rose 33 percent, probation revocation hearings rose 64 percent, and guilty pleas dropped, though only by two percent.

In a separate study of a northern California county, it was discovered that the time needed to close a DUI/DUID case rose by nearly 80 percent from 48 days in 1981 to 86 in 1984. Fully 55 percent of the offenders studied had had either a prior or subsequent DUI/DUID arrest, which indicates a high probability that they were problem drinkers or alcoholics. A third, broader study on mandatory jail sentences published by the National Institute of Justice concluded that "new and heavy" demands were placed on the courts, probation services and jails.

EMPIRICAL DATA AND LOGIC suggest adding further and harsher penalties will do little to limit injuries and deaths.

Judges should have greater responsibility in DUI/DUID issues, and there should be more judicial education in this area. But better informed judicial decisions will not work unless society provides judges with effective choices. Alcohol and drug users should be closely supervised and given long-term treatment. Communities should require offenders to develop and execute DUI/DUID prevention and education programs rather than use them for cheap labor for municipal chores. And ignition interlock systems should be widely tried and evaluated.

IGNITION INTERLOCK systems separate the alcohol abuser from his or her vehicle, thus dangerous behavior can be deterred at minimal

cost and without harsh sanctions. While the results of full field studies on the effectiveness of interlock systems are still needed, even occasional evasion by drivers would be far less dangerous than the widespread failures of existing sanctions.

Traditional approaches currently used against drunken driving offenders are very costly. They prevent needed attention to the growing problem of drugged driving which, studies suggest, may account for 10 to 30 percent of impaired driving problems.

Ignition interlock systems are not designed for deterring drugged driving, but they free up resources needed to help solve this problem and other issues of highway safety.

*"The Guardian Interlock™ ignition system contains features which deter abuse of the system. Additionally, offenders sentenced to use the device are monitored through the Guardian Interlock Responsible Driver Program™"*

*Dr. Robbins is a writer, researcher and speaker on issues concerning drunken and drugged driving and the role of the judiciary. He holds degrees from Harvard University and the University of Pennsylvania. He may be reached at: Human Systems Research/Management, 2013 Pine St., Philadelphia, Penn., 19103. (215) 546-5377.*

"Payment"—continued from page 1

probation at the Hamilton County Municipal Court in Cincinnati. "This new payment plan enables the courts to enroll a wider range of people who can qualify for the interlock program."

According to Re, the Guardian Interlock program benefits the courts by reducing the number of arrests for driving while intoxicated under license suspension, helping prevent another DWI charge, and providing continuing education and constant feedback on the effects of drinking and driving.

Interlock Technology News  
Guardian Interlock Systems, Inc.  
1009 Grant Street, Denver, CO 80203  
303/831-6333 or toll-free 800/457-0001

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**STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE**

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

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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	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

<b>CAPITAL</b>	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
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<b>REVENUE</b>	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
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FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

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

## 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						
<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	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**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: [Signature]  
Agency: Department of Corrections

Date: 1-23-89

**Distribution (by preparer):**

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

**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: WTO/Police Coordinator Phone: 596-6201  
Division: Office of Alcoholism & Drug Abuse Date: 1/23/89  
Approved by Commissioner: W. M. Munn 1/23/89 Date: 465-3030  
Agency: Health & Social Services

**Distribution (by preparer):**

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

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 Commission: Arthur English  
Agency: Department of Public Safety

Date: 1-20-89

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: 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.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

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

January 23, 1989

### MEMORANDUM

To: House HESS Committee Members

From: Max Gruenberg *MG*

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

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

STATE OF ALASKA  
THE LEGISLATURE

FOURTH STATE CENTER  
JUNEAU ALASKA 99801  
907 465 1800

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



# 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

(1)  
Date Referred: January 25, 1989

FURTHER REFERRALS:

Date of Committee Action: Feb 8, 1989

The JUDICIARY Committee recommends that:

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

be replaced with CS for HHS 7. (Jud. com)  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: House Judiciary letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: \_\_\_\_\_
- zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

\_\_\_\_\_  
 Terry Martin  
 J. Ellis  
 M. G. ...

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

\_\_\_\_\_  
 (No rec)  
 Mike ... No rec

\_\_\_\_\_  
 Chairman's signature

# Alaska State Legislature



## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

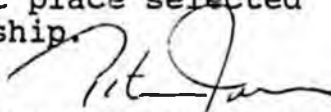
### HOUSE JUDICIARY COMMITTEE

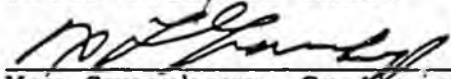
#### Letter of Intent for

#### 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.

  
\_\_\_\_\_  
Peter Goll, Co-Chair

  
\_\_\_\_\_  
Max Gruenberg, Co-Chair  
House Judiciary Committee

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

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 2 (Judiciary)

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."

