

Traffic Safety Facts

Laws

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Administrative License Revocation

The National Highway Traffic Safety Administration (NHTSA) encourages States to require prompt, mandatory revocation or suspension of driver's licenses for alcohol and/or other drug test failure and/or refusal. Unintentional injury is the number one cause of death for persons 1 through 34 years in the United States with motor vehicle crashes constituting a major portion of those accidents. Forty-one percent of these fatalities involve alcohol and/or other drugs. Suspending or

revoking driver's licenses for those driving while under the influence of alcohol or other drugs has proven to be a successful deterrent, if implemented by the state.

Administrative license revocation (ALR) laws are based on objective chemical tests (usually breath, sometimes blood or urine) and are similar to "illegal per se" criminal laws against impaired driving. ALR allows law enforcement and driver licensing authorities to revoke or suspend a driver's license swiftly, without long delays, while awaiting a criminal trial. The offender retains the right of due process through an administrative appeal system. ALR is similar to the "implied consent" laws that automatically suspend a driver's license of drivers who refuse to submit to a BAC test whereas ALR automatically suspends or revokes the license for failing a BAC test.

Key Facts

- In 2002, 41 percent of the 42,815 motor vehicle crash deaths nationwide were alcohol-related. This percentage equates to 17,419 alcohol-related deaths in that year.
- As of December 2003, 41 States and the District of Columbia had adopted some form of administrative license revocation. (AL, AK, AZ, AR, CA, CO, CT,

DE, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MA, MN, MS, MO, NE, NV, NH, NM, NC, ND, OH, OK, OR, SC, TX, UT, VT, VA, WA, WV, WI, and WY.)

- Administrative license revocation is constitutional and does not constitute double jeopardy. All cases in which the highest State appellate courts have considered this issue have held that a separate criminal trial for an impaired driving offense following an ALR action does not constitute double jeopardy under either Federal or State constitutional law.
- The U.S. Supreme Court has found that the right of due process is not violated if a driver's license is suspended prior to an administrative hearing, as long as provisions are made for a swift post-suspension hearing. [*Mackey v. Montrym*, 443 U.S. 1 (1979)].
- A research study found that ALR laws reduced fatal crashes by approximately 9 percent during high-risk (late night) periods of alcohol involvement.
- According to other research, Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah have seen significant reductions in alcohol-related fatal crashes after enacting ALR laws.

Inside This Issue

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- For laws to be effective, publicity is an important factor because drivers must know and understand the consequences of their actions. One research study conducted in Nevada found a 12 percent reduction in alcohol-related crashes following implementation of a publicity campaign designed to inform the public about the ALR procedure.
- ALR does not have a major impact on an offender's job or income. A 1996 study compared three ALR States with one State that used other sanctions for impaired driving; there was no difference between ALR and non-ALR States in offender employment or income. In both ALR and non-ALR States, 94 percent of the offenders who were working at the time of their arrest were still working one month later; 4 percent were unemployed; and the remaining 2 percent were in school. License revocations as long as 90 days did not lead to a loss of job or income.
- The initial license revocation (suspension) period for test **failure** should be at least 90 days with full revocation for at least 30 days and restricted driving during any remainder. Restricted driving privileges should be permitted only in very limited circumstances, and only after an initial "hard" revocation (suspension) period has been served. The initial license revocation (suspension) period for a test **refusal** should be a full 90 days, with no restricted driving privileges. For a repeat DWI offense within five years, the revocation (suspension) period should be for one year, with no restricted driving privileges. In addition, licensing actions should take effect within 30 days of notice.
- The administrative sanction should be handled separately from the criminal proceeding. Due to differing procedural aspects, the findings and outcome of an ALR action should not normally affect a criminal proceeding, and vice versa.

What Provisions Should Be Included in An Administrative License Revocation Law?

- The language of these laws should be consistent with the provisions of the State's administrative procedures acts.
- The arresting officer should, at the time of arrest, serve the notice of revocation (suspension), take the offender's license, and issue a temporary permit.
- The driver should have the opportunity for an administrative hearing.
- The hearing request should not be allowed to delay the revocation (suspension).
- Although the benefits of an ALR law are numerous, some jurisdictions do experience problems in implementation that can affect the usefulness of the law. With implementation problems, States should look for ways to improve applications of ALR procedures. A recent study examined Utah's new law allowing telephonic testimony at ALR hearings. After the availability of telephonic hearings, there was a statistically significant 20 percent reduction in cases where the driver's license was returned to the offender due to the absence of the arresting officer, as a percentage of all cases where the license was returned.

How Much Does An Administrative License Revocation Program Cost?

- A 1991 study analyzed the costs and benefits associated with administrative license revocation laws in Illinois, Mississippi, and Nevada. The study revealed that start-up and operating costs were adequately covered with the assessment of license reinstatement fees. In addition, the annual savings in costs for night-time crashes that were reduced as a result of ALR laws ranged from \$37 million in Nevada to \$104 million in Mississippi.

How Can Administrative License Revocation Be Financed?

