HB
19

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: February 7, 2006

TO: Representative Meyer

FROM: Mike Pawlowski

RE: Changes to HB 19 in CS HB 19 (STA) (25-LS0133\M)

Changes:

Section 1: No changes.

Section 2: Rewrote lines 4-7 on page 2 to retain the court system's authority to issue a limited license which was repealed by section 6.

Added in subsection (1) (Page 2 lines 12-13) "or a similar municipal ordinance" to ensure that HB 19 applies to convictions under municipal DUI ordinances.

Section 4 & 5: Added new section 4 extending the court's authority to require an ignition interlock device beyond the initial period of probation.

Email: Representative.Kevin.Meyer@legis.state.ak.us • **Toll Free:** (866) 465-4915
Session: State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-4915 Fax: (907) 465-3476
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0199 Fax: (907) 269-0197

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: February 19, 2006

TO: Representative Meyer

FROM: Mike Pawlowski

RE: Changes to CSHB 19 (STA) in CS HB 19 (JUD) (25-LS0133\L)

The CS for HB 19 (25-LS0133\L) includes new language that includes avoiding an ignition interlock device in the affidavit required under section 3 (old section 2), makes conforming changes to the statute and clarifies that attempting to operate a vehicle that is prevented from starting is not considered a violation of the limited license.

Changes:

Section 1: Adds a new section 1 amending AS 11.76.140 to conform existing statute to the new ignition interlock limited license, removes subsection (2) governing rentals and loans, changes the classification of the offense to a class A misdemeanor.

Renumbered sections accordingly

Section 3: (Old Section 2) Changed "that is" on page 2 line 25 to "shall be" and inserted new language on page 2 line 26: "If the ignition interlock device prevents a vehicle from being operated, the person has not violated the requirements of the limited license by attempting to operate the vehicle."

The new language is intended to address 2 AAC 90.230 (A) which gives the division the power to cancel an ignition interlock limited license if the person "attempted to operate a motor vehicle after consuming alcohol sufficient to lock-out the ignition."

Added, on page 3 lines 7-8 a new (B) in the required affidavit giving notice that circumventing or tampering with an ignition interlock device is a violation of AS 11.76.140.

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FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 19(STA)
(H) Publish Date: 2/5/07

Revision Date/Time (Note if correction):
Dept. Affected: DOT&PF
Title: Limited Driver's License
RDU: Planning
Component: Program Development
Sponsor: Rep. Meyer
Requester: House STA
Component No.: 2762

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) If funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Currenlly DOT&PT receives 4121.2 from the National Highway Safety Administration to be spent on alcohol related driving safety programs. If this bill passes, the state will have strict enough statutes to allow this money to come directly from Federal Highway Administration and to be spent on National Highway System, Surface Transportation Program or Interstate Maintenance projects in Alaska.

In Summary this change takes money from the Highway Safety Education program and allows it be used for road construction and major repairs.

Prepared by: Mary Siroky
Phone 465-4772
Division: Commissioner's Office
Date/Time 01/30/07 8:00am
Approved by: John MacKinnon
Date 1/30/2007
Agency: Department of Transportation and Public Facilities

(Revised 9/18/2006 OMB)

HOUSE COMMITTEE REPORT

(11)
Date Referred to Committee: February 21, 2007 — FURTHER REFERRALS:

Date of Committee Action: 3/27/07

The FINANCE Committee considered: HB 19

HOUSE BILL NO. 19 — LIMITED DRIVER'S LICENSES

"An Act relating to ignition interlock limited driver's license privileges."

Recommends it be replaced with [ ] HCS *or* [✓] CS for HB19 (Fin)
For Senate Bills with new title: [ ] *Technical Title* [ ] *New Title: HCR*_____ [✓] Same Title [ ] New Title

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent_____ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LWF
LAW
LEG
MVA
DJR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DOT				✓

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	#2	✓		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Gara	✓			
	FOSTER	XXX			
	CRAWFORD	✓			
	NELSON	✓			
	Thomas	✓			
	Seaton	X			
	Hawker			X	
	STOLTZE			X	
	KELLY			X	
Chair:	Meyer	✓			
Chair:	Chenault	X			

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB019-DOT-PLN-02-03-07
Bill Version: CSHB 19 STA
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: DOT&PF
Title: Limited Driver's License
RDU: Planning
Component: Program Development
Sponsor: Rep. Meyer
Requester: House STA
Component No.: 2762

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

"DOT&PF is currently sanctioned $4,121.2 (3%) from the Federal Highway program, from funding for the National Highway System, Surface Transportation Program and Interstate Maintenance. This sanction is invoked because AK's laws repeat intoxicated driver laws do not meet all required elements of the Section 164 (USC 23). The sanctioned funds are returned to AK under the oversight of the National Highway Traffic Safety Administration, and can only be used on programs that address safety directly, either through targeted highway safety construction projects, or behavioral programs (education, enforcement) that are focused on alcohol related problems. AK DOT&PF is currently spending 50% of the sanction funds on each of these categories. The NHTSA Office of Chief Counsel has issued a written email that HB 19 is not legally sufficient to result in the sanction being removed from the highway program.
In summary, HB 19 would not change the distribution of sanction funds."

Prepared by: Mary Siroky
Phone: 465-4772
Division: Commissioner's Office
Date/Time: 02/03/07 5:00pm
Approved by: John MacKinnon
Date: 2/3/2007
Agency: Department of Transportation and Public Facilities

(Revised 9/16/2006 OMB)

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 19(STA)
(H) Publish Date: 2/5/07

Revision Date/Time (Note if correction):

Dept. Affected: Administration

Title: "An Act relating to ignition interlock limited driver's license privileges."

RDU: Division of Motor Vehicles
Component: Motor Vehicles

Sponsor: Representatives Meyer, Crawford
Requester: (H) STA

Component No.: 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	56.5	56.5	56.5	56.5	56.5	56.5
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	12.0	2.0	2.0	2.0	2.0	2.0
Supplies	0.5	0.5	0.5	0.5	0.5	0.5
Equipment	7.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**76.0**	**59.0**	**59.0**	**59.0**	**59.0**	**59.0**
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	36.0	36.0	36.0	36.0	36.0	36.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1156 Reciept Supported Services	76.0	59.0	59.0	59.0	59.0	59.0
TOTAL	**76.0**	**59.0**	**59.0**	**59.0**	**59.0**	**59.0**

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

This bill will expand the lawful use of a 'limited' driver's license issued to DUI offenders. It will also expand the numbers of persons qualifying for such a license. As such, our FN reflects a conservative estimate of 300 additional customers making application (increasing revenue @ $120. ea) as well as one additional full-time position annually. Also included is a 1-time cost for necessary programming updates to allow our internal system, ALVIN, to process these requests in a manner identifiable to law enforcement agencies.

Prepared by: Duane Bannock, director
Phone 269 5008
Division: Motor Vehicles
Date/Time 1/30/07 4:00pm

Approved by: Kevin Brooks, Deputy Commissioner
Date 1/30/2007
Agency: Department of Administration

(Revised 9/15/2006 OMB)

adopted 3/5

Representative Meyer

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 19(JUD)

Page 3 line 16:

Insert:

(5) The ignition interlock limited license is not granted during the first 30 days of the period of revocation.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: March 23, 2007

TO: Representative Meyer

FROM: Mike Pawlowski

RE: Blank CS for HB 19

The attached blank CS for HB 19 makes substantive changes to the previous versions. The major departure is that rather than attempting to enlarge the sphere of people qualified to apply for a limited license we instead focus on changing the limited license. Below is a comparison of existing law and the new HB 19:

	AS 28.15.201(d)	HB 19 (Section 3)
Authority to Grant:	Court or DMV	Court or DMV
Qualified Offenses:	Misdemeanor DUI	Misdemeanor DUI
Hard Suspension Period:	30 days / 90 days	30 days / 90 days
Enrolled / Completed Treatment:	Yes	Yes
Employed:	Yes	No
Proof of Ignition Interlock Device	No	Yes
Affidavit:	No	Yes
Application Cost:	$100	$120
Ignition Interlock Costs	If required	Yes

The primary differences between the old limited license and the new limited license are:

1. **Where you can drive:**
   a. The old limited license specified a person could only drive to and from work. The ignition interlock limited license allows a person to drive anywhere as long as they have the device installed on their vehicle.

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Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0199 Fax: (907) 269-0197

2. **Employment:**
    a. The old limited license required a person to be employed. The ignition interlock limited license is based on the ignition interlock device and not on whether or not a person is employed.

The blank CS for HB 19 also contains several changes to existing statutes (Sections 1,2,4,5 & 6). The changes are summarized below:

Section 1: Changes existing AS 11.76.140 (*Avoidance of an Ignition Interlock Device*) by elevating the offense for tampering with an ignition interlock device to a class A misdemeanor from an unclassified offense. Section 1 also clarifies the mental states governing whether or not a person violates AS 11.76.140 when renting or loaning a vehicle to a person that is required to have an ignition interlock device.

Section 2: Adjusts the existing limited license (AS 28.15.201(d)) allowing a person to apply to the courts for the old type of limited license if they cannot reasonably get an ignition interlock device installed on their vehicle.

Section 4: Makes conforming changes to the driving while license suspended or revoked statute.

Section 5 & 6: Requires the court to make findings regarding whether or not a person should be required to have an ignition interlock device on their vehicle throughout the period of their probation.

adopted 3/5

25-LS0133\L.3
Luckhaupt
3/2/07

AMENDMENT 2 By: Rep. Meyer

OFFERED IN THE HOUSE

TO: CSHB 19(JUD)

Page 1, line 4, through page 2, line 6:

Delete all material and insert:

"* **Section 1.** AS 11.76.140 is amended to read:

Sec. 11.76.140. Avoidance of ignition interlock device. (a) A person **commits the crime of avoidance of ignition interlock device if the person** [MAY NOT] knowingly

(1) **circumvents** [CIRCUMVENT] or **tampers** [TAMPER] with an ignition interlock device in a manner intended to allow a person on probation **under AS 12.55.102, with a condition of sentence** under AS 12.55.102**, or who has an ignition interlock limited license** to avoid using the device; [OR]

(2) **rents** [RENT, LOAN, OR LEASE] a motor vehicle to a person **and with criminal negligence disregards the fact that the person is** on probation **under AS 12.55.102, has a condition of sentence** under AS 12.55.102, **or has an ignition interlock limited license,** unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102**; or**

Knowingly

(3) loans a motor vehicle to a person and ~~recklessly~~ disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102.

(b) Avoidance of ignition interlock device

(1) under (a)(1) of this section is a class A misdemeanor;

(2) under (a)(2) or (3) of this section is [NOTWITHSTANDING

AS 11.81.250, A PERSON CONVICTED OF VIOLATING THIS SECTION IS GUILTY OF] a **class B** misdemeanor **and is punishable by a term of imprisonment of not more than** [THE MAXIMUM TERM OF IMPRISONMENT THAT MAY BE IMPOSED IS] 30 days and **a** [THE MAXIMUM] fine **of not more than** [THAT MAY BE IMPOSED IS] $500."

Withdrawn 3/5

25-LS0133\L.4
Luckhaupt
3/5/07

AMENDMENT 3

OFFERED IN THE HOUSE BY REPRESENTATIVE GARA

TO: CSHB 19(JUD)

Page 2, following line 19:

Insert a new bill section to read:

"* **Sec. 3.** AS 28.15.201(d) is amended to read:

(d) **Notwithstanding (f) of this section, in cases where a person does not live in a place connected by public highway to a business that installs interlock devices and it is not feasible for the person to have an interlock device installed, a person may apply to the** [A] court revoking **the** [A] driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking **the** [A] driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), **for limited license privileges, and the court or department** may grant limited license privileges if

(1) the revocation was for a misdemeanor conviction under AS 28.35.030(a) and not for a violation of AS 28.35.032;

(2) the person has

(A) not been previously convicted and the limited license is not granted during the first 30 days of the period of revocation;

(B) been previously convicted, the limited license is not granted during the first 90 days of the period of revocation, and

(i) the person has successfully completed a court-ordered treatment program under AS 28.35.028 or former AS 28.35.030(p); or

(ii) the court or department requires the person to use an ignition interlock device during the period of the limited license;

(3) the court or the department determines that

(A) the person's ability to earn a livelihood would be severely impaired without a limited license; or

(B) the person has successfully completed a court-ordered treatment program described under AS 28.35.028 or former AS 28.35.030(p) and the person's ability to earn a livelihood, attend school, or provide for family health would be severely impaired without a limited license;

(4) the court or the department determines that a limitation under (a) of this section can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public;

(5) the court or the department determines that the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h); and

(6) the person has not been previously convicted under AS 28.15.291(a)(2), AS 28.35.030, or 28.35.032 while driving or operating a vehicle, aircraft, or watercraft under a limited license issued under this section."

Renumber the following bill sections accordingly.

Page 3, line 28:

Delete "**AS 28.15.201(f)** [AS 28.15.201(d)]"

Insert "AS 28.15.201(d) **or (f)**"

Page 4, line 4:

Delete "**AS 28.15.201(f)** [AS 28.15.201(d)]"

Insert "AS 28.15.201(d) **or (f)**"

Page 5, line 2:

Delete "AS 28.15.201(d) and 28.15.201(e) are"

Insert "AS 28.15.201(e) is"

withdrawn 3/5

Amendment 4

By Representative Gara

On Page 3, line 15:

After "license."

Insert:

"The court may not provide the grant of this privilege to the person if it would, under all the circumstances, endanger the public's safety."

adopted 3/27/07

25-LS0133\N
Luckhaupt
3/20/07

CS FOR HOUSE BILL NO. 19( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MEYER, Crawford, Gruenberg, Gara

A BILL

FOR AN ACT ENTITLED

"An Act relating to ignition interlock devices; to limited driver's license privileges; and to ignition interlock limited driver's license privileges."

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

* Section 1. AS 11.76.140 is amended to read:

Sec. 11.76.140. Avoidance of ignition interlock device. (a) A person commits the crime of avoidance of ignition interlock device if the person [MAY NOT] knowingly

(1) circumvents [CIRCUMVENT] or tampers [TAMPER] with an ignition interlock device in a manner intended to allow a person on probation under AS 12.55.102, with a condition of sentence under AS 12.55.102, or who has an ignition interlock limited license to avoid using the device; [OR]

(2) rents [RENT, LOAN, OR LEASE] a motor vehicle to a person and with criminal negligence disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an

ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102**; or**

(3) loans a motor vehicle to a person and knowingly disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102.

