



EXECUTIVE SUMMARY

THE IMPLEMENTATION OF ALCOHOL INTERLOCKS FOR FIRST OFFENDERS: A CASE STUDY



The knowledge source for safe driving

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Many jurisdictions are currently considering alcohol interlock programs for first offenders. There is a wealth of information that is relevant to this decision-making process and much can be learned from jurisdictions that have already implemented a program.

This case study is designed to assist jurisdictions in understanding the issues that are relevant to the decision-making process. It also illustrates the importance of translating legislation and policy into meaningful practices and procedures at an operational level to ensure full program participation. It contains a descriptive summary of the scope and breadth of activity in Illinois associated with implementing a first offender interlock program. It also compares the experience in Illinois with the experiences in four other jurisdictions representing a diversity of alcohol interlock programs. These states¹ include Colorado, Nebraska, New York and Washington. (Visit www.tirf.ca for the full report.)

What is an alcohol interlock?

An alcohol ignition interlock is a breath testing device that connects to the vehicle starter, or other on-board computer system. The device prevents a vehicle from starting if the breath test reveals a breath alcohol concentration (BrAC) that exceeds a certain pre-set limit, usually 0.02%. This device requires the driver to pass repeated breath tests while the vehicle is in use to ensure that the driver remains sober throughout the driving trip. These programmable devices also possess a range of anti-circumvention features.

How have alcohol interlock programs evolved?

In the past two decades there has been tremendous growth in alcohol interlock programs for drunk driving offenders and almost all jurisdictions in the United States and Canada have some type of program in place. Historically, participation was linked to a drunk driver's criminal status. Participation was mandatory for repeat and high-BAC offenders – those deemed to be the greatest risk to the public and who had the highest probability of re-offending. Participation was more often voluntary for first offenders. More recently, a trend toward mandatory participation for all offenders has emerged.

¹ Arizona and New Mexico were also invited to submit a summary of their experiences with the implementation of a first offender interlock program, however due to timing and competing priorities it was not possible to receive a summary prior to the printing of this report.

Is there a debate about first offender alcohol interlock programs?

Yes and no. There is clear agreement that there are important benefits associated with the use of these devices with first offenders, and more importantly potential cost benefits assuming that all of the interlock devices are actually installed.

However, there is no clear consensus about how to best implement such a program, particularly in light of the low program participation rates and interlock installation rates that have persisted due to weaknesses in program implementation. The heart of the debate stems from concern about increasing the number of offenders that are subject to monitoring without effective strategies and commensurate capacity to ensure that all offenders will in fact participate.

It is clear that the debate regarding first offender interlock programs is complex and both sides are based on compelling research and facts. The question is not whether first offender interlock laws should be implemented, but in fact how these laws can best be implemented and executed. Is it better to put legislation in place requiring all drunk driving offenders to install an alcohol interlock when there is currently little assurance that every offender will install the device and be actively monitored by program authorities as needed? Or, is it better to strengthen program structure and implementation and ensure adequate resources are allocated before widening the net to dramatically increase program participation? These are questions that jurisdictions will have to address as the trend towards mandatory first offender alcohol interlock programs grows.

Why use alcohol interlocks with first offenders?

There is solid research to support the use of alcohol interlocks with first offenders:

- > Research shows that drunk drivers can drink and drive more than 200 times before being detected and apprehended (Beck et al., 1999). So, many drunk drivers who are arrested for the first time are in fact repeat drunk drivers who have managed to avoid detection and arrest.
- > Seventy percent of drunk driving offenses in many jurisdictions involve drunk drivers with no prior drunk driving conviction (Voas and Fisher 2001). Research shows that recidivism does occur among this population and that alcohol interlocks are effective in reducing recidivism with these offenders (for supporting research see EMT Group 1990; Morse and Elliot 1992; Tippetts and Voas 1997; Voas et al. 1999; Voas et al. 2005).
- > Research suggests that between 25% and 75% of offenders who have a driver's license that is suspended or revoked continue to drive, making them a threat on the roadways (Waller 1985; Hagen et al. 1980; Sadler and Perrine 1984; Peck et al. 1985; Ross and Gonzales 1988; Griffin III and De La Zerda 2000).

- > Many first offenders also frequently drive with high-BACs that are more than twice the legal limit and also have a significant risk of crashing (Rauch 2005).
- > Research shows that many first offenders have some degree of alcohol abuse or addiction. One study revealed that 82% of first offenders were assessed as alcoholics or problem drinkers; only 18% were social drinkers (Rauch 2005).
- > A cost-benefit analysis suggests that alcohol interlocks are a cost-effective measure. A study that assumed that alcohol interlock devices are actually installed in the vehicles of all impaired drivers showed an estimated cost-benefit ratio of 8.75 (Elvik 1999), meaning that for every dollar spent on alcohol interlocks there will be a savings of almost nine dollars.

