

ALASKA LEGISLATURE 1205

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

279

PEDESTRIAN FACT SHEET

- There are more than 100,000 pedestrian injuries and approximately 6,000 pedestrian fatalities each year.
- Crashes involving pedestrians are likely to be fatal crashes and account for approximately 15 percent of all traffic fatalities.
- Alcohol impairment is a leading factor in pedestrian fatalities and injuries. Approximately one-third of the pedestrians involved in fatal pedestrian crashes were intoxicated. In about half of the fatal pedestrian crashes, pedestrians between the ages of 14 and 65 had been drinking.
- Approximately half of the total number of pedestrian fatalities each year involve use of alcohol either by the driver or the pedestrian.
- There are more than 9 alcohol-related fatal pedestrian crashes every day in this country. In 1992, there were 1,902 alcohol-related fatal pedestrian crashes.
- One out of 4 alcohol-related fatal pedestrian crashes involves a pedestrian who had not been drinking and a driver who had.
- More than half of all fatal pedestrian crashes involving adults ages 20-29 involved alcohol in 1992.
- Many prescriptions and over-the-counter medications, when combined with alcohol, impair mental alertness and the ability to walk safely.

Motorcycle Fact Sheet

- In 1992, traffic crashes killed 2,394 motorcyclists. An additional 72,000 were injured.
- In 1992, alcohol was present in 52.4 percent of motorcycle operators involved in fatal crashes. The presence of alcohol is higher in motorcycle operators involved in fatal crashes than in the operators of any other type of vehicle involved in fatal crashes.
- In 1992, 30 percent of motorcycle drivers under the age of 20 killed in traffic crashes had some level of alcohol in their blood, with the majority of these having a blood alcohol content of .10 or above.
- Although motorcycles only represent less than 3 percent of all registered motor vehicles, crashes involving motorcycles account for almost 7 percent of all motor vehicle fatalities.
- Per mile, a motorcyclist is approximately 20 times more likely to die in a crash than is an automobile operator.
- Head injury is the leading cause of death in motorcycle crashes. Compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a head injury of lesser severity when involved in a crash.
- A study of all injured motorcyclists admitted to Maryland trauma centers for a one-year period in 1987-88 found that of the 165 patients tested for alcohol use, 53.3 percent tested positive. Of the riders under the legal drinking age tested for alcohol use, 31.3 percent tested positive.

TRUCKS FACT SHEET

- Light, medium and heavy trucks were involved in 18,783 fatal crashes in 1989.
- In 1989, 38.3 percent of light trucks, 7.3 percent of medium trucks, and 5.0 percent of heavy truck drivers involved in fatal crashes had some level of alcohol in their blood.
- Occupants of other vehicles constitute approximately three-fourths of the victims in medium and heavy truck crashes.

SPEED FACT SHEET

- Speed is the most prominent factor governing the fundamental relationships among all the physical forces involved in crashes, including motorist reaction time and crash severity.
- From current data, the National Highway Traffic Safety Administration estimates that the percent of vehicles exceeding 65 mph on rural interstate highways has increased from 23 percent in 1986 to 45 percent in 1992. In the same time period, the percent of vehicles exceeding 75 mph increased from an estimated 6 percent to 20 percent.
- Speed increases the distance a vehicle travels during the "fixed period of time" that it takes for the driver to react to a perceived danger.
- Speed increases the total stopping distance necessary to halt a vehicle. The Federal Motor Vehicle Safety Standard (FMVSS) 105 requires that a car stop within 383 feet from 80 mph, 172 feet from 55 mph, and 70 feet from 35 mph.
- One-third of all fatal crashes are related to speed.
- Speed-related fatal crashes most often involve only a single vehicle.
- Speed is a frequently occurring driver-error-related cause contributing to crashes.
- Crash severity increases disproportionately with speed at impact. The chances of death or serious injury double for every 10 mph of increased vehicle speed.
- The safety benefits of occupant protection (safety belts/air bags/child safety seats) diminish in a crash as speeds increase.
- Excessive speed was noted for approximately 30 percent of unrestrained drivers in fatal crashes.
- The energy of impact delivered to the driver and passengers in a collision is proportional to the square of the speed. If a driver of a car increases the speed from 20 mph to 80 mph, the speed goes up by a factor of four and the energy of the impact delivered in a collision goes up by a factor of 16 in these crashes.
- Police investigating fatal crashes report that unsafe practices (speeding, following too closely, improper lane use, unsafe passing, and reckless operation) account for more than one-third of the total at-fault, driver-related factors in these crashes.
- Of all drivers involved in speed-related fatal crashes in 1992, about 56 percent were under the influence of alcohol.
- Higher speeds result in more severe crashes which can result in more disabling injuries.
- The total societal cost of speed-related crashes is more than \$10 billion annually.