(b) **Avoidance of ignition interlock device**

(1) under (a)(1) of this section is a class A misdemeanor;

(2) under (a)(2) or (3) of this section is [NOTWITHSTANDING AS 11.81.250, A PERSON CONVICTED OF VIOLATING THIS SECTION IS GUILTY OF] a **class B** misdemeanor **and is punishable by a term of imprisonment of not more than** [THE MAXIMUM TERM OF IMPRISONMENT THAT MAY BE IMPOSED IS] 30 days and **a** [THE MAXIMUM] fine **of not more than** [THAT MAY BE IMPOSED IS] $500.

* **Sec. 2.** AS 28.15.201(d) is amended to read:

(d) **Notwithstanding (f) of this section, in cases where a person cannot reasonably have an ignition interlock device installed, a person may apply to the** [A] court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), [OR THE DEPARTMENT WHEN REVOKING A DRIVER'S LICENSE, PRIVILEGE TO DRIVE, OR PRIVILEGE TO OBTAIN A LICENSE UNDER AS 28.15.165(c),] **for limited license privileges, and the court** may grant limited license privileges if

(1) the revocation was for a misdemeanor conviction under AS 28.35.030(a) **or a similar municipal ordinance** and not for a violation of AS 28.35.032;

(2) the person has

(A) not been previously convicted and the limited license is not granted during the first 30 days of the period of revocation;

(B) been previously convicted, the limited license is not granted during the first 90 days of the period of revocation, and

[(i)] the person has successfully completed a court-ordered treatment program under AS 28.35.028 or former AS 28.35.030(p); [OR

(ii) THE COURT OR DEPARTMENT REQUIRES THE PERSON TO USE AN IGNITION INTERLOCK DEVICE DURING THE PERIOD OF THE LIMITED LICENSE;]

(3) the court [OR THE DEPARTMENT] determines that

(A) the person's ability to earn a livelihood would be severely impaired without a limited license; or

(B) the person has successfully completed a court-ordered treatment program described under AS 28.35.028 or former AS 28.35.030(p) and the person's ability to earn a livelihood, attend school, or provide for family health would be severely impaired without a limited license;

(4) the court [OR THE DEPARTMENT] determines that a limitation under (a) of this section can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public;

(5) the court [OR THE DEPARTMENT] determines that the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h); and

(6) the person has not been previously convicted under AS 28.15.291(a)(2), AS 28.35.030, or 28.35.032 while driving or operating a vehicle, aircraft, or watercraft under a limited license issued under this section.

* **Sec. 3.** AS 28.15.201 is amended by adding a new subsection to read:

(f) A court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant ignition interlock limited license privileges. Ignition interlock limited license privileges allow the person to operate a vehicle on which an ignition interlock device has been installed and shall be identified on the limited license certificate issued by the court or department to the person. If the ignition interlock device prevents a vehicle

from being operated, the person has not violated the requirements of the limited license by attempting to operate the vehicle. The court or department may grant ignition interlock limited license privileges if

(1) the revocation was for a misdemeanor conviction under AS 28.35.030 or a similar municipal ordinance and not for a violation of AS 28.35.032;

(2) the person

(A) has not been previously convicted and the limited license is not granted during the first 30 days of the period of revocation; or

(B) has been previously convicted and the limited license is not granted during the first 90 days of the period of revocation;

(3) the person provides proof of installation of the ignition interlock device on every vehicle the person operates;

(4) the person signs an affidavit acknowledging that

(A) operation by the person of a vehicle that is not equipped with an ignition interlock device is subject to penalties for driving with a revoked license;

(B) circumventing or tampering with the ignition interlock device is a class A misdemeanor; and

(C) the person is required to maintain the ignition interlock device throughout the period of the limited license, to keep up-to-date records in each vehicle showing that any required service and calibration is current, and to produce those records immediately on request;

(5) the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h);

(6) the person provides proof of insurance as required by AS 28.20.230 and 28.20.240; and

(7) the person has not previously been convicted of violating the limitations of an ignition interlock limited license.

* **Sec. 4.** AS 28.15.291(b) is amended to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(1), or if the person was driving in violation of a limited license issued under AS 28.15.201(d) **or (f)** following that revocation, of not less than 20 days with 10 days suspended, and a fine of not less than $500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a limited license issued under AS 28.15.201(d) **or (f)** following that revocation, of not less than 30 days and a fine of not less than $1,000;

(2) may impose additional conditions of probation;

(3) may not

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence;

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges; and

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036.

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

(u) When a defendant is convicted under this section, the court shall consider the use of an ignition interlock device as provided in AS 12.55.102 and shall make findings concerning the decision. The court shall require the use of an ignition interlock device for the entire period of probation or sentence or a portion thereof, when its use is consistent with the purposes stated in AS 12.55.005 and as needed to protect public safety.

* **Sec. 6.** AS 28.35.032 is amended by adding a new subsection to read:

(u) When a defendant is convicted under this section, the court shall consider the use of an ignition interlock device as provided in AS 12.55.102 and shall make findings concerning the decision. The court shall require the use of an ignition interlock device for the entire period of probation or sentence or a portion thereof, when its use is consistent with the purposes stated in AS 12.55.005 and as needed to protect public safety.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISION. A person convicted of a misdemeanor violation of AS 28.35.030 before the effective date of this Act who has a limited license issued under or is eligible to receive a limited license under AS 28.15.201(d), as that subsection read on the day before the effective date of this Act, may continue to use that limited license or may receive a limited license as provided in AS 28.15.201 as that section read on the day before the effective date of this Act and is subject to penalties for violating the limitations on that license as provided in AS 28.15.291 as that statute read on the day before the effective date of this Act.

* **Sec. 8.** This Act takes effect January 1, 2008.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement HB 19

"An Act relating to ignition interlock limited driver's license privileges."

Currently, a person convicted of driving under the influence has been able to get a limited driver's license from the Division of Motor Vehicles so that they can continue to drive and to earn a living. The limitation currently placed on a license focuses primarily on where a person can drive. House Bill 19 shifts the emphasis from where a person can drive to how a person can drive by changing the type of limited license available to an offender from the traditional limited license to an ignition interlock limited license.

An ignition interlock limited license requires an offender to install and maintain an ignition interlock device on the vehicle they intend to drive. An ignition interlock device analyzes a person's blood alcohol content and prevents the car from being started if the person's blood alcohol level is above a set level. The license allows the offender to drive only the vehicle on which the device is installed. Under HB 19, driving another vehicle is considered the same as driving with a revoked license and that vehicle can be forfeited to the state.

Several states require ignition interlock devices for DUI offenders and studies suggest that ignition interlock devices lead to a substantial decline in recidivism, particularly for offenders with multiple DUI's. More importantly, an ignition interlock device prevents an intoxicated person from starting their car and thereby keeps a potential drunk driver off the road. With an ignition interlock device – if you can't blow, you can't go.

(Updated 1/16/2007)

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State of Alaska

Department of

Public Safety

Sarah Palin, Governor
Walt Monegan, Commissioner

February 22, 2007

The Honorable Kevin Meyer
House of Representatives
Alaska State Capitol, Rm 515
Juneau, AK 99801-1182

Dear Representative Meyer:

Re: HB 19

The Alaska Department of Public Safety (DPS) supports HB 19 to enhance current law regarding limited driver's license privileges and ignition interlock devices.

Currently, at least 46 states and the District of Columbia have laws that require some offenders to drive only if their vehicles have been equipped with ignition interlocks.[1] In neighboring Canada, one province that has implemented ignition interlocks is showing a reduction in the repeat DWI rate by 80% during the first 12 months for first-time offenders and by 74% during the first 24 months among repeat offenders.[2]

Studies have shown that about one-third of all drivers arrested or convicted of driving under the influence of alcohol are repeat offenders (Fell,1995). In addition, the risk of a driver who has one or more DWI convictions becoming involved in a fatal crash is about 1.4 times the risk of a driver with no DWI conviction (NHTSA, 2000).

The Department of Public Safety is committed to increasing safety on Alaska's highways and supports passage of HB 19 as a means of reducing impaired driving.

Sincerely,

Walt Monegan
Commissioner

[1] Insurance Institute for Highway Safety
[2] http://www.interlockdevice.com/r3.htm

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MADD
Activism | Victim Services | Education

Ignition Interlock - Issue Brief

Overview | *Take Action* | *Related Issues* | *Resources*

Overview

Repeat offenders are a significant portion of the drunk driving problem – about one-third of all DUI arrests each year are of people who have been convicted previously of driving under the influence. (*Fell, 1995*) Considering that between 50 and 75 percent of those whose licenses are suspended or revoked as the result of driving under the influence continue to drive without their license, (*Nichols and Ross, 1990*) (*Voas and Tippetts, 1994*) *revoking a license* is good, but not always enough.

Ignition interlocks prevent people who have alcohol in their system from driving a car. An operator breathes into an interlock device to determine blood alcohol concentration. If there is measurable alcohol in the blood, the vehicle does not start.

As one might expect, this stops offenders from re-offending while the interlock device is on the vehicle. Interlocks have been shown to be effective in Maryland (*Beck, 1999*), Alberta (*Voas, et al. 1999*), California (*Tashima and Helander, 1999*), and elsewhere (*Weinrath, 1997*) (*Coben, 1999*) with results ranging from 50 to 90 percent reductions in subsequent offenses by those offenders who were assigned interlock devices, compared with those who were not.

While interlocks are not the only solution, as offenders tend to go back to their old ways once the device is off of the vehicle, they certainly keep the roads safer while these devices are in place.

Take Action

Thirty-one states and the District of Columbia have not yet made interlock interlocks mandatory. Alabama, Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, West Virginia, Wisconsin, and Wyoming. If you are from one of these states

Related Issues

Resources

- *Official Position Statement*
- *State Laws*
- Studies
  - *MADD's Impaired Driving Summit Report (PDF)*
  - Beck, KH, et al. "Effects of Ignition Interlock License Restrictions on Drivers with Multiple Alcohol Offenses: A Randomized Trial in Maryland." American Journal of Public Health, 89 vol. 11 (1999): 1696-1700. (*Click here*)
  - Coben, Jeffrey, and Gregory Larkin. "Effectiveness of Ignition Interlock Devices in Reducing Drunk Driving Recidivism." American Journal of Preventive Medicine 16 vol. 1S (1999): 81-87. (not yet online)
  - Fell, Jim. "Repeat DWI Offenders in the United States." Washington, DC: National Department of Transportation, National Highway Traffic Safety Administration Traffic Tech No. 85, February 1995. (*Click here*)
  - National Highway Traffic Safety Administration. "Repeat DWI Offenders Are an Elusive Target." Washington, DC: National Department of Transportation, National Highway Traffic Safety Administration Traffic Tech No. 217, March 2000. (*Click here*)
  - Nichols, James, and H. Lawrence Ross. "The Effectiveness of Legal Sanctions in Dealing with Drinking Drivers." Alcohol, Drugs and Driving 6(2) (1990): 33-55. (*Click here*)
  - Peck, R.C., R. J. Wilson, and L. Sutton. "Driver License Strategies for Controlling the Persistent DUI Offender," Strategies for Dealing with the Persistent Drinking Driver. Transportation Research Board, Transportation Research Circular No. 437. Washington, DC: National Research Council (1995): 48-49. (not yet online)
  - Tashima, H.N., and C.J. Helander. 1999 Annual Report of the California DUI Management Information System. Sacramento, CA: California Department of Motor Vehicles Research and Development Section, 1999. (not yet online)
  - Voas, Robert, et al. "Alberta Interlock Program: The Evaluation of a Province-Wide Program on DUI Recidivism." Addiction 94 vol. 12 (1999): 1849-1859. (not yet online)
  - Voas, Robert and A. Scott Tippetts, A.S. "Unlicensed Driving by DUIs - A Major Safety Problem?" TRB ID No. CR077. Paper presented at the 73rd Annual Meeting, Transportation Research Board, Landover, MD, (1994, January 9-13). (not yet online)
  - Weinrath, M. "Ignition Interlock Program for Drunk Drivers: A Multivariate Test." Crime and Delinquency 43 vol. 1 (1997): 42-59. (not yet online)
- [illegible]'s
  - [illegible] "Ignition Interlock Requirements for Convicted Drunk Drivers." As of July 2003. ( )
- Testimony
  - Wendy Hamilton's testimony before the Senate Appropriations Committee, May 22, 2003. ( )
  - Wendy Hamilton's testimony before the Senate Commerce, Science & Transportation Committee, May 22, 2003 ( )
- [illegible] Releases

- "Florida Legislature Adopts Stricter DUI Laws", Mothers Against Drunk Driving Press Release. April 3, 2002. (*Click here*)

MADD
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MADD's Positions on Sanctions

Position:

License Plate/Vehicle Impoundment and Confiscation
Administrative License Revocation
Progressive Sanctions
Mandatory Confinement for Repeat Offenders
Minimum Security DWI/DUI/ Facilities
Anti Charge Reduction
Equal Penalties
DWI Tracking Systems
Probationary Technology
Ignition Interlock Devices

License Plate/Vehicle Impoundment And Confiscation
MADD advocates confiscating (or impounding) vehicles or plates from the vehicles of habitual impaired drivers or those who drive while under driver's license suspension or revocation, where the suspension or revocation was the result of driving under the influence or any other alcohol related driving offense.

Administrative License Revocation
MADD advocates implementation of administrative drivers license revocation or suspension laws for drivers whose blood alcohol content exceeds the legal limit defined by law.

Progressive Sanctions
MADD advocates a two-track system of penalties applied in both the administrative and criminal justice systems. Designed to reduce impaired driving by repeat offenders and deter those who have not been detected, the system will administer progressively more severe sanctions to deter offenders who have not been detected and reduce recidivism of those who have been detected.

Mandatory Confinement for Repeat Offenders
MADD favors confinement which cannot be suspended or probated for those convicted more than once of driving while under the influence. Drunk driving is a crime, and continued incidence of such offenses warrants the punitive effect of a certain jail sentence. Making the sentence mandatory removes the uncertainty and increases deterrent value of the sanction.

Minimum Security DWI/DUI/ Facilities
MADD calls for the development of special minimum security facilities for incarceration of convicted DWI/DUI offenders which include assessment and treatment while incarcerated.

Anti Charge Reduction
MADD believes that all arrests for DWI/DUI offenses should be prosecuted as charged rather than be allowed to negotiate to a lesser offense, especially a non-alcohol related offense.

