

LEGISLATIVE COMMITTEE MINUTES

**SB20**

# Bill as Introduced

SB 20 - AS INTRODUCED

2013 SESSION

13-0372

03/10

SENATE BILL        **20**

AN ACT            making modifications to the DWI ignition interlock program.

SPONSORS:        Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16; Rep. Bouchard,  
Merr 18

COMMITTEE:        Transportation

---

ANALYSIS

This bill makes various modifications to the DWI ignition interlock program.

This bill was requested by the department of safety.

---

Explanation:        Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT making modifications to the DWI ignition interlock program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Words and Phrases Defined; Ignition Interlock Device. Amend RSA 259:43-a to read as  
2 follows:

3 259:43-a Ignition Interlock Device. "Ignition interlock device" shall mean breath alcohol ignition  
4 interlock device *or enhanced technology ignition interlock device*, which is a system or device  
5 that connects a breath analyzer to a motor vehicle's ignition system. The analyzer measures the  
6 concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using  
7 the ignition system. The device prevents the vehicle from starting unless the person provides a  
8 breath sample with a concentration of alcohol that is below a preset level. The device contains a  
9 data-logger which retains records of failures to take or pass the test during the period between  
10 recalibrations.

11 2 Interlock Requirements. Amend RSA 265-A:36, I-b to read as follows:

12 I-b. To the extent that technology does not exist to permit the installation, *proper*  
13 *functioning*, or safe operation of any particular vehicle type when equipped with an interlock, the  
14 court may order that a restraining device which disables the vehicle be placed on any such vehicle  
15 registered to or used on a regular basis by a person required to install an ignition interlock device.

16 3 Interlock Requirements. Amend RSA 265-A:36, IV to read as follows:

17 IV. An ignition interlock device ~~may~~ *shall* not be sold or distributed in this state without  
18 the device being approved by the commissioner or the department of safety.

19 4 Interlock Program Rules. Amend RSA 265-A:36, VI(b)-(g) to read as follows:

20 (b) Maintain at least that number of locations across the state for the installation,  
21 service, calibration, ~~and~~ monitoring, *and removal* of an ignition interlock device as might be  
22 required from time to time by the program operating protocol developed by the commissioner;

23 (c) Provide periodic reports as determined by the court or in department rules, to the  
24 ~~[probation office and treatment provider, if applicable; if the offender is not placed on probation, to~~  
25 ~~the arresting agency]~~ *director of the division of motor vehicles, the department's interlock*  
26 *coordinator*, and the court of jurisdiction;

27 (d) Retain all data-logger records for ~~[12]~~ 36 months after the end of the period to which  
28 the offender is sentenced;

29 (e) *Maintain a reserve account with a balance at least equal to 2 percent of the*  
30 *provider's revenue from interlock device service and installation in this state, excluding*  
31 *the purchase or rental costs of devices, during the previous calendar year. Funds in the*

1 *account shall be used to provide installation and service to those offenders determined by the*  
2 *court to be unable to pay the full cost of an interlock program* [~~by reserving for this purpose a~~  
3 ~~hardship credit equal to 2 percent of the service provider's gross receipts, excluding the purchase or~~  
4 ~~rental cost of the interlock device, which credit and free service]. *Reserve account balances and*  
5 *costs to the provider for free installation and service shall be reported annually to the*  
6 *department; and*~~

7 (f) [~~Provide a certificate of installation to the vehicle's owner upon installation of the~~  
8 ~~device in a form to be determined by the department's interlock rules; and~~

9 (g) Provide reports to the department when data specified in department rules becomes  
10 available. The department shall make data from the reports available to the director of the division  
11 of motor vehicles, appropriate prosecutor, prosecuting agency, treatment provider, probation officer,  
12 and defense attorney by means of authorizing the interlock provider to provide these entities with  
13 secure electronic access to the data via the interlock provider's web-based portal.

14 5 New Paragraph; Interlock Program; Installation. Amend RSA 265-A:36 by inserting after  
15 paragraph VI the following new paragraph:

16 VII. The installer shall provide a certificate of installation to the participant and to the  
17 department's interlock coordinator.

18 6 Ignition Interlock Violations. Amend RSA 265-A:38, II to read as follows:

19 II. If it is found that a person required to drive a motor vehicle equipped with an ignition  
20 interlock device has failed to comply with any requirement for the maintenance or calibration of the  
21 device, or [~~shows a consistent pattern of failures to pass the breath test provided by the device]~~  
22 *otherwise violates a rule of the department regarding the interlock program*, the court may  
23 order a hearing to determine if the person should be held in contempt of court. Upon a finding of  
24 contempt, the court may sentence the defendant to up to 6 months in a county department of  
25 corrections facility, may make such other orders as necessary to bring about compliance, and may  
26 order a further license suspension or revocation for a period of not more than 12 months. The period  
27 of suspension or revocation under this section shall be added to any previously ordered suspension or  
28 revocation.

29 7 Effective Date. This act shall take effect upon its passage.

SB 20 - AS AMENDED BY THE SENATE

02/14/13 0128s

2013 SESSION

13-0372  
03/10

SENATE BILL **20**

AN ACT making modifications to the DWI ignition interlock program.

SPONSORS: Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16; Rep. Bouchard, Merr 18

COMMITTEE: Transportation

---

ANALYSIS

This bill makes various modifications to the DWI ignition interlock program.

This bill was requested by the department of safety.

---

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 20 - AS AMENDED BY THE SENATE

02/14/13 0128s

13-0372

03/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT making modifications to the DWI ignition interlock program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Words and Phrases Defined; Ignition Interlock Device. Amend RSA 259:43-a to read as  
2 follows:

3 259:43-a Ignition Interlock Device. "Ignition interlock device" shall mean breath alcohol ignition  
4 interlock device *or enhanced technology ignition interlock device*, which is a system or device  
5 that connects a breath analyzer to a motor vehicle's ignition system. The analyzer measures the  
6 concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using  
7 the ignition system. The device prevents the vehicle from starting unless the person provides a  
8 breath sample with a concentration of alcohol that is below a preset level. The device contains a  
9 data-logger which retains records of failures to take or pass the test during the period between  
10 recalibrations.

11 2 Interlock Requirements. Amend RSA 265-A:36, IV to read as follows:

12 IV. *It shall be a violation for* an ignition interlock device ~~[may not]~~ *to* be sold or  
13 distributed in this state without the device being approved by the commissioner or the department of  
14 safety.

15 3 Interlock Program Rules. Amend RSA 265-A:36, VI(b)-(f) to read as follows:

16 (b) Maintain at least that number of locations across the state for the installation,  
17 service, calibration, ~~[and]~~ monitoring, *and removal* of an ignition interlock device as might be  
18 required from time to time by the program operating protocol developed by the commissioner;

19 (c) Provide periodic reports as determined by the court or in department rules, to the  
20 ~~[probation office and treatment provider, if applicable; if the offender is not placed on probation, to~~  
21 ~~the arresting agency]~~ *director of the division of motor vehicles, the department's interlock*  
22 *coordinator*, and the court of jurisdiction;

23 (d) Retain all data-logger records for ~~[12]~~ *36* months after the end of the period to which  
24 the offender is sentenced;

25 (e) *Maintain a reserve account with a balance at least equal to 2 percent of the*  
26 *provider's revenue from interlock device service and installation in this state, excluding*  
27 *the purchase or rental costs of devices, during the previous calendar year. Funds in the*  
28 *account shall be used to [provide] assist with the cost of the installation and service to those*  
29 *offenders determined by the court or the department to be unable to pay the full cost of an*  
30 *interlock program [by reserving for this purpose a hardship credit equal to 2 percent of the service*

1 ~~provider's gross receipts, excluding the purchase or rental cost of the interlock device, which credit~~  
2 ~~and free service].~~ **Offenders determined by the court or the department to be unable to pay**  
3 **the full cost of an interlock program shall, at a minimum, pay 25 percent of the cost for the**  
4 **installation and service. Reserve account balances and costs to the provider for assisting**  
5 **with the cost of installation and service shall be reported annually to the department;**

6 (f) Provide a certificate of installation to the vehicle's owner **and to the department's**  
7 **interlock coordinator** upon installation of the device in a form to be determined by the  
8 department's interlock rules; and

9 4 Ignition Interlock Violations. Amend RSA 265-A:37 to read as follows:

10 265-A:37 Alcohol Ignition Interlock Circumvention.

