

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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House Bill 400

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House Judiciary Committee  
Task Force on DUI

Room 60, East Wing  
Main Capitol Building  
Harrisburg, Pennsylvania

Thursday, July 29, 1999 - 10:06 a.m.

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**BEFORE:**

Honorable Jane Orie, Majority Chairperson  
Honorable Brett Feese  
Honorable Thomas Gannon  
Honorable Tim Hennessey  
Honorable Stephen Maitland  
Honorable Albert Masland  
Honorable Rod Wilt  
Honorable Kathy Manderino

**ALSO PRESENT:**

**David Bloomer**  
Majority Research Analyst

**Judy Sedesse**  
Majority Administrative Assistant

**Beryl Kuhr**  
Democratic Counsel to Judiciary Committee

C O N T E N T S

WITNESSES

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Gary Bonanno  
Winner International

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1                   CHAIRPERSON ORIE: Good morning and welcome to  
2 the Judiciary Committee's DUI Task Force. Today I'd like  
3 to begin the meeting. The meeting would be on House Bill  
4 No. 400 introduced by Rod Wilt. Today we will have  
5 testimony from Gary Bonanno from Winner International. But  
6 at this time, I'd like to refer to Representative Wilt.

7                   REPRESENTATIVE WILT: Thank you very much,  
8 Madam Chairman. I appreciate the opportunity and also want  
9 to thank the members of the DUI Task Force, members of the  
10 Judiciary Committee for having this hearing this morning.  
11 A number of years ago, I heard about vehicle immobilization  
12 through a gentleman who will be testifying here in just a  
13 moment, Mr. Bonanno.

14                   And I was interested in, number one, removing  
15 drunk drivers from the road, as I believe all of us are.  
16 But secondly, I was interested in the recidivism rates.  
17 The facts are that -- we will hear. -- are that when a  
18 vehicle is immobilized by the order of the court and the  
19 vehicle is taken out of service, that the facts remain  
20 that -- that the DUI offender is less apt to be a repeat  
21 offender further down the road.

22                   I think that's really what we're after. We're  
23 all after prevention. But I think we're also after  
24 reducing that recidivism rate; that once someone has been  
25 convicted of DUI, that they do not repeatedly drive while

1 intoxicated.

2           So again, Representative Orie, thanks for the  
3 opportunity to be here this morning. And I'm looking  
4 forward to hearing Mr. Bonanno's testimony.

5           CHAIRPERSON ORIE: Before we begin, for the  
6 record -- and we'll start at this side of the  
7 table. -- could everybody introduce themselves and what  
8 counties they're from.

9           REPRESENTATIVE MAITLAND: I'm State  
10 Representative Steve Maitland from the 91st District, which  
11 is Adams County.

12           REPRESENTATIVE WILT: I'm Representative Wilt  
13 from Mercer and Crawford Counties. That's the 17th  
14 District.

15           CHAIRPERSON ORIE: Representative Orie from  
16 Allegheny County, 28th District.

17           MR. BLOOMER: Dave Bloomer, Judiciary  
18 Committee Analyst.

19           REPRESENTATIVE HENNESSEY: Tim Hennessey,  
20 Chester County.

21           REPRESENTATIVE MASLAND: Al Masland,  
22 Cumberland and York Counties.

23           MS. KUHR: Beryl Kuhr, Democratic Counsel to  
24 the Judiciary Committee.

25           REPRESENTATIVE MANDERINO: Kathy Manderino,

1 Philadelphia County.

2 CHAIRPERSON ORIE: Good morning, Mr. Bonanno.

3 MR. BONANNO: Good morning.

4 CHAIRPERSON ORIE: How are you today?

5 MR. BONANNO: Very good. Thank you.

6 CHAIRPERSON ORIE: If you'd like to begin your  
7 testimony.

8 MR. BONANNO: Well, I'm excited to be here  
9 because I think any time we can improve the situation for  
10 our public highways and roadways, it's a positive step. We  
11 know that far too many DUI alcohol-related fatalities are  
12 preventable.

13 And when you see what's going on in a lot of  
14 the courts, not only in the state of Ohio and Pennsylvania,  
15 but around the United States, repeat offenders getting  
16 sentenced and then continuing to drive only to be caught if  
17 they're making another offense.

18 So I think this sanction of separating the  
19 offender from a vehicle is a very powerful tool for the  
20 courts. And it can make a reduction effort very possible  
21 in where it's been tested. What I've provided here is a  
22 study and some evaluation that was done by the Pacific  
23 Institute.

24 It's a subcontracted organization to do  
25 research evaluation. They were hired by the National

1 Highway Traffic Safety Administration. And without going  
 2 through the whole thing, it's pretty self-explanatory. But  
 3 basically, I wanted to present a brief video that Winner  
 4 International directed and produced with -- in association  
 5 with the National Commission Against Drunk Driving and a  
 6 municipal judge in Ohio and the Ohio State Highway Patrol.

7 Ohio is the first state to mandate this type  
 8 of sentencing sanction. And again, it gives a court some  
 9 substance when you tell an offender, particularly a repeat  
 10 offender who's driving under a suspension from a DUI  
 11 conviction or driving without insurance or repeat DUI  
 12 offense, it gives him some strength and teeth into the  
 13 sense where they can actually separate the vehicle.

14 Impounding the vehicle is also a part of this.  
 15 But in many cases, we found that impounding is a -- it  
 16 causes some difficulties with storage fees where it makes  
 17 an expense on the offender sometimes just a little bit  
 18 much. So by being able to immobilize the vehicle on  
 19 residential or private property and still separate the  
 20 vehicle from the offender proved to be just as effective,  
 21 if not more so.

22 I'd like to show this video because it will  
 23 kind of give a quick overview, and it's very brief. But I  
 24 would work probably better off some questions and answers.

