

Reducing DUI Recidivism: Ignition interlock devices (IIDs)

By: The Bennington College Incarceration Task Force (BCIT)

Recommendations:

The BCIT strongly supports H. 560. We commend the members of the House Judiciary Committee for their work on the bill, particularly the sponsors. We have a few recommendations that we think would strengthen H. 560:

1. Create and sustain an indigent fund for those who cannot afford an IID
2. Create a mechanism for early release from a DUI related prison sentence if the offender installs an IID, using the Justice Reinvestment model
3. Specify in statute that any federal monies gained by Vermont because of changes to the IID program in H. 560 be dedicated to the DMV

The Problem:

- DUIs are by far the most common felony conviction in Vermont, accounting for over half of the DOC felony population and second among all criminal charges brought in the state from 2006-2015
- Enforcement/incarceration does not reduce DUI recidivism, nor does it reduce the overall number of DUIs
- The DMV is unable to add new IID users without hiring additional employees
- Vermont has an expensive, complicated, and voluntary IID program
 - Costs ~\$313-453 for installation, not including monthly service costs
 - Does not offset costs for people unable to afford IIDs
 - Poor design of incentives/sanctions regarding IID installation

A Solution:

- IIDs work
 - Proven technical reliability
 - Reduce DUI recidivism by a median of 67% across many studies
 - Efficacy is reduced once the device is removed, but may have long-term effects particularly if linked with cognitive behavioral therapy
 - In Vermont, IIDs have stopped more than 6,000 attempts to drive drunk since Dec, 2015
- A better incentive structure, expansion, or mandated use of IIDs will increase demand and will probably lower costs for users
- IIDs can help the state reform its criminal justice response to DUIs
- IIDs can reduce the prison population and may generate savings in the state budget
- Alcoholism is a substance-abuse problem, and money spent on incarceration could be better used to fund treatment, IID indigent funds and other programs that have been shown to reduce recidivism

The Problem

Driving under the influence (DUI) is one of the most common offenses in Vermont¹: roughly 19% of convictions are DUI convictions², 8% of our incarcerated population is locked up for DUI offenses³, and 58% of people serving a felony sentence are doing so with a DUI conviction.⁴ The most common offense for people on probation or parole is a second or third DUI offense.⁵ While Vermont has taken steps towards a more effective and holistic approach to drunk driving (namely, prevention classes, checkpoint programs and the Windsor treatment court),⁶ we still lock up many DUI offenders, even though jail sentences have not been shown to be effective deterrents.⁷

Intoxicated drivers are a very serious public health risk. Nationally, drivers intoxicated by alcohol account for 31% of all fatal crashes. That is an average of one DUI caused driving fatality every 52 minutes. DUI related crashes are estimated to have cost the United States \$49.8 billion in 2010.⁸ Roughly 1 in 5 kids killed in car crashes involves an alcohol-impaired driver.⁹ In the most recent data available for Vermont, the ratio of DUI related deaths to overall vehicle deaths falls to just slightly more than 1 out of every 4 fatal vehicle crashes.¹⁰ This is higher than the 2007 to 2011 time period.¹¹

During the legislative session of 1997 to 1998 the Vermont legislature was attempting to reduce recidivism for those convicted of DUI while increasing safety on Vermont's roads. During the deliberations on Act 117 the legislature came to two conclusions that are germane for this analysis:

1. "There is no credible evidence that legislation that increases DUI penalties has any measurable effect on the incidence of DUI and DUI-related fatalities".
2. "Vermont's existing DUI laws are already some of the toughest in the country. Despite these tough laws, many persons who are arrested and convicted of DUI continue to drink and drive."¹²

¹ Vermont DOC, "Facts and Figures 2014" *Annual Reports, VT DOC* (2014), 92 and No Author Cited, "Vermont Results First Initiative: Preliminary Results Comparing the Benefits and Costs of Crime Reduction", *Crime Research Group, Inc.*, 2.

² Vermont DOC, "Facts and Figures 2014" *Annual Reports, VT DOC* (2014), 32 & 37.

³ *Ibid.*, 40, 103.

⁴ *Ibid.*, 40, 102.

