

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008

SJUD

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ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON

ALASKA STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182



(907) 465-3707
FAX (907) 465-4821

DATE: March 8, 2007

TO: Senator Hollis French, Chair
Senate Judiciary Committee

FROM: *Senator Olson*
Senator Donald C. Olson

SUBJECT: Senate Bill 84 – Request for Hearing

I am requesting a hearing for Senate Bill 84 at your earliest convenience. Attached you will find a copy of SB 84, the sponsor statement, sectional analysis, and some additional backup to support the bill. Letters of support from the Alaska Fire Chiefs Association, the Alaska State Firefighters Association, the Department of Public Safety Acting State Fire Marshal, and the National Fire Protection Association are also included.

Please let Denise Liccioli of my staff know if there is anything else we can provide. Thank you for your consideration.

Attachments

LEGAL SERVICES

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

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

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

MEMORANDUM

February 23, 2007

SUBJECT: CSSB 84(), relating to tobacco products
(Work Order No. 25-LS0596\E)

TO: Senator Donny Olson
Attn: Denise Licctoli

FROM: *JB* Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. General comment. As I mentioned on the phone, I have not been able to come up with language that would eliminate the issue of delegation in certain provisions of this bill and also satisfy the apparent goal of the person requesting the language. The draft does contain slightly modified versions of the language requested. See the following paragraphs for suggestions.
2. Sec. 18.74.040(b). Notwithstanding the arguments presented in the material provided, this subsection continues to raise the issue of unlawful delegation.
3. Testing by state fire marshal. Sec. 18.74.065 contains the new provision requested regarding testing by the state fire marshal. However, there does not appear to be authority in the new chapter for the state fire marshal to test cigarettes. Do you want to add this authority?
4. Sec. 18.74.120(b). Although an improvement from the previous language, this requested revision of the previous language does not eliminate the delegation issue: the presence of the exception (the "unless" clause) does not eliminate the general requirement for the state fire marshal to give a preference to the acts of officials in another state. It is not clear just what "give a preference to" means. Since there's already a delegation issue, do you want to use "approve"? If the language could be changed to a provision that allows the state fire marshal to consider the New York standards, this may eliminate the delegation issue.
5. Sec. 18.74.130(b). The words, "for sale in this state," were added at the end of the subsection.

*Approved
Oregon which
had same
non-delegation
issue*

Senator Danny Olson

February 23, 2007

Page 2

6. Sec. 18.74.220. The persuasive authority of this section is limited to its implementation by the state fire marshal and the attorney general in order to not impose a restriction on decisions by the court, which may cause a separation of powers problem. The fact that the implementation is "persuasive," and not just activity to be considered, continues to raise the unlawful delegation issue. If the wording were changed to provide that the state fire marshal and attorney general may consider these items, this may eliminate the delegation issue.

7. Sec. 18.74.280. This is the new language that was requested. Is there a reason for being so specific about the type of preempting federal law? Usually this type of provision is just used to preserve the sections that are not preempted. If a federal law preempts this law, it will be preempted whatever the state says. The requested provision states the obvious without providing anything useful (e.g., saving a provision that is not preempted). As we discussed, the meaning of "reduced cigarette ignition standard" may need to be made clearer, either in the bill or by regulation.

If I may be of further assistance, please advise.

TLB:ljw
07-095.ljw

Enclosure

ALASKA STATE SENATE

SENATOR DONALD C. OLSON

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SECTIONAL ANALYSIS

CSSB 84(L&C), "Testing and Packaging of Cigarettes"

Section 1 establishes a new Chapter 74 for cigarette fire safety.

Subsection 18.74.010 prohibits the sale of any cigarette that does not have fire extinguishing characteristics determined by:

- (1) testing to an approved performance standard under 18.74.030 or 040,
- (2) marking and identification under 18.74.130, and
- (3) a certification by the manufacturer to the state fire marshal that each cigarette offered for sale complies with the requirements of this chapter.

Subsection 18.74.030 establishes the test methods based on the National Institute of Standards & Technology (NIST) performance standards by which cigarettes are determined to have acceptable fire extinguishing characteristics. The state fire marshal may select a variation of the standards if he finds that the results better assure the diminished burning capabilities of the cigarettes.

Subsection 18.74.040 allows the state fire marshal to accept alternative test methods and performance standards under certain conditions and findings.

Subsection 18.74.050 requires testing by laboratories that meet the accreditation and other requirements for acceptability in determining quality assurance and repeatability of test results regarding fire extinguishing characteristics.

Subsection 18.74.060 allows testing of cigarettes for other purposes, provided that said testing is consistent with this chapter.

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Subsection 18.74.065 allows the state fire marshal to perform testing; and requires the state fire marshal or a contractor of the fire marshal to follow this chapter if they should perform a test to determine a cigarette's compliance with this chapter.

Subsection 18.74.070 requires manufacturers to keep all cigarette test results for a period of three years.

Subsection 18.74.080 requires a manufacturer to certify to the state fire marshal that each type of cigarette listed satisfies the performance standards of this chapter. Any subsequent change to the cigarette type that may alter its fire extinguishing performance must be re-tested. There is an annual certification fee of \$250 paid to the fire marshal for each type of cigarette. The fire marshal may adjust this fee.

Subsection 18.74.090 lists the information required in the certification about the nature of the cigarette and its test results.

Subsection 18.74.100 lists the banding requirements for cigarettes that use lowered permeability bands to achieve the performance standards of the chapter.

Subsection 18.74.110 allows the attorney general and the Department of Revenue access to the certification information in order to enforce provisions of the chapter.

Subsection 18.74.120 requires approval of the manufacturer's packaging and marking of fire extinguishing cigarettes by the fire marshal prior to certification, and requires the fire marshal to act within 10 business days. Certain state officials are permitted to inspect the packaging markings of cigarettes being sold by wholesalers, agents, and retailers in the state.

Subsection 18.74.130 specifies the cigarette package marking requirements to indicate compliance with this chapter.

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Subsection 18.74.150 requires copies of a manufacturer's certification under 18.74.080 to be provided to every wholesaler, agent, and retailer who sells the cigarette.

Subsection 18.74.160 lists civil penalties for sales of cigarettes in the state that are in violation of this chapter by a manufacturer, wholesaler, agent, or retailer.

Subsection 18.74.180 directs that certification fees and civil penalties received shall be deposited in a separate account in the general fund. The legislature may appropriate from this account to the fire prevention and public safety fund established under subsection 18.74.210.

Subsection 18.74.190 allows the fire marshal, the Department of Revenue, or a law enforcement agency to seize cigarettes that are sold or offered for sale that are in violation of this chapter. Conditions for disposal of seized cigarettes are detailed.

Subsection 18.74.200 allows the state fire marshal or the attorney general to seek additional remedies for violations of this chapter through superior court action.

Subsection 18.74.210 establishes a fire prevention and public safety fund for the purpose of paying for the expenses of the state fire marshal in implementing and enforcing this chapter. Money appropriated to the fund may be expended without further appropriation.

Subsection 18.74.220 specifies the requirements for implementation of this chapter.

Subsection 18.74.230 requires the state fire marshal to report to the legislature every three years on the effectiveness of this chapter in reducing cigarette caused fires.

Subsection 18.74.240 is the fire marshal's authority to adopt regulations.

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Subsection 18.74.250 authorizes inspections by certain state officials of cigarettes being sold; and examination of paper, invoices, and records of persons who possess, control, or occupies premises where cigarettes are being sold or stored.

Subsection 18.74.260 exempts cigarettes manufactured in Alaska for sale in another state or another country from the requirements of this chapter as long as reasonable steps are taken to exclude sales in Alaska.

Subsection 18.74.270 prohibits a municipality from enacting or enforcing an ordinance that is in conflict with the purpose and provisions of this chapter.

Subsection 18.74.280 confirms the supremacy of federal law over provisions of this chapter. Should a federal law be enacted to establish a reduced cigarette ignition propensity standard, it would preempt this chapter.

Subsection 18.74.290 provides definitions of terms used in this chapter.

Section 2, 3, 4, and 5 are conforming sections that reference this chapter to the tobacco product manufacturer certification provision and other provisions in AS 43.50 relating to tobacco taxes and sales.

Section 6 provides for the transition from currently allow cigarette sales to the mandated sale of fire safe cigarettes only in the 13 month transition period.

Section 7 provides a 13 month delayed effective date.

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SPONSOR STATEMENT

CSSB 84 (L&C)

"Testing and Packaging of Cigarettes"

SB 84 mandates that only self-extinguishing cigarettes can be sold in Alaska, and establishes the testing and certification requirements to assure that only self-extinguishing cigarettes are sold in Alaska. Although no cigarette could ever be called safe, so called self-extinguishing or "fire safe" cigarettes are reduced ignition propensity cigarettes. These are cigarettes that are designed to be less likely than a conventional cigarette to ignite soft furnishings such as a couch or mattress. The bill also provides for the marking of cigarette packaging in an approved and easily identifiable manner to indicate they are fire safe.

Cigarettes are the leading cause of home fire fatalities in Alaska and the United States. The most common material first ignited in home fires are mattresses and bedding, upholstered furniture, and floor coverings. A typical scenario for fires is when a lit cigarette is forgotten or dropped by a smoker. The cigarette fire can smolder for hours before it flares up into a full blaze.

One fourth of victims of smoking-material fire fatalities are *not* the smoker whose cigarette started the fire; over one third of these are children. The risk of dying in a residential structure fire caused by smoking rises with age: 38 percent of fatal smoking-material-fire victims are age 65 or older.

The most common technology used by cigarette manufacturers for reduced cigarette ignition propensity (RCIP) is to make the paper thicker in places to slow down a burning cigarette. If such a cigarette is left unattended, when the burn reaches one of the thicker places, or "speed bumps", the burning will self-extinguish. Self-extinguishing cigarettes meet established fire safety performance standards.

Legislation similar to SB 84 has been enacted in New York, Massachusetts, Vermont, New Hampshire, California, and Illinois. A fire safe cigarette mandate has also been approved for all of Canada. This legislation is supported by the Alaska Fire Chiefs Association, the Alaska Firefighters Association, and Department of Public Safety, Division of Fire Prevention.

SB 84 will save lives, as well as reduce injuries and damage to property in Alaska. I urge you to give favorable consideration to this bill.



State of Alaska

Department of Public Safety
Division of

Fire Prevention

Sarah Palin, Governor
Walt Monegan, Commissioner

February 21, 2007

The Honorable Donny Olson
State Senate
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Olson:

The Division of Fire Prevention supports SB84 sponsored by you: "An Act relating to the burning capability of cigarettes being sold or offered for sale, or possessed for sale; relating to compliance certifications by tobacco product manufacturers, a directory of tobacco product manufacturers, the affixing of stamps to cigarette packages, and cigarette tax stamps; and providing for an effective date."

This bill embodies the focus of the Division's mission statement which is to prevent the loss of life and property from fire and explosion. This bill recognizes significant losses of life and property due to cigarettes; as the following statistics will show.

Between 1996 and 2005 Alaska lost \$8.0 million in property to fires with cigarettes as an ignition source.

