

Alcohol Interlocks in Victoria

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1. Introduction

In 2001, there were 444 road deaths in Victoria. Based on our population and the number of vehicles on our roads, this is one of the lowest road fatality rates in the world, but it is still too high.

While Victoria's annual accident rate, at 1.34 deaths per 10,000 registered vehicles, is less than it was in the 1980s, there has been little real improvement in the past 10 years. The Bracks Government is committed to reducing annual death and injury arising from crashes on Victoria's roads by 20% per cent, over the next five years.

Despite a reduction in drink-driving achieved in recent years, and significant efforts of successive governments and the community, alcohol remains a major problem on the roads. Repeat drink-driving offenders, in particular, are an increasing problem. These offenders have been less affected by measures to prevent drink-driving, and many are likely to have an uncontrolled drinking problem. Programs are in place to identify these people and to help them deal with their problems.

Accidents involving drink-drivers with a prior drink-driving conviction cost the Victorian community \$81 million every year. What cannot be quantified is the pain, suffering, grief and personal loss that are the result of these road deaths and injuries.

New approaches are needed to reduce repeat offending.

This paper describes one of those measures: Victoria's alcohol interlock program.

Interlock programs are an initiative identified in the National Road Safety Strategy (December 2000) that has been endorsed by all Australian governments. Interlocks have been introduced or are being trialed in a number of Australian jurisdictions (refer to section 2).

Interlocks are not a panacea for the problems of drink-driving. Drink-driving, like alcohol abuse, does not have a simple cause and will not respond to simple solutions. Interlocks are one component of the Government's broader road safety strategy that will be useful in reducing the number of repeat offenders on the roads.

2. What is an Alcohol Interlock?

An alcohol interlock is a small, hand-held breath-testing device fitted to a vehicle's ignition. The driver must blow into the interlock before attempting to start the vehicle. If the driver's blood alcohol content (BAC) is higher than the pre-set level, the vehicle will not start.

In addition to preventing the vehicle from starting, the interlock records data on the use of the vehicle and any attempts to circumvent the interlock, such as roll starting.

Interlocks are used in a number of places, particularly in North America and Europe, as part of an anti-drink-driving regime. Overseas, interlocks are fitted to the vehicles of drink-drivers for a specified period of time following a conviction, or following a period of licence cancellation or suspension.

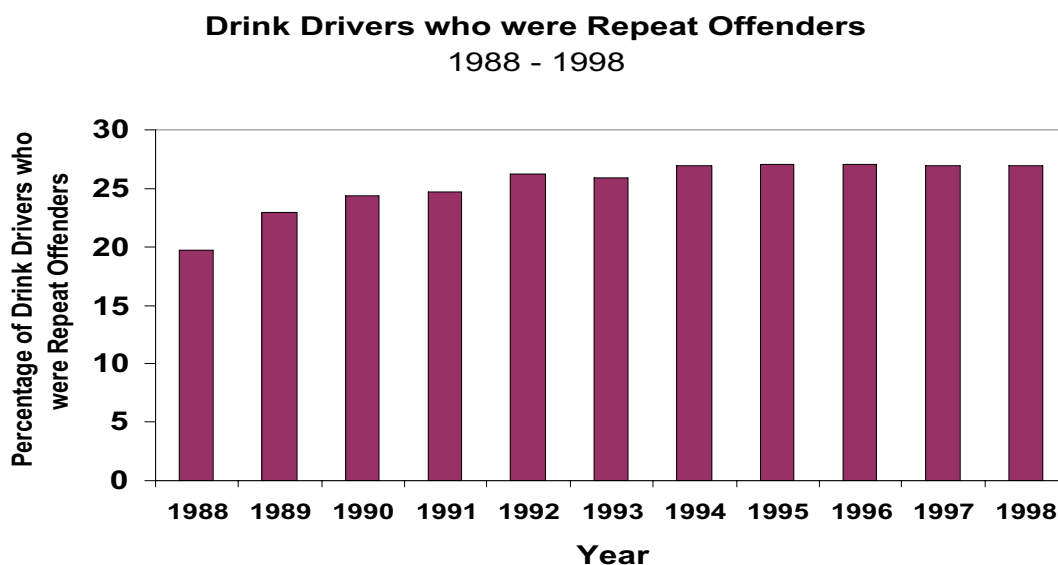
3. Drink-Driving in Victoria

Although significant reductions in drink-driving have been achieved in recent years, alcohol remains a major problem in Victoria:

- Drink-drivers still cause 20 per cent, or one in five, fatalities on Victorian roads each year.
- Repeat drink-drivers cause 5 per cent of the annual road toll — an average of 22 fatalities.
- A further 220 road users, on average, are seriously injured, and an estimated 340 suffer minor injuries, as a result of drink-driving accidents caused by repeat offenders each year.

