



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

CONSENT REPORT
May 5, 2009

Honorable Members of the
Law and Legislation Committee

Subject: Legislative Position: Support AB 91 (Feuer): Vehicles: driving under the influence (DUI): ignition interlock device.

Location/Council District: Citywide

Recommendation:

Adopt a support position on AB 91 (Feuer) related to vehicles: driving under the influence (DUI): ignition interlock device.

Contact: Gina Haynes, Police Lieutenant, 808-0714

Presenters: Mike McCarthy, Police Captain

Department: Sacramento Police Department

Division: Metro

Organization No: 11001141

Description/Analysis

Issue: Staff is asking the committee to adopt a support position on AB 91, which would require the installation of an ignition interlock device (IID) on any vehicle owned or operated by anyone convicted of a drunk driving (DUI) offense.

Presently, the courts have the discretion of whether or not to require the IID for first time and repeat DUI offenders. The bill would require the court to mandate the IID for DUI first time and repeat offenders. This mandate would apply only if the offender chose to get his / her driving privilege reinstated. The cost of the IID would be borne by the DUI offender. With the IID installed on a car, the offender cannot start his or her car if the IID detects any measurable alcohol on the driver's breath. If no alcohol is detected, the offender can start the car and drive.

Under the pilot project, four counties, including Sacramento, would be chosen to require the installation of the devices. The project would start July 1, 2010 and continue until January 1, 2015.

Policy Considerations: This bill is consistent with the City's written and stated operational principle of promoting public safety and livability for all Sacramento residents.

Environmental Considerations: None.

Rationale for Recommendation: AB 91 is backed by the California Highway Patrol and would reduce the ability of convicted drunk drivers from driving while drunk and getting into accidents, especially those which cause wrongful deaths or personal injury to others. In states such as New Mexico and West Virginia where such devices are required to be installed on the vehicles of first-time offenders, repeat DUI offenses decreased from 60% to 70%.

In 2007, The Sacramento Police Department completed 1,870 DUI misdemeanor and felony arrests. This arrest total represents a 40 percent increase in DUI arrests from 2006 and almost double 2005 levels. Despite these increased arrests, the 2007 California Office of Traffic Safety rankings placed the City of Sacramento worst for alcohol involved collisions when compared to the 13 other cities in our state with population of greater the 250,000. This ranking is the same when comparing both average population and daily vehicle miles traveled.

Financial Considerations: The cost of the IID is borne by the drivers themselves and would have no fiscal impact on the City. For information purposes only, the cost of the IID is approximated at \$100 to \$200 for the installation and a monthly rental fee that varies between \$70 to \$100 per month.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: Mike McCarthy
Mike McCarthy, Captain

Approved by: Rick Brazier
Rick Brazier
Chief of Police

Recommendation Approved:

Ray Kerridge
RAY KERRIDGE
City Manager

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Attachment 1 - Draft Letter of Support

June 2, 2009

The Honorable Mike Feuer
California State Assembly
State Capitol, Room 3146
Sacramento, CA 95814
ATTN: Legislative Director

SUBJECT: Support AB 91 - Vehicles: driving under the influence (DUI): ignition interlock device.

Dear Assembly Member Feuer:

On behalf of the City of Sacramento, I am pleased to write in support of AB 91. The pilot program proposed in AB 91 would require the installation of an ignition interlock device (IID) on any vehicle owned or operated by anyone convicted of a drunk driving (DUI) offense. AB 91 is backed by the California Highway Patrol and would reduce the ability of convicted drunk drivers from driving while drunk and getting into accidents, especially those which cause wrongful deaths or personal injury to others. In states such as New Mexico and West Virginia where such devices are required to be installed on the vehicles of first-time offenders, repeat DUI offenses decreased from 60% to 70%.

Thank you for introducing this important legislation.

Sincerely,

SANDY SHEEDY, Chair
Law and Legislation Committee

cc: Senator Darrell Steinberg
Senator Dave Cox
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Mayor Johnson and Members of the City Council
David Jones, Emanuels and Jones and Associates

Attachment 2 – Bill Text

BILL NUMBER: AB 91 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MARCH 16, 2009

INTRODUCED BY Assembly Member Feuer
(Coauthors: Assembly Members
Hill, Huffman, Jeffries, Jones,
Nava, Saldana, and Torlakson
)
(Coauthors: Senators Cox
and DeSaulnier)

JANUARY 6, 2009

An act to add and repeal Chapter 5 (commencing with Section 23700) of Division 11.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 91, as amended, Feuer. Vehicles: ~~DUI:~~
driving under the influence (DUI): ignition interlock device.

(1) Existing law requires a person's privilege to operate a motor vehicle to be suspended or revoked for a specified period of time if the person has been convicted of violating specified provisions prohibiting driving a motor vehicle while under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, or with 0.08% or more, by weight, of alcohol in his or her blood or while addicted to the use of any drug, with or without bodily injury to another. Existing law also authorizes a person whose privilege is suspended or revoked in that manner to receive a restricted driver's license if specified requirements are met, including, in some instances, the installation of an ignition interlock device on the person's vehicle.

