

**SB**

**239**

# Alaska State Legislature



*Interim:*  
716 West 4th Ave.  
Anchorage, Alaska 99501  
(907) 269-0199

*Session:*  
State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-4945

**Senator Kevin Meyer**  
Senate District O

**TO:** Senator Kevin Meyer  
**FROM:** Christine R. Marasigan, Legislative Aide *CRM*  
**DATE:** March 19, 2010  
**RE:** SB 239: Correction on number of ignition interlock devices issued in Alaska in 2009

After the March 11<sup>th</sup> Senate Judiciary Hearing on SB 239, there was some concern expressed over the presentation of the 218 limited licenses issued as compared to over 3,513 court orders for ignition interlock devices in 2009.

I did contact DMV again to verify the count. In my correspondence with Kerry Hennings, Drivers License Manager for the Department of Motor Vehicles, she stated that there were 218 applications for limited licenses of which 193 were approved. These are licenses which require proof of an ignition interlock device installation.

According to Cindy Cashen at the Highway Safety Office, there were 1,245 IIDs installed in the state in 2009. Cashen contacted four interlock providers. A breakdown of the companies and numbers of IID's installed is provided below.

Smart Start	570
Draeger Safety Diagnostics	500
Autosense International	130
LifeSafer Interlock	45
<b>Total:</b>	<b>1,245</b>

I also contacted two IID providers. The first provider, located in Fairbanks, stated that in 2009 he installed approximately 500 devices and gave anecdotes of people keeping the IID after the required court ordered time. The second provider, located in Anchorage, stated that he installed 130 IIDs, he gave anecdotes of more female drivers being compliant than male drivers.

26-LS1210\S  
Luckhaupt  
3/1/10

**CS FOR SENATE BILL NO. 239( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR MEYER**

**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 28.35.030(b) is amended to read:

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

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

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

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

21 (C) not less than 60 days, require the person to use an ignition  
22 interlock device after the person regains the privilege, including any limited  
23 privilege, to operate a motor vehicle for a minimum of 18 [36] months  
24 [DURING THE PERIOD OF PROBATION], and impose a fine of not less  
25 than \$4,000 if the person has been previously convicted twice and is not  
26 subject to punishment under (n) of this section;

27 (D) not less than 120 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 24 months  
30 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
31 less than \$5,000 if the person has been previously convicted three times and is

1 not subject to punishment under (n) of this section;

2 (E) not less than 240 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 30 months  
5 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
6 less than \$6,000 if the person has been previously convicted four times and is  
7 not subject to punishment under (n) of this section;

8 (F) not less than 360 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 36 months  
11 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
12 less than \$7,000 if the person has been previously convicted more than four  
13 times and is not subject to punishment under (n) of this section;

14 (2) the court may not

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

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

19 (ii) pay the minimum fine required under (1) of this  
20 subsection;

21 (B) suspend imposition of sentence; or

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

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

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

1 another provision of law.

2 \* Sec. 3. AS 28.35.030(g) is amended to read:

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

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

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

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

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

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

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

23 (2) may not

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

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

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

30 (B) suspend imposition of sentence; or

31 (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. 5.** 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. 6.** AS 28.35.032(g) is amended to read:

(g) Upon conviction under this section,

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

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

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

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

12 (D) not less than 120 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 24 months [THROUGHOUT THE PERIOD OF  
15 PROBATION], and impose a fine of not less than \$5,000 if the person has  
16 been previously convicted three times and is not subject to punishment under  
17 (p) of this section;

18 (E) not less than 240 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 30 months [THROUGHOUT THE PERIOD OF  
21 PROBATION], and impose a fine of not less than \$6,000 if the person has  
22 been previously convicted four times and is not subject to punishment under  
23 (p) of this section;

24 (F) not less than 360 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 36 months [THROUGHOUT THE PERIOD OF  
27 PROBATION], and impose a fine of not less than \$7,000 if the person has  
28 been previously convicted more than four times and is not subject to  
29 punishment under (p) of this section;

30 (2) the court may not

31 (A) suspend execution of the sentence required by (1) of this

1 subsection or grant probation, except on condition that the person

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

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

6 (B) suspend imposition of sentence; or

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

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

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

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

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

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

24 \* Sec. 8. AS 28.35.032(p) is amended to read:

25 (p) A person is guilty of a class C felony if the person is convicted under this  
26 section and either has been previously convicted two or more times since January 1,  
27 1996, and within the 10 years preceding the date of the present offense, or punishment  
28 under this subsection or under AS 28.35.030(n) was previously imposed within the  
29 last 10 years. For purposes of determining minimum sentences based on previous  
30 convictions, the provisions of AS 28.35.030(u)(4) apply. Upon conviction,

