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DESCRIPTION

1120

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10/2/03

2003 HOUSE TRANSPORTATION

HB 1120

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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1120

House Transportation Committee

☐ Conference Committee

Hearing Date January 23, 2003

Tape Number	Side A	Side B	Meter #
3	x		0.1 to 13.3
Committee Clerk Signature <i>Deanna Holbrook</i>			

Minutes:

Rep. Weisz, Chairman opened the hearing on HB 1120, a bill for an Act to amend and reenact section 39-08-01.3 of the North Dakota Century Code, relating to driving under the influence of intoxicating liquor repeat offenders and ignition interlock devices.

Keith Magnuson, Deputy Director for Driver and Vehicle Services introduce the background for this legislation. This is but one of several pieces of proposed legislation dealing with drinking and driving. this way you can address each issue but if you look at them all together you will get an idea of how we are trying to attack the problem. A copy of his prepared testimony is attached.

Rep. Weisz: How many other states currently have interlock devices?

Keith Magnuson: I will leave a list of these and a copy of the regulations (fed) with the Chairman. There are 28 states and the District of Columbia that now have interlocks. There are other states that use them but they don't comply with all the federal requirements for their use.

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House Transportation Committee
Bill/Resolution Number HB 1120
Hearing Date January 23, 2003

Rep. Weisz: My other question I had is the current law says within the five years preceding the violation -- is that the minimum you can go from the federal ?

Keith Magnusson: That is correct -- the five years is in the law and that is how they define the repeat offender -- the second offense within five years. This does not affect first time offenders.

Rep. Schmidt: I noticed there is only 7500 in use now --

Keith magnusson: this is a brochure we received two years ago and it is for this particular brand of device. That was just in the time when were just getting into the federal mandate to use this --- there area number of brands and companies across the country and they have to be certified by the National Highway Traffic Safety Administration. So there are quite a few more out there.

Rep. Thorpe: Do you have any figures on the installation costs? and, who would be doing it?

Keith Magnusson: It costs on one of these is going run about \$100. There companies certified by NTSA and they will setup local distributors to do this. the monthly rental fee -- I can see that running about \$50 -- \$60 per month.

Rep. Ruby: The previous law said that it may also require ignition interlock -- are we making this change to comply with federal law.

Keith Magnusson: There will probably be a whole combination of things -- the judges have had the authority to do that but as far as I know none of them has.

Rep. Delmore: As I looked over that brochure -- different other family members can be calibrated to use the car -- What would happen in the scenario where a friend hadn't done that -- the other person who was there was sober and wanted to drive -- would they be able to get the car started?

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Bill/Resolution Number HB 1120
Hearing Date January 23, 2003

Keith Magnusson: As long as some body has had a lesson in this -- but they can't make it too easy or they would have a child sitting in their lap while the drive (drunk).

Rep. Headland: In the changes you have laid out here -- you are specifying these interlock devices need to be installed in all of hi vehicles -- in the case of a farmer, he may have three grain trucks, 3 or 4 pickups, a couple of cars -- it could be burdensome to him and frankly a lot of those vehicles may be season and driven only part of the year. Is it possible to change 'all these' vehicle to the judges discretion?

Keith Magnusson: That is a question that has come up before --- the regulations really don't address the farmer but they do address the business person who has a fleet of vehicles. They do have an exemption and the also have a hardship provision where a judge could take that into consideration -- it is not in this bill but you could amend that into this bill.

Rep. Weisz: do you know how many are convicted in a year as a second offense or greater ?

Keith Magnusson: I don't have those figure.

Rep. Thorpe: Have you been afforded any figures on the results of the use of these devices in other states -- have they made an impact"

Keith Magnusson: I think they are looking at this as reducing fatalities and accidents. It is part of a package putting all these things into effect to reduce fatalities.

Rep. Delmore: the period of time -- they show a range - - do you know what that range?

Keith Magnusson: That is the range and the judge will decide that within those ranges. I do think that the minimum time will be the minimum time one of these rental companies will rent one for. I know it won't be less than a month -- I think it will be more like 2 or 3 months.

Danna Hall
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House Transportation Committee
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Hearing Date January 23, 2003

Janet Demaris Seaworth: A Bismarck -- Executive Director of the North Dakota Beer

Wholesalers Association spoke in support of SB 1120. A copy of her prepared testimony is attached. In response to Rep. Thorpe's question earlier, on January 13th -- just this month the state of Pennsylvania came out with what appears to be the first comprehensive review of the effectiveness of the use of these devices. It appears that they are quite effective in reducing the number of repeat offenders.

There being no other persons wishing to testify either for or against HB 1120, Chairman Weisz closed the hearing.

End of hearing record (13.3).

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1/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1120b

House Transportation Committee

☐ Conference Committee

Hearing Date January 30, 2033

Tape Number	Side A	Side B	Meter #
3	x		11.7 to 22.6

Committee Clerk Signature

Lauren B. Fisher

Minutes:

Rep. Weisz opened the discussion for action on HB 1120. There was much discussion about the seasonal vehicles owned by farmers which didn't have the same exemptions as businesses -- is farming a business under this exemption: loss of federal dollars to the state; the track record of interlocks; the reticence to be 'blackmailed'; and how the courts may or may not use if the bill is passed.

Rep. Price moved a 'Do Pass' motion for HB 1120. Rep. Delmore seconded the motion.

On a roll call vote the motion carried 7 Ayes 5 Nays 1 Absent and not voting.

Rep. Hawken was designated to carry HB 1120 on the floor.