Between 1996 and 2006 cigarette related fires caused 28% (51 Alaskans) of the deaths due to fire. This is the leading cause of fire fatalities in Alaska.

It is our belief that this bill will significantly lower fire fatalities in Alaska related to cigarettes, as the manufacturers will have to meet the new requirements for a cigarette that meets a fire safety standard. This would be at minimal cost to the state.

The states that have enacted similar legislation are New York, Vermont, California, Illinois, New Hampshire and Massachusetts. Those states are closely monitoring their fire statistics for the expected decline in fire fatalities. The legislation enactment is recent; therefore the information on fire fatalities is just now being collected for analysis.

If you have any questions or need more information, please do not hesitate to contact me.

Sincerely,



Steven "Rusty" Belanger
Acting State Fire Marshal

ALASKA FIRE CHIEF'S ASSOCIATION

2358 Bradway Road, North Pole, AK 99705

EIN #92-0098649

Phone: (907) 488-3400

FAX: (907) 488-6118



Date: February 20, 2007
To: Alaska Legislators
From: Alaska Fire Chiefs Association
Subject: Support SB 84 (Olson) and HB131 (Gatto)

The Alaska Fire Chiefs Association, the largest membership of fire service managers in Alaska, is dedicated to serving the needs and issues that face Alaska's fire service. We would like to inform you that Alaska Chiefs strongly support the Burning Capability of Cigarettes (SB 84/HB131) legislation, and encourage your yes vote when this legislation comes before you.

SB 84/HB131 will prohibit the sale, manufacture or distribution of cigarettes in Alaska that do not meet fire safe standards established by the American Society of Testing and Materials (ASTM).

Careless smoking is the leading cause of fire deaths in Alaska. From 1997 to 2006, fires caused by careless smoking resulted in 23% of all fire deaths in Alaska. This type of fire killed 37 people during the past 10 years.

These costs are simply too great. Fortunately, an effective solution to this problem lies within your reach. California, Illinois, New Hampshire, New York and Vermont have already passed similar legislation to protect their residents. We hope you will do your part to accomplish the same in Alaska.

On behalf of the 150 members of the Alaska Fire Chiefs Association, we thank you for considering our support of this legislation, and we hope you will vote YES on SB 84/HB 131 – a life saving piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Warren B. Cummings".

Warren B. Cummings
President, Alaska Fire Chiefs Association



**ALASKA FIRE CHIEF'S ASSOCIATION
and the
ALASKA STATE FIRE FIGHTERS ASSOCIATION**



JOINT RESOLUTION NO. 2006-1

**A JOINT RESOLUTION TO THE STATE OF ALASKA LEGISLATURE SUPPORTING
PASSAGE OF LEGISLATION TO CREATE A FIRE SAFE CIGARETTE.**

WHEREAS: Commercially, mass produced cigarettes have long been the leading cause of fire deaths in the United States and particularly here in Alaska and,

WHEREAS: Decades of research done by the National Institutes of Standards and Technology, private industry and congressional research groups have shown that reduced ignition propensity cigarettes can be manufactured and,

WHEREAS: Legislation has been passed in the state of New York, Vermont, Illinois, New Hampshire and California as well as the nation of Canada requiring cigarettes sold in those jurisdictions to meet the standard in the New York law requiring fire safety performance and,

WHEREAS: Preliminary data from New York state already shows a significant reduction in fire deaths following implementation of the law and,

WHEREAS: The National Fire Protection Association along with other national safety and health related agencies have formed a coalition to propose legislation in the remaining 44 states,

THEREFORE BE IT RESOLVED: That the Alaska Fire Chiefs Association and the Alaska State Fire Fighters Association request the Alaska State Legislature to pass legislation requiring cigarettes sold in Alaska meet the fire safe requirements of the standard written in New York.

Adopted this 29th day of September 2006 by a vote of the joint memberships at their Fall Conference in Fairbanks, Alaska.

Attested by:
Warren B. Cummings, Alaska Fire Chief's Association President

Attested by:
Carol Reed, President Alaska State Fire Fighters Association



National Fire Protection Association

1 Batterymarch Park, Quincy, MA 02169-7471
Phone: 617-770-3000 • Fax: 617-770-0700 • www.nfpa.org

James M. Shannon
President and Chief Executive Officer

February 23, 2007

Senator Donny Olson
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Olson:

I write to thank you for sponsoring SB 84, a bill that would require all cigarettes sold in Alaska to meet a fire safety standard. This important public safety bill will undoubtedly save lives and protect property all across your state.

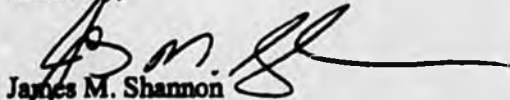
By filing this bill, you are taking a critical step to enhance fire safety by preventing fires caused by cigarettes. If the proposed fire-safe cigarette bill becomes law in Alaska, the state will be in good company. Already, legislative requirements for fire-safe cigarettes have been adopted in New York, Vermont, California, Illinois, New Hampshire and Massachusetts — covering over 25 percent of the U.S. population. Currently, there are 22 states across the country considering similar legislation.

Cigarettes are the leading cause of residential fire death across the country, killing 700 to 900 Americans each year. Additionally, thousands of victims suffer devastating burn and lung injuries, and property losses total millions of dollars each year. Cigarette fires also create a significant risk for firefighters battling these fires. Cigarette manufacturers can produce cigarettes that are more likely to go out when left unattended, greatly lowering the risk of igniting nearby furniture and bedding.

Fire-safe cigarettes work. Initial research in New York State since the implementation of its statewide mandate shows a dramatic decline in the number of fires and fatalities caused by cigarettes. Research has also shown that these fire-safe cigarettes have not reduced sales or made cigarettes more toxic to smoke. In short, fire-safe cigarettes save lives, and can make a difference in Alaska as well.

I strongly support this bill and your efforts to better protect the citizens of Alaska. Please let me know if I can be of assistance as the bill moves forward.

Sincerely,


James M. Shannon
President and CEO
National Fire Protection Association

**COALITION
for FIRE-SAFE
CIGARETTES**

The time is now."

Coalition for Fire-Safe Cigarettes (CFSC)

Mission Statement:

The mission of the Coalition for Fire-Safe Cigarettes is to save lives, prevent injuries and devastation from cigarette-ignited fires by calling on cigarette manufacturers to immediately produce and market only cigarettes that adhere to an established cigarette fire safety performance standard, (based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes); and working to see that these standards for fire-safe cigarettes are required in every state in the country.

Who We Are:

The Coalition for Fire-Safe Cigarettes (CFSC) is a national group of fire service members, consumer and disabled rights advocates, medical and public health practitioners and others, coordinated by the National Fire Protection Association (NFPA), who are committed to saving lives and preventing injuries by reducing the threat of cigarette-ignited fires.

Background:

Cigarettes currently are the leading cause of home fire fatalities in the U.S. killing 700 to 900 people, smokers and non-smokers alike, per year. In addition, thousands of victims suffer burn and lung injuries, and property losses total millions of dollars each year.

Yet, there is a proven, practical, and effective way to eliminate the risk of cigarette-ignited fires. The use of cigarettes that have a reduced propensity to burn when left unattended will help to prevent tens of thousands of cigarette-ignited fires each year. The use of such "fire-safe" cigarettes has already been mandated in New York, California, Vermont, Illinois, New Hampshire, and Massachusetts (covering 25 percent of Americans) and in all of Canada.

Call to Action:

We applaud the successful actions of state legislatures to mandate that cigarettes sold in their states follow established guidelines for reduced ignition propensity, and we encourage all states to do so.

Therefore, we call on cigarette manufacturers to immediately begin producing and marketing only cigarettes that have a reduced propensity to burn when left unattended (*as established through testing to a performance standard based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes*).

COALITION for FIRE-SAFE CIGARETTES

The time is now.™

Cigarette Fire Facts

- Cigarettes are the leading cause of home fire fatalities in the United States, killing 700 to 900 people – smokers and non-smokers alike – per year.
- Smoking-material structure fires killed 760 people and injured 1,520 others in 2003.
- Property losses total hundreds of millions of dollars each year.
- There were 25,600 smoking-material structure fires in the United States in 2003.
- Fires caused by smoking materials have declined in recent years, thanks in part to more stringent standards for fire-resistive mattresses and upholstered furniture, public education, and a dramatic decrease in the number of cigarettes consumed per adult in the United States. But cigarettes are still the leading cause of residential fire deaths.
- The risk of dying in a residential structure fire caused by smoking materials rises with age. Two-fifths (38 percent) of fatal smoking-material-fire victims are age 65 or older.
- One-quarter of victims of smoking-material fire fatalities are not the smoker whose cigarette started the fire: 34 percent are children of the smokers; 25 percent are neighbors or friends; 14 percent are spouses or partners; and 13 percent are parents.
- Almost half (43 percent) of fatal home smoking-material fire victims were sleeping when injured; one-third (32 percent) were attempting to escape, to fight the fire, or to rescue others.

Fire-Safe Cigarettes – The Time Is Now!

- One in four Americans is now or soon will be covered by fire-safe cigarette mandates approved in New York, California, Vermont, Illinois, New Hampshire, and Massachusetts. A fire-safe cigarette mandate has also been approved for all of Canada.
- Research in New York State shows no decline in cigarette sales with the introduction of fire-safe cigarettes, but cigarette-fire fatalities were reported to have declined in the state by a third in 2004 when the law was in place for not quite half the year.
- NFPA research in the mid-1980s predicted that fire-safe cigarettes would eliminate three out of four cigarette fire deaths. Had manufacture of fire-safe cigarettes become universal then, approximately 15,000 lives could have been saved by now.

(Source: National Fire Protection Association, 10/06)

www.firesafecigarettes.org

COALITION for FIRE-SAFE CIGARETTES™

The time is now.

Search

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What is a fire-safe cigarette?

A fire-safe cigarette has a reduced propensity to burn when left unattended. The most common fire-safe technology used by cigarette manufacturers is to wrap cigarettes with two or three thin bands of less-porous paper that act as "speed bumps" to slow down a burning cigarette. If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these speed bumps and self-extinguish.

Fire-safe cigarettes meet an established cigarette fire safety performance standard (based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes).

Fire-safe cigarettes save lives
The good news is that improved standards for cigarette-resistant materials in furniture and mattresses, and public education have all helped cut down the number of fires caused by smoking materials and have saved many lives. The bad news is that 700 to 900 people still die each year due to cigarette-ignited fires. And the fact remains: smoking materials are the #1 cause of fire deaths in the United States.

There is no doubt that fire-safe cigarettes will save hundreds of lives each year. Deaths caused by cigarette fires have declined dramatically in New York State in the first few months that fire-safe cigarettes were mandated there in 2004. The use of cigarettes with a proven, reduced propensity to ignite other materials will save lives and offer the best opportunity to achieve the next big leap forward in fire protection.

Is it possible for a "fire-safe" cigarette to ignite furniture or bedding?

All cigarettes have the *potential* to ignite fires, but the use of "fire safe" technology provides a tremendous reduction in those risks. A fire-safe cigarette cuts off the burning time before most cigarettes are able to ignite things like furniture or bedding material.