Repeat offenders who have previously been found guilty of drink-driving are an increasing problem with 3,239 repeat drink-drivers caught in 1998, 970 more than in 1988 (when there were 2,269). As the following graph demonstrates, repeat offenders make up a significant part of the total number of drink-drivers.

Victoria Police surveyed people who were breath tested and charged over a six-months period in 2000. They found that more than 35 per cent had one or more prior conviction, for a drink-driving offence.



Many repeat offenders have an uncontrolled drinking problem and, as a consequence, are unable to rely on their self-control to avoid drinking and driving. Despite facing severe penalties and loss of licence, they continue to re-offend. This group is less likely to benefit from rehabilitation, or be deterred from drink-driving by current enforcement measures. More interventionist regulatory responses are required to ensure that these drivers are kept off the road when affected by alcohol.

4. Current Drink- Driving Laws

Victoria has a comprehensive drink-driving regime that has had a significant impact on the levels of drink-driving in the State. It consists of a legal framework of penalties, rehabilitation courses and re-licensing requirements, supported by ongoing efforts in public education.

Most drivers must stay under a BAC of 0.05. However, a zero-BAC limit applies to those drink-drivers who are required to apply for a licence restoration order (see below) for the first three years when they get their licence back. Probationary and learner drivers, drivers of large vehicles, taxis and driving instructors are also subject to a zero BAC limit.

Penalties for Offenders:

- Full licence holders charged with an offence involving a BAC of under 0.07 may incur a penalty of 10 demerit points and no licence action
- Single offenders with a BAC below 0.15 may be issued an infringement notice
- All other offenders will have their case heard in court.

Drink-drivers who receive an infringement notice, receive a fine between \$240 and \$420 and are disqualified from driving for a period of time, depending on the severity of the offence. Court-convicted drink-drivers also receive a fine and disqualification.

Victoria's drink-driving regime does not stop at disqualification from driving. Depending on the severity of the offence and prior offence history, getting a licence back after a period of disqualification, may require the following:

- Completing a drink-driver education course (about 9,000 people undertake an education course each year)
- Being assessed for alcohol problems and referred for treatment if needed (about 3,600 people each year are required to undertake assessments)
- Applying to the Magistrate's Court of Victoria for a licence restoration order (this procedure allows the court to assess whether someone is fit to have a licence back — about 7,000 people apply every year)
- Applying to VicRoads for a new licence.

These requirements for education, clinical assessment, referral for treatment and the need to return to court for a licence restoration order are an important component of the existing drink-driving system. These requirements recognise that drink-driving, particularly by repeat offenders, is often symptomatic of a broader problem with alcohol abuse. Similarly, disqualification periods, which are mandatory for the vast majority of convicted drink-drivers, have been a highly effective aspect of Victoria's drink-driving regime, and provide an appropriate deterrence to those who might otherwise drink and drive.

Attitudes in Victoria have changed towards drink-driving in the past few decades. Drink-driving is no longer seen as socially acceptable. In the past, we may have congratulated others for getting away with it. Today, we are more likely to castigate drink-drivers for putting themselves and others at an unnecessary risk. In fact, around 90% of Australians support more severe legal penalties for drivers who are drunk (National Drug Strategy Household Survey 1998).

5. Why use Interlocks?

Alcohol interlocks attempt to break the link between drinking alcohol and driving, both for the period of time they are fitted, and possibly in the longer term after the removal of the interlock.

When fitted, interlocks prevent drivers from starting their vehicle if they register a BAC of 0.02 or more. This should provide immediate benefits to road safety for the period for which interlocks are fitted, by making it very difficult to repeatedly offend.

Secondly, by forcing drink-drivers to find alternative transport every time they *have* been drinking, interlocks promote a pattern of behaviour where the driver does not attempt to drive after drinking. While reviews of interlock programs overseas are conclusive in finding benefits during the period in which interlocks are fitted, less work has been done to determine longer-term benefits of interlocks once they have been removed. Preliminary research, however, suggests that some benefits may remain for at least one - two years.