25 CHAIRPERSON ORIE: And we'll take questions

1 after we watch the video.

2 (A brief video was played.)

3 MR. BONANNO: Those other states that were  
4 mentioned in that don't have a statewide program similar to  
5 Ohio's. It varies. It's much more lenient. Most of those  
6 states -- the other states that were mentioned, you have to  
7 have at least three offenses of a conviction of a DUI to  
8 get immobilized, which is quite lenient.

9 Quite frankly, my stance as a citizen of  
10 Pennsylvania, I think if you get one DUI conviction, it's a  
11 start right there. Actually, in Florida, they're  
12 immobilizing vehicles for ten days in Broward County on  
13 your first DUI conviction.

14 So I mean, I'm just trying to bring some  
15 things together to show what we've found out in the last  
16 several years. This video was made in 1996, and that's why  
17 some of the stats and the dates were a little backdated.  
18 It's up to about 75,000 vehicles have been court ordered  
19 immobilized in the state of Ohio.

20 And there are some studies that have been  
21 done, like in Franklin County -- you'll read in here in the  
22 information I've provided. -- the recidivism rate is  
23 really, really positive. And we've seen DUI-related  
24 fatalities decreased as well.

25 Again, this is not a cure-all. But it



1 certainly is an impact program that has teeth to it that  
2 can change the situation to some degree. There's an  
3 attorney right now, his name is Gregg Ross. He lives in  
4 Fort Lauderdale, resides there, practices law there. And  
5 he has opened an organization to serve the courts in that  
6 state.

7 In 1998, he immobilized by court order in  
8 Broward County 2,000 vehicles approximately. He's now  
9 expanded into Dade and Monroe County, which goes down all  
10 the way through the Keys. And he is the agent for the  
11 courts, his organization. And they serve as the  
12 immobilization agents who separate vehicles from offenders.

13 And this saves the law enforcement agencies of  
14 those -- those counties the burden of actually implementing  
15 the service. There were some issues about understaffed  
16 departments that didn't have the ability to take on this  
17 new activity.

18 So Gregg Ross -- Attorney Ross's service came  
19 at a very opportune time because there were some problems  
20 between the courts and the sheriff's office in Broward  
21 County that was related -- it was even threatened of  
22 lawsuit at the time. They did not want to be burdened and  
23 ordered by the court to take on this responsibility.

24 Ohio, though, is a good role model  
25 state -- role model state because since 1993 when their law

1 was mandated, it began to happen quite regularly, even  
2 though I have found some courts in my own travels that  
3 really don't follow this to the T. And whatever the  
4 reasons are, I can't explain it.

5           It just seems sometimes the judges in a  
6 particular community have a way of doing things. And I'm  
7 not really a law expert to determine why they don't  
8 immobilize the vehicles, as it would apparently be that  
9 they should in all cases.

10           There are some loopholes, and the law has been  
11 amended since 1993 to make it a little more easier to  
12 follow. And there are still a number of ways it's being  
13 done, and there's not a real synchronized method. But  
14 that's the beauty of when you're bringing it onto another  
15 area, maybe we can learn from some of the mistakes that  
16 have already been made.

17           But the bottom line is a person or an offender  
18 gets arrested -- and I see this happen in my hometown here  
19 in Pennsylvania. Two -- an offender received two DUI  
20 arrests in a 24-hour period. And when he was released by  
21 the local law enforcement agency on his own recognizance,  
22 he had a trial date of about seven days away from when he  
23 was released.

24           Later that afternoon, I saw him driving a  
25 vehicle. I mean, that's pretty hard to -- to accept when

1 you know for a fact that this person shouldn't be driving a  
2 car.

3 CHAIRPERSON ORIE: At this time, we have  
4 Representative Brett Feese who has joined the committee as  
5 well.

6 REPRESENTATIVE FEESE: Thank you.

7 CHAIRPERSON ORIE: We're going to start with  
8 questioning. Questions from this side? Go ahead,  
9 Representative Manderino.

10 REPRESENTATIVE MANDERINO: Thank you and good  
11 morning. Before I start with questions, can you just tell  
12 me who Winner International is? What do you do?

13 MR. BONANNO: Winner International is a  
14 private organization headquartered in Sharon, Pennsylvania.  
15 And they're a marketing, manufacturing and sales  
16 organization. And we're pretty diverse. We do develop and  
17 produce a fine line of security products, physical security  
18 hardware, ranging from steering wheel locks for vehicles,  
19 mechanical hardware for all types of security, padlocks,  
20 cable locks, all types of hardware.

21 We're a private organization. But we found  
22 that our product was an excellent suitor for vehicle  
23 immobilizations. So we are aggressively pursuing this  
24 activity even though it doesn't have to be the tool of  
25 choice. It's the procedure that's important.

1           And we've seen in some cases other devices are  
2 used to immobilize a car. Again, it's not the device, it's  
3 the procedure that makes this effective. And our company  
4 has devoted a lot of resource and time and finances to  
5 continue to promote and develop the concept of vehicle  
6 immobilization as a sanction.

7           REPRESENTATIVE MANDERINO: What is the device  
8 that your company manufactures and markets?

9           MR. BONANNO: Probably the most popular that  
10 everyone will be familiar with is "The Club."

11          REPRESENTATIVE MANDERINO: And that's the only  
12 one in your security repertoire -- I can't think of the  
13 right word. -- that deals with vehicle immobilization?

14          MR. BONANNO: Not necessarily. In some cases,  
15 a motorcycle may need a certain type of a device. We make  
16 motorcycle clubs. We make an assortment and a variety of  
17 locks that can be practical for just about any kind of a  
18 protection and security.