Isn't the real issue the need to educate people about using cigarettes in a responsible way?

Actually, the real issue is that cigarettes are the leading cause of home fire fatalities every year. Fires started by cigarettes kill smokers and non-smokers alike. Cigarette fires also burn and injure thousands of people, while causing millions of dollars in property losses. But, we have the opportunity to prevent those horrible situations through the use of fire-safe cigarettes.

With any fire problem, you can and should try to change the heat source (the cigarette), the items ignited (for example, mattress, couch), and the behavior that brings them together (that is, the smoker's behavior). And all of these strategies are being actively pursued. The reality is that without changing the cigarettes, there will still be hundreds of needless cigarette-fire deaths every year. That is why fire-safe cigarettes offer the best opportunity to achieve the next big leap forward in fire protection.

Wouldn't it be better if the U.S. had a federal standard with which each state had to comply?

All of us wish the tobacco companies would step up and do the right thing in this situation —

If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these banded "speed bumps" and self-extinguish.

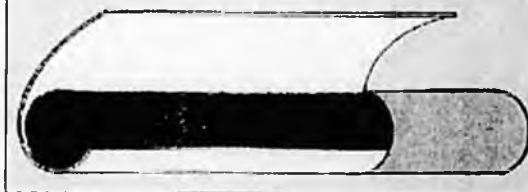
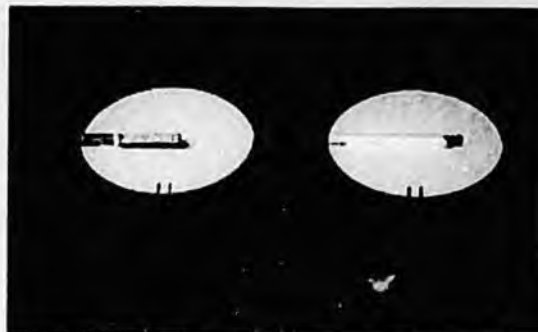


Illustration: John Roman



Cigarette regulations adopted in New York, California, and Vermont require that no more than 25 percent of 40 cigarettes tested burn their full length when placed on 10 layers of standard filter paper. The established cigarette fire safety performance standard is based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes. Photo: National Institute of Standards and Technology. See larger image.

replacing traditional cigarettes with fire-safe cigarettes. But, until that happens, strong legislation like this is the best way to prevent fires started by cigarettes. Currently, there is gridlock at the federal level, yet there is tremendous progress on the state level. Until a strong fire safety standard can be enacted by the U.S. Congress, we must pursue regulation at the state level. And to avoid a patchwork of standards, the best approach is to adopt the New York State standards, just as California and Vermont have already done.

What are other states doing?

New York State was the first to require that cigarettes sold and manufactured in the state be fire-safe. Vermont and California both adopted fire-safe legislation late last year. Additional states are considering fire-safe bills now, and many other states and jurisdictions are looking into it. In Canada, fire-safe cigarettes are marketed nationwide using the New York state standard.

[ⓧ top of page](#)

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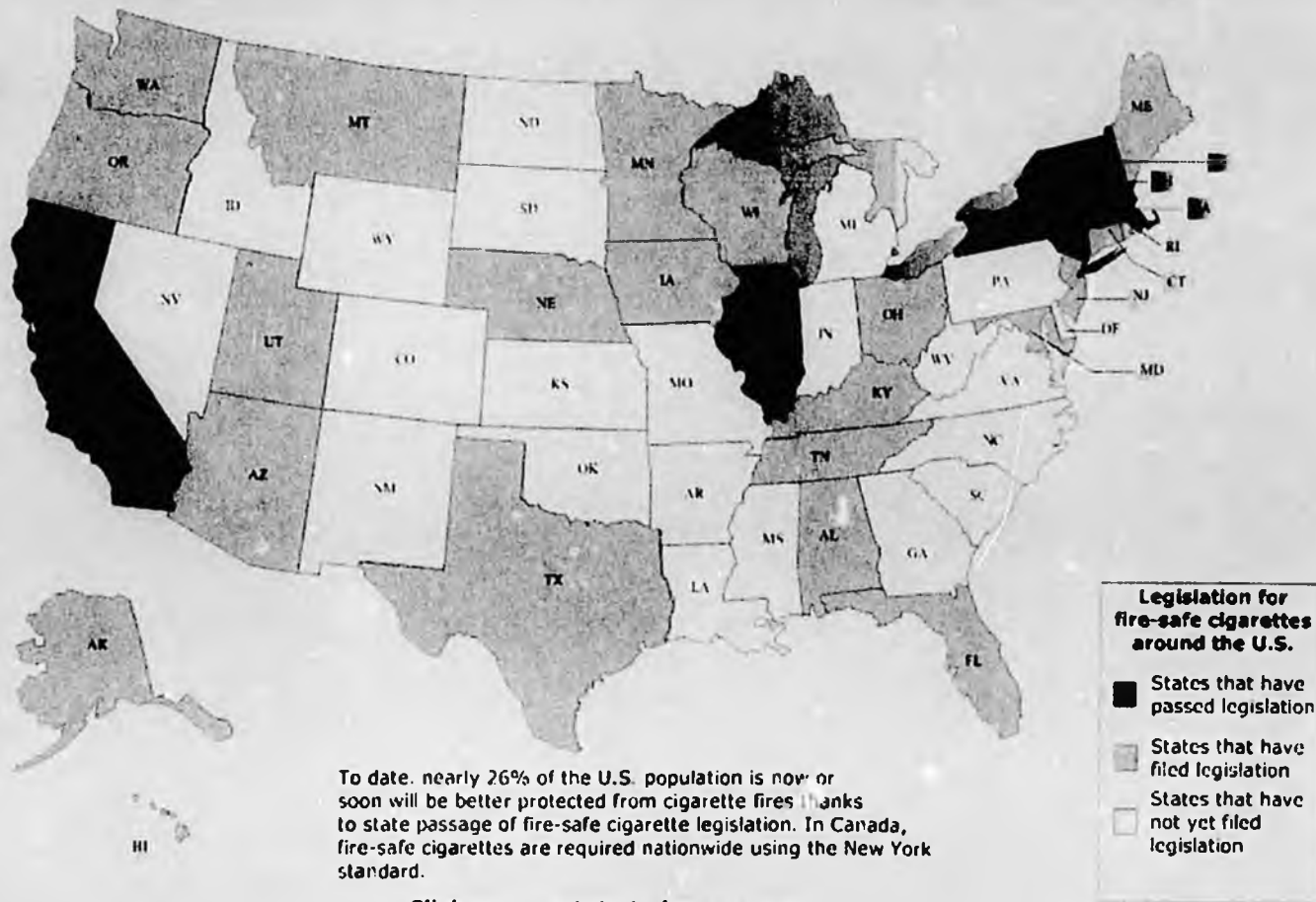
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The Coalition for Fire-Safe Cigarettes
campaign is coordinated by NFPA.

URL: <http://firesafecigarettes.org/itemDetail.asp?categoryID=48&itemID=1190&URL>About%20fire-safe%20cigarettes/What%20a%20a%20fire-safe%20cigarette?>





American Burn Association

625 N. Michigan Avenue, Ste. 2550
Chicago, IL 60611

Voice (312) 642-9260

Fax (312) 642-9130
e-mail: info@ameriburn.org

Fire-Safe Cigarettes American Burn Association Policy Statement

Cigarettes are the leading cause of fatal fires in the United States, killing 700 to 900 people every year and injuring thousands more. Those killed or injured in these fires are oftentimes not the smoker, but family members, children or neighbors. 34,800 smoking-material structure fires in the U.S. in 2002 resulted in property losses in the hundreds of millions of dollars.

The typical scenario for fires cause by cigarettes is the following: a lit cigarette is forgotten or dropped by a smoker whose alertness may be impaired by alcohol or medication. The cigarette fire can smolder for hours hidden between seat cushions or elsewhere before it flares up into a deadly blaze. "Fire safe" or reduced ignition propensity cigarettes have less porous paper, less dense tobacco, a smaller diameter, filter tip and no added citrates to the paper. These design changes result in no change in taste to the cigarette.

Fire safe cigarette legislation has passed in New York, California, Vermont, Illinois, New Hampshire and Massachusetts. Legislation is pending in New Jersey, Pennsylvania and Wisconsin.

The American Burn Association has been a strong advocate for the development of fire-safe cigarettes for more than 15 years, supporting past legislation on the issue and participating in two US Government studies that successfully demonstrated the technical and economic feasibility of commercial production of fire safe cigarettes.

The American Burn Association strongly and actively supports the passage of legislation mandating the manufacture and sale of fire-safe cigarettes along with the efforts of the Fire Safe Cigarette Coalition, a national group of fire service members, consumer, elderly and disabled rights advocates, medical and public health practitioners and other who are committed to saving lives and preventing injuries by reducing the threat of cigarette-ignited fires.. The ABA is a member of the Fire Safe Cigarette Coalition.

For more information, contact Kitty Vineyard at the American Burn Association at (312) 642-9260 or vineyard@ameriburn.org.



Certificate of Analysis

Standard Reference Material[®] 1082

Cigarette Ignition Strength Standard

This Standard Reference Material (SRM) is intended for use by test laboratories to assess and control their testing of cigarette ignition strength in accordance with ASTM Standard Methods E 2187-04 (or ASTM E2187-02b). The SRM unit consists of one carton of cigarettes containing 10 packs of 20 cigarettes each.

Certified Values and Uncertainties: A NIST certified value is a value for which NIST has the highest confidence in its accuracy and that all known or suspected sources of bias have been investigated or accounted for by NIST. The certified value for ignition strength is given in Table 1. The certified value is the result of testing at NIST, Kidde-Fenwal, and the National Research Council, Canada. The certified value and its uncertainty were obtained by fitting a Bayesian hierarchical model [1] to the data from the two laboratories. The model accounts for random variation both within and between laboratories. The data from each laboratory was modeled using individual binomial likelihood functions, the between-laboratory variation was modeled using a beta distribution, and non-informative prior distributions were used for all parameters in the model. The model was fit to the data using Markov chain Monte Carlo methods. The expanded uncertainty given in Table 1 is reported at the 95 % probability level. This uncertainty includes measurement variability within and between laboratories. Tests for cigarette uniformity did not show evidence of any significant variation in ignition strength between packs. A combined standard uncertainty for the certified ignition strength of $u_c = 1.65$ % should be used in further uncertainty calculations.

Table 1. Certified Values

Measurand	ASTM Method	Certified Value and Expanded Uncertainty
Ignition Strength (on 10 layers of filter paper)	E 2187-04 ^(a)	12.6 % ± 3.3 %

^(a) Standard Test Method for Measuring the Ignition Strength of Cigarettes.

NOTICE AND WARNING TO USERS: THERE ARE SUBSTANTIAL SAFETY HAZARDS ASSOCIATED WITH EXPOSURE TO BOTH PRIMARY AND SECOND-HAND SMOKE FROM CIGARETTES. THESE CIGARETTES ARE ONLY TO BE USED UNDER THE LABORATORY CONDITIONS DESCRIBED IN ASTM E2187-04.