End of record (22.6)

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Deanna Baller

Date

10/2/03

FISCAL NOTE
Requested by Legislative Council
01/03/2003

Bill/Resolution No.: HB 1120

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This legislation would allow ND to comply with federal repeat offender requirements. Until ND conforms with this federal legislation, there will be a transfer penalty from certain highway funds into safety (alcohol) and maintenance (hazard elimination). Effective October 1, 2002, the transfer penalty increased to 3% and \$4 million dollars was transferred into these two areas. This 3% transfer penalty will apply each year thereafter, until we conform our state law to this federal mandate.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Dawn Olson, Linda Mathern	Agency:	ND Dept. of Transportation
Phone Number:	328-4359	Date Prepared:	01/08/2003

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Date: 11/23/03
Roll Call Vote #: _____

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1120

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38163.0100

Action Taken Do Pass

Motion Made By Rep. Price Seconded By Rep. Hanken

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt		✓
LeRoy G. Bernstein	✓		Elwood Thorpe		✓
Mark A. Dorsch	✓		Steven L. Zaier	✓	
Pat Galvin		✓			
Craig Headland		✓			
Clara Sue Price	✓				
Dan J. Ruby		✓			
Dave Weiler	A				

Total Yes 7 No 5

Absent 1

Floor Assignment Rep. Hanken

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature Doreen Hall Date 10/2/03

REPORT OF STANDING COMMITTEE (410)
January 31, 2003 12:56 p.m.

Module No: HR-19-1451
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1120: Transportation Committee (Rep. Welsz, Chairman) recommends **DO PASS**
(7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1120 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-19-1451

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2003 SENATE TRANSPORTATION

HB 1120

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10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1120

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-27-03

Tape Number	Side A	Side B	Meter #
I		X	533-2345
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Senator Thomas Trenbeath opened the hearing on HB 1120 relating to driving under the influence of intoxicating liquor repeat offenders and ignition interlock devices.

Keith Magnusson (Deputy Director for Driver and Vehicle Services ND DOT) See attached testimony supporting HB 1120. Explained that motor vehicle would include all the vehicles with the offender's name on the ownership document or any vehicle they drive. Definitions of motor vehicle would exclude those vehicles that are not made for the road such as tractors or combines. There are about 1000-1500 repeat offenders each year. The devices would go into effect when the offender is due to get his license back not during the time the license is suspended.

Senator Espegard asked whether the interlock system on a car demobilizes it for every driver.

Keith Magnusson answered that whoever wants to drive the vehicle would have to blow into the device.

Senator Espegard asked if the repeat offense is the second or third.

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10/2/03
Date

Page 2
Senate Transportation Committee
Bill/Resolution Number HB 1120
Hearing Date 2-27-03

Keith Magnusson replied that the repeat offense is the second conviction for DUI.

(Meter 1670) Discussion on the increase in highway funding under the new highway bill. These funds could be used for drinking and driving or hazard elimination. It would be difficult to use them for a match.

Senator Trenbeath wondered if the interlock devices work.

Keith Magnusson replied that they do work in other states. There are 28 states and the District of Columbia that are complying with the repeat offender law and at least half of those have the interlock option.

Senator Trenbeath asked Mr. Magnusson if he would provide the committee with the actual federal language that mandates this. He will provide this information to the chairman.

(Meter 1990) Discussion about putting the device into every vehicle owned by the offender.

There is nothing in the law that prevents the transfer of a vehicle to someone else, but the offender has to have an interlock device on whatever vehicle he drives. A mark then has to be put on the drivers license indicating that he can only drive a vehicle with an interlock device.

Senator Taylor asked about the possibility of having someone else blow into the device to start the vehicle if the offender has been drinking.

Keith Magnusson replied that the machines have been improved. They are not 100% foolproof but they are better than they used to be. There is training on how to use it.

Senator Mutch asked about the cost of the machines.

Keith Magnusson replied that they are about \$2/day or \$60/month. They are rented from an interlock company.

The hearing on HB 1120 was closed.

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Deanna H. Smith
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10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1120

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-13-03

Tape Number	Side A	Side B	Meter #
2	X		1150-1565
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Senator Thomas Trenbeath opened HB 1120 for discussion.

Senator Trenbeath provided the committee with information in respect to the interlock device.

The funds that would be redirected, if this bill does not pass, would go into highway safety situation. They are non matched funds. They can be used without matching with state funds.

Senator Mutch moved a **Do Not Pass**. Seconded by **Senator Espegard**. Roll call vote 5-0-1

Passed. Floor carrier is **Senator Mutch**.

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Deanna Ballantyne
Operator's Signature

10/2/03
Date

Date: 3-13-03
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1120

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not pass

Motion Made By Senator Mutch Seconded By Senator Espigard

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier		
Senator Duane Espigard, V. Chair	✓		Senator Ryan Taylor	✓	
Senator Duane Mutch	✓				
Senator Dave Nething	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Mutch

If the vote is on an amendment, briefly indicate intent:

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Dennis Bercier
Operator's Signature Date 10/2/03

REPORT OF STANDING COMMITTEE (410)
March 13, 2003 1:24 p.m.

Module No: SR-45-4691
Carrier: Mutoh
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1120: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1120 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-45-4691

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10/2/03
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2003 TESTIMONY

HB 1120

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10/2/03
Date

HOUSE TRANSPORTATION COMMITTEE

January 23, 2003

**North Dakota Department of Transportation
Keith C. Magnusson, Deputy Director for Driver and Vehicle Services**

HB 1120

The North Dakota Department of Transportation prefiled HB 1120 as an agency bill. This bill concerns repeat DUI offenders who operate a vehicle while under the influence of drugs or alcohol. It is intended to conform North Dakota law to the Transportation Equity Act for the 21st Century (TEA-21) Restoration Act. That law and subsequent federal regulations mandate certain sanctions for repeat offenders. The mandate applies only to convictions and not to administrative proceedings.

This is a safety issue, aimed at drivers who drink and drive and have not been, or will not be, affected by other laws, most of which are intended to prevent serious problems from developing in the first place (such as the .08 BAC proposal).