31 (1) the court shall impose a fine of not less than \$10,000, require the

1 person to use an ignition interlock device after the person regains the privilege to  
2 operate a motor vehicle for a minimum of 60 months [THROUGHOUT THE  
3 PERIOD OF PROBATION], and impose a minimum sentence of imprisonment of not  
4 less than

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

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

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

10 (2) the court may not

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

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

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

17 (B) suspend imposition of sentence; or

18 (C) suspend the requirements for an ignition interlock  
19 device;

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

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

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

30 (6) the court shall order forfeiture under AS 28.35.036, of the motor  
31 vehicle, aircraft, or watercraft used in the commission of the offense, subject to

1 remission under AS 28.35.037; and

2 (7) the court shall order the department to revoke the registration for  
3 any vehicle registered by the department in the name of the person convicted under  
4 this subsection; if a person convicted under this subsection is a registered co-owner of  
5 a vehicle, the department shall reissue the vehicle registration and omit the name of  
6 the person convicted under this subsection.

7 \* **Sec. 9.** AS 12.55.102(e)(2) and AS 28.35.030(r) are repealed.

26-LS1210\E  
Luckhaupt  
2/20/10

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

**BY**

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

**Sponsor(s): SENATOR MEYER**

**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 28.35.030(b) is amended to read:

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

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

9 (A) not less than 72 consecutive hours, require the person to  
10 use an ignition interlock device after the person regains the privilege, including  
11 any limited privilege, to operate a motor vehicle for a minimum of 12 months  
12 during the period of probation, and impose a fine of not less than \$1,500 if the  
13 person has not been previously convicted;

14 (B) not less than 20 days, require the person to use an ignition

1 interlock device after the person regains the privilege, including any limited  
2 privilege, to operate a motor vehicle for a minimum of 24 months during the  
3 period of probation, and impose a fine of not less than \$3,000 if the person has  
4 been previously convicted once;

5 (C) not less than 60 days, require the person to use an ignition  
6 interlock device after the person regains the privilege, including any limited  
7 privilege, to operate a motor vehicle for a minimum of 36 months during the  
8 period of probation, and impose a fine of not less than \$4,000 if the person has  
9 been previously convicted twice and is not subject to punishment under (n) of  
10 this section;

11 (D) not less than 120 days, require the person to use an ignition  
12 interlock device after the person regains the privilege, including any limited  
13 privilege, to operate a motor vehicle for a minimum of 60 months  
14 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
15 less than \$5,000 if the person has been previously convicted three times and is  
16 not subject to punishment under (n) of this section;

17 (E) not less than 240 days, require the person to use an ignition  
18 interlock device after the person regains the privilege, including any limited  
19 privilege, to operate a motor vehicle for a minimum of 60 months  
20 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
21 less than \$6,000 if the person has been previously convicted four times and is  
22 not subject to punishment under (n) of this section;

23 (F) not less than 360 days, require the person to use an ignition  
24 interlock device after the person regains the privilege, including any limited  
25 privilege, to operate a motor vehicle for a minimum of 60 months  
26 [THROUGHOUT THE PERIOD OF PROBATION], and impose a fine of not  
27 less than \$7,000 if the person has been previously convicted more than four  
28 times and is not subject to punishment under (n) of this section;

29 (2) the court may not

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

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

3 (ii) pay the minimum fine required under (1) of this  
4 subsection;

5 (B) suspend imposition of sentence; or

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

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

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

17 \* Sec. 2. AS 28.35.030(g) is amended to read:

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

21 \* Sec. 3. AS 28.35.030(n) is amended to read:

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

29 (1) shall impose a fine of not less than \$10,000, require the person to  
30 use an ignition interlock device after the person regains the privilege to operate a  
31 motor vehicle for a minimum of 10 years [THROUGHOUT THE PERIOD OF

1 PROBATION], and impose a minimum sentence of imprisonment of not less than

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

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

4 times;

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

7 (2) may not

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

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

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

14 (B) suspend imposition of sentence; or

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

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

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

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

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

1 reissue the vehicle registration and omit the name of the person convicted under this  
2 subsection.

