

**SB**

**239**

**Representative Jay Ramras**  
**Chair, Judiciary**  
**Chair, Economic**  
**Development, Trade &**  
**Tourism**  
**Energy**  
**Military & Veteran Affairs**  
**Joint Armed Service**  
State Capitol, Room 118  
Juneau, Alaska 99801-1182  
Phone: (907) 465-3004  
Fax: (907) 465-2070  
Toll Free: (877) 465-3004

# Alaska State Legislature



## House of Representatives

**Interim:**  
1292 Sadler Way, Suite 324  
Fairbanks, Alaska 99701  
Phone: (907) 452-1088  
Fax: (907) 456-3346  
Toll Free: (877) 465-3004

**House District 10**

### Fax

To: Leg. Legal

Fax #: (907) 465-2029

Number of pages including cover: 1

From: Jane W. Pierson

Date: April 12, 2010

Re: SB239 version 26-LS1210\C

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Jerry,

Today the House Judiciary Committee moved the above-referenced bill from committee with one conceptual amendment as follows:

P.4, L. 29 after "device" insert 'for an alcohol related offense'

P.6, L. 7 after "device" insert for an alcohol related offense'

Please make the attached changes and go final on the bill.

Call if you have any questions and thank you!

Representative\_Jay\_Ramras@legis.state.ak.us

# ALASKA STATE LEGISLATURE

Interim:  
716 West 4th Avenue  
Anchorage, Alaska 99501-2133  
Phone: (907) 269-0199  
Fax (907) 269-0197  
Senator\_Kevin\_Meyer@legis.state.ak.us



Session:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
Phone: (907) 465-4945  
Fax: (907) 465-3476  
Toll Free: (866) 465-4945

**SENATOR KEVIN MEYER**  
SENATE DISTRICT O

## SPONSOR STATEMENT FOR SB 239

*"An Act relating to ignition interlock devices, to refusal to submit to a chemical test, and to driving while under the influence."*

SB 239 would clarify the sentencing statutes regarding the use of ignition interlock device (IID).

Effective in 2009, legislation was passed mandating an IID as part of the sentencing for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance.

In 2009, there were 3,513 court orders requiring IID, 193 limited licenses for an IID were issued, and over 1,245 IIDs were installed in vehicles. There have been some reports of the IID being suspended in sentencing and of people with more violations having less time with an IID.

SB 239 would seek to remedy these loopholes by 1) requiring a period of time an IID to be installed stair stepped with each offense and 2) listing an IID as a condition of sentencing that cannot be suspended.

According to the National Conference of State Legislatures January 2010 Legisbrief, research shows that installation of an IID reduces can reduce recidivism up to 90 percent.

26-LS1210C  
Luckhaupt  
4/7/10

**HOUSE CS FOR CS FOR SENATE BILL NO. 239( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS MEYER, Wielechowski, Thomas, French, McGuire, Menard, Ellis, Egan**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to ignition interlock devices, to refusal to submit to a chemical test, and**  
2 **to driving while under the influence."**

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

4 **\* Section 1.** AS 11.76.140(a) is amended to read:

5 (a) A person commits the crime of avoidance of ignition interlock device if the  
6 person knowingly

7 (1) circumvents or tampers with an ignition interlock device in a  
8 manner intended to allow a person on probation under AS 12.55.102, with a condition  
9 of sentence under AS 12.55.102 or another section, or who has an ignition interlock  
10 limited license to avoid using the device;

11 (2) rents a motor vehicle to a person and with criminal negligence  
12 disregards the fact that the person is on probation under AS 12.55.102, has a condition  
13 of sentence under AS 12.55.102 or another section, or has an ignition interlock  
14 limited license, unless the vehicle is equipped with an ignition interlock device

1 described in AS 12.55.102; or

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

6 \* Sec. 2. AS 28.15.291(b) is amended to read:

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

8 (1) shall impose a minimum sentence of imprisonment

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

13 (B) if the person has been previously convicted, of not less than  
14 10 days;

15 (C) if the person's driver's license, privilege to drive, or  
16 privilege to obtain a license was revoked under circumstances described in  
17 AS 28.15.181(c)(1), [OR] if the person was driving in violation of a limited  
18 license issued under AS 28.15.201(d) following that revocation, or if the  
19 person was driving in violation of an ignition interlock device requirement  
20 following that revocation, of not less than 20 days with 10 days suspended,  
21 and a fine of not less than \$500, including a mandatory condition of probation  
22 that the defendant complete not less than 80 hours of community work service;