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

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

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person  
10 or corporation having a contract, quasi-contract, or tort claim  
11 against the state may bring an action against the state in the superi-  
12 or court. A person who may present the claim under AS 44.77 may not  
13 bring an action under this section except as set out in AS 44.77.-  
14 040(c). A person who may bring an action under AS 36.30.560 - 36.-  
15 30.695 may not bring an action under this section except as set out in  
16 AS 36.30.685. However, an [NO] action may not be brought under this  
17 section if the claim

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

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

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

1                   (4) arises out of the use of an ignition interlock device  
2                   certified under AS 33.05.020(c).

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

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

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

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

12                   (b) Notwithstanding AS 11.81.250, a person convicted of violat-  
13                   ing this section is guilty of a misdemeanor. The maximum term of  
14                   imprisonment that may be imposed is 30 days and the maximum fine that  
15                   may be imposed is \$500.

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

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

25                   (b) The court, in imposing probation under (a) of this section,  
26                   may allow the defendant limited privileges to drive a motor vehicle  
27                   without an ignition interlock device if the court determines that the  
28                   defendant is required as a condition of employment to drive a motor  
29                   vehicle owned or leased by the defendant's employer and that the

1 defendant's driving will not create substantial danger. If the court  
2 imposes probation described by this subsection, the court shall re-  
3 quire the defendant to notify the defendant's employer of the proba-  
4 tion, and shall require that the defendant, while driving the em-  
5 ployer's vehicle, carry a letter from the employer authorizing the  
6 defendant to drive that vehicle.

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

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

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

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

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

1 sentence of imprisonment of not less than 20 consecutive days and a  
2 fine of not less than \$500 if, within the preceding 10 years, the  
3 person has been previously convicted once in this or another jurisdic-  
4 tion of driving while intoxicated under this or another law or ordi-  
5 nance with substantially similar elements or refusal to submit to a  
6 chemical test under AS 28.35.032 or another law or ordinance with  
7 substantially similar elements. Upon conviction under this section  
8 the court shall impose a minimum sentence of imprisonment of not less  
9 than 30 consecutive days and a fine of not less than \$1,000 if, within  
10 the preceding 10 years, the person has been previously convicted in  
11 this or another jurisdiction of more than one of the following offen-  
12 ses or has more than once been previously convicted of one of the  
13 following offenses: (1) driving while intoxicated under this or anothe-  
14 er law or ordinance with substantially similar elements; (2) refusal  
15 to submit to a chemical test under AS 28.35.032 or another law or  
16 ordinance with substantially similar elements. The execution of  
17 sentence may not be suspended nor may probation be granted except on  
18 condition that the minimum imprisonment provided in this section is  
19 served. Probation may be conditioned as provided in AS 12.55.102.  
20 Imposition of sentence may not be suspended. In addition, if the  
21 offense involved driving a motor vehicle for which a driver's license  
22 is required, the person's driver's license shall be revoked in accor-  
23 dance with AS 28.15.181 and the vehicle used in commission of the  
24 offense may be forfeited under AS 28.35.036. In addition, the court  
25 shall order, and a person convicted under this section shall under-  
26 take, for a term specified by the court, that program of alcohol  
27 education or rehabilitation that the court, after consideration of any  
28 information compiled under (d) of this section, finds appropriate.

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

1 (h) Notwithstanding (c) of this section, if the court imposes  
2 probation under AS 12.55.102 the court may reduce the fine required to  
3 be imposed under (c) of this section by the cost of the ignition  
4 interlock device.

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

6 (g) Upon conviction of a person under this section, the court  
7 shall impose a minimum sentence of imprisonment of not less than 72  
8 consecutive hours and a fine of not less than \$250 if the person has  
9 not been previously convicted in this or another jurisdiction of  
10 driving while intoxicated under AS 28.35.030 or another law or ordi-  
11 nance with substantially similar elements or refusal to submit to a  
12 chemical test under this section or another law or ordinance with  
13 substantially similar elements. Upon conviction under this section the  
14 court shall impose a minimum sentence of imprisonment of not less than  
15 20 consecutive days and a fine of not less than \$500 if, within the  
16 preceding 10 years, the person has been previously convicted once in  
17 this or another jurisdiction of driving while intoxicated under  
18 AS 28.35.030 or another law or ordinance with substantially similar  
19 elements or refusal to submit to a chemical test under this section or  
20 another law or ordinance with substantially similar elements. Upon  
21 conviction under this section the court shall impose a minimum sen-  
22 tence of imprisonment of not less than 30 consecutive days and a fine  
23 of not less than \$1,000, if, within the previous 10 years, the person  
24 has been previously convicted in this or another jurisdiction of more  
25 than one of the following offenses or has more than once been previ-  
26 ously convicted of one of the following offenses: (1) driving while  
27 intoxicated under AS 28.35.030 or another law or ordinance with sub-  
28 stantially similar elements; (2) refusal to submit to a chemical test  
29 under this section or another law or ordinance with substantially