In previous sessions, you considered repeat-offender bills. All federally mandated provisions have been added to North Dakota law except for mandatory impoundment, immobilization, or interlocks. We have had a running disagreement with the National Highway Traffic Safety Administration on interpretation of those mandatory provisions, but we have not prevailed.

As long as North Dakota law does not conform to the federal law and regulations on repeat offenders, certain highway funds will be transferred to safety (drinking and driving) and may not be used for road construction or maintenance (except for "hazard elimination"). On October 1, 2000, there was a transfer of 1.5 percent of several categories of federal funds, amounting to about \$2 million, and an identical transfer on October 1, 2001. On October 1, 2002, the transfer penalty increased to three percent and amounted to about \$4 million. We have thus transferred about \$8 million away from highways, and the three-percent (\$4 million) transfer penalty will be applied every year until we conform our state law to the federal mandate.

The amendment found in HB 1120 would require that the judge order the installation of an ignition interlock system on any vehicle owned or operated by the person for a set period of time that the court deems appropriate after the conclusion of a suspension or revocation. The court has always had the discretion to do this; the amendment would make it mandatory. This would comply with federal law. In the past, we have considered immobilization or impoundment, but they place a burden on law enforcement as well as other family members who need to drive. Law enforcement would not have to be involved in the interlock situation, and other family members could drive as long as they had not been drinking. This seems to be the least onerous of the mandatory alternatives. There would be a cost to the driver for the systems or devices. The department would work with the companies providing interlocks to receive assurances that they had been installed so we could get the license back to the driver.

When federal funds are transferred away from highways and into the safety account, it is cumbersome finding ways to put as much as possible onto the highways (using the "hazard elimination" exception) and still comply with the transfer law. If Congress removes the exception, putting the \$4 million per year into highway construction will become all but impossible.

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10/2/03
Date

DEALING WITH THE HARD CORE DRINKING DRIVER

H.M. Simpson, D.R. Mayhew and D.J. Belrness

Traffic Injury Research

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18/2/03
Date

SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

This report re-examines the problem of the *hard core drinking driver* -- those individuals who repeatedly drive after drinking, especially with high blood alcohol concentrations (BACs) and who seem relatively resistant to changing this behaviour.

It shows that there has been virtually no change in the magnitude of the problem since the release of our previous report in 1991. Although hard core drinking drivers are a relatively small group in the total driving population, they continue to account for a very substantial proportion of drinking-driving problems, including fatal and injury-producing crashes. To illustrate, hard core drinking drivers account for only 1% of all drivers on the road at night during the weekend, but they represent nearly half of all the fatal crashes at that time. They also account for almost one-third (27%) of all fatally injured drivers and about two-thirds (65%) of all fatally injured drivers who are drinking.

The report focuses on a variety of measures that offer promise for dealing efficiently and effectively with hard core drinking drivers. It recommends:

The use of an efficient method for identifying and processing hard core drinking drivers when they enter the legal /administrative system.

- ◆ The efficiency and effectiveness of identifying and processing offenders could be increased by the introduction of a tiered-BAC system, which uses the BAC at the time of arrest as a criterion for determining the sanctions imposed.

Assessment of DWI offenders to identify the problems they present, particularly those related to alcohol dependence.

- ◆ Assessment -- or at least some type of screening -- should be required of all DWI offenders. In practice, however, it may be more efficient to require assessment only of repeat offenders and first offenders with high BACs -- i.e., those most likely to be harmfully involved with alcohol and at greatest risk of committing a subsequent DWI offence.

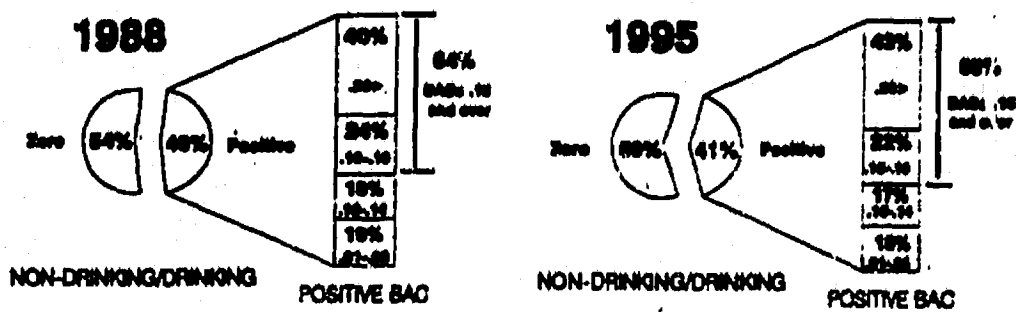
Treatment and rehabilitation programs should be viewed as an essential and viable part of any strategy designed to deal with the problem of the hard core drinking driver.

- ◆ a variety of treatment programs should be available so that offenders are diverted to the most appropriate program (treatment matching).

Programs are needed to prevent or limit the opportunity of the "hard core" to drink and drive prior to, during, and even following treatment. Some of these programs -- such as licence suspension -- can be targeted directly at the offender; others can be directed at the offender's vehicle.

- ◆ Administrative licence suspension is an effective DWI countermeasure and should continue to be promoted. Despite its effectiveness, a significant proportion of those with a suspended license continue to drive. Although this does not negate the beneficial effect of licence suspension, a greater impact might be realized if all suspended drivers could be kept off the road but especially the hard core. To increase the impact of licence suspension, measures are needed to enhance the detection of unlicensed drivers and a wider range of sanctions are needed to reduce the numbers of those who ignore their suspension.
- ◆ Very brief jail terms appear to be effective with first-offenders but it is not yet known whether this applies to hard core offenders.
- ◆ Despite the relatively weak evidence that lengthy jail terms have any beneficial safety impact, for various reasons, such as punishment and retribution, jail and prison sentences will continue to be used.
- ◆ Electronically monitored home confinement of DWI offenders appears to be a viable, effective and less costly alternative to incarceration.
- ◆ Intensive supervised probation is an effective means of ensuring that offenders comply with treatment recommendations.
- ◆ Alcohol ignition interlocks have been extensively evaluated and proven to be an effective means of preventing driving after drinking, even among repeat offenders. Their widespread use should be encouraged.
- ◆ Devices such as autotimers and fuel locks appear promising and warrant further study -- these have not yet been evaluated, so it is unknown how and for whom they might be most effective.
- ◆ Administrative impoundment and immobilization of vehicles being operated by suspended drivers appears to be an efficient and effective means of bolstering licence suspensions and preventing repeat DWI behaviour.