23 (D) if the person's driver's license, privilege to drive, or  
24 privilege to obtain a license was revoked under circumstances described in  
25 AS 28.15.181(c)(2), (3), or (4), [OR] if the person was driving in violation of a  
26 limited license issued under AS 28.15.201(d) following that revocation, or if  
27 the person was driving in violation of an ignition interlock device  
28 requirement following that revocation, of not less than 30 days and a fine of  
29 not less than \$1,000;

30 (2) may impose additional conditions of probation;

31 (3) may not

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

4 (B) suspend imposition of sentence;

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

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

12 \* Sec. 3. AS 28.35.030(b) is amended to read:

13 (b) Except as provided under (n) of this section, driving while under the  
14 influence of an alcoholic beverage, inhalant, or controlled substance is a class A  
15 misdemeanor. Upon conviction,

16 (1) the court shall impose a minimum sentence of imprisonment of

17 (A) not less than 72 consecutive hours, require the person to  
18 use an ignition interlock device after the person regains the privilege, including  
19 any limited privilege, to operate a motor vehicle for a minimum of six [12]  
20 months [DURING THE PERIOD OF PROBATION], and impose a fine of not  
21 less than \$1,500 if the person has not been previously convicted;

22 (B) not less than 20 days, require the person to use an ignition  
23 interlock device after the person regains the privilege, including any limited  
24 privilege, to operate a motor vehicle for a minimum of 12 [24] months  
25 [DURING THE PERIOD OF PROBATION], and impose a fine of not less  
26 than \$3,000 if the person has been previously convicted once;

27 (C) not less than 60 days, require the person to use an ignition  
28 interlock device after the person regains the privilege, including any limited  
29 privilege, to operate a motor vehicle for a minimum of 18 [36] months  
30 [DURING THE PERIOD OF PROBATION], and impose a fine of not less  
31 than \$4,000 if the person has been previously convicted twice and is not

1 subject to punishment under (n) of this section;

2 (D) not less than 120 days, require the person to use an ignition  
3 interlock device after the person regains the privilege, including any limited  
4 privilege, to operate a motor vehicle for a minimum of 24 months  
5 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
6 less than \$5,000 if the person has been previously convicted three times and is  
7 not subject to punishment under (n) of this section;

8 (E) not less than 240 days, require the person to use an ignition  
9 interlock device after the person regains the privilege, including any limited  
10 privilege, to operate a motor vehicle for a minimum of 30 months  
11 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
12 less than \$6,000 if the person has been previously convicted four times and is  
13 not subject to punishment under (n) of this section;

14 (F) not less than 360 days, require the person to use an ignition  
15 interlock device after the person regains the privilege, including any limited  
16 privilege, to operate a motor vehicle for a minimum of 36 months  
17 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
18 less than \$7,000 if the person has been previously convicted more than four  
19 times and is not subject to punishment under (n) of this section;

20 (2) the court may not

21 (A) suspend execution of sentence or grant probation except on  
22 condition that the person

23 (i) serve the minimum imprisonment under (1) of this  
24 subsection; [AND]

25 (ii) pay the minimum fine required under (1) of this  
26 subsection;

27 (B) suspend imposition of sentence; or

28 (C) suspend the requirement for an ignition interlock  
29 device;

30 (3) the court shall revoke the person's driver's license, privilege to  
31 drive, or privilege to obtain a license under AS 28.15.181, and may order that the

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motor vehicle, aircraft, or watercraft that was used in commission of the offense be forfeited under AS 28.35.036; and

(4) the court may order that the person, while incarcerated or as a condition of probation or parole, take a drug or combination of drugs intended to prevent the consumption of an alcoholic beverage; a condition of probation or parole imposed under this paragraph is in addition to any other condition authorized under another provision of law.

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

(g) Notwithstanding (b) of this section, [IF THE COURT IMPOSES PROBATION UNDER AS 12.55.102] the court may reduce the fine required to be imposed under (b) of this section by the cost of the ignition interlock device.