⁵ *Ibid.*, 92.

⁶ See: No Author Cited, "Annual Report for Federal Fiscal Year 2014." *Department of Public Safety & GHSP* (2014) and No Author Cited, "Bureau of Justice Statistics Final Report - DUIs in Vermont" *Vermont Center for Justice Research* (2009).

⁷ No Author Cited, "Bureau of Justice Statistics Final Report - DUIs in Vermont" *Vermont Center for Justice Research* (2009), 1-4.

⁸ NHTSA, "Alcohol-Impaired Driving (DOT HS 812 102)," 1.

⁹ Quinlan, Shults and Rudd, "Child Passenger Deaths Involving Alcohol-impaired Drivers."

¹⁰ NHTSA, "Alcohol-Impaired Driving (DOT HS 812 102)," 7 and Governor's Highway Safety Program, "Governor's Highway Safety Program: Annual Report 2014," 15.

¹¹ Governor's Highway Safety Program, "Governor's Highway Safety Program: Highway Safety Plan 2014," 126.

¹² Vermont Center for Justice Research, *Bureau of Justice Statistics Final Report*, 1.

Despite their findings in 1997-8, the legislature continued to strengthen DUI penalties. Act No. 56 (H.264, of the 2011-2 session) created presumptive mandatory minimums for multiple DUI offenders, and made it against the law to knowingly provide a vehicle to a person under the influence of a drug.¹³ The available evidence suggests that this emphasis on enforcement is not reducing the number of drunk driving events in the state (see figure 1).¹⁴ Higher rates of DUI enforcement have not been successful at reducing the amount of drunk drivers on our roads. We need a new approach.

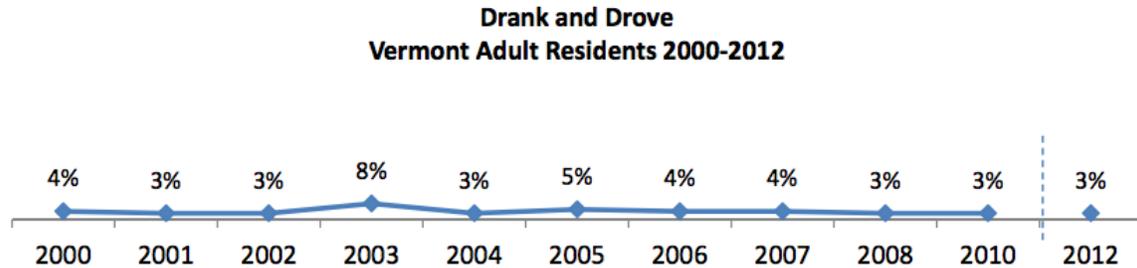


Figure 1: Vermont Dept. of Health, "Vermont Behavioral Risk Factor Surveillance System: 2012 Data Summary", 41.

A Solution: Ignition interlock devices (IID)

IIDs are small handheld devices similar to police breathalyzers. They are wired into a car with a tamper-proof module in the engine bay. The driver must perform a breath test that shows a BAC level¹⁵ below a predetermined limit (.02 grams per deciliter in Vermont rules¹⁶) before the car can be started as well as random “rolling tests” during operation.¹⁷ The National Highway Traffic Safety Administration (NHTSA)¹⁸ and the state of Vermont¹⁹ have set strict standards for IIDs.²⁰

The NHTSA unequivocally states that "interlocks work as intended."²¹ The biggest obstacle to gaining public health and safety benefits from IIDs is low uptake.^{22,23}

¹³ The court must serve a convicted multiple DUI offender with these minimums unless the court finds that such a sentence will not serve the interests of justice and public safety. Legislative Council, "Act No. 56 (H.264). Crimes and Criminal Procedures; Motor Vehicles; Judiciary; Labor."

¹⁴ Vermont Center for Justice Research, *Bureau of Justice Statistics Final Report*.

¹⁵ These devices actually test breath alcohol concentration (BrAC), but for the sake of simplicity, this report will use the more common BAC measure throughout the text.

¹⁶ Vermont Department of Motor Vehicles, "Ignition Interlock Program Rules," 1.