BACs Among Fatally Injured Drivers in the United States



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Targeting "High-BAC" Repeat Offenders

Despite the great deal of progress which has been made in the fight against drunk driving, the challenge is not over. While social drinkers appear to have heard the message about drunk driving, there remains a very small percentage who repeatedly drive with extremely high blood alcohol levels. If we are going to continue the progress, many experts believe we must target the high-BAC repeat offender – these "hard-core" drinking drivers – for further sanctions. Consider this:

- **The "hard-core" drinking driver is not reached by conventional messages.** A 1991 study by the Traffic Injury Research Foundation (TIRF) found that still today some 80 percent of fatally injured drunk drivers have a blood alcohol content of .15 percent or higher. That is the equivalent of about six drinks in an hour for a 160-pound man. In addition, the study found that more than one-half of drunk drivers killed may have a blood alcohol content of .20 or above. Education and awareness efforts appear to be ineffective with this group.
- **Promising approaches to reaching the "hard-core" do exist.** The TIRF study suggests that an overall strategy to address the high-BAC driver might include: tiered-BAC systems that tie the level and type of sanction to the BAC of the driver, so that minor impairment and severe drunkenness are treated differently; assessment, treatment and rehabilitation coupled with sanctions, and the employment of certain technological approaches, like the alcohol ignition interlock.
- **Alcohol ignition interlocks, for example, may keep convicted drunk drivers from driving drunk again and again.** Alcohol ignition interlocks are essentially small breath-testing units installed in the offender's car and linked to the vehicle's ignition system. In order to start the vehicle, the driver must "blow" a breath sample below a certain level. BACs in excess of that level cause the ignition to lock, preventing the offender from operating the vehicle. Studies have shown that these devices work in keeping the abuser from driving drunk. And, coupled with counselling and treatment, ignition interlock devices may have longer-term benefits as well.
- **Measures shouldn't penalize all drinkers for the problems caused by a few.** With government's limited resources, it makes good sense to concentrate efforts – and money – on those who are causing the problems ... the high-BAC drivers. Measures like the interlock devices fit the bill because they are highly targeted toward offenders and deal directly with the drunk driving problem. Such approaches are inherently more fair and sensible than other approaches that inconvenience and punish all consumers in order to address the problems created by the few.

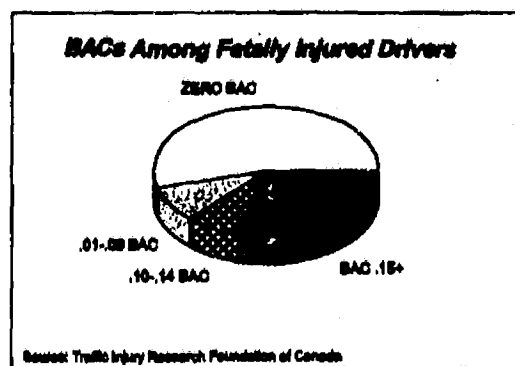
According to many researchers, like those at the world-renowned Traffic Injury Research Foundation, keeping repeat "high-BAC" offenders off the road will go a long way toward solving the remaining drunk driving problem. The TIRF suggestions for targeting the "hard-core," like the alcohol ignition interlock device, aim carefully at the problem and are worth serious consideration.

The Hard-Core Drinking Driver

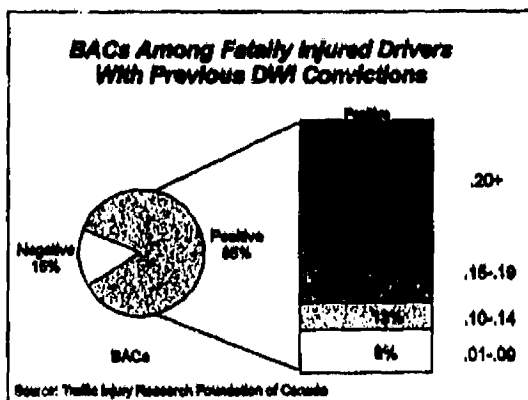
Profile of a Typical Drunk Driving Fatality

Evidence indicates that a large proportion of the drunk driving problem appears to be concentrated among a small percentage of drivers. A study of U.S. federal government data by the Traffic Injury Research Foundation of Canada, offers some good direction on where the nation should focus attention in the fight against drunk driving. The study found:

High-BAC drivers are causing the vast majority of the drunk driving fatalities. While education and awareness and law enforcement have persuaded many social drinkers not to drive drunk, it appears the hard-core drinking drivers have not yet heard the message. Almost 80 percent of drunk drivers killed in 1991 had a blood alcohol content (BAC) of .15 or above – the equivalent of about six drinks in an hour for a 160 pound person. Over one-half of all drunk drivers killed had a BAC of .20 or above. That's twice the legal limit in most states. And, about 8,500 of these hard core drivers are killed on U.S. roads each year – not counting their victims. This is almost one-third of all drivers killed – drinking or nondrinking.



A very small percentage is causing most of the problem. The study also found that while these drivers make up only one percent of drivers on the road on weekend nights, they constitute half of all drivers killed.



