

Ignition-lock reality: Many don't use device, still drive

The driver arrested in Monday's fatal accident in North Seattle was supposed to have been using an ignition-interlock device. But many drivers ignore such court orders, choosing to drive with a suspended license or simply not to drive.

By [Sara Jean Green](#), [Christine Clarridge](#) and [Mike Carter](#)

Seattle Times staff reporters

Mark W. Mullan had barely finished promising the judge in Snohomish County District Court that he would not drive without an alcohol-sensing ignition-interlock device on his pickup when Assistant Prosecutor Dana Little interrupted.

"Your honor, at this point I feel compelled to tell the court that I smell alcohol," Little said as she stood next to Mullan at a Jan. 14 hearing on charges alleging he was driving drunk and speeding in Lynnwood three months earlier, according to a tape recording of the proceedings.

The appearance was Mullan's first since pleading guilty and serving 13 days in jail for a December DUI in Seattle.

Little told the judge she couldn't be sure whether the odor was coming from Mullan or the hand-sanitizer on the court clerk's desk. A State Patrol trooper with a handheld breathalyzer solved that mystery.

Mullan had shown up to the DUI hearing drunk. His breath-alcohol content was measured at 0.14 percent, nearly double the legal level of 0.08 percent. The judge found that Mullan was a danger to the community and upped his bail from \$2,500 to \$10,000.

Mullan posted bail and was released Feb. 1, roughly six weeks before he is accused of killing an Indiana couple and critically injuring their daughter-in-law and infant grandson at an intersection in Seattle's Wedgwood neighborhood on Monday afternoon.

Court records indicate Mullan, a 50-year-old unemployed electrician, had been arrested for driving under the influence (DUI) at least five times since 1990. On Christmas Day, he was arrested at a motel on Aurora Avenue North in Seattle with a breath-alcohol content of 0.32 percent — four times the legal limit.

Even though the judge in Snohomish County and another judge in Seattle had individually ordered him not to drive without an ignition-interlock device on his pickup, Seattle police say Mullan was driving his 2012 black Chevy Silverado without one on Monday.

“The reality is that we cannot force a person to put an ignition interlock on their car if they state that they are not going to drive,” said Moses Garcia, a prosecutor who works for the State Patrol’s Impaired Driving Section. “There is effectively no way to force them.”

Mullan is being held in lieu of \$2.5 million bail in the King County Jail on investigation of two counts of vehicular homicide in connection with the deaths of [Judy and Dennis Schulte](#) and two counts of vehicular assault for the injuries sustained by Karina Ulriksen-Schulte, 33, and her infant son, Elias.

Mullan’s breath-alcohol content was measured at 0.22 percent at the time of the collision, police said. A blood sample also was taken, and the results are pending a toxicology report from the state crime lab.

King County prosecutors expect to file formal charges Thursday.

Over the past 15 years, changes in state law have steadily increased penalties for driving under the influence of drugs or alcohol — and those changes are credited with helping reduce the number of fatalities caused by impaired drivers. In 1996, 353 people were killed by impaired drivers in the state, according to the Washington Traffic Safety Commission. The number dropped to 230 in 2010, the last year for which numbers are available.

But holes remain in a system that’s designed to catch and prevent intoxicated people from driving. One glaring problem is there aren’t enough cops — just three in the whole state — specifically checking to make sure that drivers who are court-ordered to have ignition-interlock devices installed on their vehicles actually do so.

The Mary Johnsen Act — named for a 38-year-old Eastside mother who was walking with her husband on the Sammamish Plateau when she was killed by a chronic drunken driver in July 1997 — was the first state law to require ignition-interlock devices, and was among a package of DUI laws adopted by the Legislature in 1998 in the wake of Johnsen’s death. Another law lowered the legal intoxication level from 0.10 percent to its current 0.08, which is now the national standard.

A [law that went into effect in January 2009](#) required anyone convicted of DUI to have an ignition-interlock device installed for at least a year. Someone convicted of a second DUI is required to have the device for at least five years, and those convicted of their third DUI or subsequent offenses must have them installed for at least 10 years.

Before drivers can have the devices removed from their vehicles, they must prove — using data recorded by the ignition interlocks — that for the previous four months they did not try to start a vehicle with a breath-alcohol content of 0.04 percent or higher, fail to take or pass a required retest, or fail to get scheduled maintenance and inspection of the devices.

This January, another state law went into effect requiring cameras to be built into the devices by the five manufacturers in the state who are certified to install and monitor them. The cameras help ensure drivers aren't circumventing the devices by, say, having a child or spouse blow into them, said State Patrol Sgt. Ken Denton.

There are currently 43,784 people in a state Department of Licensing database who are required to have an ignition-interlock device on their vehicles in order to legally drive, according to spokeswoman Christine Anthony. A little more than half — 26,768 people — are listed in the database as having the devices, she said.

While some drivers may choose not to get behind the wheel at all after a DUI arrest or conviction, others clearly are driving with suspended licenses, Anthony said.

"We have no way of knowing" if someone required to have an interlock device is driving without one "unless they're pulled over by law enforcement," she said. "There's just not enough officers out there to check everyone's car for an interlock device."

The State Patrol received a \$100,000 grant in October, with a portion going to fund weekend "knock-and-talks," in which three troopers — based in Seattle, Olympia and Spokane — visit drivers with interlock devices who have registered "fail start" attempts after trying to start their vehicles with high levels of alcohol detected on their breath, Denton said.

Denton's Impaired Driving Section receives 50 to 100 "fail start" attempts each month.

"If somebody is at .027 and 20 minutes later is at .024, I'm not really concerned," he said. But if somebody blows a .15 and continues to try to start a vehicle for hours, "those are the people we'll go talk to," Denton said.

The devices record the failed attempts to start a vehicle, and must be taken in to be recalibrated within five days. The findings are then submitted to the State Patrol, which in turn can forward findings to a driver's probation officer or the court that issued the ignition-interlock order for possible sanctions, Denton said.

"I think our laws have continued to get stronger and our enforcement is getting stronger ... but it's a marathon, it's not a sprint" to curb impaired driving, he said.

Garcia, the State Patrol prosecutor, said statistics show that for every drunken driver arrested, there are hundreds of impaired drivers who slip by police. Repeat offenders

probably drove intoxicated 200 to 300 times over the past year without getting caught, he said.

Chronic, repeat offenders are like “the shadow of death passing down the road,” Garcia said.

“On some level, they have decided they don’t care if they die and they don’t care if they kill other people when they die,” he said, “and it’s a choice they’ve made over and over and over.”

Sara Jean Green: 206-515-5654 or sgreen@seattletimes.com

Christine Clarridge: 206-464-8983 or cclarridge@seattletimes.com