19                 So it would depend on, you know, sometimes  
20 other vehicles may be involved. Maybe it's a real risky  
21 defender -- offender and the court may want to take  
22 stronger action and maybe put a wheel -- or a boot they  
23 call it on a tire of a vehicle.

24                 But again, a little more expensive,  
25 cumbersome. We're back into the --

1           **REPRESENTATIVE MANDERINO:** So you would --  
2 you're a vendor, a distributor that would supply whatever  
3 kind of security thing that somebody is looking for. So  
4 your customer would be, for example, the courts who are  
5 implementing this kind of a law?

6           **MR. BONANNO:** Yes.

7           **REPRESENTATIVE MANDERINO:** Okay. Thank you.

8           **MR. BONANNO:** I would like to add that if I  
9 didn't -- if I for some reason left this company, me  
10 personally, I would still be an advocate for what I'm  
11 talking about because really, as far as I'm concerned, I  
12 don't care what's used on that car. Lock it up, immobilize  
13 it, make it where the offender cannot use it.

14           And really, the device, whatever it may be, is  
15 just a -- a security check. If you have a person living in  
16 a rural area, that car may not be checked for several days,  
17 weeks. So it's locked up, but nobody's checking. It can  
18 be circumvented.

19           There's other -- other amenities that go with  
20 putting the club on the wheel. There's license plates  
21 retrieved from the vehicle by the Ohio Motor Vehicle; an  
22 odometer reading should be taken; a placard should be  
23 placed on the windshield inside to identify that the  
24 vehicle was court ordered and immobilized.

25           And if it is tampered with, there must be

1 action taken for the consequence.

2 REPRESENTATIVE MANDERINO: So is your company  
3 like the vendor for the state of Ohio for their  
4 immobilization program?

5 MR. BONANNO: We have been a -- probably the  
6 most prominent supplier of it.

7 REPRESENTATIVE MANDERINO: And do you do all  
8 of those ancillary functions as well as just supply the  
9 equipment? Do you go out and install the equipment, do you  
10 take the odometer readings, do you go out and check? Or is  
11 somebody from the law enforcement community the one that  
12 does that?

13 MR. BONANNO: That's a great question. It  
14 happens in a variety of ways. We do -- we have done some  
15 as a private enterprise. Law enforcement agencies have  
16 also been given the order by the courts. It's up to the  
17 court to decide who they want to provide as the agent to  
18 immobilize those cars.

19 REPRESENTATIVE MANDERINO: Thank you. Thank  
20 you, Madam Chairman.

21 MR. BONANNO: Thank you.

22 CHAIRPERSON ORIE: Representative Masland.

23 REPRESENTATIVE MASLAND: Thank you. Just  
24 picking up on that last point. Obviously depending on the  
25 state, the way they do it, these cars can be immobilized in

1 just about any location. Is it customary in Ohio that  
2 they're just immobilized on the street, or are they taken  
3 to a parking area?

4 MR. BONANNO: Usually, it's in a location  
5 that's suitable for the resident. Again, they can be  
6 impounded. When law enforcement agencies, they basically  
7 use a rotating type of a format for towing companies. I'm  
8 sure you'll see that in just about any city.

9 A towing company could store a vehicle on  
10 their lot, but then you're going to talk about a storage  
11 fee which is going to be a lot more expensive than having  
12 the vehicle towed from there to the offender's location  
13 where it can be locked up and immobilized there at a much  
14 less expense.

15 REPRESENTATIVE MASLAND: But basically, the  
16 regulations give the -- give the court and the police some  
17 flexibility as to exactly how they do that?

18 MR. BONANNO: Yes, sir. And generally, I  
19 mean, I've seen it done extensively both ways. I've seen a  
20 lot of vehicles, particularly in the Cincinnati area of  
21 Ohio, are impounded on lots. And -- but in most parts of  
22 the other -- rest of the state, they generally will let the  
23 vehicle be towed to the offender's selection of a neutral  
24 site, residential area, and lock it up there where it's  
25 accessible.

1                   REPRESENTATIVE MASLAND: Probably more  
2 important from my perspective than I guess really how they  
3 do the impounding is when they do it. And from looking  
4 over the information you've supplied, it appears that in  
5 Ohio they also do this immobilization when someone has been  
6 convicted of a driving under suspension offense whether  
7 it's a DUI-related suspension.

8                   The way it looks right now, House Bill 400  
9 primarily focuses on someone who's had a third DUI. Are  
10 you familiar with when it can be immobilized for a driving  
11 under suspension violation in Ohio? In other words,  
12 if -- if this -- if you've had your first DUI and then you  
13 have driving under suspension after that that is the DUI --  
14 during the DUI-related suspension, can you have it  
15 immobilized then or must it be after a second DUI that you  
16 have a DUS?

17                   And I guess that's important because what  
18 we're ultimately trying to do is keep these people from  
19 driving a car when they're not supposed to drive it.  
20 Certainly during the suspension period it's crucial, and  
21 that's when -- when folks tend to violate it.

22                   So if they violated it then, it makes sense to  
23 immobilize it. That may be something that the prime  
24 sponsor would like to consider. I'd be happy to work with  
25 him and staff on an amendment to pull in driving under



1 suspension. But maybe you can fill us in on how it does  
2 work in Ohio.

3 MR. BONANNO: I appreciate that. That's  
4 exactly the crucial part of this. If you get -- if you're  
5 convicted of a DUI offense and you're given a suspension  
6 period and if you're caught driving during that suspension  
7 period, the vehicle would be immobilized in that exact  
8 scenario for 30 days.

9 And let's say the offender was picked up for  
10 speeding. They won't know he's under suspension till they  
11 pull him over, speeding charged. And upon further  
12 investigation, they find he's under suspension. That  
13 vehicle will be immobilized immediately. It will be seized  
14 from that offender.