11 I. Any person required by the court **or by the commissioner of safety after a hearing**  
12 **pursuant to RSA 265-A:36-a** to install an ignition interlock device shall not drive any motor vehicle  
13 not equipped with this device.

14 II. [A] **No person who is subject to an interlock order of the court or of the**  
15 **commissioner and no person who is conspiring with or attempting to permit a person**  
16 **subject such an interlock order to circumvent the order shall [not] tamper with, or in any way**  
17 **attempt to circumvent the operation of an ignition interlock device that has been installed in a motor**  
18 **vehicle, and no person who is subject to an interlock order shall knowingly drive a vehicle**  
19 **in which the interlock device has been circumvented or otherwise illegally tampered with.**

20 III. A person shall not start or attempt to start a motor vehicle equipped with an ignition  
21 interlock device for the purpose of providing an operable motor vehicle to a person who **he or she**  
22 **knows** is restricted by law to drive only a motor vehicle so equipped. The provisions of this section  
23 do not apply if the starting of a motor vehicle, or the request to start a motor vehicle equipped with  
24 an ignition interlock device, is done for the purpose of safety or mechanical repair of the device or the  
25 vehicle, and the person subject to the court order **or order of the commissioner** does not drive the  
26 vehicle.

27 IV. A person shall not knowingly provide a motor vehicle not equipped with a functioning  
28 ignition interlock device to another person whom the provider of the vehicle knows was sentenced **or**  
29 **subject to a valid order** to drive only a motor vehicle equipped with an ignition interlock device.

30 V. Any person who violates the provisions of this section shall be guilty of a class A  
31 misdemeanor, be fined not less than \$500, **and if he or she is the person subject to the interlock**  
32 **order**, be ordered to install an enhanced technology ignition interlock device, and have the period of  
33 required ignition interlock device installation extended for 2 years.

34 5 Effective Date. This act shall take effect upon its passage.



SB 20 - AS AMENDED BY THE HOUSE

02/14/13 0128s

29May2013... 1508h

2013 SESSION

13-0372

03/10

SENATE BILL **20**

AN ACT making modifications to the DWI ignition interlock program.

SPONSORS: Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16; Rep. Bouchard, Merr 18

COMMITTEE: Transportation

ANALYSIS

This bill makes various modifications to the DWI ignition interlock program.

This bill was requested by the department of safety.

-----  
-----

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

02/14/13 0128s

29May2013... 1508h

13-0372

03/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT making modifications to the DWI ignition interlock program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Words and Phrases Defined; Ignition Interlock Device. Amend RSA 259:43-a to read as follows:

259:43-a Ignition Interlock Device. "Ignition interlock device" shall mean breath alcohol ignition interlock device *or enhanced technology ignition interlock device*, which is a system or device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer measures the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level. The device contains a data-logger which retains records of failures to take or pass the test during the period between recalibrations.

2 Interlock Requirements. Amend RSA 265-A:36, IV to read as follows:

IV. *It shall be a violation for* an ignition interlock device ~~[may not]~~ *to* be sold or distributed in this state without the device being approved by the commissioner or the department of safety.

3 Interlock Program Rules. Amend RSA 265-A:36, VI(b)-(f) to read as follows:

(b) Maintain at least that number of locations across the state for the installation, service, calibration, ~~[and]~~ monitoring, *and removal* of an ignition interlock device as might be required from time to time by the program operating protocol developed by the commissioner;

(c) Provide periodic reports as determined by the court or in department rules, to the ~~[probation office and treatment provider, if applicable, if the offender is not placed on probation, to the arresting agency]~~ *director of the division of motor vehicles, the department's interlock coordinator*, and the court of jurisdiction;

(d) Retain all data-logger records for ~~[12]~~ *36* months after the end of the period to which the offender is sentenced;

(e) *Maintain a reserve account with a balance at least equal to 2 percent of the provider's revenue from interlock device service and installation in this state, excluding the purchase or rental costs of devices, during the previous calendar year. Funds in the account shall be used to [provide] assist with the cost of the installation and service to those offenders determined by the court or the department to be unable to pay the full cost of an interlock program [by reserving for this purpose a hardship credit equal to 2 percent of the service provider's gross receipts, excluding the purchase or rental cost of the interlock device, which credit and free service]. Offenders determined by the court or the department to be unable to pay the full cost of an interlock program shall, at a minimum, pay 25 percent of the cost for the*

*installation and service. Reserve account balances and costs to the provider for assisting with the cost of installation and service shall be reported annually to the department;*

(f) Provide a certificate of installation to the vehicle's owner *and to the department's interlock coordinator* upon installation of the device in a form to be determined by the department's interlock rules; and

4 Ignition Interlock Violations. Amend RSA 265-A:37 to read as follows:

265-A:37 Alcohol Ignition Interlock Circumvention.

I. Any person required by the court *or by the commissioner of safety after a hearing pursuant to RSA 265-A:36-a* to install an ignition interlock device shall not drive any motor vehicle not equipped with this device.

II. ~~[A]~~ *No person who is subject to an interlock order of the court or of the commissioner and no person who is conspiring with or attempting to permit a person subject such an interlock order to circumvent the order shall [not] tamper with, or in any way attempt to circumvent the operation of an ignition interlock device that has been installed in a motor vehicle, and no person who is subject to an interlock order shall knowingly drive a vehicle in which the interlock device has been circumvented or otherwise illegally tampered with.*

III. A person shall not start or attempt to start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person who *he or she knows* is restricted by law to drive only a motor vehicle so equipped. The provisions of this section do not apply if the starting of a motor vehicle, or the request to start a motor vehicle equipped with an ignition interlock device, is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order *or order of the commissioner* does not drive the vehicle.

*III-a. Upon satisfactory proof that a person who is restricted by law to drive only a motor vehicle equipped with an ignition interlock device has attempted to start a motor vehicle equipped with an ignition interlock device while having an alcohol concentration of greater than .02, the department, after a hearing, may impose for each occurrence an additional period of up to one year following the expiration of the original interlock order during which the person shall be restricted to driving only a vehicle equipped with an ignition interlock device.*

IV. A person shall not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person whom the provider of the vehicle knows was sentenced *or subject to a valid order* to drive only a motor vehicle equipped with an ignition interlock device.

V. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor, be fined not less than \$500, *and if he or she is the person subject to the*

*interlock order*, be ordered to install an enhanced technology ignition interlock device, and have the period of required ignition interlock device installation extended for 2 years.

