

January 20, 2011

Dear Members of the Kansas Legislature:

I have been asked to comment on your deliberations about the .08 interlock bill that proposes the extension of the Kansas Ignition Interlock Program to all DUI offenders, including first time offenders with BAC at .08% or greater. I believe I can comment on this with some authority, and with no conflicts of interest.

I have conducted original research on ignition interlocks beginning in 1989 and I currently serve as the Chair of the Interlock Working Group of the International Council of Alcohol Drugs and Traffic Safety. We have a research and program group here at the Impaired Driving Center (and Alcohol Policy Research Center) of PIRE with 10 senior researchers who focus on impaired driving research along with about 35 other staff.

Our parent institute is PIRE (www.pire.org). PIRE has approximately 300 employees spread around the USA in 8 Centers; our mission is to conduct research and development in areas of public health and safety. PIRE is a publicly-funded, not for profit, research institute with no financial ties to either the interlock or alcohol industries.

My colleague, Robert Voas and I drafted the original Breath Alcohol Ignition Interlock Model Specifications for NHTSA of the US Department of Transportation, published in the Federal Register in 1992. The 1992 Model Specs are now in the revision process and we hold the contract to summarize public input on the new revision. Voas, now at age 82, is perhaps the most eminent alcohol traffic safety research scientist in the USA. Voas and I have published approximately 50 or more research papers on various aspects of ignition interlocks and much of that work can be found easily on the Internet. I have held the Ph.D. degree and conducted research since 1973, Voas since the 1950s.

Senate Judiciary

1-26-11

Attachment 11

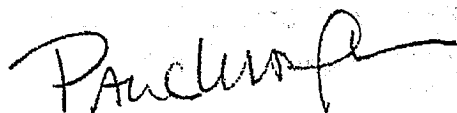
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Our 1992 Model Specifications Report was NHTSA's first effort to organize the growing States' interest in interlock devices. At the time of the 1992 document there was not enough information to make recommendations on how the actual interlock programs (as distinct from the devices) should be structured to maximize public safety, simply because there was no base of real evidence. In the intervening years between the 1992 Model Specifications and today, the installed base of interlocks in the USA has grown from 1,000 to 212,000.

Today the interlock program picture is much clearer, and today our ability to make evidence-based recommendations is on much firmer foundation. For example, we here at PIRE conducted literature reviews, surveys of experts in about 20 interlock states, and convened an expert panel meeting in 2007. The report on that work "Key Features of Ignition Interlock Programs", available at (http://www.nhtsa.gov/staticfiles/nti/impaired_driving/pdf/811262.pdf) was published by NHTSA in March of 2010. In the Report we make clear that the evidence for first offender interlock program effectiveness is quite strong and that the public risk posed by first offenders is not only far from insignificant, it is not a whole lot less than the risk posed by second offenders. One of our research papers dealt explicitly with first offenders interlocks (Roth et al., 2007). Another first time DUI offender risk paper was published last year by a group at Westat (Rauch et al., 2009). Our comprehensive report on the New Mexico Ignition Interlock program was also published in 2010 by NHTSA and it can be found at the following link...(<http://www.nhtsa.gov/staticfiles/nti/pdf/811410.pdf>).

In the pages that follow, I have assembled some of the evidence regarding first offender risk that you might find worthwhile. Please let me know if I can help in your deliberations.

Respectfully submitted,



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Senior Research Scientist

First Offender vs. Repeat Offenders: Are They Very Different?

The earliest interlock programs in the US and Canada were restricted to repeat DUI offenders. By the late 1990s, the earliest controlled interlock effectiveness evidence showed they strongly reduced recidivism. But it soon became clear that because about two-thirds of DUI offenders are first time offenders, interlock programs would not make much contribution to safety as long as interlock laws applied only to repeat offenders. Slowly that has begun to change. The argument for first offender interlocks is straightforward since the public risk posed by first offender alcohol use is very significant and it is much more so than the risk posed by non-offenders. First time offenders are very rarely first time drinking drivers. Estimates suggest that there are between 200 to 1000 episodes of alcohol impaired driving for each arrest. The chance of arrest is smaller than we would like.

Two studies, one in New Mexico and one in Maryland provide evidence that addresses first offender risk. Figure 1 (left panel) shows that the 2006 DUI arrest (or re-arrest) rate (vertical axis) of first time offenders in New Mexico based on their DUI status in 2003 (horizontal axis). It shows that the rate of first offender re-arrest is 5 times higher than the likelihood of non-offenders being arrested. In fact, the first offender re-arrest rate is only about 25% less than that of second time offenders' re-arrest rate.

In the right side panel, evidence from Maryland based on 31 years of driver records in which offenders were classified as having 0 to 3 or more prior violations for alcohol among 21 million drivers in the state record system. For those with any alcohol violations (even if not logged as a conviction), the average annual rate of additional violations for those with one violation is 7 times higher than for those with no violations. Similar to the New Mexico data, those with one violation have fewer, but not many fewer than those with 2 violations. By the time someone receives a first DUI arrest or conviction there may have been prior plea-downs or various forms of judicial leniency, such as probation before judgment. A first DUI offender is rarely a first time drinking-driver. And evidence such as this helps to demonstrate this risk.