Expiration of Certification: The certification of SRM 1082 is valid, within the measurement uncertainties specified, until **31 December 2015**, provided the SRM is handled in accordance with the instructions given in this certificate (see "Instructions for Use"). This certification is nullified if the SRM is contaminated, disfigured, or otherwise modified.

Maintenance of Certification: NIST will monitor representative samples from this SRM lot over the period of its certification. If substantive changes occur that affect the certification before the expiration date, NIST will notify the purchaser. Registration (see attached sheet) will facilitate notification.

The coordination of the technical measurements leading to certification was performed by R.G. Gann of the NIST Fire Research Division.

Ignition strength measurements at NIST were made by J. Lee of the Fire Research Division.

Statistical consultation on experiment design and analysis of the certification data were performed by W.F. Guthrie of the NIST Statistical Engineering Division.

William L. Grosshandler, Chief
Fire Research Division

Robert L. Watters, Jr., Chief
Measurement Services Division

The support aspects involved in the issuance of this SRM were coordinated through the NIST Measurement Services Division.

The cigarettes were purchased by NIST from Philip Morris USA (Richmond, VA).¹

INSTRUCTIONS FOR USE

Stability and Use: ASTM E2187-04 states that cigarette test specimens are to be protected from physical or environmental damage while in handling and storage. It is important that the specimens not be crushed or deformed in any manner. Careful handling is needed to ensure that the specimens are not contaminated while in storage, and that they are protected from degradation by insects. If test cigarettes are not to be used for more than one week, they are to be stored in a freezer at approximately 0 °C (32 °F).

Prior to testing, the cigarettes are to be removed from the pack(s) and conditioned at a relative humidity of 55 % ± 5 % and a temperature of 23 °C ± 3 °C (73 °F ± 5 °F) for at least 24 h. The cigarettes are to be placed in a clean, open container, with the number of cigarettes being sufficiently small to enable free air access to the specimens, for example, a maximum of 20 cigarettes in a 250 mL polyethylene or glass beaker.

Material Selection and Packaging: The state of New York, the state of Vermont, the state of California, and the dominion of Canada have enacted legislation requiring that all cigarettes sold in their jurisdictions must not exceed 25 % full-length burns using this test method. A test consists of 40 determinations, each on a substrate consisting of 10 layers of filter paper. The filter paper is to meet the weight requirements in ASTM E2187-04 and is to be conditioned prior to testing, as described in the ASTM standard.

This SRM was developed because cigarette companies, the New York Office of Fire Prevention and Control, and Health Canada indicated a need for a standard cigarette that could be used by testing laboratories and manufacturers to assess and control ignition strength testing to assure regulatory compliance and quality control. The planned cigarette was to have a target ignition strength near (a) the required pass/fail criterion and (b) the value to which cigarette companies would need to design products in order to assure success during compliance testing, which is somewhat lower than the pass/fail criterion.

After examining several prototypes, Philip Morris USA submitted the candidate standard cigarettes to NIST. The packs and cartons were printed to NIST specifications at the factory. The cigarettes themselves bear no markings.

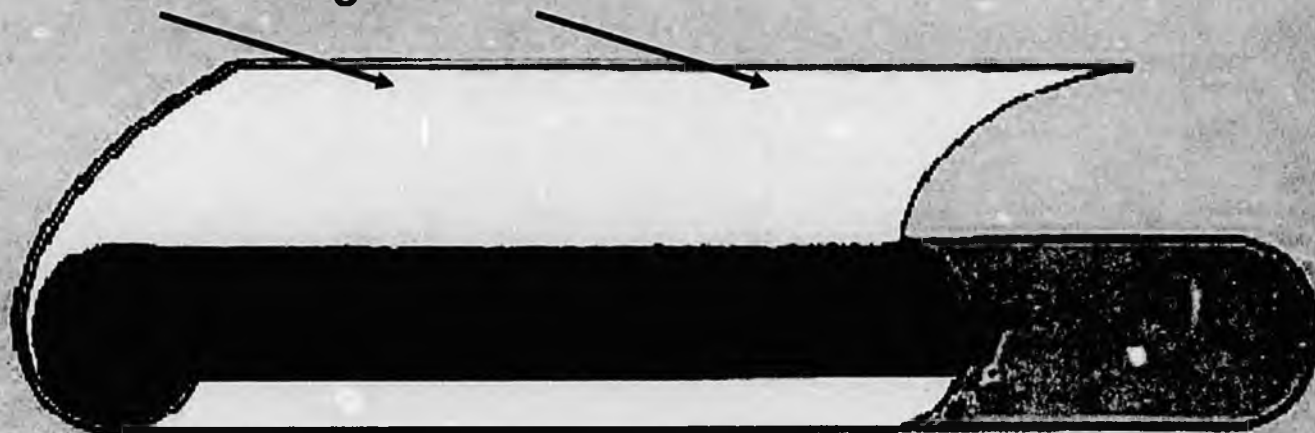
REFERENCE

- [1] Gelman, A.; Carlin, J.B.; Stern, H.S.; Rubin, D.B.; *Bayesian Data Analysis*; Chapman and Hall: London (1995).

Users of this SRM should ensure that the certificate in their possession is current. This can be accomplished by contacting the SRM Program at: telephone (301) 975-6776; fax (301) 926-4751; e-mail srminfo@nist.gov; or via the Internet <http://www.nist.gov/srm>.

¹Certain commercial equipment, instrumentation, or materials are identified in this certificate to specify adequately the experimental procedure. Such identification does not imply recommendation or endorsement by the NIST, nor does it imply that the materials or equipment identified are necessarily the best available for the purpose.

If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these banded "speed bumps" and self-extinguish.



COALITION
for FIRE-SAFE
CIGARETTES
The time is now!

COALITION for FIRE-SAFE CIGARETTES

The time is now.™

Members as of February 1, 2007

American Association of Retired Persons
American Burn Association
American College of Emergency Physicians
American Fire Sprinkler Association
American Health Care Association
American Society of Testing and Materials
International
AMERIND Risk Management Corporation
Asian American Hotel Owners Association
Automatic Fire Alarm Association, Inc.
Boston Society of Vulcans
Business and Institutional Furniture
Manufacturer's Association
Center for Campus Fire Safety
Center for Social Gerontology, Inc.
Firemen's Association of the State of
New York
Florida Association of Fire & Life Safety
Educators
Harvard School of Public Health
Home Safety Council
Illinois Fire Inspectors Association
International Association of Arson
Investigators
International Association of Black
Professional Fire Fighters
International Association of Fire Chiefs
International Association of Fire Fighters
International Association of Hispanic
Firefighters
International Code Council
International Fire Marshals Association

Massachusetts Call/Volunteer Firefighters
Associations
Massachusetts Coalition for Fire-Safe Cigarettes
Metropolitan Fire Chiefs
National Association of Emergency Medical
Technicians
National Association of Hispanic Firefighters
National Association of State Fire Marshals
National Center for Assisted Living
National Fallen Firefighters Foundation
National Fire Protection Association
National Fire Sprinkler Association
National Native American Fire Chiefs Association
National Safety Council
National Volunteer Fire Council
Phoenix Society for Burn Survivors
Polyurethane Foam Association
Property Casualty Insurers Association of
America
Public Citizen
Safe Kids Worldwide
Trauma Foundation
Uniform Fire Code Association
Washington Fire Chiefs
Western Fire Chiefs Association

Supporters/State Groups

Tobacco Free Kids

SB

89

25-LS0644\E
Luckhaupt
3/14/07

CS FOR SENATE BILL NO. 89()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS WIELECHOWSKI, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to requiring electronic monitoring as a special condition of probation**
2 **for offenders whose offense was related to a criminal street gang."**

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

4 *** Section 1. AS 12.55.100 is amended by adding a new subsection to read:**

5 (f) While on probation and as a special condition of probation for an offense
6 where the aggravating factor provided in AS 12.55.155(c)(29) has been proven or
7 admitted or the penalty for the offense was aggravated under AS 12.55.137, the court
8 shall require that the defendant submit to electronic monitoring. Electronic monitoring
9 under this section must provide for monitoring of the defendant's location and
10 movements by Global Positioning System technology.

11 *** Sec. 2. AS 33.16.150 is amended by adding a new subsection to read:**

12 (g) In addition to other conditions of parole imposed under this section for a
13 prisoner serving a sentence for an offense where the aggravating factor provided in
14 AS 12.55.155(c)(29) has been proven or admitted or the penalty for the offense was

1
2
3
4
5

aggravated under AS 12.55.137, the board shall impose as a condition of special medical, discretionary, and mandatory parole a requirement that the defendant submit to electronic monitoring. Electronic monitoring under this subsection must provide for monitoring of the defendant's location and movements by Global Positioning System technology.

Sec. 12.55.137. Penalties for gang activities punishable as misdemeanors.

(a) If a person commits an offense that would be a class B misdemeanor and the person committed the offense for the benefit of, at the direction of, or in association with a criminal street gang, the offense is a class A misdemeanor.

(b) If a person commits an offense that would be a class A misdemeanor and the person committed the offense for the benefit of, at the direction of, or in association with a criminal street gang, the offense is a class C felony.

Sec. 12.55.155. Factors in aggravation and mitigation.

C (29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang;

(4) "criminal street gang" has the meaning given in AS 11.81.900 (b);

(13) "criminal street gang" means a group of three or more persons

(A) who have in common a name or identifying sign, symbol, tattoo or other physical marking, style of dress, or use of hand signs; and

(B) who, individually, jointly, or in combination, have committed or attempted to commit, within the preceding three years, for the benefit of, at the direction of, or in association with the group, two or more offenses under any of, or any combination of, the following:

(i) AS 11.41;

(ii) AS 11.46; or

(iii) a felony offense;

GPS Monitoring: Active v. Passive

Our research indicates that the terms "active" and "passive" are commonly used by the monitoring industry to describe electronic monitoring technology, without regard to how the collected data is used.

'Active' GPS units differ from 'passive' GPS units mainly in how data is transmitted. An active unit records an offender's location and transmits the data in near real time. Passive units, on the other hand, generally collect data for a period of time and record it for eventual download. Often passive units rely on land phone lines to relay collected data – this allows for the unit to be cheaper and lighter, since the device wouldn't have to include wireless communication hardware.

In summary: The terms *passive* and *active* are used by the industry to describe monitoring technology – using these terms to describe how involved a parole officer is with utilizing the data may cause some confusion.

Variations on 'active' monitoring:

An 'active' GPS monitoring system can be put to use in any number of ways. It can be utilized just like a passive unit, with a parole officer only checking data sporadically. Another option is for human surveillance 24 hours a day, 7 days a week, with parole officers watching every movement of the offenders.

A representative with iSecureTRAC described the many options available for law enforcement agencies that choose to utilize active monitoring technology. He noted that exclusion zones and other criteria can be programmed into a computer system, notifying someone when a breach occurs. In addition, for 2 dollars a day, the company can be the first line of contact when a 'breach' occurs, limiting the number of false alarms that require the attention of parole officers. When asked to give a rough estimate of offenders that one parole officer could monitor using a system with or without the company as a first line of contact when a alarm occurs, his response was 25 offenders per parole officer for a very hands on program, with a 50:1 ratio for a diluted but feasible option.



