

The Barriers to Interlock Effectiveness

Presentation to the 2005 Lifesavers conference

Robert B. Voas,¹ Richard Roth,² and Paul R. Marques¹

¹*Pacific Institute for Research and Evaluation*

²*Governor's Ignition Interlock Task Force (New Mexico)*

Introduction

Interlocks are effective. There is strong evidence that DUI offenders who participate in interlock programs have 50 to 75% lower recidivism rates while the interlock is in place than similar offenders whose licenses have been fully suspended (Coben & Larkin, 1999; Shults et al., 2001; Voas, Marques, Tippetts, & Beirness, 1999). The main challenge to this evidence is the inability of most courts to motivate more than 10% of the DUI offenders to participate in interlock programs (Simpson, Mayhew, & Beirness, 1996). This suggests that interlock participants might be those who would have had lower recidivism rates in any event. With the exception of one study (Beck, Rauch, Baker, & Williams, 1999), no randomized studies within the judicial setting have been conducted; therefore, it has not been possible to fully resolve this issue. However, early results from studies of the interlock law in Quebec, Canada, where usage rates are substantially higher, have found substantial recidivism reductions among interlock users (Vézina & Dussault, 2001). Despite the lingering question of how extensively the personal characteristics of interlock users contribute to their lower recidivism rates, it appears clear that placing driving-under-the-influence (DUI) offenders on interlocks, rather than simply suspending their licenses, reduces the probability of their being rearrested for impaired driving.

Mandatory programs may conflict with license suspension/revocation laws. Although several states have mandated interlocks for multiple DUI offenders, such programs have generally failed to produce a high proportion of offenders on interlocks. An important barrier to the effectiveness of such laws has been the conflicting requirements of laws mandating administrative license actions by departments of motor vehicles (DMVs). These include implied-consent suspensions/revocations for refusals of the breath test, administrative license revocation/suspension (ALR/ALS) laws for offenders with blood alcohol concentrations (BACs) higher than the per se limit, and mandatory suspensions/revocations for a DUI conviction. These laws generally specify a minimum period of full or "hard" license suspension/revocation for a DUI offender that precludes the issuance of a limited or "hardship" license to go to and from work or a limited license for driving an interlock-equipped vehicle. Judges have generally been unwilling to require the installation of an interlock when the offender is fully suspended or revoked and unable to drive legally under any circumstances.

California provides an example of such a conflict. State law requires a 2-year hard suspension for second DUI offenders and, simultaneously, requires judges to impose a mandatory interlock law sanction on multiple offenders. Despite the interlock mandate, few judges applied the sanction. They argued that it would send the wrong signal suggesting that,

despite the full suspension, the court expected the offender to drive anyway. DeYoung (2002) studied the implementation of the California interlock law and found that only a small portion of all eligible offenders installed interlocks. Further, the interlock programs were poorly monitored and many offenders failed to install interlocks despite the court order. Consequently, they appeared to have little impact on recidivism. Although the old, relatively unused law is still in place, California has enacted new legislation that allows offenders the option of installing an interlock during the second year of the mandatory full-suspension period (DeYoung, 2002).

TEA is a barrier to interlock use. Congress, in reauthorizing the Highway Safety Act—the Transportation Equity Act for the 21st Century (TEA-21)—required states to enact a minimum one-year hard suspension for second DUI offenders or face a 3% transfer of their highway construction funds to safety programs. This disrupted some existing mandatory interlock programs such as that in Texas, which provided for one year on the interlock for second DUI offenders from the date of their conviction. TEA-21 required states to provide for the impoundment of the vehicle or the installation of an interlock on the vehicle of second offenders. Because imposition of the interlock by the court following conviction was in conflict with the mandatory one-year hard suspension/revocation, a number of states (Colorado, Michigan, and Florida among others) have enacted laws requiring offenders to install the interlock as a condition for license reinstatement after they have completed the hard suspension/revocation period. Since many DUI offenders do not reinstate when eligible and some postpone reinstatement indefinitely, the effectiveness of that procedure remains to be determined.