SOBRIETY CHECKPOINTS

RESOLUTION 93-19 (new)

WHEREAS, impaired driving kills more than 20,000 people each year and costs the nation as much as \$46 billion annually; and

WHEREAS, highway experts agree that deterrence of drinking and driving requires a perception that detection and arrest are likely to occur; and

WHEREAS, only one in 200 to 2,000 impaired driving trips results in an arrest; and

WHEREAS, a study by the insurance institute for Highway Safety bears out that drinking drivers have a higher perception of the risk of arrest in communities where checkpoints are used than in communities which do not employ this technique; and

WHEREAS, sobriety checkpoints can offer a safe and effective means of detecting and discouraging alcohol impaired driving; and

WHEREAS, the Supreme Court of the United States upheld the legality of sobriety checkpoints finding that they balance Fourth Amendment rights against public safety;

NOW THEREFORE BE IT RESOLVED, that NAGHS,3 supports the use of sobriety checkpoints to detect and apprehend alcohol impaired drivers and urges states to implement the use of them as an effective alcohol countermeasure.

Submitted by: Impaired Driving Committee

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MADD

Mothers Against Drunk Driving

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INTRODUCTION

Throughout MADD's existence, the organization has sought to address the drunk driving issue by promoting public policies which would aid victims of drunk driving crashes, discourage impaired driving and deal more effectively with those who do drive under the influence. This brochure compiles position statements adopted by the national organization of Mothers Against Drunk Driving. New position statements are added as issues are studied and evaluated.

For further information about MADD's legislative goals and position statements, and for resources and/or model laws on these issues, contact MADD National Public Affairs Department, 669 Airport Freeway, Suite 310, Hurst, Texas, 76053.

MOTHERS AGAINST DRUNK DRIVING
POSITION PAPER
SOBRIETY CHECKPOINTS

A recent method of apprehending alcohol-impaired drivers on America's highways is the use of sobriety checkpoints. Many drinking drivers feel their actions can go undetected and, unfortunately, many do. Only one out of every thousand impaired driving trips results in an arrest.

Sobriety checkpoints offer a safe method to detect impaired drivers. They provide law enforcement officials with the opportunity to identify DUI offenders before a possible crash occurs.

Surveys in a number of states including Delaware, Maryland, Missouri, Washington, and Virginia, along with the District of Columbia, have shown strong support for checkpoints. Up to 90 percent of the public have indicated in such public opinion surveys that they favor this procedure. Moreover, in communities which have implemented checkpoints, citizens indicate even greater support for this law enforcement method. Checkpoints are supported not only by those who do not drink and drive, but also by those who are most at risk for being apprehended at checkpoints. This indicates that those of us who drive at night are willing to be stopped at a checkpoint in order to reduce the threat imposed by the drunk driver--the threat that kills an average of 25,000 people and costs this nation \$25 billion per year.

SOBRIETY CHECKPOINTS
PAGE 2

A study by the Insurance Institute for Highway Safety has shown that drinking drivers have a higher perception of the risk of arrest in communities where checkpoints are utilized than in communities which do not employ this technique. It is this fear of arrest that is the most effective deterrent to drunk driving.

Sobriety checkpoints should be carefully planned, highly organized, and supervised to ensure public safety, fairness and minimum intrusion upon the non-drinking driver. Those who do not show signs of impairment or being under the influence are normally passed through a checkpoint in fifteen to thirty seconds. Like the brief security check at airports, this is a small price to pay for safety on our roads.

While some have expressed concern that checkpoints are not an efficient method to apprehend the drunk driver, actual experience in Delaware, Virginia, and the District of Columbia has shown that police officers make as many or more arrests per hour at checkpoints as they do in the more traditional role of patrolling the streets.

Many federal and state courts support the constitutionality of the principal of sobriety checkpoints. Despite records of roadblock effectiveness abroad, only a few of the most advanced law enforcement agencies in the U.S. to date have taken advantage of this new enforcement technique.

It is time that all Americans are afforded protection from impaired drivers by the regular use of checkpoint procedures. The men and women of MADD urge local and state officials to immediately implement sobriety checkpoints.

WALTER J. HICKEL
GOVERNOR



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

*The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the use of sobriety checkpoints to discover and deter drivers who are impaired by alcohol or drugs.

Drunk driving is a major highway safety concern in Alaska. The deterrence, or apprehension and successful prosecution, of drivers impaired by alcohol or drugs has been and remains a major concern of law enforcement.

This bill authorizes a law enforcement agency to establish and operate a sobriety checkpoint under a court order authorizing the checkpoint. To obtain the order, the law enforcement agency must submit to the judge a written plan describing the proposed checkpoint. If the judge determines that the plan meets certain standards and appropriately minimizes delays and intrusions that will be caused by its operation, the judge will issue an order authorizing the proposed checkpoint.

In my State of the State address on January 12, 1993, I identified "alcoholism, along with the abuse of other drugs," as "Alaska's number one health problem." I reiterated my commitment to dealing with this issue in my State of the State address this year, as well. This proposed legislation gives law enforcement officers additional tools that they need to combat the significant highway safety problem presented by those drivers who drink or use drugs and then cause accidents that are fatal or cause serious injury.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

*Sobriety Checkpoint Use
in the United States*

June 15, 1992

SOBRIETY CHECKPOINTS

Alabama

Conducting sobriety checkpoints: Yes No

Alabama Department of Public Safety: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 1,091

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Daily

* The Alabama Department of Public Safety conducts "driver license and safety checkpoints" which target license and alcohol violations.