15 REPRESENTATIVE MASLAND: Even if it's a first  
16 offense?

17 MR. BONANNO: It's his second offense. It's a  
18 first DUS offense of a DUI conviction. So actually, it's a  
19 second offense.

20 REPRESENTATIVE MASLAND: I mean, my point  
21 is -- maybe I missed something. -- if he's -- if he's on  
22 his first DUI and then he drives during that suspension, is  
23 he immediately -- is that car immediately immobilized?

24 MR. BONANNO: Yeah. If he's caught doing  
25 that, yes, because he was ordered not to drive and he's

1 driving anyway. I mean, I have a zero tolerance for this  
2 as a citizen.

3 REPRESENTATIVE WILT: Representative Masland,  
4 the way this bill is written, it would be a -- it would be  
5 the third.

6 REPRESENTATIVE MASLAND: Right.

7 REPRESENTATIVE WILT: So in order to  
8 accommodate what Mr. Bonanno's talking about, we would have  
9 to amend this particular bill --

10 REPRESENTATIVE MASLAND: Right.

11 REPRESENTATIVE WILT: -- to be a second.

12 REPRESENTATIVE MASLAND: What I'm saying is  
13 you don't necessarily have to amend it to say that it's the  
14 second offense. I think to a certain extent, there's a  
15 rationale -- and we can debate this and discuss it at  
16 greater length. But I think there's a strong rationale for  
17 saying even if it's your first DUI, if you go out there and  
18 drive when you're under suspension, it's a DUI-related  
19 suspension. We heightened the penalties already there.

20 And if we're going to immobilize, maybe that's  
21 the time to immobilize and not to wait until after somebody  
22 has a second DUI and then drives or a third DUI and then  
23 drives. If they do it after the first DUI and you hit them  
24 right then with an immobilization, they're probably less  
25 likely to drive again, obviously.

1           But they're probably also less likely to have  
2 maybe a DUI itself, second or third. So that's just  
3 something that, you know, we can talk about as to, you  
4 know, when the bill comes up in committee.

5           REPRESENTATIVE WILT: And that's a great  
6 point. I guess I look with interest, most recently what  
7 New York City tried to do with their impoundment and they  
8 made national news. And now it's died down. They found it  
9 to be very cumbersome and a very expensive program.

10           When you look through this piece of  
11 legislation, immobilization really is a more common sense  
12 approach to taking the vehicle out of service. And we, as  
13 a sort of compromise with the -- with those folks  
14 who -- who felt that taking the vehicle out of service  
15 would be too much of a hardship for the family or whatever,  
16 purposely started with this third offense.

17           So I would certainly be interested in working  
18 with you if you want to change that language. I just want  
19 to make sure that whatever we change we can pass.

20           REPRESENTATIVE MASLAND: Let me just clarify.  
21 I'm not saying necessarily change the language you have. I  
22 think it makes sense to say if you've had three DUIs, boom,  
23 there ought to be some immobilization. But it also makes  
24 sense on a parallel course to say if it is your first DUI  
25 and you have violated the terms of the suspension then with

1 the driving under suspension, ordinarily we wouldn't  
2 immobilize after just a first DUI during the period of  
3 suspension.

4 But if you're caught driving then, then there  
5 should be an immobilization. And so it's on the one hand,  
6 you have the third DUI. On the other hand, it's the first  
7 driving under suspension during a period of DUI suspension.  
8 That's --

9 REPRESENTATIVE WILT: Okay. Great. Well,  
10 I -- I'm not a member of the Judiciary Committee and you  
11 are. So I hope that when this does come up, that we can  
12 work successfully on that. I'd like to see that become  
13 part of the bill.

14 MR. BONANNO: Just a couple of --

15 REPRESENTATIVE MASLAND: And maybe I should  
16 say, if it looks like that might be too cumbersome, another  
17 way to do it would be to introduce a separate bill. But I  
18 think since you have this vehicle going, it makes sense  
19 to tie the two.

20 MR. BONANNO: I'd just like to add a couple  
21 comments, if I may.

22 REPRESENTATIVE MASLAND: Sure. We'll let you  
23 comment now that we've been interrogating each other.

24 MR. BONANNO: This is what it takes. Right  
25 now we're not doing anything, I mean, in the state. It's a

1 fact that when a person gets convicted of a DUI, they've  
2 probably driven about 2,000 times impaired before they're  
3 caught. So I mean, when you consider that, that's a pretty  
4 powerful statement.

5           And secondly, you hit it right on the head.  
6 If we can get these people at an early stage to understand  
7 the value of the privilege that they're going to lose and  
8 the consequence they face, you will make an impact on  
9 stopping a lot of multiple offenders from becoming habitual  
10 offenders. And I think really that's a key that we're  
11 striving for.

12           REPRESENTATIVE MASLAND: Let me just -- I  
13 agree that they've been driving, but 2,000 sounds awful  
14 high to me. I don't know where -- do you know where that  
15 statistic came from?

16           MR. BONANNO: I believe it came from the  
17 NCADD. And I can get some statistics on that.

18           REPRESENTATIVE MASLAND: There's -- there's no  
19 question that a lot of crimes, whether it's the pedophile  
20 or the drunk driver who has a serious drinking problem,  
21 that they've been doing this before. But 2,000, that seems  
22 a little high. Two hundred would be bad enough. But thank  
23 you.

24           MR. BONANNO: Impaired and drunk driving are  
25 different. I mean, you can have one drink and be impaired.

1 So again, I'll get some background on that before I --

2 CHAIRPERSON ORIE: Representative Hennessey.

3 REPRESENTATIVE HENNESSEY: Thank you, Madam  
4 Chairman. Mr. Bonanno, do you have any working knowledge  
5 of how the courts in Ohio or other states have dealt with  
6 the issues of impounding a car, the only car in the family,  
7 for example, where the wife is also working or needs the  
8 car for some other reason or there are other children,  
9 teenage drivers in the family who might also need the car  
10 on occasion?