1 similar elements. The execution of sentence may not be suspended nor  
2 may probation be granted except on condition that the minimum impris-  
3 onment provided in this section is served. Probation may be condi-  
4 tioned as provided in AS 12.55.102. Imposition of sentence may not be  
5 suspended. If the offense involved driving a motor vehicle for which  
6 a driver's license is required, the person's driver's license shall be  
7 revoked under AS 28.15.181. In addition, the court shall order, and a  
8 person convicted under this section shall undertake, for a term speci-  
9 fied by the court, that program of alcohol education or rehabilitation  
10 that the court, after consideration of any information compiled under  
11 (h) of this section, finds appropriate. The sentence imposed by the  
12 court under this subsection shall run consecutively with any other  
13 sentence of imprisonment imposed on the committed person.

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

15 (k) Notwithstanding (g) 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 (g) of this section by the cost of the ignition  
18 interlock device.

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

20 (c) The commissioner shall by regulation

21 (1) establish standards for calibration, certification,  
22 maintenance, and monitoring of ignition interlock devices required as  
23 a condition of probation under AS 12.55.102; and

24 (2) establish a fee to be paid by the manufacturer for the  
25 cost of certifying an ignition interlock device.

26 (d) The commissioner shall notify the manufacturer of the igni-  
27 tion interlock device when the device is certified. The commissioner  
28 may not certify an ignition interlock device unless the device promi-  
29 nently displays a label warning that a person circumventing or

1 tampering with the device in violation of AS 11.76.140 may be im-  
2 prisoned up to 30 days and fined up to \$500.  
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# STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

HBZ

STEVE COWPER, GOVERNOR

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

February 4, 1989

The Honorable Max Gruenberg  
Alaska State Representative  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Gruenberg:

Yesterday the Director of the Scientific Crime Detection Laboratory, George Taft, sent me the enclosed information relating to ignition interlock devices. I draw your attention to the conclusions reached on page 4 of the Ad Hoc Committee Report.

Very truly yours,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:   
Laurie H. Otto  
Assistant Attorney General

Attachment

cc: The Honorable Peter Goll

AD HOC COMMITTEE REPORT ON:  
THE USE OF ALCOHOL IGNITION INTERLOCK DEVICES AS A JUDICIAL SANCTION  
COMMITTEE ON ALCOHOL AND OTHER DRUGS  
HIGHWAY TRAFFIC SAFETY DIVISION  
NATIONAL SAFETY COUNCIL  
ORLANDO, FLORIDA, OCTOBER 18, 1988

Chairman: George E. Browne

Members: James J. Ahern  
Richard D. Brooke  
Yale H. Caplan  
Arthur L. Flores  
Howard R. Rarick

AD HOC COMMITTEE REPORT ON:

THE USE OF ALCOHOL IGNITION, INTERLOCK DEVICES AS A JUDICIAL SANCTION

Mr. Chairman:

On December 21, 1987, you requested the formation of an Ad Hoc Committee to study the use of Alcohol Ignition Interlock Devices as a judicial sanction. The task of this committee was to gather information pertaining to the technology, specifications and use of the devices and if sufficient data was available to draft a policy statement for consideration by the Executive Board for possible submission to the Highway Traffic Safety Division.

At the February 15, 1988 meeting of the Executive Board of the Committee on Alcohol and Other Drugs, it was reported that the Ad Hoc Committee had been formed and would begin to gather information. The plan at that time was to acquire data and submit it to the Ad Hoc Committee members for review and preparation of an Ad Hoc Committee report with input from each of the members. Unfortunately this was impossible. The data was received so late that it did not allow sufficient time to distribute it to the committee members and solicit their input. Consequently and unfortunately this report was not reviewed by the committee members prior to the meeting. As the Ad Hoc Committee Chairman, I apologize to the members and hope that they will agree with the material contained in what should now be considered a "Chairmans Report".

Scope of this Report:

This report is limited to the in-vehicle breath alcohol test devices which are used as a judicial sanction.

Other types of devices and possible uses are described in appendix 4-p.26, of this report. The use of these devices in commercial and fleet operations may be useful. However such use should be evaluated by the experts in these fields to determine if it is practical.

Concept:

The concept of a device that will not allow a motor vehicle to be operated by a drinking driver is indeed a grand idea. However the design of a "Fool Proof" device and the application and use of such a device presents numerous problems.

