



Alaska State Legislature
House of Representatives

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Representative Harry T. Crawford, Jr.
Fast Anchorage District 21

E-mail: Representative_Harry_Crawford@legis.state.ak.us
Website www.akdemocrats.org

Changes in CS for HB 14 (JUD) version "V"

Section 4

Page 4, Lines 14-15

Fee for issuing a marked identification card

At the request of the DMV, the fee for issuing a marked identification card is set in statute at \$50.

Section 7

Add "identification card"

Adds "identification card" to the statutes requiring the courts and parole board to require a person ordered not to consume alcohol to surrender his or her driver's license.

Section 8

Page 6, Lines 7-9

Fee for issuing a marked driver's license

At the request of the DMV, the fee for issuing a marked identification card is set in statute at \$50.

Title amended accordingly to reflect the above described changes.

Proposed changes in House Judiciary to HB 14

Sec. 7

AS 28.15.191 (g)

Insert language so courts require the surrender of identification cards, along with drivers' licenses.

AS 29.15.191 (h)

Insert language so board of parole requires surrender of driver's license and identification card.

Sec. 4 & 8

DMV prefers to have the fee for marked ID cards and drivers' licenses set in statute. DMV suggests a fee between \$30-\$50 would be sufficient.

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Representative Harry Crawford
District 21

SPONSOR STATEMENT: CS for HB 14 (L&C)

Alaska has a problem with alcohol. Though we have some of the most punitive drunken driving laws in the nation, Alaskans continue to die in tragic crashes fueled by alcohol. In order to prevent these deaths and injuries from occurring, we need a new approach that keeps alcohol out of the hands of repeat offenders.

Repeat drunk drivers are often ordered not to consume alcohol as part of a sentence or as a condition of probation or parole. Currently there is no method by which a vendor of alcoholic beverages may determine whether an individual is under such restriction. House Bill 14 will require that the driver's license or state ID card of an individual court ordered not to drink be marked so that restaurants, bars and liquor stores are aware the individual is restricted from consuming alcohol.

The bill does not require vendors to check the identification of every individual attempting to purchase alcohol; however, if a vendor catches a person with a marked license attempting to purchase alcohol, the vendor may pursue a \$1000 civil penalty. The civil penalty provides a hefty financial incentive for vendors to check for marked licenses and ensure customers are legally permitted to purchase alcohol.

This new approach will stop repeat offenders who are court ordered not to drink from purchasing alcohol and will save lives. In passing House Bill 14, we will keep Alaskan families safe by preventing tragic deaths and injuries from happening. I respectfully ask for your support.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB014-DOA-DMV-2-6-07
 Bill Version: HB014
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to the purchase of alcoholic beverages and acces to licensed premises..." RDU: Division of Motor Vehicles
 Component: Motor Vehicles
 Sponsor: Rep. Crawford
 Requester: (H) L&C 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 | * | * | * | * | * | * |
| Travel | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Contractual | * | * | * | * | * | * |
| Supplies | * | * | * | * | * | * |
| Equipment | 0.0 | 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 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|---|---|---|---|---|---|
| CHANGE IN REVENUES () | * | * | * | * | * | * |
|-------------------------------|---|---|---|---|---|---|

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 |
| Other (Specify Type--Do not abbreviate) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 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 | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary)

This bill requires the Division of Motor Vehicles (DMV) to physically 'mark' a driver's license or a State issued Identification Card if the holder's privilege to purchase alcohol has been restricted. The DMV today has no direct knowledge of a persons conditions of probation or parole.

Until the number of customers and method of information transmission is ascertained in conjunction with the Alaska Court System, the DMV has no ability to measure the impact this will have on our planned operation. As a result we respectfully submit an 'indeterminate' fiscal note.

Once this information has been established, the DMV will provide a firm estimate of costs incurred and revenue generated as a result.

Prepared by: Duane Bannock, director
 Division: Motor Vehicles
 Approved by: Kevin Brooks, Deputy Commissioner
 Agency: Department of Administration

Phone 269 5008
 Date/Time 2/6/07 12:00 PM
 Date 2/7/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB014-LAW-CJL-2-1-07
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act restricting access to alcohol. RDU Criminal
 Component Criminal Justice Litigation
 Sponsor Representative Crawford
 Requester House Labor & Commerce Component No. _____

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)

The bill would establish new law and amend current statute so as to restrict the purchase of alcohol by persons prohibited from consuming alcoholic beverages as a result of a conviction or condition of probation or parole. It provides that such a person may not knowingly enter or remain in licensed premises to purchase or obtain alcohol.

It provides that the driver's license of a person who has been ordered not to consume alcohol will be marked with the restriction.

The department does not anticipate any significant fiscal impact.

Prepared by: Robert Meiners, Acting Director Phone 465-5427
 Division Administrative Services Division Date/Time 2/5/07 8:51 AM
 Approved by: Robert Meiners for Talis Colberg, Attorney General Date 2/5/2007
 Agency Department of Law

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East Anchorage District 21
E-mail: Representative_Harry_Crawford@legis.state.ak.us
Website www.akdemocrats.org

Changes in CS for HB 14 (L&C)

Section 1

Page 2, Lines 6-8: Insert 04.16.047 (c)

New subsection clarifies that liquor licensees are not required to physically check the identification of every person entering their premises.

Section 2 and Conforming Amendments

Remove "privilege to purchase"

Language establishing the purchase of alcohol as a privilege removed and replaced with "restriction on purchasing alcoholic beverages."

Section 3

Page 3, Lines 11-12: Following "may" inserted "but has no duty or obligation to"

Clarifies that checking the identification of every person to see if it is marked is not mandatory.

Page 3, Line 16: Following "shall" inserted "be"

Correction to typographical error.

New Section 9 and Conforming Title Amendment:

Creates effective date of January 1, 2008. This provides sufficient time for the court system to develop a standardized form for reporting court orders to the DMV.

LEGAL SERVICES

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

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

MEMORANDUM

February 22, 2007

SUBJECT: HB 14 and Civil Liability of Licensees

TO: Representative Harry Crawford

FROM: Gerald P. Luckhaupt
Legislative Counsel 

You have asked if HB 14 imposes new liabilities for civil damages on alcoholic beverage licensees in the following areas:

1. The licensee fails to check the ID of a person whose privilege to purchase alcohol is restricted under AS 04.16.160;
2. The licensee checks the ID, discovers that the person is not eligible to purchase alcohol, but consciously chooses to sell the alcohol to the person anyway;
3. The licensee does not serve the person with the restricted privilege but another person supplies drinks to the person while on the licensed premises.

