

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – First Regular Session

**COMMITTEE ON TRANSPORTATION**

Minutes of Meeting  
Thursday, March 24, 2011  
House Hearing Room 3 -- 9:00 a.m.

Chairman Williams called the meeting to order at 9:00 a.m. and roll call was taken by the secretary.

**Members Present**

Mrs. Burges  
Ms. Fann  
Mr. Farley

Ms. Hobbs  
Mrs. McLain  
Mr. Meyer

Mr. Weiers, JP  
Mr. Gray, Vice-Chairman  
Mr. Williams, Chairman

**Members Absent**

None

**Committee Action**

SB1200 - DPA S/E (6-3-0-0)

SB1354 - ~~DPA S/E~~ FAILED (3-5-1-0)

SB1402 - DPA (5-4-0-0)

SB1430 - NOT HEARD

SB1589 - DPA (6-3-0-0)

**CONSIDERATION OF BILLS**

**SB1589 - authorized third parties; ADOT - DO PASS AMENDED**

**Vice-Chairman Gray moved that SB1589 do pass.**

Joe DeMenna, Majority Assistant Research Analyst, explained that SB1589 requires the Director of the Arizona Department of Transportation (ADOT) to authorize third parties to perform duties that would normally be performed by the Motor Vehicle Division (MVD) (Attachment 1). The Williams two-page amendment to SB1589 contains the following provisions (Attachment 2):

- Changes the Director of ADOT's minimum standards for third-party vendors to minimum quality standards, while still creating a quality assurance program for authorized third parties to comply with the minimum standards.
- Requires ADOT to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before December 31, 2011 that shall:
  - Review current services offered by authorized third parties.

- Identify, review and, if necessary, recommend opportunities for new services or expansion of current services to be provided by authorized third parties.
- Identify and make recommendations regarding any barriers that may exist to further privatization.
- Identify and make recommendations to increase efficiency and reduce costs to ADOT and authorized third parties.
- Allows ADOT to submit the report following a 30-day comment period after which the comments will be included in the report.
- Repeals the section from and after September 30, 2012.

**Vice-Chairman Gray moved that the Williams two-page amendment to SB1589 dated 3/22/11 (Attachment 2) be adopted.**

Kevin Biesty, Legislative Liaison, Arizona Department of Transportation (ADOT), stated that issues were resolved with the amendment. He clarified that the report will address potential privatization of MVD offices.

Ken Quartermain, Motor Vehicle Providers Association, spoke in support of SB1589. He stated that the bill does not expand any services of third-party providers; it requires a report by the end of the year on existing services provided by third-party providers to see if anything can be done to improve services, and on a variety of areas where there is a possibility of third-party providers expanding services.

Senator Gail Griffin, sponsor, related that ADOT has been dedicated and committed to privatizing title and registration services, which has worked well. She can go to an authorized third-party vendor and complete a transaction in five minutes, which could take over an hour at an MVD office.

Mr. Meyer asked for assurance that when a vehicle is taken to a third-party provider, background checks will be done to ensure the vehicle has not been stolen or the vehicle identification number changed, etc. Senator Griffin stated that those issues have already been considered. There are currently 134 authorized third-party providers throughout Arizona and ADOT makes sure protections and security are in place.

Chairman Williams thanked Senator Griffin for sponsoring SB1589. He said the state is in tough economic times and anything that can be done to privatize and make government more efficient will help balance the budget.

Mr. Quartermain noted that third-party vendors will not expand into any arena unless it is suggested in the report. If so, the necessary protections will be put in place. Current third-party providers process 3.7 million title and registration transactions annually and have been doing so for many years. The providers have a good relationship with ADOT, which has guidelines in place.

Ken Foote, Chairman, Motor Vehicle Providers Association; Owner, Third-Party Provider, spoke in support of SB1589. He related that the current system is already protected by ADOT

standards. Also, any transaction goes through a national crime search, and if a vehicle is flagged as stolen, for example, the police are called to deal with the situation.

Mr. Farley expressed concern that there may be a tremendous profit incentive for third-party providers to issue illegal driver licenses to people who are not qualified. Mr. Foote responded that MVD field offices currently issue all driver licenses and systems are in place for protection, but even so, there have been issues. Third-party vendors have even more strict guidelines than the state offices. He acknowledged that third-party vendors operate to make a profit, but pointed out that they have contracts with ADOT and a surety bond in place for each location. Also, audits are conducted at least two times per year by the state to ensure that all transactions do not compromise the state and no illegal credentials are issued.