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

(n) A person is guilty of a class C felony if the person is convicted under (a) of this section and either has been previously convicted two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense, or punishment under this subsection or under AS 28.35.032(p) was previously imposed within the last 10 years. For purposes of determining minimum sentences based on previous convictions, the provisions of (u)(4) of this section apply. Upon conviction, the court

(1) shall impose a fine of not less than \$10,000, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle for a minimum of 60 months [THROUGHOUT THE PERIOD OF PROBATION], and impose a minimum sentence of imprisonment of not less than

(A) 120 days if the person has been previously convicted twice;

(B) 240 days if the person has been previously convicted three times;

(C) 360 days if the person has been previously convicted four or more times;

(2) may not

(A) suspend execution of sentence or grant probation except on condition that the person

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(i) serve the minimum imprisonment under (1) of this subsection; [AND]

(ii) pay the minimum fine required under (1) of this subsection; [OR]

(B) suspend imposition of sentence; or

(C) suspend the requirement for an ignition interlock device;

(3) shall permanently revoke the person's driver's license, privilege to drive, or privilege to obtain a license subject to restoration of the license under (o) of this section;

(4) may order that the person, while incarcerated or as a condition of probation or parole, take a drug or combination of drugs, intended to prevent the consumption of an alcoholic beverage; a condition of probation or parole imposed under this paragraph is in addition to any other condition authorized under another provision of law;

(5) shall order forfeiture under AS 28.35.036 of the vehicle, watercraft, or aircraft used in the commission of the offense, subject to remission under AS 28.35.037; and

(6) shall order the department to revoke the registration for any vehicle registered by the department in the name of the person convicted under this subsection; if a person convicted under this subsection is a registered co-owner of a vehicle or is registered as a co-owner under a business name, the department shall reissue the vehicle registration and omit the name of the person convicted under this subsection.

\* Sec. 6. AS 28.35.030(t) is amended to read:

(t) Notwithstanding (b) or [,] (n) [, OR (r)] of this section, the court shall waive the requirement of the use of an ignition interlock device when a person operates a motor vehicle in a community included on the list published by the department under AS 28.22.011(b).

\* Sec. 7. AS 28.35.032(g) is amended to read:

(g) Upon conviction under this section,

1 (1) the court shall impose a minimum sentence of imprisonment of

2 (A) not less than 72 consecutive hours, require the person to  
3 use an ignition interlock device after the person regains the privilege to operate  
4 a motor vehicle for a minimum of six [12] months [DURING THE PERIOD  
5 OF PROBATION], and impose a fine of not less than \$1,500 if the person has  
6 not been previously convicted;

7 (B) not less than 20 days, require the person to use an ignition  
8 interlock device after the person regains the privilege to operate a motor  
9 vehicle for a minimum of 12 [24] months [DURING THE PERIOD OF  
10 PROBATION], and impose a fine of not less than \$3,000 if the person has  
11 been previously convicted once;

12 (C) not less than 60 days, require the person to use an ignition  
13 interlock device after the person regains the privilege to operate a motor  
14 vehicle for a minimum of 18 [36] months [DURING THE PERIOD OF  
15 PROBATION], and impose a fine of not less than \$4,000 if the person has  
16 been previously convicted twice and is not subject to punishment under (p) of  
17 this section;

18 (D) not less than 120 days, require the person to use an ignition  
19 interlock device after the person regains the privilege to operate a motor  
20 vehicle for a minimum of 24 months [THROUGHOUT THE PERIOD OF  
21 PROBATION], and impose a fine of not less than \$5,000 if the person has  
22 been previously convicted three times and is not subject to punishment under  
23 (p) of this section;

24 (E) not less than 240 days, require the person to use an ignition  
25 interlock device after the person regains the privilege to operate a motor  
26 vehicle for a minimum of 30 months [THROUGHOUT THE PERIOD OF  
27 PROBATION], and impose a fine of not less than \$6,000 if the person has  
28 been previously convicted four times and is not subject to punishment under  
29 (p) of this section;

30 (F) not less than 360 days, require the person to use an ignition  
31 interlock device after the person regains the privilege to operate a motor

1 vehicle for a minimum of 36 months [THROUGHOUT THE PERIOD OF  
2 PROBATION], and impose a fine of not less than \$7,000 if the person has  
3 been previously convicted more than four times and is not subject to  
4 punishment under (p) of this section;

