

The New Zealand Alcohol Interlock Program: a review of the first year as a sentencing option for high risk drink drivers

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Abstract

Despite decreasing overall convictions for drink driving 2009-2012 in New Zealand (NZ), convictions for high risk (repeat or high level) drink driving increased. Evidence shows alcohol ignition interlocks reduce drink driving compared to existing sanctions (licence disqualification and fines). In 2011 legislation enabled the introduction of an Alcohol Interlock Program (AIP) for high risk drink drivers in NZ. This paper reviews the AIP in its first year as a sentencing option for high risk drink drivers. Ministry of Justice and NZ Transport Agency data was reviewed and stakeholders and participants of the AIP provided information. For the period 10 September 2012 to 9 September 2013 there were 23,362 drivers convicted of drink/drug driving. Of these, 11,692 (50%) met the criteria for the AIP: 6,639 repeat convictions and 5,053 first time convictions over double the legal limit. Only 228 offenders received an alcohol interlock sentence in addition to other penalties (2% of those eligible), far fewer than expected. Stakeholders report multiple barriers to uptake of the AIP: cost; more attractive alternative sentences (shorter duration, shorter stand-down period, less cost); legal loopholes (e.g. competing 'mandatory' sentences); and use of the Zero Alcohol licence (introduced as part of the AIP) as a stand-alone alternative. The AIP has been involved in High Court Appeals, further reducing judges' confidence in this option. A mandatory AIP sentence for this cohort of drivers would bring NZ into line with international and Australian jurisdictions.

Introduction

Despite sanction based initiatives (including licence disqualification, community sentences, fines and imprisonment), rates of repeat and high level drink driving convictions have increased every year in New Zealand (Waters, 2013). The New Zealand Ministry of Transport, in its Safer Journeys road safety strategy, identified this group as high risk, and a high priority area of concern. In 2011, to tackle this problem and based on the evidence of alcohol ignition interlocks effectiveness to do so, Parliament passed legislation allowing for the introduction of an Alcohol Interlock Program (AIP) in New Zealand for repeat drink drivers and some first time drink drivers. By introducing alcohol interlocks and Zero Alcohol Licences (ZAL) to New Zealand the *Safer Journeys* strategy aims to reduce the impact of drink driving on our roads. In New Zealand, alcohol interlocks are a sentencing option for judges for repeat drink-drivers, defined as 2 or more convictions for drink-driving in a five year period, or high level first-time drink-drivers, defined as over 800 mcg alcohol/L of breath, or over 160 mg alcohol per 100 mL of blood. For drivers over 20 years old, the drink-driving limits are 400 mcg alcohol /L of breath or 80 mg alcohol/ 100 mL of blood. There is a zero alcohol limit for drivers under 20. The Regulatory Impact Statement 'Completing the actions to address alcohol-impaired driving' (MoT, 2010) identified that the potential road safety benefits from the use of alcohol interlocks for repeat offenders and high level first-time drink-drivers would be a reduction of one to two lives and 25 injuries every year from 2013/14. In terms of the social cost of road injuries, the reduction would be \$10 million each year. Furthermore, the potential reduction in the social cost of harmful alcohol use will be \$2.9 million each year from 2013/14. International experience has found the alcohol ignition interlock to be highly effective in preventing

instances of drink driving (Waters, 2012) and the prevention of harm from such behaviour. Due to the success of these devices international practice is moving towards their use for all detected drink drivers. In NZ the interlock is used as a sentencing option for judges and the AIP is administered by the NZ Transport Agency.

Objectives

This paper reviews the New Zealand Alcohol Interlock Program (AIP) and details the use of the AIP sentence in its first year as a sentencing option from September 2012 to September 2013.

Methodology

Data was extracted from the Ministry of Justice's Case Management System (CMS) to determine how many offenders in the study period would be eligible for an alcohol interlock, and how many actually had an interlock sentence. Crash and licence status data was also provided by the NZ Transport Agency. Stakeholders of the AIP were interviewed and AIP participants invited to respond to questionnaires. This paper also provides general information on the AIP and also informs on stakeholder and participant views. The paper also provides other relevant data relating to the AIP.