What are the challenges of using interlocks with first offenders?

Concerns about the use of alcohol interlocks with first offenders stem from a variety of practical historical issues related to insufficient program resources and weak program implementation. These factors have contributed to low participation rates, even when participation has been mandated. As evidence of this, of the 1.4 million impaired drivers arrested annually, just 180,000 have an interlock device installed, and program participation is less than 20% in most jurisdictions. Concerns that are raised about first offenders include: :

- > Research shows that repeat offenders and high-BAC offenders are at a much higher risk of crashing and are responsible for a majority (74-76%) of alcohol-related deaths and injuries (Borkenstein et al. 1964; Simpson et al. 2004; Blomberg et al. 2009) making them a significant risk to the driving public and a priority for participation and the use of program resources.
- > Research shows that, even among those offenders who are formally ordered by the program authority to install an interlock device, some 20% to 25% of offenders fail to do so (EMT Group 1990, DeYoung 2002) as required – i.e., gaps in implementation enable some offenders to avoid interlock supervision. In particular, research suggests that repeat offenders are less likely to participate in alcohol interlock programs and install the device (Voas and Tippetts 1997). Mandatory program participation for first offenders can compound this problem and enable a much larger population of offenders to avoid installation, eroding deterrent effects.
- > All-offender programs would substantially increase the number of offenders in need of interlock supervision, requiring an increase in resources that may not produce benefits without assurances that interlocks will actually be installed.

- > In many jurisdictions, first offenders are not subject to monitoring by the criminal justice system. In court-based interlock programs this would be a substantial gap in the ability of authorities to monitor first offender participation in programs to ensure their participation and to follow up in response to violations.

Concerned individuals suggest an alternative strategy to include first offenders in alcohol interlock programs. It involves retaining a primary and current focus on repeat and high-BAC offenders in combination with steps to improve program implementation and ensure that all offenders mandated to install the interlock actually do so and are supervised. As practices are strengthened, programs can be expanded to include first offenders.

What kind of first offender interlock law was passed in Illinois?

In June 2007, Illinois legislation extended the use of alcohol interlocks from repeat offenders to first offenders on a voluntary basis, meaning that first offenders did have the ability to avoid participation and refrain from driving during the suspension period. This legislation had the potential to create significant growth in the population of interlock offenders and increase the number of participants from 3,000 to as many as 30,000 if all eligible first offenders elected to participate.

What tasks were involved in the implementation of the law?

The Illinois Secretary of State (SOS) was tasked with implementing the law which took effect January 1, 2009. A wide variety of tasks, assigned to six committees, were required as part of the first offender implementation in Illinois, including:

- > Translating the legislation into administrative rules that were also consistent with existing Administrative Rules. This is often the most challenging task in any state.
- > Identifying errors or inconsistencies in the legislation and proposing revisions.
- > Anticipating the financial impact of the program on state agencies.
- > Developing a strategy for managing indigent offenders.
- > Revising existing forms/letters/notices and creating new forms/letters/notices for first offenders. For example, in Illinois there were approximately 30 forms/letters/notices that were involved in this process.
- > Changing the existing driver record program to accommodate first offenders.

- > Developing an interlock database to collate and manage reports from interlock vendors and generate automatic responses to a wide variety of events.
- > Establishing connections between the driver records and the interlock databases.
- > Creating new program fees and an indigent funding mechanism.
- > Developing and delivering statewide training materials to all relevant practitioners across the jurisdiction (including police, prosecutors, defense attorneys, judges, court clerks, driver licensing staff, liquor enforcement, liquor control).
- > Developing and delivering press events and statewide information materials.
- > Fielding thousands of calls from agency staff, the public and offenders.

How many staff and how much staff time did it take?

Each of the six committees ranged in size between seven and fifteen staff persons (with some people participating in multiple committees). The work of each committee took between 9 and 20 months to complete. The estimated percentage of time that each committee staff person was allocated to support the implementation of the program during this period ranged from 10% - 90%.

What SOS departments were involved in implementation?

- > Administrative hearings
- > Driver services
- > Programs and policies
- > Executive office
- > General counsel
- > Information technology
- > Deputy press secretary
- > Budget and fiscal division
- > Accounting/revenue

What other agencies were affected by implementation?

- > Illinois Department of Transportation/Office of Highway Safety
- > Illinois traffic safety resource prosecutors
- > State and local police

- > State Attorney offices
- > Defense bar
- > Judiciary and court staff
- > Liquor enforcement
- > Liquor control
- > MADD chapters

In total, what resources were required for implementation?