Mr. Farley asked if the report will analyze the cost to MVD to increase audits based on the additional number of third-party providers or expansion of services. Mr. Quartermain replied that additional costs will be addressed in the report.

Mr. Meyer asked how much the state saves annually from current services that are privatized. Mr. Biesty related that ADOT is in the process of determining if there is a tipping point since the third-party provider retains part of the fee the state generally retains, which he hopes will also be part of the report.

Chairman Williams remarked that MVD currently does not have the ability to obtain new offices, especially in rural areas, so this bill will allow offices to be obtained as needed, and when the market no longer supports this type of activity, it can be retracted.

Mr. Farley asked the cost and who will pay for the report. Mr. Biesty answered that he cannot provide a dollar amount, but ADOT will be doing the report. There will be a 30-day comment period in order to hear from third parties, the public, etc., and those comments will be incorporated into the report.

Mr. Meyer questioned if there is an avenue for complaints. Mr. Biesty stated that ADOT has a third-party unit that takes complaints seriously and addresses issues with owners.

**Question was called on the motion that the Williams two-page amendment to SB1589 dated 3/22/11 (Attachment 2) be adopted. The motion carried.**

**Vice-Chairman Gray moved that SB1589 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 3).**

### **SB1402 - special license plates - DO PASS AMENDED**

**Vice-Chairman Gray moved that the Committee suspend Rule 7 to hear SB1402.**

Justin Riches, Majority Research Analyst, explained that Rule 7 specifies that any amendment over one page in length or any substantive amendment shall be printed and delivered to each Committee Member's office by 12:00 p.m. the day before it is offered in Committee. Suspension of Rule 7 will allow the Committee to offer amendments to SB1402.

**Question was called on the motion that the Committee suspend Rule 7 to hear SB1402. The motion carried.**

**Vice-Chairman Gray moved that SB1402 do pass.**

**Vice-Chairman Gray moved that the Williams 11-page amendment to SB1402 dated 3/23/11 (Attachment 4) be adopted.**

**Vice-Chairman Gray moved that the Williams 15-line amendment to SB1402 dated 3/21/11 (Attachment 5) be adopted.**

Mr. Riches explained that SB1402 establishes the *Law Enforcement* special plate, the *Youth Development Organization* special plate and the *Don't Tread on Me* special plate and respective funds, and outlines specific requirements for the Arizona Tea Party Committee (Attachment 6).

Mr. Farley stated that one of the Tea Party's principles is that government should be limited to the core purposes of government. He asked if the collection of money by government and distribution to a nonprofit is a core purpose of government.

Senator Don Shooter, sponsor, replied that he does not know if it is considered a core purpose, but the Tea Party has the right to participate as well as any other group; this is a way to support various organizations.

Mr. Meyer remarked that the grant program to be administered by the Arizona Tea Party Committee established in the bill is based on limiting government, yet the bill expands government. He asked if Senator Shooter will support a bill to eliminate all special license plates. Senator Shooter responded that he will have to study the issue further before he can make a decision.

Vice-Chairman Gray commented that the idea of helping the Tea Party is nice, but as a Tea Party leader, he believes in limited government and opposes the bill.

Mr. Weiers asked if special license plates cost ADOT any money that is not reimbursed by the license holder and whether third-party vendors charge an additional fee for special license plates.

Kevin Biesty, Arizona Department of Transportation (ADOT), responded that the \$8 the state retains is disbursed to cities, towns, counties and the State Highway Fund. It does not necessarily go to MVD for stocking or processing the plates. Third-party vendors do charge a convenience fee.

Mr. Weiers remarked that special license plates cost the state nothing and create jobs.

Senator Shooter noted that special license plates generate local revenue for cities, towns and counties.

Mr. Riches explained that the Williams 11-page amendment establishes the following special license plates and respective funds (Attachment 4):

- *Multiple Sclerosis Awareness*
- *Hunger Relief*
- *Childhood Cancer Research*
- *Litter Prevention and Cleanup*
- *Arizona Professional Hockey Club*
- *Arizona Public Broadcast Television*
- *Global Graduate Management School*

Mr. Riches related that the Williams 15-line amendment specifies that the background of the *Don't Tread on Me* special plate shall be in the image and color of the Gadsden flag and makes technical and conforming changes (Attachment 5).

Aram Chavez, Director, Strategic Initiatives, Thunderbird School of Global Management, spoke in favor of SB1402, specifically the *Global Graduate Management School* special plate. He stated that the Thunderbird School is nonprofit and recognized as the standard of higher education in international business at local, national and global levels. He previously submitted a letter to the Chairman stating that the required funds are available upon request.

