

Sober Blow



Or You Don't GO!

Ignition Interlock *Informer*

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Promoting positive legislative answers to drunk driving recidivism in Alaska

On the Road to Safer Highways

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INSERTS: Ignition Interlock Program Comparison Chart

Judicial and Administrative Implications of HB19

House Bill 19 is assigned to the Senate Finance Committee and may be considered as early as January when the session begins. Having been through the House last session, it has emerged as a bill that would greatly expand the use of ignition interlock devices for DUI offenders in Alaska. Briefly, here are the specifics:

Judicial implications - An Ignition Interlock Device (IID) is *required* by court order for a period following an offender's period of revocation and during the period of probation. The length of time is contingent upon the number of the offense (first, second, third etc.). This requirement applies to convictions for both DUI and for Refusal. (AS 28.35.030 and 28.35.032)

Administrative implications - An Ignition Interlock Limited License is available for DUI offenders during the period of driver's license revocation. It requires the offender to drive only those vehicles equipped with an IID and does *not* decrease the period of revocation. The Ignition Interlock Limited License is available only for those offenders who have had their licenses revoked for a misdemeanor DUI.

Additionally, the bill

- makes it an offense to tamper with the device, or to knowingly rent or loan a non-IID equipped vehicle to an offender,
- requires municipal ordinances to comply with the ignition interlock requirements, and
- exempts from the ignition interlock requirements those offenders living in communities also exempt from motor vehicle liability insurance [AS 28.22.011(b)].



Every failed attempt has the potential to save lives!

Please see . . . *Safer Highways* on page 2

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That's it, in a nutshell. This bill affords the Alaska Legislature a tremendous opportunity to make strides in the battle against drunk driving. Both MADD and the National Highway Traffic Safety people endorse the expanded use of ignition interlock devices. A substantial and reliable body of data exists that documents that the use of ignition interlock devices reduces the recidivism rate of offenders by 65% and more. This means that fewer people are on the roads driving drunk and the highways are safer and lives are saved.

That same body of research clearly outlines best practices for use of IIDs. The rest of this newsletter is devoted to clearly delineating where HB19 aligns with those best practices, where it departs and how it can be amended, *this session*, to become a more effective law.

A Better Bill

The point of this bill is to utilize newly developed technology to combat drunk driving and improve the safety of the community. MADD, in their Campaign to Eliminate Drunk Driving, has identified ignition interlocks as a key component in the campaign. So the question before the legislators is this: Does this bill do all that it can do to improve highway safety in Alaska?

Here are the caveats to consider:

1. 50-75% of drivers with revoked licenses *drive anyway*.
2. Ignition interlocks only work when installed in the cars of high-risk drivers.
3. The longer a driver with a revoked license has the opportunity to drive illegally, the longer he/she will drive illegally (i.e. not apply for an Ignition Interlock Limited License or get one after a lengthy period of revocation).

Therefore, the goal of a good Ignition Interlock Program needs to be:

- to get an ignition interlock installed in the cars of as many DUI offenders as possible,
- to get them installed as soon as possible and
- keep them installed as long as behavioral data indicates they are necessary.

The administrative problem with HB19: Continue reading to see who is *not* included among those eligible to receive an Ignition Interlock Limited License, thereby remaining eligible to be among those drivers described above:

Please see *A Better Bill* on page 3

"50-75% of individuals with revoked licenses drive anyway!"

IN THE PRESS

"The New Mexico Department of Transportation reported that alcohol-related injury crashes dropped by 20 percent in the first year the state made interlock use mandatory."

Omaha World Herald
December 3, 2007

For more news items, see:
www.ignitioninterlock4alaska.com

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1. Felony DUI offenders who have a track record of continuing to drive impaired.
2. Refusal offenders, who are very likely to have been driving impaired.
3. DUI offenders with licenses revoked for long periods of time who are subsequently convicted of Driving With License Revoked or Suspended (DWLR/S) - again, individuals with a track record of a past history of impaired driving.