"Hard-core" are most likely problem drinkers or alcoholics. The study found that these drivers are more likely to have a history of drunk driving convictions and driver's license suspension related to drunk driving. In fact, the study found that 80 percent of fatally injured drinking drivers with previous DWI convictions had BACs of .15 and above.

High-BAC drivers are hard to reach. Based on the findings about high-BAC drivers, the report suggests that an overall strategy to target these abusers might include: a tiered-BAC approach, which ties the sanc-

tion to the BAC of the driver so that minor impairment and severe drunkenness are treated differently; increased assessment, treatment and rehabilitation; and possible technological approaches.

The public demands that government zero-in on the most cost-efficient solutions to society's problems. It is increasingly evident that the "hard-core" are causing an extremely high proportion of traffic fatalities. By targeting these alcohol abusers, the nation can continue to make further progress in reducing drunk driving.

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NATIONAL TRANSPORTATION SAFETY BOARD
Public meeting of June 27, 2000
ABSTRACT OF FINAL REPORT
(Subject to Editing)
Safety Report Regarding Actions to Reduce Fatalities, Injuries,
and Crashes Involving the Hard Core Drinking Driver
NTSB SR-00/01

EXECUTIVE SUMMARY

In 1984, the National Transportation Safety Board published a Safety Study titled *Deficiencies in Enforcement, Judicial, and Treatment Programs Related to Repeat Offender Drunk Drivers* (NTSB/SS-84/04) (the *Repeat Offender Study*). That study identified repeat offender drinking drivers (included in this report under the category of "hard core drinking drivers") as a serious traffic safety problem.

In the more than 15 years that have passed since that investigation was concluded, efforts have been made by all the States to address this major safety problem. However, despite significant progress, the measures taken and the degree of implementation have not been uniform, and 15,794 people still died in 1999 from alcohol-related crashes. This number is far above the target set by the Secretary of Transportation in 1995 to reduce the number of alcohol-related fatalities to no more than 11,000 by 2005.

For purposes of this report, the NTSB uses the term "hard core drinking drivers" to include repeat offender drinking drivers (that is, offenders who have prior convictions or arrests for a Driving While Impaired [DWI] by alcohol offense) and high-BAC offenders (that is, all offenders with a blood alcohol concentration [BAC] of 0.15 percent or greater).

From 1983 through 1998, at least 137,338 people died in crashes involving hard core drinking drivers.¹ NHTSA's data also indicate that 99,812 people were injured in fatal crashes involving hard core drinking drivers (as defined by the Safety Board) during that same time period. In 1998 alone, hard core drinking drivers were involved in a minimum of 6,370 highway fatalities, the estimated cost of which was at least \$5.3 billion.

In preparing this report, the Safety Board reviewed the literature on countermeasures that have been found effective in reducing recidivism, crashes, fatalities, and injuries. This report identifies the highway safety problem involving hard core drinking drivers, discusses research on control measures, and proposes solutions. It also discusses steps taken by the United States Congress to address the hard core drinking driver problem by enacting certain provisions in the Transportation Equity Act for the 21st Century (TEA-21), and recommends that the Department of Transportation evaluate modifications to the provisions of TEA-21 so that it can be more effective.

TEA-21 may better assist the States to reduce the hard core drinking driver problem if it were modified to include items such as those in the NTSB model program, listed below.

The Safety Board believes that a model program to reduce hard core drinking driving should incorporate the following elements:

<http://www.nts.gov/publicn/2000/SR0001.htm>

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- Frequent and well-publicized statewide sobriety checkpoints that include checking for valid driver's licenses. Checkpoints should not be limited to holiday periods.
- Vehicle sanctions to restrict or separate hard core drinking drivers from their vehicles, including license plate actions (impoundment, confiscation, or other actions); vehicle immobilization, impoundment, and forfeiture; and ignition interlocks for high-BAC first offenders and repeat offenders.
- State and community cooperative programs involving driver licensing agencies, law enforcement officers, judges, and probation officers to enforce DWI suspension and revocation.
- Legislation to require that DWI offenders who have been convicted or administratively adjudicated maintain a zero blood alcohol concentration while operating a motor vehicle.
- Legislation that defines a high blood alcohol concentration (0.15 percent or greater) as an "aggravated" DWI offense that requires strong intervention similar to that ordinarily prescribed for repeat DWI offenders.
- As alternatives to confinement, programs to reduce hard core drinking driver recidivism that include home detention with electronic monitoring and/or intensive probation supervision programs.
- Legislation that restricts the plea bargaining of a DWI offense to a lesser, non-alcohol-related offense, and that requires the reasons for DWI charge reductions be entered into the public record.
- Elimination of the use of diversion programs that permit erasing, deferring, or otherwise purging the DWI offense record or that allow the offender to avoid license suspension.
- Administrative license revocation for BAC test failure and refusal.
- A DWI record retention and DWI offense enhancement look-back period of at least 10 years.
- Individualized sanction programs for hard core DWI offenders that rely on effective countermeasures for use by courts that hear DWI cases.

CONCLUSIONS

1. Efforts by public and private entities have contributed to substantial reductions since 1983 in the number of fatalities (23,646 to 15,794) and proportion (56 percent to 38 percent) of alcohol-related crashes.
2. While hard core drinking drivers constituted only 0.8 percent (1 of 119) of all drivers on the road in the National Roadside Survey, they constituted 27 percent of drivers in fatal crashes during the same time period in 1996. These data clearly suggest that hard core drinking drivers are overrepresented in fatal crashes.
3. Hard core drinking drivers (repeat offender drinking drivers with a prior DWI arrest or conviction within the past 10 years and offenders with a blood alcohol concentration of 0.15 percent or greater) pose an increased risk of crashes, injuries, and fatalities. Therefore, the States should target hard core

<http://www.nts.gov/publicn/2000/SR0001.htm>

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drinking drivers to further reduce the significant loss of human life and immense societal costs they cause.

