

## Repeat Intoxicated Driver Laws

### Key Facts

Motor vehicle crashes are the leading cause of death for Americans aged 2 through 33 and motor vehicle crash injuries are a major health care problem in the United States. Alcohol-related crashes are a substantial part of this problem.

- Alcohol was involved in 41 percent of fatal crashes and 6 percent of all police-reported crashes in 2002.
- Alcohol-related crashes in the United States cost the public more than \$50 billion in 2000, and 75 percent of these costs occurred in crashes where a driver or non-occupant had a BAC of .10 or higher.
- Every 30 minutes, someone is killed in the United States in an alcohol-related crash.
- Impaired driving is the most frequently committed violent crime in the United States.

- About one-third of all drivers arrested or convicted of driving while intoxicated or driving under the influence of alcohol (DWI) have a previous DWI conviction.
- Drivers with prior DWI convictions are over-represented in fatal crashes and have a greater relative risk of involvement in a fatal crash.

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21) Restoration Act, a Federal program was established to encourage States to address the problem of the repeat intoxicated driver.

### Laws that Address the Repeat Intoxicated Driver

Many States have enacted laws focusing on the repeat intoxicated driver. States generally impose on repeat intoxicated drivers one or more of the following requirements:

- **Licensing Sanctions:** Most States suspend or revoke the license of repeat intoxicated drivers for a longer period than they do for first offenders.
- **Vehicle Sanctions:** Some States impound or immobilize the vehicles of repeat intoxicated drivers; while other States require an ignition interlock system be installed on the offender's vehicle (which prevents a vehicle from starting if the driver's blood alcohol concentration is above a pre-determined threshold).

- **Addressing Alcohol Abuse:** Most States require that repeat intoxicated drivers be given an alcohol assessment to determine their degree of alcohol abuse and/or undergo appropriate treatment.
- **Mandatory Sentencing:** Most States impose a mandatory minimum imprisonment and/or a community service sentence on repeat intoxicated drivers.

### Effectiveness of Repeat Intoxicated Driver Laws

Research has shown that driver-licensing sanctions have a significant impact on the problem of impaired driving. Licensing sanctions imposed under State administrative licensing revocation systems (not the criminal justice system) have resulted in reductions in alcohol-related fatalities of between 6 and 9 percent. According to a NHTSA study, Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah experienced significant reductions in alcohol-related fatal crashes following enactment of administrative license revocation procedures. The studies support the notion that license sanctions deter repeat DWI offenders from driving. Although many repeat intoxicated drivers continue to drive without a license after their license has been revoked, studies have shown that those who do drive tend to drive less frequently and more carefully. For further information about license

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sanctions, see NHTSA *Traffic Safety Facts-Administrative License Revocation*.

A variety of vehicle sanction programs have been also used successfully to deter repeat DWI offenses. California's vehicle impoundment program resulted in substantially fewer subsequent offenses, convictions, and crashes for repeat offenders involved with the program (which included non-DWI offenses) compared with another control group of repeat offenders. A study of interlock devices in Maryland found that participation in an interlock program decreased the risk of DWI recidivism by 65 percent. These programs are successful because they prevent many repeat DWI offenders from driving by either separating them from their vehicles or requiring them to be alcohol-free when they drive. For more information about vehicle sanctions, see NHTSA's *Traffic Safety Facts - Vehicle and License Plate Sanctions*.

Programs that focus on individuals' alcohol-related behavior also have been successful. Milwaukee's Intensive Supervision Probation program, which includes monitoring of behavior, has cut recidivism by nearly 50 percent (from 11 percent to 6 percent). A study of a financially self-sufficient DWI facility in Prince George's County, Maryland, where residents pay for their stay, showed that its recidivism rate during a 5-year period was 8 percent, compared with 35 percent for other programs.

A "DUI Court," modeled after the Drug Court model, is being evaluated in Maricopa County (Phoenix) Arizona. The evaluation involved the assignment of repeat offenders, after serving 3 months of hard jail time, to either a special DUI Court, or to a traditional probation services. The DUI Court is a special form of inten-

sive supervision that involves both the judge and the local probation department that provides close supervision of offenders. Completion of this study, jointly funded with the Department of Justice, is expected in 2004.