I do not see where there is any greater civil liability of a licensee to a person whose privilege to purchase alcohol is restricted under the bill or to a third person who might be injured by the actions of the person restricted under any of these scenarios.¹ AS 04.21.020 specifies the civil liability of a licensee or other person for providing alcohol to another person. Subsection (a) of that section provides that:

a person who provides alcoholic beverages to another person may not be held civilly liable for injuries resulting from the intoxication of that person unless the person who provides the alcoholic beverages holds a license authorized under AS 04.11.080 - 04.11.220 or is an agent or employee of such a licensee and

(1) the alcoholic beverages are provided to a person under the age of 21 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures in good faith from the person a signed statement, liquor identification card, or driver's license meeting the requirements of

¹ Under the second scenario listed above, the conscious choice of a licensee to serve a person who is not eligible to purchase alcoholic beverages could subject the licensee to criminal liability as explained in my memorandum of January 31, 2007, and could potentially result in suspension or revocation of the license under AS 04.11.370.

AS 04.21.050(a) and (b), that indicates that the person is 21 years of age or older; or

(2) the alcoholic beverages are provided to a drunken person in violation of AS 04.16.030.

This provision does not waive the immunity traditionally provided to a server of alcohol under the scenarios you have provided. Two other exceptions are also provided in AS 04.21.020(b)² and (d)³ neither of which would apply here.

GPL:med

07-119.med

² (b) A person who sells or barter an alcoholic beverage to another person in violation of AS 04.11.010 is strictly liable (1) to the recipient or another person for civil damages if, while under the influence of the alcoholic beverage, the person receiving the alcoholic beverage engages in conduct that results in civil damages and the recipient's being under the influence of the alcoholic beverage substantially contributes to the civil damages; and (2) for the cost to the state or a political subdivision of the state to criminally prosecute a person who receives an alcoholic beverage from a person who violates AS 04.11.010, if the prosecution results from the violation of AS 04.11.010 described in this subsection.

³ (d) A person who knowingly furnishes or delivers an alcoholic beverage to a person under 21 years of age in violation of AS 04.16.051 is civilly liable to the recipient or another person for civil damages if, while under the influence of the alcoholic beverage, the person receiving the alcoholic beverage engages in conduct that results in civil damages and the recipient's being under the influence of the alcoholic beverage substantially contributes to the civil damages.

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

MEMORANDUM

January 31, 2007

SUBJECT: Criminal Liability for ABC Licensees and HB 14
(Work Order No. 25-LS0095AE)

TO: Representative Harry Crawford

FROM: Gerald P. Luckhaupt
Legislative Counsel 

You have asked if HB 14 provides for criminal liability for a licensee, or their agents or employees, for selling alcohol to a person whose privilege to purchase alcohol is restricted under HB 14. The answer is no, unless the licensee, agent, or employee knows the person is unable to purchase alcohol and sells the alcohol to the person anyway. In that situation the licensee, agent, or employee could be liable as a principle under AS 11.61.110.

In considering what HB 14 does, you can compare these persons who have their privilege to purchase alcohol restricted to persons under 21 years of age who have no privilege to purchase alcohol. Those under 21 may not access licensed premises,¹ may not possess, control, or consume alcohol,² may not be furnished alcohol by other persons,³ and may not be furnished alcohol by licensees, agents, or employees.⁴ HB 14 provides one section, proposed AS 04.16.047, that states that a person whose privilege to purchase alcohol is restricted may not access licensed premises to obtain or consume alcohol. Nothing similar to AS 04.16.052 is provided and so, generally, there would be no liability for a licensee, agent, or employee that sells or serves a person whose privilege to purchase alcohol is restricted. As I previously noted though, a licensee, agent, or employee who has knowledge that a particular person has had their privilege to purchase alcohol restricted who assists that person in obtaining alcohol could be liable as a

¹ AS 04.16.049.

² AS 04.16.050.

³ AS 04.16.051 makes the other person criminally liable for furnishing or delivering to a minor.

⁴ AS 04.16.052 makes the licensee, agent, or employee criminally liable.

principle under the accomplice liability law in AS 11.16.110.⁵

GPL:ljw
07-040.ljw

⁵ Sec. 11.16.110. Legal accountability based upon the conduct of another.
A person is legally accountable for the conduct of another constituting an offense if

- (1) the person is made legally accountable by a provision of law defining the offense;
- (2) **with intent to promote or facilitate the commission of the offense, the person**
 - (A) solicits the other to commit the offense; or
 - (B) **aids or abets the other in planning or committing the offense; or**
- (3) acting with the culpable mental state that is sufficient for the commission of the offense, the person causes an innocent person or a person who lacks criminal responsibility to engage in the proscribed conduct.

As printed in the Anchorage Daily News February 22, 2007

Card mark

Weapon against alcohol abuse

Rep. Harry Crawford has a simple bill in the works to enforce court-ordered alcohol abstinence. House Bill 14 would require convicted offenders to pay for a special driver's license or state ID that would carry an identifying mark so that alcohol retailers would know the customer had lost what state law calls the "privilege to purchase."

The law also would allow sellers to seek \$1,000 in civil damages, in addition to attorney fees from cardholders who illegally try to buy alcohol on their premises. That would give bar and liquor store owners and managers the financial incentive to go after violators and help enforce the law.

There shouldn't be much heartburn about this.

Nanny-state fears are groundless. The bill takes aim at those offenders deemed by a court of law, after full due process, to be too irresponsible to consume alcohol, at least during their sentence or while on probation or parole. Reasons for such restrictions are all too familiar -- driving under the influence, domestic violence, public drunkenness.

Sellers wouldn't be required to card every person who walks through the door, but would have an incentive to card more often and to card anyone who raises suspicions. For their part, offenders would carry a reminder of their sentence and the need to stay on the straight and narrow.

The bill does not increase a liquor store or bar owner's liability beyond what the law already provides. The burdens of cost and accountability would fall squarely on offenders, where they belong.

Don't want to carry the offending card? Then don't offend. Don't drink and drive, or drink and assault, or drink and pass out in the middle of the street. As Rep. Crawford says, despite some of the toughest drunken-driving laws in the country, Alaska still has a serious alcohol problem. The Anchorage Democrat's bill is part of the solution. The Anchorage Cabaret, Hotel, Restaurant and Retailer's Association is part of the answer too -- the group backs the legislation. It is possible that shutting out problem drinkers could help business owners' insurance rates.

HB 14 will get its first hearing Friday in the House Labor and Commerce Committee, the first of three House committees with jurisdiction. Members should give it a close look, improve it as needed, then start it on its way to passage.

BOTTOM LINE: A marked card for alcohol abusers will take away their purchasing privileges and prevent more abuse.

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Anchorage Daily News

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Alcohol can be kept from offenders**COMPASS: POINTS OF VIEW FROM THE COMMUNITY**

By REP. HARRY CRAWFORD AND BERNADETTE BRADLEY

(Published: February 9, 2007)

In the past decade, the Alaska Legislature has taken an aggressive approach to combat drunken driving by increasing fines and sentences. Despite some of the toughest laws in the nation, Alaskans continue to be injured or killed in accidents fueled by alcohol.

Many convicted of drunken driving go on to commit the crime again. Statistics show that a third of the people arrested for drunken driving are repeat offenders.