4. Administrative license revocation is an effective measure to reduce alcohol-related crashes and fatalities.
5. Publicized DWI enforcement including sobriety checkpoints can be very effective in identifying the hard core drinking driver and in reducing alcohol-involved driving and alcohol-related crashes.
6. Sobriety checkpoints provide an opportunity to apprehend not only alcohol-impaired drivers but also unlicensed drivers and those who are driving on licenses suspended or revoked for DWI.
7. Vehicle sanctions to separate the hard core drinking driver from his or her vehicle or to prevent him or her from drinking while impaired appear to be effective tools in reducing hard core drinking driver recidivism.
8. Laws restricting plea bargaining have been found to reduce the number of DWI repeat offenses as well as the number of alcohol-related crashes.
9. Diversion programs that allow license retention or erasure of DWI offenses from the driver's record may prevent the State from prosecuting hard core drinking drivers as repeat offenders in the future.
10. The elevated crash risk and potential for recidivism of high-BAC (0.15 percent or greater) drivers constitute a safety problem that warrants State legislation creating a high-BAC "aggravated" alcohol offense.
11. The optimal way to target hard core drinking drivers to reduce the crashes, injuries, and fatalities they cause is with a comprehensive program that would include items such as those included in the NTSB model program.
12. TEA-21 may be more effective in assisting the States to reduce the hard core drinking driver problem if it were modified to include items such as those included in the NTSB model program.

SAFETY RECOMMENDATIONS

As a result of this study, the National Transportation Safety Board makes safety recommendations as follows:

to the States and the District of Columbia

Establish a comprehensive program that is designed to reduce the incidence of alcohol-related crashes, injuries, and fatalities caused by hard core drinking drivers, that includes items such as those included in the NTSB model program.

to the Department of Transportation

Evaluate modifications to the provisions of the Transportation Equity Act for the 21st Century so that it can be more effective in assisting the States to reduce the hard core drinking driver problem, and recommend changes to Congress as appropriate. Considerations should include

<http://www.nts.gov/publicn/2000/SR0001.htm>

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the following: a) a revised definition of "repeat offender" to include administrative actions on driving-while-impaired offenses; b) mandatory treatment for hard core offenders; c) a minimum period of 10 years for records retention and driving-while-impaired offense enhancement; d) administratively imposed vehicle sanctions for hard core drinking drivers; e) elimination of community service as an alternative to incarceration; and f) inclusion of house arrest with electronic monitoring as an alternative to incarceration.

Member John Hammerschmidt will provide a dissenting opinion on conclusion #12 and the safety recommendation to the Department of Transportation. Member George Black was not present and will vote at a later date.

1 Nineteen ninety-eight is the most recent year for which complete data are available from the National Highway Traffic Safety Administration.

[NTSB Home](#) | [Press Releases](#)

<http://www.nts.gov/publictn/2000/SR0001.htm>

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Testimony of Janet Demarais Seaworth
Executive Director
North Dakota Beer Wholesalers Association

HB 1120
House Transportation Committee

Mr. Chairman, members of the committee, my name is Janet Seaworth. I am the Executive Director of the North Dakota Beer Wholesalers Association. Our association is comprised of 17 family-owned and operated beer distributors in North Dakota. Our beer wholesalers, along with our brewers, have been involved in the fight against drunk driving for a long time.

It appears to us that despite the progress we have made in the fight against drunk driving, a significant problem remains. That problem can be attributed to drivers with very high blood alcohol levels, who tend to have a history of alcohol related traffic offenses. In 1991, a study funded by Anheuser-Busch, and conducted by the Traffic Injury Research Foundation of Canada, and based on U.S. data, confirmed that an effective anti-drunk driving program should focus on the segment of the population that poses the greatest risk - that is, the high BAC repeat offender.

Most recently, a final report issued in June 2000 by the National Transportation Safety Board and relating to the serious traffic safety problem posed by the "hard core drinking driver" recommended that a program to address high BAC and repeat offenders should incorporate vehicle sanctions to restrict or separate the hard core drinking drivers from their vehicles, including ignition interlocks for high-BAC first offenders and repeat offenders.

We believe that targeting high BAC drivers and repeat offenders, and dealing directly with the drunk driving problem is fair and sensible and we support it. We urge your favorable consideration of HB 1120.

Thank you.

For more information, contact the North Dakota Beer Wholesalers Association, P.O. Box 7401, Bismarck, ND 58507; (701)258-8098.

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SENATE TRANSPORTATION COMMITTEE

February 27, 2003

**North Dakota Department of Transportation
Keith C. Magnusson, Deputy Director for Driver and Vehicle Services**

HB 1120

The North Dakota Department of Transportation prefiled HB 1120 as an agency bill. This bill concerns repeat DUI offenders who operate a vehicle while under the influence of drugs or alcohol. It is intended to conform North Dakota law to the Transportation Equity Act for the 21st Century (TEA-21) Restoration Act. That law and subsequent federal regulations mandate certain sanctions for repeat offenders. The mandate applies only to convictions and not to administrative proceedings.

This is a safety issue, aimed at drivers who drink and drive and have not been, or will not be, affected by other laws, most of which are intended to prevent serious problems from developing in the first place (such as the .08 BAC proposal).

In previous sessions, you considered repeat-offender bills. All federally mandated provisions have been added to North Dakota law except for mandatory impoundment, immobilization, or interlocks. We have had a running disagreement with the National Highway Traffic Safety Administration on interpretation of those mandatory provisions, but we have not prevailed.

As long as North Dakota law does not conform to the federal law and regulations on repeat offenders, certain highway funds will be transferred to safety (drinking and driving) and may not be used for road construction or maintenance (except for "hazard elimination"). On October 1, 2000, there was a transfer of 1.5 percent of several categories of federal funds, amounting to about \$1.8 million. On October 1, 2001 there was an identical 1.5 percent (\$1.9 million) transfer. On October 1, 2002, the transfer penalty increased to three percent and amounted to about \$4.3 million. We have thus transferred about \$8 million away from highways, and the three-percent (\$4 million or more) transfer penalty will be applied every year until we conform our state law to the federal mandate.