Equal Penalties
MADD believes that all impaired driving violations resulting in death or serious bodily injury, as well as leaving the scene of a crash, should be felonies. The penalties for these offenses should be equal.

DWI Tracking Systems

MADD supports the implementation of integrated DWI tracking systems that record pertinent information on DWI offenses from arrest to final disposition by the courts and driver license agencies. Tracking systems should include arrest records from all police agencies, prosecution court deposition and driver licensing records and should be accessible by all law enforcement agencies and courts.

Probationary Technology
MADD supports investigation and evaluation of new scientific technology designed to prevent individuals form driving under the influence of alcohol, such as ignition interlock device; however MADD does not support the use of such technology as a substitute for appropriate traditional penalties and sanctions for drunk driving, such as license revocation and jail sentences.

Ignition Interlock Devices
MADD supports the use of ignition interlock devices as an additional penalty and sanction for drunk driving offenders. The use of such devices should be in addition to normal sanctions such as fines, license sanctions and jail sentences. MADD supports laws that would require that offenders install these devices on their vehicles during probationary periods and as a prerequisite to being issued a limited driving permit or a probationary or restricted license, where such restricted permits are permitted by law.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 16, 2007

TO: Representative Kevin Meyer

FROM: Mike Pawlowski

RE: Sectional Analysis for HB 19
(Version No. 25 – LS0133\E)

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Removes the suspension provision in order to allow early application for an ignition interlock limited license.

Section 2. Creates and establishes requirements for an ignition interlock limited license.

Section 3. Specifies that a person caught violating the provisions of an ignition interlock limited license is subject to 28.15.291 (driving with a suspended or revoked license) and subjects the vehicle in violation to forfeiture.

Section 4. Repeals the existing limited license provisions for DUI convictions in 28.15.201(d) & (e) to allow for the ignition interlock limited license created in section 3.

Section 5. Transitional provision allowing a person convicted prior to the passage of HB 19 to continue to use their limited license.

Section 6. January 1, 2008 effective date.

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Blow and go: the breath-analyzed ignition interlock device as a technological response to DWI - driving while intoxicated

Andrew Fulkerson — judge

BACKGROUND

In the last two decades, the crime of driving while intoxicated (DWI) has been one of the most visible of criminal or traffic related offenses. For many years, until the 1980s, the violation of laws prohibiting the operation of motor vehicles while under the influence of alcohol was not pursued with the same degree of enthusiasm with which they are at the present.

The activist organization, Mothers Against Drunk Driving (MADD), was formed in 1980 as a part of a grassroots campaign to get impaired drivers off of the roadways of America (1). Citizen involvement by groups such as MADD and others resulted in campaigns to increase the minimum drinking age in states that permitted drinking under the age of 21, passage of "dramshop" laws that make sellers of alcohol liable for damages sustained by persons injured by drunk drivers, and programs to make the public more aware of the dangers of driving under the influence (2).

This groundswell of public opinion worked in tandem with legislative reforms to produce significant decreases in alcohol-related crashes. In fact, the public opinion campaign is thought to be so important and effective, that it, in and of itself, should be viewed as an intervention completely separate and apart from the legislative enactments that changed the law and procedure of DWI/DUI offenses in the early 1980s (1).

The United States Department of Justice, Bureau of Justice Statistics, reports a substantial decrease in the DWI arrest rate. The arrest rate per 100,000 drivers fell from 1124 in 1986 to 809 in 1997 (3). This is an impressive decline of 28% in a little over a decade (see Table 1). Thus, it may appear that there has been a positive cumulative effect from a combination of the changing social and cultural climate regarding drinking and driving and the increased attention from law enforcement and the courts.

Much of the public opinion regarding drunken driving mentioned above has supported a "get tough" approach to handling DWI cases. In keeping with this sentiment, the number of persons in jail, prison, or on probation for DWI has increased from 270,100 in 1986 to 513,200 in 1997 (3).

TECHNOLOGICAL RESPONSE TO DWI OFFENSES

The handling of cases involving driving under the influence has become increasingly dependent on technology. Examples include the use of blood and breath tests to establish impairment. The level of alcohol in the system has been measured in terms of blood-alcohol content (BAC). Two pioneer studies that examined the relationship between BAC and its relationship to automobile crashes were the Manhattan Study and the Grand Rapids Study. The Manhattan Study found that alcohol increased the risk of a fatal vehicular crash (4). The Grand Rapids Study produced the "relative risk curve," which predicts the increased likelihood of being involved in an automobile crash at increasing BAC levels (5).

Persons can be, and often are, found guilty of DWI without scientific evidence of the person's BAC through testimony of eyewitnesses who provide evidence of the defendant's demeanor, physical appearance, speech patterns, and driving skill. However, this evidence will often not be enough in close cases where the defendant is not obviously under the influence of

alcohol. As a result, courts began to rely on objective scientific evidence of impairment.

Blood-alcohol content is measured in milligrams of ethanol per milliliters of whole blood. Until recently, most states had laws establishing the BAC level of 100 mg of ethanol per 100 mL of whole blood (0.10 g/dL) as the point at which an individual is incapable of safely operating a motor vehicle. However, it has been reported that even low-dose BAC's (under 0.05) will impair the visual perception, acuity, and complex reaction times of subjects (6). Thus, it could be argued that there is no "safe level" of alcohol in one's system in terms of safely operating motor vehicles. In response to this factor, many states have reduced the "guilty per se" limit to a BAC of 0.08. The federal government has encouraged this change by making the availability of certain highway funding contingent on moving to this lower BAC limit.

Early scientific tests for determining BAC were based on venous blood samples. Alcohol found in the breath of subjects was found to correlate to levels found in venous blood, and the National Safety Council Committee on Alcohol and Drugs recommended the use of breath testing in impaired driving cases in 1953 (6).

The Breathalyzer was developed for use by law enforcement by Robert Borkenstein in 1954. This machine measures the BAC of persons based on breath samples. Because the taking of breath samples is much less intrusive and expensive than sampling blood, the breath test soon became the accepted method for establishing the blood-alcohol level of suspected drunk drivers (7). There are presently several machines that provide breath analysis for law enforcement agencies on the market.

In addition to the use of modern scientific technology for evidentiary purposes, technology may also be used in such a manner as to prevent offenses. Such preventive technology has been considered since before 1970 (8,9). This preventive technology seeks to fill the quest for a "car that drunks can't drive" (8,10).

Early devices included locking systems that required the driver to enter a numerical code in the proper sequence before the vehicle would start. This, and other exercises, called critical tracking tasks (CTT), met with only limited success. In-vehicle breath testing was initially found to be impractical due to concerns over reliability and circumvention. Eventually, the technology of breath testing improved and was found to be reliable (11). But circumvention remained a problem (7). Some methods of circumventing the interlock included giving stored breath samples. When features that reduced the possibility of cheating were introduced, the modern breath-analyzed ignition interlock device emerged. Now, the most frequent method of "circumvention" by offenders is the operation of a vehicle that is not equipped with the interlock (12). The interlock device itself is not circumvented, but the court order requiring the use of the device is violated.

This device is installed in the ignition system of a motor vehicle. An interlock device typically uses a handheld unit connected by a wire to the analyzer unit mounted under the dash (7). The driver must give a breath sample that does not have the presence of alcohol in excess of a predetermined threshold amount. An excessive amount of alcohol in the driver's breath sample will prevent the ignition system from starting the vehicle. A "fail" BAC level will prevent the vehicle from being started for a predesignated time, usually 30 min. The ignition interlock will not prevent a person from drinking, nor will the device prevent a person from driving. But it will prevent one from drinking and driving in a particular vehicle. It has been observed that the ignition interlock is "designed to control the intersecting risk behaviors (drinking and driving) rather than either behavior separately" (13).

The ignition interlock is typically required as a part of an offender's sentence as imposed by the trial judge following a conviction for driving under the influence of alcohol. The offender is under court order not to drive any motor vehicle that is not equipped with an interlock system. The interlock system can also be programmed to require subsequent breath samples, called "rolling re-tests," which are used to deter an impaired driver from attempting to get his or her vehicle started with the aid of a sober person. If not for this feature, a person under the influence of alcohol could have a friend provide the initial sample to get the car started and then drive to his or her desired destination. The driver must continue to give breath samples

even while the vehicle is in motion. A failure of the test while the vehicle is in motion does not cause the vehicle to stop for safety concerns. A retest failure causes the lights to flash and the horn to honk until the driver stops the vehicle. At that point, the vehicle is shut down and will not start again until such time as a "passing" breath sample is provided. These retests should also deter a driver from consuming alcohol while driving. The ignition interlock system records data of all tests and is downloaded at periodic intervals by technicians.

Studies have shown that the ignition interlock is effective in reducing recidivism rates among persons who have an interlock device in their vehicle (14). The Beck study conducted in Maryland reported that offenders in interlock programs have reduced their risk of being involved in an "alcohol traffic violation" within 1 year (13).

A 30-month longitudinal study of the interlock and its effect on recidivism in Ohio showed that a group of drivers who were sentenced to drive with an interlock device experienced a 65% decrease in the probability of a subsequent drunken driving arrest than a comparison group that was not required to use the interlock (15). The ignition interlock has been described as having an educational component in that it "requires the driver to change life habits related to drinking and driving" (16). It may also include rehabilitative features. The machine provides instant feedback to the offender. If one has consumed enough alcohol to exceed the preset BAC limit, then the vehicle will not start. This feature gives the offender the chance to learn how much alcohol consumption is unacceptable prior to driving (10,16).

This study will examine whether the ignition interlock results in a reduction in subsequent convictions of persons convicted of DWI in one court jurisdiction. It will also consider both the deterrent and rehabilitative effect of the interlock as a part of DWI sentences.

STUDY METHODOLOGY

Greene County, Arkansas, is a rural community in Northeast Arkansas with a population of approximately 35,000. Craighead County is an adjoining county with a population of approximately 75,000. Both counties have experienced significant growth in population and industry in recent years. The county seats of each county are only 20 miles apart and are in the same judicial circuit. According to Census 2000 of the U.S. Census Bureau, Greene County is 97% white, 69.5% of its residents are 21 years of age or older, and 72.6% reside in family households. Craighead County is 89.3% white, 69.5% 21 years of age or older, and 68.4% reside in family households.

To evaluate the effectiveness of the interlock system, court records in Greene County were examined to determine the identities of all cases of DWI for the first 14 months of the program (May 1, 1995 though June 30, 1996). This group included 315 offenders. From this group of 315 offenders, a total of 178 actually installed an interlock device on their vehicle. Of the 137 persons who failed to comply, many had no vehicle and made other arrangements for transportation. We must realistically presume that some were driving non-interlock-equipped vehicles. However, all will continue to have the requirement of an interlock device as a restriction on their license until such time as this requirement is completed.

A comparison group of 6 months of offenders in adjoining Craighead County was then identified. This time frame was January 1, 1996 through June 30, 1996. This group was made up of 312 persons. The study population consisted of all DWI offenders in the two courts for the applicable time periods. The Office of Driver Control of the State of Arkansas provided the driving history of all persons in the experimental and comparison groups for a period of 3 years after their conviction dates.

The treatment group subjects were required to use the interlock for time periods of either 6 or 12 months. The 3-year study period provides for examination of recidivism following the removal of the interlock from the subject's vehicle. One criticism of other studies of the ignition interlock is that most only examine recidivism during the time that the interlock is actually in the offenders' vehicle (14). Inasmuch as treatment subjects were required to use the interlock for 6 or 12 months and their driving

even while the vehicle is in motion. A failure of the test while the vehicle is in motion does not cause the vehicle to stop for safety concerns. A retest failure causes the lights to flash and the horn to honk until the driver stops the vehicle. At that point, the vehicle is shut down and will not start again until such time as a "passing" breath sample is provided. These retests should also deter a driver from consuming alcohol while driving. The ignition interlock system records data of all tests and is downloaded at periodic intervals by technicians.

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and criminal records were examined for 3 years following the installation of the interlock, this study has the benefit of at least 2 years of rearrest history after the removal of the device.

The interlock provider for Greene County offenders also reviewed data obtained from interlock devices regarding the blood alcohol level found in breath samples of interlock clients for the time frame from which Greene County offenders were selected.

LIMITATIONS OF STUDY

This study must be viewed as being somewhat limited. Readers are cautioned regarding generalizing data on a nationwide basis due to the fact that this project contains a small study population. The study also suffers from a similar problem for which other studies have been criticized; it is not based on a random experimental design (16). However, an experimental design will be difficult to achieve because most judges will be reluctant to assign offenders randomly to the interlock device. The interlock is, in and of itself, a substantial penalty. Judges will not want to impose this punishment on a random basis, which punishes half of the offenders in this manner while not punishing the other half on the basis of nothing more than the luck of when their case was docketed. Judges strive for fairness in sentences, believing that similarly situated persons should be treated in a similar manner. The random assignment of this form of punishment runs contrary to this principle. When judges impose a treatment procedure as a part of a sentence, they do not want to withhold this component of the sentence on pure random chance.

The differences in experimental and control groups could be addressed in future studies by assigning 100 consecutive subjects to an experimental group and the next 100 consecutive subjects to a control group. This method of group assignment may be more acceptable to a sentencing judge than pure random assignment.

FINDINGS

Recidivism Rates

The experimental group of DWI offenders who were required to drive only when using the interlock device experienced a lower rate of DWI recidivism than did the comparison group. Of the 315 offenders in the Greene County experimental group, 55 (17.5%) were convicted of a subsequent DWI within 3 years. The control group of 312 offenders whose group was not exposed to the ignition interlock produced 79 (25.3%) offenders who had subsequent DWI convictions within the 3-year follow-up period (see Table 2).

This is a 31% decrease in recidivism rates after 3 years for the interlock group subjects. What is the measure of association between the independent variable of interlock use and the dependent variable of recidivism? The two variables produce a Phi of only 0.096, which must be described as a weak to moderate relationship.

Length of time for use of the interlock had no effect on recidivism. As mentioned above, some offenders were required to drive with the ignition interlock for a period of 6 months, while others were sentenced to an interlock term of 1 year. The 6-month interlock users and 12-month interlock users had almost identical recidivism rates. This could be attributed to the fact that 12-month interlock users tended to be offenders who were convicted of multiple DWI offenses—a group that may be more difficult to reach through treatment or punishment.