5 New Paragraph; Impaired Driver Care Management Programs; Out-of-State Residents. Amend RSA 265-A:40 by inserting after paragraph VIII the following new paragraph:

IX. Notwithstanding other provisions in RSA 265-A, out-of-state residents may elect to obtain required screening, evaluation, treatment, and education services in their legal state of residence provided that they register with a New Hampshire IDCMP and that the New Hampshire IDCMP:

(a) Ensures that screening, evaluation, and treatment services are provided by individuals possessing an International Certification & Reciprocity Consortium/Alcohol and Other Drug Abuse (IC&RC) sanctioned license, or, if the client resides in a non-IC&RC state, by individuals who are approved by that state for the purpose of license reinstatement subsequent to an alcohol or drug DWI conviction;

(b) Ensures that impaired driver education programs are provided by programs which are approved by that state for the purpose of license reinstatement subsequent to an alcohol or drug DWI conviction;

(c) Develops the service plan;

(d) Monitors compliance with the service plan and reports noncompliance to the division of motor vehicles and the sentencing court; and

(e) Determines whether the service plan has been completed and, if so, reports completion to the sentencing court, the division of motor vehicles, and the department of health and human services.

6 Effective Date. This act shall take effect upon its passage.

CHAPTER 219  
SB 20 - FINAL VERSION

02/14/13 0128s  
29May2013... 1508h  
06/12/13 2042EBA

2013 SESSION

13-0372  
03/10

SENATE BILL        **20**

AN ACT            making modifications to the DWI ignition interlock program.

SPONSORS:        Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16; Rep. Bouchard,  
Merr 18

COMMITTEE:      Transportation

---

ANALYSIS

This bill makes various modifications to the DWI ignition interlock program.

This bill was requested by the department of safety.

---

Explanation:     Matter added to current law appears in *bold italics*.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 219  
SB 20 – FINAL VERSION

02/14/13 0128s  
29May2013... 1508h  
06/12/13 2042EBA

13-0372  
03/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT making modifications to the DWI ignition interlock program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 219:1 Words and Phrases Defined; Ignition Interlock Device. Amend RSA 259:43-a to read as  
2 follows:

3 259:43-a Ignition Interlock Device. "Ignition interlock device" shall mean breath alcohol ignition  
4 interlock device *or enhanced technology ignition interlock device*, which is a system or device  
5 that connects a breath analyzer to a motor vehicle's ignition system. The analyzer measures the  
6 concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using  
7 the ignition system. The device prevents the vehicle from starting unless the person provides a  
8 breath sample with a concentration of alcohol that is below a preset level. The device contains a  
9 data-logger which retains records of failures to take or pass the test during the period between  
10 recalibrations.

11 219:2 Interlock Requirements. Amend RSA 265-A:36, IV to read as follows:

12 IV. *It shall be a violation for* an ignition interlock device [~~may not~~] *to* be sold or  
13 distributed in this state without the device being approved by the commissioner or the department of  
14 safety.

15 219:3 Interlock Program Rules. Amend RSA 265-A:36, VI(b)-(f) to read as follows:

16 (b) Maintain at least that number of locations across the state for the installation,  
17 service, calibration, [~~and~~] monitoring, *and removal* of an ignition interlock device as might be  
18 required from time to time by the program operating protocol developed by the commissioner;

19 (c) Provide periodic reports as determined by the court or in department rules, to the  
20 [~~probation office and treatment provider, if applicable; if the offender is not placed on probation, to~~  
21 ~~the arresting agency~~] *director of the division of motor vehicles, the department's interlock*  
22 *coordinator*, and the court of jurisdiction;

23 (d) Retain all data-logger records for [~~12~~] *36* months after the end of the period to which  
24 the offender is sentenced;

25 (e) *Maintain a reserve account with a balance at least equal to 2 percent of the*  
26 *provider's revenue from interlock device service and installation in this state, excluding*  
27 *the purchase or rental costs of devices, during the previous calendar year. Funds in the*

CHAPTER 219  
SB 20 – FINAL VERSION

- Page 2 -

1 *account shall be used to [provide] assist with the cost of the* installation and service to those  
2 offenders determined by the court *or the department* to be unable to pay the full cost of an  
3 interlock program [~~by reserving for this purpose a hardship credit equal to 2 percent of the service~~  
4 ~~provider's gross receipts, excluding the purchase or rental cost of the interlock device, which credit~~  
5 ~~and free service~~]. *Offenders determined by the court or the department to be unable to pay*  
6 *the full cost of an interlock program shall, at a minimum, pay 25 percent of the cost for the*  
7 *installation and service. Reserve account balances and costs to the provider for assisting*  
8 *with the cost of installation and service* shall be reported annually to the department;

9 (f) Provide a certificate of installation to the vehicle's owner *and to the department's*  
10 *interlock coordinator* upon installation of the device in a form to be determined by the  
11 department's interlock rules; and

12 219:4 Ignition Interlock Violations. Amend RSA 265-A:37 to read as follows:

13 265-A:37 Alcohol Ignition Interlock Circumvention.

14 I. Any person required by the court *or by the commissioner of safety after a hearing*  
15 *pursuant to RSA 265-A:36-a* to install an ignition interlock device shall not drive any motor vehicle  
16 not equipped with this device.

17 II. [A] No person *who is subject to an interlock order of the court or of the*  
18 *commissioner and no person who is conspiring with or attempting to permit a person*  
19 *subject to such an interlock order to circumvent the order* shall [not] tamper with, or in any  
20 way attempt to circumvent the operation of an ignition interlock device that has been installed in a  
21 motor vehicle, *and no person who is subject to an interlock order shall knowingly drive a*  
22 *vehicle in which the interlock device has been circumvented or otherwise illegally*  
23 *tampered with.*

24 III. A person shall not start or attempt to start a motor vehicle equipped with an ignition  
25 interlock device for the purpose of providing an operable motor vehicle to a person who *he or she*  
26 *knows* is restricted by law to drive only a motor vehicle so equipped. The provisions of this section  
27 do not apply if the starting of a motor vehicle, or the request to start a motor vehicle equipped with  
28 an ignition interlock device, is done for the purpose of safety or mechanical repair of the device or the  
29 vehicle, and the person subject to the court order *or order of the commissioner* does not drive the  
30 vehicle.

31 *III-a. Upon satisfactory proof that a person who is restricted by law to drive only a*  
32 *motor vehicle equipped with an ignition interlock device has attempted to start a motor*  
33 *vehicle equipped with an ignition interlock device while having an alcohol concentration*  
34 *of greater than .02, the department, after a hearing, may impose for each occurrence an*  
35 *additional period of up to one year following the expiration of the original interlock order*  
36 *during which the person shall be restricted to driving only a vehicle equipped with an*

1 *ignition interlock device.*

2 IV. A person shall not knowingly provide a motor vehicle not equipped with a functioning  
3 ignition interlock device to another person whom the provider of the vehicle knows was sentenced *or*  
4 *subject to a valid order* to drive only a motor vehicle equipped with an ignition interlock device.

5 V. Any person who violates the provisions of this section shall be guilty of a class A  
6 misdemeanor, be fined not less than \$500, *and if he or she is the person subject to the interlock*  
7 *order*, be ordered to install an enhanced technology ignition interlock device, and have the period of  
8 required ignition interlock device installation extended for 2 years.

9 219:5 New Paragraph; Impaired Driver Care Management Programs; Out-of-State Residents.  
10 Amend RSA 265-A:40 by inserting after paragraph VIII the following new paragraph:

11 IX. Notwithstanding other provisions in RSA 265-A, out-of-state residents may elect to  
12 obtain required screening, evaluation, treatment, and education services in their legal state of  
13 residence provided that they register with a New Hampshire IDCMP and that the New Hampshire  
14 IDCMP:

15 (a) Ensures that screening, evaluation, and treatment services are provided by  
16 individuals possessing an International Certification & Reciprocity Consortium/Alcohol and Other  
17 Drug Abuse (IC&RC) sanctioned license, or, if the client resides in a non-IC&RC state, by  
18 individuals who are approved by that state for the purpose of license reinstatement subsequent to an  
19 alcohol or drug DWI conviction;

20 (b) Ensures that impaired driver education programs are provided by programs which  
21 are approved by that state for the purpose of license reinstatement subsequent to an alcohol or drug  
22 DWI conviction;

23 (c) Develops the service plan;

24 (d) Monitors compliance with the service plan and reports noncompliance to the division  
25 of motor vehicles and the sentencing court; and

26 (e) Determines whether the service plan has been completed and, if so, reports  
27 completion to the sentencing court, the division of motor vehicles, and the department of health and  
28 human services.