FAIRBANKS POLICE DEPARTMENT

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Fairbanks, AK 99701-4616
Phone: (907) 450-6500
Fax: (907) 452-1588
Email: fpd@ci.fairbanks.ak.us



Alaska State Legislature
Juneau, AK 99801

RE: Senate Bill 89

March 2, 2007

Dear Members:

It has come to my attention that Senate Bill 89, *Electronic Monitoring of Gang Probationers*, is currently under consideration. I would like to add my voice in strong support of this legislation.

While Fairbanks currently does not experience the scope and extent of gang violence that has been evidenced in Anchorage, I'm somewhat concerned that it is only a matter of time before such activity migrates northward.

We need to act swiftly to deter gang activity and its associated violence, before this problem becomes entrenched throughout Alaska. Senate Bill 89 provides a positive step in keeping those who have been convicted of gang-related crimes of violence from returning to- and associating with- other gang members upon release from prison. Common sense dictates that such associations will likely lead to repeated negative (and often violent) behavior.

Please feel free to call me if you would like to discuss this issue further.

Sincerely,

A handwritten signature in black ink that reads "Daniel P. Hoffman".

Daniel P. Hoffman, Chief
Fairbanks Police Department



SMART® ACTIVE TRACKING SYSTEM
REAL-TIME REPORTING OF AN OFFENDER'S EVERY MOVE



Unlike conventional electronic monitoring devices, SMART Active Tracking offers a means of intensive supervision at an affordable price. It tracks an offender closely and effectively, 24/7, using Global Positioning System (GPS) location information and the wireless network.

HOW DOES IT WORK?

The key components of the SMART Active Tracking System are a Portable Tracking Device (PTD), ankle bracelet, charging stand, and GPS satellites.

Offenders are fitted with a tamper-resistant ankle bracelet and assigned a PTD to keep near them at all times. The ankle bracelet acts as an "electronic tether" which transmits signals to the PTD.

The PTD uses GPS signals and a wireless network to locate and report an offender's every move. The PTD monitors the signal strength of the GPS satellites to insure accurate location information and incorporates a motion detector to monitor movement in areas of insufficient GPS signal strength. Pro Tech's Offender Tracking Center (OTC)



monitors this information. The PTD is equipped with an LCD, used to notify the offender of violations and for sending text messages from the agency. This patented communication capability has

demonstrated its effectiveness in modifying offender behavior and reducing recidivism.

Authorities can even create multiple Inclusion and Exclusion Zones, and be notified by fax, pager or email whenever a zone violation occurs.



PORTABLE TRACKING DEVICE AND CHARGING STAND

- Dimensions: 2" wide x 4" tall x 6" thick
- Weight: 3.8 pounds including batteries
- LCD to display violation message
- Rechargeable 14 hour battery
- High sensitivity GPS receiver
- Bracelet receiver
- Motion detection when no GPS
- Multiple wireless data communication protocols
- Speaker (audible violation notification)

ANKLE TRACKING BRACELET (PTD)

- Dimensions: 2.0" tall x 1.9" wide x 1.0" thick
- Hypoallergenic, adjustable, tamper-proof strap
- Weight: 2.5 oz.
- Uses an encrypted signal with frequency hopping
- Signal base unit of strap tampering free battery
- Range to base unit: 125 - 100 feet
- Waterproof to 2 atmospheres
- One year battery life



2549 SUCCESS DRIVE, ODESSA, FLORIDA 33556
 PHONE: (888) 6-SMART FAX: (727) 484-3111
 WWW.PTM.COM E-MAIL: INFO@PTM.COM

FOR MORE INFORMATION ON PRO TECH MONITORING AND THE SMART SYSTEM, GO TO WWW.PTM.COM OR TO SCHEDULE A DEMONSTRATION CONTACT A SALES REPRESENTATIVE IN THE MARKETING DEPARTMENT AT (727) 484-3111

<http://www.isecuretrac.com/activeGPS.asp>

Active GPS Tracking
Keeps tabs on individuals in real-time

What is Active GPS Tracking?

Active GPS tracking is a system for monitoring an individual's movement and compliance to time/location parameters 24/7/365, anywhere in the world. GPS tracking is sometimes also referred to as GPS location verification. An Active GPS device has the ability to use wireless communications to send offender data to a central data center, enabling an officer to receive updated information (locations and violations) throughout the day.

Each ISECUREtrac active GPS unit is programmable to remember zones that are off-limits (schools or a spouse's residence, for example). Each unit can also remember the areas an offender is required to be in at certain times (at work from 8:00 AM to 5:00 PM and at diversion sessions on Tuesdays from 6:00 PM to 7:00 PM, for example). If the offender isn't compliant to these parameters, ISECUREtrac's active GPS unit will note a violation and can send an alert.

<http://www.isecuretrac.com/passiveGPS.asp>

Passive GPS Tracking
Provides in-depth offender monitoring

What is Passive GPS Tracking?

Similar to active GPS, passive GPS tracking is also a system for monitoring an offender's movement and compliance data 24/7, anywhere in the world. Each ISECUREtrac passive GPS device continuously records location data throughout the day and is programmable to remember zones that are off-limits (schools or a spouse's residence, for example). Each unit can also remember the areas an offender is required to be in at certain times (at work from 8:00 AM to 5:00 PM and at diversion sessions on Tuesdays from 6:00 PM to 7:00 PM, for example). If the offender isn't compliant to these parameters, ISECUREtrac's passive GPS unit will note a violation.

A passive unit transmits updated tracking information less frequently than an active GPS device does - normally at the end of the day. Authorized personnel can then see updated information once the data has been transferred. Most passive systems transmit data over regular phone lines rather than through cellular networks. This ability to utilize land-lines is necessary for many agencies covering rural or remote areas where cellular coverage may be inadequate.

Passive systems also cost less than active systems and are ideal for agencies that don't require immediate notifications.

GPS Offender Tracking & the Police Officer

From the **June 2005** Issue officer.com

By **Patrick Hyde and Nicole DeJarnatt**

Active and passive GPS

Sometimes, violations to the parameters laid out for the offender can be noted and forwarded to the agency within minutes — this type of system has been labeled an "active" GPS system — while other systems log GPS data points while the person travels through the community then downloads that information to be analyzed when the person returns home and places the GPS tracking unit in the charging base station. Each system has pros and cons, but usually the systems that download the data once or twice a day provide sufficient detail for uncovering the patterns of activity that the supervising officer must address with the offender.

On the surface, it may seem most helpful for agencies to know within minutes if an offender has violated their conditions of release by leaving an inclusion zone or entering an exclusion zone. However, some agencies are leery of active GPS systems. So much information, they say, can lead to "data overload" that can have the agency responding daily to continuous violation notifications, some of which are simply nuisance violations. To the police officer on the street, there will be little if any noticeable difference to these systems, other than size.

A major drawback voiced about active GPS systems is the misperception that a community corrections or police officer can intervene to thwart criminal activity. That is simply not the case, as few agencies have dedicated resources waiting for such a call nor could they move from office to "potential" crime location before a crime is committed.

What both active and passive GPS systems can provide, though, is important and concrete details about offender behavior while they move within the community. As a result, patterns in behavior can be detected and addressed, with the hope that future crime can be prevented. GPS systems can provide correlation to crime scenes and can alert local police officers if offenders are associating with other GPS-tracked individuals while in the community.

Long arm of the law: GPS rapidly replaces radio frequency as the technology of choice for electronic monitoring and tracking of defendants awaiting trial, and non-violent criminal offenders on probation or parole

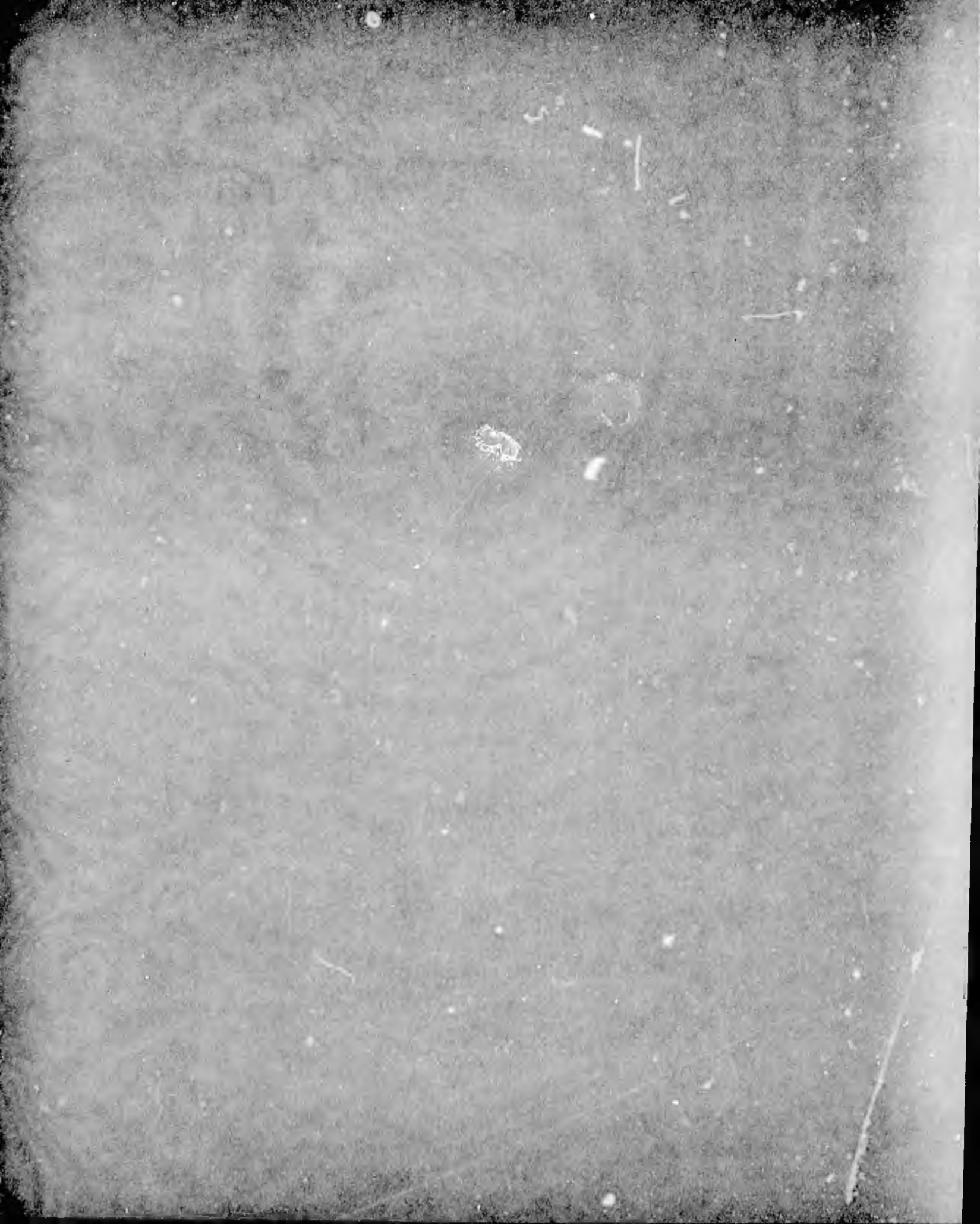
GPS World, August, 2004 by Marty Whitford

Deputy Kevin Rau of the Marion County Sheriff's Office in Oregon said the facility recently purchased 12 iSECUREtrac GPS-based wireless tracking and monitoring systems under a gang enforcement grant and has reaped a plethora of benefits. Rau said Marion County pays about \$6 a day to use each of its six passive iSECUREtrac units, which can download nightly a log of an offender's whereabouts, and \$10 a day for each of its six active systems, which can track an offender's travels within three minutes of real time.