Survival Rates

The subject groups were followed for 3 years subsequent to their offense dates for the purpose of comparing survival data. For the interlock group, 4.1% of the subjects had been charged with another DWI offense at the end of 6 months, compared to 8%

of the control group subjects. Thus, the interlock group had a 6-month survival rate of 95.9%, whereas the control subjects had a 92% survival rate at this point. At 1 year, the interlock group had a 92.4% survival rate compared with 85.3% rate for the control group. At 18 months, the survivors were 88.9% for the interlock subjects and 80.8% for the control group offenders. This point marked the largest spread between the two groups. After 24 months, 85.4% of the interlock group remained free of additional DWI charges compared to 78.2% of the control subjects. At 36 months, the gap narrowed to 81.3% of the 1995-1996 interlock group surviving 3 years without subsequent DWI charges compared with 74.7% of the Craighead County control group.

The 1995-1996 interlock group had higher survival rates at all time periods. Both groups showed declining survival rates with the lowest being at the 3-year mark. It is noteworthy that the spread between the two groups increased with the passage of time, peaking at a difference of 8.1% points after 18 months. Even a year or more after the device is removed, subjects were exhibiting continued reductions in reoffense rates. However, the difference between the two groups declined sharply at the 24- and 36-month intervals. This may indicate lessening long-term benefit of the interlock, with the increased passage of time after removal of the device (see Table 3).

Compliance with Interlock Requirement

As mentioned previously, of the 315 cases in 1995-1996 where the offenders were ordered to install an interlock in their vehicle, 178 of the offenders complied with the court's order and 137 did not comply. Thus, only a little mo. than half (57%) completed the interlock requirement of their sentence. This compliance rate is consistent with that found in the Maryland study by Beck, Rauch, and Baker (13). Those who did not comply with the interlock requirement will continue to have the requirement of an interlock as a restriction on their driver license until such time as they have completed this part of the sentence.

Any reduction in future offenses is desirable. However, the overall recidivism rate for the interlock subjects is not substantially better than the non-interlock group. As noted above, the recidivism rate for the interlock group was 17.5% compared to the comparison group rate of 25.3%, with a Phi of 0.096 and a significance level of 0.016, indicating a weak to moderate relationship. However, when we control for whether the interlock group subject is a first offender or a multiple DWI offender, the differences become more pronounced. First offenders experienced a 17.2% recidivism rate for interlock group, compared to a 21.1% recidivism rate for the comparison group. The Phi value is 0.048, indicating a weak relationship. This, of course, is an improvement, but not substantial. In contrast, the multiple offenders in the interlock group had a reoffense rate of 18.1%, whereas the non-interlock group had a recidivism rate of 36.9%. The Phi value for the multioffender variable was 0.211, indicating a moderate to strong relationship. The multioffenders in the group not subjected to the interlock were more than twice as likely to have a subsequent DWI conviction within 3 years than the repeat offenders who were subject to the interlock requirement. This suggests that the interlock may be most effective when selectively used (see Table 4).

Controlling for age of the offender also produced interesting results. Offenders under 30 years of age showed much greater improvement in recidivism rates than did the over 30 offenders. The interlock group under age 30 experienced a recidivism rate of 12.2% compared to an under 30 comparison group rate of 23.3%. The interlock group subjects over 30 had a recidivism rate of 19.8%. The over 30 comparison group members exhibited a recidivism rate of 27.1% (see Table 3).

Selective use of the interlock appears to produce much more substantial results than across-the-board use. Offenders under 30 years of age in the non-interlock group had nearly twice the recidivism rate than the interlock group members in the same age group. The most important variable is prior DWI history. The offenders who had previously been convicted of DWI in the interlock group were less than half as likely to receive another DWI within 3 years than the multioffenders in the non-interlock comparison group. The Phi value for the multiple offender variable (0.211) was much stronger than the value for the under 30 years of age variable (0.138).

Deterrent Effect

One of the traditional purposes of punishment is deterrence. Deterrence rational choice theory is at least partially based on economic perspective of criminal behavior. The would-be offender is presumed to make a calculation, which weighs the potential benefit that may be gained from the contemplated criminal act against the potential cost if the person is caught and punished. The "cost" of criminal behavior may be increased by making greater the likelihood of detection and punishment (2). The cost of criminal behavior is increased by enhancing the punishment. This punishment may include fines, incarceration, public service work, treatment requirements, license suspension, probation supervision, and other sentencing provisions, which may include the use of an ignition interlock device. This punishment goal can be directed toward the individual offender in the form of specific deterrence or to society as a whole in the form of general deterrence (17). Deterrence is limited by low rates of detection. Low detection rates regarding drunken drivers is also a serious limitation in measures of recidivism based on rearrest rates (10).

Incapacitation

The ignition interlock also uses another of the traditional purposes of punishment, incapacitation. The ultimate form of incapacitation, in non-capital punishment, is incarceration. Jail sentences are totally effective in preventing the offender from driving under the influence of alcohol while the person remains incarcerated. As mentioned above, studies have shown that incarceration has little deterrent effect on future violations. Another form of incapacitation is license suspension.

A device such as the interlock is a form of partial incapacitation. The offender is partially incapacitated in that his vehicle is rendered functionally inoperable if the offender, or any person, attempts to start the vehicle with a prohibited breath alcohol level.

Routine Activities Theory

Society's mobility subsequent to World War II is noted to be related to crime and criminal activity. Cohen and Felson's (18) "routine activities theory points to "... the convergence in space and time of the three minimal elements of direct-contact predatory violations: (1) motivated offenders, (2) suitable targets, and (3) the absence of capable guardians against a violation." (p. 589). Drunken driving is always potentially predatory, given the likelihood of injury of persons or property. It thus appears that drunken driving could be examined in the context of this theory. The offender (a person under the influence of alcohol and in control of a motor vehicle) meets in time and place with a victim (any member of society or their property in the path of the offender) in the absence of a capable guardian (anyone or anything that can stop the offender).

Routine activities theory ignores the motivation of criminal offenders. The theory assumes that certain persons are motivated to commit offenses and will do so if they meet with a target and there is no one or nothing to stop them. A person who has been convicted of DWI is such an offender. In fact, it could be said that the DWI offender is quite predisposed to commit this offense. The vehicle is not the target of the offense but, rather, is the tool for the commissions of the offense. As stated above, the victim is any member of society or their property, who gets in the way of the impaired driver. The interlock becomes the capable guardian. The interlock is an example of "opportunity blocking." It is similar to antitheft devices installed in vehicles (19). The major distinction between such devices and the interlock is that the crime-preventing device is installed in the vehicle of the potential offender instead of that of the potential victim.

The ignition interlock is a very capable guardian. As mentioned above, the interlock was extremely effective in preventing drivers from operating the interlocked vehicle while intoxicated. One driver of 315 (0.32%) was charged with DWI with an interlock in place. This offender had a child provide the breath sample while she drove the vehicle. This incident is the only time in over 5 years in the subject jurisdiction that an offender has been discovered driving under the influence with an

interlock device in place.

This incident underscores the fact that the interlock is effective but still imperfect. Other possible scenarios include the fact that an offender can drive a vehicle that is not equipped with an interlock. The offender is legally constrained, but not physically restrained, from driving another vehicle that is not equipped with an interlock. A household with more than one vehicle will not be required to install the interlock in all of the family vehicles. In addition, being a mechanical device, it may be possible to circumvent the system in some manner (13).

The provider of interlock devices (a private contractor) in the subject jurisdiction reviewed the data retrieved from the company's client base for the period of July 1, 1995 through June 30, 1996. The interlock devices were all set to prevent the operation of a vehicle if the driver's blood-alcohol level (BAC) exceeded 0.025%. Interlock unit reports indicate that the subjects were prevented from driving with a BAC in violation of the state's then-current illegal per se limit of 0.10% a total of 90 times. Another 33 starts at the 0.08% BAC level (the present legal limit) were also prevented.

Punishment in General

The interlock may be viewed as an additional sentencing option, which has a specifically deterrent effect on the offender. It may also be viewed as rehabilitative, or at least educational, in that it provides instant feedback to the offender whether an excessive amount of alcohol has been consumed to safely operate a motor vehicle. It is certainly a form of incapacitation, in that the offender is limited in what he or she can do with regard to operating the interlock-equipped vehicle. It also may satisfy that basic societal urge to get revenge on lawbreakers. The DWI sentences may include incarceration, public service work, treatment or counseling, probation supervision, license suspension, and alternatives such as the ignition interlock. All of these sentencing components, individually or collectively, cover each of the four basic punishment goals. The interlock may be viewed as another reasonable form of punishment, which covers each of these four traditional sentencing goals.

Other Intervening Factors

Are there other factors that may have played a part in this reduction in recidivism rates, particularly among repeat offenders? State law mandates alcohol education or counseling. As such, these services were provided to offenders in both jurisdictions. Moreover, the program was delivered by the same source, and subjects in both groups were provided the same program. A review of court sentences indicates that the court's sentences were similar in both groups. First offenders typically were sentenced to public service work in lieu of incarceration. Second offenders were usually sentenced to serve 10 days in jail. Third offenders were normally sentenced to serve a mandatory minimum of 90 days in jail. However, in Greene County, third offenders typically were sentenced to a 6-month jail sentence, twice the normal sentence used in Craighead County. It is possible that the stiffer jail sentence in Greene County could be associated with the lesser rate of recidivism found in Greene County. But it must be recognized that jail has not been found to have a significant deterrent effect. As stated above, all offenders were sentenced to some form of treatment based on recommendations of a presentence screening report. All offenders had additional jail time suspended on the condition that the other requirements of their sentence be completed.

There was also a difference in fines and court costs between the control group and the experimental group. Fines in Craighead County were normally $500 for first offenders, $1,500 for second offenders, and $2,500 for third offenses. Court costs ranged from $200 to $240. In 1996, fines in Greene County for DWI were normally $500 for a first offense; $750 for a second offense; and $1000 for a third offense. Court costs were set at $425. Thus, Greene County used more jail time in some sentences and Craighead County used higher fines. In both courts, persons were permitted to perform public service work for credit toward fines if they were financially unable to pay fines. Both jurisdictions had the benefit of probation services to monitor offender compliance regarding the specific terms of their sentences.

Judicial Response

Members of the Arkansas District Judges Council were surveyed regarding their usage of the ignition interlock device at an annual meeting in May 1999. Thirty-seven judges participated in the survey. Thirty percent indicated that the interlock was available for them to use as a part of a DWI sentence. Sixty-eight percent of respondents stated they do not use the interlock as part of their DWI sentences. Twenty-two percent of the judges make use of the interlock as part of their sentences. Of those judges who do not use the interlock, 53% stated the primary reason was that the cost to the offender was prohibitive; 36% did not know how to arrange for the use of the device; and 12% said they believed the device was ineffective.

CONCLUSION

The breath-analyzed ignition interlock device is an example of a technological response to a technological problem. The problem is that the technology of the modern automobile in the hands of an impaired driver has created a serious danger to society. The technological response is to render the vehicle inoperable for a driver with a proscribed amount of alcohol in his or her system.

The ignition interlock device is not a perfect response, but it may be viewed as appropriate in certain cases. The sentencing judge must weigh the relevant factors. The interlock may be a burden on other family members who may have to share an interlock-equipped vehicle with an offender. It may also be a financial hardship on some offenders and their families. However, the device may also prevent numerous alcohol-related motor vehicle crashes. It provides both incapacitative and rehabilitative functions. The device is also a new approach to the concept of target hardening.

Although there is a difference in recidivism rates between the experimental and control groups, comparing these rates for all offenders, there was not a clear statistical relationship between the two. But the study demonstrates that recidivism is decreased significantly for multiple offenders who are required to drive with the interlock. Multiple offenders who are ordered to use the interlock are less than half as likely to have a subsequent conviction for drunken driving over a 3-year period. This decrease in subsequent violations has been shown by this study to continue even after the removal of the interlock device. In view of the foregoing, especially when applied to multioffenders, the breath alcohol ignition interlock device appears to be an effective tool in the prevention of drunken driving.

Table 1. DWI arrest rates.

Year	Licensed drivers	Arrests for DWI	Rate of arrest per 100,000 drivers
1986	159,486,000	1,793,300	1,124
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
1994	[illegible]	[illegible]	[illegible]
1995	176,[illegible],000	1,[illegible]	[illegible]
1996	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

Change (%)	14.6	-17.6	-28.0

Table taken from Ref. (3), citing FBI, crime in the United States (1986-1997), and Federal Highway Administration. Highway Statistics (1986-1997).

Table 2. Three-year recidivism rates by group.

	Interlock group	Comparison group
Total DWI offenders	312	315
Total offenders with DWI within 3 years (%)	55 (17.5)	79 (25.3)

Table 3. Survival rates by group.

Time (months)	Interlock (N = 315) (%)	Comparison (N = 312) (%)
6	302 (95.9)	287 (92)
12	295 (92.4)	266 (85.3)
18	(284 (88.9)	252 (80.8)
24	273 (85.4)	244 (78.2)
36	260 (81.3)	233 (74.7)

Table 4. Three-year recidivism rates by offense level.

	Interlock group	Comparison group
Total DWI first offenders	232	228
First offenders with DWI within 3 years (%)	40 (17.2)	48 (21.1)
Total DWI multioffenders	83	84
Multi offenders with DWI within 3 years(%)	15 (18.1)	31 (36.9)

Symmetric measure

Symmetric measures

Age	Value
Under 30 Phi	0.138
Over 30 Phi	0.086

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The Department of Premier and Cabinet
Government of Western Australia

Your ref:
Our ref:
Enquiries:

Office of Road Safety

Representative Kevin Meyer
State Capitol
Juneau, AK 99801

Dear Mr Meyer

I was fortunate to receive a draft copy of the Alcohol Interlock legislation that is being proposed for Alaska and would like to take this opportunity to offer my support for the Bill and congratulate all those that were involved in its development.

I met Narda Butler in October last year at the International Interlock Symposium in Colorado. At the Symposium I presented on the Western Australian Interlock Scheme and spent a memorable evening with Narda discussing the work we were both doing. During that discussion we discovered that Alaska and Western Australia have much in common, especially concerning our Indigenous populations, and that we share many of the same challenges in relation to establishing an effective response for convicted drink drivers.