There are significant benefits from limiting drink-driving during the period when interlocks are fitted. Interlocks help to ensure that repeat drink-drivers don't drink and drive during the period of highest accident-risk — the first five years after their prior offence. For instance, a two-year licence cancellation plus a three-year requirement for an interlock when they are re-licensed would prevent them drink-driving for these five years. This would avoid more than half the drink-driving casualty accidents this group would otherwise have.¹

If all convicted drink-drivers could be prevented from drink-driving for the five years immediately following their first offence, it is expected that, at least:

- 11 fewer people would be killed
- 110 fewer seriously injured
- 170 fewer suffering minor injury, each year.

Further, there may be additional general deterrence effects if the possibility of having to drive with an interlock fitted deters some drink-drivers who have not been caught before.

If the interlock program prevents even one-quarter of all the fatal and injury accidents caused by repeat drink-driving, Victoria's annual accident costs would be reduced by more than \$20 million.²

¹ Almost all drink-driving casualties involving offenders with a prior offence occur within 10 years of the earlier offence. More than half occur within the first five years.

² Costs of a fatal, serious and minor injury accident \$1.01 million, \$0.234 million and \$0.021 million respectively (Austroads, 1999)

6. Interlock Programs

6.1 Interlock Programs in Australia

All Australian governments have endorsed the introduction of interlock programs in the National Road Safety Action Plan for 2001/02. South Australia has commenced their program, allowing eligible drink-drivers to trade-in up to half their current disqualification period for double this time on an interlock. Queensland and New South Wales are currently developing their programs. Queensland plans to retain a minimum disqualification period where offenders must complete an education/treatment program prior to interlock installation. New South Wales plans to retain a mandatory disqualification period.

6.2 Interlock Programs Overseas

Interlock programs are well established in most US states, Canada, and in a number of European countries, including Sweden. After more than a decade since the first interlock programs commenced, a considerable body of research has examined the effectiveness of interlock programs. Consequently, many jurisdictions have moved to strengthen their interlock provisions since they were first introduced, or, moved to make their use more widespread.

The US Federal Government, for example, now requires all States to have introduced either interlocks or vehicle impoundment provisions for repeat drink-drivers, or lose part of their federal funding for roads.

Periods of interlock use vary, but tend to range from about six months to 18 months. Some American and Canadian programs are extending interlock installation periods because these are now judged to be too short to establish lasting behavioural change. Ontario (Canada) passed legislation in December 2000 requiring first-time offenders to have an interlock for at least 12 months, and repeat offenders for at least three years and some permanently.

7. Do Interlocks Work?

Over the past decade, many evaluations have looked at the effectiveness of interlock programs in the individual states of the USA, each operating under different administrative and judicial systems. In summary, the research consistently shows that **interlocks significantly reduce drink-driving while they are fitted.**³

Some programs are beginning to report more lasting behavioural change. Evaluation of the Alberta (Canada) program in 1997 found that drink-driving was reduced for those who had interlocks fitted for one year, which persisted for up to two years after the interlocks had been removed.⁴

There is evidence that interlocks work best when combined with probation or treatment such as counselling or medical monitoring⁵. Alberta, Ontario, Maryland, West Virginia and Sweden all require treatment in conjunction with the interlock.

It needs to be remembered that, like any other law enforcement tool, the success of interlocks depends on the context. It is difficult to draw conclusions between jurisdictions when other factors vary widely. For example, the usual BAC limit in the USA - even for re-licensed drink drivers - is between 0.08 and 0.1, and the proportion of drivers killed with a blood alcohol concentration over the legal limit still exceeds 40 per cent (compared to less than 25 per cent in Victoria). Drink-driving penalties are generally less severe, and there are options for the courts and offenders that do not involve licence action.

³ Levy & Frank, 2000; Coben & Larkin, 1999; Frank, 1997; Voas et al, 1999; Bierness et al, 2000; Voas, Marques et al, 1999; Dussault & Gendreau, 2000; Beck et al, 1997.

⁴ Bierness et al, 1997.

⁵ Voas et al, 1999; Longest, 1999

8. The Victorian Alcohol Interlock Program

The Victorian interlock program is outlined in the table below.