To exclude this demographic from the requirement to drive with an IID does *not* serve to improve public safety, but, instead, perpetuates the risk of the rest of Alaskans on the road. So what's the fix?

Amend HB19 to include these individuals in the ignition interlock administrative requirement to drive with a Limited License by:

- deleting the restriction for application for a IILL to misdemeanor offenders. [*Sec. 3 AS 28.15.020(d)(1) of the proposed language]
- rewriting the above to include *all* revocations due to DUI, Refusal and subsequent DWLR/S with history of DUI. (AS 28.35.030, 25.35.032 and 28.15.181)

The judicial problem with HB19: The requirement for the use of an IID *following* the period of revocation but *during* probation assumes that there is a period of probation always following the period of revocation. This isn't always so. Therefore, an individual either can wait out the period of probation, never getting the device or simply never have a period of probation that follows the revocation. In both cases, they slip through. How can this be remedied?

Amend HB19 to:

- Delete the words pertaining to period of probation and keep the requirement to use of an IID for the set time already defined before full driving privileges are restored.

Finally, the matter of documented behavior change is not addressed in the bill at all. If an individual continually tries to start their car in an impaired state (and the car fails to start because the device is *working*), it makes sense to maintain the requirement for the use of an ignition interlock. In other words, require a performance-based exit from the program versus a time limit. Can this be done within the context of the current bill? Yes!

Amend HB19 to:

- Include the words "or until the offender demonstrates one full year of clean driving attempts" following each time limit for exit from the program.

These four suggested amendments to the current bill have the power to strengthen greatly this particular piece of legislation. It makes sense to do this sooner rather than later, perhaps saving a life or two along the way.

Placing public safety as a priority above personal punishment is the challenge before the Senate this year.

DID YOU KNOW?

- **Alaska already makes use of breath alcohol detectors.**

Offenders in the Alaska House Arrest Program currently use a device called the Sobriotor® regularly. It is a piece of technology that monitors breath alcohol levels several times a day. According to Terry McCarron, Probation Officer III, Director of the House Arrest Program, "For their protection, the public requires the use of the Sobriotor® for all offenders with any drugs or alcohol in their past."

It's time for the public to require the same protection on the roads from DUI offenders.

A Sanction; Not a Perk

When HB19 came before the House last session, it was amended to restrict the availability of an Ignition Interlock Limited License (IILL) to misdemeanors only. This was a mistake. It was a response to a *feeling* that this license is somehow a perk, *not* an additional sanction that costs the offender both time and money.

Here are compelling reasons for the Senate to amend HB19 to reinstate availability for felons:

1. An IILL's primary purpose is to serve to increase the protection of the public from those who have a history of drunk driving. This includes felons.
2. Felons are, obviously, those from whom the public needs *more* protection since, by their repeat offenses they have demonstrated that they have not learned from previous sanctions to drive only when sober.
3. 50-75% of all individuals with revoked licenses *drive anyway*. This includes felons.
4. An individual can be classified as a felon with three DUIs while one with eight might not be. The definition of felon does not necessarily identify the "worst" offenders.
5. Statistically, an IID program is most effective when it includes the *greatest number* of DUI offenders.
6. An IILL is an administrative sanction that requires voluntary participation vs. mandatory. Those individuals who apply are *most likely* those who desire to pursue a productive and law-abiding lifestyle. The government should never stand in the way of that effort.
7. Finally, those individuals who are not productive in society are, by default, consumptive. They cost the rest of the law-abiding citizenry who tote their load. Better they have the opportunity to tote their own!

In addition to including felons, the IILL should be available to all offenders who are convicted of Refusal and Driving with License Revoked or Suspended due to a previous DUI as well. See #5.

It is our hope that the Senate will have the courage to review the research, and follow the lead of model programs and amend HB19 this year to be even more effective than it is in its current form!

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