The System

Each GPS-based iSECUREtrac system includes a 13.5-ounce personal tracking unit designed to clip onto one's belt, an ankle bracelet, and a charging base station for night time that powers the 6 X 3.25 X 1.75-inch PTU for 16 to 18 hours of use the next day. The ankle bracelet has light and motion sensors to prevent tampering or removal.

Features. iSECUREtrac's 2150 Passive and 2250 Active Wireless monitoring equipment feature a wearable form factor, remote zone programming and automated violation notification. The products track, report and archive information regarding the movements of criminal offenders. The Passive model has real-time data collection and storage, and the Active unit adds secure, realtime notification (via phone, e-mail, and/or pager, to pre-determined individuals on a tiered/as-need basis).



ALASKA STATE LEGISLATURE

Co-chair, Joint Armed Services
Committee

•
Resources Committee

•
Judiciary Committee

•
Transportation Committee



State Capitol, Rm. 115
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

716 W. 4th Ave, Ste. 440
Anchorage, AK 99501
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SENATOR BILL WIELECHOWSKI

February 27, 2007
Senator Hollis French, Chair
Senate Judiciary Committee
State Capitol, Room 417
Juneau, Alaska 99801

Dear Senator French:

I am writing to request a hearing on Senate Bill 89, "An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang."

As you know, gang violence has become an increasing problem in Anchorage in recent years. Further, unless immediate action is taken, the problem threatens to spread to other communities throughout Alaska. SB 89 would give law enforcement officials a valuable tool in breaking apart criminal gangs by assuring that gang members do not associate with one another while on probation.

I intend to request that representatives from the appropriate departments and from legislative legal services be present to answer any questions that may arise. Further, I would like to allow public testimony to be taken statewide by electronic means.

Included with this letter you will find the latest version of this bill, a Sponsor Statement, Sectional Analysis, and other background materials.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Wielechowski".

Senator Bill Wielechowski



Senator Bill Wielechowski Sponsor Statement

Senate Bill 89 "Electronic Monitoring of Gang Probationer"

"An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang."

Anchorage has seen an increase in gang violence in recent years. The Anchorage Police Department has reported 20 gang related crimes so far in 2007. In 2006, the Police Department reported 122 gang-related cases.

This bill, which is a legislative priority for the Municipality of Anchorage, addresses a problem that has been documented by the Anchorage Police Department and prosecutors where gang members who have been convicted of violent gang-related crimes go back to gang activity when they are released on probation.

Senate Bill 89 would require people who are convicted of violent, gang-related crimes to wear electronic monitoring devices as a condition of their probation. The bill will help law enforcement officials to monitor the movement of violent offenders, and supervise their activity.

The scope of Senate Bill 89 is narrowly defined. It applies only to those people who have been convicted of violent crimes that are proven in a court of law to be gang related. It would not be used on other offenders.

LEGAL SERVICES

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

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

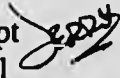
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 26, 2007

SUBJECT: SB 89 - Sectional Summary

TO: Senator Bill Wielechowski
Attn: George Ascott

FROM: Gerald P. Luckhaupt 
Legislative Counsel

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

Section 1. Amends AS 16.55.100 by adding a new subsection that requires electronic monitoring (with GPS location and tracking ability) as a special condition of probation for offenders whose offense involved a criminal street gang.

GPL:med
07-129.med



Municipality of Anchorage



4501 Bragaw Street • Anchorage, Alaska 99517-1818 • Telephone (907) 740-4500 • <http://www.mml.org>

Mayor Mark Begich

Anchorage Police Department

February 12, 2007

Representative Bob Buch
State Capitol, Room 430
Juneau, Alaska 99801

Re: APD Support for Electronic Ankle Monitors

Dear Representative Buch:

As Chief of the Anchorage Police Department, I endorse the concept of electronic monitoring as a special condition of probation for offenders whose crimes were for the benefit of, at the direction of, or in association with a criminal street gang. This was a public safety priority contained in the Municipality of Anchorage's legislative package.

While the technology is no substitute for regular visits by human monitors, the combination of such visits with the electronic monitoring of the convicted person's movements and location will help ensure that conditions of probation are adhered to. Key to the employment of such devices will be the reasonableness that there is a clear link between the offense and the restriction. It is certainly reasonable to expect convicted violent gang members to keep authorities informed as to their whereabouts.

The fact that this bill uses the court as the deciding factor as to whether the threshold articulated in AS 12.55.155 (c)(29) and AS 12.55.137 was met ensures the defendant's due process rights are adhered to prior to requiring the defendant to submit to the electronic monitoring. As a Police Chief, it is important to me that such conditions of probation are determined after the case has been adjudicated.

Once again, I endorse the concept of electronic monitoring as a special condition of probation for individuals who have been convicted of a crime where the aggravating factors regarding criminal street gangs are proven.

Sincerely,

Rob Heun
Chief of Police

Community, Security, Prosperity

SB

92

Partners for Progress
Testimony to the Senate Judiciary Committee on HB 19 and SB 92
4/25/07

Among the three main sentencing provisions for DUI offenders – imprisonment, fines and license revocation, license revocation is the area where there is most need to focus carefully on protecting the public. The overriding goal in any legislation dealing with license revocation and the use of ignition interlock devices (IIDs) should be to establish a system that better protects the public against repeat drunk drivers.

To maximize public protection, it is essential to examine the realities of license revocation from the offender's perspective. We all know that driving is a privilege and not a right. Today, however, driving has become a necessity for leading a productive life, for getting and keeping a job, going to school, caring for family, buying groceries and keeping appointments.

The new ignition interlock technology provides a way of protecting the public from drunk driving, while recognizing that leading a responsible and productive life in today's community requires the ability to drive. IID technology is rapidly being improved with rolling retests and built-in cameras. IIDs offer a long-needed method of separating driving from drinking.

Our recommendations for IID legislation are based on a recent survey of national information about the use of ignition interlock devices. MADD's national organization has also reviewed the experience of other states. They recommend that all DUI offenders be required to obtain an ignition interlock device before driving.

We urge you to work together to craft a single bill requiring that **all repeat DUI offenders get an ignition interlock device permit with a limited license so they can drive while they are on probation/parole and license revocation.** This recommendation reflects national data that shows that IIDs are an effective tool for reducing recidivism, provided offenders start out driving with the ignition interlock device under the supervision of probation/parole. Supporting this approach, the recidivism data recently released by the Alaska Judicial Council show that most recidivism occurs in the first year after release from prison.

Timing the availability of the ignition interlock driving privilege is very important. To best protect the public, the first year when offenders are supervised through probation/parole and are reestablishing themselves in the community is the time they should be on an IID. To do otherwise is to program newly released offenders to drive without a license, to live on the wrong side of the law and to reenter the revolving door of repeat addicted crime.

The Court System reports that annually there are as many Driving Without License cases as there are DUIs. This syndrome is as costly as it is dangerous.

Secondly, **we strongly urge you to take the time – perhaps by deferring action at this time and meeting during the summer interim – to develop provisions to include felony DUI offenders in the IID system.** The potential benefits of public protection through IID legislation are greatest with felony DUIs. MADD reports that 50 to 75 percent of repeat drunk driving offenders go back to drinking and driving in the first year after they are released from prison. Many are felons. Court data supports this information showing that most individuals with revoked licenses are likely to drive

anyway. When felons are returned to our communities a great many drink and drive and seriously endanger the public.

We urge you to develop legislation that reflects this reality by putting felons on ignition interlock devices as a condition of probation/parole. The legislation could require extra measures to assure sobriety, perhaps drawing from some of the measures used in the therapeutic courts.

The cost of not putting felons on ignition interlock devices as soon as possible after release from prison is huge. It is a cost that will be paid by members of the public who are harmed or killed by repeat felony offenders who drive drunk without a license. We urge you to recognize this reality, and use ignition interlock limited licenses as part of probation to separate driving from drinking for all repeat DUI offenders - felons and misdemeanants.

If Alaska does it right, IIDs can be a powerful tool in reducing the shockingly high rate of DUI crime in our state, but doing it right requires a clear focus on the realities of protection for the public.

Finally, I want to talk about an inclusion in this legislation that would benefit therapeutic courts. As you know, the data shows that graduates of therapeutic courts are far less likely to recidivate than offenders who go through the traditional corrections system. Participants in therapeutic courts are closely supervised by the judge and other therapeutic court team members, and continually monitored for sobriety. To maximize the benefits of this proven program and gain the cost-effectiveness of volume, we ask you to incorporate license provisions in this bill that would encourage more offenders to enter and complete therapeutic courts.

We recommend that you add a provision that would give the court the discretion to grant ignition interlock limited license privileges to therapeutic court participants for purposes of attending requirements of the court-ordered treatment program. This would include both misdemeanants and felons, and should be available after the participant has achieved a degree of success and stability in the program. The legislation should also include a provision allowing graduates of therapeutic courts to apply for restoration of a revoked license after three years of successful driving with an ignition interlock limited license. These provisions would provide powerful incentives to increase the number of DUI offenders who enter and complete the difficult 18-month court-ordered treatment program,

Thank you.

April 21, 2007

Dear Senator French,

I am writing in support of the creation and implementation of a greatly expanded ignition interlock program in Alaska DUI offenders.

Both bills, SB 92 and HB 19 address this issue. Both are a tremendous first step in getting this matter before our lawmakers to initiate discussion. I appreciate that one bill deals with the judicial side and the other with the administrative side of an ignition interlock program. Ignition interlocks have been shown to greatly reduce recidivism rates among offenders and afford the public greater safety on the roads. Requiring their use for high-risk drivers through a program that captures the greatest number of them is crucial to the success of the program.

I have been researching this issue for about a year as an independent citizen; I do not work nor volunteer for any organization related to drunk driving or highway safety.


I attended the International Ignition Interlock Symposium held in October '06 and am grateful to be able to voice what I've learned.