¹⁷ *Ibid.*, 5.

¹⁸ Michael, "Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs)."

¹⁹ Vermont Department of Motor Vehicles, "Ignition Interlock Program Rules," 2.

²⁰ Mayer, *Ignition Interlocks - What You Need to Know: A Toolkit for Policymakers, Highway Safety Professionals, and Advocates*, 6.

²¹ Casanova-Powell and others, "Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006–2011. (Report No. DOT HS 812 145).," 2.

²² Elder and others, "Effectiveness of Ignition Interlocks for Preventing Alcohol-impaired Driving and Alcohol-related Crashes: A Community Guide Systematic Review," 363.

Reducing Recidivism

The benefits of IID use are consistent and clear. A 2011 meta-analysis by the CDC's Task Force on Community Preventive Services found that IIDs were effective at reducing DUI recidivism by a median of 67% across 15 studies.²⁴ The results of the CDC Task Force review are consistent with a 2004 review²⁵ and a systematic Cochrane meta-analysis²⁶ of the same year. A recent Vermont Crime Research Group analysis concluded that use of IIDs, in place of incarceration, would reduce DUI recidivism by 33.4%.²⁷ In combination, these reviews and systematic meta-analyses represent a consensus of the scientific community demonstrating that IIDs are effective, including in the Vermont context.

There are some problems with IIDs. The first and most concerning is an increase in risk of DUI behavior once the device is removed.²⁸ However, there are at least 4 studies that show a long-term, post IID removal decline in DUI recidivism.²⁹ However, the bottom line is that the science is not in on this question, and the legislature should not let the perfect become the enemy of the good.

The second concern is that offenders may claim not to own a car or drive another person's car that does not have a device installed. Policymakers have ready responses to this problem: incentives like shorter license suspension or reduced fines and fees for those who install a device, or increased fines for those who attempt to evade IID installation.³⁰ H.560 addresses this issue quite well by threatening immobilization for people who don't install the device.³¹

²³ Casanova-Powell and others, "Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006–2011. (Report No. DOT HS 812 145). ," 1.

²⁴ Elder and others, "Effectiveness of Ignition Interlocks for Preventing Alcohol-impaired Driving and Alcohol-related Crashes: A Community Guide Systematic Review," 367.

²⁵ Beirness and Marques, "Alcohol Ignition Interlock Programs."

²⁶ Willis, Lybrand and Bellamy, "Alcohol Ignition Interlock Programmes for Reducing Drink Driving Recidivism."

²⁷ Crime Research Group. "Vermont Results First Initiative: Preliminary Results Comparing the Benefits and Costs of Crime Reduction", *Crime Research Group, Inc.*, 2.

²⁸ Casanova-Powell and others, "Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006–2011. (Report No. DOT HS 812 145). ," 3.

²⁹ Miller and others, "Effectiveness of Interventions for Convicted DUI Offenders in Reducing Recidivism: A Systematic Review of the Peer-reviewed Scientific Literature," 18.

³⁰ Sprattler, "Ignition Interlocks--What You Need to Know: A Toolkit for Policymakers, Highway Safety Professionals, and Advocates," 21.

³¹ H.560 p.26 of 63, lines 6-10, Amending Sec. 9. 23 V.S.A. § 1213a (2016)

Vermont's IID Program

IIDs are already available in Vermont from three different vendors³² in 15 installation locations across the state.³³ In 2014, over 600 individuals used an IID in the state. With over 2,000 DUIs in Vermont that year, Mothers Against Drunk Driving (MADD) estimates that about 28% of those convicted of a DUI in 2014 voluntarily installed an IID. MADD states that this level of uptake is “not bad for an optional interlock law.”³⁴ The BCIT agrees with MADD, because Vermont’s IID program is voluntary, complicated and expensive, it is surprising that so many people convicted of DUI choose to participate. A first time offender must wait 30 days post license suspension before being eligible; a 2nd time offender must wait 90 days and a 3rd time offender must wait a full year.³⁵ In addition to the waiting period, the restricted driver’s license (RDL) process costs a total of \$173.00.³⁶ RDL processing at the DMV and the installation cost for an IID equal a total start-up cost for an offender of \$313-453. This does not include the monthly servicing and data checks. These costs and waiting periods constitute considerable barriers for increased IID usage in Vermont, particularly for those of lower socioeconomic status.

