

Date of Hearing: June 27, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1046 (Hill) – As Amended June 8, 2016

**SENATE VOTE:** 39-0

**SUBJECT:** Driving under the influence: ignition interlock device

**SUMMARY:** Extends and expands an existing pilot program to require the installation of an ignition interlock device (IID) for a specified period of time as a mandatory condition of receiving a restricted or reinstated driver's license for all driving under the influence (DUI) offenders statewide. Specifically, **this bill:**

- 1) Extends the existing pilot project requiring a person convicted of a DUI in one of four counties to install an IID, as specified, until July 1, 2017.
- 2) Requires, beginning July 1, 2017 every DUI or alcohol-related reckless driving offender to install an IID for a specified period of time, depending on the nature of a violation, in every motor vehicle they own or operate as a condition of having his or her driver's license reinstated.
- 3) Removes the time requirement a person must have a suspended license before he or she is able to apply for a restricted driver's license.
- 4) Provides that the Bureau of Automotive Repair, within the Department of Consumer Affairs, has oversight over the cost and installation of an IID.
- 5) Requires, by June 1, 2021, the Department of Motor Vehicles (DMV) to report to the Legislature regarding the implementation and efficacy of the expanded IID program, as specified.

**EXISTING LAW:**

- 1) Prohibits any person from driving a vehicle while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, and establishes numerous sanctions for a violation of this prohibition, including jail time, fees, participation in a DUI treatment program, and license suspension or revocation, as specified.
- 2) Prohibits any person from driving a vehicle while having 0.08% or more, by weight, of alcohol in his or her blood (BAC).
- 3) Provides that a person convicted of DUI for the first time may apply for a restricted license if specific requirements are met and all applicable fees are paid.
- 4) Authorizes the court to require a person convicted of a first-time DUI, as specified, to install an IID on any vehicle that person operates and to further prohibit the operation of any vehicle without an installed IID. Additionally, directs the court to give heightened consideration of this requirement to a first-time violator convicted of a DUI with a BAC of .15% or greater.

- 5) Provides that a second or subsequent DUI offender can get his or her license reinstated earlier if he or she agrees to install an IID along with providing proof of his or her enrollment in the required DUI treatment program, proof of insurance, and payment of specified fees.
- 6) Creates a mandatory IID pilot project in Alameda, Los Angeles, Sacramento and Tulare Counties requiring a person convicted of a DUI to install an IID for 5 months upon a first offense, 12 months for a second offense, 24 months for a third offense and for 36 months for a fourth or subsequent offense. Requires the mandatory IID pilot project to end on July 1, 2017, and requires DMV to report to the Legislature regarding the effectiveness of the IID pilot project to reduce the number of first-time violations and repeat DUI offenses.

**FISCAL EFFECT:** Unknown

**COMMENTS:** California has had a complex group of DUI sanctions including high fines, jail time, licensing sanctions, mandatory DUI treatment programs, and optional IID policies in place since the mid-1980s. In most counties, a repeat DUI offender may be ordered to install an IID as a condition of applying for and receiving his or her restricted driver's license, but, unless ordered by the court, installation is not required for all DUI offenders – that is, an offender can choose not to drive at all and wait out the full duration of his or her license suspension while complying with all other sanctions resulting from the violation, and return to DMV to obtain a restored license after that suspension period ends. In 2009, the Legislature passed and the Governor signed SB 598 (Huff, Chapter 193) that incentivized the installation of IIDs for repeat offenders by shortening the suspension period an offender must serve before applying for a restricted license, if he or she chooses to install an IID.

AB 91 (Feuer), Chapter 217, Statutes of 2009, established a pilot project in Alameda, Los Angeles, Sacramento, and Tulare counties mandating the installation of an IID for all DUI offenders, including first-time offenders. AB 91 required DMV to report to the Legislature regarding the effectiveness of the pilot project in reducing the number of first-time violations and repeat offenses in the specified counties. The pilot was intended to provide guidance for how best a mandatory IID system could be implemented statewide by using the counties without the mandatory program as a control group. The pilot was extended last year by SB 61 (Hill, Chapter 350) to allow DMV more time to analyze the program's results.

SB 1046 would expand the mandatory IID program statewide for all offenders, including first-time offenders. In doing so, the author seeks to prevent further instances of drinking and driving by reducing DUI recidivism rates.

*IID Research:* Even after an extended pilot period, the effects of California's mandatory IID program are still being understood and compared to results from elsewhere in the United States. At the federal level, the National Transportation Safety Board, the United States Centers for Disease Control, and the National Highway Traffic Safety Administration, have all recommended or endorsed the use of IIDs to reduce alcohol-related fatalities. Data from other states with similar laws, including New Mexico, Arizona, Louisiana, and Oregon suggest drunk driving fatalities have decreased since those laws' enactment.

Research conducted specifically on the effects of California's mandatory IID program, however, has rendered inconclusive results. For example, Mothers Against Drunk Driving cites data provided by IID manufacturers that suggest IIDs have prevented over 1 million instances of drinking and driving in California where the BAC of the driver was greater than .025 since 2010

(the legal limit is .08). Concurrently, DMV's analysis of the AB 91 pilot found that mandatory DUI programs had little evidence of a general deterrent effect (that is, on initial offenders) but did appear to result in reduced rates of DUI recidivism, suggesting a deterrent effect on subsequent convictions. However, these lower rates significantly diminished over time. Due to these seemingly inconsistent results, consensus as to the full extent of California's mandatory IID program's impact on DUI rates and traffic safety remains elusive.