ALCOHOL INTERLOCK REQUIREMENTS FOR DRINK DRIVERS

Offender Group	Type & severity of offence	Licence cancellation period	Interlock licence condition
<p>REPEAT OFFENDERS</p> <p>At least one previous drink driving offence within the last 10 years* and another offence on or after 13 May 2002.</p>	<p>Group A: Three or more offences OR Two offences where the most recent offence was: a BAC of at least 0.15, or a non-BAC offence[#]</p>	<p>12 months minimum OR 30 months minimum</p>	<p>3 years minimum</p>
	<p>Group B: Two offences, where the most recent offence was a BAC of less than 0.15</p>	<p>12 months minimum</p>	<p>6 months minimum</p>
<p>FIRST OFFENDERS</p> <p>One drink driving offence on or after 13 May 2002, and no other drink driving offence within the last 10 years</p>	<p>One only offence, which was: a BAC of at least 0.15, or a non-BAC offence[#]</p>	<p>15 months minimum</p>	<p>If the court imposes a condition, it will be for a minimum of 6 months</p>

The interlock requirement takes the form of a licence condition on the drivers licence or learner permit of people who have their licence restored after the set period of disqualification.

All interlocks will be set at a BAC of .02. Drivers with an alcohol interlock condition on their licence will be subject to a zero BAC limit while the interlock condition applies.

VicRoads will approve suppliers of interlocks, in accordance with published guidelines. It is anticipated that there will initially be two approved suppliers, and more may enter the market as it expands.

* The existing ten-year rule applies in determining whether an offender is a single or repeat offender.

Non-BAC drink driving offences include: DUI (driving under the influence of alcohol); refusing to provide a breath or blood sample; refusing to accompany a Police officer; etc.

9. Who will have an Interlock Licence Condition?

9.1 First Offenders

9.1.1 One Offence involving a BAC under 0.15

An interlock licence condition will not apply to first offenders with a BAC of less than 0.15. These offenders are the only drink drivers who will not be considered for an interlock condition.

9.1.2 Serious First Offences

More serious drink-driving offences include: detection of a BAC of 0.15 or more, driving under the influence of alcohol (DUI), refusing to stop at a random breath test station and refusing to provide a breath sample for testing, etc. Under the current law, these offenders: are disqualified from holding a licence or permit for a minimum of 15 - 24 months; are required to undergo clinical assessments for alcohol and drug misuse; must attend an education program; and are obliged to seek a licence restoration order from a court before they can be re-licensed. Each year there are about 2,000 convicted Victorians in this category, each year.

For this group, a court hearing an application for a licence restoration order will have the option of requiring an alcohol interlock condition on the new licence (issued by VicRoads), for a period to be specified by the court, which must be at least 6 months.

An interlock condition will only be able to be removed from a licence when a court order has been obtained. This court order is termed an Interlock Condition Removal Order (ICRO). Before applying to a magistrates court for an ICRO, drivers with an interlock condition on their licence must have another assessment, and the report from this assessment will be given to the court. This report will also incorporate information on any problems that occurred with the use of the interlock, such as attempts to circumvent it.

First offenders required to have an interlock condition on their licence will thus have three assessments:

1. 12 months before applying for a licence restoration order
2. Immediately before applying for the licence restoration order
3. Immediately before applying for an interlock condition removal order.

The first two are necessary for the court hearing an application for a licence restoration order to be able to determine whether the person concerned should be re-licensed or not, and the third will be necessary for the court hearing an application for an ICRO.

9.2 Repeat Offenders

Repeated drink-driving suggests a pattern of dangerous behaviour, and for this reason these offenders are treated more severely than single offenders. Repeat offences also indicate the likelihood of future offending. Figures from Victoria Police indicate that the higher the BAC recorded for a particular offence, the more likely that person is to be a repeat offender. For example, for offences where the BAC recorded was above 0.05 but less than 0.10, almost 30 per cent of offenders had prior convictions. However, when the BAC was 0.15 or above, over 45 per cent of offenders had prior convictions for drink-driving. This indicates that a more interventionist measure is justified for these offenders.

While courts have the option of sending repeat offenders to prison, an interlock requirement is less socially disruptive and less costly. Interlocks provide a low-cost rehabilitative approach that does not rely on the offender's own self-control.