In my role as a consultant to the Government of Western Australia (WA), I have been working on a comprehensive strategy to reduce repeat drink driving and unlicensed driving. This includes new legislation for an alcohol interlock scheme that, like Alaska, will make provision for all convicted drink drivers to apply to our Transport Department for a special interlock licence that will allow them to drive a vehicle fitted with an interlock device for the full period of their licence revocation. The aim of our program is to reduce repeat drink driving and unlicensed driving by drink driving offenders and in doing so reduce the associated road trauma and harm to the community.

The program in WA has been developed over a number of years and I believe that the process we undertook was extremely rigorous. All the components of our program are based on the latest international research and best practice indicators, which clearly suggest that interlock schemes should be managed administratively and that, if we are really serious about reducing drink driving recidivism, drink driving offenders should be engaged in an interlock program as soon as possible after receiving a drink driving conviction and retained on that program until such time that they demonstrate a clean driving record.

It is great to see another jurisdiction base their program on the evidence that interlocks provide the best opportunity to effectively separate drinking and driving, whilst at the same time allowing drink driving offenders to remain in employment and contributing to their families and wider community. As you will be aware, the majority of these people need to drive to remain in employment and the evidence is clear that simply revoking their driver's licence does not stop them driving, nor does it stop them drink driving. A special interlock licence that restricts these offenders to only driving a vehicle fitted with an interlock device allows them to continue to drive legally and ensures that when they do they are under the

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legal alcohol limit. In addition, it also reduces the incidence of unlicensed driving, which like drink driving is associated with significant road safety risks.

It is very heartening to learn that Alaska is proposing to introduce such a well considered interlock program and we should all be encouraged by the very positive results that are coming out of New Mexico, which has pioneered the approach that both Alaska and Western Australia are hoping to establish.

The Drink Driving Bill in WA is due to be considered by our Parliament in March of this year. We have done a great deal of consultation with all our legislators and politicians and all the indicators are pointing to a positive result. The community wants safer roads and everyone is keen to see legislation enacted that will reduce drink driving recidivism and the associated death and serious injury that results.

I wish you the best of luck as you progress your legislation through your political processes and will wait with interest to hear about your success.

Yours sincerely

Melanie Hands.

Melanie Hands
Consultant, Office of Road Safety

17 January 2007

States turn on to idea of ignition locks

By Haya El Nasser, USA TODAY

More convicted drunken drivers may have to blow into devices that won't let them start their cars if they're intoxicated now that several states are embracing tougher penalties.

Lobbyist Richard Roth, holds up the ignition interlock device which keeps a car from starting if the driver has been drinking.

By Jeff Geissler, AP

New Mexico last Friday became the first state to require "ignition interlock" systems for first-time offenders. The devices, which act as breath-alcohol analyzers that control a car's ignition, will be on their cars for one year. Drivers with four or more DWI convictions are required to drive with the interlocks for the rest of their lives.

The devices cost the offenders about $1,000 a year.

Until now, they were required only for repeat offenders and for a maximum of a year.

"This is the first time it's been so broad " Jonathan Adkins, communications director for the Governors Highway Safety Association, says of the New Mexico law. "States realize we haven't won the drunken driving battle yet."

At the same time, the Senate version of a federal highway spending bill before Congress threatens to withhold about $600 million in highway construction and maintenance funds if states don't subject high-risk offenders to stiffer sanctions, including ignition interlocks and license suspensions

'Excellent tool'

Mothers Against Drunk Driving says 17,000 people are killed and a half-million injured in alcohol-related crashes every year. Only 18 states have mandatory ignition interlock laws, according to MADD President Wendy Hamilton.

"They have to play a bigger role," she says about the devices. "They're an excellent tool and should be used for higher-risk drivers."

High-risk drivers include repeat offenders and those convicted of driving with a blood-alcohol levels of 0.15% or higher. By August, when a Minnesota law goes into effect, the legal limit in every state will be 0.08%.

Forty-three states and the District of Columbia have the option to make convicted drunken drivers use interlocks, MADD says. More are making them mandatory, applying the sentence to all offenders or lengthening the penalty.

• This month, Florida Gov. Jeb Bush signed a bill that allows the state to require the device without a court order.

• Last year, Washington state began requiring interlocks for first-time offenders with a blood-alcohol level of 0.15% or higher.

• New York Assemblyman Felix Ortiz, who spearheaded legislation that bans hands-on use of cell phones while driving in his state, introduced a bill that would require interlocks on all new cars. A similar measure failed in New Mexico last year, but others are being proposed in New Jersey, Connecticut and Washington state.

Growing business

About 80,000 interlocks are used in the USA, according to Lamar Ball, chief executive of Smart Start Inc., a manufacturer in Irving, Texas.

"I would expect that to more than double in the next five years," he says. His business is growing 30% a year.

Interlocks also can be installed voluntarily by parents who worry about their teenage children's driving habits. The system keeps a log of failed attempts to turn on the ignition.

Some drivers have tried to bypass the system by starting the car when sober and drinking while the engine is running. Others have used air compressor hoses. The devices now require random breath samples while the person is driving. They have only a few minutes to comply.

Amy Berning, research psychologist at the National Highway Transportation Safety Administration, says interlocks are "extremely effective" when they're on a car. "The concern is when the devices come off the vehicle, the recidivism starts to go back up."

Tackling the problem

New Mexico, which ranks sixth in the nation in the rate of alcohol-related car fatalities, is becoming one of the toughest enforcers. There are 3,000 interlocks on cars in the state, the highest per capita of any state.

In 2003, 198 of New Mexico's 439 traffic fatalities were alcohol-related, according to the most recent government data. It was the first time since 1998 that the state's alcohol-related fatalities fell below 200.

Fighting drunken driving is one of Gov. Bill Richardson's signature issues. He has appointed DWI Czar Rachel O'Connor and several task forces to tackle the problem of repeat offenders and set up drunken-driving checkpoints statewide.

"An interlock device is like a mechanical probation officer on duty and monitoring DWI offenders 24 hours per day and seven days per week," Richardson says. "It's a wonderful device. It's going to dramatically curb DWI in New Mexico."

THE DIFFERENCES BETWEEN A CRIMINAL CASE AND AN ADMINISTRATIVE REVIEW (DRIVING UNDER THE INFLUENCE)

A DUI offense involves two separate processes and is explained in writing on the Notice and Order of Revocation that you received from the police on the day of the incident. The DUI laws have two separate areas of concern which are 1.) a violation of a criminal law and 2.) an individual's driving behavior and road safety. The two different focuses of the law are why a license may be revoked administratively when a criminal charge has been dropped.

The court action is a legal proceeding that takes place because someone has violated a criminal law. It is handled by a state or municipal attorney, depending upon the jurisdiction in which the incident took place. The attorney can consider many issues in deciding how to proceed with a particular case.

The administrative license revocation law and hearing process are geared around the issues of driver behavior and road safety. The hearing officers are limited by law to consideration of only certain issues at these hearings. The issues are 1.) whether the arresting officer had reasonable grounds to believe that you were driving or operating a motor vehicle while intoxicated, and 2.) whether the breath test result was .08 or greater or you refused to give a breath sample.

I hope this information helps to clarify why there are two processes and why the license revocation is not tied to the court proceeding. If you have specific questions about the reinstatement process, the Driver Improvement staff at the Anchorage Benson Blvd DMV office are happy to help. They can be reached at 269-3770.

THE DIFFERENCES BETWEEN A CRIMINAL CASE AND AN ADMINISTRATIVE REVIEW (ZERO TOLERANCE)

A Zero Tolerance offense involves two separate processes and is explained in writing on the Notice and Order of Revocation that a person receives from the police on the day of the incident. The Zero Tolerance laws have two separate areas of concern which are 1.) a violation of a criminal law and 2.) an individual's driving behavior and road safety. The two different focuses of the law are why a license may be revoked administratively when a criminal charge has been dropped.

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Traffic Safety Facts

Laws

January 2006

Administrative License Revocation

Background

The National Highway Traffic Safety Administration (NHTSA) encourages States to require prompt, mandatory revocation or suspension of driver's licenses for alcohol and other drug test failure and refusal. Motor vehicle crashes are the leading cause of death for people 3 through 33 years old in the United States. Thirty-nine percent of motor vehicle crash fatalities are alcohol-related. Suspending or revoking driver's licenses for those driving while under the influence of alcohol or other drugs has proven to be a successful deterrent when implemented by a State.

Administrative license revocation (ALR) laws are based on objective chemical tests (usually breath, sometimes blood or urine) and are similar to "illegal per se" criminal laws against impaired driving. ALR allows law enforcement and driver licensing authorities to revoke or suspend a driver's license swiftly, without long delays, while awaiting a criminal trial. The offender retains the right of due process through an administrative appeal system.

Key Facts

- As of January 2006, 41 States and the District of Columbia have ALR laws that result in immediate license revocation based on a blood alcohol concentration (BAC) of .08 grams per deciliter or a breath test refusal.
- In 2004, 39 percent of the 38,253 fatal motor vehicle crashes nationwide were alcohol-related. This percentage equates to 16,694 alcohol-related deaths.
- Research has found that ALR laws reduced fatal crashes by approximately 9 percent during high-risk (late night) periods of alcohol involvement.
- Research in Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah showed significant reductions in alcohol-related fatal crashes after enacting ALR laws.
- For laws to be effective, publicity is an important factor because drivers must know and understand the consequences of their actions. One research study conducted in Nevada found a 12-percent reduction in alcohol-related crashes following implementation of a publicity campaign designed to inform the public about the ALR procedure.
- ALR does not have a major impact on an offender's job or income. A 1996 study compared three ALR States with one State that used other sanctions for impaired-driving; there was no difference between ALR and non-ALR States in offender employment or income. In both ALR and non-ALR States, 94 percent of the offenders who were working at the time of their arrest were still working one month later; 4 percent were unemployed; and the remaining 2 percent were in school. License revocations as long as 90 days did not lead to a loss of job or income.
- ALR is constitutional. All cases in which the highest State appellate courts have considered ALR issues have held that a separate criminal trial for an impaired driving offense following an ALR action does not constitute double jeopardy under either Federal or State constitutional law.
- The U.S. Supreme Court has found that the right of due process is not violated if a driver's license is suspended

prior to an administrative hearing, as long as provisions are made for a swift post-suspension hearing [*Mackey v. Montrym*, 443 U.S. 1 (1979)].

- As of January 2006, 41 States and the District of Columbia have ALR laws that result in immediate license revocation based on a BAC ≥ .08 or a breath test refusal.

How Do ALR Laws Work?

What Provisions Should Be Included in an ALR Law?

- The language of these laws should be consistent with the provisions of the State's administrative procedures acts.
- The arresting officer should, at the time of arrest, serve the notice of revocation (suspension), take the offender's license, and issue a temporary permit.
- The driver must have the opportunity for an administrative hearing.
- The hearing request should not be allowed to delay the revocation (suspension).
- There should be an initial license revocation (suspension) period for test failure with some period of full revocation followed by restricted driving during any remainder. Restricted driving privileges should be permitted only in very limited circumstances, and only after an initial "hard" revocation (suspension) period has been served. The initial license revocation (suspension) period for a test refusal should be longer than the period for test failure, with no restricted driving privileges. For a repeat DWI offense within five years, the revocation (suspension) period should be considerably longer with no restricted driving privileges. In addition, licensing actions should take effect within 30 days of notice.
- The administrative sanction should be handled separately from the criminal proceeding. Due to differing procedural aspects, the findings and outcome of an ALR action should not normally affect a criminal proceeding, and vice versa.
- Although the benefits of an ALR law are numerous, some jurisdictions do experience problems in implementation that can affect the usefulness of the law. With implementation problems, States should look for ways to improve applications of ALR procedures. A recent study examined Utah's new law allowing telephonic testimony at ALR hearings. After the availability of telephonic hearings, there was a statistically significant 20-percent reduction in cases where the driver's license was returned to the offender due to the absence of the arresting officer, as a percentage of all cases where the license was returned.

How Much Does An ALR Program Cost?

A 1991 study analyzed the costs and benefits associated with ALR laws in Illinois, Mississippi, and Nevada. The study revealed that start-up and operating costs were adequately covered with the assessment of license reinstatement fees. In addition, the annual savings in costs for night-time crashes that were reduced as a result of ALR laws ranged from $37 million in Nevada to $104 million in Mississippi.

How Can ALR Be Financed?

The offenders, rather than taxpayers, should pay for these programs. Some States have significantly increased the reinstatement fee for drivers whose licenses are revoked for driving while intoxicated (DWI); some States have raised all reinstatement fees; and other States have increased all license application and renewal fees. Other fines, fees, or taxes also can provide funding, such as an alcoholic beverage tax that can be earmarked for alcohol program expenses, including ALR.

Incentive Grant Program

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Section 2007 of SAFETEA-LU continues the alcohol-impaired driving countermeasures incentive grant program (under Section 410 of chapter 4 of Title 23) that encourages States to adopt and implement effective programs, including ALR laws, to reduce traffic safety problems resulting from individuals driving while impaired by alcohol. A qualifying State may use these grant funds to implement impaired driving activities in accordance with the Federal statute.

To meet the ALR criterion of the Section 410 grant program, SAFETEA-LU provides that a State's ALR system must require of all individuals who fail or refuse to submit to a chemical test that:

- First offenders be subject to at least a 90-day license suspension, provided that after 15 days they may operate a motor vehicle to travel to and from employment, school, or a treatment program, if an ignition interlock device is installed on all motor vehicles the offenders own or operate;
- Repeat offenders be subject to at least a one-year suspension or revocation, provided that after 45 days they may operate a motor vehicle to travel to and from employment, school, or a treatment program, if an ignition interlock device is installed on all the vehicles the offenders own or operate; and
- Suspensions or revocations take effect within 30 days after offenders refuse to submit to a chemical test or receive notice of having failed a breath test.

The statutory provisions of the Section 410 program will be implemented by NHTSA through a regulatory process.

Which States have ALR?

As of January 2006, 41 States and the District of Columbia had adopted some form of administrative license revocation. The States that do not have ALR are Kentucky, Michigan, Montana, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, and Tennessee.

References

Administrative License Revocation Costs and Benefits. National Highway Traffic Safety Administration, Washington, DC, Fact Sheet, 2002.

Administrative License Revocation. Video produced for NHTSA by USAA, 12 minutes.

Administrative License Revocation: Facts, Myths, and Fictions. Kathryn Stewart, Center for Substance Abuse Prevention/ Substance Abuse and Mental Health Administration/ Department of Health and Human Services, Washington, DC, January 1991.

Administrative License Revocation: Resource Manual. National Highway Traffic Safety Administration, Washington, DC, DOT HS 807 873, July 1992.

