



The  
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**James M. Jeffords Center's  
*Vermont Legislative Research Service***



**Transportation Issues Associated with DUI Courts**

Currently, 39 states have a Driving Under the Influence (DUI) court and/or Hybrid Court with a DUI program.<sup>1</sup> Of these states, 34 of them have an administrative license suspension for first-time DUI offenders.<sup>2</sup> With the loss of the offender's driving privileges, significant transportation issues surface as to how DUI offenders attend and participate in a Drug Court program. Solutions to these transportation issues are heavily dependent upon the transportation structure of the offender's community and their access to public transportation.<sup>3</sup> For rural states, like Vermont, transportation options are limited due to distance between towns, weather, and minimal public transportation.

As indicated in Figure 1, which shows population density and public transportation routes available in each Vermont town, minimal to zero public transportation is available to areas with a population density of less than 250 people. Without driving privileges in such rural areas, DUI offenders are unlikely to be able to access transportation to their work or court ordered therapy.<sup>4</sup>

To address transportation issues, all 39 states with a DUI/Hybrid Court, whether rural or urban, have adopted an Ignition Interlock Device (IID) statute.<sup>5</sup> An IID is installed in the dashboard of a motor vehicle, and measures the blood alcohol concentration (BAC) of the driver and prevents

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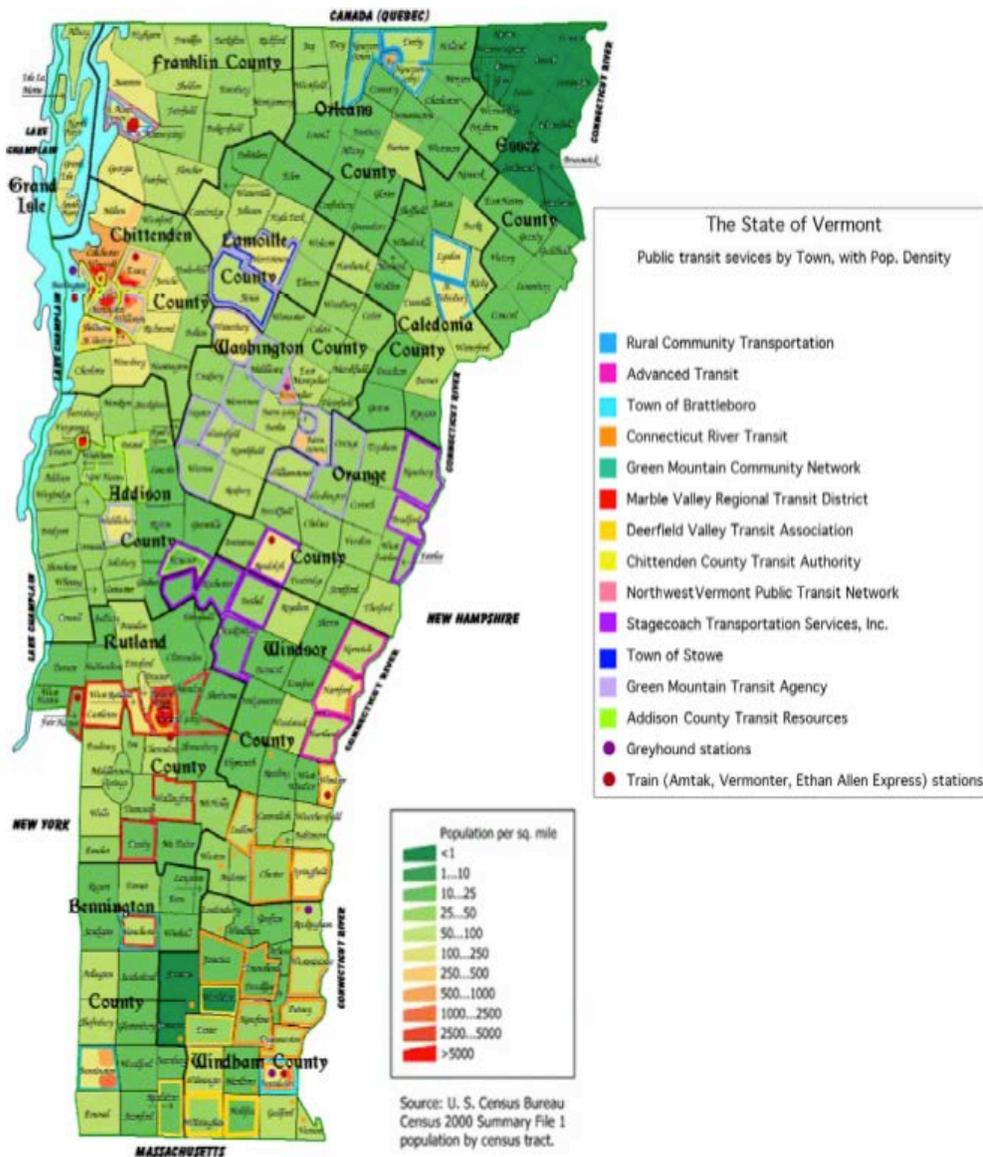
<sup>1</sup> National Association of Drug Court Professionals, "US Drug Court Map," National Association of Drug Court Professionals, accessed on October 12, 2012, <http://www.nadcp.org/learn/find-drug-court>.