The COAOD has on several occasions endorsed the concept that the most effective deterrent to driving under the influence is the suspension of driving privileges. Additionally we have advocated that additional sanctions should not be in lieu of license suspension.

When used as a judicial sanction the purpose of the ignition interlock device is to allow the convicted driver to continue to operate a motor vehicle. Thus the concepts are opposite.

Previous COAOD Activity:

Appendix 1, 2, and 3 of this report and the minutes of the Executive Board Meetings on October 6, 1987 in Chicago, Illinois and on February 15, 1988 in Philadelphia, Pennsylvania documents the COAOD involvement and concern with the ignition interlock issue prior to the formation of this Ad Hoc Committee. Review of these documents will give the reader a brief history of the devices and an overview of the concerns of the COAOD.

Current Technology:

The document referenced in appendix 4 of this report states that there are three breath test ignition interlock devices currently available in the U.S., these are:

- o "Autosense"
- o "Guardian Interlock"
- o "Safety Interlock"

Appendix 7 of this report gives a comparison of the features of these devices.

All three devices use a "Tagucci" cell to detect and quantitate the alcohol concentration in the sample tested. All of the devices employ various anti-tampering and anti-circumvention features which makes the devices difficult to circumvent. However, a motivated individual could employ some relatively uncomplicated methods to "fool" these devices. Some models employ computer technology which records circumvention attempts. However, detection of these attempts only becomes known when the units are serviced which may be several days or weeks after the occurrence.

Laboratory tests have shown that these devices are relatively accurate in detecting low alcohol concentrations and preventing the ignition of an automobile when used in the method prescribed by the manufacturer. Guardian Interlock has supplied the test results and raw data obtained by an independent laboratory which tested their unit model 22Y in compliance with the provisions stated in the "Texas Ignition Interlock Device Regulations" (Appendix 8 of this Report). The data obtained and the explanation of the testing procedure by Mr. William Giguere, M.A. of Los Altos, California who conducted the tests shows that this unit did meet or exceed all of the requirements stated in the regulations. However these tests were conducted in a laboratory environment. The reliability and accuracy of these units in field application is unknown.

Current Use of These Devices:

The documents referenced in Appendix 4 and 6 of this report show that by the end of 1987 five states had passed legislation authorizing the use of ignition interlock devices as a judicial sanction (some on a trial basis). These states are California, Michigan, Washington, Texas and Oregon. There are several other states which have bills introduced or under consideration. In addition, there are a number of local programs that use ignition interlock devices as a judicial sanction.

In 1986, California became the first state to enact laws pertaining to ignition interlock devices (the Farr-Davis Driver Safety Act of 1986). This law is a two year pilot program with a sunset provision at the end of 1989. Appendix 6 of this report is the major findings and recommendations of the interim report on the evaluation of this program from its beginning until July 1989. This evaluation identifies and explains several problems encountered in the implementation of this program.

Because of the problems encountered in the implementation of the California program the first recommendation is a request for a one year extension of the pilot program until January 1, 1991 (Appendix 6 - p53 of this report). Additionally it is interesting to note (Appendix 6 - p55 of this report) that as of June 30, 1988; 319 interlock devices had been ordered to be installed by the courts in the pilot counties. Only 209 of these devices had actually been installed in the vehicles of convicted drivers. Twenty-three of the installed devices had been removed for various reasons including operational problems and by petition of the offender. Sixteen offenders were ordered to install ignition interlock devices even though they do not currently own a vehicle. The report states that "this sentencing practice creates serious enforcement problems".

#### Current Data:

The latest and most comprehensive data available is the complete documents referenced in Appendix 4 and 6 of this report. Anyone interested in this subject should obtain a copy of these documents because the Appendix contained in this report are only selected portions of these resources.

The document referenced in Appendix 4 of this report is the NHTSA report to congress which contains a considerable amount information on the history of the ignition interlock devices; the current application of these devices; the problems associated with the use of these devices; the legal, judicial and technical aspects and the DOT plans to produce evaluation methods and develop performance guidelines and testing procedures:

Appendix 5 of this report is a selected portion of the NHTSA bid specifications for the development of the performance guidelines and testing procedures (model specifications for device certification) and program evaluation methods. These bids are expected to be awarded on October 1, 1988. Final reports are expected to be available one year after the bid award.

The document referenced in Appendix 6 of this report is the interim report titled "Evaluation of the California Ignition Interlock Pilot Program for DWI Offenders". This report contains a copy of the Farr-Davis Driver Safety Act of 1986 and a considerable amount of material on the implementation of the program in California. Additionally, this report contains the certification procedures for interlock devices. This certification procedure is the basis from which most of the other states certification requirements were devised (see Appendix 8 and 9 of this report).

