

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

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Forwarded to:

Governors of Arizona, Arkansas,
 Florida, Georgia, Idaho, Maryland,
 Massachusetts, Nebraska, New Jersey,
 New York, South Dakota, Vermont, and
 Virginia

SAFETY RECOMMENDATION(S)

H-84-15 thru -18

Over the last several years, victims of alcohol-involved accidents and other anti-drunk driving activists have prompted legislative and program initiatives in most States to curb drunk driving. Special task forces have been created in at least 41 States to study the drunk driving problem and to revitalize State and local programs. Enhanced driving while intoxicated (DWI) enforcement programs and tougher penalties for convicted offenders are being legislated in a number of States. Yet in spite of this increase in legislative and countermeasure activity, drunk driving continues throughout this country. Roughly the same percentage (55 - 58 percent) of all highway fatalities each year involve alcohol. In 1982 alone, 25,600 persons died in alcohol-involved accidents. National Highway Traffic Safety Administration (NHTSA) studies of injury-producing and property-damage accidents also demonstrate the substantial role alcohol plays in these less severe accidents. Nearly 670,000 persons are injured each year in alcohol-involved crashes and some 1,200,000 alcohol-involved property damage accidents occur yearly. Without question, drunk driving remains one of our Nation's most serious public health, transportation, and safety issues.

The tragic consequences of alcohol abuse have long been of concern to the National Transportation Safety Board, an independent Federal agency charged by Congress to conduct studies pertaining to safety in transportation; to investigate transportation accidents; to determine their probable cause; and to make safety recommendations to prevent their recurrence. Throughout the Board's history, it has observed the overinvolvement of alcohol-impaired drivers in fatal highway crashes. The Safety Board has issued Safety Recommendations to Federal, State, and local governments as well as to private organizations, focusing on both the specific causes of individual accidents as well as on the general factors which lead to alcohol-involved accidents on our highways.

Recently, the Safety Board has promoted several specific actions which it believes are needed to reduce significantly the number of alcohol-involved highway accidents. The first called on the States to raise the minimum legal age for drinking or purchasing all alcoholic beverages to 21 years (NTSB Recommendation H-82-18). The second recommended the implementation of citizen awareness and drunk driver reporting programs, such as the "REDDI" program (Report Every Drunk Driver Immediately) active in six States (Safety Recommendation H-82-35).

During the Safety Board's continuing search for additional measures to address the drunk driving problem, it has examined State and local programs, studied efforts in other countries, and reviewed the writings of numerous experts in the field of alcohol in transportation and highway safety. As a result of this study, the Board has been impressed at the critical need for added measures that can reduce immediately the present danger from drunk drivers who remain on our roads in large numbers. The 70 deaths and 1,800 injuries suffered by Americans each day because of drunk drivers demand no less than the most aggressive and effective short-term countermeasures.

If drunk driving is to be reduced significantly in the short-term, motorists must be convinced that there is a strong likelihood they will be arrested and penalized if they drive drunk. Most experts agree that many drunk drivers persist in their behavior because they have a perception of low risk of arrest and penalty. These facts help explain why public perception of risk of arrest is so low. In a recent nationwide telephone survey, between 1/4 and 1/3 of the drivers who drink say they believe that the chances of being caught and punished are not great enough to deter them from driving after drinking too much.

In spite of aggressive DWI enforcement in many States and localities, estimates of the probability of arrest remain relatively low, varying from 1 in 200 drunk drivers to 1 in 2,000. Moreover, the impact of increased enforcement efforts is frequently blunted by lengthening court backlogs, particularly as the judicial system struggles to impose the toughened penalties which have recently been enacted by State legislatures. The greater the penalty, the more the defendant is provoked to resist by engaging lawyers, demanding jury trials, and other procedures which cause court delays. This increased pressure on the courts leads to compromises by prosecutors and judges which translates into plea bargaining and pretrial diversion programs. Such processes frequently result in the failure to convict on the DWI charge. Thus, even in the unlikely event of an arrest, the offender has a good chance of avoiding most of the negative consequences of his or her offense.