Three types of DMV policies. Court-ordered interlock programs make the interlock a condition of probation and, potentially, provide the strongest incentive for offenders to install interlocks because failure to do so can result in relatively severe consequences. However, the court action may be impacted by the various laws relating to the role of DMVs in imposing license suspensions on DUI offenders; these fall into three categories:

1. *DMV policies that relate to ALR/ALS laws:* DMV programs under ALR/ALS laws can either support or conflict with court interlock actions. They can support the court action if the law permits the issuance of a limited license to operate an interlock vehicle. Conversely, they can potentially interfere if the department is prevented by law from issuing limited licenses that permit the installation of an interlock for DUI offenders suspended under ALR/ALS laws. States with such policies include Texas and California.
2. *DMV policies that relate to suspension/ revocation periods:* Where state laws require a hard suspension period, interlock licenses can not be issued. On the other hand, some state laws provide for a portion of the administratively required full-suspension/revocation period to be served with an interlock vehicle. States with this type of policy include California and Delaware.
3. *DMV policies that relate to license reinstatement:* As noted, some state laws make the installation of an interlock a condition of reinstatement. They can delay eligibility for full reinstatement or prevent it without interlock

installation. Examples of states with this type of policy include Pennsylvania, Michigan, Iowa, Florida, and Oregon.

The New Mexico law: On January 1, 2003, New Mexico implemented a law that mandates interlocks for first-time aggravated offenders (arrest BAC \geq .16) and all repeat DUI offenders. To avoid a conflict with administrative revocation requirements, the state's legislature passed a companion law, Ignition Interlock Licensing Act (IILA), in March 2003, which became fully effective in June of that year. That innovative law has implications for all three types of administrative policies listed above. The law made it possible (with minor exceptions such as for those guilty of vehicle manslaughter) for revoked offenders to get a license to drive vehicles equipped with interlocks at anytime, provided they have insurance. This made it possible for suspended offenders, mandated by the courts to install interlocks, to obtain licenses to operate the interlocked vehicle, thus potentially eliminating the conflict. Nonetheless, the IILA did not overcome the problem created by TEA-21. New Mexico is still subject to the 3% transfer of its highway construction funds, however, because offenders can be on the interlock instead of being fully suspended during the first year following their conviction as required by the federal legislation.

The New Mexico interlock laws and their dates of passage are shown below:

- July 1999—Interlock is optional for second and third DUI.
- January 2003—Interlock is mandatory for all aggravated and repeat DUI.
- January 2003—Interlock indigent Fund:
 - Judges decide when it applies
 - Fund pays first 4 months on interlock
 - Fund levies 10% surcharge on interlock rental for nonindigents
- June 2003—IILA: An alternative to license revocation—allows for re-entry of DUI offenders if they install an interlock.

The June 2003 IILA law is important because it prevents a conflict between the requirements of the ALR/ALS law and court ordered interlock programs (item 1 above). The IILA also makes it possible for any currently suspended offender to avoid any or all of the revocation period by applying for an interlock license; it does not require a minimum period of revocation as do similar laws in other states (item 2 above). Conceptually, the IILA avoids the requirement for the imposition of the interlock as a condition of reinstatement because the full interlock period is served prior to eligibility for reinstatement (item 3 above). However, in some cases the statutory suspension period may expire before the court ordered interlock probation period has ended. In such cases it is up to the court probation department to carefully monitor offenders to insure that they remain on the interlock even though they are eligible for full license status. A bill is currently under consideration in the New Mexico Legislature which will insure that the license suspension period does not expire before the end of the court mandated interlock program.

A unique feature of the IILA provides that any offender can obtain an interlock license no matter how long the remaining period of revocation. In other states in that category, reinstatement is only permitted after the full revocation period has been completed. Although the New Mexico IILA is unique as it provides an option for long-time suspended offenders who would not be eligible in most states to receive a limited license to drive an interlock-equipped vehicle, obtaining an interlock license does not change their existing license revocation, so they must keep the interlock on the vehicle until that original license action expires if they wish to drive legally.

Important to the support of the mandatory law is the provision for an Interlock Indigent Fund, which reduces one factor often cited by the courts for not imposing the interlock on offenders who claim to be unable to meet the installation and monthly maintenance costs. None of the laws, however, overcome a major limitation in mandatory interlock programs, which is the ability of offenders (most of whom resist an interlock program) to avoid installation by claiming not to own or have access to a vehicle in which an interlock can be installed. Although this leaves the offender fully revoked under the state's ALR law, it prevents the court from mandating the interlock. The only potential remedy is to apply pressure for the offender to produce a vehicle on which an interlock can be installed by making the alternative to the interlock a more disliked penalty, such as electronically monitored house arrest. The effectiveness of this alternative for motivating the installation of an interlock was demonstrated by a judge in Indiana (Voas, Blackman, Tippetts, & Marques).

