

**HIGHWAY SAFETY PROGRAM
GUIDELINE AREA No. 8
IMPAIRED DRIVING**

Each State, in cooperation with its political subdivisions, should have a comprehensive program to combat impaired driving. This guideline describes the areas that each State's program should address. Throughout this guideline, "impaired driving" means operating any motor vehicle while one's faculties are affected by alcohol or other drugs, medications, or other substances. "Impaired driving" includes, but is not limited to, impairment as defined in State statutes.

I. PREVENTION

Each State should have prevention programs to reduce impaired driving through approaches commonly associated with public health -- altering social norms, changing risky or dangerous behaviors, and creating protective environments. Prevention and public health programs promote activities to educate the public on the effects of alcohol and other drugs, limit alcohol and drug availability, and prevent those impaired by alcohol and drugs from driving. Prevention programs are typically carried out in schools, work sites, medical and health care facilities, and community groups. Each State should implement a system of impaired driving prevention activities and work with the traffic safety, health and medical communities to foster health and reduce traffic-related injuries and their resulting costs.

A. Public Information and Education for Prevention

States should develop and implement public information and education (PI&E) programs directed at impaired driving, and reducing the risk of injury or death and their resulting medical, legal and other costs. Programs should start at the State level and extend to communities through State assistance, model programs, and public encouragement. States should:

- Have a statewide plan, program, and coordinator for all impaired driving PI&E activities;
- Develop their own PI&E campaigns and materials, either by adapting materials from the Federal government or other States, or by creating new campaigns and materials;
- Encourage and support communities to implement awareness programs at the local level;
- Encourage businesses and private organizations to participate in impaired driving PI&E campaigns; and
- Encourage media to support impaired driving highway safety issues by reporting on programs, activities (including enforcement campaigns), alcohol-related arrests, and alcohol-related crashes.

B. School Programs

Student programs, including kindergarten through college and trade school, play a critical role in preventing impaired driving. States should:

- Implement K-12 traffic safety education, with appropriate emphasis on impaired driving, as part of a comprehensive health education program;
- Establish and support student safety clubs and activities and create a statewide network linking these groups;
- Establish liaisons with higher education institutions to encourage policies to reduce alcohol, other drug, and traffic safety problems on college campuses;
- Promote alcohol- and drug-free events throughout the school year, with particular emphasis on high-risk times such as prom, spring break, and graduation;
- Coordinate closely with anti-drug education efforts and programs;
- Develop working relationships with school health personnel as a means of providing information to students about a variety of traffic safety and health behaviors; and
- Make effective use of criminal justice, medical, or other professionals through presentations in the classroom or assembly programs.

C. Employer Programs

States should provide information and technical assistance to all employers, encouraging them to offer programs to reduce impaired driving by employees and their families. These programs should include:

- Model policies for impaired driving and other traffic safety issues, including safety belt use and speeding;
- Management training to recognize and address alcohol and drug impairment; Education and treatment programs for employees; and Employee awareness activities.
- States should especially encourage companies and businesses to provide impaired driving programs to their youthful employees. The States should also be familiar with FHWA's drug and alcohol requirements for employers of commercial motor vehicle (CMV) drivers.

D. Responsible Alcohol Service

States should promote responsible alcohol service policies and practices through social host programs and well-publicized and enforced laws, regulations, policies and education in the retail alcohol service industry (including package stores, restaurants, and taverns). States should:

- Implement and enforce programs to eliminate the sale or service of alcoholic beverages to those under 21 years of age;
- Promote alcohol server and service programs, including assessments, written policies, and training;
- Ensure adequate alcohol control regulations dealing with issues such as service to visibly intoxicated patrons and the elimination of "happy hours" during which free or reduced-price alcoholic beverages are offered (food and non-alcoholic beverages may be offered instead during such times);
- Provide adequate resources (including budget, staff, and training) to enforce alcohol beverage control regulations;
- Promote the display of responsible alcohol use and drinking and driving information in alcohol sales and service establishments;
- Promote participation in designated driver, safe rides, and other alternative transportation programs; and
- Provide that commercial establishments may be held responsible for damages caused by any patron who was served alcohol when visibly intoxicated.

E. Transportation Alternatives

States should promote alternative transportation programs that enable drinkers to reach their destinations without driving. Alternative transportation programs include:

- Designated drivers; and
- Safe rides.

II. DETERRENCE

Each State should have a deterrence program to reduce impaired driving through activities to create the maximum possible perception of detection, arrest and punishment among persons who might be tempted to drive under the influence of alcohol or other drugs, including CMV drivers. Close coordination with law enforcement agencies on the municipal, county, and state levels is needed to create and sustain the perceived risk of being detected and arrested. Specialized traffic enforcement efforts, such as the Motor

Carrier Safety Assistance Program (MCSAP), also serve as a core element in the detection of impaired drivers. Equally close coordination with courts and the motor vehicle licensing and registration agency is needed to enhance the fear of punishment. Effective use of all available media is essential to create and maintain a strong public awareness of impaired driving enforcement and sanctions.