Based upon my reading and the presentations at the Symposium, I offer the following as components of an excellent IID program in Alaska:

- An ignition interlock limited license should be required for every DUI offender – past, present, future, misdemeanor and felon – for the duration of their license revocation period, OR until they can demonstrate one year of alcohol-free driving, whichever is longer. (addresses head-on the fact that most offenders with driver's licenses revoked drive anyway)
- A thirty-day hard suspension period is maintained. (this has been shown as a deterrent for first-time offenders)
- Those individuals with revocations greater than five years are eligible for five-year reviews of their record by DMV for consideration of a termination of revocation. (a "carrot" to improve compliance)
- An indigent fund is established by requiring an upfront indigent fee from all non-indigent clients. (removes a significant obstacle for compliance)
- The cost of the installation and maintenance of the device is borne by the offender and the costs are counted toward the payment of any outstanding fines for DUI. (a "carrot")
- The punishments for DWLR/S are increased to provide incentive for compliance. (a "stick")

I've included some information for your consideration of ignition interlocks and hope to be able to work with the legislature to create an excellent research-based law that will most effectively serve to protect Alaskans on the road.

Thank you,



Narda Butler

346-1189

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 interlock 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)

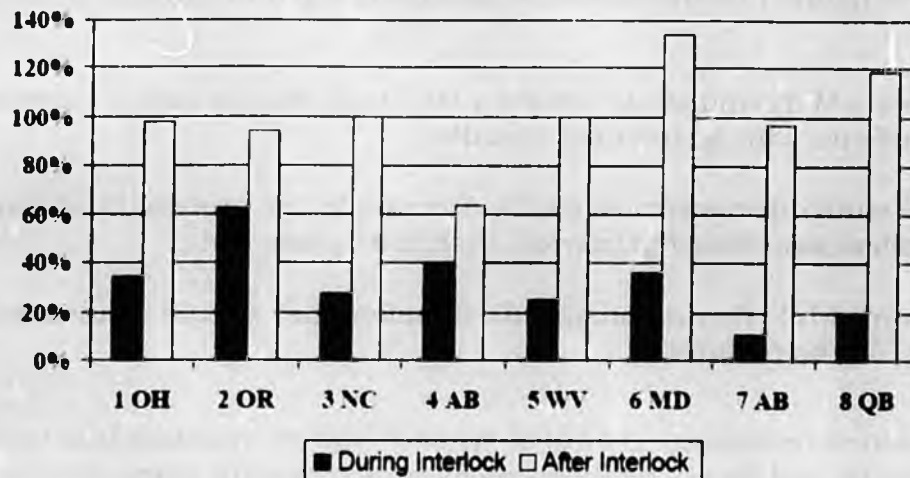


Figure 1: Eight studies that compared interlock recidivism rates (%) during the interlock (dark bars) and after the interlock (open bars) against recidivism for non-interlock contrast groups (set to 100%).

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

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MADD Announces National Campaign to Eliminate Drunk Driving

Combination of stronger enforcement, tougher laws and advanced technology make it possible to remove threat

DOT, NHTSA, IIHS, GHSA, IACP, the Century Council, DISCUS and the Alliance of Automobile Manufacturers join forces in support of Campaign

Contacts: MADD: Misty Moyses, 469-420-4558

GMMB: Paul Shepard, 202-572-2875

WASHINGTON (November 20, 2006) – In a bold new effort designed to eradicate one of the nation's deadliest crimes, Mothers Against Drunk Driving (MADD) today launched its national *Campaign to Eliminate Drunk Driving*, which aims to literally wipe out drunk driving in the United States.

Despite a more than 40 percent decline in alcohol-related traffic fatalities since MADD was founded in 1980, the threat still remains. Every year, nearly 13,000 people are killed by drunk drivers with an illegal blood alcohol concentration (BAC) of .08 or above and countless others are injured. This represents more than 1,000 families every month that must live with the tragic consequences of drunk driving.

"The real possibility of eliminating drunk driving in this country is a powerful, even audacious, idea. Yet the tools are now at hand. Using technology, tougher enforcement, stronger laws and grassroots mobilization, the goal of eliminating a primary public health threat that has plagued the United States is within our reach," said Glynn Birch, national president of MADD, whose 21-month-old son was killed by a drunk driver in 1988.

As a nation, our efforts to prevent drunk driving fatalities have stalled. MADD's plan to eliminate this public health threat requires new strategies to complement current methods. Today, MADD is announcing a 4-point plan to lead the nation toward the goals of eliminating drunk driving:

1. **Intensive high-visibility law enforcement**, including twice-yearly crackdowns and frequent enforcement efforts that include sobriety checkpoints and saturation patrols in all 50 states;

2. **Full implementation of current alcohol ignition interlock technologies, including efforts to require alcohol ignition interlock devices for all convicted drunk drivers. A key part of this effort will be working with judges, prosecutors and state driver's license officials to stop the revolving door of repeat offenders;**
3. **Exploration of advanced vehicle technologies through the establishment of a Blue Ribbon panel of international safety experts to assess the feasibility of a range of technologies that would prevent drunk driving. These technologies must be moderately priced, absolutely reliable, set at the legal BAC limit and unobtrusive to the sober driver; and**
4. **Mobilization of grassroots support, led by MADD and its 400+ affiliates, to make the elimination of drunk driving a reality. MADD is uniting drunk driving victims, families, community leaders, and policy makers in the fight to eliminate drunk driving.**

With emerging technology, the vision that drunk drivers will not be able to operate vehicles is no longer a dream but, with substantial research, a real possibility. But to achieve it, all four strategies must succeed. Interlock use must expand to all convicted drunk drivers. Emerging technologies must be developed into effective and practical devices that don't inhibit lawful drivers. High-visibility enforcement must continue. All three of these components must be backed up by effective communications and broad public support.

U.S. Secretary of Transportation Mary E. Peters said, "Drunk driving is a problem that is painful and persistent, but it's also preventable. Pairing the public and private sectors for the common good is a powerful combination, one that will help us achieve real results in terms of saving lives and preventing injuries."

Secretary Peters was joined at the event by NHTSA Administrator Nicole Nason, who is the Honorary Chair of the *Campaign to Eliminate Drunk Driving*.

Joining MADD at the press conference were the Department of Transportation, the National Highway Traffic Safety Administration (NHTSA), the Insurance Institute for Highway Safety (IIHS), the Governors Highway Safety Association (GHSA), the Century Council, the Distilled Spirits Council of the United States (DISCUS), the International Association of Chiefs of Police (IACP), and the Alliance of Automobile Manufacturers. Properly implemented, this public/private partnership will lead to the elimination of one of the primary public health threats to the American family for the

last 100 years. Each supporter will pursue these initiatives according to their own policies and procedures.

Lt. Colonel Jim Champagne, immediate past chairman of GHSA, endorsed the *Campaign* as a way to renew attention to the drunk driving problem. According to Champagne, "State Highway Safety Agencies were pleased to work with MADD to help develop this new *Campaign* and we think it sends a clear message to those who may be tempted to drive drunk: we will use every tool at our disposal to keep our roads safe and when we arrest you—and we will—there will be no leniency."

Highly visible law enforcement crackdowns, including checkpoints and saturation patrols, are proven to get drunk drivers off the road. Eighty-seven percent of Americans support the use of sobriety checkpoints, yet 10 states still prohibit the use of them. The *Campaign* will work to make checkpoints legal in all states.

"Impaired driving is not just another traffic offense; it is a serious crime that often causes needless deaths and injuries," said IACP President Joseph Carter, Chief of the MBTA Transit Police Department. "More than two decades of research have demonstrated that sobriety checkpoints and other law enforcement efforts make a difference. They are vitally effective techniques to get impaired drivers off of our roads."

Research shows that the overwhelming majority of people arrested for drunk driving have driven drunk more than 50 times before their first arrest. Two-thirds of those whose licenses are suspended for DUI drive anyway. **Interlocks are proven to be up to 90 percent effective while on the vehicle**, yet it is estimated that only one in eight convicted drunk drivers each year currently get the device, and most of those are repeat offenders. Sixty-five percent of the public support mandatory interlocks for first time offenders, and 85 percent of the public support mandatory interlocks for repeat offenders.

The Honorable Susan Molinari, chairman of The Century Council, noted, "I thank MADD for having the vision that eliminating drunk driving is possible and that to do it, it requires many different stakeholders at the table. By working together, we can eliminate drunk driving."

In addition to stronger enforcement and mandatory **interlocks for all convicted drunk drivers**, MADD supports the development of new sensor technology already underway that allows a vehicle to recognize if a driver is drunk, and to stop the driver from operating that vehicle. The public is overwhelmingly supportive: by a 4

to 1 margin (58 percent to 16 percent), Americans support advances in smart vehicle technology to prevent drunk driving.

"Enforcement is essential, but we know we'll never arrest all drunk drivers once they get on the road," said Susan Ferguson, senior vice president of research at the Insurance Institute for Highway Safety and chair of the newly-announced Blue Ribbon Panel for the Development of Advanced Alcohol Detection Technology. "If society is to eliminate the carnage caused by drunk drivers, we must do more to prevent them from drinking and driving in the first place. Fortunately, advanced technology is being developed that may allow quick, reliable detection to do just that."

MADD, NHTSA, the auto industry and the Insurance Institute for Highway Safety are forming a cooperative research initiative via the Blue Ribbon Panel for the Development of Advanced Alcohol Detection Technology to help bring this new technology to market in the next 10 years through a non-regulatory, voluntary and data driven effort.

"The Institute has long studied the most effective ways to enforce alcohol-impaired driving laws," adds Adrian Lund, president of IIHS. "Now our research will have two broad objectives: to maximize the effectiveness of laws and enforcement techniques and to study how new technology can fit seamlessly into the driving task without affecting the majority of drivers who drive sober."

At least four classes of technology warrant further investigation by the Blue Ribbon Panel: advanced breath testing, both individual testing and testing for alcohol in the vehicle; using visible light to measure BAC (spectroscopy); using non-invasive touch-based systems to measure BAC transdermally; and eye movement measurement technology, including the involuntary eye movements (or nystagmus) related to BAC, and eye closure that can indicate drowsiness.

"There is no single solution that will eliminate drunk driving. Drunk driving remains a behavioral challenge, an enforcement challenge and a challenge requiring innovative new approaches, including exploring new technologies," said Fred Webber, president & CEO, Alliance of Automobile Manufacturers. "These diverse organizations are well suited to address the long-term strategy."

MADD intends to work with law enforcement agencies, judicial organizations, auto manufacturers, insurers, distilled spirits companies, technology companies, safety

advocates, health care professionals, and emergency technicians to abolish drunk driving in the U.S. through the *Campaign to Eliminate Drunk Driving*.

MADD's mission is to stop drunk driving, support the victims of this violent crime and prevent underage drinking. Founded in 1980, MADD has helped save more than 330,000 lives. MADD is a 501 (c)(3) charity with approximately 400 entities nationwide and 2 million members and supporters. For more information, visit our online press center , www.madd.org, www.madd.org/campaign or call 1-800-GET-MADD.

Top Myths About Ignition Interlock Devices

1. The Ignition Interlock unit drained the battery.

Units draw less than 1/4 of one amp when not in operation and it draws 1/2 half of one amp when it is preparing for a test. This is minimal drain on the battery of a properly functioning vehicle electrical system. The Ignition Interlock will not drain the battery to the point where it will not start unless the vehicle is not started for approximately 10 consecutive days. This period will be shorter if the electrical system is not functioning properly such as poor alternator output or dead cells in the vehicle battery. These symptoms are common in vehicles 5 years old and older. In such a case, the vehicle would have battery problems with or without an ignition interlock device. Just as tires on a car wear out with use, so do batteries and alternators and they are considered standard maintenance items for proper vehicle upkeep.

