



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

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June 22, 2009

To: Supervisor Don Knabe, Chairman
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Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

MOTION TO SUPPORT AB 91 (FEUER) – IGNITION INTERLOCK DEVICE PILOT PROGRAM (ITEM NO. 39-D, AGENDA OF JUNE 23, 2009)

Item No. 39-D on the June 23, 2009 Agenda is a motion by Supervisors Yaroslavsky and Antonovich to instruct the County's Sacramento advocates to support AB 91 (Feuer), and the Executive Office to send a five-signature letter to Assembly Member Feuer, the Assembly Speaker, the Senate President Pro Tem, the Assembly Appropriations Committee, and the Los Angeles County Legislative Delegation expressing Board support of AB 91.

As amended on June 1, 2009, AB 91 would establish a pilot program in Alameda, Los Angeles, and Sacramento counties to require the installation of an Ignition Interlock Device (IID) on any vehicle owned or operated by a person convicted of Driving Under the Influence (DUI), for a term ranging from five months for a first offense to 36 months for a fourth or subsequent violation. An IID is a breath-alcohol testing device which is installed on the steering column of a vehicle to prevent the vehicle from being started unless the driver blows into the device to demonstrate that he or she is alcohol-free. DUI offenders would be eligible for a restricted driver's license only after completing a period of mandatory license suspension and installing the required IID. According to the bill, the California Department of Motor Vehicles would be required to implement the pilot program upon obtaining funds for the program from a source other than the State.

AB 91 would establish a sliding fee schedule for payment of the costs of the IID based on the offender's income. A person with an income at or below 100 percent of the Federal Poverty Level (FPL) would be responsible for 10 percent of the cost of the IID;

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a person with an income at 101 to 200 percent of FPL would be responsible for 25 percent of the cost; a person with an income at 201 to 300 percent of FPL would be responsible for 50 percent of the cost; and all other offenders would be responsible for 100 percent of the cost. The IID provider would be responsible for absorbing the cost of the device not paid by the offender. The author's staff indicates that the average cost of an IID is \$70 to \$80 per month, including an installation fee.

Existing law authorizes, but does not mandate, the court to require the installation of an IID for first-time and repeat DUI offenders. According to the author, only 4.3 percent of DUI offenders are actually ordered to install an IID. The author argues that AB 91 would stop DUI drivers from driving while impaired by obstructing their ability to start their vehicle when they have alcohol in their system, while affording them the ability to attend to their daily activities by returning their driving privilege as long as they comply with the IID requirements. The author's office reports that seven states currently require IIDs to be installed by first-time offenders: Alaska, Colorado, Illinois, New Mexico, Virginia, Washington, and West Virginia.

The Sheriff, District Attorney, and Probation departments support AB 91 and note that mandating the installation of IIDs for first-time and repeat DUI offenders would substantially increase the use of the devices and could help reduce the number of DUI related deaths and injuries.

The Public Defender opposes AB 91 noting that this unprecedented requirement for first-time DUI offenders to install an IID is not based on research which shows that most first-time offenders do not re-offend. AB 91 would require first-time offenders to install an IID as a condition of getting their licenses back, even on a restricted basis. The Public Defender is particularly concerned that the indigent and working poor, who are already struggling to maintain jobs and support their families, will be disproportionately affected by the cost of the IID, and further indicates that the bill would result in additional expenses for the courts. Specifically, the Public Defender notes that:

- a hearing to determine ability to pay will undoubtedly take place in a significant percentage of Public Defender cases requiring the courts to schedule additional cases during a time when the courts are poised to close one Wednesday per month;
- additional probation violation hearings will be noticed and will take place challenging the alleged failure to adhere to the IID;
- a percentage of alleged non-compliance with the proposed law will result from indigency. A person who is able to pay for a portion of the IID but then loses his

or her job would be entitled to have a court review to determine their ability to pay; and

- the IID provider has an incentive to simply cut off service in order to avoid having to bear the costs themselves and lose a profit.

The Department of Public Health has no position on AB 91, as amended on June 1, 2009, because the bill no longer requires alcohol or other drug dependence assessments.

AB 91 is supported by the American Academy of Pediatrics, American Nurses Association of California, Association for Los Angeles Deputy Sheriffs, Association of California Insurance Companies, Automobile Club of Southern California, California Hospital Association, California State Automobile Association, Cedar-Sinai Health System, City of Los Angeles, Emergency Nurses Association, California State Council, Los Angeles County District Attorney's Office, Los Angeles Police Department, Mothers Against Drunk Driving, Peace Officers Research Association of California, and the San Diego County Board of Supervisors. It is opposed by the California Attorneys for Criminal Justice, California DUI Lawyers Association, and the California Public Defenders Association.

Because there is no existing Board policy regarding mandatory installation of IID by convicted DUI offenders, support for AB 91 is a matter for Board policy determination.

AB 91 passed the Assembly Floor on June 2, 2009, by a vote of 77 to 0 and proceeded to the Senate where it awaits assignment to a policy committee.

WTF:GK
MR:MS:sb

c: Executive Officer, Board of Supervisors
Acting County Counsel
Department of Public Health
District Attorney
Probation Department
Public Defender
Sheriff's Department