*Committee concerns:*

- 1) Analysis of the mandatory pilot program found that IID installation rates in the four counties ranged from 46.7% for first time offenders to 33.2% for second-time offenders to 15.7% for third-or-more, suggesting that even though installation of the devices is mandatory, offenders are more often than not choosing not to comply with the IID requirement. The author intends to address this lack of compliance by eliminating the mandatory suspension period that offenders must wait out before applying for restricted driver's licenses.

By allowing an offender to immediately apply for a license upon installation of an IID, the author believes more offenders will be induced into complying with the mandatory IID requirement. This may, however, have unintended consequences. Research has demonstrated that the threat of losing one's license through a DMV administrative action is an effective deterrent due to the swiftness and certainty of the punishment. Removing or hampering DMV's ability to suspend licenses could actually have the unintended consequences of weakening the desired deterrent effects.

- 2) As recently as this session, the Legislature has examined establishing alternative DUI sanctions that could have measureable and significant traffic safety impacts when used in lieu of or in addition to existing sanctions, such as IIDs. By making IID installation a mandatory condition of receiving a restricted driving privilege in all cases, SB 1046 may reduce the ability of a court to use its discretion to order an offender to comply with sanctions that may be better suited to the context of the offender's particular situation. For example, if a court wished to require an offender to participate in a 24/7 sobriety program as a substitute for installation of an IID as a condition of receiving a restricted driving privilege, the court would be precluded from doing so by this bill.

While DMV's analysis of California's four pilot mandatory IID program demonstrates some effect on lowering recidivism rates of DUI offenders, it has yet to be proven that IIDs are superior to alternative DUI sanctions in all circumstances, as implied by this bill, in reducing rates of DUI and achieving the state's other traffic safety goals. Mandating the installation of IIDs in all offenders' vehicles and limiting the suspension or revocation actions may unnecessarily limit the court's abilities to tailor the sanctions imposed on an offender to the specific circumstances of the violation.

- 3) In addition to the issue of picking one specific method as the universal sanction in all DUI cases, this bill includes a number of technical issues that would need to be resolved for this bill to be implemented as successfully as possible. For example, this bill creates potential technical inconsistencies between the suspension imposed under DMV's administrative process beginning at the time of arrest and the suspension imposed by the court upon conviction, leading to a potential scenario where an offender installs an IID to receive a restricted driver's license and avoid the court-imposed suspension while still being required to sit out the DMV administrative suspension.

*Related legislation:* AB 933 (Frazier) would authorize the court to order a repeat DUI offender, to enroll, participate in, and successfully complete, a qualified “24/7 Sobriety” monitoring program, as defined, as a condition of probation, parole, sentence, or work permit. AB 933 is pending in the Senate Rules Committee.

AB 2367 (Cooley) would authorize the court to order a repeat DUI offender, to enroll, participate in, and successfully complete, a qualified “24/7 Sobriety” monitoring program, as defined, as a condition of probation. AB 2367 was held on the Assembly Appropriations Committee Suspense File.

*Previous legislation:* AB 91 (Feuer), Chapter 217, Statutes of 2009, established a four-county pilot program requiring every DUI offender to install an IID on all vehicles he or she owns or operates.

SB 61 (Hill), Chapter 350, Statutes of 2015, extended the existing AB 91 mandatory IID pilot program to July 1, 2017.

SB 55 (Hill) of 2013, would have required a second or subsequent DUI offender to install an IID on his or her vehicles for a specified time period in order to receive a restricted driver's license or to reinstate his or her driving privileges. SB 55 was held on the Assembly Appropriations Committee Suspense File.

AB 520 (Ammiano), Chapter 657, Statutes of 2011, allowed a person convicted of alcohol-related reckless driving to apply for a restricted license early if he or she complies with specified requirements, including installation of an IID.

SB 598 (Huff), Chapter 193, Statutes of 2009, required DMV to advise a person convicted of a second or third DUI offense with a BAC of .08% or more that he or she may receive a restricted license upon installation of an IID.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

AAA Northern California, Nevada, and Utah  
Advocates for Highway and Auto Safety  
Alcohol Justice  
Association for Los Angeles Deputy Sheriffs  
Association of Deputy District Attorneys  
Association of Orange County Deputy Sheriffs  
Automobile Club of Southern California  
California Air Shock Trauma Rescue  
California Ambulance Association  
California Association of Code Enforcement Officers  
California Association of Highway Patrolmen  
California College and University Police Chiefs Association  
California Medical Association  
California Narcotic Officers Association  
California Statewide Law Enforcement Association  
City of El Cajon

County of San Diego  
Crime Victims United of California  
Emergency Nurses Association, California State Council  
Fraternal Order of Police  
Insurance Commissioner Dave Jones  
John Muir Health  
League of California Cities  
Long Beach Police Officers Association  
Los Angeles City Attorney Mike Feuer  
Los Angeles Police Protective League  
Mothers Against Drunk Driving  
National Safety Council  
National Transportation Safety Board  
Personal Insurance Federation of California  
Regional Medical Center of San Jose  
Riverside Sheriffs Association  
Sacramento County Deputy Sheriff's Association  
Todd Spitzer, Orange County Board of Supervisors, Third District

**Opposition**

California Attorneys for Criminal Justice

**Analysis Prepared by:** Justin Behrens / TRANS. / (916) 319-2093