Conclusions:

At the present time there is not a sufficient amount of data available to evaluate the use of alcohol ignition interlock devices as a judicial sanction. Those jurisdictions that have ignition interlock programs have not had sufficient time to completely implement the programs or evaluate the use of the device. NHTSA is in the process of developing performance guidelines for the devices, however, these guidelines will not be available until late 1989.

It is therefore the conclusion of this Ad Hoc Committee that the executive board of the COAD has two options:

- (1) Wait until there is sufficient data to propose a policy statement on the use of alcohol ignition interlock devices as a judicial sanction, or,
- (2) Propose an immediate policy statement which states there is insufficient data available at the present time to evaluate the use of alcohol ignition interlock devices as a judicial sanction.

A draft of the proposed policy statement is attached for consideration by the Executive Board, if the choice is the second option.

George E. Browne, Chairman

APPENDICES NOT ATTACHED WITH MINUTES. PLEASE CONTACT STAFF REPRESENTATIVE FOR REFERENCE TO THE APPENDICES.

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 2 (HESS)  
PUBLISH DATE: HOUSE 1/25/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: "An Act relating to ignition  
interlock devices." BRU: Highway Safety Planning Agency,  
Alaska State Troopers  
Sponsor: Representative Gruenberg Component: \_\_\_\_\_  
Requestor: House HESS

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

STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE

cc

No. 2

Bill Version: CSHB 2 (HESS)  
Publish Date: HOUSE 1/25/89

REQUEST:

Revision Date:  
Title: An act relating to ignition  
interlock devices

Agency Affected: Alaska Court System  
BRU: Trial Courts

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	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
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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:		(Thousands of Dollars)					
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*  
Jan Strandberg, General Counsel  
Division: Alaska Court System

Phone: 264-8228  
Date: 01/23/89

Approved by: *Stephanie Cole, for*  
Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 01/23/89

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



## 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
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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: *William Barnette*  
 Agency: Department of Corrections

Date: 1-23-89

**Distribution (by preparer):**

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



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	327 Tutwater Ave AK. 99508	433-3366	AK environmental lobby	No
Mark H. ...	1. p. ... Juneau AK 99811	465-4778	City ...	Available to answer questions
Elizabeth Ward Kati Kallas Paula Tamm	H & S S / Public Health Box H-06 Juneau 99811	465-3090	Public Health	available for questions irradiated food
Becky Parrose	P.O. Box 4	465- 3771	Senator ...	No
Becky Parrose	"	465- 3111	SAC	No



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: 2/8/89

SIGN-IN

Subject of meeting:

HBZ - IGNITION INTERLOCK DEVICES

HB 58 - FIRE PROTECTION

HB 73 TEL. AMENDMENT - PUBLIC EMPLOYEES BENEFITS

NAME

ADDRESS FULL ADDRESS PLEASE !

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY? WHICH BILL?

NAME	ADDRESS FULL ADDRESS PLEASE !	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
Jilly Smith	P.O. Box CR Juneau 99801 0203	4470	Ret. & Ben.	Y 73
Gordon Bruntin	PO Box N Juneau 99811	465-4331	Public Safety	HB 58 if questioned
Em Patten	Box T	3376	CORRECTIONS	HB 2 NO. QUESTIONS

OK OK

# 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 F...  
Peter ...  
Mark ... (NO REC)  
George ... (NO REC)  
John ... (no rec)  
\_\_\_\_\_  
\_\_\_\_\_  
H. Ellis

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

January 26, 1989

The Honorable Max Gruenberg  
Alaska State Representative  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Gruenberg:

I talked to Mark Handley today about a minor change that the Department of Law believes should be made to CSHB2 (HESS). We are concerned about the portion of subsection (c) in bill section 11 that requires a manufacturer of an ignition interlock device to reimburse the state for the cost of certification (page 8, lines 22-23). Although the bill requires that the manufacturer pay the costs of certification, no standards are set for the types of costs for which reimbursement is required. In addition, since criminal penalties are imposed for knowingly circumventing or tampering with an ignition interlock device, we believe the statute should specify that the warning label must be prominently displayed.

We would suggest that the bill be amended by replacing bill section 11 with the following language:

- (c) The commissioner shall by regulation
- (1) establish standards for calibration, certification, maintenance, and monitoring of ignition interlock devices required as a condition of probation under AS 12.55.102; and
  - (2) establish fees, to be paid by the manufacturer, necessary to cover the cost of certifying the ignition interlock device.
- (d) The department shall notify the manufacturer of the ignition interlock device when the device is certified.
- (e) The commissioner may not certify an ignition interlock device unless the device prominently 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.

You will notice that we have retained the language relating to Class C misdemeanors. However, we would respectfully request that you reconsider your decision to create a new class of misdemeanor crime. Instead we would suggest that you make avoidance of an ignition interlock device either a class B

*Yellow*  
STEVE COWPER, GOVERNOR

REPLY TO:

- CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428
- OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

RECEIVED  
JAN 30 1989

Letter to Representative Gruenberg  
CSHB2 (HESS)

January 26, 1989  
Page Two

misdemeanor or a violation.