Vice-Chairman Gray announced the names of those who signed up in support of SB1402 but did not speak:

Sabrina Vazquez, Association of Arizona Food Banks  
Trish Hart, Lobbyist, Arizona Clean and Beautiful

Vice-Chairman Gray announced the names of those who signed up in opposition to SB1402 but did not speak:

Elizabeth Mendoza, representing self

**Question was called on the motion that the Williams 11-page amendment to SB1402 dated 3/23/11 (Attachment 4) be adopted. The motion carried.**

**Question was called on the motion that the Williams 15-line amendment to SB1402 dated 3/21/11 (Attachment 5) be adopted. The motion carried.**

**Vice-Chairman Gray moved that SB1402 as amended do pass. The motion carried by a roll call vote of 5-4-0-0 (Attachment 7).**

**SB1354 - photo enforcement; violator identification; response - ~~DO PASS AMENDED S/E~~**  
**FAILED**  
**S/E: photo radar; prohibition**

**Vice-Chairman Gray moved that SB1354 do pass.**

**Vice-Chairman Gray moved that the Williams two-page strike-everything amendment to SB1354 dated 3/22/11 (Attachment 8) be adopted.**

Jonathon Bates, Majority Intern, explained that the strike-everything amendment to SB1354 (Attachment 8) prohibits a photo enforcement system from being utilized for speeding infractions (Attachment 9).

Senator Frank Antenori, sponsor, stated that he sponsored a bill to eliminate red light photo enforcement and photo enforcement for speeding infractions, which failed in the Senate due to the elimination of red light photo enforcement, which he said he will attempt to address again next year, as well as yellow light timing. The strike-everything amendment to SB1354 only eliminates photo enforcement for speeding infractions, which many people perceive as a revenue tool rather than a safety tool.

Chairman Williams stated that he received an email from City of Phoenix personnel asking about allowing photo speed enforcement in front of schools where the speed limit is 15 miles per hour. Senator Antenori answered that is fine since it relates to people creating a hazard around children, and the ability for officers to be everywhere at one time is limited. The strike-everything amendment is mainly to eliminate the use of photo speed enforcement to generate revenue. In Pima County, the majority of cameras were placed in certain areas, which has raised concern. In response to a question, he clarified that the strike-everything amendment prohibits photo speed enforcement statewide, which includes all municipalities.

Discussion followed about legislation passed the previous year relating to adjusting the timing of yellow lights and red light photo enforcement. In response to a question, Senator Antenori noted that the majority of municipalities use red light cameras, so concerns in the Senate related to local control.

Mr. Meyer stated that the Department of Public Safety (DPS) provided data showing that the number of traffic fatalities dropped significantly on segments of the freeway when cameras were in place. Senator Antenori responded that traffic fatalities have dropped dramatically around the country. The DPS study was a generic overall study that did not remove the aspect of normal fatalities based on miles driven, and a graph showed that even if cameras are eliminated altogether, the decline is comparable to when the cameras were installed. Arizona State University conducted another study that could not prove the decrease was in line with the cameras. Mr. Meyer disagreed and asked to see the data, which Senator Antenori agreed to provide.

Mr. Farley conveyed that a study conducted in 2008-2009 by DPS has disappeared, but preliminary results showed a dramatic decrease in fatalities and accidents related to high rates of speed that was directly attributed to photo speed enforcement cameras.

Stan Barnes, American Traffic Solutions, testified in opposition to the strike-everything amendment to SB1354. He stated that photo speed enforcement is used around the country in over 650 jurisdictions. It was developed in Arizona beginning in Paradise Valley, and other cities began to adopt it after seeing the statistics. He asked the Members to be more thoughtful about something that can be a tool for law enforcement, save lives and has worked in local jurisdictions for 20 plus years. He responded to questions about American Traffic Solutions.

Brian Tassinari, Lobbyist, Redflex, opposed the strike-everything amendment to SB1354 for the following reasons:

- Public safety officials believe that regulating speed at intersections is linked with regulating red light infractions because someone speeding through an intersection is unable to control his speed and slow down should the light turn yellow.