Each State should implement a system of activities to deter impaired driving. The deterrence system should include legislation, public information and education, enforcement, prosecution, adjudication, criminal sanctions, driver licensing, and vehicle registration activities. The goal should be to increase the perception and probability of arrest for violators and the imposition of swift and sure sanctions.

A. Laws To Deter Impaired Driving

States should enact laws that define and prohibit impaired driving in broad and readily enforceable terms, facilitate the acquisition of evidence against impaired drivers, and permit a broad range of administrative and judicial penalties and actions. These laws should:

Define impaired driving offenses -

- Establish .08 Blood Alcohol Concentration (BAC) as the blood alcohol level at or above which it is illegal to operate a motor vehicle ("illegal per se");
- Establish .04 BAC as the illegal per se blood alcohol level for commercial truck and bus operators, as provided by commercial driver license regulations;
- Establish that it is illegal per se for persons under the age of 21 (the legal drinking age) to drive with any measurable amount of alcohol in their blood, breath, or urine;
- Establish that driving under the influence of other drugs (whether illegal, prescription, or over-the-counter) is unlawful and is treated similarly to driving under the influence of alcohol;
- Establish vehicular homicide or causing personal injury while under the influence of alcohol as a separate offense; and
- Prohibit open alcohol containers and consumption of alcohol in motor vehicles.

Provide for effective enforcement of these laws -

- Authorize police to conduct checkpoints, in which vehicles are stopped on a nondiscriminatory basis to determine whether or

not the operators are driving under the influence of alcohol or drugs;

- Authorize police to use a preliminary breath test for a vehicle operator stopped for a suspected impaired driving offense;
- Authorize police to test for impairing drugs other than alcohol;
- Include implied consent provisions that permit the use of chemical tests and that allow the arresting officer to require more than one test of a vehicle operator stopped for a suspected impaired driving offense;
- Require prompt and certain license revocation or suspension for persons who refuse to take a chemical test to determine whether they were driving while intoxicated ("implied consent"); and
- Require mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause to believe that a driver has committed an alcohol-related offense.

Provide effective penalties for these offenses --

- Require prompt and certain administrative license revocation or suspension of at least 90 days for persons determined by chemical test to violate the State's BAC limit;
- Provide for increasingly more severe penalties for repeat offenders, including lengthy license revocation, substantial criminal fines, jail, and/or impoundment or confiscation of license plates or vehicles registered by the offender;
- Provide for more stringent criminal penalties for those convicted of more serious offenses, such as vehicular homicide;
- Contain special provisions for youth under the age of 21 that mandate driver's license suspension for any violations of laws regarding the use or possession of alcohol or other drugs; and
- Establish victim assistance and victim restitution programs and require the use of a victim impact statement prior to sentencing in all impaired driving cases where death or serious injury occurred.

B. Public Information and Education for Deterrence

States should implement public information and education (PI&E) programs to maximize public perception of the risks of being caught and punished for impaired driving. Public information programs should be:

- Comprehensive;

- Seasonally focused; and
- Sustained.

C. Enforcement

States should implement comprehensive enforcement programs to maximize the likelihood of detecting, investigating, arresting, and convicting impaired drivers. These programs should:

- Secure a commitment to rigorous impaired driving enforcement from the top levels of police management and State and local government;
- Provide state-of-the-art training for police officers, including Standardized Field Sobriety Testing (SFST) and Drug Evaluation and Classification (DEC);
- Provide adequate equipment and facilities, including preliminary and evidentiary breath test equipment;
- Deploy patrol resources effectively, using cooperative efforts of various State and local police agencies as appropriate;
- Maximize the likelihood of violator-officer contact;
- Make regular use of sobriety checkpoints;
- Facilitate the arrest process;
- Implement state-of-the-art post-arrest investigation of apprehended impaired drivers;
- Emphasize enforcement of youth impaired driving and drinking age laws; and
- Emphasize enforcement of laws regulating alcohol or drug impairment by CMV drivers.

D. Prosecution

States should implement a comprehensive program for visible and aggressive prosecution of impaired driving cases. These programs should:

- Give impaired driving cases high priority for prosecution;
- Provide sufficient resources to prosecute cases presented by law enforcement efforts;
- Facilitate uniformity and consistency in prosecution of impaired driving cases;
- Provide training for prosecutors so they can obtain high rates of conviction and seek appropriate sanctions for offenders;

- Prohibit plea bargaining in impaired driving cases, through appropriate legislation;
- Encourage vigorous prosecution of alcohol-related fatality and injury cases under both impaired driving and general criminal statutes; and
- Ensure that prosecutors are knowledgeable and prepared to prosecute youthful offenders appropriately.