It has become apparent that traditional DWI arrest enforcement and sanction programs alone simply cannot arrest and penalize enough drunk drivers to reduce alcohol-related deaths and injuries dramatically. 1/ Additional measures are needed to enhance traditional enforcement and sanctioning programs in order to deter the 199 (of the 1 in 200) or 1,999 (of the 1 in 2,000) who are never arrested.

On April 3, 1984, the National Transportation Safety Board completed a study of two drunk driving "deterrence" countermeasures that have the potential to produce short-term safety improvements on our highways - sobriety checkpoints and administrative license revocations. 2/

1/ The National Highway Traffic Safety Administration (Nichols, Gundersheimer) has estimated that if every drunk driver arrested was prevented from driving impaired for 1 year, deaths would only decrease by a few percentage points. This is because (1) there are so many other motorists driving drunk so frequently and (2) the probability that one individual offender will be subsequently involved in a fatal crash is very small, therefore, removing a relative few would not appreciably reduce future crashes.

2/ Safety Study: "Deterrence of Drunk Driving: The Role of Sobriety Checkpoints and Administrative License Revocations," NTSB/SS-84/01, April 3, 1984.

According to a number of State and local officials and law enforcement organizations, ^{3/} a new technique that shows promise for deterring drunk drivers is the sobriety checkpoint or DWI roadblock, currently in use or under consideration in 21 jurisdictions and in at least 5 foreign countries. The NTSB safety study describes the experience of other countries as well as that of several States which have employed sobriety checkpoint programs. The city of Melbourne, Australia, for example, experienced significant decreases in nighttime fatal crashes and injuries involving drivers with illegal blood alcohol concentrations during a 1978 checkpoint campaign. In the U.S., the State of Delaware has reported a 32-percent drop in alcohol-related injury accidents during a period after sobriety checkpoints were in use from December 4, 1982, to August 13, 1983.

Another technique which the Safety Board believes shows promise as a deterrent to drunk driving is the administrative license revocation. While motor vehicle administrators have historically had ample statutory authority to revoke or suspend the licenses of drivers who pose a threat to the public, these administrators traditionally have been conservative in the use of that power. The result has been that most motor vehicle departments take no action to suspend licenses of drivers who violate drunk driving or implied consent laws until they receive a formal notice from the court of the conviction of the individual for a drunk driving or implied consent offense. Moreover, many of those who take a chemical test and produce a result over the legal limit will also fail to lose their licenses because of court procedures which permit reduction in charges or pretrial diversion.

Under administrative license revocation laws, when a driver is stopped by a police officer who has probable cause to arrest the driver for a drinking/driving offense, the officer will ask the driver to submit to a breath test. The driver is warned that refusal of the test will result in a license suspension and is further warned that if he or she takes the test and is over the specified BAC limit, this will also result in a suspension. If the driver either refuses the test or takes the test with a result which is over the limit, then the police officer will then take the driver's license. The offender is then provided with a notice which serves both as a temporary driving permit (typically for 7 to 30 days) and as a notice that the driver has a right to request both an administrative and, ultimately, a judicial review of the suspension. The driver is, of course, not allowed to drive from the scene and is held in custody for a specified period of time or released to a sober driver.

Since administrative revocation laws have only recently been enacted in most States, only a limited amount of data are available on their effectiveness. However, for those States, such as Minnesota, Iowa, and Delaware, which have used the procedures for several years, some pertinent information is available.

While a number of States are using the sobriety checkpoint enforcement system and also have administrative revocation laws, these elements were not enacted at the same time. Therefore, it is difficult to determine what the combined effect of these two countermeasures has been on accidents. However, Delaware's experience provides the best opportunity currently available in the United States for evaluation of the combined effects of these programs.