- The City of Chandler’s program lost \$20,000 so it is not a revenue generator, yet it is a tremendous success because a study by the Insurance Institute for Highway Safety (IIHS) recently revealed that red light fatalities in Chandler decreased 80 percent, for which red light cameras are not solely responsible, but it is a tool that contributed to the decrease.
- The Police Chief in the City of Sierra Vista has an intergovernmental agreement with the county wherein the City does not collect money from citations for photo enforcement, but the Chief still supports it because he believes it promotes public safety.

Mr. Tassinari responded to questions about the IIHS study.

Chad Heinrich, Government Relations Coordinator, City of Tempe, spoke in opposition to the strike-everything amendment to SB1354 and made the following points:

- Traffic engineers in Tempe would not change the timing of any yellow lights because they follow the Manual on Uniform Traffic Control Devices, which is published in the Code of Federal Regulations, Title 23, by the Federal Highway Administration.
- An analyst in the Police Department stated that the City is currently at a break-even point, so photo enforcement is not a revenue generator.
- Due to budget cuts, there are currently 70 fewer police officers and 19 fewer sworn officers on the street, so photo enforcement is a tool that is used to enforce the law.
- Locations can be chosen for photo enforcement devices; however, a police officer also chooses where to enforce the law, which is often based on where crime is evident or has a history of occurring.

Joanna Peters, Red Means Stop, spoke in opposition to the strike-everything amendment to SB1354. She stated that when she was eight years old, she was waiting for her dad to come home; a small car that was speeding ran a red light and hit him. This issue is about people, not revenue.

Vice-Chairman Gray announced the names of those who signed up in opposition to the strike-everything amendment to SB1354 but did not speak:

- Scott Butler, City of Mesa
- Rene Guillen, Legislative Associate, League of Arizona Cities and Towns
- Wendy Briggs, Lobbyist, American Insurance Association
- Jennifer McKinzie, representing self
- Natalie Clapick, representing self
- Larry Clapick, representing self
- Ryan Harper, Triadvocates LLC, City of Sierra Vista
- Brad Lundahl, Government Relations, City of Scottsdale

Vice-Chairman Gray announced the names of those who signed up in support of the strike-everything amendment to SB1354 but did not speak:

- Shawn Dow, representing self

Robert Grossman, representing self, testified in opposition to the strike-everything amendment to SB1354. He stated that he is disappointed to hear Legislators impugn the ethics and motivations of local city government. While national fatality rates on highways have declined, fatalities per miles driven in Arizona have fallen far further than the nation as a whole, which he believes is

mostly due to the photo enforcement program. Arizona State University examined this issue in relation to Loop 101 where photo enforcement has been an on-again, off-again proposition; the investigation showed that when photo enforcement was on and tickets were issued, fatalities, accidents and commute times improved.

Janet Gallup, Traffic Survival School Instructor, representing self, testified in opposition to the strike-everything amendment to SB1354. She stated that she is passionate about this issue as the result of being a paramedic in the state for over 10 years. In 2007 there were over 1,300 deaths on Arizona roads, which dropped to 900 in 2009, largely due to increased photo enforcement across the state. Photo radar is not punitive or unconstitutional. It is set for 10 miles plus over the speed limit, and someone who is driving that fast needs to be stopped. Cameras are fair and ensure that people who violate the law attend classes to be educated. She asked the Members to support public safety.

A brief discussion followed between Ms. Gallup and Mr. Weiers about constitutionality.

Mr. Farley referred to a 2009 article written by Commander Thomas Woodward of Arizona DPS that referred to a nine-month pilot project by Dr. Simon Washington, which found that photo enforcement reduced the number and severity of collisions on state highways and led to DPS implementing its photo enforcement program in September 2008 that dramatically increased traffic safety.

**Question was called on the motion that the Williams two-page strike-everything amendment to SB1354 dated 3/22/11 (Attachment 8) be adopted. The motion carried.**

**Vice-Chairman Gray moved that SB1354 as amended do pass. The motion failed by a roll call vote of 3-5-1-0 (Attachment 10).**

**SB1200 - ignition interlock device; time requirements - DO PASS AMENDED S/E**  
**S/E: driving under the influence; interlock**

**Vice-Chairman Gray moved that SB1200 do pass.**

**Vice-Chairman Gray moved that the Williams 35-page strike-everything amendment to SB1200 dated 3/18/11 (Attachment 11) be adopted.**

**Vice-Chairman Gray moved that the Williams 18-page amendment to the strike-everything amendment to SB1200 dated 3/21/11 (Attachment 12) be adopted.**

