

House Study Bill 574 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S OFFICE
OF DRUG CONTROL POLICY
BILL)

A BILL FOR

1 An Act relating to the wearing of an alcohol monitoring
2 device as a condition of probation for certain
3 operating-while-intoxicated and related offenses.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.1, Code 2009, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. *“Continuous alcohol monitoring device”*
4 means a portable device that automatically tests breath, blood,
5 or transdermal alcohol concentration levels at least once every
6 thirty minutes, detects tamper attempts regarding such device,
7 and automatically transmits such data to the appropriate
8 judicial district department of correctional services,
9 regardless of the location of the person being monitored.

10 Sec. 2. Section 321J.2, subsection 2, paragraph b, Code
11 2009, is amended to read as follows:

12 b. An aggravated misdemeanor for a second offense, and
13 shall be imprisoned in the county jail or community-based
14 correctional facility not less than seven days, and assessed a
15 fine of not less than one thousand eight hundred seventy-five
16 dollars nor more than six thousand two hundred fifty dollars.
17 In addition, as a condition of probation, the court may order
18 the defendant to abstain from consuming or using alcohol or any
19 product containing alcohol and to wear a continuous alcohol
20 monitoring device for a period of time not to exceed the
21 defendant’s period of probation.

22 Sec. 3. Section 321J.2, subsection 2, paragraph c, Code
23 2009, is amended by adding the following new subparagraph:

24 NEW SUBPARAGRAPH. (3) In addition, as a condition of
25 probation, the court may order the defendant to abstain from
26 consuming or using alcohol or any product containing alcohol
27 and to wear a continuous alcohol monitoring device for a period
28 of time not to exceed the defendant’s period of probation.

29 Sec. 4. Section 321J.4, subsection 8, paragraph f, Code
30 Supplement 2009, is amended to read as follows:

31 f. A person who tampers with or circumvents an ignition
32 interlock device installed under a court order while an order
33 is in effect commits a serious misdemeanor. In addition to any
34 other penalty for such violation, as a condition of probation,
35 the court may require the person to refrain from consuming or

1 using alcohol or any other products containing alcohol and to
2 wear a continuous alcohol monitoring device for a period of
3 time not to exceed the defendant's period of probation.

4 Sec. 5. Section 321J.21, subsection 1, Code 2009, is amended
5 to read as follows:

6 1. A person whose driver's license or nonresident operating
7 privilege has been suspended, denied, revoked, or barred due
8 to a violation of this chapter and who drives a motor vehicle
9 while the license or privilege is suspended, denied, revoked,
10 or barred commits a serious misdemeanor. In addition to any
11 other penalties, the punishment imposed for a violation of this
12 subsection shall include assessment of a fine of one thousand
13 dollars. In addition, as a condition of probation, the court
14 may require the person to refrain from consuming or using
15 alcohol or any other products containing alcohol and to wear a
16 continuous alcohol monitoring device for a period of time not
17 to exceed the defendant's period of probation.

18 Sec. 6. Section 902.9, Code 2009, is amended by adding the
19 following new unnumbered paragraph:

20 NEW UNNUMBERED PARAGRAPH. In addition to the penalties set
21 forth in this section or elsewhere in the Code, the court may
22 order the defendant, as a condition of probation, to abstain
23 from consuming or using alcohol or any product containing
24 alcohol and to wear a continuous alcohol monitoring device for
25 a period of time not to exceed the length of the defendant's
26 period of probation.

27 Sec. 7. Section 903.1, Code 2009, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 5. In addition to the penalties set forth
30 in this section or elsewhere in the Code, the court may order
31 the defendant, as a condition of probation, to abstain from
32 consuming or using alcohol or any product containing alcohol
33 and to wear a continuous alcohol monitoring device for a period
34 of time not to exceed the length of the defendant's period of
35 probation.

1 Sec. 8. Section 907.6, Code 2009, is amended to read as
2 follows:

3 **907.6 Conditions of probation — regulations.**

4 1. Probationers are subject to the conditions established
5 by the judicial district department of correctional services
6 subject to the approval of the court, and any additional
7 reasonable conditions which the court or district department
8 may impose to promote rehabilitation of the defendant or
9 protection of the community. Conditions may include but are
10 not limited to adherence to regulations generally applicable
11 to persons released on parole and including requiring unpaid
12 community service as allowed pursuant to section 907.13.

13 2. In addition to any other conditions or penalties
14 applicable pursuant to this section or elsewhere in the Code,
15 the court may order or the judicial district department of
16 correctional services may require, subject to the approval
17 of the court, that as a condition of probation the defendant
18 abstain from consuming or using alcohol or any product
19 containing alcohol and wear a continuous alcohol monitoring
20 device for a period of time not to exceed the length of the
21 defendant's period of probation.

22 EXPLANATION

23 This bill provides that a person who is placed on
24 probation for a conviction of a second or subsequent
25 operating-while-intoxicated offense, who tampers with or
26 circumvents an ignition interlock device installed under a
27 court order while an order is in effect, or who drives a motor
28 vehicle while the person's driver's license or nonresident
29 operating privilege is suspended, denied, revoked, or barred
30 may be required by the court to refrain from consuming or using
31 alcohol or any other products containing alcohol and to wear a
32 continuous alcohol monitoring device for a period of time not
33 to exceed the defendant's period of probation.

34 The bill makes conforming changes to general sentencing
35 provisions relating to felons and misdemeanants, and for

1 persons on probation.

2 The bill defines a continuous alcohol monitoring device as
3 a portable device that automatically tests breath, blood, or
4 transdermal alcohol concentration levels at least once every
5 30 minutes, detects tamper attempts regarding such device, and
6 automatically transmits such data to the appropriate judicial
7 district department of correctional services, regardless of the
8 location of the person being monitored.