The offenders, rather than taxpayers, should pay for these programs. Some States have significantly increased the reinstatement fee for drivers whose licenses are revoked for driving while intoxicated (DWI); some States have raised all reinstatement fees; and other States have increased all license application and renewal fees. Other fines, fees, or taxes also can provide funding, such as an alcoholic beverage tax that can be earmarked for alcohol program expenses, including ALR.

Who Supports Administrative License Revocation?

The following organizations have publicly expressed support for this type of law:

- Advocates for Highway and Auto Safety
- Allstate Insurance
- American Alliance for Rights and Responsibilities
- American Association of Motor Vehicle Administrators

- American Automobile Association (AAA)
- American Automobile Manufacturers Association
- American Insurance Association
- Automotive Coalition for Traffic Safety
- Center for Substance Abuse Prevention
- The Century Council
- Federal Highway Administration
- GEICO
- Governors Highway Safety Association
- General Federation of Women's Clubs
- Highway Users Federation for Safety and Mobility
- Insurance Information Institute
- Insurance Institute for Highway Safety
- International Association of Chiefs of Police
- Kemper Insurance Group
- Mothers Against Drunk Driving (MADD)
- National Association of Independent Insurers
- National Association of State Alcohol and Drug Abuse Directors
- National Association of State Emergency Medical Service Directors
- National Commission Against Drunk Driving
- National Highway Traffic Safety Administration
- National Safety Council
- National Sheriffs' Association
- National Transportation Safety Board
- Nationwide Insurance
- Operation Lifesaver
- Police Executive Research Forum
- Remove Intoxicated Drivers (RID)
- Students Against Destructive Decisions (SADD)
- U.S. Department of Justice
- USAA Insurance

Incentive Grant Program

On May 22, 1998, Congress passed H.R. 2400, the Transportation Equity Act for the 21st Century (TEA-21). TEA-21 made substantial changes to the then existing Section 410 alcohol incentive grant program. Pursuant to the Section 410 program, as amended by TEA-21, States may qualify for a "Programmatic Basic Grant" if they demonstrate that they meet five out of seven basic grant criteria to combat impaired driving, including a streamlined administrative license revocation system.

To meet this criterion of the Section 410 grant program, a State must have an administrative license revocation system requiring that first offenders be subject to a 90-day license suspension; that first offenders who fail a chemical test be subject to a 30-day license suspension with an additional 60 days of a restricted license; that repeat offenders be subject to a one-year suspension or revocation; and that suspensions or revocations take effect within 30 days after the offender refuses to submit to a chemical test or receives notice of having failed the test. The program also requires that license suspension and revocation periods be "hard" and not subject to exceptions. A State may demonstrate compliance with this criterion as either a "Law State" or a "Data State" by submitting copies of its administrative revocation laws or data relating to the sanctions imposed under its program.

Research Studies

Examining the Effectiveness of Utah's Law Allowing for Telephonic Testimony at ALR Hearings. Connie Willisozki, Ralph Jones, and John Lacey, NHTSA DOT HS 809 602, July 2003

Effects of Administrative License Revocation on Employment. Kathleen Knoebel and H. Lawrence Ross, Ketron, DOT HS 808 462, May 1996.

Cost-Benefit Analysis of Administrative License Suspension. John Lacey, et al., Mid-America Research, NHTSA DOT HS 807 689, January 1991.

An Assessment of the Effects of Publicizing Administrative License Revocation for DWI in Nevada. John Lacey, et al., University of North Carolina Highway Safety Research Center, NHTSA DOT HS 807 600, March 1990.

Fatal Crash Involvement and Laws Against Alcohol-Impaired Driving. Paul L. Zador, et al., Insurance Institute for Highway Safety, February 1989.

Changes in Alcohol-Involved Fatal Crashes Associated with Tougher State Alcohol Legislation. Sigmastat, Inc. NHTSA, July 1989.

Impact of Driver's License Suspension on Employment Stability of Drunken Drivers. Elizabeth Wells-Parker and Pamela Cosby, Mississippi Alcohol Safety Education Program, Social Science Research Center, Mississippi State University, June 1987.

Information Sources

Study in Four States Shows that ALR Has Little Effect on Violator's Employment or Income. NHTSA Traffic Tech, October 1996.

Double Jeopardy. ALR Information Packet, published by the National Traffic Law Center, 99 Canal Center, Suite 510, Alexandria, VA 22314, November 1996.

Police Costs Associated with Administrative License Revocation. NHTSA Traffic Tech, No. 59, January 1994.

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Law Adopted - 1990.* NHTSA Traffic
Tech, No. 24, March 1992.

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Resource Manual.* NHTSA, DOT HS
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*Sample State Administrative Driver
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*Administrative License Revocation
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Sheet, 2002.

Administrative License Revocation.
Video produced for NHTSA by
USAA, 12 minutes.



These reports and
additional information
are available from your
State Highway Safety
Office, the NHTSA Regional
Office serving your
State, or from NHTSA
Headquarters, Impaired
Driving and Occupant
Protection Office, ATTN:
NTS-110, 400 Seventh
Street, S.W., Washington,
DC 20590; 202-366-9588;
or NHTSA's web site at
www.nhtsa.dot.gov