Key Outcomes

Table 1. Sentences of those eligible for interlock by percentage and number of previous convictions September 2012 - September 2013

Number of previous convictions	Percentage of custodial sentences	Percentage of home detention sentences	Percentage of other community sentences	Percentage of AIP sentences
0	1.7	1.1	24.0	0.7
1	7.3	5.4	60.1	2.6
2	15.7	12.2	65.0	3.6
3+	28.6	16.5	48.4	4.1
Sentence Percentage of total offences	4.1	2.9	35.0	2.0

From 10 September 2012 - 9 September 2013, 23,362 drivers were convicted of drink/drug driving. Of these convictions 11,692 offenders met the criteria for the use of the AIP as a sentencing option. 6639 of the individuals convicted were repeat offenders and 5053 were high level first time detected offenders. 228 offenders received the AIP Sentence in addition to other penalties; that is 2% (Table 1) of those offenders eligible for the AIP, the rest received only penalties used previously for drink driving offences, including fines and licence disqualification (which are not represented in the percentages in Table 1). Since September 2012 to March 2014, 198 offenders have been issued with an Alcohol Interlock Licence (AIL). As at March 2014, 1 offender was convicted of an alcohol/drug driving offence since their AIL was issued. The AIP has incorporated some features that have been recognised as best practice. The NZ Transport Agency reported no problems with the administration of the program. Participants of the AIP report that the device stops them from drink driving and

impacts on their drinking habits. The costs involved with the interlock sentence appear to limit their use to those that can afford it. Interlock provider SmartStart report that they had installed 126 interlocks as of March 2014, with 5 participants successfully exiting the program. SmartStart reports that as of March 2014 their devices had stopped 599 attempts to drink and drive. The other interlock provider (there are two in NZ) Draeger Safety Pacific had 55 interlocks fitted by the same date, had 3 participants successfully exit the program and reports stopping 390 attempts of drink driving.

The interlock sentence has been involved in High Court Appeals. Stakeholders report multiple problems with the interlock sentencing option including: unclear or conflicting legislation; the ongoing use of existing penalties; the ready availability of the limited licence option; the costs to participants; and the perception that it is a soft option.

Between the 10 September 2012 and the 26 May 2014, 24.5% of the drink drivers, being granted a limited licence, were twice the legal limit. The introduction of a mandatory sentence of AIP for this cohort of drivers must be seriously considered to bring New Zealand into line with other international and Australian jurisdictions.

Discussion

The AIP was introduced to tackle the cohort of drink drivers for whom the application of previous penalties available had resulted in further reoffending. The evidence of the interlock to stop instances of drink driving is overwhelming and the reason they were introduced to New Zealand. More than half the drivers convicted at court in 2013 were repeat or high level first time detected drink drivers. Whilst the total number of detected offenders is dropping we are seeing increasing rates of detection of high risk/high priority drink drive offenders. The barriers to participation in the interlock program are numerous and if left in its current state it will fail to impact on the harm caused by high risk drink drivers. Continued use of the availability of the limited licence for some drink drivers needs to be reviewed to ensure greater public safety. The introduction and use by the judiciary of a stand-alone Zero Alcohol Licence may also be problematic; while perceived as further punishment there is no evidence it provides public safety. It has been reported that the interlock program is seen as a 'soft option' and that the previous sanctions (that are still failing) are preferred. This reasoning is not supported by evidence, and fails to take into account the safety of the public. Participants of the interlock program, who contributed to this paper, report on the punitive nature of the device as well as its ability to change not only their drink driving, but also their drinking behaviour. That there is no assurance of the interlock device being fitted once an interlock licence has been received is also concerning. The interlock sentence also appears to be limited to those who can afford it.

NZ cannot reduce the amount of repeat and high level first time detected drink drivers and reduce the harm they cause, by continuing to use current sanctions. The introduction of a mandatory sentence of AIP for this cohort of offenders must be seriously considered to bring NZ into line with other international and Australian jurisdictions. A review of the AIP in 2015; to include rehabilitation and monitoring measures along with a review of the offences and penalties regime, announced by the Ministry of Transport, may be a timely intervention to bring together the previous piecemeal attempts at tackling high risk drink drivers in NZ. It is suggested that any review of the AIP take advantage of the information contained in this report.

Conclusion

The introduction of a mandatory sentence of AIP for this cohort of drivers must be seriously considered to bring New Zealand into line with other international and Australian jurisdictions.

References

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