5 (2) the court may not

6 (A) suspend execution of the sentence required by (1) of this  
7 subsection or grant probation, except on condition that the person

8 (i) serve the minimum imprisonment under (1) of this  
9 subsection; [AND]

10 (ii) pay the minimum fine required under (1) of this  
11 subsection; [OR]

12 (B) suspend imposition of sentence; or

13 (C) suspend the requirement for an ignition interlock  
14 device;

15 (3) the court shall revoke the person's driver's license, privilege to  
16 drive, or privilege to obtain a license under AS 28.15.181, and may order that the  
17 motor vehicle, aircraft, or watercraft that was used in commission of the offense be  
18 forfeited under AS 28.35.036;

19 (4) the court may order that the person, while incarcerated or as a  
20 condition of probation or parole, take a drug or combination of drugs intended to  
21 prevent the consumption of an alcoholic beverage; a condition of probation or parole  
22 imposed under this paragraph is in addition to any other condition authorized under  
23 another provision of law; and

24 (5) the sentence imposed by the court under this subsection shall run  
25 consecutively with any other sentence of imprisonment imposed on the person.

26 \* Sec. 8. AS 28.35.032(k) is amended to read:

27 (k) Notwithstanding (g) of this section, [IF THE COURT IMPOSES  
28 PROBATION UNDER AS 12.55.102] the court may reduce the fine required to be  
29 imposed under (g) of this section by the cost of the ignition interlock device.

30 \* Sec. 9. AS 28.35.032(p) is amended to read:

31 (p) A person is guilty of a class C felony if the person is convicted under this

1 section and either has been previously convicted two or more times since January 1,  
2 1996, and within the 10 years preceding the date of the present offense, or punishment  
3 under this subsection or under AS 28.35.030(n) was previously imposed within the  
4 last 10 years. For purposes of determining minimum sentences based on previous  
5 convictions, the provisions of AS 28.35.030(u)(4) apply. Upon conviction,

6 (1) the court shall impose a fine of not less than \$10,000, require the  
7 person to use an ignition interlock device after the person regains the privilege to  
8 operate a motor vehicle for a minimum of 60 months [THROUGHOUT THE  
9 PERIOD OF PROBATION], and impose a minimum sentence of imprisonment of not  
10 less than

11 (A) 120 days if the person has been previously convicted twice;

12 (B) 240 days if the person has been previously convicted three  
13 times;

14 (C) 360 days if the person has been previously convicted four  
15 or more times;

16 (2) the court may not

17 (A) suspend execution of the sentence required by (1) of this  
18 subsection or grant probation, except on condition that the person

19 (i) serve the minimum imprisonment under (1) of this  
20 subsection; [AND]

21 (ii) pay the minimum fine required under (1) of this  
22 subsection; [OR]

23 (B) suspend imposition of sentence; or

24 (C) suspend the requirements for an ignition interlock  
25 device;

26 (3) the court shall permanently revoke the person's driver's license,  
27 privilege to drive, or privilege to obtain a license subject to restoration under (q) of  
28 this section;

29 (4) the court may order that the person, while incarcerated or as a  
30 condition of probation or parole, take a drug, or combination of drugs, intended to  
31 prevent consumption of an alcoholic beverage; a condition of probation or parole

1 imposed under this paragraph is in addition to any other condition authorized under  
2 another provision of law;

3 (5) the sentence imposed by the court under this subsection shall run  
4 consecutively with any other sentence of imprisonment imposed on the person;

5 (6) the court shall order forfeiture under AS 28.35.036, of the motor  
6 vehicle, aircraft, or watercraft used in the commission of the offense, subject to  
7 remission under AS 28.35.037; and

8 (7) the court shall order the department to revoke the registration for  
9 any vehicle registered by the department in the name of the person convicted under  
10 this subsection; if a person convicted under this subsection is a registered co-owner of  
11 a vehicle, the department shall reissue the vehicle registration and omit the name of  
12 the person convicted under this subsection.

13 \* **Sec. 10.** AS 33.05.020(c) is amended to read:

14 (c) The commissioner shall by regulation

15 (1) establish standards for calibration, certification, maintenance, and  
16 monitoring of ignition interlock devices required as a condition of probation or as  
17 part of a sentence under AS 12.55.102 or another statute; and

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

20 \* **Sec. 11.** AS 33.05.020(e) is amended to read:

21 (e) The commissioner shall notify the manufacturer of the ignition interlock  
22 device when the device is certified. The commissioner may not certify an ignition  
23 interlock device unless the device prominently displays a label warning that a person  
24 circumventing or tampering with the device violates [IN VIOLATION OF]  
25 AS 11.76.140 and may be imprisoned [UP TO 30 DAYS] and fined [UP TO \$500].