11 I didn't see in the particular bill that's  
12 been drafted here for our consideration any kind of  
13 hardship clauses. It seems that if the registered owner of  
14 the car, if that was someone other than the defendant, if  
15 they were aware that the fellow was driving, that the  
16 defendant was driving the car, they can suffer the  
17 impoundment as well.

18 How have other states dealt with that, or  
19 aren't you the best person to ask of that?

20 MR. BONANNO: I'm a little bit familiar with  
21 it. But again, I would think the Highway Department of  
22 Public Safety -- and I did invite them to come. And I  
23 asked Rod, and he did invite them. But for whatever  
24 reason, they couldn't make it today. I think prior  
25 commitments preempted them from coming.

1           But the innocent owner or dual ownership has  
2 been really handled by individual courts. And I've seen  
3 judges grant leniencies. But apparently, if it's a -- an  
4 offense as stated, I would say that most of the time, I  
5 would say 90 percent of the time they immobilize the car  
6 and they let the family find other means of transportation.

7           And they'll look and they'll assess the whole  
8 situation. Do you live in a rural area? Is ambulance  
9 service accessible? Is there a mass transit available to  
10 you? Are there other means of transportation? The judge  
11 can screen all that out and make a decision. But in most  
12 times, I see them still order the immobilization.

13           Again, if you're lending your vehicle to  
14 somebody knowing that they're under suspension, that's  
15 almost -- it is wrongful entrustment. Responsibility has  
16 to be put on the registered vehicle owner. Lending your  
17 vehicle out to somebody who's unlawful to drive it, there  
18 should be a consequence.

19           REPRESENTATIVE HENNESSEY: I can understand if  
20 the statute would impact someone who lent the car to the  
21 person who the owner of the car knew was currently under  
22 suspension. It's a little harder to deal with the question  
23 of how the courts would react if I knew that someone had  
24 two drunk driving convictions in the past, perhaps years  
25 ago, and would that preclude me from lending him my car

1 now?

2 He appeared -- that person appears to be  
3 sober. I have no indication that he's currently under any  
4 type of a suspension. But it almost seems the way the bill  
5 is drafted that if I knew that he had two prior suspensions  
6 or two prior DUI convictions rather, no matter how long ago  
7 they were, that I would be precluded from lending him my  
8 car.

9 MR. BONANNO: No. You can lend it to him as  
10 long as his current status was legal. If he's not under  
11 suspension, quite frankly, I would be concerned about  
12 lending a car to someone with that background. But if you  
13 knew him well, his current driving status was legal, then  
14 you can lend him the car.

15 REPRESENTATIVE HENNESSEY: Okay. Perhaps we  
16 take a look at the language on page 2, though, on line 15  
17 and 16. Essentially, it says that if other than the  
18 defendant, if the owner had -- knew or had reason to know  
19 of the defendant's violations. It doesn't indicate that,  
20 you know, current status of violations, a recent drunk  
21 driving conviction or current period of suspension in  
22 effect.

23 So we'll take a look at that. I just didn't  
24 know whether or not you knew how other courts have handled  
25 it in other states.



1 MR. BONANNO: Basically, if there's an  
2 innocent owner involved and someone has lent the car or  
3 some -- two members of the family, dual ownership, and the  
4 offender is caught driving the car, they would immobilize  
5 it. Again, if the person is not under a suspension at the  
6 time it was lent, there wouldn't be an immobilization.

7 REPRESENTATIVE HENNESSEY: Thanks. We'll take  
8 a look at the language. I appreciate it. Thank you, Madam  
9 Chairman.

10 CHAIRPERSON ORIE: First of all, my questions  
11 go around the circumvention. And you had alluded to the  
12 fact that there are ways to circumvent. What are those  
13 ways, and are they --

14 MR. BONANNO: Numerous.

15 CHAIRPERSON ORIE: -- prevalent in Ohio? And  
16 I mean --

17 MR. BONANNO: Very rare. Keep in mind there's  
18 a law behind the lock. If you circumvent, your vehicle's  
19 subject to forfeiture and seizure and you're facing a jail  
20 sentence. This is an alternative that can keep things -- a  
21 person can still go to work with his vehicle immobilized.

22 There's other ways they can get to work, but  
23 it gives him the inconvenience and the hardship of why he  
24 shouldn't drive with alcohol or under suspension. If -- we  
25 have seen a few rare cases where vehicles were circumvented

1 and driven, and they were seized and forfeited. So there  
2 has to be a law behind the order.

3 CHAIRPERSON ORIE: At this time, I'd like to  
4 recognize Chairman Gannon who's here, the Chairman of the  
5 Judiciary Committee.

6 REPRESENTATIVE GANNON: Thank you,  
7 Representative.

8 CHAIRPERSON ORIE: I guess my second question  
9 would be, this would be -- under the language of House Bill  
10 400, it would be on the third or subsequent conviction that  
11 this would be in place. And I was wondering how long are  
12 these in place in regards to the third or subsequent?

13 MR. BONANNO: The immobilization period?

14 CHAIRPERSON ORIE: Uh-huh.

15 MR. BONANNO: I would try to do a comparative  
16 with what Ohio's done. It seems appropriate 30 to 180-day  
17 periods seem to be most effective, cost effective as well.

18 REPRESENTATIVE WILT: Madam Chairman and Gary,  
19 the way that I've drafted House Bill 400 is that the period  
20 of immobilization would be not more than the period of  
21 suspension of the license, the driving privileges. It can  
22 be less, but it can't be more.