Joe DeMenna, Majority Assistant Research Analyst, explained that the strike-everything amendment to SB1200 (Attachment 11) requires various notable changes to Arizona's driving under the influence (DUI) laws, specifically a first-time DUI offender with a clean record on an ignition interlock device (IID) for six months could have the second six months dismissed, with certain exceptions (Attachment 13). The Williams 18-page amendment to the strike-everything amendment to SB1200 contains the following provisions (Attachment 12):

- Allows a city or town to establish a prisoner work, community restitution work, home detention program for eligible prisoners and adds a continuous alcohol monitoring program.
- Prohibits adding a continuous alcohol monitoring program to the list of items a prisoner is not eligible for if the offender is found to constitute a risk to themselves or those around them, if the prisoner has a past history of violence or if the sentencing judge states the offender is not eligible at the time of sentencing.
- Requires a city or town to appoint a Community Restitution Work Committee.
- Allows a city or town to terminate a prisoner's participation in a work project, community restitution and home detention or continuous alcohol monitoring program and require the prisoner to finish the time in the confines of jail.
- Allows a person who is sentenced to jail confinement for DUI, if authorized by the court, to be placed under home detention instead of under a continuous alcohol monitoring program, with exceptions.
- Allows a city to keep prisoners in alcohol monitoring programs if 20 percent of the initial jail term was served before being placed in a continuous alcohol monitoring program.
- Allows a city or town to create a continuous alcohol monitoring program for persons sentenced to jail for DUI and place the persons under continuous monitoring. The person must pay all the costs unless the court assesses a lesser amount.
- Requires the amount paid for the continuous alcohol monitoring program to be used to offset the costs of the program.
- Requires the prisoner to comply with the listed provisions if placed under home detention.
- Requires the court to end an offender's continuous alcohol monitoring program if the offender leaves the premises to which the offender is confined at which point the offender would return to jail for the remainder of the sentence.
- Allows a county to establish a home detention program for eligible prisoners.
- Requires the county to treat the home detention program confinement like confinement in jail.
- Stipulates that a person is not eligible for a home detention program or continuous alcohol monitoring program if the prisoner is found to be a risk to himself or others, the prisoner has a violent history or if the sentencing judge states at the time of sentencing that the prisoner is not eligible for such a program.
- Requires the prisoner to pay the fees for electronic monitoring unless it is determined by the court that they cannot and requires that the fees be used to offset the cost of the program.
- Allows the court to give prisoners time away from home detention centers for special occasions such as religious situations and funerals.
- Allows the court to terminate a prisoner's participation in the home detention program and require the prisoner to finish the sentence in jail.
- Requires an offender to first serve a minimum of one day in jail, to comply with testing at least once a day for drugs and alcohol, participate in programs accredited by the Department of Health Services or County Probation Department, stop any association with individuals that are detrimental to a person's success in treatment and any other provisions that might be imposed, if a county establishes a home detention or continuous alcohol monitoring program.
- Requires the offender to wear electronic monitoring equipment in their home and remain at home during the ordered jail time and during the hours they are required to be home.

The device constantly monitors their position and alerts authorities if they leave the premises without permission.

- Requires the court to terminate a prisoner's participation in any program if the prisoner fails to complete the drug or alcohol screening, the education class, or if the person left the premises without permission of the court or supervising authority.
- Allows the County Board of Supervisors to terminate the program at any time by a majority vote of the full governing body.

Mr. Meyer asked if there is a list of drug metabolites and Mr. DeMenna directed him to A.R.S. §13-3401. Mr. Meyer stated that tetrahydrocannabinol (THC) is a metabolite of marijuana that is stored in fat so it could show up in a blood test 30 to 45 days after someone uses it, to which Mr. DeMenna agreed and stated that it is included in the list of drug metabolites. He clarified that a judge will sentence an individual to 24 hours in jail for any DUI offense under current statute. Mr. Meyer asked about home detention.

Jerry Landau, Government Affairs Director, Arizona Supreme Court, stated a neutral position on SB1200 as it contains many policy issues surrounding DUI. He advised that the DUI law was rewritten in 1990, and under A.R.S. §28-1383.83, a person is guilty of DUI if a drug defined in Title 34 is metabolized in the person's system unless there is a valid prescription, which has been the law for 21 years. The strike-everything amendment to SB1200 does not change that law.

Regarding the home detention program, he stated that city councils, with the approval of the presiding judge, can establish a home detention program; this bill allows a board of supervisors to do so for counties with the approval of the presiding Justice of the Peace (JP). The language is new in relation to the board of supervisors, but the concept has been in place for decades. It is being used in various municipalities in Arizona to deal with sanctions and jail costs for DUI, especially since the minimum mandatory jail time for extreme DUI was significantly increased a few years ago.