Clients are encouraged to start their vehicles on a regular basis so they maintain a charged battery. Keep in mind, the court/DMV order states the unit should be installed in the vehicle most often used. If the car sits unused for extended periods of time, the client may be driving another vehicle that is not equipped with an ignition interlock.

2. Spicy foods or Mexican foods cause the Ignition Interlock to fail.

In some cases spicy foods, when mixed with the HCL in the stomach creates a gas called methane. With the non-alcohol specific devices the methane gas will create a false positive because the sensor reacts to the hydrocarbons. Anti-acids and water will usually relieve the situation. This phenomenon doesn't occur with the alcohol specific ignition interlock utilizing alcohol specific, Fuel Cell technology.

3. Cigarette smoke and snuff cause the Ignition Interlock to fail.

Clients are instructed to always take a few deep breaths before blowing into the unit if they are smokers. Cigarette smoke does not affect the alcohol specific ignition interlock however; smoke should never be blown into any unit.

4. Gasoline at the service station causes the Ignition Interlock to fail.

Normal refueling at the gas station will NOT create a failure. Gasoline in high concentration will not register enough to be a fail on an alcohol specific ignition interlock.

5. Perfume, hairspray, after-shave colognes, cause the Ignition Interlock to fail.

Most perfumes and colognes contain alcohol but the ignition interlock will not react to it in heavy concentrations.

6. Mouthwash/Mouthspray causes the Ignition Interlock to fail.

Mouthwash and sprays usually contain up to 30% alcohol and will definitely react as alcohol in all ignition interlock devices. Non-alcohol mouthwash is available and all ignition interlock users should use this mouthwash. The alcohol concentration level can register as high as .250 but will immediately dissipate within a fifteen (15) minute timeframe due to being mouth alcohol only or quicker if the mouth is rinsed with water. Clients are always instructed to rinse their mouths out with water before each and every test.

7. Chocolate mints, Altoids, Dentyne and other gums cause the Ignition Interlock to fail.

Alcohol filled chocolates will register a fail; however, the alcohol in the chocolate will dissipate in 3 minutes.

8. Cinnamon Rolls and Donuts make the Ignition Interlock fail.

The sugar and the active yeast can combine to create a low level alcohol fail some of the time. However, as with cigarette smoke or mouthwash, a second test will indicate a drop or a completely clean test. Rinsing the mouth with water after eating and before blowing into the device will eliminate a fail. Smart Start clients should ALWAYS rinse their mouth with water before taking a test.

9. The Ignition Interlock just aborts and I can't start my vehicle.

The majority of all aborts are caused by improperly blowing into the device.

10. My friend or girlfriend blew a fail and was drinking.

The defendant is informed that they are responsible for all tests recorded on the vehicle's ignition interlock.

11. My engine stopped due to the ignition interlock OR What if it shuts the car down in a bad part of town

The units are designed to prevent the starting of a vehicle if a breath test is not passed. There is only one wire interrupted for the installation of the ignition interlock device and it serves no other purpose than to send the signal to the starter for the vehicle to start once the test is passed. If the individual fails a test while driving, it simply records a violation; *it does not shut the vehicle down.*

12. What is the difference between T-Cell (non-alcohol specific) vs. the Fuel cell (alcohol specific device)?

A fuel cell sensor is an electrochemical device in which the substance of interest, in this case alcohol, undergoes a chemical oxidation reaction at a catalytic electrode surface (platinum) to generate an electrical response. This response is then converted to an alcohol equivalent reading. By careful design and catalyst selection, the fuel cell chemistry can be geared to work only with a limited range of fuel substances. This is what gives the cell its high specificity to alcohol. T Cells, Taguchi, or Semi-conductor sensors, consist of a small bead of metal oxide, which is heated to a high temperature, and a voltage is applied to produce a small current. As a substance comes into contact with the small bead (alcohol) it changes this current. This change is then converted into an alcohol reading.

13. I only had one beer or glass of wine or one cocktail.

If one drink is consumed one hour or more prior to startup, the average person will pass the test. Alcohol is normally metabolized at the rate of 1 ounce of alcohol per hour. It should be noted that size, gender, and several other factors play a key role in determining the body's absorption of alcohol. There is no single formula that can be used for everybody in determining how much he or she can drink before they are affected by the alcohol.

14. I can start my vehicle without taking a test.

This can only be accomplished by a deliberate means of circumventing the ignition interlock. This would be considered tampering and would be recorded by the ignition interlock as a start violation.

15. What does anti circumvention mean?

This is a generic term for features designed to make tampering of the ignition interlock much more difficult. Some anti-circumvention features of the SSI-1000 include voice-tone, rolling-retests and the ability to detect power disconnections.

16. The rolling retest is dangerous.

The rolling retest is programmed to ask for a test within 5 to 15 minutes after initial start up of the vehicle and then randomly thereafter about every 45 minutes. Once the SSI-1000 requests the test, the client has six (6) minutes to respond. The test does not require eye contact with the device and the 6 minutes allows adequate time to pull over if the client feels more comfortable doing so.

17. The device is not very accurate.

All interlock devices must be certified to meet NHTSA specifications for accuracy and dependability and often by each State's specs as well. When properly calibrated the ignition interlocks are accurate enough to determine the presence of alcohol and its concentration. The device ignition interlock cannot be used to determine if a client is legally intoxicated because the test is unsupervised. Some of the evidentiary breath testing equipment used by the police departments actually utilizes a fuel cell sensor as an additional means of verifying test results. Interlocks with fuel cell sensors are accurate.

18. Anyone can blow in the Ignition Interlock. I only have one car in our family.

All family members must be trained to use the device however; the client is responsible for any positives and all readings registering on the monthly data logs. Yes, anyone can blow into the ignition interlock, but they must be able to make the voice tone and pass a test, at a level determined by State requirements, and they must also submit to the rolling retests.

19. Defense attorneys will attack the credibility of reports/data.

This is what defense attorneys are paid to do. We provide ignition interlock services and have employees who can provide testimony in cases where either the records are contested or detailed explanations of the reports are necessary. We prefer to have at least 3 days advance notice, but can prepare for a case in a shorter period of time if necessary. When the reports indicate repeated and significant problems we have been highly successful in having our device, systems, and reports held up in court. When there is only a single event or when events are interpreted outside of our standards the success rate is lower.

20. The Ignition Interlock costs too much.

A average cost of a unit is approximately \$2.50 per day. The cost is at the expense of the offender. Statistics show that the average amount of money spent on alcohol per day by the offender is \$16.00. They spend 30% of their monthly salary on alcohol.

Nothing is 100%. However, the ignition interlock works and there are independent studies that back this up. In order for it to be effective it must remain on the vehicle. One IID company has prevented over 4 million illegal starts since 1992. ***Surely they have saved several lives by preventing so many DWI attempts!***

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1. Can someone use a balloon or other air source to mimic human breath?

No. The devices currently available have anti-circumvention techniques, which cause the Ignition Interlock Device to abort phony breath samples.

2. Can a person with an Ignition Interlock Device restriction have someone else take the breath test for the driver to start the vehicle?

Not legally.

3. Will the Ignition Interlock Device unit lose all memory if the battery is disconnected?

No. The unit has a back up lithium battery to protect the data log's memory.

4. If a driver gets stranded and thinks the Ignition Interlock Device unit is causing the problem, is there anything he/she can do?

Some units can self-diagnose problems and the driver will be able to confirm if the unit is having problems by the condition of the service light. The driver can also call a service provider to help determine if the unit requires service.

5. Can a participant leave his/her car running outside of a bar, while drinking inside, and then drive away?

If someone tries to do this, the unit will randomly ask for breath tests while the vehicle is running. If a sample is not given when requested, the device logs a violation and with some devices, the horn starts to honk until the vehicle is shut off.

6. What happens when the driver forgets his/her service appointment?

The device will prompt the driver. For example, a device may flash or the light may stay on and a tone will sound if it needs service. If the IID is not serviced, all Ignition Interlock Devices will enter a lockout condition and the driver will not be able to operate the vehicle. Then, the vehicle would have to be towed to the service center or the service center technician would have to perform remote service.

7. What if the driver is taking a medicine with an alcohol base?

Alcohol is alcohol. If the driver's blood alcohol concentration, as measured in the breath, is over the preset level, the driver will not be allowed to start the vehicle. During the training session, drivers are particularly cautioned about common substances that contain alcohol and the use of mouthwash.

8. What if the driver uses mouthwash in the morning and the mouthwash has an alcohol base?

Again, alcohol is alcohol. If the driver does not allow sufficient time for the alcohol to dissipate from his/her mouth, a FAIL will be registered in the memory.

9. What happens when a driver fails the breath test?

The Ignition Interlock Device will enter a short lockout period of a few minutes for the first failed breath alcohol test and a longer lockout for any subsequent failed breath alcohol test. This permits an opportunity for the alcohol to dissipate from the mouth and for the driver to consider the reason for the failed breath alcohol test.

10. Can others besides the participating driver drive the IID-equipped vehicle?

Yes. However any intended driver must take and pass a breath test in order to start the vehicle. All other possible drivers should be trained on the operation of the device. The person with the Ignition Interlock Device restriction is responsible for all readings recorded by the device.

11. What happens when the IID-equipped vehicle needs repair?

The driver needs to contact the Ignition Interlock Device service provider before having repairs conducted on his/her vehicle in case the repair shop has questions about the IID. Documentation must be provided if the power to the vehicle is interrupted as the unit will record the power disconnect and the reconnect.

12. If the Ignition Interlock Device unit malfunctions, will it shut the vehicle off?

No. The IID unit has no means of interrupting vehicle operation once it is started.

13. What happens if the vehicle stalls in traffic?

The Ignition Interlock Device unit permits the driver to restart the vehicle without having to conduct another breath sample, but a breath sample will be requested shortly after restarting.

14. What happens if the driver is out of California and experiences problems with his/her Ignition Interlock Device unit?

Most states currently have Ignition Interlock Device programs with service centers to assist them. Drivers are instructed to contact the primary service center to be routed to the closest center for assistance.

15. Will installation of the Ignition Interlock Device damage the vehicle?

No. The IID unit is only connected to the wiring under the dash and under the hood. At the end of the program, this wiring is restored to pre-IID installation conditions.

16. Will the requirements to take a "running retest" cause the driver to take his/her eyes off the road creating a hazardous situation?

No. When the Ignition Interlock Device signals for a retest, the driver has a few minutes to provide the sample or to pull over to the side of the road in a safe area to provide the breath sample. There are no buttons to push; the driver must only breathe into the unit to complete a breath sample. This is much simpler than using a cellular telephone or tuning a state-of-the-art car stereo.

17. How often does the device need a calibration check?

Typically, every 60 days.

18. Can the device be tampered with by computer?

No. Proprietary software and a special interface connection are needed to communicate with the device.