The total cost of implementation for the State of Illinois is estimated at slightly more than \$1.24 million (USD). This estimate includes a variety of costs including a statewide symposium, training, staff salaries, the hiring of additional staff, direct costs, and related costs such as retirement and group insurance costs. The costs of the two COBOL programmers who worked on the database are also included in these costs. The hard costs associated with implementation included additional office space for new staff, office equipment, computer and phone set up costs, office supplies, and printing.

Not all of these costs were paid by the Secretary of State, the lead agency responsible for the first offender alcohol interlock implementation. Costs were also supported by the Illinois Office of Highway Safety and IDOT. The Highway Safety Office provided \$300,000 in Federal highway dollars to support additional staff and staff travel to deliver training and education across the State. IDOT also provided a \$25,000 grant to support the costs of the interlock symposium that was organized for law enforcement.

What were the outcomes of implementation?

Overall, the implementation of a first offender program in Illinois went very well and no major challenges occurred when the program took effect. In particular, there were two key factors that were critical to Illinois' successful implementation process. First, there was strong political and agency leadership to ensure that adequate staff support and resources were made available. Second, there was strong teamwork, coordination, and communication across agencies and staff roles and responsibilities were clearly articulated. Of equal importance, staff also had some 18 months to adequately prepare for implementation.

The launch of the program went according to plan. It operated as expected and within ten days applications for the program were received. With regard to the technical aspects of the new program, there have been few computer issues associated with the new program and everything appears to be working smoothly to date. Minor issues did arise but were easily addressed. There were several

revisions to finer details of the legislation post-implementation, however most of it related to minor inconsistencies.

How many offenders participated in the first year?

One year after the official launch of the Illinois program, just 6,500 of an estimated 30,000 first time drunk drivers have enrolled in the program. This has occurred because the Illinois program is not mandatory -- first offenders can choose not to participate. The SOS in Illinois is carefully tracking this issue and opportunities to strengthen the program and make it truly mandatory are being considered for the next legislative session.

Have other first offender jurisdictions had similar experiences?

Yes. A review of the experiences in Colorado, Nebraska, New York and Washington revealed a number of commonalities as well as a few unique strategies.

Each state greatly benefited from strong political and agency leadership to support the implementation of the law. In addition, all states relied upon an implementation team that functioned as a single unit or was organized into committees. Within each team, there was a core group of individuals that completed the bulk of the work. There were also high levels of communication, coordination and accountability involved in the implementation process which ensured that tasks were completed in a timely, accurate and structured manner and resulted in fewer challenges post-implementation.

Most states felt that they had sufficient time for implementation of the law, although the effort required in each state was often a function of the actual contents of the legislation and the law's consistency with existing program practices. Those states that automated much of the process required more time, however, it is agreed that the additional effort required to automate the process at the outset is an excellent investment and can improve program management downstream.

The level of resources required for implementation varied, particularly in relation to the extent to which states automated much of the process. Few states were able to absorb the costs of implementation into existing agency budgets, and those that were not required additional funding up to \$900,000 to cover a variety of tasks. The most expensive costs associated with implementation included IT changes and additional staffing.

Those states that worked with program staff during the development of legislation encountered fewer operational and legal challenges during and post-implementation. In states where practitioner input was sought as part of the process, agencies were able to implement the law in a much shorter time frame and were better prepared.

Almost all states did struggle to varying degrees with the development of a funding mechanism and a strategy to identify indigent offenders. However program staff agreed that the inclusion of this component in a program was essential.

Finally, all states did experience some growth in program participation as a result of implementation, however ongoing efforts are needed in this area to achieve the maximum potential. Experience has demonstrated that when offenders are given the opportunity to opt out of the program, the majority of offenders will do so.

Which jurisdictions have first offender laws as of May 2010?

A number of jurisdictions have implemented first offender alcohol interlock laws as of May 2010. However, the nature and extent of these laws vary across jurisdictions.

Please note that in the table below the term “mandatory” can have different contexts. In some jurisdictions the interlock is mandatory for first offenders during the period of suspension, whereas in others the interlock is mandatory in order to be eligible for license reinstatement. The term “no interlock law” means that there is no interlock law either for repeat or first offenders. The term “yes” means that there is legislation for first and repeat offenders. The term “no” means that there is no legislation for first offenders. However in a few jurisdictions, judges can order interlocks on a voluntary basis.