29 219:6 Effective Date. This act shall take effect upon its passage.

30

31 Approved: July 11, 2013

32 Effective Date: July 11, 2013



# Amendments



Amendment to SB 20

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 Words and Phrases Defined; Ignition Interlock Device. Amend RSA 259:43-a to read as  
4 follows:

5 259:43-a Ignition Interlock Device. "Ignition interlock device" shall mean breath alcohol ignition  
6 interlock device *or enhanced technology ignition interlock device*, which is a system or device  
7 that connects a breath analyzer to a motor vehicle's ignition system. The analyzer measures the  
8 concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using  
9 the ignition system. The device prevents the vehicle from starting unless the person provides a  
10 breath sample with a concentration of alcohol that is below a preset level. The device contains a  
11 data-logger which retains records of failures to take or pass the test during the period between  
12 recalibrations.

13 2 Interlock Requirements. Amend RSA 265-A:36, IV to read as follows:

14 IV. *It shall be a violation for* an ignition interlock device ~~[may not]~~ *to* be sold or  
15 distributed in this state without the device being approved by the commissioner or the department of  
16 safety.

17 3 Interlock Program Rules. Amend RSA 265-A:36, VI(b)-(f) to read as follows:

18 (b) Maintain at least that number of locations across the state for the installation,  
19 service, calibration, ~~[and]~~ *monitoring, and removal* of an ignition interlock device as might be  
20 required from time to time by the program operating protocol developed by the commissioner;

21 (c) Provide periodic reports as determined by the court or in department rules, to the  
22 ~~[probation office and treatment provider, if applicable; if the offender is not placed on probation, to~~  
23 ~~the arresting agency]~~ *director of the division of motor vehicles, the department's interlock*  
24 *coordinator*, and the court of jurisdiction;

25 (d) Retain all data-logger records for ~~[12]~~ *36* months after the end of the period to which  
26 the offender is sentenced;

27 (e) *Maintain a reserve account with a balance at least equal to 2 percent of the*  
28 *provider's revenue from interlock device service and installation in this state, excluding*  
29 *the purchase or rental costs of devices, during the previous calendar year. Funds in the*  
30 *account shall be used to [provide] assist with the cost of the installation and service to those*  
31 *offenders determined by the court or the department to be unable to pay the full cost of an*  
32 *interlock program [by reserving for this purpose a hardship credit equal to 2 percent of the service*

Amendment to SB 20

- Page 2 -

1 provider's gross receipts, excluding the purchase or rental cost of the interlock device, which credit  
2 and free service]. *Offenders determined by the court or the department to be unable to pay*  
3 *the full cost of an interlock program shall, at a minimum, pay 25 percent of the cost for the*  
4 *installation and service. Reserve account balances and costs to the provider for assisting*  
5 *with the cost of installation and service shall be reported annually to the department;*

6 (f) Provide a certificate of installation to the vehicle's owner *and to the department's*  
7 *interlock coordinator* upon installation of the device in a form to be determined by the  
8 department's interlock rules; and

9 4 Ignition Interlock Violations. Amend RSA 265-A:37 to read as follows:

10 265-A:37 Alcohol Ignition Interlock Circumvention.

11 I. Any person required by the court *or by the commissioner of safety after a hearing*  
12 *pursuant to RSA 265-A:36-a* to install an ignition interlock device shall not drive any motor vehicle  
13 not equipped with this device.

14 II. [A] No person *who is subject to an interlock order of the court or of the*  
15 *commissioner and no person who is conspiring with or attempting to permit a person*  
16 *subject such an interlock order to circumvent the order shall [not] tamper with, or in any way*  
17 *attempt to circumvent the operation of an ignition interlock device that has been installed in a motor*  
18 *vehicle, and no person who is subject to an interlock order shall knowingly drive a vehicle*  
19 *in which the interlock device has been circumvented or otherwise illegally tampered with.*

20 III. A person shall not start or attempt to start a motor vehicle equipped with an ignition  
21 interlock device for the purpose of providing an operable motor vehicle to a person who *he or she*  
22 *knows* is restricted by law to drive only a motor vehicle so equipped. The provisions of this section  
23 do not apply if the starting of a motor vehicle, or the request to start a motor vehicle equipped with  
24 an ignition interlock device, is done for the purpose of safety or mechanical repair of the device or the  
25 vehicle, and the person subject to the court order *or order of the commissioner* does not drive the  
26 vehicle.

27 IV. A person shall not knowingly provide a motor vehicle not equipped with a functioning  
28 ignition interlock device to another person whom the provider of the vehicle knows was sentenced *or*  
29 *subject to a valid order* to drive only a motor vehicle equipped with an ignition interlock device.

30 V. Any person who violates the provisions of this section shall be guilty of a class A  
31 misdemeanor, be fined not less than \$500, *and if he or she is the person subject to the interlock*  
32 *order*, be ordered to install an enhanced technology ignition interlock device, and have the period of  
33 required ignition interlock device installation extended for 2 years.

34 5 Effective Date. This act shall take effect upon its passage.

# Committee Minutes

**SENATE CALENDAR NOTICE  
TRANSPORTATION**

Senator Jim Rausch Chairman  
 Senator Peggy Gilmour V Chairman  
 Senator David Boutin  
 Senator Nancy Stiles  
 Senator David Watters

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: January 17, 2013**

**HEARINGS**

**Tuesday**

**1/22/2013**

TRANSPORTATION	LOB 103	1:00 PM
(Name of Committee)	(Place)	(Time)

**EXECUTIVE SESSION MAY FOLLOW**

1:00 PM	SB21	making technical corrections to the International Registration Plan.
1:15 PM	SB29	relative to the motorist service signing program.
1:30 PM	SB22	exempting small trailers from inspection requirements; allowing marine dealers to inspect boat trailers; and deleting a reference to highway enforcement officers.
2:00 PM	SB32	relative to Selective Service registration upon driver's license application or renewal.
2:30 PM	SB20	making modifications to the DWI ignition interlock program.

**Sponsors:**

**SB21**

Sen. Jim Rausch

**SB29**

Sen. Jim Rausch

**SB22**

Sen. Jim Rausch

**SB32**

Sen. Sharon Carson  
 Rep. Jeanine Notter

**SB20**

Sen. Jim Rausch

Sen. Peggy Gilmour

Rep. John Graham

Rep. David Campbell

Sen. Sam Cataldo

Sen. John Reagan

Rep. David Lundgren

Rep. Lars Christiansen

Sen. Peggy Gilmour

Sen. David Boutin

Rep. Candace Bouchard

# SENATE TRANSPORTATION COMMITTEE

*Jennifer Horgan, Legislative Aide*

**SB 20 – making modifications to the DWI ignition interlock program.**

Hearing Date: 1/22/13

Time Opened: 2:41pm

Time Closed: 3:00pm

**Members of the Committee Present:** Senators Rausch, Boutin, Stiles, and Watters

**Members of the Committee Absent:** Senator Gilmour

**Bill Analysis:** This bill makes various modifications to the DWI ignition interlock program.

This bill was requested by the department of safety.

