

# California State Senate

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**JERRY HILL**

THIRTEENTH SENATE DISTRICT



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September 6, 2016

The Honorable Edmund G. Brown Jr.  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814

RE: SB 1046 (Hill) — Request for Signature

Dear Governor Brown:

I respectfully request your signature on SB 1046 which extends the current four-county ignition interlock device (IID) pilot program for two more years, then creates a statewide IID pilot program from January 1, 2019 to 2026.

Over the last 30 years, over 50,000 people have died in California because of drunk drivers and over 1 million have been injured. Each year in this state over 1,000 people die and more than 20,000 are injured from drunk drivers. To combat this epidemic, Assembly Bill 91 was enacted in 2009 creating a four-county IID pilot program. Since 2010, the counties of Alameda, Los Angeles, Sacramento and Tulare have been requiring IIDs for all offenders convicted of driving under the influence. Last year you signed my Senate Bill 61 extending the pilot program from 2016 to 2017 since the Department of Motor Vehicles (DMV) report on the pilot program hadn't been released in time for the legislature to decide to expand, modify or terminate the program.

On June 17, 2016 the DMV released their "specific deterrence" report on the four-county IID pilot program. Here are excerpts from that report:

- Cover letter from DMV Director Jean Shiomoto:  
"Pilot participants had lower DUI recidivism rates than other DUI offenders,"
- Executive summary – preface page 12: First DUI offenders:  
"The AB 91 IID group is associated with 73% lower odds or hazards of a subsequent DUI conviction relative to the comparison group of suspended drivers."  
"The AB 91 IID group is associated with 74% lower odds or hazards of a subsequent DUI incident relative to the comparison group of suspended drivers."
- Executive summary – preface page 13: Second DUI offenders:  
"The AB 91 IID group is associated with 67% lower odds or hazards of a subsequent DUI conviction relative to the comparison group of suspended drivers."



“The AB 91 IID group is associated with 70% lower odds or hazards of a subsequent DUI incident relative to the comparison group of suspended drivers.”

- Executive summary – preface page 14: Third and subsequent DUI offenders:  
“The comparison group of revoked subjects has an odds or hazards of a subsequent DUI conviction that is approximately 3.4 times higher than that associated with the AB 91 IID group.”  
“The comparison group of revoked subjects has an odds or hazards of a subsequent DUI incident that is approximately 3.4 times higher than that associated with the AB 91 IID group.”
- Executive summary – preface page 14: Conclusions:  
“It bears emphasizing that the current study found a strong and reliable association between possession of an AB 91 IID restricted license and reduced DUI recidivism. Across all DUI offender levels, those with an IID restricted license have lower odds or hazards of a subsequent DUI conviction, and lower odds or hazards of a subsequent DUI incident when compared to drivers with suspended or revoked licenses.”

Unfortunately, the DMV report also contained misleading information about the crash rates of IID participants compared to those with a suspended or revoked license. The DMV report stated that, “Individuals obtaining an IID-restricted license had a higher increase in crashes, compared to DUI offenders whose licenses remained suspended or revoked.”

This seems alarming, but the report fails to mention several critical pieces of information:

- Comparing a universe of people who are supposed to be driving (IID people) with a universe of people for whom it's illegal for them to be driving or they're only supposed to drive from home to work and/or their treatment program. It seems logical that people who are legally driving at a greater rate are more likely to get in an accident compared to those that are not driving at all or those who are driving a minimal amount.
- No information on who was at fault. The DMV report gives the impression that the IID drivers caused the accidents but the data does not indicate who was at fault. In many of the instances the IID driver may have been hit by someone else.
- The average crash rate for the typical driver in this country is around 5%. The crash rates in the DMV study were 4.3% first time DUI IID drivers compared to 2.7% first time non-IID revoked / suspended drivers. For second and third DUI IID drivers it was 6% compared to 4% for non-IID revoked / suspended drivers. Crash rates for IID drivers are around the national average. Crash rates for revoked / suspended drivers are likely less since they are not driving or driving a minimal amount.

Bottom line: The IID driver crash rates are around the national average and it is to be expected that they are slightly higher than people who are not driving or minimally driving. The DMV needs to do more analysis to determine who was responsible for the accidents before prematurely releasing information that has no context and is misleading.

Here's what we know about the IID pilot program:

- The DMV report found “a strong and reliable association between possession of an AB 91 IID restricted license and reduced DUI recidivism. Across all DUI offender levels, those with an IID restricted license have lower odds or hazards of a subsequent DUI conviction, and lower odds or hazards of a subsequent DUI incident when compared to drivers with suspended or revoked licenses.”
- A report released in December by Mothers Against Drunk Driving (MADD) found that IIDs in California have prevented over 1 million instances of drinking and driving since 2010:  
<http://www.madd.org/local-offices/ca/documents/California-Report.pdf>

The data available on California's IID pilot program combined with the data we've received from the federal government and other states indicate that we should expand our pilot statewide to prevent future incidents of drinking and driving.