<sup>2</sup> Governor's Highways Safety Association, "Drunk Driving Laws," Governor's Highways Safety Association, last modified on October 2012, accessed on October 11, 2012, [http://www.ghsa.org/html/stateinfo/laws/impaired\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/impaired_laws.html).

<sup>3</sup> National Center for DWI Courts, "The Ten Guiding Principles of DWI Courts," National Association of Drug Court Professionals, accessed on October 12, 2012, [http://www.dwicourts.org/sites/default/files/ncdc/Guiding\\_Principles\\_of\\_DWI\\_Court\\_0.pdf](http://www.dwicourts.org/sites/default/files/ncdc/Guiding_Principles_of_DWI_Court_0.pdf).

<sup>4</sup> Kahlie Dufresne, Chase Raines, Christine Souffrant, and Tara Wohlgemuth, "Public Transportation in Vermont," Rockefeller Center at Dartmouth College: The Center for Public Policy and the Social Sciences, March 1, 2009, accessed October 25, 2012, <http://rockefeller.dartmouth.edu/shop/PRS%20Policy%20Brief%200809-03.pdf>.

<sup>5</sup> Governor's Highways Safety Association, "Drunk Driving Laws."



**Figure 1: Public Transit Coverage in Vermont by Town**

Source: Kahlie Dufresne, Chase Raines, Christine Souffrant, and Tara Wohlgemuth, “Public Transportation in Vermont,” Rockefeller Center at Dartmouth College: The Center for Public Policy and the Social Sciences, March 1, 2009, accessed October 25, 2012, <http://rockefeller.dartmouth.edu/shop/PRS%20Policy%20Brief%200809-03.pdf>.

the vehicle from being started if the BAC is above the pre-set limit (usually 0.02).<sup>6</sup> According to Federal Law, repeat DUI offenders shall “receive a suspension of all driving privileges for not less than 1 year, or a suspension of unlimited driving privileges for 1 year...if an IID is installed

<sup>6</sup> Spratler Group, “Ignition Interlocks – What you need to know: A Toolkit for Policy makers, Highway Safety Professionals, and Advocates,” Department of Transportation National Highway Traffic Safety Administration, November 2009, accessed of October 5, 2012, [http://www.nhtsa.gov/staticfiles/nti/impaired\\_driving/pdf/811246.pdf](http://www.nhtsa.gov/staticfiles/nti/impaired_driving/pdf/811246.pdf).

for not less than 1 year on motor vehicles owned or operated...by the individual.”<sup>7</sup> Although not mandatory by federal statute until their second offense, DUI offenders can have an IID installed in their vehicle to gain their driving privileges back after their first offense within all of the 39 states.<sup>8</sup>

This report examines the relationship between transportation issues arising from DUI courts in rural states, such as Vermont, and the use of ignition interlock devices. It examines current laws on IIDs in Vermont, the costs associated with the IIDs, and alternative forms of funding for offenders who qualify as indigent.<sup>9</sup>

### **Ignition Interlock Device Costs**

IIDs are often costly. Therefore, it can be difficult for DUI offenders without substantial financial means to obtain driving privileges to attend DUI court, work, and therapy. The installation of an IID can cost anywhere between \$100 and \$250. On top of that, monthly estimated costs are between \$65 and \$90.<sup>10</sup> Extra fees associated with IIDs can accrue due to late or missed maintenance appointments, reinstallation of the device from breaking or switching the unit to another vehicle, and towing fees resulting from device malfunction.<sup>11</sup>