26 \* **Sec. 12.** AS 12.55.102(e)(2) and AS 28.35.030(r) are repealed.

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 239(JUD)  
 (S) Publish Date: 3/23/10

Identifier (file name): SB239-LAW-CRIM-02-19-10 Dept. Affected: Law  
 Title An Act relating to ignition interlock devices, to refusal to submit RDU CRIMINAL  
to a chemical test and to driving while under the influence. Component Criminal Justice Litigation  
 Sponsor Senator Meyer  
 Requester Senate Judiciary Component Number 2202

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

This bill proposes amendments to the statutes related to ignition interlock devices. The Department of Law does not anticipate any fiscal impact from passage of this legislation.

Prepared by: Eileen Donahue, Division Operations Manager  
 Division: Administrative Services  
 Approved by: Daniel S. Sullivan, Attorney General  
Department of Law

Phone 465-5427  
 Date/Time 2/19/10 5:00 PM  
 Date 2/19/2010

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSSB 239(JUD)  
 (S) Publish Date: 3/23/10

Identifier (file name): SB239-DOA-DMV-02-22-10 Dept. Affected: Administration  
 Title: "An Act relating to ignition interlock devices, to refusal to submit to a chemical test..." RDU: Division of Motor Vehicles  
 Sponsor: Senator Meyer Component: Motor Vehicles  
 Requester: (S)JUD Component Number: 2348

**Expenditures/Revenues (Thousands of Dollars)**

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
1156 Receipt Supported Services								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

This bill does not fiscally impact the Division of Motor Vehicles (DMV).

Prepared by: Whitney H. Brewster, Director  
 Division: Motor Vehicles  
 Approved by: Kevin Brooks, Deputy Commissioner  
Department of Administration

Phone 907-269-5574  
 Date/Time 2/22/10 11:30 AM  
 Date 2/22/2010

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

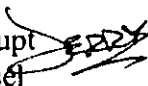
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 12, 2010

**SUBJECT:** Sectional Summary - CSSB 239( ), "S" Version  
(Work Order No. 26-LS1210\S)

**TO:** Senator Kevin Meyer  
Attn: Christine Marasigan

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill -- the bill itself is the best statement of its contents.

**Section 1** amends AS 11.76.140(a) to provide criminal liability in relation to ignition interlock devices regardless of whether the requirement to use the ignition interlock devices arises under AS 12.55.102 or another statute.

**Section 2** amends AS 28.35.030(b), misdemeanor drunk driving, to provide that the requirement for an ignition interlock device for drunk drivers applies regardless of whether the offender receives probation; starts at a minimum of six months for a first offender and increases by six months for each offense (this is a minimum period for use of an interlock the court may impose a greater period); and provides that the ignition interlock requirement may not be suspended by the court.

**Section 3** amends AS 28.35.030(g) to conform to sec. 2, as ignition interlock is no longer tied to probation.

**Section 4** amends AS 28.35.030(n), the felony drunk driving statute, in a manner similar to sec. 2, by no longer tying imposition of ignition interlock to probation. In addition, this section requires the use of an ignition interlock device for a minimum of five years for anyone convicted of felony drunk driving and provides that the ignition interlock requirement may not be suspended.

**Section 5** makes a technical change to correspond to the repeal of AS 28.35.030(r) in sec. 9 of the bill.

**Section 6** amends AS 28.35.032(g), misdemeanor refusal to submit to a chemical test, by making the same changes that are made in sec. 2 of the bill for misdemeanor drunk driving.

Senator Kevin Meyer

March 12, 2010

Page 2

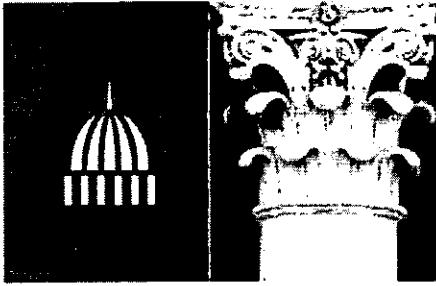
**Section 7** amends AS 28.35.032(k) to conform to sec. 6, as ignition interlock is no longer tied to probation.