---

**Sponsors:** Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16; Rep. Bouchard, Merr 18

**Who supports the bill:** Senator Rausch, Senator Gilmour, Senator Boutin, Representative Bouchard, Earl Sweeny (Asst. Commissioner, DOS), Bob Blaisdell (Consumer Safety Technology)

**Who opposes the bill:** No one

**Summary of testimony presented in support:**

Senator Rausch (supplied a hand-out)

- The federal government recognized the advantages of using the interlock technology and eliminated some restrictions on them, giving the department more flexibility.

Commissioner Sweeny (NHDOS)

- Has nationally heard discussion on interlock devices centered around the lack of oversight on the program. Some people who came out to service/install the device were intoxicated. When talking to state troopers they would not be able to identify the device or be able to tell if it had been tampered with.
- Received approval for a Federal Grant to hire former Senator Bob Letourneau to oversee the program and asked him to look at the bill to make sure he can do what he needs to do under this legislation.
- Current law gives an alternative to jail for those eligible for the program and allows them to support their families and separate drinking from driving. They are required

to return every month for information downloads and the whole program costs \$2.30 a day, with one hour to install. The research demonstrates that they are affective.

- This bill includes some housekeeping aspects:
  - Changing the language from it "may" to it "shall", to clarify that a device must authorized by the state in order to be sold.
  - To have locations available for these devices to be removed.
  - Provide the periodic reports to the Director of the DMV, the Interlock Coordinator and the court of jurisdiction, who will then pass the information to the probation officer and treatment provider, instead of the other way around.
  - To maintain the data log records for 3 years instead of 12 months, in order to be consistent with other states.
  - For those who cannot afford the device, the providers will maintain a reserve account out of 2% of their revenues to help those who are in need of assistance.
  - Removing the requirement for a certificate of installation as the department does not feel that is it necessary.
- Section 6 makes it a violation to fail to comply with the requirements and this would allow the department to bring them before the court in order to give the department some ability to enforce it.

**Summary of testimony presented in opposition:**

- None

**Summary of testimony presented neutral to the bill:**

Rick Lehman (NH Senate)

- Has concerns regarding Section 6.
  - The NH Constitution gives the General Court the authority to define all crimes.
  - This bill would allow the Department to pass a rule that defines the prohibited activity that could land a person in jail. Under this legislation, a person selling a non-NH authorized device would be in contempt of court and currently they are not under the jurisdiction of the court.
  - The existing language is also problematic for the same reason, because it defines the crime as a consistent pattern of failures and does not give specific number.

Senator Rausch requested that Rick Lehman and the Department get together to work out the issue and bring in a correction.

**Fiscal Note:** N/A

**Future Action:** The Committee took the bill under advisement.

JCH

Date hearing report completed: 01/23/13

[file: SB20 report]

# Speakers





# Testimony

**Horgan, Jennifer**

---

**From:** Jack Dalton [Dalton@ignitioninterlocksite.com]  
**Sent:** Monday, January 21, 2013 2:40 PM  
**To:** Rausch, James  
**Subject:** Ignition Interlocks  
**Attachments:** WA-DUI IID Statutes 2012.docx; Map 21 legisbrief final.pdf

Mr. Chairman:

The recent recommendation of ignition interlocks for all offenders by the National Transportation Safety Board (NTSB) prompted me to write to again thank you for your tireless efforts on legislation expanding the use of proven ignition interlock devices to protect families on New Hampshire's roads.

Even if nothing else had changed NTSB's joining the USCDC, the Insurance Institute for Highway Safety, NHTSA and virtually every other leading highway safety organization in advocating such laws to protect America's families from impaired drivers, would prompt me to ask you to consider supporting additional interlock legislation, BUT-

**Something changed, and it is huge** - Last summer's passage of the US Transportation Bill (MAP-21) offers a great opportunity to achieve the result you championed in prior years, and see significantly less or at least different opposition.

As you can see from the attached NCSL Legisbrief published in December, Congress eliminated counterproductive federally mandated waiting periods and unrealistic driving restrictions for reinstatement of driving privileges for DUI offenders.

These changes allow a refocusing of the debate from:

"Ignition interlocks are too 'harsh' for the first offender who had one too many," AND  
at the same time "are too 'soft' for the multi-repeat offender," to:

"How quickly and conveniently we can restore driving privileges and enable offenders to keep their jobs and support their families, while proven ignition interlock technology protects the public from those who cannot or will not separate their drinking from their driving."

MADD supports "immediate" license reinstatement of DUI offenders with no other driving restrictions provided an ignition interlock is installed on any vehicle the offender operates for a period of at least six months.

Restoring driving privileges currently taken away, is a new and different approach than simply adding ignition interlocks as an additional punishment, that has much broader appeal. As a side benefit, eliminating counterproductive driving restrictions offers huge savings to drivers' licensing agencies that no longer must establish, verify and maintain such restrictions on tens of thousands of drivers' records.

As the NCSL brief explains, Washington State is the model for such legislation, having experienced a 35% decline in alcohol related fatalities since legislators put the state out of compliance with the US Code by implementing immediate reinstatement in 2009. I have also attached an annotated summary of Washington's landmark law that, in an amazing case of the tail wagging the dog has become the language of the US Code.

Senator Rausch, the rules of engagement have changed – the success of all-offender programs have been proven by the states that have adopted them, and the scientific community and the highway safety organizations agree; interlocks for all offenders will drive down the death rate from impaired drivers and make New Hampshire's roads safer.

Respectfully,

Jack Dalton  
Director, Public Policy  
Coalition of Ignition Interlock Manufacturers

302-542-2364

1/22/2013

Revised Code of Washington Section	Comments
<p><b>RCW 10.05.020 Deferred Prosecution of DUI Offenses Requirements of petition-Rights of petitioner-Court findings.</b></p> <p>(1) Except as provided in subsection (2) of this section, the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by alcoholism, drug addiction, or mental problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved alcoholism treatment program as designated in chapter 70.96A RCW if the petition alleges alcoholism, an approved drug program as designated in chapter 71.24 RCW if the petition alleges drug addiction, or by an approved mental health center if the petition alleges a mental problem.</p> <p>(2) NA</p> <p>(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, or mental problems; or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.</p> <p>(4) NA</p>	<p>Deferred Prosecution (DP) for DUI offenses – (only for persons addicted to alcohol)</p>
<p><b>RCW 10.05.090 Procedure upon breach of treatment plan.</b></p> <p>If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720, the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of</p>	<p>Court can remove or continue Deferred Prosecution if terms not fulfilled</p>

the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The *court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution*. If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, *shall notify the department of licensing of the removal and entry of judgment*.

**RCW 10.05.160 Appeal of deferred prosecution order.**

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

- (1) Prior deferred prosecution has been granted to the defendant;
- (2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;
- (3) Failure of the court to comply with the requirements of RCW 10.05.100;
- (4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;
- (5) *Failure of the court to order the installation of an ignition interlock or other device* under RCW 10.05.140.

**RCW 46.20.308 Implied consent — Test refusal — Procedures.**

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW

Prosecutor may appeal DP if ignition interlock device (IID) is not ordered

46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) ***If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.***

(3) NA

(4) NA

(5) NA

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more if the person is age twenty-one or over, or 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section and ***that the person waives the right to a hearing if he or she receives an ignition interlock driver's license;***

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the

Ignition Interlock  
Driver's License  
(IIDL) is available  
IMMEDIATELY for  
those who refuse  
test

Person waives  
right to hearing  
upon obtaining an  
IIDL.

department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person is age twenty-one or over, or was 0.02 or more if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, ***within twenty days after the notice has been given, request in writing a formal hearing before the department.*** The person shall pay a fee of three hundred seventy five dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy five dollar fee, the department shall afford the person an opportunity for a hearing.