Recommendations

H.560, Funding and Justice Reinvestment

There will be some unambiguously positive effects of increasing IID usage in Vermont in terms of costs associated with the program. First, the increased demand for IID vendors and installers will drive down costs for individual DUI offenders. Further, increasing use of IIDs will drive down recidivism for DUI, a very common and costly problem with severe public health consequences. Reductions in recidivism may create savings that the state can re-invest in the IID program and other criminal justice programming.

But, the increase in IID usage may also strain the state budget. In its 2013 Effectiveness Study the VT DMV stated that “[m]odification of current statutes to mandate the use of ignition interlock devices would surely increase the numbers [of those enrolled in the IID program]; however, a substantive change such as this would place an undue human resources burden on the Department.”³⁷ In their 2012 report on IID usage,

³² Vermont Department of Motor Vehicles, "Ignition Interlock Device Manufacturers ."

³³ The number of IID installation sites came from a manual search of all three vendor websites.

³⁴ Harris, Frank. “Mothers Against Drunk Driving House Judiciary Committee and House Transportation Committee: In Support of H. 560”. (Jan 21, 2016), 2.

³⁵ 23 VSA §1205(a)(2), §1205(m), §1206(a), §1208 and §1216.

³⁶ Vermont Department of Motor Vehicles, "Vermont Ignition Interlock Program Frequently Asked Questions."

³⁷ Ide, "Departmental Memorandum: Act No. 126 ~ An Act Relating to the Study and Recommendation of Ignition Interlock Device Legislation. Effectiveness Study," 3.

the VT DMV detailed the staffing requirements for IID data analysis. For each batch of 400 participants in the IID program, the VT DMV needs one fulltime data processor and one additional employee for application processing and program monitoring.³⁸ You have heard the same concerns more recently. Further, as will be addressed in the next section of this memo, monies will be needed for an indigent fund, creating another gap to fill.

In order to meet these budgetary challenges, the legislature should consider creating a mechanism for early release from a DUI related sentence if the convicted individual is willing to install an IID. This could generate immediate cost-savings that would then be funneled into the IID program, following the Justice Reinvestment model.³⁹ This reinvestment strategy could bridge the fiscal gap in the VT DMV's monitoring program and create the resources needed to scale-up the program. It would also increase the public health benefits of the IID program and reduce DUI recidivism compared to prison sentences⁴⁰, a long-term goal of the legislature. The legislature should request a Joint Fiscal Office study on possible cost savings from decreased DUI recidivism over time using the estimates of reductions in recidivism from the meta-analyses/Crime Research Group analysis reviewed above and include a cost assessment of the early release proposal.

Making IIDs Affordable

Funding for indigent offenders is a hard fiscal problem, but some 30 states have designed programs for the indigent.⁴¹ In a 2011 report the VT DMV identified 4 ways funds could be raised for an indigent fund:

- Charge a larger fee for restricted divers licenses (RDLs) from those with means
- Charge RDL renewal fee
- Charge RDL application fee
- Charge IID installer licensing fee⁴²

In addition to these 4 funding sources, the legislature should also consider the reinvestment strategy cited above. The BCIT supports the inclusion of any of these funding mechanism, as long as there is a strong indigent fund.

³⁸ Ibid., 2.

³⁹ CSG Justice Center, "Justice Reinvestment State Brief: Vermont," 2008, <https://csgjusticecenter.org/jr/vermont/publications/justice-reinvestment-state-brief-vermont/>.

⁴⁰ Crime Research Group. "Vermont Results First Initiative: Preliminary Results Comparing the Benefits and Costs of Crime Reduction", *Crime Research Group, Inc.*, 2.

⁴¹ Mothers Against Drunk Driving, "First-Time Offender Ignition Interlock Laws," 1.

⁴² Ide, "Departmental Memorandum: Act No. 126 ~ An Act Relating to the Study and Recommendation of Ignition Interlock Device Legislation. Report on the Study, Implementation Planning, Reporting and Recommendations," 1-2.