**Section 8** amends AS 28.35.032, felony refusal to consent, by making the same changes that are made in sec. 4, felony drunk driving.

**Section 9** repeals AS 12.55.102(e)(2) and AS 28.35.030(r).

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# National Conference of State Legislatures

# LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

JANUARY 2010

VOL. 18, No. 3

## Ignition Interlock Devices: Starting Your Engine Sober

By Anne Teigen

*Ignition interlocks can help decrease the number of drunken drivers.*

*Devices are more accurate and less susceptible to tampering.*

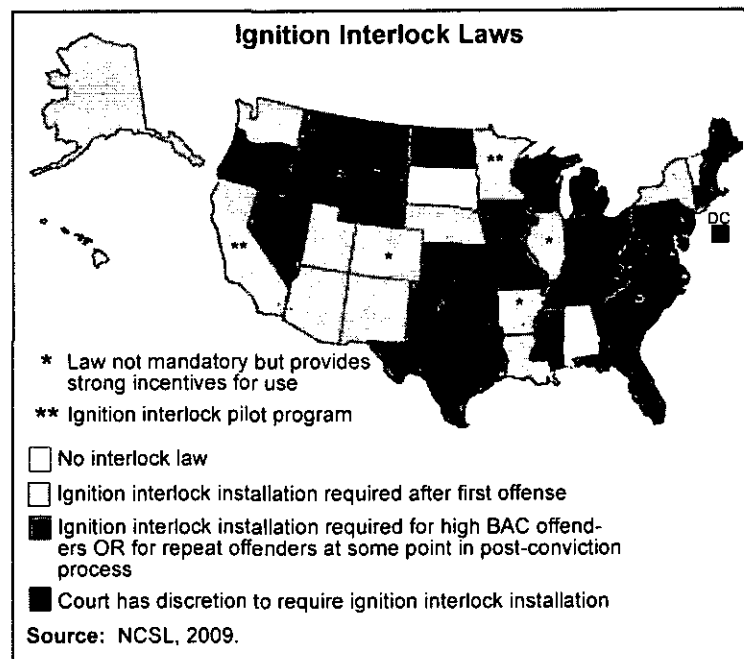
*State ignition interlock laws vary.*

Alcohol-impaired driving fatalities still account for 32 percent of all U.S. traffic deaths. An estimated 11,700 people were killed in alcohol-impaired crashes in 2008, an approximate average of one fatality every 45 minutes. Impaired driving remains a significant public safety issue, and legislators are considering such tools as ignition interlock technology to decrease the number of drunken drivers.

Ignition interlock devices are installed in motor vehicles to prevent them from being started if alcohol is detected on the driver's breath. Most devices require periodic retesting while the car is running to ensure that the driver is not drinking once the car is started. Technological advances have made ignition interlock devices smaller, more accurate and less susceptible to tampering. Many courts include the use of devices when sentencing DUI offenders. During sentencing, an offender whose driver's license has been suspended or revoked may be granted limited driving privileges if an ignition interlock device is installed. About 146,000 ignition interlock devices currently are in use in the United States.

**State Action** State ignition interlock laws vary greatly. Currently, 47 states and the District of Columbia have some type of law. Twenty-five states require installation of an interlock device after some repeat offenders or high BAC offenders are convicted. In some states, the license revocation period may be shortened if an interlock device is installed. Eight states and the District of Columbia allow judicial discretion in sentencing of offenders. Alabama, South Dakota and Vermont have no ignition interlock law.

In 2005, New Mexico became the first state to require ignition interlock devices for all convicted drunken drivers, including first-time offenders. As of December



National Conference  
of State Legislatures

Denver  
7700 East First Place  
Denver, Colorado 80230  
Phone (303) 364-7700  
www.nesl.org

Washington, D.C.  
444 North Capitol Street, NW, Suite 515  
Washington, D.C. 20001  
Phone (202) 624-5400

2009, Alaska, Arizona, Hawaii, Louisiana, Nebraska, New Mexico, New York, Utah and Washington had passed legislation to require ignition interlock devices for all convicted drunken driving offenders. New York's law takes effect in August 2010, and Hawaii's law is effective in January 2011.