(9) – (11) NA

#### **RCW 46.20.380 Fee.**

***No person may file an application*** for an occupational driver's license, a temporary restricted driver's license, or ***an ignition interlock driver's license*** as provided in RCW 46.20.391 and 46.20.385 unless he or she first pays to the director or other person authorized to accept applications and fees for driver's licenses ***a fee of one hundred dollars.*** The applicant shall receive upon payment an official receipt for the payment of such fee. All such fees shall be forwarded to the director who shall transmit such fees to the state treasurer in the same manner as other driver's license fees.

#### **RCW 46.20.385 Ignition interlock driver's license-Application-Eligibility-Cancellation-Costs-Rules.**

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522

(1)(b), or ***who has had or will have his or her license suspended, revoked, or denied***

Person must request hearing within 20 days of notification.

Application fee for IIDL is \$100

Application for IIDL may be submitted upon or before conviction, and/or on or before ALR suspension.

<p>under RCW 46.20.3101 or who is otherwise permitted under 8 of this section, <b>may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.</b></p> <p>(b) A person <b>may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.</b></p> <p>(c) An applicant under this subsection shall <b>provide proof</b> to the satisfaction of the department <b>that a functioning ignition interlock device has been installed on all vehicles operated by the person.</b></p> <p>(i) The department shall require the person to <b>maintain the device on all vehicles, operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply.</b></p> <p>(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, <b>an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.</b></p> <p>(iii) The time period during which the person is <b>licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.</b> Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720(3), <b>(DUI, Phys Control, Plea Neg 1, Reckless) the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates.</b> For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).</p> <p>(2) An applicant for an ignition interlock driver's license who qualifies under</p>	<p>IIDL may be issued immediately if eligible</p> <p>Person must prove an IID is on all (one or more) vehicles the person will be operating before IIDL may be issued. IIDL requires that person ONLY drive IID equipped vehicles. Employer owned vehicle exemption to IIDL requirement</p> <p>IIDL required throughout suspension period</p> <p>Person receives day-for-day credit toward post-conviction IID requirement</p> <p>Must provide proof of insurance</p>
--	---



subsection (1) of this section is eligible to receive a license only if the applicant **files satisfactory proof of financial responsibility** under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection **no longer has a functioning ignition interlock device** installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license **shall be canceled**. If at any time **before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed** on all vehicles operated by the driver, the **cancellation shall be stayed**. **If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license** upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director **shall cancel an ignition interlock driver's license** after receiving notice that the holder thereof has been **convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation** of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or **the person is indigent** under RCW 10.101.010, the **applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department.**

(b) The department shall **deposit the proceeds of the twenty dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program.** The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

(8)(a) Any person licensed under this chapter **who is convicted of a violation of RCW 46.61.500 when the charge was originally filed as a violation of RCW**

prior to IIDL issuance.

DOL will notify person of pending cancelation of IIDL when provider notifies DOL that IID is not functioning. Proof of functioning IID stays cancellation. If cancellation is effective, person may reinstate at no cost. Cancellation of IIDL upon conviction of charges warranting suspension.

Non-indigent IIDL holders must pay cost of IID + \$20 per month into "indigent" fund collected on state's behalf by IID provider. Cost to administer fund, paid by offenders not taxpayers.

IIDL available to people who plea a DUI to Reckless or Negligent Driving IID will be required

**46.61.502 or 46.61.504**, or an equivalent local ordinance, may submit to the department an application for an ignition interlock driver's license under this section.

(b) A person who *does not have any driver's license under this chapter, but who would otherwise be eligible under this section to apply for an ignition interlock license, may submit to the department an application for an ignition interlock license*. The department may require the person to take any driver's licensing examination under chapter 46.20 RCW and may require the person to also apply and qualify for a temporary restricted driver's license under RCW 46.20.391.

**RCW 46.20.410 Penalty — Violation.**

(1) Any person convicted for violation of any restriction of an occupational driver's license or a temporary restricted driver's license shall in addition to the cancellation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

(2) *It is a gross misdemeanor for a person to violate any restriction of an ignition interlock driver's license.*

**RCW 46.20.720 Drivers convicted of alcohol offenses.**

(1) The *court may order* that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, *any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock*. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the *court shall order* any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance *to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person*. The *court shall order any person participating in a deferred prosecution program* under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance *to have a functioning ignition interlock device installed on all motor vehicles operated by the person*.

(3) The *department shall require* that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may *drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted* of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance. The *department shall require* that a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person. *(Plea DUI to Negligent or Reckless Driving)*

The department *may waive the requirement* for the use of such a device if it concludes that such *devices are not reasonably available in the local area*. The

for six months.

Unlicensed DUI offenders may apply for an IIDL.

Violation of IIDL restrictions is a gross misdemeanor.

Court MAY order IID on conviction of any alcohol/driving offense.

People convicted of DUI or physical control or who receive a Deferred Prosecution must get an IID.

Availability not an issue. Admin. Rules require locations every 75

<p>installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply.</p>	<p>miles. Reiterates Employer Owned Vehicle Exemption.</p>
<p>The ignition interlock device shall be <i>calibrated to prevent the motor vehicle from being started</i> when the breath sample provided has an alcohol concentration of <i>0.025 or more</i>.</p>	<p>Sets mandatory IID "fail" level at 0.025.</p>
<p><i>Subject to the provisions of subsections (4) and (5) of this section, the period of time of the restriction will be no less than:</i></p>	<p>IID use after conviction is based on # of times IID has been required</p>
<p>(a) For a person who has <i>not previously been restricted under this section, a period of one year;</i></p>	<p>(<u>not</u> # of DUI offenses</p>
<p>(b) For a person who has <i>previously been restricted under (a) of this subsection, a period of five years;</i></p>	<p>1<sup>st</sup> time = 1 year</p>
<p>(c) For a person who has <i>previously been restricted under (b) of this subsection, a period of ten years.</i></p>	<p>2<sup>nd</sup> time = 5 years 3<sup>rd</sup> time = 10 years</p>
<p><i>(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:</i></p>	<p>IID requirement subject to meeting listed "compliance-based" removal standards. (underlined portions are proposed 2013 changes)</p>
<p><i>(a) Any attempt to start the vehicle with a breath alcohol concentration of 0.04 or more <u>higher if the person does not register a test result indicating a breath alcohol concentration lower than 0.04 within ten minutes of the initial test;</u></i></p>	<p>IID required for 6 months for Pleas, + "compliance-based" removal standards.</p>
<p><i>(b) <u>Absent any documented malfunction of the ignition interlock device, failure to take or pass any required retest; or</u></i></p>	<p>Reiterates \$20 per month contribution to "indigent fund."</p>
<p><i>(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.</i></p>	
<p>(5) For a person required to install an ignition interlock device pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of the restriction shall be for six months and shall be subject to subsection (4) of this section. <i>(Pleas from DUI to Negligent or Reckless Driving)</i></p>	
<p>(6) In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the <i>person shall pay an additional fee of twenty dollars per month</i>. Payments must be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department to be <i>deposited into the ignition interlock device revolving</i></p>	