According to Mark Handley, the Judiciary Committee has an interest in reviewing, revising and making consistent all penalty provisions contained in Alaska statutes. Until the review necessary for this major project is complete, we would strongly urge you to retain the existing structure for classification of crimes. In order to place our request in context, we are gathering information on the sentences imposed for all crimes that are currently classified as B misdemeanors. This information will be provided to you as soon as it is available.

If you have any questions about either the proposed change, or our request relating to C misdemeanors, please feel free to contact me at any time.

Respectfully submitted,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By: 

Laurie H. Otto  
Assistant Attorney General

cc: Bill Parker  
Bob Evans  
John Salemi  
Dick Pegues

A M E N D M E N T

By Gruenberg

Offered in the HOUSE

TO: CSHB 2 (Judiciary)

Page 7, line 1:

Strike "is guilty of a class B misdemeanor" and  
insert: "may be imprisoned for 30 days and fined  
\$ 500."

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

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 2 (Judiciary)

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."

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

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

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person  
10 or corporation having a contract, quasi-contract, or tort claim  
11 against the state may bring an action against the state in the superi-  
12 or court. A person who may present the claim under AS 44.77 may not  
13 bring an action under this section except as set out in AS 44.77.-  
14 040(c). A person who may bring an action under AS 36.30.560 - 36.-  
15 30.695 may not bring an action under this section except as set out in  
16 AS 36.30.685. However, an [NO] action may not be brought under this  
17 section if the claim

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

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

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

1                   (4) arises out of the use of an ignition interlock device  
2 certified under AS 33.05.020(c).

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

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

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

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

12                   (b) Notwithstanding AS 11.81.250, a person convicted of violat-  
13 ing this section is guilty of a misdemeanor. The maximum term of  
14 imprisonment that may be imposed is 30 days and the maximum fine that  
15 may be imposed is \$500.

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

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

25                   (b) The court, in imposing probation under (a) of this section,  
26 may allow the defendant limited privileges to drive a motor vehicle  
27 without an ignition interlock device if the court determines that the  
28 defendant is required as a condition of employment to drive a motor  
29 vehicle owned or leased by the defendant's employer and that the

1 defendant's driving will not create substantial danger. If the court  
2 imposes probation described by this subsection, the court shall re-  
3 quire the defendant to notify the defendant's employer of the proba-  
4 tion, and shall require that the defendant, while driving the em-  
5 ployer's vehicle, carry a letter from the employer authorizing the  
6 defendant to drive that vehicle.

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

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

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

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

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

1 sentence of imprisonment of not less than 20 consecutive days and a  
2 fine of not less than \$500 if, within the preceding 10 years, the  
3 person has been previously convicted once in this or another jurisdic-  
4 tion of driving while intoxicated under this or another law or ordi-  
5 nance with substantially similar elements or refusal to submit to a  
6 chemical test under AS 28.35.032 or another law or ordinance with  
7 substantially similar elements. Upon conviction under this section  
8 the court shall impose a minimum sentence of imprisonment of not less  
9 than 30 consecutive days and a fine of not less than \$1,000 if, within  
10 the preceding 10 years, the person has been previously convicted in  
11 this or another jurisdiction of more than one of the following offen-  
12 ses or has more than once been previously convicted of one of the  
13 following offenses: (1) driving while intoxicated under this or anothe-  
14 er law or ordinance with substantially similar elements; (2) refusal  
15 to submit to a chemical test under AS 28.35.032 or another law or  
16 ordinance with substantially similar elements. The execution of  
17 sentence may not be suspended nor may probation be granted except on  
18 condition that the minimum imprisonment provided in this section is  
19 served. Probation may be conditioned as provided in AS 12.55.102.  
20 Imposition of sentence may not be suspended. In addition, if the  
21 offense involved driving a motor vehicle for which a driver's license  
22 is required, the person's driver's license shall be revoked in accor-  
23 dance with AS 28.15.181 and the vehicle used in commission of the  
24 offense may be forfeited under AS 28.35.036. In addition, the court  
25 shall order, and a person convicted under this section shall under-  
26 take, for a term specified by the court, that program of alcohol  
27 education or rehabilitation that the court, after consideration of any  
28 information compiled under (d) of this section, finds appropriate.

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

1 (h) Notwithstanding (c) of this section, if the court imposes  
2 probation under AS 12.55.102 the court may reduce the fine required to  
3 be imposed under (c) of this section by the cost of the ignition  
4 interlock device.