Administrative Licensing Revocation: Most Frequently Asked Questions. National Highway Traffic Safety Administration, Washington, DC, DOT HS 808 906, July 1999.

An Assessment of the Effects of Publicizing Administrative License Revocation for DWI in Nevada. John Lacey et al., University of North Carolina Highway Safety Research Center, National Highway Traffic Safety Administration, Washington, DC, DOT HS 807 600, March 1990.

Changes in Alcohol-Involved Fatal Crashes Associated with Tougher State Alcohol Legislation. Sigmastat, Inc. National Highway Traffic Safety Administration, Washington, DC, July 1989.

Cost-Benefit Analysis of Administrative License Suspension. John Lacey et al., Mid-America Research, National Highway Traffic Safety Administration, Washington, DC, DOT HS 807 689, January 1991.

Effects of Administrative License Revocation on Employment. Kathleen Knoebel and H. Lawrence Ross, Ketron, National Highway Traffic Safety Administration, Washington, DC, DOT HS 808 462, May 1996.

Examining the Effectiveness of Utah's Law Allowing for Telephonic Testimony at ALR Hearings. Connie Wiliszoski, Ralph Jones, and John Lacey, National Highway Traffic Safety Administration, Washington, DC, DOT HS 809 602, July 2003.

Fatal Crash Involvement and Laws Against Alcohol-Impaired Driving. Paul L. Zador et al., Insurance Institute for Highway Safety, February 1989.

Impact of Driver's License Suspension on Employment Stability of Drunken Drivers. Elizabeth Wells-Parker and Pamela Cosby, Mississippi Alcohol Safety Education Program, Social Science Research Center, Mississippi State University, June 1987.

Police Costs Associated with Administrative License Revocation. Traffic Tech No. 59, National Highway Traffic Safety

Administration, Washington, DC, January 1994.

Potential Lives Saved If Administrative License Revocation Law Adopted - 1990. Traffic Tech No. 24, National Highway Traffic Safety Administration, Washington, DC, March 1992.

Sample State Administrative Driver License Suspension Forms. DOT HS 807 547, National Highway Traffic Safety Administration, Washington, DC, March 1990.

Study in Four States Shows that ALR Has Little Effect on Violator's Employment or Income. Traffic Tech, National Highway Traffic Safety Administration, Washington, DC, October 1996.

U.S. Department of Transportation
National Highway Traffic Safety Administration

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people saving people

Jane Pierson

From: Emily Stancliff on behalf of Rep. Jay Ramras
Sent: Tuesday, February 13, 2007 2:16 PM
To: Jane Pierson
Subject: FW: REsponse to HB 19 discussion in Judiciary Committee Monday
Attachments: The Top Ten Reasons.doc

From: Narda Butler [mailto:narda@frontierk12.org]
Sent: Tuesday, February 13, 2007 2:05 PM
To: Rep. Jay Ramras; Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Bob Lynn; Rep. Ralph Samuels; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Kevin Meyer; Mike Pawlowski
Subject: REsponse to HB 19 discussion in Judiciary Committee Monday

Dear Representatives,

I am the Mom who testified telephonically at Monday's meeting of the Judiciary Committee on HB 19. I have invested quite a bit of time and energy becoming conversant on this topic and would like to share my further thoughts with you post-discussion. In October of 2006, I attended the International Ignition Interlock Symposium where I became acquainted with the research and researchers that I cite here. I am very interested in Alaska pursuing a course that is based on best practices and fitting with the current fiscal situation of the state. That being said, please read on. I have addressed some specific questions raised during the discussion and shared my own opinions on what to do next.

Thanks,
Narda Butler
346-1189

1. **Public Safety** - Ignition interlocks are used *primarily* as a public safety device. So the measure of their success is the answer to the question:

Do ignition interlock devices reduce recidivism rates of convicted DUI offenders?

That answer is **yes.** A number of studies support this finding. [1,2,3,4]

Recidivism rates for DUI offenders who are using the ignition interlock drop by **65-95%** (That 95% number is correct, see the Position Paper listed in reference #3, below.)

2. **Alternative drugs** - In answer to one of the questions posed in Committee yesterday, **data shows that offenders are NOT using alternative drugs when the interlock is installed.**

Florida has tracked their DUI recidivism rate in conjunction with the Pacific Institute of Research and Evaluation (PIRE, found at: http://www.pire.org/index.asp) The charge of DUI

in Florida encompasses both alcohol and other drugs, both prescription and illegal. Therefore, if offenders were choosing an alternative drug to alcohol in order to be able to drive their ignition interlock equipped vehicle, it would be reflected in the recidivism rate for DUI. What they have found is that their recidivism rate has dropped substantially. I spoke with Felecia Ford, Director of the Ignition Interlock Program at Florida's Department of Highway Safety and Motor Vehicles on 2/13/07 to verify this information.

3. Circumvention – IIDs have been around long enough that the technology is very sensitive to circumvention efforts. Most models require some training on the part of the user (users – in case of a shared family car) to be able to provide the appropriate breath sample. Simply handing a kid $20 and asking him to "blow in this tube" will not start the car.

Also, IIDs require rolling retests at random time intervals as the car continues to run. This means that the operator needs to provide another breath sample. If the breath alcohol content has increased, the horn begins to sound until the car is stopped allowing the operator to choose a location to safely stop.

More current models are capable of photographing the operator while the device is being used.

Any tampering with the electronics is noted by the IID data collection device and the information is available to the vendor at the next servicing.

Tampering with the device is an offense, as is driving an unequipped vehicle.

Can the offender drive another car? Yes. If they are inclined to circumvent that way, they are probably doing just that right now.

No matter our intent, as Mike Doogan wrote, we are unable to pass a law that makes dishonest people honest.

POINTS TO REMEMBER

- The majority of people who have had their driver's licenses revoked, *drive anyway.*
- This law places *public safety* as a higher priority than punishment for the bad guy.
- A good ignition interlock program reduces DUI recidivism *while the device is installed.*
- A good ignition interlock program has both administrative and judicial components. The administrative side addresses the at-risk driving population who are outside of the court system but still living with a revoked status. The judicial allows mandated sanctions for current/future offenders.
- The longer people drive illegally, the less likely they are to choose to drive legally when the option is available. (This is supported by data - not just my opinion.)Therefore, the sooner an IID can be installed and used, the higher the rate of compliance and the safer the highway system *no matter how* we feel about restoring a 'privilege'.
- I'll reiterate: this law places *public safety* as a higher priority than punishment for the bad guy.

Can the current bill be improved?

Yes. I would, humbly, suggest three things:

1. Remove the third amendment to HB 19 allowing judges the prerogative to impose an IID restriction and separate it out into a separate bill.

2. In this second bill, conform more closely to best practices by *judicially mandating* the use of an ignition interlock device for all DUI offenders. The period of time should be offender-defined, based on performance – whatever period they require to show one year of alcohol-free driving. This could one year, it could be forever.

3. Write language such that this mandated period of interlock restricted driving cannot be waited out. It begins whenever the offender applies for the ignition interlock restricted license and shows proof of installation.

Do I really mean ALL offenders, even first? Yes. This is in alignment with published best practices. And, remember, I am currently the mom to four teenagers -- A lapse in judgment initiates consequences designed to prevent such lapses in the future. And, no, life does not always *seem* fair.

I am always available to do more research, or send along some of the information I have collected if it would bring clarity to this topic. I realize it is not the only one on your plates. Please see the attachment for more info. Thx.

[1] **Beck, K., Rauch, W., Baker, E., Williams, A. (1999).** Effects of ignition interlock license restrictions on drivers with multiple alcohol offenses: A random trial in Maryland. *American Journal of Public Health* 89: 1696–1700.

[2] **Coben, J.H. and Larkin, G.L. (1999).** Effectiveness of ignition interlock devices in reducing drunk driving recidivism. *American Journal of Preventive Medicine* 16: 81-87.

[3] **Marques, P.R., Bjerre, B., Dussault, C., Boas, R.B., Beirness, D.J., Marples, I.R., Rauch, W.J. (2001).** Alcohol ignition interlock devices. Volume I: Position Paper. Oosterhout, Netherlands: International Council on Alcohol, Drugs and Traffic Safety (ICADTS).

[4] **Popkin, C.L., Stewart, J.R., Beckmeyer, J., Martell, C. (1993).** An evaluation of the effectiveness of interlock systems in preventing DWI recidivism among second-time DWI offenders. In: H.-D. Utzelmann , G. Berghaus, G. Kroj (Eds.) Alcohol, Drugs and Traffic Safety – T-92: Proceedings of the 12th international conference on alcohol, drugs and traffic safety, Köln, Germany, 28 September – 2 October 1992. Köln: Verlage TÜV Rheinland GmbH, Vol. 3, pp. 1466–1470.

The Top Ten Reasons
Why NOW is the Right Time for an Ignition Interlock Limited License Program in Alaska

1. 50-75% of drivers whose driver's licenses have been revoked *drive anyway.* Revoking a person's driver's license, in these cases, does *not* improve public safety nor serve a punitive function.

2. Over the past five years, 14% of all DUI arrests are accompanied with a Driving with License Revoked/Suspended charge as well. That number is *not* decreasing.

3. Installation of Ignition Interlock devices effectively separates the act of drinking from the act of driving.

> Data from a Maryland study[1] shows a 60% reduction in risk of committing an alcohol-related offense with an interlock installed.
>
> An Ohio study[2] demonstrates a 65% decrease in the probability of a subsequent DUI for offenders *who have the interlock installed in their car.*

4. Interlocks work while they are installed[3], therefore they should be installed *as soon* as possible for *as long* as possible.

5. The most current technology is alcohol-specific, tamper-resistant (the vendor gets a record of any disconnects) and becoming increasingly person-specific (some devices are equipped with cameras that photograph the person activating the device).

6. Every time an individual is prevented from driving because the device detects alcohol, there is potential for saving a life. This device serves as an on-board, external conscience. Persons should not be removed from the program for attempting to start their car while under the influence of alcohol. Ignition interlocks are not a perk, nor are they, in and of themselves, rehabilitative. They are a safety device whose *primary purpose* is to protect the public.

7. Ignition interlock limited licenses allow multiple DUI offenders the opportunity to become self-supporting citizens who are contributors to society, instead of takers.

8. An administrative program allows the Department of Motor Vehicles to collect data to document performance and make data-driven decisions regarding reinstatement of regular driver's licenses.

9. An administrative ignition interlock program is the most cost-effective means of capturing the largest population of at-risk drivers initially. *The costs of the interlock devices and monthly monitoring, are borne by the offender.* And, the cost savings realized if 35 individuals choose to install the device and *not* be arrested and charged with Driving with License Revoked or Suspended would fund one DMV administrative position.

10. An administrative program can be implemented sooner rather than later and provide protection on the highways in a time-effective manner.

[1] Beck, K. H., Rauch, W. J., Baker, E. A., & Williams, A. F. (1999). Effects of ignition interlocklicense restrictions on drivers with multiple alcohol offenses: A randomized trial in Maryland. *American Journal of Public Health. 89*(11), 1696-1700.

[2] Elliot, D. S., & Morse, B. J. (1993). *In-vehicle BAC test devices as a deterrent to DUI.* (Final Report). Washington, DC: National Institute on Alcohol Abuse and Alcoholism.

[3]This figure is taken from :
Marques, P., Bjerre, B. Dussault, C., Voas, R., Beirness, D., Marples, I. and Rauch, W. (2001b) Alcohol ignition interlock devices. Position Paper {also available online: http://www.icadts.org/reports/AlcoholInterlockReport.pdf accessed 31 January 2007]. Washington D.C.: International Council on Drugs, Alcohol and Traffic Safety (ICDATS)

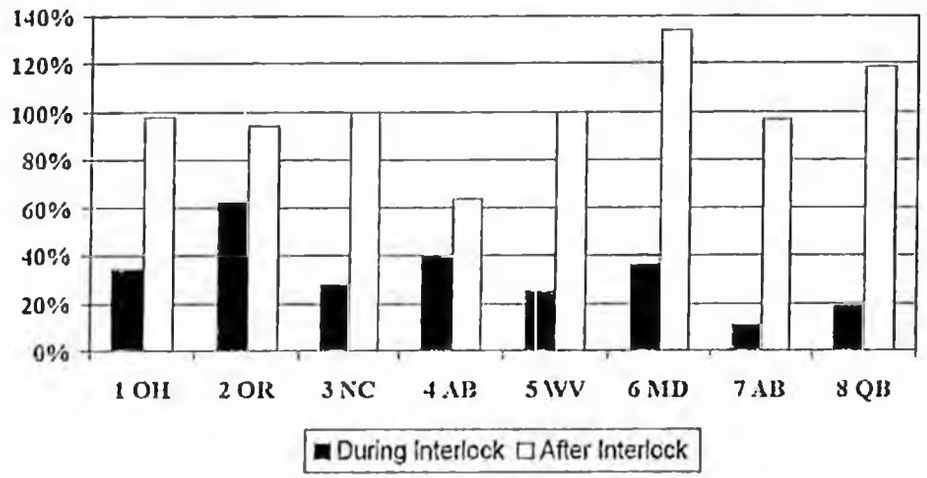

Figure 1: Eight studies that compared interlock recidivism rates (%) during the interlock (dark bars) and after the interlock (open bars) against recidivism for non-interlock contrast groups (set to 100%).