These repeat offenders are 40 percent more likely to be involved in a fatal crash. Alaska has increased punishment for repeat offenders, but those penalties only kick in after the crime has been committed and someone has possibly been injured or killed.

Repeat offenders are often ordered not to consume alcohol as part of a sentence or as a condition of probation or parole. Yet there is currently no way for restaurants, nightclubs, bars and liquor stores to know if an individual has been court-ordered not to drink. There is nothing to stop him from going to the store and buying alcohol.

HB 14 would change that. If a convicted drunken driver were court-ordered not to drink for a period of time, a mark would be placed on his or her driver's license or state ID card for the duration of the order. That mark would alert businesses that sell alcohol that the individual was prohibited from drinking. If a business caught a person with a marked license attempting to illegally purchase alcohol, then the business could pursue a \$1,000 penalty, similar to the penalty awarded if a minor is caught attempting to purchase illegally.

Some people confuse HB 14 with other, more controversial approaches. It isn't a mandatory ID law. The laws regarding which customers are required to show ID are not changed by this legislation. It doesn't mean your grandmother would have to start showing ID in order to buy a bottle of wine for Sunday dinner. Checking ID remains voluntary, but there is a \$1,000 incentive through the civil penalty for liquor licensees to make sure their customers aren't under court order not to drink.

HB 14 also doesn't require bars, restaurants or liquor stores to buy any special equipment, like electronic scanners for IDs. Some stores have started using scanning technology, but most have not. The mark on the license will be a physical display visible to the naked eye. The information will also be on the card electronically for those businesses that utilize scanning technology. But there won't be any added cost for doing business in Alaska.

This legislation is supported by the Anchorage Cabaret, Hotel and Restaurant Retailer association. Anchorage CHARR is a trade organization that represents local restaurants, hotels, bars, liquor stores and other hospitality-related businesses.

The 2007 strategic plan of Anchorage CHARR includes efforts to continue to reduce drunken-driving statistics. In May of 2005, Anchorage CHARR initiated the successful "Off the Road" program, which

provides customers with a free, safe way of getting home if they have had too much to drink. Anchorage CHARR encourages its members to help customers make the right choice, to drink responsibly and drive responsibly. HB 14 is a step in the right direction to deter future repeat offenders.

Too many Alaskan lives have been destroyed by drunken driving. It's a crime that affects the whole community. By trying new ways to stop problem drinkers from buying alcohol, we can prevent drunken-driving deaths and injuries from happening. Working together, we can lead the way to protecting Alaska families.

Rep. Harry Crawford is the sponsor of HB 14 and represents East Anchorage in the Alaska State Legislature. Bernadette Bradley is the owner of the Bradley House in Anchorage and the president of Anchorage CHARR.

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*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*



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The Honorable Harry Crawford
Alaska State Legislature
House of Representatives
State Capitol, Room 400
Juneau, AK 99801-1182

January 23, 2007

Dear Representative Crawford,

I am writing you today on behalf of the Alaska Cabaret, Hotel, Restaurant and Retailer's Association, a non-profit member-based trade organization for Alaska's hospitality industry.

Alaska CHARR would like to share our support of House Bill 14, an Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to the civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances.

Alaska CHARR supports the intent of this bill, as a voluntary option for licensed premises to civilly prosecute those subject to the conditions of this bill.

We appreciate your commitment to understanding our industry's concerns, and the time you spend working with our industry to create a piece of legislation that can be effectively used to combat abuse of alcohol in Alaska.

Sincerely,

A handwritten signature in cursive script that reads "Dale Fox".

Dale Fox
President & CEO, Alaska CHARR

STATE OF ALASKA

Sarah Palin, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse
Alaska Mental Health Board*

P.O. BOX 110608
JUNEAU, AK 99811-0608
PHONE: (907) 465-8920
FAX: 465-4410

February 26, 2007
Testimony to House Labor & Commerce Committee
Re: HB 14

The Advisory Board on Alcoholism and Drug Abuse and the Alaska Mental Health Board strongly support HB 14.

HB 14 uses an **environmental strategy** of prevention that has been proven to reduce alcohol abuse and related problems.

An environmental strategy is one that uses public policy and community-level interventions to affect whole populations. While traditional prevention strategies are aimed at helping the individual resist the temptation to use alcohol through information and skill training, environmental strategies work by changing the overall community system that informs its members what society tolerates, and of which it disapproves.

Three common methods of environmental change that have worked with alcohol abuse are:

1. Restrictions on retail sales or sellers: restrictions on the number, location, or density of retail outlets or on the days and hours of sales;
2. Price controls: sales taxes, or bans on drink discounts such as "happy hour";
3. Controls on advertising and promotion;
4. Purchase laws: minimum legal drinking age for purchasing alcohol.

HB 14 would add a new prevention method in the area of purchase laws by making it more difficult for people legally barred from buying or consuming alcohol to purchase it.

The advantages of environmental strategies such as that provided by HB 14 include:

- Broader reach. The bill has the potential to generate larger effects than prevention aimed at individuals. The bill would produce widespread small changes in behavior that result in substantial net benefits to society in terms of reduced problems;
- More substantial effects. While individually focused prevention efforts such as education and skill-building produce some effects on knowledge and attitudes, many environmental strategies have been shown to substantially reduce consumption and use-related problems including traffic crashes, unintentional injuries, suicide and assaultive offenses;
- More enduring effects. Environmental approaches result in the creation of a substantially changed system that offers few opportunities and inducements to use alcohol for both current and future generations;
- Ease of maintenance and cost-effectiveness. Environmental approaches have the benefits of being comparatively easy to maintain, and less costly than strategies directed at individuals.

We urge the committee pass HB 14 as an effective and responsible means to reduce alcohol abuse and its cost to the State of Alaska.

Heather Beaty

From: Tom McGrath [tommcgrath@gci.net]
Sent: Sunday, February 04, 2007 8:44 AM
To: Sen. Hollis French; Sen. Johnny Ellis; Rep. Kevin Meyer; Rep. Berta Gardner; Rep. Mike Doogan
Cc: Governor Sarah Palin; Rep. Harry Crawford
Subject: HB 14

Ladies and Gentlemen:

I encourage you to work very hard to pass HB14 this year. Continually we are faced with the consequences of Alcohol Abuse. Just last week a man in the Mat-Su Valley was apprehended operating a motor vehicle, intoxicated, with 6 prior D.U.I.'s. This bill will not solve all the problems but it will highlight the problem and make every one who consumes alcohol face the problem.

I feel there is nothing wrong with the responsible consumption of alcohol but we pay a very heavy price dealing with the misuse of alcohol. Law enforcement people will tell you that eighty per cent of the people in prison in Alaska are there with alcohol as a contributing factor. What is truly tragic is that thirty seven percent of prisoners in jail in Alaska are Alaska Natives while they only represent eight per cent of the population. Almost all are in jail with alcohol as a contributing factor.