23 So if there's a 90-day suspension, the vehicle  
24 can be immobilized up to 90 days. It can't exceed 90 days,  
25 but it may be immobilized for less than 90 days.

1                   CHAIRPERSON ORIE: I guess I'm talking about  
2 the -- in the situations where you have perhaps a  
3 suspension, whether you're on your third DUI. I mean,  
4 there are suspensions that just add up. Somebody can be up  
5 to 3 years, 4 years. It would be then that entire time  
6 with the suspension, not to exceed the suspension.

7                   REPRESENTATIVE WILT: That's correct. Not to  
8 exceed the suspension. And your first question on the  
9 tampering issue in paragraph 6 of the bill -- and Mr.  
10 Bonanno, for your information, I don't know how much time  
11 you have had to review this particular bill.

12                   But if there's an effort made by the defendant  
13 to tamper with the lock, whether it be your lock or another  
14 company's lock, that may result in an additional  
15 immobilization period not to exceed 90 days. So we would  
16 add to the original sentence a period of another 90 days,  
17 up to 90 days the vehicle immobilization.

18                   CHAIRPERSON ORIE: And I guess the premise of  
19 that question, just for the record, is that is it -- are  
20 there easily accessible ways to circumvent these, whether  
21 it be the boot or the --

22                   MR. BONANNO: Well, yes and no. I mean, if  
23 you're a welder or you're an explosive expert, you can just  
24 about do anything.

25                   CHAIRPERSON ORIE: That's all.

1           MR. BONANNO: The facts are that if you don't  
2 have license plates, if you have -- somebody's coming out  
3 and taking an odometer reading, you can tell if that  
4 vehicle's removed. And now you have this device. Its job  
5 is to take the temptation away to just go out and drive the  
6 car.

7           I personally have been out on some vehicle  
8 immobilizations, and quite differently than what I  
9 expected. The offenders are almost thanking you to do this  
10 in many cases. They know they have a problem, and they  
11 want to be generally under the law.

12           CHAIRPERSON ORIE: I guess my last question  
13 would be, what is the cost associated with this?

14           MR. BONANNO: It can vary. I think what  
15 Ohio's done is they charge a \$100 fee. It's a standard  
16 fee. But some private enterprise can sometimes come in and  
17 charge a daily rate. So when a vehicle's under  
18 immobilization, there may be anywhere from 3 to \$5 a day  
19 fee.

20           But if it's being done by a law enforcement  
21 agency, it could be a flat \$100 fee. And so there's a  
22 couple ways you can look at that.

23           CHAIRPERSON ORIE: And what type of monitoring  
24 takes place; for example, when a -- whether it be a boot or  
25 whatever is placed on this vehicle, is it law enforcement

1 that checks it routinely? What -- who's responsible for  
2 making --

3 MR. BONANNO: In my experience, private  
4 enterprise does a better job because it's all they do.  
5 They're focused on this activity. Whereas if you  
6 hypothetically look at a city of 100,000, I mean, that  
7 department or even smaller cities, they don't have the  
8 manpower to send out to a site periodically to check if  
9 this vehicle's been moved.

10 You probably won't get a lot of checkpoints  
11 like that. So there's a couple things to look at there.  
12 I'm a big fan of the private enterprise. I wish that one  
13 of the gentlemen that owns the company -- and we did invite  
14 him. -- would have been here today because he's immobilized  
15 about 6,000 vehicles.

16 And he is the assigned agent for about five  
17 courts in the state of Ohio. And he does all of the  
18 immobilization, A to Z. He is assigned as a court agent.  
19 He indoctrinates the offenders, his staff, A to Z so  
20 there's no confusion. And it's made the program very  
21 effective.

22 And quite honestly, statistics in one  
23 particular court where he has been there since 1995, the  
24 recidivism rate of repeat offenders in that court, it's  
25 just unbelievable. It's a -- 2 percent of the offenders

1 out of the several thousand that he's immobilized have  
2 repeated the same offense in that court over a 5-year  
3 period. That's a pretty powerful statistic.

4 CHAIRPERSON ORIE: And for the record, we  
5 certainly can reschedule an opportunity to some of these  
6 individuals that you have mentioned to testify as well  
7 so --

8 MR. BONANNO: Absolutely. And I really -- I  
9 encourage a representative from the Ohio Department of  
10 Public Safety because they could get into the real nuts and  
11 bolts of how this got started in the state.

12 CHAIRPERSON ORIE: Thank you.

13 REPRESENTATIVE WILT: Representative Orie, the  
14 question of cost was something that I was concerned with in  
15 drafting this piece of legislation. So we have had --  
16 added a section that basically says in addition to any  
17 other penalties that are automatic and are already within  
18 the criminal code, that the defendant would have to pay  
19 \$100.

20 Once the court order has been issued to have  
21 the vehicle immobilized, they would pay \$100 for the  
22 administrative costs and then an additional fee for the  
23 immobilization not to exceed \$5 a day. So if it was a  
24 30-day immobilization, the total cost would be \$250 to the  
25 defendant.

1           And we think that that would be sufficient to  
2 pay a private contractor and relieve the local courts from  
3 any -- any fiduciary responsibility in administering the  
4 immobilization.

5           CHAIRPERSON ORIE: I appreciate that  
6 clarification. And that's all the questions I have.

7           REPRESENTATIVE MAITLAND: Mr. Bonanno, I  
8 understand that Representative Wilt's bill does not  
9 prohibit the sale of the vehicle during its immobilization  
10 period; but I see in your handout that Ohio does prohibit  
11 the sale of the vehicle?

12           MR. BONANNO: They do. And they didn't at  
13 first. But in time, they felt that that had to be done;  
14 and they made that law.