9.2.1 Lower Level Repeat Offenders:

The minimum period for an interlock condition will vary for lower level and higher level repeat offenders. Repeat offenders with only 2 offences where the most recent offence involves a BAC of less than 0.15 do not necessarily have the same risk of recidivism as the worst repeat offenders. The law deals with this group with disqualification periods of between 12 to 28 months and a requirement for clinical assessments and an education program before this offender can seek a licence restoration order. About 2,000 Victorians fall into this category every year.

This category of offenders will be required to have an interlock condition on their licence for at least 6 months when they are re-licensed. Courts granting a licence restoration order will have a power to increase this period to longer than 6 months, and an ICRO will be required before the condition can be removed from the licence.

9.2.2 More Serious Repeat Offenders:

More serious repeat offenders are treated differently in the interlock program. These offenders have more than 2 offences, or a second offence where the most recent offence involves a BAC of 0.15 or more, or a refusal to submit to a breath test or to stop at a random breath test station, etc. People convicted of these repeat offences are disqualified from holding a licence for a minimum of 12 - 48 months, and are required to be assessed for alcohol problems and undergo an education program. They are also required to return to the Magistrate's Court to seek a licence restoration order. About 1,000 Victorians fall into this category every year.

This group of offenders will be required to have an interlock condition on their licence when re-licensed for a minimum period of 3 years. The court issuing a licence restoration order will have a power to increase this period, and an ICRO will be required from a magistrate's court before the condition can be removed. An assessment report will be provided to the court considering an application for such an order, incorporating information on the use of the interlock.

The normal requirement for an assessment 12 months before applying for a licence restoration order will be waived, because all second offenders will be required to have an interlock condition on their licence when restored. These people will still have two assessments, one immediately before applying for a licence restoration order, and one immediately before applying for an ICRO.

10. Costs

Approved interlock suppliers will set costs for interlock users in a competitive environment. It is anticipated that interlocks will be leased although users may purchase their interlock if a mutually agreed contract is negotiated. Users who demonstrate that they have complied with the interlock requirements in the first month of installation may have the interval between interlock services extended from one to three or four months which will reduce costs.

Health Care Card holders will be charged \$50 less per month, for an interlock. Suppliers will be required to incorporate the cost of this subsidy into the costs for clients without a health care card.

11. Circumvention of an Interlock

The following measures are intended to prevent circumvention or tampering with interlocks:

Built-in technical safeguards will prevent obvious means of circumvention such as roll starts and the use of a balloon, hose or similar device to provide a breath test.

The interlock stores data on all breath tests and resulting engine actions, which is downloaded during servicing and stored. A summary of this data will be provided to the court when the user applies for an ICRO. This will be a powerful incentive to comply with the interlock requirements.

An additional incentive to comply with the interlock requirements will be the option of having the interlock serviced less frequently, thus reducing the cost and inconvenience of monthly servicing.

Of course, avoiding the interlock requirement by driving another vehicle cannot be prevented by anti-circumvention features or monitoring the usage data. Driving without a valid licence (or in breach of licence conditions), is an existing problem. Driving another vehicle will, however, be minimised by targeted enforcement procedures (including random breath testing) in conjunction with the threat of severe sanctions. A new offence of driving a vehicle in violation of an interlock condition now exists, with penalties including immobilisation of the vehicle or up to 4 months imprisonment.

12. Will interlocks increase unlicensed driving?

There are concerns that harsher penalties discourage drink-drivers from trying to get their licence back, and in some instances lead to more unlicensed driving. There is no doubt that interlocks will be seen by some as a severe and intrusive penalty.

However, this relationship between penalties and unlicensed driving is not clear. In late 1990, mandatory clinical assessments for alcohol problems were introduced for all serious offenders, increasing costs to around \$400 to complete re-licensing requirements. The clinical assessments, in particular, were seen as likely to deter many from seeking re-licensing.

Data on fatal accidents does not show increased unlicensed driving since the introduction of these assessments. In fact, there has been a decrease in the involvement of unlicensed drivers, and unlicensed drink-drivers, in fatal accidents from 1990 to 1997: from 39 to 26, and from 16 to 7, respectively.

13. Retrospectivity

Interlocks will apply only to offenders whose key offence occurs on or after the legislation comes into effect, that is, 13 May 2002.

14. Accessibility

Interlock suppliers will be required as a condition of approval, to make interlocks available at the same price throughout Victoria, and to provide installation service facilities to ensure no interlock user will have to travel more than 150 km to have the interlock serviced.

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