<p><b>account.</b></p> <p><b>RCW 46.20.740 Notation on driving record — Verification of interlock — Penalty.</b></p> <p>(1) The department shall attach or <i>imprint a notation on the driving record</i> of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that <i>the person may operate only a motor vehicle equipped with a functioning ignition interlock device</i>. The department shall determine the person's eligibility for licensing based upon <i>written verification</i> by a company doing business in the state that it has <i>installed the required device on a vehicle owned or operated by the person</i> seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the <i>department determines that an ignition interlock required under this section is no longer installed or functioning as required</i>, the department <i>shall suspend the person's license</i> or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.</p> <p>(2) It is a gross misdemeanor for a person with such a notation on his or her driving record <i>to operate a motor vehicle that is not so equipped</i>.</p> <p><b>RCW 46.20.745 Ignition interlock device revolving account program — Pilot program.</b></p> <p>(1) The <i>ignition interlock device revolving account</i> program is created within the department to <i>assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device</i>, and applicable licensing, <i>for indigent persons</i> who are required under *RCW 46.20.385, 46.20.720 and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, <i>"indigent" has the same meaning as in RCW 10.101.010</i>, as determined by the department.</p> <p>(2) A pilot program is created within the <i>ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors</i>.</p> <p>(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.</p> <p>(4) At a minimum, the compliance pilot program shall:</p> <p>(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;</p> <p>(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and</p> <p>(c) Identify ways to track compliance and reduce noncompliance.</p> <p>(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under *RCW 46.20.385 and</p>	<p>IID requirement is marked on person's driving record. (plus IID restriction code on license)</p> <p>Gross misdemeanor for operating non- IID equipped vehicle.</p> <p>Sets up "indigent fund."</p> <p>Establishes criteria for indigency.</p> <p>Fund may be used to monitor IID user and vendor compliance.</p>
---	---

46.20.720.

**RCW 46.61.500 Reckless driving — Penalty.**

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment for up to three hundred sixty-four days and by a fine of not more than five thousand dollars.

(2)(a) Subject to (b) of this subsection, the license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(b) *When a reckless driving conviction is a result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, the department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under an administrative action arising out of the same incident. During any period of suspension, revocation, or denial due to a conviction for reckless driving as the result of a charge originally filed as a violation of RCW 46.61.502 or 46.61.504, any person who has obtained an ignition interlock driver's license under RCW 46.20.385 may continue to drive a motor vehicle pursuant to the provision of the ignition interlock driver's license without obtaining a separate temporary restricted driver's license under RCW 46.20.391.*

(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has **one or more prior offenses as defined in RCW 46.61.5055(14)** within seven years shall be required, under RCW 46.20.720, to install an **ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.**

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

**RCW 46.61.502 Driving under the influence.**

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

Plea from DUI to Reckless Driving requires IID.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

**RCW 46.61.504 Physical control of vehicle under the influence.**

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section

which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

**RCW 46.61.5055 Alcohol violators — Penalty schedule.**

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality

in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory minimum term of sixty days electronic home monitoring, the court may order at least an additional four days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for



granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days electronic home monitoring, the court may order at least an additional eight days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the

suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5)(a) ***The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.***

(b) If the court orders that ***a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to***

IID use required on conviction for DUI or Physical

**detect alcohol in a person's system.** The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 **committed the offense while a passenger under the age of sixteen was in the vehicle,** the court shall:

(a) **Order the use of an ignition interlock or other device for an additional six months;**

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order a penalty by a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order a penalty by a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent;

(d) In any case in which the person has two or three prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order a penalty by a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or

Control.

Court may order alcohol testing.

IID requirement increased by 6 months if minor was in the vehicle.

denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that

may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW

46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or

(v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522; or

(ix) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

**RCW 46.61.5056 Alcohol violators — Information school — Evaluation and treatment.**

(1) A person subject to alcohol assessment and treatment under RCW 46.61.5055 shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the court and the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the person shall be required to

complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under RCW 46.61.5055, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section.

**RCW 46.61.5152 Attendance at program focusing on victims.**

In addition to penalties that may be imposed under RCW 46.61.5055, the court may require a person who is convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a nonfelony violation of RCW 46.61.502 or 46.61.504, to attend an educational program, such as a victim impact panel, focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants. The victim impact panel program must meet the minimum standards established under RCW 10.01.230.

**RCW 46.61.5249 Negligent driving — First degree.**

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Exhibiting the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects" means that a person by speech, manner, appearance, behavior, or lack of coordination or otherwise exhibits that he or she has inhaled or ingested a chemical and either:

(i) Is in possession of the canister or container from which the chemical came; or

(ii) Is shown by other evidence to have recently inhaled or ingested a chemical for its intoxicating or hallucinatory effects.

(e) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

**2012 - NEW SECTION.** A new section is added to chapter 43.43 RCW to read as follows:

(1) As part of the state patrol's authority to provide standards for certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, ***the state patrol shall by rule establish a fee schedule and collect fees from ignition interlock manufacturers, technicians, providers, and persons required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person.***

At a minimum, the fees must be set at a level necessary to support effective performance of the duties identified in this section. The state patrol must report back to the transportation committees of the legislature and the office of financial management by December 1st of each year on the level of the fees that have been adopted and whether those fees are sufficient to cover the cost of performing the duties listed in this section.

Funding established 2012 session – fees to be collected by and from IID providers to fund



(2) Fees collected under this section must be deposited into the highway safety account to be used solely to fund the Washington state patrol impaired driving section projects.

**RCW 43.43.395 Ignition interlock devices — Standards — Compliance.**

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device **must employ fuel cell technology**. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

(b) **When reasonably available in the area, as determined by the state patrol, an ignition interlock device must employ technology capable of taking a photo identification of the user** giving the breath sample and recording on the photo the time the breath sample was given.

(c) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the following statement:

one sergeant and three troopers to monitor IID users and vendors.

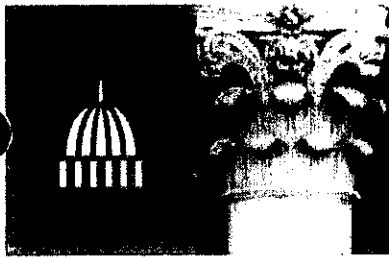
Statutory standards for IID's (extensive rules also in place - see Washington Administrative Code 20-40)

Fuel cell (alcohol exclusive) sensor required.

Photo ID devices required as of January 1, 2013.

"Two samples of (model name) , manufactured by (manufacturer) were tested by (laboratory) certified by the Internal Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470.";  
and  
(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

ISO certified test lab certification required + testing by Washington State Patrol lab.



DECEMBER 2012

National Conference of State Legislatures

# LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

VOL. 20, No. 46

## Mapping Out New Solutions: Ignition Interlock Provisions in MAP-21

*By Anne Teigen*

Since 1998, federal law has required that certain federal highway funding be withheld from states that do not require at least a one-year suspension of the driver's license of a repeat drunk driving offender. States that did not enact such a law were forced to divert highway and infrastructure spending to traffic safety programs. In July 2012, however, Congress passed and President Obama signed the transportation reauthorization bill, Moving Ahead for Progress in the 21st Century Act (MAP-21), which made important changes to these requirements. The law took effect Oct. 1, 2012.

MAP-21 changed the state requirements related to repeat drunk driving offenders (offenders convicted of a second or subsequent DUI), allowing states more flexibility as long as they require offenders to install ignition interlock devices in their vehicles. The law also sets up a discretionary grant program that allows the secretary of the U.S. Department of Transportation to provide additional funds to states that adopt alcohol ignition interlock laws. Ignition interlock devices are breath alcohol analyzers that are connected to a vehicle's ignition switch. They prevent vehicles from being started if alcohol above a set limit is detected on the driver's breath.

### Federal Action

The previous federal legislation—requiring a one-year driver's license suspension for repeat offenders—also called for a 45-day “hard suspension.” Although the offender could drive legally after 45 days if an ignition interlock was installed, offenders were limited to driving only to and from work, school and alcohol treatment. This restriction did not allow drivers to drive legally to court-ordered community service, probation appointments, their children's school or work-related destinations other than the designated workplace.