### **State Financing Options of IIDs**

Some jurisdictions have established an indigent fund that provides financial assistance for IIDs. Of the 48 states with IID requirements, 14 have an indigent fund. States have maintained indigent funds through fees applicable to RDLs and the installation of IIDs. Some of these fees include: a fee for the initial issuance of an Ignition Interlock RDLs, an RDL renewal fee, an RDL application fee, or an Ignition Interlock Installer Licensing fee charged to the installers of the IID.<sup>12</sup>

Courts are typically the deciding factor in determining whether an offender is eligible for indigent funding. If the offender is determined to be indigent, the court either reduces or waives the fines associated with the installation of the IID. However, lax standards on whether

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<sup>7</sup> House of Representatives, *Moving Ahead for Progress in the 21st Century Act*, H.R. 4348, 112<sup>th</sup> Cong., 2<sup>nd</sup> sess., under “Highway Safety”

<http://www.gpo.gov/fdsys/pkg/BILLS-112hr4348enr/pdf/BILLS-112hr4348enr.pdf>.

<sup>8</sup> Governor’s Highways Safety Association, “Drunk Driving Laws.”

<sup>9</sup> According to the Free Dictionary, Indigent can be defined as a person so poor and needy that he/she cannot provide the necessities of life (food, clothing, decent shelter) for himself/herself.

<sup>10</sup> Spratler Group, “Ignition Interlocks – What you need to know: A Toolkit for Policy makers, Highway Safety Professionals, and Advocates.”

<sup>11</sup> Center for Transportation Safety, “Rural and Urban Issues Related to the Breath Alcohol Ignition Interlock Device,” Texas Transportation Institute, accessed on October 11, 2012, <http://gato-docs.its.txstate.edu/texas-justice.../BAIID%20Newsletter.pdf>.

<sup>12</sup> Robert Ide, “Act No. 126: An Act Relating to the Study and Recommendation of Ignition Interlock Device Legislation,” The State of Vermont Department of Motor Vehicles, January 2011, accessed on October 12, 2012, <http://www.leg.state.vt.us/reports/2011ExternalReports/263663.pdf>, p. 2.

offenders qualify for indigent status have exposed a weakness in the system.<sup>13</sup>

## **New Mexico**

As of 2005, New Mexico law requires that all DUI offenders have IIDs installed in their vehicles.<sup>14</sup> For those who are without financial means to support themselves, New Mexico has established an indigent fund, which helps “cover part of the costs of installing, removing, and leasing IIDs for indigent people.” New Mexico’s indigent fund is funded through alcohol excise taxes and a \$100 annual fee for DUI offenders who do not qualify as indigent. The “Interlock Device Fund” (IDF) is created in the State Treasury. The fees are collected and deposited by the Motor Vehicle Division of the Taxation and Revenue Department. Prior to 2011, indigency was “determined by the court, the parole board or a probation officer.”<sup>15</sup>

In February 2010, New Mexico suspended the IDF due to “lack of strict criteria on income qualifications.”<sup>16</sup> However, in October 2011, the IDF was reinstated, this time with a series of specific criteria regarding income qualifications. These qualifications include “proof of enrollment in one or more of the following types of public assistance programs: Temporary Assistance for Needy Families; General Assistance, the Supplemental Nutritional Assistance Program (SNAP) also known as “Food Stamps;” Supplemental Security Income; the Federal Food Distribution program on Indian Reservations; or other criteria approved by the traffic bureau.”<sup>17</sup>

## **Vermont**

Within Vermont, offenders who have had their license suspended are permitted to operate a motor vehicle if they are issued a valid ignition interlock restricted driver’s license (RDL), and have installed an approved IID. According to Vermont statute, “Upon receipt of proof of installation of an approved ignition interlock device, the court may order that the fine of an indigent person conditionally be reduced by one half to defray the costs of the ignition interlock device...The holder of an ignition interlock RDL shall pay the costs of installing, purchasing or leasing, removing the IID as well as calibrating the device and retrieving data from it periodically as may be specified by the commissioner.”<sup>18</sup> Although Vermont reduces the fine for indigent offenders, the overall cost of IIDs is still high.

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<sup>13</sup> The State of Vermont Department of Motor Vehicles, “Act No. 126: An Act Relating to the Study and Recommendation of Ignition Interlock Device Legislation, p. 2.

<sup>14</sup> New Mexico Department of Safety, “Preventing DWI in New Mexico,” accessed on October 12, 2012, <http://www.dps.nm.org/lawEnforcement/dwi/dwiIgnitionInterlock.php>.