O.C. Madden from Brown Jug first suggested this measure 6 years ago. Under his guidance, Brown Jug does a good job of trying not to sell to people who should not buy. With this law there would be a systematic approach to preventing abusers from buying alcohol in all Alcohol outlets in the State of Alaska. I don't think the problem will end here but it is one small step in the right direction.

I am a conservative person and I generally don't think Government should interfere with our lives. However, when the rights of one person causes significant harm to another the Government needs to step in. This is one of those times.

I encourage you to make HB14 a priority this year.

Tom McGrath
907-250-4302 Cell
907-562-8730 Office
907-563-0836 Fax
tommcgrath@gci.net

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Version: 7.5.432 / Virus Database: 268.17.22/666 - Release Date: 2/3/2007 3:31 PM

Heather Beaty

From: bonniel.jack [bonniel.jack@alaska.net]
Sent: Thursday, February 15, 2007 2:05 PM
To: Rep. Carl Gatto; Representative_Bob_Buch@legis.state.us; Rep. Kurt Olson; Rep. Berta Gardner; Representative_Jay@legis.state.ak.us; Rep. Mark Neuman; Rep. Gabrielle LeDoux
Cc: Rep. Harry Crawford
Subject: Support HB 14, Restrict Access to Alcohol

Members of Alaska State House, Labor & Commerce Committee --

I support the passage of House Bill 14, Restrict Access to Alcohol.

We all know that Alaska has a major alcohol and drunk problem. I drink so I have nothing against drinking if done in moderation. I believe the lack of moderation is what is wrong with the world in general.

I've heard the arguments against this bill based on the privacy of the individual but I believe that the purchase of alcohol is not a right but a privilege. If you are a "repeat drunk driver" then I believe you lost the privilege of purchasing alcohol and that right to privacy.

I'm a mother of two grown children and the grandmother of a 12 year old granddaughter and 8 year old grandson. When they misbehave they are punished. If they repeat the behavior, the punishment increases. Sometimes they do not get to go somewhere or do something that involves them having to tell their friends. Repeat drunk drivers should get no less. My grandchildren, even in their youth, do not make the same mistake very often, if at all. Hopefully, this bill will cause the one time drunk driver to not repeat his/her crime.

It really seems very simple to me.

B/

2/15/2007

Jane Pierson

From: Emily Stancliff on behalf of Rep. Jay Ramras
Sent: Thursday, April 12, 2007 1:51 PM
To: Jane Pierson
Subject: FW: HB 14

-----Original Message-----

From: Larry Schrader [mailto:larry_schrader@ghscorp.org]
Sent: Thursday, April 12, 2007 1:24 PM
To: Rep. Jay Ramras
Subject: HB 14

Larry Schrader
5597 Aisek Street
Juneau, AK 99801-9522

April 12, 2007

The Honorable Jay Ramras
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Ramras:

I would like to offer my opinion on this topic as a professional who deals with individuals on a daily basis who are ordered by the court to abstain from alcohol. I'm currently the Field Case Manager for the Serious & Violent Offender Re-Entry Initiative (SVORI) at Gastineau Human Services Corporation (GHS) in Juneau, Alaska. Of the 22 members in the program that fall under my guidance, a vast majority of them committed their crimes while under the influence of alcohol and/or drugs. This bill would give concerned citizens one more way to monitor individuals who have no business drinking. The biggest problem I deal with on a daily basis is the lack of supervision for the offender. Our system has left our parole and probation officers over worked and under manned. More often than not, an offender can drink as long as they're not seen by a probation officer and have police contact. The new ID would give the general public that is unaware of the conditions of the individuals release a way to help keep the streets a little safer for everyone. I would like to leave the committee with one last stat. As an Alaska Department Of Corrections Victim Impact Class instructor I have come across many disturbing stats but one that truly sticks out is this one. Alcohol was a primary or contributing factor in 80 percent to 95 percent of all criminal offenses committed. This stat was published in May 2000 in the Final Report of the Alaska Criminal Justice Assessment Commission. Thank you for taking the time to read my thoughts on this matter.

Sincerely,

Larry D. Schrader
907-780-3028

This message has been verified by CapwizXC as authentic and sent by this individual.
Authentication ID: [jvngPKZ1]

Brenda Moore

2200 E 56th Avenue ♦ Anchorage, Ak 99507 ♦ 907-563-7576

February 22, 2007

To: House Labor & Commerce Committee
Re: HB 14

Representative Harry Crawford has introduced HB 14 "An Act relating to the purchase of alcoholic beverages and to requiring identification to buy alcoholic beverages; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole."

This is written in favor of HB 14. A number of years ago the daughter of a close friend was struck while driving her children to an activity. She was killed and one of her children was injured.

The driver of the car that struck and killed my friend's daughter was driving with a revoked license, while under the influence of alcohol. He had several previous convictions of driving while under the influence, which resulted in his license being revoked.

I feel my friend's daughter might be alive today if the driver that killed her had been required to prove his privilege to purchase alcohol.

I am a member of the Mental Health Board and which is also in support of HB 14. I ask that you support the passage of HB 14 as a measure to preserve lives.

Sincerely,

Brenda Moore
Christian Health Associates
Alaska Mental Health Board
Statewide Suicide Prevention Council

From: Jeri Lanier [jerilanier@mosquitonet.com]
Sent: Wednesday, April 11, 2007 5:58 PM
To: Rep. Jay Ramras
Subject: Support HB 14

Jeri Lanier
790 Green Meadow Dr.
Fairbanks,, AK 99712-1429

April 11, 2007

The Honorable Jay Ramras
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Ramras:

I would just like to say that while I appreciate the concept of this bill, I don't believe it will achieve the end you are looking for. Chronic offenders will still find ways to obtain alcohol, although this might slow them down a bit. I also believe it will be cost prohibitive to oversee the program. My personal opinion is that the money would be better spent returning treatment to the Corrections system. Treatment works for those who want it, and for those who don't want treatment - this bill will not change them either.

Sincerely,

Jeri Lanier
455-8855

This message has been verified by CapwizXC as authentic and sent by this individual. Authentication ID: [ONJ20Es7]

From: Anna Sappah [annasappah@hotmail.com]
Sent: Wednesday, April 11, 2007 9:53 PM
To: Rep. Jay Ramras
Subject: HB 14 will save lives

Anna Sappah
1711 Logan Street
Anchorage, AK 99508-3239

April 12, 2007

The Honorable Jay Ramras
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Ramras:

HB 14 will prevent repeat drunk driving accidents, injuries and fatalities, and will save the state of Alaska millions of dollars health care and criminal justice costs. It will also save business millions in lost productivity and insurance costs.

HB 14 will save lives. Please pass the bill and keep alcohol out of the hands of those who present a danger to the community.