^{3/} A 1983 International Association of Chiefs of Police, Resolution 4R-1 endorsed the use of sobriety checkpoints.

The change in accident statistics in Delaware following the initiation of the checkpoint and administrative revocation legislation is encouraging. Between 1982 and 1983, there was a 13.8-percent decline in total fatal accidents and a 17.3-percent decline in alcohol-involved fatal accidents. The impact appeared to be even greater among injury accidents where the total decline was only 3.5 percent from 1982 to 1983 but the decline in alcohol-involved accidents was 21.9 percent. These declines occurred despite an 8-percent increase in sales of fuel in Delaware, indicating that the reduction could not be explained by reduced travel. In addition, between 1982 and 1983, there was only a small decline in fatal accidents nationwide.

Perhaps the most impressive indication of the potential impact of these two countermeasures--sobriety checkpoints and administrative license revocation--in Delaware is the number of drinking drivers involved in fatal accidents. Delaware is one of the few States which test nearly all fatally injured drivers for alcohol. When the number of drivers who are fatally injured and tested for alcohol is added to the number of surviving drivers in fatal accidents who were charged by the police with drunken driving (and also tested for BAC), the number of drinking drivers (BAC greater than .05 percent) in fatal accidents decreased by 19.1 percent from 1982 to 1983. This reduction is based on known BAC levels and is not subject to the biases which sometimes occur in police judgments regarding whether a driver was drinking. While more detailed analysis of accident data over a number of years will be required to confirm that this change can be attributed to the new law, this reduction in the number of accident-involved drinking drivers is impressive.

Based upon our review of the current literature and recent experience in national and international efforts to control drunk driving, the National Transportation Safety Board believes that general deterrence programs afford the most promising approach for the short-term reduction in alcohol-related deaths and injuries on our highways. Further, upon consideration of the information presented in its report, the Safety Board believes that the sobriety checkpoint and administrative license revocation procedures are potentially effective deterrent measures that warrant broader application by the States.

As a result of its Safety Study, "Deterrence of Drunk Driving: The Role of Sobriety Checkpoints and Administrative Revocation," the National Transportation Safety Board has concluded that sobriety checkpoints and administrative license revocations should be an integral part of a State's comprehensive alcohol and highway safety program.

The Safety Board is aware of the use of sobriety checkpoints by one or more law enforcement agencies within your State.

Therefore, the National Transportation Safety Board recommends that the Governors of Arizona, Arkansas, Florida, Georgia, Idaho, Maryland, Massachusetts, Nebraska, New Jersey, New York, South Dakota, Vermont, and Virginia:

Continue and expand the use of sobriety checkpoints on a periodic and continuing basis by the appropriate enforcement agencies under your jurisdiction as part of a comprehensive Driving While Intoxicated enforcement program. These checkpoints should be conducted according to accepted procedures and constitutional safeguards. (Class II, Priority Action) (H-84-15)

Encourage local law enforcement agencies within your State to institute sobriety checkpoints on a similar basis. (Class II, Priority Action) (H-84-16)

Enact legislation or utilize existing authority to provide for administrative revocation of the licenses of drivers who refuse a chemical test for alcohol or who provide a result at or above the State presumptive limit. (Class II, Priority Action) (H-84-17)

Evaluate the effectiveness of sobriety checkpoints and administrative license revocation procedures implemented. (Class II, Priority Action) (H-84-18)

The National Transportation Safety Board is an independent Federal agency with the statutory responsibility . . .to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations (P.L. 93-633). The Safety Board is vitally interested in any actions taken as a result of our safety recommendations and would appreciate a response from you regarding action taken or contemplated with respect to the recommendations in this letter.

BURNETT, Acting Chairman, GOLDMAN and GROSE, Members, concurred in these recommendations. BURSLEY, Member, did not participate.

A handwritten signature in black ink that reads "Jim Burnett". The signature is written in a cursive, flowing style.

By: Jim Burnett
Acting Chairman