STATE	FIRST OFFENDER LEGISLATION	BAC	VOLUNTARY / MANDATORY	DATE IMPLEMENTATION
Alabama	No Interlock Laws*	N/A	N/A***	N/A
Alaska	Yes**	0.08%	mandatory	June 2008
Arizona	Yes	0.08%	mandatory	May 2007
Arkansas	Yes	0.08%	voluntary	April 2009
California	Yes (pilot program)	0.08%	mandatory	July 2010
Colorado	Yes	0.08%	mandatory	April 2008
Connecticut	No***	N/A	N/A	N/A
Delaware	Yes	0.15%	voluntary	July 2009
DC	No	N/A	N/A	N/A
Florida	Yes	0.15%; under 21	mandatory	June 2008
Georgia	No	0.08%	voluntary	
Hawaii	Yes	0.08%	mandatory	January 2011
Idaho	No	N/A	N/A	N/A
Illinois	Yes	0.08%	voluntary	August 2007
Indiana	No	N/A	N/A	N/A
Iowa	No	N/A	N/A	N/A
Kansas	Yes	0.15%; refusals	mandatory	
Kentucky	No	N/A	N/A	N/A
Louisiana	Yes	0.08%	mandatory	July 2007
Maine	No	N/A	N/A	N/A
Maryland	Yes	0.15%	mandatory	
Massachusetts	No	N/A	mandatory	N/A
Michigan	Yes	0.15%	mandatory	January 2011
Minnesota	No	N/A	N/A	N/A
Mississippi	No	N/A	N/A	N/A
Missouri	No	N/A	N/A	N/A
Montana	No	N/A	N/A	N/A
Nebraska	Yes	0.08%	mandatory	April 2008
Nevada	Yes	0.18%	mandatory	
New Hampshire	Yes	0.15%		
New Jersey	Yes	0.15%	mandatory	January 2010
New Mexico	Yes	0.08%	mandatory	June 2005
New York	Yes	0.08%	mandatory	August 2010
North Carolina	Yes	0.15%	mandatory	August 2007

STATE	FIRST OFFENDER LEGISLATION	BAC	VOLUNTARY / MANDATORY	DATE IMPLEMENTATION
North Dakota	No	N/A	N/A	N/A
Ohio	No	N/A	N/A	N/A
Oklahoma	No	N/A	N/A	N/A
Oregon	No	N/A	N/A	N/A
Pennsylvania	No	N/A	N/A	N/A
Rhode Island	No	N/A	N/A	N/A
South Carolina	No	N/A	N/A	N/A
South Dakota	No Interlock Laws	N/A	N/A	N/A
Tennessee	No	N/A	N/A	N/A
Texas	Yes	0.15%	voluntary	October 2005
Utah	Yes	0.08%	mandatory	March 2009
Vermont	No Interlock Laws	N/A	N/A	N/A
Virginia	Yes	0.15%	mandatory	March 2004
Washington	Yes	0.08%	mandatory	March 2008
West Virginia	Yes	0.15%	mandatory	April 2008
Wisconsin	Yes	0.15%	mandatory	July 31, 2010
Wyoming	Yes	0.15%	voluntary	March 2009

* 'No Interlock Laws' means no legislation for first and repeat offenders

** 'Yes' means legislation for first and repeat offenders

*** 'No' means no legislation for first but legislation for repeat offenders but some judges do order interlocks

What can be learned from the experiences of first offender alcohol interlock jurisdictions?

Based on the experiences of jurisdictions with the implementation of a first offender alcohol interlock program, in conjunction with the experiences of other jurisdictions with similar programs, several recommendations can be drawn.

- > The importance of a well-crafted law that is based on input from experienced program staff, legal staff and is reflective of existing operational practices cannot be overstated.
- > Input from front line agency staff that are familiar with the existing interlock program and input from staff representing agencies that will be impacted by a first offender program should be sought to

inform the development of first offender legislation and ensure that it is consistent with existing practices.

- > Program implementation requires strong political and agency leadership to build agency buy-in and staff support as well as public support.
- > It is important to balance the level of detail in the legislation and administrative rules to provide practitioners with reasonable flexibility to make needed adjustments during program development without requiring additional legislative changes, which may be challenging to achieve.
- > Consultation with and input from agency staff can benefit program development. Agency representation and active staff participation on any committees or teams tasked with implementation is essential, particularly for those agencies that will be affected or implicated by decisions.
- > It is very helpful to include representatives from the interlock vendors as they have knowledge about program operation in other jurisdictions as well as experience dealing with offenders and operational issues.
- > Accountability for implementation should be articulated through clear task assignments, reporting processes, timelines and ongoing follow up to ensure tasks are completed.
- > Adequate resources to support program implementation should be allocated accordingly. It is critical that staff have access to needed resources to support implementation and understand how these resources are being provided.
- > Training is an essential element for staff in all agencies that will be affected by the implementation of the program. This is necessary to create support and buy-in and to properly equip staff to complete tasks as part of the program.
- > It is important to provide the public with information about the program before, during and post implementation. Information should be disseminated using multiple sources and materials should be easily accessible. Communication can build public support and reduce staff time to respond to inquiries.
- > It can be beneficial to build a self-funded mechanism for the program into the implementation process.

NOTES

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