Sincerely,

Anna Sappah
(907) 277-8796

This message has been verified by CapwizXC as authentic and sent by this individual. Authentication ID: [sgamDHR5]

From: Daniel Ungier [housing@unitedwayseak.org]
Sent: Wednesday, April 11, 2007 4:52 PM
To: Rep. Jay Ramras
Subject: Support HB 14

Daniel Ungier
PO Box 20249
Juneau, AK 99802-0249

April 11, 2007

The Honorable Jay Ramras
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Ramras:

Members of Juneau Homeless Coalition strongly support HB 14 for public safety reasons, for financial reasons, and because we believe it is also an effective strategy for long-term impact. The Coalition advocates for bills that make a lasting impact to the problem of substance abuse because we recognize that substance abuse is often a direct contributing factor to homelessness.

Furthermore, the cost of providing emergency services to homeless individuals who suffer from substance dependency is much higher to the public than the cost of services to address the problem directly. These emergency services cannot begin to make the same impact on breaking the cycle of poverty, substance abuse, and homelessness as much as direct efforts to address the problem. HB 14 will save the state millions of dollars in health care and criminal justice costs.

HB 14 is a successful strategy to help break the cycle of substance abuse rather than resorting to providing emergency services – and, in worst case but not uncommon scenarios, providing for homeless individuals with chronic alcohol problems. HB 14 helps keeps alcohol out of the possession of those who are ordered not to drink. It cannot solve this problem, but it will make a major impact.

Finally, HB 14 will save lives. It will benefit not only potential offenders, but also the public safety of all Alaskans.

I urge your support for all of the reasons above.

Sincerely,

Daniel Ungier, Chair, Juneau Homeless Coalition 463-5530

This message has been verified by CapwizXC as authentic and sent by this individual. Authentication ID: [i2138XWJ]

STATE OF ALASKA

Sarah Palin, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse
Alaska Mental Health Board*

*P.O. BOX 110608
JUNEAU, AK 99811-0608
PHONE: (907) 465-8920
FAX: 465-4410*

April 11, 2007

Testimony to the House Judiciary Committee by Angela Salerno, Advocacy Coordinator
Re: HB 14

The Advisory Board on Alcoholism and Drug Abuse and the Alaska Mental Health Board strongly support HB 14.

HB 14 uses an **environmental strategy** of prevention that has been proven to reduce alcohol abuse and related problems.

An environmental strategy is one that uses public policy and community-level interventions to affect whole populations. While traditional prevention strategies are aimed at helping the individual resist the temptation to use alcohol through information and skill training, environmental strategic work by changing the overall community system that informs its members what society tolerates, and of what it disapproves.

Three common methods of environmental change that have worked with alcohol abuse are:

1. Restrictions on retail sales or sellers: restrictions on the number, location, or density of retail outlets or on the days and hours of sales;
2. Price controls: sales taxes, or bans on drink discounts such as "happy hour";
3. Controls on advertising and promotion;
4. Purchase laws: minimum legal drinking age for purchasing alcohol.

HB 14 would add a new prevention method in the area of purchase laws by making it more difficult for people legally barred from buying or consuming alcohol to purchase it.

The advantages of environmental strategies such as that provided by HB 14 include:

- **Broader reach.** The bill has the potential to generate larger effects than prevention aimed at individuals. The bill would produce widespread small changes in behavior that result in substantial net benefits to society in terms of reduced problems;
- **More substantial effects.** While individually focused prevention efforts such as education and skill-building produce some effects on knowledge and attitudes, many environmental strategies have been shown to substantially reduce consumption and use-related problems including traffic crashes, unintentional injuries, suicide and assaultive offenses;
- **More enduring effects.** Environmental approaches result in the creation of substantially changed system that offers few opportunities and inducements to use alcohol for both current and future generations;
- **Ease of maintenance and cost-effectiveness.** Environmental approaches have the benefits of being comparatively easy to maintain, and less costly than strategies directed at individuals.

We urge the committee pass HB 14 as an effective and responsible means to reduce alcohol abuse and its cost to the State of Alaska.

Jane Pierson

From: Emily Stancliff on behalf of Rep. Jay Ramras
Sent: Thursday, April 12, 2007 1:51 PM
To: Jane Pierson
Subject: FW: HB 14

-----Original Message-----

From: Larry Schrader [mailto:larry_schrader@ghscorp.org]
Sent: Thursday, April 12, 2007 1:24 PM
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Larry Schrader
5597 Aisek Street
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April 12, 2007

The Honorable Jay Ramras
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Ramras:

I would like to offer my opinion on this topic as a professional who deals with individuals on a daily basis who are ordered by the court to abstain from alcohol. I'm currently the Field Case Manager for the Serious & Violent Offender Re-Entry Initiative (SVORI) at Gastineau Human Services Corporation (GHS) in Juneau, Alaska. Of the 22 members in the program that fall under my guidance, a vast majority of them committed their crimes while under the influence of alcohol and/or drugs. This bill would give concerned citizens one more way to monitor individuals who have no business drinking. The biggest problem I deal with on a daily basis is the lack of supervision for the offender. Our system has left our parole and probation officers over worked and under manned. More often than not, an offender can drink as long as they're not seen by a probation officer and have police contact. The new ID would give the general public that is unaware of the conditions of the individuals release a way to help keep the streets a little safer for everyone. I would like to leave the committee with one last stat. As an Alaska Department Of Corrections Victim Impact Class instructor I have come across many disturbing stats but one that truly sticks out is this one. Alcohol was a primary or contributing factor in 80 percent to 95 percent of all criminal offenses committed. This stat was published in May 2000 in the Final Report of the Alaska Criminal Justice Assessment Commission. Thank you for taking the time to read my thoughts on this matter.

Sincerely,

Larry D. Schrader
907-780-3028

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Authentication ID: [jvngPKZ1]

AS 04.21.050

ALASKA STATUTES

Title 4. Alcoholic Beverages.

Chapter 21. General Provisions.

Sec. 04.21.050 Proof of age.

(a) If a licensee or an agent or employee of the licensee questions or has reason to question whether a person entering licensed premises, or ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure alcoholic beverages, has attained the age of 21 years or is entering without consent in violation of AS 04.16.049(a)(3) and has not attained the age of 16 years, that licensee, agent, or employee shall require the person to furnish proof of age acceptable under (b) of this section or proof of consent in a form determined by the board. If the person questioned does not furnish proof of age acceptable under (b) of this section, or if a licensee, agent, or employee questions or has reason to question the validity of the proof of age furnished, the licensee, employee, or agent shall require the person to sign a statement that the person is over the age of 21 or 16 years, as appropriate. This statement shall be made on a form prepared by and furnished to the licensee by the board.

(b) A valid driver's license or a valid identification card is acceptable as proof of age when used for identification in the purchase of alcoholic beverages and for securing entry to and remaining on premises where alcoholic beverages are sold if the license or identification card is made of or encased in plastic and contains a photograph of the license or card holder and a statement of age or date of birth.