The amendment found in HB 1120 would require that the judge order the installation of an ignition interlock system on any vehicle owned or operated by the person for a set period of time that the court deems appropriate after the conclusion of a suspension or revocation. The court has always had the discretion to do this; the amendment would make it mandatory. This would comply with federal law. In the past, we have considered immobilization or impoundment, but they place a burden on law enforcement as well as other family members who need to drive. Law enforcement would not have to be involved in the interlock situation, and other family members could drive as long as they had not been drinking. This seems to be the least onerous of the mandatory alternatives. There would be a cost to the driver for the systems or devices. The department would work with the companies providing interlocks to receive assurances that they had been installed so we could get the license back to the driver.

When federal funds are transferred away from highways and into the safety account, it is cumbersome finding ways to put as much as possible onto the highways (using the "hazard elimination" exception) and still comply with the transfer law. If Congress removes the exception, putting the \$4 million per year into highway construction will become all but impossible.

Life Safer



FC-100

- **Alcohol-specific fuel cell based sensor**
- **Meets or exceeds NHTSA standards**
- **Commercially introduced 1998**
- **Approximately 7500 in use**
- **Certified and in use in 15 states**
- **Software developed from SC100 platform**

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THE LIFESAVER INTERLOCK - MONITORING

TECHNOLOGY

The LifeSaver SC 100 is a hand-held device that attaches a breath-alcohol analyzer to a vehicle's ignition system. The vehicle operator must complete a breath test measuring BrAC (breath alcohol concentration) below a preset limit before the vehicle can be started.



The device was designed to meet or exceed technical guidelines for Interlock Devices published April 7, 1992 by NHTSA (National Highway Traffic Safety Administration.)

PRODUCT DESIGN AND FEATURES

HUM TONE. Programmable ON or OFF. Requires the client to deliver a hum resonance while blowing the alcohol test prior to starting the vehicle. Deters techniques utilized to mimic human breath or to absorb alcohol.

RANDOM OR FIXED RETEST. Programmable. The client is alerted and given a grace period to retest after the vehicle is put into the run state. The test can be delivered while operating the vehicle or after pulling off the road. Breath test

refusal or failure is recorded and sanctions are imposed including honking of the car's horn. Deters drinking and completing a sober start and vehicle idling at bars.

PROGRAMMED LOCKOUT. An option setting whereby the interlock is programmed to accept a breath test during specified times and otherwise remain interlocked. When applied will restrict driving hours and allows for the device to be temporarily used as an immobilization tool.

BYPASS DETECT. If a vehicle is started and the breath test is not passed, the horn will begin honking until the vehicle is turned off or a breath test is successfully completed. All events are recorded. Deters hot-wiring and push-starting of vehicles.

EVENTS LOG. A built-in memory chip records all events associated with the use or misuse of the device. Reports are generated through a personal computer in a summary and complete hard-copy format.

VIOLATIONS RESET. Programmable. If the predetermined number of violations occurs during a monitoring period, an early inspection is required within three (3) days. Failure to report will result in immobilization of the vehicle. Violations are quickly identified and reported to the jurisdiction.

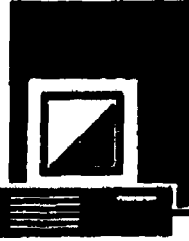
SERVICE REMINDER RESET. Reminds the client of scheduled monitoring check. Failure to have the device



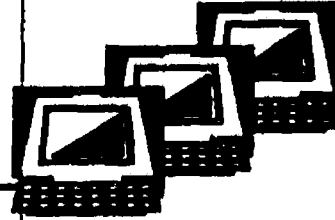
LifeSaver SC100
• Data stored in memory chip
• Individualized programming of unit.



Local Service Agents
• Software driven program through laptop or PC.
• Monitoring data transfer via modem to host.
• Generation of all hard copy forms, reports and referral documentation.



Host Manufacturer/Master Distributor
• Control programming of all units.
• Manage all client information, report via remote.
• Automatic inventory management, re-ordering, stocking and billing.



Remote Access
• Jurisdictions, agencies, employers.
• Effective monitoring.
• Easy referral.

EXHIBIT 1

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AND INTERVENTION THROUGH TECHNOLOGY.

monitored within the prescribed time period results in the
ice interlocking.

POWER INTERRUPT. A dated record in the event 12 volt power has been disconnected or interrupted. The device maintains memory through an onboard back-up lithium battery. This condition (other than tampering) can occur when a vehicle's battery is disconnected due to repairs or is replaced. Clients are required to provide documentation of repairs.

VEHICLE RESTART. In the event of a vehicle stall, the driver has a grace period during which the ignition can be turned off and re-engaged without having to submit an additional breath test.

EMERGENCY BYPASS. Programmable. If the Bypass is invoked, the client has three (3) days to return to the service location before the vehicle is immobilized. Proof of an emergency is forwarded directly to the referring agency. Service Centers may be pre-authorized to invoke the Emergency Bypass in the event of a device malfunction.

SERVICE CAPABILITY

LifeSafer contracts primarily with private Service Providers to develop a dedicated service network to deliver the technology to the criminal justice market.

MANUFACTURING AND SUPPORT SERVICES

The Company supports the delivery of LifeSafer SC100 by providing a software-controlled quality control plan at the manufacturing and service location sites and an 800 toll-free technical support line.

HOST INFORMATION MANAGEMENT SYSTEM

LifeSafer licenses proprietary software that controls the programming of the device and guarantees integrity of the information that is extrapolated from the EVENTS LOG chip.