Three states address interlocks for first-time offenders with certain qualifications. Colorado's ignition interlock law is not mandatory for first-time offenders. The law provides strong incentives to use ignition interlocks by allowing first-time offenders' license suspension to be reduced from nine months to one month if an interlock is installed. Illinois requires first-time offenders to have interlocks installed unless an offender chooses in writing not to do so. Arkansas allows discretion to issue an ignition interlock license to a first-time offender.

In 2009, 32 states considered some sort of ignition interlock legislation, and two passed pilot programs. Minnesota's program—available to all DUI offenders—is administered by the Minnesota Department of Public Safety, Driver and Vehicle Services. The program allows first-time and repeat DUI offenders to regain driving privileges if they participate in the pilot program. First-time offenders must use an ignition interlock device for one year, after a 15-day license suspension. Second- or third-time offenders must use the device for a year and six months after a 30-day license suspension. The pilot project began July 1, 2009, and will end June 30, 2011. The commissioner must submit a final report to the Legislature by Sept. 30, 2011, evaluating the pilot project, including information on participation rates, and recommending whether to continue an ignition interlock program. California's pilot program requires interlocks for all DUI offenders in four counties. The DMV must report to the Legislature on the pilot program's effectiveness in reducing the number of first-time DUI violations and repeat offenses.

Virginia modified its ignition interlock law in 2009, making it a Class 1 misdemeanor for anyone required to have an interlock installed to operate a vehicle without the device. Convicted drivers also are subject to license revocation. Many other states are revising their laws to provide penalties for offenders who violate ignition interlock laws.

**Effects of state laws.** Research shows that installation of these devices reduces recidivism by between 50 percent and 90 percent. A Maryland study of repeat offenders showed that interlock program participation reduced the risk of committing an alcohol traffic violation within the first year by 65 percent. A 2002 Illinois study found offenders who used ignition interlock devices were 20 percent less likely to be re-arrested for a DUI during the first year, compared to offenders who did not install the device. The installation rate of ignition interlocks is key in determining a law's effectiveness. Approximately 1.4 million drunken driving offenders are arrested and convicted each year, yet only 10 percent of convicted DWI drivers ordered to install an interlock device on their vehicle have done so.

**Federal Action** In preparing to reauthorize the surface transportation program (SAFETEA-LU), Congress is considering provisions that would require states to enact and enforce ignition interlock laws. In the provisions under debate, states would have to enact mandatory ignition interlock laws for all those convicted of driving while intoxicated and require the device to be installed for at least six months for the first offense. States would lose a percentage of highway maintenance funds for failing to pass such laws. The bill was introduced in December 2009.

#### **Contacts for More Information**

Anne Teigen  
NCSL—Denver  
(303) 364-7700, ext. 1652  
anne.teigen@ncsl.org

Melissa Savage  
NCSL—Denver  
(303) 364-7700, ext. 1527  
melissa.savage@ncsl.org

*New laws in nine states require devices for all DUI offenders.*

*In 2009, two states authorized ignition interlock pilot programs.*

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106    Anchorage, Alaska 99524-0106    Phone (907) 277-0515    Fax (907) 272-5355



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Wrangell

February 2, 2010

Senator Kevin Meyer  
Alaska State Senate  
State Capitol  
Juneau AK 99801-1182

Dear Senator Meyer:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing Senate Bill 239, an act relating to ignition interlock devices, to refusal to submit to a chemical test, and to driving while under the influence.

The APOA State Board of Directors recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

John Lucking, Jr.  
State President

**From:** "Schubert, Stacy" <SchubertS@ci.anchorage.ak.us>  
**Subject:** RE: Ignition Interlock  
**Date:** March 31, 2010 1:09:01 PM GMT-08:00  
**To:** "Wheeler, Dennis A." <WheelerDA@ci.anchorage.ak.us>  
**Cc:** "Messick, Jennifer" <MessickJ@ci.anchorage.ak.us>, "Theno, Seneca A." <ThenoSA@ci.anchorage.ak.us>, "Patterson, Al D." <PattersonAD@ci.anchorage.ak.us>, "wendyc@gci.net" <wendyc@gci.net>

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Thanks all!

