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March 12, 2015

To: Chair Prozanski and members of the Senate Judiciary Committee,

From: Doug Harclerod, Executive Director, Oregon District Attorneys Association

### **OPPOSITION TO SB 394-ELIMINATING IGNITION INTERLOCKS FOR DUII DIVERSION CASES**

#### **IMPORTANT HISTORY**

The current law, HB 3075, (now ORS 813.602) **passed the House unanimously (60 to 0)** in the 2011 session and **passed the Senate 27 to 0** with three members excused. The law was amended without opposition in 2013 (HB 2116) to allow for medical and employment exemptions for persons otherwise required to install an IID device as part of a diversion agreement. The House Judiciary committee specifically considered a Dash 2 amendment to HB 2116 that would have made the installation of an IID in diversion cases discretionary with the judge and the amendment was not adopted. Ultimately, HB 2116 **passed the House 59 to 0 with one excused and passed the Senate with 30 aye votes.**

#### **THE IID LAW TODAY FOR DIVERSION PARTICIPANTS**

The current Oregon law requires all DUII diversion individuals to install and use an IID if they do not qualify for the medical or employment exemption. SB 394, if passed, would eliminate this requirement for DUII diversion participants and would take Oregon backwards in the fight against drunken driving as the research demonstrates.

#### **IGNITION INTERLOCK RESEARCH- RECIDIVISM IS REDUCED**

In 2011 I wrote a memo to the Ways and Means Committee summarizing the research which demonstrates that installed IIDs reduce drunken driving recidivism. I have reproduced the memo below. Since that time, in February, 2014 the National Highway Traffic Safety Commission published the second edition of "Ignition Interlocks-What You Need to Know." In short, it reaffirms that IIDs work to reduce DUII recidivism. Here is the summary straight from the report.

### **"Ignition Interlock Research**

Numerous research efforts have been conducted over the past 20 years concerning various aspects of ignition interlocks, from their value in reducing recidivism to offender compliance and long-term effects after interlocks have been removed. Highlights of the research are presented below.

#### **Effects on DWI Recidivism**

Research provides strong evidence that, while installed on an offender's vehicle, interlocks reduce recidivism among both first-time and repeat offenders. This includes high-risk offenders, i.e., those who repeatedly drive after drinking with high BACs, and are resistant to changing behavior.<sup>6</sup>

Once ignition interlocks are removed from a vehicle, however, recidivism rates of ignition interlock users increase and resemble the rates for offenders for whom interlocks were not required.<sup>7</sup>

**Interlocks and First Offenders.** Research projects studying unique offender populations, different measures of recidivism, and varying evaluation periods concluded that ignition interlock devices are effective in reducing recidivism of first-time DWI offenders.<sup>8</sup>

**Interlocks and Repeat Offenders.** A number of studies have examined repeat DWI offenders and ignition interlocks, concluding that interlocks reduced subsequent DWI behavior by those offenders while the interlock was installed on the vehicle.<sup>9</sup>

The record of breath tests logged into an ignition interlock has

been effective in predicting the future DWI recidivism risk. Offenders with higher rates of failed BAC tests have higher rates of post-ignition interlock recidivism.<sup>10</sup>

MY MEMO FROM 2011 REFERENCED ABOVE

Dear members of the committee.

1. There is extensive research showing that during the time IID's are installed there is reduced recidivism and some research from New Mexico that provides some evidence that when the interlock device is removed the offenders have lower cumulative recidivism for six years after installation.

The National Highway Traffic Safety Administration (NHTSA) prepared a 36 page report in November, 2009 covering many topics including recidivism research with IIDs. The link is: [http://www.nhtsa.gov/staticfiles/nti/impaired\\_driving/pdf/811246.pdf](http://www.nhtsa.gov/staticfiles/nti/impaired_driving/pdf/811246.pdf) if you want to view the entire report. Here is a portion of the report dealing specifically with reduced recidivism with the use of ignition interlock devices.