(c) A licensee, or an agent or employee of the licensee, may not be charged for a violation of AS 04.16.051 -- 04.16.052 if a signed statement as provided in (a) of this section is secured in good faith, or a valid driver's license or identification card is presented indicating that the owner and possessor of the presented driver's license or identification card is 21 or 16 years of age or over, as appropriate.

(§ 4 ch 131 SLA 1980; am §§ 15, 16 ch 109 SLA 1983)

HISTORICAL NOTES

NOTES TO DECISIONS

Comparative negligence. -- In a tort action brought by a minor or her estate for injuries caused by the minor's use of liquor purchased unlawfully from the holder of a liquor license, in violation of this section, the licensee is not entitled to defend, in part, on the basis of the minor's comparative negligence in making the illegal purchase. Loeb v. Rasmussen, 822 P.2d 914 (Alaska 1991).

AS 28.15.111

ALASKA STATUTES

Title 28. Motor Vehicles.

Chapter 15. Drivers' Licenses.

Article 1. Issuance, Expiration, and Renewal of Licenses.

Sec. 28.15.111 Licenses issued to drivers; anatomical gift and living will document.

(a) Upon successful completion of the application and all required examinations, and upon payment of the required fee, the department shall issue to every qualified applicant a driver's license indicating the type or general class of vehicles that the licensee may drive. The license must display (1) a distinguishing number assigned to the license; (2) the licensee's full name, address, date of birth, brief physical description, and color photograph; (3) either a facsimile of the signature of the licensee or a space upon which the licensee must write the licensee's usual signature with pen and ink; (4) a holographic symbol intended to prevent illegal alteration or duplication; and (5) for a qualified applicant who is under age 21, the words "UNDER 21". A license may not display the licensee's social security number and is not valid until signed by the licensee. If facilities are not available for the taking of the photograph required under this section, the department shall endorse on the license, the words "valid without photograph."

(b) The department shall provide a method, at the time that an operator's license is issued, by which the owner of a license may make an anatomical gift under AS 13.52. The method must provide a means by which the owner may cancel the anatomical gift. The department shall inform each applicant in writing that, if the applicant executes a gift under AS 13.52 and if the gift is made with the license, the department will transmit the information on the license to a donor registry created under AS 13.50.110. The department shall also direct the applicant to notify a procurement organization or the department under AS 13.50.140 if the license is destroyed or mutilated or the gift is revoked under AS 13.52.170. The department shall carry out the requirements of AS 13.50.100 -- 13.50.190.

(§ 19 ch 178 SLA 1978; am § 2 ch 50 SLA 1993; am § 21 ch 80 SLA 1997; am § 2 ch 40 SLA 2001; am § 7 ch 68 SLA 2004; am § 7 ch 83 SLA 2004)

HISTORICAL NOTES

Revisor's notes. -- In 2004, in subsection (b), "AS 13.52" was substituted for "AS 13.50 or includes an anatomical gift in a living will under AS 18.12" and "AS 13.52.170" was substituted for "AS 13.50.050" in order to reconcile chs. 68 and 83, SLA 2004.

REFERENCES

Cross references. -- For the applicability of the 2001 amendment of (a) of this section, see § 4, ch. 40, SLA 2001, in the 2001 Temporary and Special Acts.

HISTORICAL NOTES

Effect of amendment. -- The 2001 amendment, effective June 26, 2001, inserted "may not display the licensee's social security number and" in the next-to-last sentence in subsection (a).

The first 2004 amendment, effective September 14, 2004, rewrote subsection (b).

The second 2004 amendment, effective January 1, 2005, rewrote subsection (b).

AS 28.15.161

ALASKA STATUTES

Title 28. Motor Vehicles.

Chapter 15. Drivers' Licenses.

Article 2. Cancellation, Suspension, Revocation, or Limitation of Drivers' Licenses.

Sec. 28.15.161 Cancellation of driver's license.

- (a) The department shall cancel a driver's license upon determination that
- (1) the licensee is not medically or otherwise entitled to the issuance or retention of the license, or has been adjudged incompetent to drive a motor vehicle;
 - (2) there is an error or defect in the license;
 - (3) the licensee failed to give the required or correct information in the licensee's application; or
 - (4) the license was obtained fraudulently.
- (b) The licensee may apply for a new license at any time after cancellation upon removal of the cause for the cancellation.

(§ 19 ch 178 SLA 1978)

HISTORICAL NOTES

NOTES TO DECISIONS

Intent of act. -- This act plainly expresses the intent that all revocations and suspensions of operators' licenses be the act of the Department of Public Safety. Knudsen v. City of Anchorage, 358 P.2d 375 (Alaska 1960), overruled on other grounds, Roberts v. State, 458 P.2d 340 (Alaska 1969); Glasgow v. State, 469 P.2d 682 (Alaska 1970), and Baker v. City of Fairbanks, 471 P.2d 386 (Alaska 1970).



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: April 16, 2007

To: Representative Kevin Meyer
Co-Chairman House Finance Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Referral File CSHB14(JUD)

Attached are the following documents for the referral file for HB14:

- CSHB14(JUD) 25-LS0095\V
- Memo re: Changes version "V"
- House Judiciary Committee Report
- Sponsor Statement
- Fiscal Notes
 - ADM - Indeterminate
 - LAW - 0
- Changes re" L&C CSHB14
- CSHB14(L&C) 25-LS0095\O
- Legal Services Memorandum, dated February 22, 2007
- HB14 (25-LS0095\E)
- Support

HB

19

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Jay_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, AK 99701



Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Fax

To: Leg. Legal

Fax #: 2029

Number of pages including cover: 2

From: Jane Pierson

Date: February 19, 2007

Re: Final CSHB19(JUD)

Jerry, HB19 will need the following amendments and we can go final

Amendment #1 – P.3, L.8 remove “penalties under AS 11.76.140” and insert “a class A misdemeanor”

Amendment #2 – P.1, L 12-14 Delete (2)

Amendment #3 – See attached

Amend # 3

25-LS0133M.5

Luckhaupt

2/19/07

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 19(STA)

4 18-29

1 Page ~~7~~, line 29, through page 4, line 9:

2 Delete all material and insert:

3 ⁵ ** Sec. ~~7~~. AS 28.35.030 is amended by adding a new subsection to read:

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

10 * Sec. ⁶ ~~7~~. AS 28.35.032 is amended by adding a new subsection to read:

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

MEMORANDUM

DATE: February 19, 2006
TO: Representative Meyer
FROM: Mike Pawlowski
RE: Changes to CSHB 19 in blank CS HB 19 (25-LS0133\K)

The Blank CS for HB 19 (25-LS0133\K) 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 and 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.