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

6 (g) Upon conviction of a person under this section, the court  
7 shall impose a minimum sentence of imprisonment of not less than 72  
8 consecutive hours and a fine of not less than \$250 if the person has  
9 not been previously convicted in this or another jurisdiction of  
10 driving while intoxicated under AS 28.35.030 or another law or ordi-  
11 nance with substantially similar elements or refusal to submit to a  
12 chemical test under this section or another law or ordinance with  
13 substantially similar elements. Upon conviction under this section the  
14 court shall impose a minimum sentence of imprisonment of not less than  
15 20 consecutive days and a fine of not less than \$500 if, within the  
16 preceding 10 years, the person has been previously convicted once in  
17 this or another jurisdiction of driving while intoxicated under  
18 AS 28.35.030 or another law or ordinance with substantially similar  
19 elements or refusal to submit to a chemical test under this section or  
20 another law or ordinance with substantially similar elements. Upon  
21 conviction under this section the court shall impose a minimum sen-  
22 tence of imprisonment of not less than 30 consecutive days and a fine  
23 of not less than \$1,000, if, within the previous 10 years, the person  
24 has been previously convicted in this or another jurisdiction of more  
25 than one of the following offenses or has more than once been previ-  
26 ously convicted of one of the following offenses: (1) driving while  
27 intoxicated under AS 28.35.030 or another law or ordinance with sub-  
28 stantially similar elements; (2) refusal to submit to a chemical test  
29 under this section or another law or ordinance with substantially

1 similar elements. The execution of sentence may not be suspended nor  
2 may probation be granted except on condition that the minimum impris-  
3 onment provided in this section is served. Probation may be condi-  
4 tioned as provided in AS 12.55.102. Imposition of sentence may not be  
5 suspended. If the offense involved driving a motor vehicle for which  
6 a driver's license is required, the person's driver's license shall be  
7 revoked under AS 28.15.181. In addition, the court shall order, and a  
8 person convicted under this section shall undertake, for a term speci-  
9 fied by the court, that program of alcohol education or rehabilitation  
10 that the court, after consideration of any information compiled under  
11 (h) of this section, finds appropriate. The sentence imposed by the  
12 court under this subsection shall run consecutively with any other  
13 sentence of imprisonment imposed on the committed person.

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

15 (k) Notwithstanding (g) 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 (g) of this section by the cost of the ignition  
18 interlock device.

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

20 (c) The commissioner shall by regulation

21 (1) establish standards for calibration, certification,  
22 maintenance, and monitoring of ignition interlock devices required as  
23 a condition of probation under AS 12.55.102; and

24 (2) establish a fee to be paid by the manufacturer for the  
25 cost of certifying an ignition interlock device.

26 (d) The commissioner shall notify the manufacturer of the igni-  
27 tion interlock device when the device is certified. The commissioner  
28 may not certify an ignition interlock device unless the device promi-  
29 nently displays a label warning that a person circumventing or

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tampering with the device in violation of AS 11.76.140 may be imprisoned up to 30 days and fined up to \$500.

6-0010H

Ford  
2/3/89

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

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 2 (Judiciary)

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."

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

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

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person  
10 or corporation having a contract, quasi-contract, or tort claim  
11 against the state may bring an action against the state in the superi-  
12 or court. A person who may present the claim under AS 44.77 may not  
13 bring an action under this section except as set out in AS 44.77.-  
14 040(c). A person who may bring an action under AS 36.30.560 - 36.-  
15 30.695 may not bring an action under this section except as set out in  
16 AS 36.30.685. However, an [NO] action may not be brought under this  
17 section if the claim

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

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

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

1                   (4) arises out of the use of an ignition interlock device  
2                   certified under AS 33.05.020(c).

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

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

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

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

12                   (b) A person convicted of violating this section is guilty of a  
13 class B misdemeanor; however, the maximum term of imprisonment that  
14 may be imposed is 30 days and the maximum fine that may be imposed is  
15 \$500.

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

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

25                   (b) The court, in imposing probation under (a) of this section,  
26 may allow the defendant limited privileges to drive a motor vehicle  
27 without an ignition interlock device if the court determines that the  
28 defendant is required as a condition of employment to drive a motor  
29 vehicle owned or leased by the defendant's employer and that the

1 defendant's driving will not create substantial danger. If the court  
2 imposes probation described by this subsection, the court shall re-  
3 quire the defendant to notify the defendant's employer of the proba-  
4 tion, and shall require that the defendant, while driving the em-  
5 ployer's vehicle, carry a letter from the employer authorizing the  
6 defendant to drive that vehicle.