~~Existing law requires the Department of Motor Vehicles to immediately suspend the privilege of a person to operate a motor vehicle when, among other things, the person was driving a motor vehicle when he or she had 0.08% or more, by weight, of alcohol in his or her blood. Existing law specifies the period of that suspension depending on specified circumstances, including prior convictions of related offenses within a specified time period. Existing law authorizes a person whose privilege was suspended in that manner to receive a restricted driver's license if specified requirements are met.~~

This bill would require the department to establish a pilot program from July 1, 2010, to January 1, 2015, in ~~4 counties~~
the Counties of Alameda, Los Angeles, Sacramento, and San Diego that requires, as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated subsequent to a conviction for a violation of the above offenses, a person to install for a specified period of time an ignition interlock device on all vehicles he or she owns or operates and complete an enhanced

alcohol and drug treatment and rehabilitation program that focuses on rehabilitation. The amount of time the ignition interlock device would be required to be installed would be based upon the number of convictions , as prescribed.

The bill would also set up a statutory scheme under which the department would, with regard to the installation of an ignition interlock device described above, notify the person of the ignition interlock device installation requirements established under the bill, accept notification from the installer of the ignition interlock device of attempts to remove, bypass, or tamper with the device or if the person fails 3 or more times to comply with the maintenance requirements, monitor the installation and maintenance of the ignition interlock device, and keep specified records.

On or before January 1, 2014, the department would be required to report to the Legislature regarding the effectiveness of the pilot program in reducing the number of first-time driving under the influence violations and repeat offenses in those counties.

These requirements would be in addition to existing law.

(2) Because it is a crime to operate a vehicle that is not equipped with a functioning, certified ignition interlock device by a person whose driving privilege is so restricted, the bill would impose a state-mandated local program, by expanding the scope of that crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5 (commencing with Section 23700) is added to Division 11.5 of the Vehicle Code, to read:

CHAPTER 5. IGNITION INTERLOCK DEVICES

23700. (a) Notwithstanding any other provision of law, the Department of Motor Vehicles shall establish a pilot program in ~~the counties of _____, _____, _____, and _____ to reduce the number~~ *the Counties of Alameda, Los Angeles, Sacramento, and San Diego to reduce the number* of first-time violations and repeat offenses of Sections 23152 and 23153, as follows:

(1) The Department of Motor Vehicles, upon receipt of the court's abstract conviction for a violation listed in paragraph (8), shall inform the convicted person of the requirements of this section, including the term for which the person is required to have a certified ignition interlock device installed and a requirement that the person complete an enhanced alcohol and drug treatment and rehabilitation program. The records of the department shall reflect the mandatory use of the device for the term required and the time when the device is required to be installed by this code.

(2) The department shall advise the person that installation of an

ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(3) Before a driver's license may be issued, reissued, or returned to a person after a suspension or revocation of that person's driving privilege that requires the installation of an ignition interlock device, a person who is notified by the department pursuant to paragraph (1) shall complete all of the following:

(A) Arrange for each vehicle owned or operated by the person to be fitted with an ignition interlock device by a certified ignition interlock device provider under Section 13386.

(B) Notify the department and provide to the department proof of installation by submitting the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) Pay the fee, determined by the department, that is sufficient to cover the costs of administration of this section.

(4) The department shall place a restriction on the driver's license record of the convicted person that states the driver is restricted to driving only vehicles equipped with a certified ignition interlock device.

(5) (A) A person who is notified by the department pursuant to paragraph (1) shall arrange for each vehicle with an ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate and monitor the operation of the device.

(B) The installer shall notify the department if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(6) The department shall monitor the installation and maintenance of the ignition interlock device installed pursuant to paragraph (1).

(7) A person is required to install an ignition interlock device for the applicable term as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated subsequent to a conviction for a violation or a suspension of a person's driver's license, as follows:

(A) A person convicted of Section 23152 or whose driving privileges are suspended pursuant to Section 13353.2 shall be required to install an ignition interlock device, as follows:

(i) Upon a first offense, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of five months that begins once that person has provided proof of installation.

(ii) Upon a second offense, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 12 months that begins once that person has provided proof of installation.

(iii) Upon a third offense, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 24 months that begins once that person has provided proof of installation.

(iv) Upon a fourth offense or any subsequent violation, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 36 months that begins once that person has provided proof of installation.

(B) A person convicted of Section 23153 shall install an ignition interlock device, as follows:

(i) Upon a first offense, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 12 months that begins once that person has provided proof of installation.

(ii) Upon a second offense, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 24 months that begins once that person has provided proof of installation.

(iii) Upon a third offense, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 36 months that begins once that person has provided proof of installation.

(iv) Upon a fourth offense or any subsequent violation, the person shall install an ignition interlock device in all vehicles owned or operated by that person for a mandatory term of 48 months that begins once that person has provided proof of installation.

(8) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply to this section.

(9) If a person fails to comply with any of the requirements regarding ignition interlock devices, the mandatory term for which the ignition interlock device is required to be installed shall be reset by the department.

(b) The pilot program shall require a person subject to this chapter to complete an enhanced alcohol and drug treatment and rehabilitation program that focuses on rehabilitation.

(c) This section does not permit a person to drive without a valid driver's license.

(d) The requirements of this section are in addition to any other requirements of law.

(e) This section shall become operative on July 1, 2010.

23701. On or before January 1, 2014, the Department of Motor Vehicles shall report to the Legislature regarding the effectiveness of the pilot program authorized under this chapter in reducing the number of first-time violations and repeat offenses of Sections ~~23152 and 23153 in the counties of _____, _____, _____, and _____.~~ 23152 and 23153 in the Counties of Alameda, Los Angeles, Sacramento, and San Diego.

23702. This chapter shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.