25-LS0133VK
Luckhaupt
2/16/07

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

A BILL

FOR AN ACT ENTITLED

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

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

4 *** Section 1 AS 11.76.140(b) is amended to read:**

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

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

12 **(2) rents, loans, or leases [RENT, LOAN, OR LEASE] a motor**
13 **vehicle to a person on probation under AS 12.55.102, unless the vehicle is equipped**
14 **with an ignition interlock device described in AS 12.55.102.**

1 (b) Avoidance of ignition interlock device is [NOTWITHSTANDING
2 AS 11.81.250, A PERSON CONVICTED OF VIOLATING THIS SECTION IS
3 GUILTY OF] a class A misdemeanor. [THE MAXIMUM TERM OF
4 IMPRISONMENT THAT MAY BE IMPOSED IS 30 DAYS AND THE MAXIMUM
5 FINE THAT MAY BE IMPOSED IS \$500.]

6 * Sec. 2. AS 28.15.183(f) is amended to read:

7 (f) A revocation imposed under this section shall be consecutive to a
8 revocation imposed under another provision of law, except that (1) a revocation
9 imposed under this section shall be concurrent with a prior revocation imposed under
10 this section; and (2) a revocation imposed under this section for an offense for which a
11 revocation is required under AS 28.15.185 shall be concurrent with a revocation
12 imposed under AS 28.15.185 that is based on the same incident. [A PERSON
13 WHOSE DRIVER'S LICENSE, PERMIT, OR PRIVILEGE WAS REVOKED FOR A
14 PERIOD OF AT LEAST 60 DAYS UNDER THIS SECTION MAY APPLY FOR
15 LIMITED LICENSE PRIVILEGES UNDER AS 28.15.201(d).] A person whose
16 driver's license, permit, or privilege to drive was revoked for a period of more than
17 one year under this section may apply for reinstatement as provided under (i) of this
18 section.

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

20 (f) A court revoking a driver's license, privilege to drive, or privilege to obtain
21 a license under AS 28.15.181(c), or the department when revoking a driver's license,
22 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
23 ignition interlock limited license privileges. Ignition interlock limited license
24 privileges allow the person to operate a vehicle on which an ignition interlock device
25 has been installed and shall be identified on the limited license certificate issued by the
26 court or department to the person. If the ignition interlock device prevents a vehicle
27 from being operated, the person has not violated the requirements of the limited
28 license by attempting to operate the vehicle. The court or department may grant
29 ignition interlock limited license privileges if

30 (1) the revocation was for a conviction under AS 28.35.030, 28.35.032,
31 or a similar municipal ordinance;

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

3 (3) the person signs an affidavit acknowledging that

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

7 (B) circumventing or tampering with the ignition interlock
8 device is subject to penalties under AS 11.76.140; and

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

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

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

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

17 (1) shall impose a minimum sentence of imprisonment

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

22 (B) if the person has been previously convicted, of not less than
23 10 days;

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

31 (D) if the person's driver's license, privilege to drive, or

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

5 (2) may impose additional conditions of probation;

6 (3) may not

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

10 (B) suspend imposition of sentence;

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

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

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

19 (u) In addition to penalties provided in (a) or (n) of this section, the court may
20 place a person convicted under those subsections on probation for a period of not more
21 than five years following a term of imprisonment, including any suspended term of
22 imprisonment. The court may place a limitation on the person's driver's license during
23 the term of the probation as provided in AS 28.15.201(f).

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

25 (u) In addition to penalties provided in (a) or (p) of this section, the court may
26 place a person convicted under those subsections on probation for a period of not more
27 than five years following a term of imprisonment, including any suspended term of
28 imprisonment. The court may place a limitation on the person's driver's license during
29 the term of the probation as provided in AS 28.15.201(f).

30 * **Sec. 7.** AS 28.15.201(d) and 28.15.201(e) are repealed.

31 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

9 * Sec. 9. 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)



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.

CS FOR HOUSE BILL NO. 19(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/5/07

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES MEYER, Crawford, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to limited driver's license privileges and ignition interlock limited**
2 **driver's license privileges."**

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

4 *** Section 1.** AS 28.15.183(f) is amended to read:

5 (f) A revocation imposed under this section shall be consecutive to a
6 revocation imposed under another provision of law, except that (1) a revocation
7 imposed under this section shall be concurrent with a prior revocation imposed under
8 this section; and (2) a revocation imposed under this section for an offense for which a
9 revocation is required under AS 28.15.185 shall be concurrent with a revocation
10 imposed under AS 28.15.185 that is based on the same incident. [A PERSON
11 WHOSE DRIVER'S LICENSE, PERMIT, OR PRIVILEGE WAS REVOKED FOR A
12 PERIOD OF AT LEAST 60 DAYS UNDER THIS SECTION MAY APPLY FOR
13 LIMITED LICENSE PRIVILEGES UNDER AS 28.15.201(d).] A person whose
14 driver's license, permit, or privilege to drive was revoked for a period of more than

1 one year under this section may apply for reinstatement as provided under (i) of this
2 section.

3 * **Sec. 2.** AS 28.15.201 is amended by adding a new subsection to read:

4 (f) A court revoking a driver's license, privilege to drive, or privilege to obtain
5 a license under AS 28.15.181(c), or the department when revoking a driver's license,
6 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
7 ignition interlock limited license privileges. Ignition interlock limited license
8 privileges allow the person to operate a vehicle on which an ignition interlock device
9 has been installed and that is identified on the limited license certificate issued by the
10 court or department to the person. The court or department may grant ignition
11 interlock limited license privileges if

12 (1) the revocation was for a conviction under AS 28.15.030, 28.35.032,
13 or a similar municipal ordinance;

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

16 (3) the person signs an affidavit acknowledging that

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

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

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

26 * **Sec. 3.** AS 28.15.291(b) is amended to read:

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

28 (1) shall impose a minimum sentence of imprisonment

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

1 work service;

2 (B) if the person has been previously convicted, of not less than
3 10 days;

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

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

16 (2) may impose additional conditions of probation;

17 (3) may not

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

21 (B) suspend imposition of sentence;

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

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

29 * Sec. 4. AS 28.35.030 is amended by adding a new subsection to read:

30 (u) In addition to penalties provided in (a) or (n) of this section, the court may
31 place a person convicted under those subsections on probation for a period of not more

1 than five years following a term of imprisonment, including any suspended term of
2 imprisonment. The court may place a limitation on the person's driver's license during
3 the term of the probation as provided in AS 28.15.201(f).

4 * Sec. 5. AS 28.35.032 is amended by adding a new subsection to read:

5 (u) In addition to penalties provided in (a) or (p) of this section, the court may
6 place a person convicted under those subsections on probation for a period of not more
7 than five years following a term of imprisonment, including any suspended term of
8 imprisonment. The court may place a limitation on the person's driver's license during
9 the term of the probation as provided in AS 28.15.201(f).

10 * Sec. 6. AS 28.15.201(d) and 28.15.201(e) are repealed.

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

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

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



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.