When creating an indigent fund, the legislature should also streamline the application process for indigent status. A 2014 NHTSA report cites 3 examples of indigence assessment mechanisms:

- “Proof of enrollment in one or more public assistance programs (NM)
- Financial Disclosure Report Forms itemizing sources of income and expenses (NY)
- Gross income as a percentage of the Federal poverty guidelines (CO)”⁴³

In order to save on administrative costs and for ease of application to the program, we recommend the legislature adopt the proof of enrollment in public assistance programming as the measure used to evaluate eligibility for indigent assistance and make the evaluation a standard part of IID application at the VT DMV.

Federal Funding and DMV support

Lastly, the legislature should protect federal funds earmarked for state-based IID programs. MADD has identified at least \$200,000 federal dollars that could be used for Vermont’s IID program.⁴⁴ These funds should be dedicated, in statute, to the VT DMV. This would address VT DMV concerns that they will have an increased workload without the funding available to carry out the work.

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⁴³ Sprattler, "Ignition Interlocks--What You Need to Know: A Toolkit for Policymakers, Highway Safety Professionals, and Advocates," 16.

⁴⁴ Harris, Frank. "Mothers Against Drunk Driving House Judiciary Committee and House Transportation Committee: In Support of H. 560". (Jan 21, 2016), 2.

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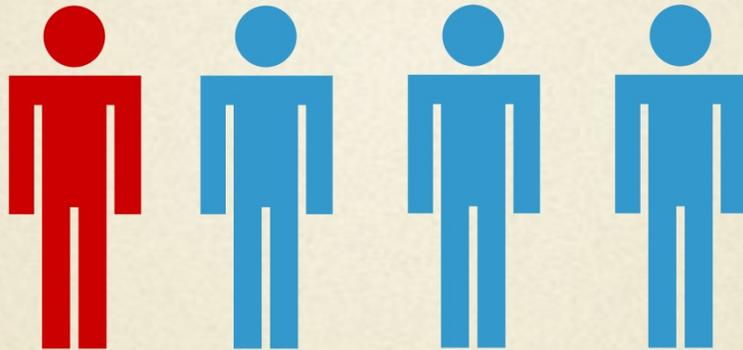
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Preventing Drunk Driving in Vermont

Almost 1 in 4

Vehicle deaths in Vermont
involves a drunk driver



Sources:

National Highway Traffic Safety Administration, "Alcohol-Impaired Driving (DOT HS 812 102)." Traffic Safety Facts: 2013 Data

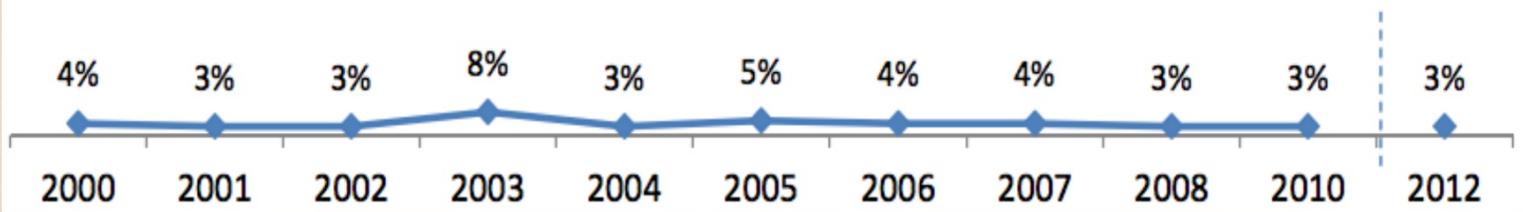
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Preventing Drunk Driving in Vermont

Increased Enforcement

Has failed to change DUI Rates in Vermont over the last decade or so

**Drunk and Drove
Vermont Adult Residents 2000-2012**



Sources:

Act No. 117 (originally S.185), Vermont Legislative Session (1997-1998)

Figure from: Vermont Department of Health. "Vermont Behavioral Risk Factor Surveillance System: 2012 Data Summary." Vermont Behavioral Risk Factor Surveillance System.