- The National Transportation Safety Board (NTSB) recommends that all people convicted of drunk driving should have ignition interlock devices installed in their cars. NTSB supports SB 1046 saying, "Research evaluation of ignition interlock programs over the last two decades has found that ignition interlock devices are effective in reducing recidivism among DWI offenders, sometimes by as much as 62 to 75 percent." "SB 1046 significantly upgrades California's ignition interlock law by mandating devices for all offenders...providing your state another excellent step toward reducing crashes, injuries, and deaths involving alcohol-impaired drivers."
- The U.S. Centers for Disease and Prevention reviewed fifteen studies on the effectiveness of ignition interlock devices at reducing DUI recidivism, concluding: "re-arrest rates for alcohol-impaired driving decreased by a median of 67 percent relative to comparison groups." The CDC recommends Ignition interlocks for everyone convicted of DWI, even for first offenders.
- The National Highway Traffic Safety Administration released their report, "Ignition Interlocks –What You Need To Know." It found that "ignition interlocks, when appropriately used, prevent alcohol-impaired driving by DWI offenders, resulting in increased safety for all roadway users." "Research has shown that, while installed on an offender's vehicle, ignition interlocks reduce recidivism among both first-time and repeat DWI offenders." "Ignition interlocks permit offenders to retain or regain legal driving status, thus enabling them to maintain employment and manage familial and court-ordered responsibilities that require driving. This is a particularly relevant benefit, as many offenders without interlocks drive illegally on a suspended/revoked license, often after drinking. The installation of an interlock on the offender's vehicle reduces the probability of this occurring, thereby improving public safety."
- About 28 states have laws requiring ignition interlocks for all convicted drunk drivers. Since New Mexico's interlock law was implemented in 2005, drunk driving fatalities are down by 38 percent. Since Arizona and Louisiana implemented their interlock law in 2007, drunk driving deaths have decreased by 43 and 35 percent, respectively. In Oregon, as a result of a 2008 interlock law, DUI deaths are down 42 percent.

SB 1046 would require that beginning January 1, 2019, all persons convicted of DUI shall install and maintain an IID for the following time periods:

- 1st DUI offense with injury: IID for six months
- 1st DUI offense with no injury: offender chooses 6-month IID with full driving privileges or 1-year restricted license (to and from work / treatment program) with no IID.
  - Judge also retains discretion to require IIDs for first offenders
- 2nd DUI offense: mandatory IID for one year
- 3rd DUI offense: mandatory IID for two years
- 4th and subsequent DUI: mandatory IID for three years

Judges will retain discretion on about 70% of DUI offenders since first time DUI offenders make up the majority of annual DUI convictions. According to the DMV's 2015 DUI Report which contained data from 2013:

- First DUI conviction: 93,897
- Second DUI conviction: 32,408
- Third DUI conviction: 7,665
- Fourth or more conviction: 2,363

SB 1046 also creates an early driving IID incentive program providing DUI offenders with full driving privileges soon after arrest if they install an IID. Their ultimate IID time requirement post-conviction will be reduced based on the early install time period pre-conviction. The early incentive program is an important tool to address two issues:

1. IID installation rates can improve. Prior to the AB 91 pilot program only 2.1% of California's DUI offenders were installing IIDs. The average installation rate during the four county pilot was 42.4% which is a success when compared to other states. But California can do better. I believe that the early installation incentive program will increase IID installation rates as it has done in other states.
2. We need to do a better job of incentivizing good behavior since, according to the DMVs 2012 report, "Identifying Barriers to Driving Privilege Reinstatement Among California DUI Offenders", roughly half of DUI offenders drive illegally on a revoked or suspended license after their arrest and/or choose not to participate in treatment or IID program. One of the main impediments is the amount of time they have to wait to drive after their arrest and the uncertainty between their arrest date and conviction date which could be months later. Immediate driving privileges with an IID allows offenders to continue work and family responsibilities like taking children to school and getting groceries.

SB 1046 contains substantial assistance for low-income offenders. IIDs cost less than \$3 a day: \$60-80 per month for monitoring and calibration with an initial installation cost of \$70-\$150. To offset these expenses for low-income offenders, the bill requires that IID companies pay for a majority of the cost:

- A person at 100% of the federal poverty level (\$23K annually family of 4) is responsible for 10% of the IID cost. The IID provider absorbs the rest.
- A person at 101 to 200% of the federal poverty level (\$47K annually family of 4) is responsible for 25% of the IID cost. The IID provider absorbs the rest.
- A person at 201 to 300% of the federal poverty level (\$70K annually family of 4) is responsible for 50% of the IID cost. The IID provider absorbs the rest.
- A person at 301 to 400% of the federal poverty level (\$97K annually family of 4) is responsible for 90% of the IID cost. The IID provider absorbs the rest.
- All other offenders are responsible for 100 percent of the cost of the ignition interlock device.