This is a fantastic analysis. I have spoken with Christine in Senator Meyer's office about your concerns and she very much appreciates your approach to resolving them. It is her feeling that the bill may be facing some hurdles in the Senate and to achieve expedited passage she'd prefer to see amendments go in on the House side. For your information, the bill has been referred to Senate Finance; however, it has yet to be scheduled (that's not unusual as the committee is still working on the capital budget and other issues that have been identified as "key"). Upon passage through Finance, it will go to the Senate Floor and then onto the House. I believe we have any ally with Rep. Mike Hawker as he was working on a similar bill earlier in the session.

I'll continue to monitor progress and will notify you as it occurs. Again, I appreciate the team effort.

-Stacy

---

**From:** Wheeler, Dennis A.  
**Sent:** Tuesday, March 30, 2010 5:30 PM  
**To:** Schubert, Stacy  
**Cc:** Messick, Jennifer; Theno, Seneca A.; Patterson, Al D.  
**Subject:** Ignition Interlock  
**Importance:** High

Stacy - here are the comments on the CS for SB 239 (version P). Big thanks to Seneca and Jennifer in Prosecution for looking this over and providing the comments on short notice, with a few minor edits of my own. These comments, in order to get them to Juneau ASAP, are not known to or endorsed/opposed by the Mayor. We are generally supportive of the fixes as they relate to mandatory requirements for use of IID, but note the following for consideration.

**Issue:**

The bill ties the IID to regaining the privilege to drive. This is problematic because doing so creates an incentive for people to NOT get their license and it also basically allows them to drive without an IID without incurring any greater penalty than a regular Driving While License Revoked (DWLR) person.

**Suggestions:** either change the IID language or change the DWLR statute

**1) Not just tying the IID to when they 'regain the privilege to drive' but requiring it *whenever they drive*, or a hybrid of both**

**WHY:** A lot of DUI offenders won't ever regain their privilege to drive (either because they don't comply with ASAP or because they don't get the IID) and then when they drive (without the IID) they are simply DWLR without committing any greater crime

for not having the IID. They are simply DWLR in the same way the guy who didn't pay child support is (although child support guy is less of a public safety concern)

The way this draft is written and under the current penalty scheme a person who gets their IID and gets their OL (after their 90 day revocation) and gets caught driving their friend's car without an IID would have a mandatory 30 days of jail and \$1000 fine and 80 hours of community work service, but the guy who never bothered to get the IID and never bothered to get the OL gets caught driving without an IID and he only gets mandatory 80 hours work service. This doesn't make sense, is inequitable and actually provides an incentive NOT to get the IID or your OL.

If you simply require it *whenever they drive up until they get their OL back and then for an additional 6-12 months after reinstating their OL.* (Dennis's comment: *this latter part - 6-12 months- may be cost prohibitive for many offenders*) It would be a step toward achieving the goal. However, if we leave this draft as is, then we suggest changing the penalty scheme for DWLR:

**OR**

**2) Change the DWLR statute**

**In order for the IID measure to be effective and have the teeth it needs to accomplish the goal, it must work in conjunction with other laws and penalty schemes, like the DWLR.**

As we understand it there are currently two subsections (but numerous different ways) to be DWLR:

. A) Driving when your OL is suspended, revoked or cancelled This encompasses three basic scenarios:

- a. driving during an active court-ordered (DUI, Reckless etc) revocation
- b. driving during an administrative revocation
- c. driving after a period of revocation but the person never got their OL reinstated

B) Driving in violation of a limitation. This encompasses two main scenarios

- a. Getting your OL back during the 90 period, but for work purposes only, and driving for a purpose other than work
- b. Getting your OL back, having the IID requirement, and driving a vehicle that does not have an IID.

The penalties vary depending on why your OL was revoked, when you were driving and whether there was a limitation. The main difference is that in 1 the person does not have a valid OL, they never bothered, or they aren't eligible. In 2 they got it, they jumped through all the hoops but drive a vehicle without the IID, or outside work purposes etc. but we slap their hands much harder than the people who just thumbed their noses at the system. This should be fixed in order to make the IID scheme work.

**3) Also, current law does not have an exception from the interlock device for**

**.000 DUIs (no alcohol). Is there a policy objective met in requiring an IID on someone who hasn't exhibited an alcohol problem in connection with their driving? Perhaps they were using prescription drugs or illegal drugs, in which cases the IID serves no purpose.**