### **"Ignition Interlocks and First-Time DWI Offenders**

Four studies (EMT Group 1990; Morse & Elliot 1992; Tippets & Voas, 1998; Voas et al., 1999) with unique offender populations, different measures of recidivism, and varying evaluation periods concluded that ignition interlock devices are effective in reducing recidivism in first-time DWI offenders. Findings include:

A 2004 study of New Mexico's interlock program (Voas et al., 2005) compared a

◆◆ group of 862 offenders court-ordered to install interlocks with a group of 11,973 non-interlocked offenders. The study found interlocked offenders had a recidivism rate of 3.51 percent per year, compared to the non-interlocked group's rate of 7.09 percent, **a 50-percent reduction in recidivism while the interlock was installed on the vehicle.**

An Alberta, Canada (Voas et al., 1999), study compared interlocked first offenders to

◆◆control groups of reinstated and non-interlocked drivers. Measured against reinstated drivers, recidivism by interlocked first offenders was reduced by 89 percent; when compared to non-interlocked drivers, **recidivism was reduced by 95 percent while the interlock was installed on the vehicle.**<sup>8</sup>

### **Ignition Interlocks and Repeat Offenders**

Five studies involving repeat DWI offenders (EMT Group, 1990; Popkin et al., 1992; Morse & Elliot, 1992; Jones, 1993; Weinrath, 1997) have found that ignition interlocks are one of the most promising strategies available to prevent subsequent DWI behavior by these offenders. Research findings include:

A study in Maryland (Beck et al., 1999) examined 1,387 repeat offenders who were

◆◆eligible for license reinstatement. Half of the offenders were randomly assigned to receive an ignition interlock, the other half received no intervention. Participation in the interlock program reduced the risk of recidivism by almost 65 percent in the first year of the program, with an interlocked offender recidivism rate of 2.4 percent, compared to a non-interlocked offender rate of 6.7 percent while the interlock was installed on the vehicle.

An Illinois study (Raub et al., 2003) looked at two similarly sized groups of repeat

◆◆offenders who received restricted driving permits. One group was required to install ignition interlock devices, the second was not. After one year, interlocked offenders had a recidivism rate of 1.3 percent, compared to the non-interlocked recidivism rate of 8.7 percent—a reduction of 85 percent. Study authors also noted once interlocks were removed from the vehicles of the repeat offenders, there was a rapid return to pre-device recidivism rates.

Numerous studies (Beirness, 2001; Beirness et al., 1998; Jones 1993; Popkin et al.,

◆◆1993; Coben & Larkin, 1999; Marques et al., 2001; DeYoung, 2002; Raub et al., 2003) demonstrate ignition interlocks have a beneficial impact on recidivism *for as long as the device is installed in the vehicle*. Because of increased recidivism rates following removal of the device, several studies have reported that employing interlocks may be necessary as a long-term or permanent condition of driving for repeat offenders."

**Dr. Richard Roth, an expert in Ignition Interlock evaluation, prepared a power point presentation in 2010 showing research that interlocked DWI offenders in New Mexico have lower cumulative recidivism for six years after being interlocked. He also cautioned that unmeasured correlates, such as self-selection or judicial discretion, could enhance, reduce, or eliminate the difference in recidivism rates after interlock removal. Here is the link to the complete power point presentation: <http://www.rothinterlock.org/presentations.htm>. Open the link and scroll down to the year 2010. Then click on "2010 RSA Conference." Slides 8 through 13 have the recidivism data.**

2) Regarding Senator Winters question about Colorado ignition interlock laws, on page 20 of the NHTSA report( link provided above) begins a summary of all 50 states ignition interlock laws. Colorado passed their law in 2008 and ignition interlock devices a permissive for first time offenders and mandatory for repeat offenders. If you have time, you can review the chart in the report for all states in about 15 minutes.

Thank you for considering HB 3075. As the District Attorney who started the pilot interlock device program in Lane County in 2007, I believe ignition interlock devices are another valuable tool in the fight against injury and death by intoxicated drivers.

Sincerely,

Doug Harcleroad