E. Adjudication

The effectiveness of prosecution and enforcement efforts is lost without support and strength in adjudication. States should implement a comprehensive impaired driving adjudication program to:

- Provide sufficient resources to adjudicate cases and manage the dockets brought before them;
- Facilitate uniformity and consistency in adjudication of impaired driving cases;
- Give judges the skills necessary to appropriately adjudicate impaired driving cases;
- Provide similar training to administrative hearing officers who hear administrative license revocation appeals;
- Inform the judiciary about technical evidence presented in impaired driving cases, including SFST and DEC testimony;
- Educate the judiciary in appropriate and aggressive sanctions for offenders including violators of commercial motor vehicle safety regulations; and
- Ensure that judges are knowledgeable and prepared to adjudicate youthful offenders cases in an appropriate and aggressive manner.

F. Licensing

Driver licensing actions can be an effective means for preventing, deterring, and monitoring impaired driving. In addition to the license sanctions for impaired driving offenses discussed earlier, States should:

- Implement a graduated licensing system for novice drivers;
- Provide for license suspension for drivers under age 21 who drive with a BAC exceeding .02 (or some other low BAC value);
- Issue distinctive licenses to drivers under the age of 21;
- Monitor licensing records to identify high risk drivers for referral to education or remediation programs;

- Ensure the accurate and timely reporting of alcohol and drug violations as prescribed by the Commercial Drivers License (CDL) regulations;
- Assure that all licensing records are used to help assess whether a driver requires alcohol or drug treatment; and
- Actively participate in the Driver License Compact to facilitate the exchange of driver license information between jurisdictions.

III. TREATMENT AND REHABILITATION

Many first-time impaired driving offenders and most repeat offenders have substantial substance abuse problems that affect their entire lives, not just their driving. They have been

neither prevented nor deterred from impaired driving. Each State should implement a system to identify and refer these drivers to appropriate substance abuse treatment programs to change their dangerous behavior.

A. Diagnosis and Screening

States should have a systematic program to evaluate persons who have been convicted of an impaired driving offense to determine if they have an alcohol or drug abuse problem. This evaluation should:

- Be required by law;
- Be conducted by qualified personnel prior to sentencing; and
- Be used to decide whether a substance abuse treatment program should be part of the sanctions imposed.

B. Treatment and Rehabilitation

States should establish and maintain programs to treat alcohol and other drug dependent persons referred through traffic courts and other sources. These programs should:

- Ensure that those referred for impaired driving offenses are not permitted to drive again until their substance abuse problems are under control;
- Be conducted in addition to, not as a substitute for, license restrictions and other sanctions; and
- Be conducted separately for youth.

IV. PROGRAM MANAGEMENT

Good program management produces effective programs. Planning and coordination are especially important for impaired driving activities, since many different parties are involved. Each State's impaired driving program management system should have an established process for managing its planning (including problem identification), program control, and evaluation activities. The system should provide for community traffic safety programs (CTSPs), State and local task forces, data analysis, and funding. It also should include planning and coordination of activities with other agencies involved in impaired driving programs, such as MCSAP, and expansion of existing partnerships, such as with the health and medical communities.

A. State Program Planning

States should develop and implement an overall plan for all impaired driving activities. The plan should:

- Be based on careful problem definition that makes use of crash and driver record data; and
- Direct State and community resources toward effective measures that address the State's impaired driving issues.

B. Program Control

States should establish procedures to ensure that program activities are implemented as intended. The procedures should provide for systematic monitoring and review of ongoing programs to:

- Detect and correct problems quickly;
- Measure progress in achieving established goals and objectives; and
- Ensure that appropriate data are collected for evaluation.

C. State and Local Task Forces and Community Traffic Safety and Other Injury Control Programs

States should encourage the development of State and community impaired driving task forces and community traffic safety and other injury control programs. States should:

- Use these groups to bring a wide variety of interests and resources to bear on impaired driving issues;
- Ensure that Federal, State, and local organizations coordinate impaired driving activities, so that the activities complement rather than compete with each other; and
- Ensure that these groups include traditional and non-traditional partners, such as law enforcement, local government, business, education, community groups, health,

medicine, prosecutors and judges.

D. Data and Records

States should establish and maintain records systems for accidents, arrests, dispositions, driver licenses, and vehicle registrations. Especially important are tracking systems which can provide information on every driver arrested for DWI to determine the disposition of the case and compliance with sanctions. These records systems should be:

- Accurate;
- Timely;
- Able to be linked to each other; and
- Readily accessible to police, courts, and planners.

E. Evaluation

States should evaluate all impaired driving system activities regularly to ensure that programs are effective and scarce resources are allocated appropriately. Evaluation should be:

- Designed to use available traffic records and other injury control data systems effectively;
- Included in initial program planning to ensure that appropriate data are available and that adequate resources are allocated; and
- Conducted regularly.

Evaluation results should be:

- Reported regularly to project and program managers; and
- Used to guide further program activities.

F. Funding

States should allocate funding to impaired driving programs that is:

- Adequate for program needs;
- Steady -- from dedicated sources; and
- To the extent possible, paid by the impaired drivers themselves. The programs should work toward being self-sufficient.