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

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

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

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

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

1 sentence of imprisonment of not less than 20 consecutive days and a  
2 fine of not less than \$500 if, within the preceding 10 years, the  
3 person has been previously convicted once in this or another jurisdic-  
4 tion of driving while intoxicated under this or another law or ordi-  
5 nance with substantially similar elements or refusal to submit to a  
6 chemical test under AS 28.35.032 or another law or ordinance with  
7 substantially similar elements. Upon conviction under this section  
8 the court shall impose a minimum sentence of imprisonment of not less  
9 than 30 consecutive days and a fine of not less than \$1,000 if, within  
10 the preceding 10 years, the person has been previously convicted in  
11 this or another jurisdiction of more than one of the following offen-  
12 ses or has more than once been previously convicted of one of the  
13 following offenses: (1) driving while intoxicated under this or anothe-  
14 er law or ordinance with substantially similar elements; (2) refusal  
15 to submit to a chemical test under AS 28.35.032 or another law or  
16 ordinance with substantially similar elements. The execution of  
17 sentence may not be suspended nor may probation be granted except on  
18 condition that the minimum imprisonment provided in this section is serv-  
19 Probation may be conditioned as provided in AS 12.55.102. Imposition  
20 of sentence may not be suspended. In addition, if the offense in-  
21 volved driving a motor vehicle for which a driver's license is  
22 required, the person's driver's license shall be revoked in accordance  
23 with AS 28.15.181 and the vehicle used in commission of the offense  
24 may be forfeited under AS 28.35.036. In addition, the court shall  
25 order, and a person convicted under this section shall undertake, for  
26 a term specified by the court, that program of alcohol education or  
27 rehabilitation that the court, after consideration of any information  
28 compiled under (d) of this section, finds appropriate.

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

1 (h) Notwithstanding (c) of this section, if the court imposes  
2 probation under AS 12.55.102 the court may reduce the fine required to  
3 be imposed under (c) of this section by the cost of the ignition  
4 interlock device.

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

6 (g) Upon conviction of a person under this section, the court  
7 shall impose a minimum sentence of imprisonment of not less than 72  
8 consecutive hours and a fine of not less than \$250 if the person has  
9 not been previously convicted in this or another jurisdiction of  
10 driving while intoxicated under AS 28.35.030 or another law or ordi-  
11 nance with substantially similar elements or refusal to submit to a  
12 chemical test under this section or another law or ordinance with  
13 substantially similar elements. Upon conviction under this section the  
14 court shall impose a minimum sentence of imprisonment of not less than  
15 20 consecutive days and a fine of not less than \$500 if, within the  
16 preceding 10 years, the person has been previously convicted once in  
17 this or another jurisdiction of driving while intoxicated under  
18 AS 28.35.030 or another law or ordinance with substantially similar  
19 elements or refusal to submit to a chemical test under this section or  
20 another law or ordinance with substantially similar elements. Upon  
21 conviction under this section the court shall impose a minimum sen-  
22 tence of imprisonment of not less than 30 consecutive days and a fine  
23 of not less than \$1,000, if, within the previous 10 years, the person  
24 has been previously convicted in this or another jurisdiction of more  
25 than one of the following offenses or has more than once been previ-  
26 ously convicted of one of the following offenses: (1) driving while  
27 intoxicated under AS 28.35.030 or another law or ordinance with sub-  
28 stantially similar elements; (2) refusal to submit to a chemical test  
29 under this section or another law or ordinance with substantially

1 similar elements. The execution of sentence may not be suspended nor  
2 may probation be granted except on condition that the minimum impris-  
3 onment provided in this section is served. Probation may be condi-  
4 tioned as provided in AS 12.55.102. Imposition of sentence may not be  
5 suspended. If the offense involved driving a motor vehicle for which  
6 a driver's license is required, the person's driver's license shall be  
7 revoked under AS 28.15.181. In addition, the court shall order, and a  
8 person convicted under this section shall undertake, for a term speci-  
9 fied by the court, that program of alcohol education or rehabilitation  
10 that the court, after consideration of any information compiled under  
11 (h) of this section, finds appropriate. The sentence imposed by the  
12 court under this subsection shall run consecutively with any other  
13 sentence of imprisonment imposed on the committed person.

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

15 (k) Notwithstanding (g) 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 (g) of this section by the cost of the ignition  
18 interlock device.

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

20 (c) The commissioner shall by regulation

21 (1) establish standards for calibration, certification,  
22 maintenance, and monitoring of ignition interlock devices required as  
23 a condition of probation under AS 12.55.102; and

24 (2) establish a fee to be paid by the manufacturer for the  
25 cost of certifying an ignition interlock device.

26 (d) The commissioner shall notify the manufacturer of the igni-  
27 tion interlock device when the device is certified. The commissioner  
28 may not certify an ignition interlock device unless the device promi-  
29 nently displays a label warning that a person circumventing or

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tampering with the device in violation of AS 11.76.140 is guilty of a  
class B misdemeanor.