In response to questions, he related the maximum and minimum penalties for a first offense DUI. He noted that the IID Program is administered through the Motor Vehicle Division (MVD), not the court.

Senator Linda Gray, sponsor, related that she sponsored the first DUI bill in 1999 after the death of two police officers. In 2005 DUI fatalities reached a peak of 492; in 2009 there were 128, which was due to several reasons, but one is the IID and impound law by which the vehicle is impounded if someone who is required to have an IID is driving without it; the vehicle is not returned until the IID is installed. IID providers indicate that between 30 and 40 percent of individuals are in full compliance with the IID requirement. If full compliance can be reached, she said she believes the number of fatalities will be lower.

She related that three stakeholder meetings were held on this measure, in which representatives from Mothers Against Drunk Driving (MADD) were included. A letter from MADD sent to the Members in opposition to the strike-everything amendment to SB1200 stated that there are other ways to encourage drivers to obtain an IID, yet no suggestions were offered, except to do away with the 24 hours of jail time, but MADD does not really want that to happen. Concessions were made to change the requirement for an IID from six months to nine months for a first offender DUI, which MADD opposed. She noted that current law states that if someone has a blood

alcohol content (BAC) over 0.08 three times with the IID, the requirement for an IID is extended for one year; the strike-everything amendment reduces that to 0.05 BAC with a reduced extension of six months, if the offender was not involved in an accident.

Senator Gray stated that not everyone arrested for DUI is an alcoholic. She read a letter from an individual who had a few drinks and was pulled over for speeding; he now has a DUI, but he regrets his mistake and completed the required screening and education before going to court. A woman who was pulled over after being given anesthesia at the doctor's office now has to have an IID for a year. The strike-everything amendment only applies to first-time DUI offenders as long as the specified conditions are met.

Mrs. McLain commended Senator Gray for bringing this measure forward, which she also considered because she was told by JPs about problems with first-time offenders who have difficulty paying the fines, must serve the mandatory jail time, and the cost of the IID. Senator Gray stated that another issue she is working on with the courts is reducing some of the fines and having that apply toward obtaining an IID to improve compliance.

In response to questions, Senator Gray stated that the courts transmit information to MVD, which sends out letters requiring individuals to obtain IIDs. Those not in compliance simply ignore the requirement. MVD does not report back to the courts, but the information is available for JPs to check. She said she hopes more JPs will check the records and issue warrants for arrest.

A lengthy discussion followed about whether shortening the requirement for an IID for a first-time DUI offender to six months will increase compliance.

Kelly Larkin, Executive Director, Arizona Affiliate, Mothers Against Drunk Driving (MADD), opposed the strike-everything amendment to SB1200 (Attachment 14). She submitted that Arizona's current interlock law has been a tremendous success. MADD will only support changing this measure if it keeps in place the 12-month minimum requirement for first-time convicted drunk drivers to use an IID. Lowering the required time for an IID for first-time convicted drunk drivers is not a fix; it is a loophole.

In response to questions, Ms. Larkin related that a study by Richard Roth in October 2010 showed that 12 months is the learning period for people to change behavior with the IID, which she will provide to the Members. She stated that the average person drives drunk 87 times before being arrested for the first time.

Frank Harris, Public Policy Office, Mothers Against Drunk Driving (MADD), opposed to the strike-everything amendment to SB1200, indicated that 87 is a conservative estimate. A study by the Traffic Injury Research Foundation from Canada shows that someone drives drunk 100 times before being caught, which is why Arizona's IID requirement for 12 months is a message of deterrent. He submitted that MADD offered creative solutions to boost compliance with Arizona's IID law in the stakeholder meetings, but none were acted on. For example, it was described at meetings, made up of half of the IID industry, that there is mandatory 24-hour jail time for a first-time offender, but, he submitted, that does not teach an offender to drive sober or properly rehabilitate the offender, and given the tough economic times counties are facing, it is not an effective provision. Science and statistics have shown that IIDs are effective for

convicted drunk drivers and Arizona needs to continue requiring IIDs for 12 months for first-time convicted drunk drivers.

Mr. Harris noted that Washington State is giving offenders the choice, 15 days after being arrested, if they are going to plead guilty, to use the IID immediately. He said it cannot be mandated because there is still due process. Offenders have to wait at least four months from arrest to post-conviction before using the IID, and during that time, are probably driving on a suspended license. IIDs teach the driver to drive sober and protect the public. Reducing the time from 12 months to six months does not protect the public nor does it teach the driver to drive sober.