15           REPRESENTATIVE MAITLAND: Why is that, do you  
16 know?

17           MR. BONANNO: A lot of people -- a lot of  
18 times the cars don't have a great value. We've seen this  
19 happen, too, where it's usually sometimes older cars. If  
20 they get put on impound lots, the fee of storing that  
21 vehicle is worth more than the vehicle.

22           The offender will never come and pick it up.  
23 That started to create a problem. But yeah, they didn't  
24 want people transferring the car. Somebody would sell the  
25 car to their uncle for a dollar just so it wouldn't be

1 immobilized and so they stopped that.

2 REPRESENTATIVE MAITLAND: Do you think that  
3 was a wise move?

4 MR. BONANNO: Absolutely.

5 REPRESENTATIVE MAITLAND: Do you know if it's  
6 been challenged as far as its constitutionality for -- for  
7 the government taking someone's property without  
8 compensation?

9 MR. BONANNO: I believe it has been. And  
10 again, I don't have the legal aspect on that. But I  
11 believe if the vehicle was used in unlawful acts, it's --  
12 it is okay to do it. That's the result of it.

13 REPRESENTATIVE MAITLAND: Do you think this  
14 immobilization is widely accepted by the citizens of Ohio  
15 as -- as a benefit, or is there a lot of grumbling?

16 MR. BONANNO: There's always going to be some  
17 grumbling because it's something new. But it's really --  
18 it's just another tool. Again, it's not a cure-all  
19 program. It's not going to eliminate impaired or drunk  
20 drivers from our nation's highways. But it's made an  
21 impact, a positive one.

22 And I think if you did surveys -- and I  
23 have. -- the majority of the people are for it. They're  
24 very favorable for it actually.

25 REPRESENTATIVE MAITLAND: Well, I thank you



1 for appearing here today. And your testimony's been very  
2 informative.

3 MR. BONANNO: Thank you.

4 CHAIRPERSON ORIE: Are there -- Representative  
5 Manderino.

6 REPRESENTATIVE MANDERINO: Thank you. I  
7 figure this is where your expertise lies. This is why I'm  
8 asking you these kinds of questions. Can you tell me what  
9 the various devices that you're aware of because of what  
10 your company does that are able to be used in this kind of  
11 immobilization and what the cost of each of those pieces of  
12 equipment are?

13 Not necessarily the cost that we're going to  
14 charge the person. Just what the cost of the club, what  
15 the cost of the boot, what the cost of -- you didn't talk  
16 about any kind of immobilization which we've heard of  
17 before that are either ignition locks or Breathalyzer  
18 things. And I don't know if you know that.

19 But for whatever you know, can you just tell  
20 us what the various options are and what the cost of that  
21 equipment is?

22 MR. BONANNO: Yes. And that's a great  
23 question. And that's one of the reasons this is  
24 successful. A steering wheel lock, a very generic term,  
25 simply slides onto the steering wheel and prevents the

1 vehicle from being negotiated for a turn. Cost can range  
2 anywhere from 20 to \$50.

3 Other kind of locks that can be used for  
4 certain vehicles, like motorcycles, you may need a certain  
5 grade of chain with padlocks, maybe even a shrouded padlock  
6 which would make it difficult to cut the shackle. Again,  
7 costs could range there from -- anywhere from 20 to 35,  
8 \$40.

9 Boots or wheel locks -- and our company  
10 doesn't provide those. -- but they can be purchased for  
11 anywhere from 250 to \$350. And again, that's placed  
12 outside the vehicle and it's a little more cumbersome.  
13 Interlocks, ignition interlocks, again, we're talking about  
14 separating an offender for violating a law and court order.  
15 Whether he's sober or not is not an issue here.

16 The interlock has a great place in court  
17 sanctioning. If a person is ordered to put an interlock on  
18 the car, he must drive sober when he's legal to drive.  
19 That's a great program. And I think Pennsylvania is  
20 strongly looking at the interlock program right now.

21 But we're talking about an issue where you  
22 have lost your privilege. I don't care if you're sober or  
23 you're not, you're not driving. And hopefully anybody  
24 responsible with a registered vehicle won't lend it to you  
25 while you're under the suspension. If they do, there

1 should be a consequence.

2           It will make people more responsible before  
3 they just hand their keys over to somebody. I seen an  
4 incident where a grandmother let her granddaughter borrow  
5 her car. The grandmother had no idea that this  
6 granddaughter was going to let her boyfriend drive the car,  
7 who in turn had no license.

8           So, you know, I mean, it can get really  
9 detailed. But the bottom line is we need to get  
10 responsibility back to the registered vehicle owners. And  
11 we need to make people who break the law have consequences,  
12 basically all we're trying to accomplish.

13           REPRESENTATIVE MANDERINO: I'm sorry. Can you  
14 just finish -- you may not know. But do you know the cost  
15 range of ignition interlocks?

16           MR. BONANNO: Range is about \$70 for  
17 installation and roughly about \$5 a day while it's on the  
18 vehicle. And it's a monitoring program so it can be  
19 monitored 24 hours, 7 days a week.

20           REPRESENTATIVE MANDERINO: And is an ignition  
21 interlock the same as -- I know that this committee saw a  
22 demonstration of almost like an ignition Breathalyzer test.  
23 Is that what you're talking about?

24           MR. BONANNO: Yes, yes. And again, a person  
25 is allowed to drive under that program. That's right. But

1 he has to be sober.

2 REPRESENTATIVE MANDERINO: That program also,  
3 at least of the ones that you mentioned, is the only one  
4 that can also give discretion in distinguishing between  
5 drivers?

6 MR. BONANNO: Yes. And now, there are several  
7 companies out there that make Breathalyzer interlock  
8 systems so you want to be really specific on which program  
9 you select so you have the most variety of prevention of  
10 circumventing. And there are some systems better than  
11 others.