Limits on interlock use need to be eliminated: The use of interlocks has been limited by a number of factors, some of which are (1) the failure to prosecute DUI offenders or the acceptance of plea or sanction bargains that avoid interlock sanctions; (2) the conflict between ALR periods and interlock program periods; (3) the cost of interlock programs, (4) the ability of offenders to avoid the interlock requirement by claiming not to own a car or pledging not to drive; and (5) the failure of offenders to follow the court's instructions to install an interlock. The New Mexico interlock laws should reduce the affect of some of these factors. Because the administrative revocation for the DUI offense is imposed at the time of arrest and is independent of the court action, the immediate availability of an interlock license may make installation a method for continuing to drive with minimum interruption and reduce the interest in making the interlock an issue in plea bargains.

The principal impact of New Mexico's laws will be to remove the revocation status of the offender as a basis for the court not mandating an interlock. Because the issue of cost to the offender is reduced by the availability of the state's interlock indigent fund, this should clear the way for mandating the interlock on most, if not all, aggravated first DUI offenders and all second and subsequent DUI offenders. This objective is significantly threatened, however, by the provision of the law that allows the offender to avoid the interlock by pledging not to drive or by claiming not to have a car. Although offenders who make that choice will remain fully suspended, these provisions undermine the mandatory feature of the New Mexico law and make it more similar to "voluntary" programs in other states where offenders are simply offered the opportunity to install an interlock to drive legally rather than be fully suspended. An important issue in the study will be whether courts respond to low-installation rates by using other sanctions—such as house arrest—to motivate compliance with the mandatory interlock program.

An interesting sidelight provided by the IILA is its provision for the reentry of long-term suspended drivers to legal driving status through the installation of an interlock. Based on current interlock rates in “voluntary” programs, up to 10% of offenders serving long-term revocations may make use of this provision. This could provide for significant growth in the number of offenders in interlock programs. In the long term, it will be interesting to determine whether this provision produces an overall safety benefit. Although long-term revoked drivers are probably doing some impaired driving, they are likely to be restricting the amount of their driving overall to avoid apprehension. If they install interlocks, the amount of impaired driving may be reduced but overall driving mileage and exposure will probably increase, leading to greater non-alcohol-related crash involvement. Because long-term revoked drivers who elect to accept the interlock are likely to be a lower risk group than those who choose to continue to drive illicitly, it will be difficult to get an unbiased assessment of the effectiveness of this provision of the law.

References

- Beck, K., Rauch, W., Baker, E., & Williams, A. (1999). Effects of ignition interlock license restrictions on drivers with multiple alcohol offenses: A random trial in Maryland. *American Journal of Public Health, 89*, 1696–1700.
- Coben, J. H., & Larkin, G. L. (1999). Effectiveness of ignition interlock devices in reducing drunk driving recidivism. *American Journal of Preventive Medicine, 16*(1S), 81–87.
- DeYoung, D. J. (2002). An evaluation of the implementation of ignition interlock in California. *Journal of Safety Research, 33*, 473–482.
- Shults, R. A., Elder, R. W., Sleet, D. A., Nichols, J. L., Alao, M. O., Carande-Kulis, V. G., Zaza, S., Sosin, D. M., Thompson, R. S., & Task Force on Community Preventive Services. (2001). Reviews of evidence regarding interventions to reduce alcohol-impaired driving. *American Journal of Preventive Medicine, 21*(4 Suppl), 66-88.
- Simpson, H. M., Mayhew, D. R., & Beirness, D. J. (1996). *Dealing with the hard core drinking driver* (107 pp.). Ottawa, Canada: Traffic Injury Research Foundation.
- Vézina, L., & Dussault, C. (2001). *Programme d'antidémarrreur: Impact sur la récidence et les accidents au Québec*. Québec, Canada: Société de l'assurance automobile du Québec.
- Voas, R. B., Blackman, K. O., Tippetts, A. S., & Marques, P. R. (2002). Evaluation of a program to motivate impaired driving offenders to install ignition interlocks. *Accident Analysis and Prevention, 34*(4), 449-455.
- Voas, R. B., Marques, P. R., Tippetts, A. S., & Beirness, D. J. (1999). The Alberta Interlock Program: The evaluation of a province-wide program on DUI recidivism. *Addiction, 94*(12), 1849–1859.