REFERRING AGENCY AND JURISDICTION SUPPORT

- LifeSafer provides a security-coded electronic link and remote access to the Host System.
- Referrals directly entered into the system and routed to the appropriate service center location.
- Daily non-compliance reporting downloaded directly to the Remote Access site.
- On-screen and hard copy reports for investigations.
- Random auditing of all client programs.
- National program transfer for client relocation.

PROGRAM COSTS

- Client-paid rental program averages \$2.00 per day plus an installation fee.
- LifeSafer provides a subsidy program for qualified economic hardship cases.

1-800-531-0006

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Question & Answer

1. What is the Guardian Interlock system?
2. What is the Guardian Interlock Responsible Driver Program?
3. Is the Guardian Interlock difficult to use?
4. What if someone else wants to drive my car?
5. Will the Guardian Interlock system work in my car?
6. Can it affect my car?
7. Can I cheat the system?
8. What is the rolling retest and will it shut off my car?
9. Is the Interlock alcohol specific?
10. How long does the program last and how much does it cost?
11. Do you offer financing?
12. Will my car start if I have been drinking?
13. What if I cannot get my car started?
14. What are the benefits of participating in the Guardian Interlock Responsible Driver Program?

What is the Guardian Interlock system?

The Guardian Interlock system is an alcohol detection device that is connected to your vehicle's ignition system. Each time you start your car you must first blow into the handset so that it can test for alcohol on your breath. If you pass the test, you can start the car. If you do not pass the test your car will not start.

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What is the Guardian Interlock Responsible Driver Program?

The Guardian Interlock Responsible Driver Program can help you become a more responsible driver and keeps the court informed of your progress. Usually, participating in the program is a condition of your probation or a requirement to get your license back. To enroll in the program you must usually follow these steps:

- You are notified by either the court or the state that you are required to have an interlock installed on your vehicle.
- Next, you call the Guardian Interlock Service Center nearest you to make an appointment. Installation can be done at a time convenient to you during our business hours.

<http://www.guardianinterlock.com/Q&A.htm>

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- At the time of installation, a Guardian Interlock service technician teaches you how to use the system properly.
- Finally, you are required to report to the Guardian Interlock Service Center at specific times so that the unit can be inspected and your progress reported to the court or the state.

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Is the Guardian Interlock difficult to use?

Learning to use the Guardian Interlock is not difficult. At your installation appointment you will be fully trained by the service technician and will have the opportunity to practice on a demonstrator unit and your own unit. After a few days, using the system will become second nature, no more inconvenient than buckling your seat belt.

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What if someone else wants to drive my car?

Any family member who uses your car should come with you when the system is first installed. They will be instructed on the use of the interlock. If it is more convenient, family members can make an appointment for training at a later date.

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Will the Guardian Interlock system work in my car?

The system is designed to work in all cars and trucks. As an additional service, your vehicle's electrical system is tested to ensure that it works properly. In the event that the electrical system needs repair, work must be completed before the system can be installed.

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Can it affect my car?

No. The Guardian Interlock system is designed to interfere with your vehicle's operation as little as possible. Your vehicle will be returned to "normal" at the time the system is removed.

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Can I cheat the system?

Not without being caught. Your system keeps a record of every transaction you have with your interlock along with the date, time and alcohol level. It can also be set to require a random retest after you start your car. If this retest is failed or refused or if the unit detects that the car is running and no breath test has been given it resets its internal calendar, requiring you to return to the service center early. This activity is then reported to the authorities and a reset fee is charged by the service center.

<http://www.guardianinterlock.com/Q&A.htm>

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Dennard Hall
Operator's Signature

12/2/03
Date

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What is the rolling retest and will it shut off my car?

The rolling retest is a device used to ensure that the driver of the car is not drinking and driving. It requires a random test as you drive down the road (after the initial test is passed and the car is started). **The interlock cannot shut off your car.** If this test is failed or refused it will cause your lights to flash and your horn to honk until you pull over and turn the car off. The interlock then resets its internal calendar requiring you to report back the service center early.

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Is the Interlock alcohol specific?

In order to offer you the lowest cost unit in the country we have chosen not to make the Guardian Interlock alcohol specific. Your service technician will cover the do's and don'ts of the system that will make it hassle free.

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How long does the program last and how much does it cost?

The court or state determines how long you must be in the program, however the minimum lease period is 6 months. The program cost less than \$2.00 per day. This charge covers the lease and all scheduled appointments.

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Do you offer financing?

Most Guardian Interlock Service Centers accept Master card and Visa. Prepaying your lease on your bank card could lower your payments to as little as \$10-\$20 per month.

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Will my car start if I have been drinking?

When your system is installed, the service technician will explain to you the alcohol settings for your assigned system and the different conditions that can cause you to fail the breath test.

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What if I cannot get my car started?

<http://www.guardianinterlock.com/Q&A.htm>

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Date

First review your operating guide that you will receive at the time of installation. If that does not clear up the problem, call you local service center.

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What are the benefits of participating in the Guardian Interlock Responsible Driver Program?

Most participants in the program are on probation for one or more drinking and driving offenses. Offenders who want to help monitor themselves and who agree to participate in the Guardian Interlock Responsible Driver Program are permitted privileges that the court may not otherwise be inclined to grant. Officials are responding very positively to offenders who choose to participate in this program. They recognize that the Guardian Interlock Responsible Driver Program can help you to drive responsibly. It may even keep you from repeating your offense.

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The Guardian Interlock Responsible Driver Program is an economical solution for retaining your driving privileges.

Remember,

when you choose to participate in the Guardian Interlock Responsible Driver Program, you are given the opportunity to retain a privilege and to make wiser decisions about driving.

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Revised: May 16, 2000.

<http://www.guardianinterlock.com/Q&A.htm>

12/20/2000

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Donna Hall
Operator's Signature

12/2/03
Date