Lester Pearce, Presiding Justice of the Peace, Maricopa County, spoke in support of the strike-everything amendment to SB1200 and made the following points:

- The IID six-month program versus one year will help the court in enforcing sentencing, which means more mandates for first-time DUI offenders such as attending classes, paying fines and meeting the requirements to reduce the time using an IID to six months.
- There is currently no way for the courts to monitor IIDs through MVD, which is needed.
- Stakeholders discussed how to keep people from transferring titles to avoid using an IID.
- The jail time is currently 24 hours, not one day as proposed in the strike-everything amendment to SB1200. If the judge sentences an offender to one day of sentencing, the offender can go in at 11:00 p.m. and be released at 11:00 a.m. the next day.
- The strike-everything amendment fixes many items such as screening, for example, the requirement is to send the offender to alcohol screening and education. The screening is a one- or two-day process and the person is normally assigned 16 to 32 hours of education programs for which they have to pay. If the offender fails to pay, he or she does not get into the class, so it becomes an economic issue for the plaintiff.
- The board of supervisors is allowed to establish a work furlough program that the judge can enact whereby 20 percent of the time is served by the offender followed by home monitoring. This will save money, but it is a policy issue.
- One day in jail is not a deterrent. The IID seems to be much more of a deterrent.
- Prosecutors rarely sentence DUI offenders above the minimum.

Ms. Hobbs asked if there is an alternative device for someone who does not own a vehicle. Mr. Pearce answered that use of the device is held in abeyance until the person obtains a vehicle, and if so, an IID will have to be used, but all an offender has to do is have a vehicle registered in someone else's name so there is no record that they own a vehicle.

Chairman Williams asked if a compromise can be reached on the time requirement for IIDs. Senator Gray stated that she offered nine months but MADD rejected the suggestion; however, she is willing to negotiate.

Alberto Gutier, Director, Governor's Office of Highway Safety, testified as neutral on the strike-everything amendment to SB1200. He stated that Senator Gray has been a champion of DUI laws in Arizona, which has the toughest drunk driver laws in the country. Penalties work but enforcement also works. He indicated that his interest in the bill is the inclusion of SB1028, which states that a person's license will not be suspended if the person has a metabolite in the

body and a prescription in possession, and SB1029, which allows repeat offenders to start driving after 45 days instead of one year if an IID is installed.

Don Isaacson, Arizona Licensed Beverage Association, spoke in favor of the strike-everything amendment to SB1200. He discussed passage of the IID requirement for a first-time DUI offender and noted that Representative John Kavanagh, a criminal justice professor, found three databases that showed most first-time offenders do not reoffend (as high as 80 percent), so people were paying to install IIDs in their vehicles to stop them from doing something they were not going to do anyway. He said MADD wants everyone to believe that every reduction that has occurred in highway deaths is the result of IIDs, but that cannot be proven or disproven. He submitted that there is nothing magical about 12 months or six months. It is time to reexamine this penalty because it is extremely costly and gives a first-time offender a chance to reduce the time on an IID to six months.

Sonya Brinton, Mothers Against Drunk Driving (MADD), testified in opposition to the strike-everything amendment to SB1200 in honor of her 16-year-old daughter, Rachel, a freshman in high school who has a traumatic brain injury and is partially paralyzed, and in memory of her first husband who was killed by a drunk driver. She said her daughter's life was completely changed and she will never be normal or the same. She is in ninth grade special needs classes without the use of her left arm. She submitted that funeral and hospital costs, rehabilitation, medicine, etc., are costly, and that putting IIDs in cars to try to help people learn from their mistakes is not costly.

Doryce Norwood, Victim/Advocate Volunteer, Mothers Against Drunk Driving (MADD), spoke in opposition to the strike-everything amendment to SB1200. She showed the Members her granddaughter's dancing shoes that she wore the day she and her mother were killed by a first-offender drunk driver in 2004. She submitted that SB1200 will increase the rate of fatalities and injuries on Arizona streets. She invited the Members to see a picture of her granddaughter, Haley, displayed on the Capitol grounds, who donated six organs.

Linda Dipatri, victim, representing self, spoke in opposition to the strike-everything amendment to SB1200. She conveyed that it has been documented by many institutions that because someone is a first-time offender does not mean they are a first-time impaired driver. Her son, Stephen, was killed when he was 24 years old. No amount of conversation or testimony can convince her that reducing the IID will be a good thing. As far as the 70 percent that do not comply, she suggested issuing a bench warrant on those people.