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

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

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

9 (g) Upon conviction under this section,

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

11 (A) not less than 72 consecutive hours, require the person to  
12 use an ignition interlock device after the person regains the privilege to operate  
13 a motor vehicle for a minimum of 12 months during the period of probation,  
14 and impose a fine of not less than \$1,500 if the person has not been previously  
15 convicted;

16 (B) not less than 20 days, require the person to use an ignition  
17 interlock device after the person regains the privilege to operate a motor  
18 vehicle for a minimum of 24 months during the period of probation, and  
19 impose a fine of not less than \$3,000 if the person has been previously  
20 convicted once;

21 (C) not less than 60 days, require the person to use an ignition  
22 interlock device after the person regains the privilege to operate a motor  
23 vehicle for a minimum of 36 months during the period of probation, and  
24 impose a fine of not less than \$4,000 if the person has been previously  
25 convicted twice and is not subject to punishment under (p) of this section;

26 (D) not less than 120 days, require the person to use an ignition  
27 interlock device after the person regains the privilege to operate a motor  
28 vehicle for a minimum of 60 months [THROUGHOUT THE PERIOD OF  
29 PROBATION], and impose a fine of not less than \$5,000 if the person has  
30 been previously convicted three times and is not subject to punishment under  
31 (p) of this section;

1 (E) not less than 240 days, require the person to use an ignition  
2 interlock device after the person regains the privilege to operate a motor  
3 vehicle for a minimum of 60 months [THROUGHOUT THE PERIOD OF  
4 PROBATION], and impose a fine of not less than \$6,000 if the person has  
5 been previously convicted four times and is not subject to punishment under  
6 (p) of this section;

7 (F) not less than 360 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 60 months [THROUGHOUT THE PERIOD OF  
10 PROBATION], and impose a fine of not less than \$7,000 if the person has  
11 been previously convicted more than four times and is not subject to  
12 punishment under (p) of this section;

13 (2) the court may not

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

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

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

20 (B) suspend imposition of sentence; or

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

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

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

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

3 \* Sec. 6. AS 28.35.032(p) is amended to read:

4 (p) A person is guilty of a class C felony if the person is convicted under this  
5 section and either has been previously convicted two or more times since January 1,  
6 1996, and within the 10 years preceding the date of the present offense, or punishment  
7 under this subsection or under AS 28.35.030(n) was previously imposed within the  
8 last 10 years. For purposes of determining minimum sentences based on previous  
9 convictions, the provisions of AS 28.35.030(u)(4) apply. Upon conviction,

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

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

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

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

19 (2) the court may not

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

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

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

26 (B) suspend imposition of sentence; or

27 (C) suspend the requirements for an ignition interlock  
28 device;

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

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

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

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

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

16 \* Sec. 7. AS 12.55.102(e)(2) and AS 28.35.030(r) are repealed.

# 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 ~~EPD~~  
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).

GPL:ljw  
10-166.ljw

## Using SB 284 Version P (differences from HB 409)

Sec. 2. AS 15.13.030

Page 2, after line 27, there would be another paragraph:

**(11) make available to the public information contained in a report filed under AS 15.13.040(e) within 24 hours after filing of the report with the commission.**

Sec. 4. AS 15.13.040(e)

Page 3, line 5 after "commission." There would be another line:

**If the report is filed by a person that is not an individual, the report must be certified as correct by the treasurer or fiscal officer of the person.**

Page 3, line 14, after address, insert **nationality**

Sec. 13. AS 15.13.090(a)

Page 7, line 10, it would identify the person's **three** largest contributors, not five

Sec. 14. AS 15.13.090(c)

Page 7, line 25, there would be an additional section:

**(c) The provisions of this subsection apply to a person who makes an independent expenditure for communication described in (a) of this section. If the person making the independent expenditure is not an individual, the responsible officer or officers of the person shall be held personally, jointly, and severally liable together with the person for the payment of all civil damages for which the person may be liable as a result of the communication.**

Sec. 15. AS 15.13.110(g) would require filing with the commission not later than 24 hours after expenditure has been made.

Page 10 ... A severability section:

**Section 21.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**SEVERABILITY.** Under AS 01.10.030, if any provision of this Act, or the application of it to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances are not affected.

# 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. In 2009 only 218 limited licenses for IID were actually issued. There have been some reports of the IID being suspended in sentencing and of people "waiting out" the probationary period so as not to be required to install an IID.

SB 239 would seek to remedy these loopholes by 1) requiring an IID whenever a person regains and exercises their driving privilege and 2) lists 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 recidivism between 50 and 90 percent.

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

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



**Business Manager**

Joseph Young  
Anchorage

**Board of Directors  
Officers**

John Lucking, Jr.  
APOA President  
Soldotna

Dan Frerich, Vice President  
Anchorage

Angella Long, Past President  
Wasilla

**Directors**

John Waldron, President  
Aleutian Islands Chapter  
Unalaska

Michele Logan, President  
Anchorage Chapter  
Anchorage

Kris Sell, President  
Capital City Chapter  
Juneau

Brad Johnson, President  
Farthest North Chapter  
Fairbanks

Howard Townsend, President  
First City Chapter  
Ketchikan

Kim Wannamaker, President  
Kenai Peninsula Chapter  
Kenai

Sam Edwards, President  
Mat-Su Chapter  
Wasilla

Thecla LaLonde, President  
Wrangell Chapter  
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