<sup>15</sup> Institute of Public Law and Traffic Safety Bureau, “New Mexico Motor Vehicle Laws Handbook 2009-2010,” University of New Mexico Law and New Mexico Department of Transportation, accessed on October 12, 2012, <http://transportation.unm.edu/pubs/NMMVLaws8x11.pdf>, p. 28.

<sup>16</sup> The State of Vermont Department of Motor Vehicles, “Act. No. 126: An Act Relating to the Study and Recommendation of Ignition Interlock Device Legislation,” p. 3.

<sup>17</sup> Institute of Public Law and Traffic Safety Bureau, “New Mexico Motor Vehicle Laws Handbook 2009-2010.”

<sup>18</sup> Vermont House of Representatives, *Motor vehicles; ignition interlock restricted driver’s licenses; civil suspension; reinstatement*, H. 768, Committee on Judiciary, <http://www.leg.state.vt.us/docs/2012/Bills/Intro/H-768.pdf>, p. 5.

## IID Alternatives

Although all 39 states that have DUI/Hybrid Courts have an IID statute allowing for the use of an IID in order for a DUI offender to regain driving privileges, some states have statutes that provide a provisional license to the DUI offender. These provisional licenses allow the offender to regain driving privileges without the need to install an IID, as long as they participate in a DUI Court Drug Program.<sup>19</sup>

### Texas

In a study conducted by the Texas Transportation Institute and the Texas Department of Transportation regarding the cost of IIDs, 50% of respondents felt that their overall cost of the IID was unreasonable. The majority of the respondents who felt the device was unreasonable received a monthly income before taxes of \$1,999 or less, which comprised 54% of all respondents.<sup>20</sup> Currently in Texas, there is an administrative license suspension of 90 days, or 180 days if the offender refused the Breathalyzer test, for driving under the influence with a BAC level of .08 or higher. An IID is only mandatory for repeat offenders of a DUI conviction, however, it can be court ordered by the discretion of the judge for first-time offenders.<sup>21</sup> Otherwise, for first-time offenders, a “judge or magistrate administering a drug court program...may order that an occupational license be issued to the participant,” in order for the participant to attend their drug court therapy and treatment without the need to install an expensive IID.<sup>22</sup>

### Montana

Currently in Montana, it is mandatory to have an IID installed after your second DUI conviction in order to regain driving privileges.<sup>23</sup> However, since April 8, 2011, repeat DUI offenders who are “participating in a DUI court, the court may, in the court's discretion, authorize a probationary driver's license for the participant.” This probationary license will enable the DUI offender to attend his drug court therapy and treatment without the need of an IID.<sup>24</sup>

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<sup>19</sup> National Center for DWI Courts, “The Ten Guiding Principles of DWI Courts.”

<sup>20</sup> Center for Transportation Safety, “Rural and Urban Issues Related to the Breath Alcohol Ignition Interlock Device.”

<sup>21</sup> Governor’s Highway Safety Association, “Drunk Driving Laws.”

<sup>22</sup> *An Act relating to the Operation and Funding of Drug Court Programs*, HB 530, April 25, 2007, <http://www.legis.state.tx.us/tlodocs/80R/billtext/html/HB00530F.htm>.

<sup>23</sup> Governor’s Highway Safety Association, “Drunk Driving Laws.”

<sup>24</sup> *An Act Revising and Clarifying Probationary and Suspended Driver’s License Provisions and Provisions related to Driver Rehabilitation Classes for offenses of Driving Under the Influence*, HB 102, April 8, 2011.

## Conclusion

IIDs have been the primary way to provide safe transportation options for DUI offenders. One of the central problems with the use of IIDs is the excessive cost they can pose to individuals with lower incomes. State responses to this problem have been to either find alternative measures to IIDs such as specialized licenses or find ways to make IIDs more affordable. State indigent funds have created financial assistance to help individuals pay for the cost of IIDs. Providing alternatives or assistance in funding for IIDs has provided states ways of giving DUI offender's safe and affordable transportation.

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This report was completed on October 12, 2012 by Jon-Paul Scordio, Ann Nguyen and Nick Ingersoll under the supervision of Program Specialist Kate Fournier and Professor Jack Gierzynski in response to a request from John D. Rogers of the James M. Jeffords Center and Karen Gennette.

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Disclaimer: This report has been compiled by undergraduate students at the University of Vermont under the supervision of Professor Anthony Jack Gierzynski. The material contained in the report does not reflect the official policy of the University of Vermont.