Beverly Mason Biggers, representing self, opposed the strike-everything amendment to SB1200 and made the following comments:

- Her 25-year-old brother, Scott Hogue, was killed by a repeat drunk driver. If this law had been in effect and the driver had an IID on his vehicle, maybe he would have learned his lesson the first or second time instead of running the risk of driving drunk a third time and hitting her brother head-on.
- A drunk driver drives 87 times or more before being picked up, so how many chances should drunk drivers be given before being let loose and endangering society.
- The 24 hours of jail time is removed and replaced with one day, which may need to be looked at in lieu of testimony.

- The argument is made that an IID costs too much for offending families; however, it costs \$2.57 per day, which is about the cost of a drink. That is not too much to ask for to keep families safe.
- Requiring IIDs for 12 months is a life-saving measure.

Michael Dipatri, retired Major, representing self, opposed the strike-everything amendment to SB1200. He indicated that his son, Stephen, was killed on September 7, 2007 by an underage drunk driver. He said he understands there are financial incentives to the bill, but no amount of savings will justify his son's death. Six months with an IID is not long enough to break a bad habit. He opined that this bill is irresponsible.

Taunya Strocchio, representing self, spoke in opposition to the strike-everything amendment to SB1200. She related that she is the mother of three children, one of whom was killed in a car crash on January 15, 2009 when she was three years old. The drunk driver that killed her daughter had his license reissued earlier that day, and within 24 hours, he hit the car her daughter was in while driving 90 miles per hour in a 35 miles-per-hour zone. He is currently serving 15-and-a-half years in prison, but the punishment for her family is so much worse. She submitted that if people cannot afford a fine or time in jail, they should not break the law. The way this legislation is written will not protect anyone.

Vice-Chairman Gray announced the names of those who signed up in support of the strike-everything amendment to SB1200 but did not speak:

Kristina Fretwell, Legislative Liaison/Public Information Officer, Maricopa County Justice Courts  
 Elizabeth Hatch, Guardian Interlock of Arizona  
 Clancy Jayne, Judge, Maricopa County Justice Courts

Vice-Chairman Gray announced the names of those who signed up in opposition to the strike-everything amendment to SB1200 but did not speak:

Ericka Espino, Manager of Development, Smart Start  
 Cyra Trujillo, Victim Advocate, representing self  
 Meme Aguila, representing self  
 Jennifer Godbehere, representing self  
 Laura Sand, representing self  
 Greg Godbehere, representing self  
 Ramona Maestas, representing self  
 Jane Hulverson, representing self  
 Dwayne Burns, representing self  
 Tracy Tingue, representing self  
 Michael Biggers, representing self  
 Kevin Mason, representing self  
 Tyler Girtman, representing self  
 Joanna Peters, representing self

Vice-Chairman Gray announced the names of those who signed up as neutral on the strike-everything amendment to SB1200 but did not speak:

Michael Roth, representing self

Janene Tully, representing self, spoke against the strike-everything amendment to SB1200. She related that she was a DUI victim in California and she bears the cost of the systematic leniency of DUI laws in that state. She was hit two years ago and sustained a brain injury; she now has balance problems, short-term memory loss and daily ocular migraines. There were no IID laws in California at the time and there are currently only four counties in California using IID laws on a trial basis for five years. If the third-time DUI offender who crashed into her when she was at a red light waiting for the signal to change had an IID, he probably would not have caused that crash. She said these laws were initially put into effect for a reason and an IID for 12 months has proven to be a powerful deterrent.

Chairman Williams asked if Ms. Larkin will support the strike-everything amendment and amendments if the length of time for an IID remains at 12 months, to which Ms. Larkin answered in the affirmative.

Mr. Farley said he would like to offer a verbal amendment. Chairman Williams stated that he would like to have a stakeholder meeting before the bill is heard on the Floor.

**Question was called on the motion that the Williams 18-page amendment to the strike-everything amendment to SB1200 dated 3/21/11 (Attachment 12) be adopted. The motion carried.**

**Vice-Chairman Gray moved that the Williams 35-page strike-everything amendment to SB1200 dated 3/18/11 (Attachment 11) as amended be adopted. The motion carried.**

**Vice-Chairman Gray moved that SB1200 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 15).**

Without objection, the meeting adjourned at 12:58 p.m.

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Linda Taylor, Committee Secretary  
April 19, 2011

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)