For additional information, see:

MADD's Issue Brief on the Ignition Interlock at:
http://www.madd.org/activism/0,1056,7604,00.html

MADD's Ignition Interlock Fact Sheet at:
http://www.madd.org/news/docs/Interlock%20Fact%20Sheet%20Final.pdf

"Best Practices for Alcohol Interlock Programs" from the Traffic Injury Research Foundation at: http://www.trafficinjuryresearch.com/publications/PDF_publications/BestPracticesReport.pdf

Contact information:
Narda Butler, Citizen Advocate
346-1189 (home)/301-1611 (cell)
narda@frontierk12.org

Jane Pierson

From: Duane Bannock [duane_bannock@admin.state.ak.us]
Sent: Tuesday, February 13, 2007 1:38 PM
To: Jane Pierson; Mike Pawlowski
Cc: Hennings, Kerry
Subject: [Fwd: [Fwd: Admin Actions]]
Attachments: ALR.pdf; THE DIFFERENCES BETWEEN A CRIMINAL CASE AND ADMIN ACTION.doc

Here's a couple more numbers from 2006

4449 - Administrative Actions (DUI/Refusal)
186 - Approx. 20% dismissed

4263 DMV Admin Actions

3040 First Offenders (71%)
1223 Multiple Offenders (29%)

Received Limited DL (drive from home to work; work to home)

234 First Offender (8%)
37 Multiple Offender (3%)

This is a 'snapshot' of CY 2006. We're still attempting to identify the total quantity of drivers revoked currently, but that's not a stat we normally track. please stay tuned.
Duane

-------- Original Message --------
Subject:[Fwd: Admin Actions]
Date: Tue, 13 Feb 2007 12:54:23 -0900
From: Duane Bannock <duane_bannock@admin.state.ak.us>
Organization: State of Alaska
To: Jane Pierson <jane_pierson@legis.state.ak.us>

Does this help?
dab
-------- Original Message --------
Subject: Admin Actions
Date: Mon, 12 Feb 2007 16:25:25 -0900
From: Kerry hennings <kerry_hennings@admin.state.ak.us>
Organization: State of Alaska
To: Duane A Bannock <duane_bannock@admin.state.ak.us>

Duane,

2006

4449 - Administrative Actions
926 - Hearings Requested
186 - Approx. 20% dismissed
740 - Revoked by hearing

11 - Appeals filed
6 - Dismissed by Appellant
5 - Pending

Less than .005

Kerry

STORK Materials Technology

Stork Twin City Testing Corporation

STORK TWIN CITY TESTING CORPORATION
662 CROMWELL AVENUE
ST.PAUL, MN 55114

Report of Tests on
Breath Alcohol Ignition Interlock Device (BAIID)
per Federal Register/Vol. 57, No. 67

Prepared for:
SMART START INCORPORATED
Attn: Mr. James Ballard
4850 Plaza Drive
Irving, TX 75063

Tests Conducted By:

Mike R. Olszewski
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Product Testing Department
Phone: (651) 659-7324

Reviewed By:

Mathew N. Botz
Project Manager
Product Testing Department
Phone: (612) 659-7353

The test results contained in this report pertain only to the samples submitted for testing and not necessarily to all similar products.

JOB NUMBER: 30160 03-51983 PAGE: 2 of 56
STORK – TWIN CITY TESTING CORPORATION DATE: July 15, 2003

BAIID TESTING

INTRODUCTION:

This report presents the results of tests performed on two BAIIDS per the Federal Register (Vol. 57, No. 67/Tuesday, April 7, 1992/Notices). The scope of our work was limited to specific test requirements 1.1.T through 2.5.T. The test units were submitted to our laboratory on May 2, 2002 by Mr. Jim Ballard of Smart Start, Inc. The testing and data analysis was completed on July 8, 2003.

SUMMARY OF RESULTS:

Both test units were found to be in full compliance with the National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT) Specifications [Docket No. 91-07. Notice 2].

SPECIMEN IDENTIFICATION:

Two units were submitted for testing, each was identified as a model SSI-1000 and were labeled with the following serial numbers: Unit A – Logger #51133L, Head #52624; Unit B – Logger #L81159, Head #H71362. Both Units share the same basic dimensions:

Loggers are 4.1875" long, 3.25" wide, 1.5" tall.
Head units are 5.25" long, 2" wide, ~ 1.5" tall.

Unit A

Unit B

The normal Calibration Period was identified by the manufacturer as being 60 days.

JOB NUMBER: 30160 03-51983 PAGE: 3 of 56
STORK – TWIN CITY TESTING CORPORATION DATE: July 15, 2003

TEST METHODS:

Test methods were as outlined in the National Highway Traffic Safety Administration [Docket No. 91-07, Notice 2] 1.1.T through 2.5.T.

1.1.1.T UnStressed Accuracy/PrecisionTesting, Units were tested under controlled Lab conditions. A sample solution of 0.01% w/v above the set point (0.03%) was introduced to the BAIID 20 times. This corresponds to an overall testing BrAC of 0.04% w/v for this test.
Criteria: The BAIID must successfully lock out 90% of the time, or 18 of the 20 times.

1.1.2.T Stressed Accuracy/Precision Tests, Units were subject to stress tests from sections, 1.3, 1.4 – 1.6.4, 1.7 (i.e., Vibration, temperature, etc.). The devices were then exposed to a solution of 0.02% w/v above the set-point (0.03%), 20 times. This corresponds to an overall testing BrAC of 0.05% w/v for this test.
Criteria: The BAIID must successfully lock out 90% of the time, or 18 of the 20 times.

1.2.T Breath Sampling Requirement Test, Units were tested for how much air passed through before a sample was taken.
Criteria: 1.5 liters of air pass through the system before the unit samples the air.

1.3.T Calibration Stability Test, The units were calibrated and remained in the laboratory, untouched for 7-days plus the specified calibration period. The calibration test was conducted using Alcohol Samples and Non-Alcohol samples. Nine of the ten days the units were tested with 10 cycles per day with the Non-Alcohol sample. On the tenth day the units were tested with the Alcohol sample. The units were tested to section 1.3.1T. The units were tested to 1.1.2.T.
Criteria: Units must function normally throughout the entire calibration period.

1.3.1.T Evaluation of Lockout for Expiration of Service Interval, The devices were evaluated for warning signals/alerts after the specified service duration.
Criteria: The units shall prevent ignition after the service duration.

1.4.T Power Tests, Units were attached to a variable DC Power Supply and voltage set to 11 and 16 volts. Then subject to section 1.1.2.T
Criteria: Units must function normally at each voltage extreme.

1.5.1.1.T-1.5.1.4.T
Temperature Tests, Logger portion of Units was placed in an environmental chamber and stabilized at the following conditions: -40°C, -20°C, +70°C, +85°C for a duration of 1 hour and then tested according to 1.1.2.T
Criteria: Units must function normally at each temperature.

JOB NUMBER: 30160 03-51983 PAGE: 4 of 56
STORK – TWIN CITY TESTING CORPORATION DATE: July 15, 2003

TEST METHODS: Continued

1.6.1.T – 1.6.4.T Vibration Stability Tests. Units were subject to Simple Harmonic motion having amplitude of:

Unit A: *0.76 mm, with an initial frequency of 10 Hz, then increased to 30Hz in 2.5min, then decreased to 10 Hz in 2.5 min.

Unit B: *0.38 mm, with an initial frequency of 30 Hz, then increased to 60Hz in 2.5min, then decreased to 30 Hz in 2.5 min.

Each device was tested to the above conditions in three directions. The devices were subjected to testing according to 1.1.2.T.

Criteria: Units must function normally after vibration testing.

1.6.5.T Post Vibration Examination. Units were inspected for damage after vibration testing

Criteria: Units must show no damage after vibration.

1.7.T Radio Frequency Interference. Units where subject to a cellular phone and radio interference by placing the unit 5cm from the interference source in three orthogonal orientations. The units were tested in accordance with 1.1.2.T while cellular phone, radio being used.

Criteria: Units must not allow the engine to start (i.e. Sample/Pass) as a result of the RFI.

1.8.1.1.T Tampering and Circumvention Tests /Power Loss Tests. Units where disconnected from the power source. Time and date where recorded, and when data was downloaded from unit, it was inspected to see that it showed this power loss. This was done at random 20 times during testing.

Criteria: Units must Log power loss.

1.8.1.2.T Tampering and Circumvention Tests/Circuit Tampering. Each device was operated at varying voltage levels during the course of testing. Logs were then checked to see that corresponding data was present.

Criteria: Units must Log power changes.

1.8.2.1.T Circumvention/Non-Human Sample. Each device was tested using three non-human compressed air sources with no alcohol present. These included a Mylar balloon, a rubber balloon, and canned air.

Criteria: The device shall detect or fail 80% of non-human breath samples.

1.8.2.2.T Circumvention/Filtered Sample. Each device was tested according to 1.1.2.T using two different filters; a standard toilet paper tube filled with cat litter, and a wet filter constructed from a capped styrofoam coffee cup filled with hot water. Both filters had tubing input/outputs.

Criteria: The device shall detect or fail 80% of filtered samples.

1.8.2.3.T Circumvention/Rolling retest to thwart curbside assistance. Each unit was tested as to whether it would require a re-test after a passing test.

Criteria: Units must require a re-test within a 5-30 minute period after a passing test, and must give a three minute period in which to take the re-test.

JOB NUMBER: 30160 03-51983 PAGE: 5 of 56
STORK – TWIN CITY TESTING CORPORATION DATE: July 15, 2003

TEST METHODS: Continued

1.9.T Sample Free Restart Test, (in the event of a stall) Each device shall permit a free restart for 2± 0.25 min. Each was tested three times with alcohol-free sample at 1.5-min and 2.5 min.
Criteria: The devices shall allow a start the first three tests and fail to start the last three tests.

1.10.T Data Recording Test, Testing consisted of recording time, date and introduced sample concentration. These results were then compared to the data recorded by the unit
Criteria: Data logged must be accurate.

2.1.1.T Utility Accuracy Testing Of Unstressed BAIID, Each device was tested with a solution that is 0.01% w/v below the alcohol setpoint (0.03% BrAC). This corresponds to an overall testing BrAC of 0.02% w/v for this test. The tests were repeated 20 times on each device.
Criteria: Units must meet 90% accuracy.

2.2 T Clearance Rate Test, Each device was tested with BrAC = 0.05%w/v. A timer was activated upon receipt of the result. The timer was paused upon receiving a "ready" condition from the device. **Criteria:** The device shall reset within 3 min.

2.3.T Warm Up Test, Each device was conditioned at –20°C for four hours. A timer was started concurrently with the activation of the BAIID. The time required for the device to register "ready" was recorded.
Criteria: The device shall not require more than 5-min. to register "ready".

2.4.1.T User Display/Operational Modes, Each device was evaluated for visible or clearly audible indicators.
Criteria: Units must indicate ON, Unit is Ready to Test, Unit has Received Acceptable Sample.

2.4.2.T User Display/Outcome, Each device was evaluated for visible indication of the results.
Criteria: Units must display Pass or Fail.

2.4.3.T User Display/Warnings, Each device was evaluated for displayed warnings.
Criteria: Unit must indicate that it needs to be Serviced or Calibrated Soon.

2.6 T Altitude Test, Each device was tested per Section 1.1.2 Stress Accuracy at a simulated altitude of 2.5km.
Criteria: Units must hold or exceed 90% accuracy when tested at .02% above setpoint.

JOB NUMBER: 30160 03-51983 PAGE: 6 of 56
STORK – TWIN CITY TESTING CORPORATION DATE: July 15, 2003

TEST RESULTS:

SECTION	TEST DESCRIPTION	BAIID	COMMENT/PURPOSE	PASS/FAIL
1.1.1.T	Accuracy Tests for Safety Specifications-Unstressed	A,B	UnStressed Criterion is 90% accuracy at .01% w/v above setpoint; 20 tests, 18 or more must lock	PASS
1.1.2.T	Accuracy Tests for Safety Specifications-Stressed	A,B	Stressed Criterion is 90% accuracy at 02% w/v above setpoint; 20 tests, 18 or more must lock	PASS
1.2.T	Breath Sampling	A,B	Min. sample of 1.5L	PASS
1.3.T	Calibration Stability	A,B	Test according to 1.1.2.T at end, then recalibrate and test with 1.1.1.T	PASS (60 DAYS)
1.3.1.T	Lockout Evaluation	A,B	Lockout after 7 days beyond service interval	PASS
1.4.T	Power	A,B	i1 and 16 VDC, Test according to 1.1.2.T	PASS
1.5.1.T	Temperature Ranges	A,B	Test according to 1.1.2.T at -40°C, -20°C, +70°C, +85°C	PASS
1.6.1.T	Vibration 1	A	10 to 30 to 10 Hz, 5 min. .76mm disp.	PASS
1.6.2.T	Vibration 2	B	30 to 60 to 30 Hz, 5 min. .38mm disp.	PASS
1.6.3.T	Vibration 3	A,B	As above 3 directions	PASS
1.6.4.T	Vibration 4	A,B	Test by 1.1.2.T	PASS
1.6.5.T	Post Inspection Shake	A,B	Inspect for damage	PASS
1.7.T	RFI/EMI	A,B	5 cm from in vehicle appliance	PASS
1.8.1.1.T	Tampering/Power Loss	A,B	Test for Interrupt detection	PASS
1.8.2.1.T	Circumvention/ Non-Human Sample	A,B	80% correct	PASS
1.8.2.2.T	Circumvention/Filtered Samples	A,B	80% correct	PASS
1.8.2.3.T	Circumvention/Rolling Retest	A or B	Test retest conditions	PASS
1.9.T	Sample Free Restart	A,B	Test Timer	PASS
1.10.T	Data Recorder	A,B	Observe	PASS
2.1.1.T	Accuracy/Precision for Utility Specification-Unstressed	A,B	90% correct	PASS
2.1.2.T	Stressed Utility Test	N/A	N/A	N/A
2.2.T	Clearance Rate Test	A,B	Reset Time	PASS
2.3.T	Warm Up Test	A,B	Time to ready	PASS

JOB NUMBER: 30160 03-51983 **PAGE:** 7 of 56
STORK – TWIN CITY TESTING CORPORATION **DATE:** July 15, 2003

RESULTS: Continued

SECTION	TEST DESCRIPTION	BAUD	COMMENT/PURPOSE	PASS/FAIL
2.4.1.T	Display Readability	A,B	Observe	PASS
2.4.2.T	Display User Feedback	A,B	Observe	PASS
2.4.3.T	Display Warnings	A,B	Observe	PASS
2.5.T	Low Temperature Provisions	N/A	N/A	N/A
2.6T	Altitude- 2.5 km	A,B	90 % correct	PASS

TEST EQUIPMENT:

RepCo 3402C Simulator (Supplied by Smart Start Inc.)

Nextel Motorola i30sx Cell Phone S/N 021TCJ6S61

Hans Rudolph model 5570 three liter calibrated syringe
S/N 557-7678

Thermotron Temperature/Altitude Chamber MM 190-018
-90°F-300°F/ 1000-70,000 Feet

Tektronix PS281 Variable DC Power Supply MI-160-128

Fluke 8050a DMM MM180-005

Ling Dynamic Systems V 810 Vibration Table
Dactron Controller MM 460-026

Promising Sentencing Practice No. 5
Ignition Interlock Devices

By Judge Calvin Holden (Missouri)

Overview

While DWI sanctions have generally focused on punishing, rehabilitating, or incapacitating the drinking driver, another approach to controlling the DWI offender that has emerged in recent years is to focus on the offender's vehicle as a means of influencing the offender. One of these approaches, which has proven to be effective, is the ignition interlock device.