### Section 164 of 23 U.S.C.

Section 164 of 23 U.S.C. requires that States have certain repeat intoxicated driver laws in place; if not, a portion of the State's annual Federal-aid highway construction funds will be redirected into the State's Section 402 appropriation. Transferred funds may be used for alcohol-impaired driving countermeasures, enforcement of drunk driving laws, or the State's hazard elimination program, under Section 152.

To comply with the Federal program under Section 164, the State's laws regarding second and subsequent convictions for driving while intoxicated or driving under the influence of alcohol (DWI) must:

- Require a minimum one-year driver's license suspension for repeat intoxicated drivers;
- Require that all motor vehicles of repeat intoxicated drivers be impounded or immobilized for a specified period during the license suspension period, or require the installation of an ignition interlock system on all motor vehicles of such drivers for a specified period after the suspension is completed;
- Require the mandatory assessment of repeat intoxicated driver's degree of alcohol abuse and referral to treatment as appropriate; and
- Establish a mandatory minimum sentence for repeat intoxicated drivers:
  - ◆ Of not less than five days of imprisonment or 30 days of community service for a second offense; and

- ◆ Of not less than ten days of imprisonment or 60 days of community service for a third or subsequent offense.

Under the program, a repeat intoxicated driver is defined as a person convicted of driving while intoxicated or driving under the influence of alcohol more than once during any 5-year period. Thus, States must maintain records on DWI convictions for at least five years. To avoid the transfer of funds, States must certify that their laws comply with each of the criteria specified above.

The transferred amount for States not in compliance is 1.5 percent of certain State Federal-aid highway construction funds for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

The following 36 States and the District of Columbia have met the requirements of Section 164: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Idaho, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.

### Information Sources

*Traffic Safety Facts-Vehicle and License Plate Sanctions*. NHTSA, January 2002.

*Traffic Safety Facts-Administrative License Revocation*. NHTSA, January 2002.

Beck, Kenneth H., et al. *Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland*. *American Journal of Public Health*, Vol. 89, No.11, 1696-1700 (November 1999)

"California Impounds The Vehicles of Motorists Caught Driving Without A Valid License." *Traffic Tech*, No. 180, July 1998.

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## States with Complying Laws

*Section 154 & 164 Transfer Programs*

### Open Container (36 states + Dist. of Columbia)

Alabama  
Arizona  
California  
District of Columbia  
Florida  
Georgia  
Hawaii  
Idaho  
Illinois  
Iowa  
Kansas  
Kentucky  
Maine  
Massachusetts  
**Maryland**  
Michigan  
Minnesota  
Nebraska  
Nevada  
New Hampshire  
New Jersey  
New Mexico  
New York  
North Carolina  
North Dakota  
Ohio  
Oklahoma  
Oregon  
Pennsylvania  
Rhode Island  
South Carolina  
Texas  
Utah  
Vermont  
Washington  
Wisconsin

### Repeat Intoxicated Driver (36 states + Dist. of Columbia)

Alabama  
Arizona  
Arkansas  
Colorado  
**Connecticut**  
Delaware  
District of Columbia  
Florida  
Georgia  
Hawaii  
Idaho  
Illinois  
Indiana  
Iowa  
Kansas  
Kentucky  
Maine  
**Maryland**  
Michigan  
Mississippi  
Missouri  
**Montana**  
Nebraska  
Nevada  
New Hampshire  
New Jersey  
**New York**  
North Carolina  
Oklahoma  
**Pennsylvania**  
Tennessee  
Texas  
**South Carolina**  
Utah  
Virginia  
Washington  
Wisconsin

\* States in Bold qualified during FY 2003

\* In 2001, Iowa and Virginia came out of compliance with provisions of the Repeat Intoxicated Driver Program; both States modified their laws and were in compliance for 2002

\* In 2003, Pennsylvania came out of compliance with provisions of the Repeat Intoxicated Driver Program

Source: Injury Control Operations and Resources

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The 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; 202-366-4913; or NHTSA's web site at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)

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