12 REPRESENTATIVE MANDERINO: Thank you.

13 CHAIRPERSON ORIE: Representative Hennessey.

14 REPRESENTATIVE HENNESSEY: Thank you, Madam  
15 Chairman. Just a follow-up on the question about the  
16 ignition interlock system. The prices you were quoting,  
17 \$70 for installation and \$5 a day monitoring, are when  
18 you're under a court ordered -- well, a court-imposed order  
19 to have that interlock system in your car.

20 But generally, those are only put on on a  
21 temporary basis. They're taken away after the suspension?

22 MR. BONANNO: Yeah, a period of time.

23 REPRESENTATIVE HENNESSEY: Not after the  
24 suspension, rather after a certain period of time. How  
25 expensive are they to buy the system altogether? If we

1 were to say to a person after a second or third offense  
2 that you're going to have to put this on any car that you  
3 have registered in your name or which you would drive on a  
4 regular basis, we would use that as a way to make sure that  
5 the driver, at the time that he was driving, was actually  
6 sober and not impaired at all.

7 MR. BONANNO: I've never heard of that. But  
8 it's a good idea. I mean, imagine if you're going to  
9 drive, you would have to have this in the vehicle that you  
10 own for the life of your driving privileges. I never  
11 thought about that personally. But I do know --

12 REPRESENTATIVE HENNESSEY: Do you know what  
13 the cost would be? Do you have any idea?

14 MR. BONANNO: I don't know. But again, we can  
15 get the answer for that. I mean, I know people in that  
16 field who are experts with that particular device. And I'm  
17 sure we can get some kind of a feasible answer.

18 REPRESENTATIVE HENNESSEY: If you get that  
19 back to the committee, it might be helpful.

20 MR. BONANNO: Absolutely. As a matter of  
21 fact, I'll get with Mr. Wilt on that.

22 REPRESENTATIVE HENNESSEY: Thank you very  
23 much.

24 CHAIRPERSON ORIE: Any further questions? I  
25 will again state for the record that we will work with

1 Representative Wilt to get some of these other individuals  
2 that you've mentioned and continue these -- this hearing on  
3 this specific House Bill 400 with them in mind.

4 So I appreciate you -- if there are other --  
5 oh, there is one question from Chairman Gannon.

6 REPRESENTATIVE GANNON: Thank you. And this  
7 question may have already been answered. How is the -- how  
8 is it reset? In other words, if you have this interlock  
9 and it disabled the vehicle, how is it reset so that the  
10 vehicle is enabled? Is that a --

11 MR. BONANNO: Periodically you have to breathe  
12 into it. It can register your blood alcohol content. The  
13 vehicle will start at just the proper level. You could be  
14 driving and it can come on for a random test. So if  
15 somebody else blew in it for you, they have to be with you  
16 the whole time so -- and it can come off at any time.

17 If you don't pass that test, the vehicle will  
18 systematically shut down.

19 REPRESENTATIVE GANNON: Yeah. But what -- I'm  
20 sorry. Maybe I wasn't clear. Assume that you blew into  
21 the interlock and it says you can't -- the car can't be  
22 driven. Okay. So the car becomes disabled. How is the  
23 car re-enabled so that it now can be --

24 MR. BONANNO: There's like a timer on it where  
25 so much period of time will lapse and then it will reset.

1 REPRESENTATIVE GANNON: So it resets itself?

2 MR. BONANNO: Yes.

3 REPRESENTATIVE GANNON: Oh, okay.

4 MR. BONANNO: I don't have the exact time  
5 frames on that. But there is an interval schedule that  
6 they can set it for so that you can try it again in the  
7 near future.

8 REPRESENTATIVE GANNON: So the technician or  
9 somebody doesn't have to come out and reset it?

10 MR. BONANNO: No. An interlock can be  
11 installed in about 20 minutes. I know a gentleman who does  
12 this, and he works for some courts around the area where I  
13 reside. And he can install interlock systems in about 20  
14 minutes. And he's had really very little mechanical or  
15 electronic breakdown on these devices.

16 REPRESENTATIVE GANNON: Now, is that the way  
17 all of them work, that it has a timer that it resets  
18 itself, or does it depend?

19 MR. BONANNO: There's about four companies out  
20 there. But one of them kind of stands atop from the rest  
21 so I'm not really familiar with all of them. But I know  
22 the company that actually makes the interlock trademark,  
23 they're the one you probably want to look at.

24 REPRESENTATIVE GANNON: Thank you.

25 CHAIRPERSON ORIE: And Representative Wilt

1 would like to make some closing remarks.

2           **REPRESENTATIVE WILT:** Again, thanks a lot, Mr.  
3 Bonanno, for coming this morning. And I'm interested in  
4 working with the Judiciary Committee and with you, Madam  
5 Chairman of the Task Force, Representative Orie. And  
6 again, Chairman Gannon, thank you for taking up this  
7 important issue across the Commonwealth. It's one we  
8 needed to address, and I think the time is now.

9           And I would just encourage the members of this  
10 Task Force to take this testimony and continue to work on  
11 House Bill 400 and hopefully vote it out of committee and  
12 bring it to the floor in the near future. Thank you very  
13 much.

14           **MR. BONANNO:** I thank all of you as well.

15           (Whereupon, at 10:53 a.m., the hearing  
16 adjourned.)

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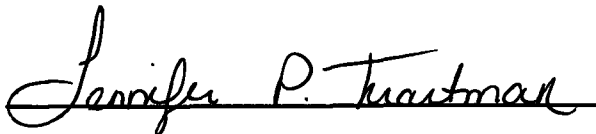
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause and that this is a true and correct transcript of the same.



JENNIFER P. TROUTMAN

Registered Professional Reporter

My Commission Expires:  
April 30, 2001

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