MAP-21 gives states—without losing federal highway funds—the flexibility not only to pass laws that allow immediate interlock installation without the 45-day mandatory license suspension, but also to decide to which locations the repeat offender can drive.

This change may improve efficiency and safety since states can now implement an ignition interlock law without location restrictions. They may save money on the costs of delaying hearings, verifying drivers' locations and updating driving records. In addition, more flexibility may result in safer streets. Researchers have found that after ignition interlock devices were installed, re-arrest rates for alcohol-impaired driving by those with suspended licenses decreased by a median of 67 percent. Before MAP-21, the 45-day “hard suspension” without any driving privileges may have had the unintended effect of increasing the number of

### Did You Know?

- According to National Highway Traffic Safety Administration, of the 1.5 million impaired driving arrests each year, one-third involve repeat offenders.

- Approximately 212,000 ignition interlock devices were installed in the United States as of 2010.

- MAP-21 allows states more flexibility and access to federal highway funds.

National Conference  
of State Legislatures

Executive Director  
William T. Pound

Denver  
7700 East First Place  
Denver, Colorado 80230  
Phone (303) 364-7700  
[www.ncsl.org](http://www.ncsl.org)

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

chronic drunk drivers on the road without ignition interlock.

Another important set of provisions pertaining to ignition interlock laws is included in the National Priority Safety Program, section 31105 of MAP-21. It creates an incentive grant program allowing the secretary of the U.S. Department of Transportation to make separate grants to each state that adopts and enforces a mandatory alcohol-ignition interlock law for everyone convicted of driving under the influence or driving while intoxicated.

#### Timeline : Federal Repeat DUI Offender Laws

**1998 – TEA-21:** Congress restricts highway funds from states that do not suspend all driving privileges for repeat DUI offenders for one year.

**2005 – SAFETEA-LU:** Congress passes \$286.4 billion surface transportation reauthorization with new core traffic safety programs and incentive grants. No change is made to the repeat DUI offender license suspension requirement.

**2008 – Technical Corrections to SAFETEA-LU:** Congress amends repeat offender language in SAFETY-LU to allow repeat DUI offenders to drive legally, with an ignition interlock, after a 45-day license suspension. The law allows offenders to go "to and from work, school and alcohol treatment."

**2012 – MAP-21:** Section 1403 allows states to determine restrictions and limited exemptions to the repeat offender law, as long as ignition interlock is installed for at least one year.

### State Action

Laws in all 50 states and the District of Columbia address ignition interlocks. Some require all offenders to use them, while others require only those convicted of DWI with a high blood alcohol concentration (BAC) or for a repeat offense. Provisions in 32 states require repeat offenders to install ignition interlocks, and about 25 states allow those offenders to install interlocks so they can drive during a license suspension or revocation period.

In 2008, Washington passed legislation that allowed those with a suspended or revoked license to be immediately eligible for an ignition interlock license and drive with no location restrictions. This approach apparently has led to safer roads and less recidivism. An Insurance Institute for Highway Safety study found a 12 percent drop in recidivism with the new ignition interlock requirements. The state forfeited almost \$33 million in federal highway funding during the past three years, but this no longer will occur due to the federal change.

A few months after MAP-21 passed, Michigan enacted legislation providing restricted driver's licenses to a DWI court participant if an ignition interlock is installed in his or her vehicle. The law provides an incentive for drivers to choose to enter DWI court by offering a chance to more quickly receive a restricted driver's license. The law also allows participants to drive not only to work, school and treatment, but also to court-ordered hearings, probation meetings, drug and alcohol testing, self-help group meetings and any court-ordered community service.

### NCSL Contacts and Resources

Anne Teigen  
NCSL—Denver  
(303) 856-1652

NCSL Alcohol Impaired/  
Drunken Driving Resources

### Other Resources

NHTSA/NCSL Traffic Safety Legislation Tracking  
Database

National Highway Traffic Safety Administration

Governors Highway Safety Association

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Date: 02/06/13

THE COMMITTEE ON Transportation

to which was referred Senate Bill 20

AN ACT                    making modifications to the DWI ignition interlock  
program.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF:    5-0

AMENDMENT # 0128s

CONSENT CALENDAR VOTE: 5-0

Senator David H. Watters for the Committee

This bill was requested by the department of safety to make various modifications to the DWI ignition interlock program. The Committee believes that the bill will clarify current statutes and give the Department the ability to properly implement statutes currently in place.

Jennifer Horgan 271-3091

## New Hampshire General Court - Bill Status System

**Docket of SB20**

Docket Abbreviations

**Bill Title:** making modifications to the DWI ignition interlock program.*Official Docket of SB20:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2013	S	<b>Introduced</b> and Referred to Transportation; <b>SJ 4</b>
1/17/2013	S	Hearing: 1/22/13, Room 103, LOB, 2:30 p.m.; <b>SC5</b>
2/7/2013	S	Committee Report: Ought to Pass with Amendment <b>#2013-0128s</b> , 2/14/13; Vote 5-0; CC; <b>SC8</b>
2/14/2013	S	Committee Amendment 0128s, AA, VV
2/14/2013	S	<b>Ought to Pass with Amendment</b> 0128s, MA, VV; OT3rdg; <b>SJ 5</b>
3/27/2013	H	Introduced and Referred to Transportation; <b>HJ31</b> , PG.1073
4/8/2013	H	Public Hearing: 4/23/2013 10:15 AM LOB 203
5/1/2013	H	Executive Session: 5/14/2013 10:45 AM LOB 203
5/16/2013	H	Majority Committee Report: Ought to Pass with Amendment #1508h for May 29 (Vote 15-1; RC); <b>HC40</b> , PG.1373
5/16/2013	H	Proposed Majority Committee Amendment <b>#2013-1508h</b> ; <b>HC40</b> , PG.1382
5/16/2013	H	Minority Committee Report: Inexpedient to Legislate; <b>HC40</b> , PG.1373
5/29/2013	H	Amendment #1508h: AA VV; <b>HJ45</b> , PG.1517-1518
5/29/2013	H	<b>Ought to Pass with Amendment</b> #1508h: MA <b>RC</b> 252-76; <b>HJ45</b> , PG.1517-1520
6/6/2013	S	Sen. Rausch Moved Concur with House Amendment 1508h, MA, VV
6/12/2013	H	Enrolled Bill Amendment #2042e Adopted [Recess of 6/5/13]; <b>HJ49</b> , PG.1654
6/12/2013	S	Enrolled Bill Amendment <b>#2013-2042e</b> AA, VV
6/12/2013	H	Enrolled [Recess of 6/5/13]; <b>HJ49</b> , PG.1654
6/12/2013	S	Enrolled
7/11/2013	S	Signed by the Governor on 07/11/2013; Chapter 0219; Effective 07/11/2013

NH House

NH Senate

# Other Referrals



# COMMITTEE REPORT FILE INVENTORY

SB20 ORIGINAL REFERRAL

\_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0128 \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_\_ - AMENDMENT # \_\_\_\_\_ \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED  AS AMENDED BY THE HOUSE  
\_\_\_\_\_ FINAL VERSION  AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): Enrolling Amendment

DATE DELIVERED TO SENATE CLERK

7/23/13

  
BY COMMITTEE AIDE

June 12, 2013

2013-2042-EBA

06/04

Enrolled Bill Amendment to SB 20

The Committee on Enrolled Bills to which was referred SB 20

AN ACT making modifications to the DWI ignition interlock program.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

---

Explanation to Enrolled Bill Amendment to SB 20

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SB 20

Amend RSA 265-A:37, II as inserted by section 4 of the bill by replacing line 3 with the following:

*subject to such an interlock order to circumvent the order shall ~~not~~ tamper with, or in any way*