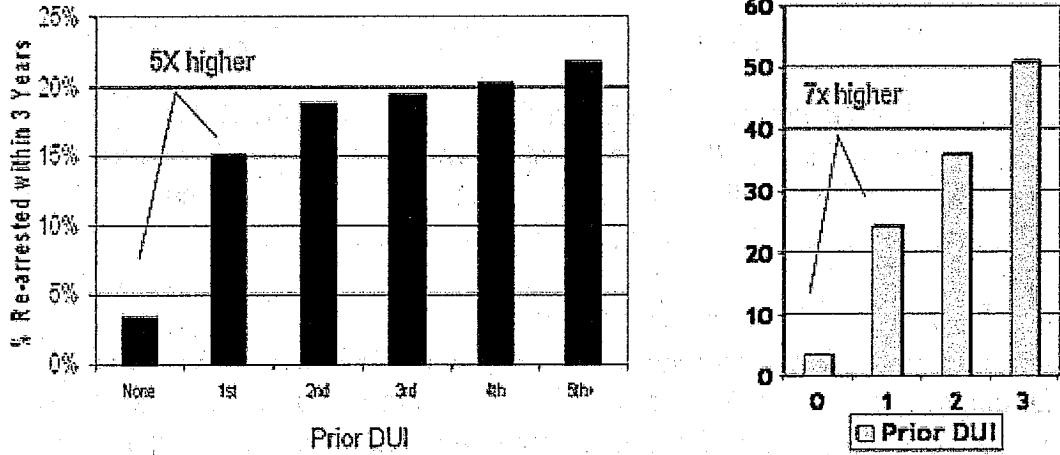
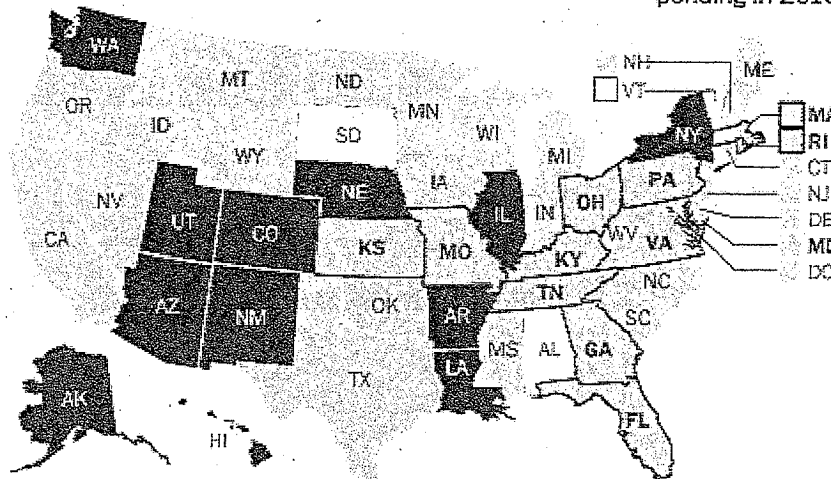


Figure 1: First Offender Alcohol Risk. Left panel shows 2006 DUI arrest data based on the number of convictions in 2003 (New Mexico: Marques, Voas, Roth, Tippetts; 2010). Right panel reflects alcohol violations on the Maryland driver record by past DUI convictions (Maryland: Rauch, Zador, Ahlin, Howard, Frissell, Duncan; 2009).

As you likely know, Kansas logged 386 road fatalities in 2009; 154 or 40% involved a driver with a BAC at or above .08%. In addition to deaths, which are easier to count, there are thousands life transforming injuries due to alcohol impaired drivers in every State. If the Kansas legislature should decide to pass the mandatory DUI legislation covering all offenders, the state will not be alone. Far from it; many States have been debating similar legislation that would extend interlocks as a mandatory sanction for all DUI offenders. As part of the public information surrounding this issue in the jurisdictions near the District of Columbia, a graphic summarizing the status of ignition interlock laws in general, and first offender laws specifically, was published in the Washington Post by staff writer (Ashley Halsey III) on March 2, 2010. It is a nice summary and I have no reason to believe it is not accurate (but we do not track laws here). The chart is shown below. At the time of the publication, States with current first offender interlock laws are in dark fill. Those, including Kansas, considering first offender interlock laws are shown in red outline. The graphic makes it evident that first offender interlock laws, and the states with laws under consideration, do not break down in conventional liberal, moderate, or conservative lines. The first law that was mandatory for all offenders was passed in 2005 by New Mexico. Since 2005, 11 additional states (dark fill) have already passed laws that mandate interlocks for all convictions and 11 more (red outline) appear to have considered similar bills.

Mandatory for all convictions
 Discretionary
 No interlock law
 First-time offender interlock bills pending in 2010



If first-time drunken driving offenders in Colorado don't install an ignition breathalyzer, their license suspension is longer. In California, the ignition breathalyzer is mandatory for all convictions in Alameda, Los Angeles, Tulare and Sacramento counties. Mandatory for high blood alcohol content conviction in Florida, New Hampshire, Kansas and Virginia; mandatory for two offenses or higher in Massachusetts; mandatory for repeat conviction in Missouri; mandatory upon reinstatement in Oregon; mandatory for repeat convictions or first-time offenders with a blood alcohol content at or above 0.15 in New Jersey; mandatory for a repeat conviction in South Carolina and Texas; mandatory for 0.15 or higher blood alcohol content conviction in West Virginia; judicial discretion on third or subsequent offense in Rhode Island. The mandatory law in Hawaii is expected to be effective in 2011.

References

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