To ensure that low-income offenders receive the benefits from the bill, SB 1046 adds oversight through the Department of Consumer Affairs (DCA) since they already license IID installers:

- DCA can impose a civil assessment of up to \$1,000 upon a manufacturer or manufacturer's agent that fails to inform an offender about the assistance program or fails to comply with the assistance program.
- Within DCA, provides the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, authority to issue a citation, or suspend, revoke, or place on probation the registration of an automotive repair dealer or service dealer who installs, calibrates, services, maintains, or monitors IIDs if they fail to inform an offender about the assistance program or fail to comply with the assistance program. Also requires that installers provide IID customers with the phone number for the Bureau in case IID offenders have questions or complaints.

SB 1046 also requires the DMV to update the form provided to individuals when they are arrested for a DUI so that it contains information about the new IID law and early incentive program.

It's important to note that fees paid by offenders cover costs for DMV to implement the program.

Finally, the bill would require the California Transportation Agency to conduct a study of the statewide pilot program to determine its effectiveness at reducing recidivism and preventing alcohol related accidents and death. The Transportation Agency would receive information from the DMV, CHP and other state and local entities to develop the report. The Transportation Agency is authorized in the bill to contract with educational institutions to analyze and prepare the report. The report would be due to the legislature January 1, 2025 and the statewide IID program would sunset January 1, 2026 unless the legislature extended, modified or terminated the program based on the report.

The literature supporting IIDs is substantial:

- Kaufmann, University of Pennsylvania, “Impact of State Ignition Interlock Laws on Alcohol-Involved Crash Deaths in the United States,” March 2016:
  - DUI deaths decreased by 15% in states that enacted all-offender interlock laws.
  - States with mandatory interlock laws saw a 0.8 decrease in deaths for every 100,000 people each year – which is comparable to lives shown to have been saved from mandatory airbag laws (0.9 lives saved per 100,000 people).
- The National Transportation Safety Board (NTSB):
  - “Research evaluation of ignition interlock programs over the last two decades has found that ignition interlock devices are effective in reducing recidivism among DWI offenders, sometimes by as much as 62 to 75 percent.”
- The U.S. Centers for Disease and Prevention:
  - Reviewed fifteen studies on the effectiveness of ignition interlock devices at reducing DUI recidivism, concluding: “re-arrest rates for alcohol-impaired driving decreased by a median of 67 percent relative to comparison groups.” The CDC recommends Ignition interlocks for everyone convicted of DWI, even for first offenders.
- The National Highway Traffic Safety Administration: “Ignition Interlocks –What You Need To Know.”
  - “A majority of offenders surveyed believe ignition interlock sanctions to be fair and reduce driving after drinking. Family members believed that ignition interlocks provided a level of reassurance that an offender was not driving while impaired and reported a generally positive experience and impact on the offender’s drinking habits.”

My first DUI reform legislation was signed into law in 2010 (AB 1601, Chapter 301). I’ve been working on this IID legislation for the past four years and I’m committed to working with you and your administration to make sure it is implemented successfully. One of the improvements I’ve included in this bill is clarifying that DUI offenders only have to install an IID in the vehicle they are driving. The wording in the current pilot program requires offenders to install IIDs in every car that’s registered in their name which could unintentionally mean that they would have to get IIDs installed in multiple vehicles driven by other family members. Legislative Counsel inadvertently omitted this improvement in one of the sections for the statewide IID program which goes into effect in 2019. I commit to working with your administration to fix this in cleanup legislation next year and any other cleanup or implementation modifications you deem necessary.

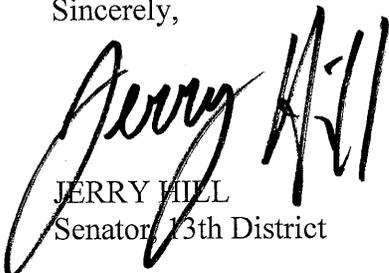
SB 1046 is supported by a variety of public safety and health advocates including:

Insurance Commissioner Dave Jones  
AAA Northern California, Nevada and Utah  
Advocates for Highway and Auto Safety  
Alameda District Attorney O'Malley  
Alcohol Justice

American Nurses Association of CA  
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 Fraternal Order of Police  
California Medical Association  
California Narcotic Officers Association  
California Statewide Law Enforcement Association  
City of El Cajon  
County of Tulare  
Crime Victims United of California  
Emergency Nurses Association  
John Muir Health serving Contra Costa, Solano, Alameda and Marin  
League of California Cities  
Long Beach Police Officers Association  
Los Angeles City Attorney Mike Feuer  
Los Angeles County Professional Peace Officers Association  
Los Angeles Police Protective League  
Mothers Against Drunk Driving  
National Transportation Safety Board  
Peace Officers Research Association of California  
Personal Insurance Federation of California  
Regional Medical Center of San Jose  
Riverside Sheriffs Association  
Sacramento County Deputy Sheriff's Association  
Safety Council  
San Diego County  
San Francisco Chief of Police Greg Suhr  
San Marcos Prevention Coalition  
Tulare County Supervisor Ennis

Thank you for your consideration of this request. If you have any questions regarding the legislation please contact either myself at 650-619-6430 or my chief of staff Nate Solov at 916-651-4238.

Sincerely,



JERRY HILL  
Senator, 13th District