HOUSE BILL NO. 19

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MEYER, Crawford, Gruenberg

Introduced: 1/16/07

Referred: State Affairs, Judiciary, Finance

A BILL**FOR AN ACT ENTITLED**

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

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**3 * **Section 1.** AS 28.15.183(f) is amended to read:

4 (f) A revocation imposed under this section shall be consecutive to a
5 revocation imposed under another provision of law, except that (1) a revocation
6 imposed under this section shall be concurrent with a prior revocation imposed under
7 this section; and (2) a revocation imposed under this section for an offense for which a
8 revocation is required under AS 28.15.185 shall be concurrent with a revocation
9 imposed under AS 28.15.185 that is based on the same incident. [A PERSON
10 WHOSE DRIVER'S LICENSE, PERMIT, OR PRIVILEGE WAS REVOKED FOR A
11 PERIOD OF AT LEAST 60 DAYS UNDER THIS SECTION MAY APPLY FOR
12 LIMITED LICENSE PRIVILEGES UNDER AS 28.15.201(d).] A person whose
13 driver's license, permit, or privilege to drive was revoked for a period of more than
14 one year under this section may apply for reinstatement as provided under (i) of this
15 section.

1 * Sec. 2. AS 28.15.201 is amended by adding a new subsection to read:

2 (f) A person whose driver's license or privilege to drive has been revoked
3 under AS 28.15.165(c) or 28.15.181(c) may apply to the department for ignition
4 interlock limited license privileges. Ignition interlock limited license privileges allow
5 the person to operate a vehicle on which an ignition interlock device has been installed
6 and that is identified on the limited license certificate issued by the department to the
7 person. The department may grant ignition interlock limited license privileges if

8 (1) the revocation was for a conviction under AS 28.35.030 or
9 28.35.032;

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

12 (3) the person signs an affidavit acknowledging that

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

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

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

22 * Sec. 3. AS 28.15.291(b) is amended to read:

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

24 (1) shall impose a minimum sentence of imprisonment

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

29 (B) if the person has been previously convicted, of not less than
30 10 days;

31 (C) if the person's driver's license, privilege to drive, or

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

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

12 (2) may impose additional conditions of probation;

13 (3) may not

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

17 (B) suspend imposition of sentence;

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

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

25 * Sec. 4. AS 28.15.201(d) and 28.15.201(e) are repealed.

26 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 TRANSITIONAL PROVISION. A person convicted of a misdemeanor violation of
 29 AS 28.35.030 before the effective date of this Act who has a limited license issued under or is
 30 eligible to receive a limited license under AS 28.15.201(d) may continue to use that limited
 31 license or may receive a limited license as provided in AS 28.15.201 as that section read on

1 the day before the effective date of this Act and is subject to penalties for violating the
2 limitations on that license as provided in AS 28.15.291 as that statute read on the day before
3 the effective date of this Act.

4 * **Sec. 6.** This Act takes effect January 1, 2008.

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)

Currently 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

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 Receipt 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
 Division: Motor Vehicles
 Approved by: Kevin Brooks, Deputy Commissioner
 Agency: Department of Administration

Phone 269 5008
 Date/Time 1/30/07 4:00pm
 Date 1/30/2007

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

2/13/2007

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 study¹ shows a 60% reduction in risk of committing an alcohol-related offense with an interlock installed.

An Ohio study² 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 installed³, 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 in-vehicle license 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.

³This 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)

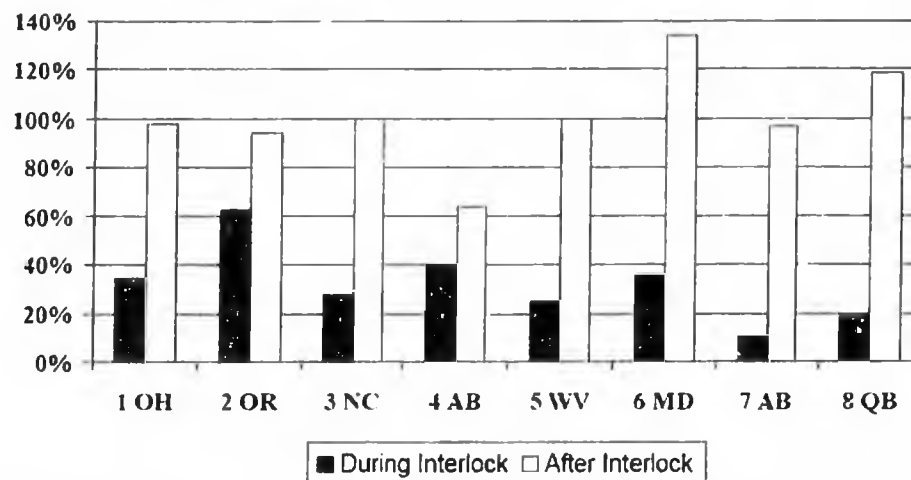


Figure 1: Eight studies that compared interlock recidivism rates (%) during the interlock (dark bars) and after the interlock (open bars) against recidivism for non-interlock contrast groups (set to 100%).

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:
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narda@frontierk12.org

Traffic Safety Facts

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

Inside This Issue

- Background
- Key Facts
- Research
- Publicity
- Conclusion

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 \geq .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.

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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.

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202-366-2683;
or NHTSA's Web site at**

www.nhtsa.gov

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.

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 a person was driving or operating a motor vehicle after consuming alcohol and 2.) whether the person consumed alcohol or 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.

Jane Pierson

From: Duane Bannock [duane_bannock@admin.state.ak.us]
Sent: Tuesday, February 13, 2007 12:54 PM
To: Jane Pierson
Subject: [Fwd: Admin Actions]
Attachments: ALR.pdf, THE DIFFERENCES BETWEEN A CRIMINAL CASE AND ADMIN ACTION.doc

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

2/13/2007

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,

2/13/2007

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

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.

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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

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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.

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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 than 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

¹ MADD, *International Technology Symposium: A Nation without Drunk Driving Summary Report*. November, 2006: pg 4.

² MADD (2006), *State-by-State Alcohol-Related Laws*. www.madd.org/laws/

³ MADD (2006), *Ignition Interlock Brief*.

⁴ Ibid.

⁵ Ibid.

⁶ 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.



Ignition Interlock - Issue Brief

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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 licenses (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, [please click here to email your representatives to tell them you want to mandate the use of ignition interlocks.](#)

Related Issues

- [Federal high-risk driver initiative](#)
- [Repeat offenders](#)
- [High-BAC drivers](#)
- [Driving while suspended](#)
- [Administrative license revocation \(ALR\)](#)
- [Vehicle impoundment](#)
- [Mandatory assessment and treatment](#)

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)
- *Fact Sheets*
 - NCLS. "Ignition Interlock Requirements for Convicted Drunk Drivers." As of July 2003. ([Click here](#))
- *Testimony*
 - Wendy Hamilton's testimony before the Senate Appropriations Committee, May 22, 2003. ([Click here](#))
 - Wendy Hamilton's testimony before the Senate Commerce, Science & Transportation Committee, May 22, 2003. ([Click here](#))
- *Press Releases*

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



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 who are charged with DUI/DWI 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 disposition 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 from 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.

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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 through 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 6-12 months and their driving

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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, whereas 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 more 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 5).

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).