To prevent a convicted DWI offender from driving while intoxicated, courts may require the installation of an ignition interlock device on the offender's vehicle. Courts employ this sentencing practice because:

- Installation of the device allows DWI offenders to maintain their responsibilities (e.g., driving to work, taking children to school, running errands, etc.), while also serving as a constant reminder that their privilege to drive is contingent on their sobriety.
- Given the fact that many offenders whose licenses are suspended or revoked will continue to drive without a license, a deterrent to DWI other than license suspension or revocation is necessary to protect public safety.

[top]

What Is An Ignition Interlock Driver?

An ignition interlock device consists of a breath-testing unit that is connected to a vehicle's ignition switch. To start the vehicle, the driver must blow into the unit. If the breath sample provided by the driver contains more than a predetermined blood alcohol concentration, the ignition interlock device prevents the vehicle from being started. To meet the model specifications set by NHTSA, the ignition interlock device must not only require a breath test to start the vehicle, but must also require a subsequent "rolling or running retest" to prevent another person from starting the vehicle and then allowing an impaired driver to take over the wheel. The ignition interlock system records the results of all breath tests, as well as all attempts to circumvent or tamper with the device.

Federal Law

The TEA-21 Restoration Act supports the use of ignition interlock devices by

mandating that State laws regarding second and subsequent convictions for DWI must require that all vehicles of repeat DWI offenders be impounded or immobilized for some time period during the license suspension period, or require the installation of an ignition interlock system on all of the offender's vehicles for some time period after the end of the suspension. Otherwise, the State risks losing Federal funding.[52]

[top]

State Laws

Forty-three States have laws providing for either the discretionary or mandatory installation of ignition interlock devices on the vehicles of repeat DWI offenders. New Mexico, for example, requires that as a condition of probation upon a first conviction for aggravated driving while under the influence of intoxicating liquor or drugs,[53] an offender shall be required to have an ignition interlock device installed and operating for a period of one year on all motor vehicles driven by the offender.[54]

Costs

The offender is required to pay for the ignition interlock device. The average cost for installation of the device is approximately $100-$150, and monthly monitoring and calibration is approximately $65.

Effectiveness Of The Device

The ignition interlock device has proved to be an effective deterrent to DWI because when properly installed and regularly monitored, the device is extremely difficult to circumvent. It has also proved to be an effective deterrent when it is emphasized to the offender that this is a lesser penalty than might be imposed (e.g., impounding the offender's vehicle) and is conditioned on the offender's correct use of the device every time he or she drives.

Studies have shown:

- A recidivism rate of 0-4 percent by offenders whose vehicles were equipped with an ignition interlock device.[55]
- That offenders were 65 percent less likely to re-offend while the device was in place than those offenders who were not required to install the device.[56]
- That multiple DWI offenders who were required to install ignition interlock devices were less than half as likely to have subsequent DWI convictions within three years, as compared with other multiple DWI offenders who were not required to install the devices.[57]
- That after 30 months, the recidivism rate for offenders placed in an interlock group was only 1.5 percent, compared to 16.1 percent for offenders in the non-interlock group.[58]
- That a program which combined an ignition interlock requirement with substance abuse treatment and license suspension was more effective in

preventing recidivism than any other program.[59]

Other researchers have found, however, that the deterrent effect of the device generally ends once it is removed, and that the likelihood that offenders who were required to install the device will commit a repeat DWI offense following removal of the device is virtually the same as for those who were not required to install the device.[60] Research suggests that the device should remain installed until the offender can demonstrate an extended period of sobriety.[61] When combined with substance abuse counseling, there is some evidence that the deterrent effect of the device may continue beyond its removal.[62]

One court found that the practical effectiveness of the device was limited because only a small number of offenders were willing to install the device in order to be able to drive legally. Consequently, it adopted a court policy that created a strong incentive for offenders to install the device by making traditional penalties, such as jail or electronically monitored house arrest, the alternative to participation in the interlock program. Comparison of the recidivism rates of offenders subject to this policy with offenders in similar, nearby courts, not using interlocks, indicated that the policy was producing substantial reductions in DWI recidivism.[63]

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Using Data Recorded by Device

The data recorded by the ignition interlock device may provide information regarding the offender's particular pattern of alcohol abuse that may be useful in attempting to change the offender's behavior through counseling or other means (e.g., by showing the offender's attempts to drive while intoxicated at a certain time of day or under certain circumstances).[64] Some researchers have concluded that interlock data may eventually come to serve as a useful adjunct for monitoring offenders by alcohol counselors, as well as by courts and motor vehicle authorities.[65]

Barriers to Using the Device

Judges and prosecutors who participated in a 2003 study conducted by the California Department of Motor Vehicles noted three barriers that exist to requiring ignition interlock devices:

- Many offenders are unable to pay for these devices.
- Many offenders do not own a vehicle; and
- Monitoring offenders ordered to install an ignition interlock device is time-consuming and difficult.[66]

One method of dealing with offenders who do not own a vehicle is to require them to sign a waiver stating that they will not own or operate a vehicle that is not equipped with an ignition interlock device.

[52] See 23 U.S.C. § 164(a)(5)(B).

[53] N.M. Stat. §66-8-102 (D): Aggravated driving while under the influence of intoxicating liquor or drugs consists of a person who:
(1) has an alcohol concentration of sixteen one hundredths or more in his blood or breath while driving a vehicle within this state;
(2) has caused bodily injury to a human being as a result of the unlawful operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or
(3) refused to submit to chemical testing, as provided for in the Implied Consent Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs.

[54] N.M. Stat. §66-8-102 (N).

[55] See "The Technology Answer to the Persistent Drinking Driver," National Commission against Drunk Driving (NCADD), http://www.ncadd.com/015.cfm.

[56] See Beck, Kenneth H., et al., "Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland," American Journal of Public Health, Vol. 89, No. 11, pp. 1696-1700 (November 1999); Coben, Jeffrey, and Gregory Larkin, "Effectiveness of Ignition Interlock Devices in Reducing Drunk Driving Recidivism," American Journal of Preventive Medicine, Vol. 16, No. 1S, pp. 81-87 (1999).

[57] See Fulkerson, Andrew, "Blow and Go: The Breath-Analyzed Ignition Interlock Device as a Technological Response to DWI," American Journal of Drug and Alcohol Abuse," Vol. 29, pp. 219-229 (2003).

[58] See More, Barbara J. and Delbert S. Elliott, "Effects of Ignition Interlock Devices on DUI Recidivism: Findings from a Longitudinal Study in Hamilton County, Ohio," Crime & Delinquency, Vol. 38, pp. 131-141 (1992).

[59] See Tashima, Helen N. and Clifford J. Helander, "1999 Annual Report of the California DUI Management Information System," California Department of Motor Vehicles, pp. 30, 38 (January 1999).

[60] See Raub, R., et al., "Breath Alcohol Ignition Interlock Devices: Controlling the Recidivist," Traffic Injury Prevention, Vol. 4, No. 3, pp. 199-205 (2003); "Alcohol Ignition Interlock Devices I: Position Paper," International Council on Alcohol, Drugs and Traffic Safety (ICADTS), p. 11 (July 2001).

[61] See Raub, supra.

[62] See Raub, supra.

[63] See Voas, Robert A., et al., "Evaluation of a Program to Motivate Impaired Driving Offenders to Install Ignition Interlocks," Accident Analysis and Prevention, Vol. 34, No. 4, pp. 449-455 (2002).

[64] See Marques, Paul R., et al., "Predicting Repeat DUI Offenses With Alcohol Interlock Recorder," Accident Analysis and Prevention, Vol. 33, No. 5, pp. 609-619 (2001); Marques, Paul R., et al., "Behavioral Monitoring of DUI Offenders with Alcohol Ignition Interlock Recorder," Addiction, Vol. 94, No. 12, pp. 1861-1870 (1999).

[65] See Marques, Paul R., et al., "Behavioral Measures of Drinking: Patterns from the Alcohol Interlock Record," Addiction, Vol. 98, No. 2, pp. 13-19 (2003).

[66] See DeYoung, David, "An Evaluation of the Implementation of Ignition Interlock in California," Licensing Operations Division, Research Notes – 2003, http://www.dmv.ca.gov/about/profile/rd/resnotes/evaluation_implementation.htm.

back next top contents

Alcohol Ignition Interlock Fact Sheet

Alcohol ignition interlocks
An alcohol ignition interlock is a breath test device linked to a vehicle's ignition system. When a driver wishes to start his or her vehicle, he or she must first blow into the device. The vehicle will not start unless the driver's alcohol concentration is below a pre-set blood alcohol concentration (BAC). A data recorder logs the driver's BAC for each attempt to start the vehicle. Interlocks may be calibrated to have "rolling retests," which requires a driver to provide breath tests at regular intervals, preventing drivers from asking a sober friend to start the car, drink while driving, or leaving the car idling in a bar parking lot.[1]

Use and prevalence of interlocks
Interlocks are used as a condition of probation for drunk driving offenders after their driver's licenses have been reinstated; they can also be directly mandated by judges. Sometimes interlocks can be used when licenses are revoked upon arrest for drunk driving as well, before conviction. As of 2006, 45 states and the District of Columbia allow for interlocks for some drunk driving offenders.[2]

- In 20 of these states, the law mandates the use of ignition interlock devices for DWI offenders. These states include: Arizona, California, Colorado, Florida, Idaho, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Missouri, New Jersey, New Mexico, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Virginia and Washington. [3]
- Twenty-five states have laws that provide for the discretionary use of ignition interlock devices for DWI offenders. These states are: Alaska, Arkansas, Connecticut, Delaware, Georgia, Indiana, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, Tennessee, West Virginia, Wisconsin, Wyoming, and the District of Columbia.[4]
- Five states, Alabama, Hawaii, Maine, South Dakota and Vermont, have no ignition interlock provisions.[5]

Despite these various laws throughout the nation, only 100,000 interlocks are in service in the United States.[6]

Effectiveness of interlocks
Interlock devices are up to 90 percent effective while installed in a vehicle.[7] Once the interlock is removed from the offender's vehicle, however, the recidivism is similar for both offender groups.[8] The average offender with an interlock installed in their vehicle gives a breath test five to nine times per day, of which 99 percent feature a BAC under .02.[9] This data shows that interlocks are an effective weapon against drunk driving.

Alcohol ignition interlocks save lives
Each year, one-third of all drunk driving arrests are of drivers who have previously been convicted of drunk driving. Installing interlocks on all repeat offenders has the potential to save the lives of at least 300 individuals per year.[10] Expanding the installation of interlocks into the

cars of first time offenders could save at least 1,600 lives.[11] By requiring interlocks for all convicted drunk drivers, we could save at least 1,900 lives per year.

The public supports the implementation of alcohol ignition interlocks
Eighty-five percent of the public supports the mandatory installation of alcohol ignition interlocks in the vehicles of repeat DWI offenders and 65 percent also support the mandatory installation of interlocks for first time offenders.[12]

Best use of interlock programs
New Mexico is the best model of successful judicial ignition interlock program. In 2005, New Mexico passed a law making interlocks mandatory for all drunk driving offenders: one year for first offenders, two years for second, three years for third, and a lifetime for the fourth offense. As of June 2006, 5,265 ignition interlocks had been installed in New Mexico, significantly more per capita then in any other state.[13] Additionally, interlocks are perceived as a fair sanction by 85 percent of more than 3,000 offenders from that state.[14]

Alcohol ignition interlock programs have been adapted in other countries, as well.

- Australia has interlock programs in three of its states, adding up to 2,500 total interlock installations as of June 2006.[15]
- Almost all of the Canadian provinces have interlock programs for drunk driving offenders, most of which are voluntary.[16]
- The European Union has conducted feasibility studies in Belgium, Germany, Norway and Spain, while voluntary ignition interlock programs for convicted drunk drivers are also being tested in Finland, France, Germany and Great Britain.[17]
- Sweden has the most advanced interlock laws, as drunk driving offenders can choose between having their drivers license revoked or keeping it and participating in the interlock program. For two years, offenders must drive only interlock vehicles and cannot drive outside of Sweden. Drivers are dropped from the program if they are not completely sober during the second year. Two years after they left the program, successful participants had significantly fewer drunk driving arrests and crashes than they did before starting the program.[18]

Expanding interlock use for all convicted drunk drivers
The *Campaign* supports several approaches to implement greater use of interlocks for all convicted drunk driving offenders. First, new state laws need to be enacted to require interlock use by all drunk driving offenders, including first time offenders. Second, judges are one of the keys to increasing interlock use because they have the power to implement interlock laws and to penalize drivers who fail to comply with interlock program requirements. The *Campaign* aims to provide active education among state driver's license officials, judges and prosecutors on interlocks.[19]

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[11] MADD, *International Technology Symposium: A Nation without Drunk Driving Summary Report*, November, 2006, pg 4.
[12] MADD (2006), *State-by-State Alcohol-Related Laws*, www.madd.org/laws
[13] MADD (2006), *Ignition Interlock Brief*.
[14] Ibid.

[6] Ibid.
Marques, Paul. "Technology Today: Controlling DWI Offenders with Alcohol Ignition Interlock Programs" Presentation at the *MADD International Technology Symposium*: June 19-20, 2006.
[7] Voas, Robert, et al. "The Alberta Interlock Program: The Evaluation of a Province-Wide Program on DUI Recidivism." *Addiction* 94 (12): 1849-1859. 1999.
[8] Marques, Paul.
[9] Ibid.
[10] Fell, James. "Potential Role of Technology in Reducing Alcohol-Related Traffic Fatalities." Presentation at the *MADD International Technology Symposium*: June 19-20, 2006.
[11] Ibid.
[12] McInturff, Bill. "A Presentation of key findings from a national survey of 800 drivers conducted June 8-11, 2006." Presentation at the *MADD International Technology Symposium*: June 19-20, 2006.
[13] Ibid.
[14] Roth, Richard. "Interlocks in New Mexico". Presentation at the *MADD International Technology Symposium*: June 19-20, 2006.
[15] MADD, *International Technology Symposium: A Nation Without Drunk Driving Summary Report*, November, 2006: pg 4.
[16] Ibid, pg 4.
[17] Ibid, pp 4-5.
[18] Ibid, pg 5.
[19] Ibid, pg 5.