Other law enforcement agencies in the State conducting sobriety checkpoints: Huntsville P.D.; Mobile P.D.

Alaska

Conducting sobriety checkpoints: Yes No

Alaska Department of Public Safety: Yes No

- Statewide: Yes *N/A* No *N/A*

- Number of sobriety checkpoints conducted within the last year: *N/A*

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year *N/A*

- Conducted on a regular basis: Yes *N/A* No *N/A*

Frequency conducted: *N/A*

Other law enforcement agencies in the State conducting sobriety checkpoints:
None

Arizona

Conducting sobriety checkpoints: Yes No

Arizona Department of Public Safety: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 30

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Bi-monthly statewide

Other law enforcement agencies in the State conducting sobriety checkpoints:

Arizona Department of Public Safety advises most of the larger departments in the State conduct sobriety checkpoints.
Those agencies identified: Phoenix P.D.; Maricopa County S.O.; Peoria P.D.; Glendale P.D.

Arkansas

Conducting sobriety checkpoints: Yes No

Arkansas State Police: Yes No

- Statewide: Yes No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Weekly

Other law enforcement agencies in the State conducting sobriety checkpoints:

Arkansas State Police and Arkansas Highway and Transportation Department advise no sobriety checkpoints are being conducted in the State.

California

Conducting sobriety checkpoints: Yes No

California Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 91

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:

California Highway Patrol advises many local police agencies conduct sobriety checkpoints jointly with them. Agencies identified as conducting sobriety checkpoints on their own: Los Angeles P.D.; Sacramento P.D.; San Francisco P.D.; Bakersfield P.D.; San Diego P.D.; Redding P.D.; San Bernadino S.O.

Colorado

Conducting sobriety checkpoints: Yes No

Colorado State Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 18

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Bi-monthly statewide

Other law enforcement agencies in the State conducting sobriety checkpoints:

Broomfield P.D.; Grand Junction P.D.; Trinidad P.D.; Adams County S.O.; Jefferson County S.O.; U.S. Park Service; U.S. Forest Service; Arvada P.D.; Westminster P.D.; Sheridan P.D.; El Paso PD.; Douglas County S.O.; Denver P.D.; Aurora P.D.; Longmont P.D.; Northglenn P.D.; Thornton P.D.

Note: Region VIII reports 20 sobriety checkpoints conducted statewide in 1990.

Connecticut

Conducting sobriety checkpoints: Yes No

Connecticut Department of Public Safety: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 75 (est.)

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Bi-Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:

Other police agencies in Connecticut are conducting sobriety checkpoints. Those agencies are not identified at this time.

Delaware

Conducting sobriety checkpoints: Yes No

Delaware State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 95

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints: Newark P.D.; New Castle County P.D.;
Wilmington P.D.; Dover P.D.

District of Columbia

Conducting sobriety checkpoints: Yes No

- District-wide: Yes No

- Number of sobriety checkpoints conducted within the last year: 9

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Once a month when possible

Florida

Conducting sobriety checkpoints: Yes No

Florida Highway Patrol: Yes No

- Statewide: Yes *N/A* No *N/A*

- Number of sobriety checkpoints conducted within the last year: *N/A*

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions *N/A* Throughout year *N/A*

- Conducted on a regular basis: Yes *N/A* No *N/A*

Frequency conducted: *N/A*

Other law enforcement agencies in the State conducting sobriety checkpoints:

Clearwater P.D.; Miami P.D.; Tampa P.D.; Metro-Dade County P.D.; Broward County S.O.; Sarasota County
S.O.; Sarasota P.D.; Manatee County S.O.; Seminole County S.O. Region IV advises at least 10 other police
agencies are conducting sobriety checkpoints in addition to the above mentioned.

Georgia

Conducting sobriety checkpoints: Yes No

Georgia State Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: Unknown

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Daily statewide

* The Georgia State Patrol incorporates sobriety checks into a "road check" procedure that checks for licenses and motor vehicle safety equipment.

Other law enforcement agencies in the State conducting sobriety checkpoints: Macon P.D.; Cobb County P.D.; Columbus P.D.; Albany P.D.; Griffin P.D.

Hawaii

Conducting sobriety checkpoints: Yes No

Honolulu City and County Police Department: Yes No

- Department-wide: Yes No

- Number of sobriety checkpoints conducted within the last year: 672

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Daily

Other law enforcement agencies in the State conducting sobriety checkpoints:

Region IX reports police agencies in Hawaii conduct sobriety checkpoints on a frequent basis. Those agencies identified: Hawaii County P.D.; Maui County P.D.; Kauai County P.D.

Idaho

Conducting sobriety checkpoints: Yes No

Idaho State Police: Yes No

- Statewide: Yes N/A No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:

None

Court note: The Idaho supreme court has found sobriety checkpoints to be in violation of the State's constitution (State v. Henderson. 756 P.2d 1057).

Illinois

Conducting sobriety checkpoints: Yes No

Illinois State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 166

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Random (conducted monthly on a statewide average)

* The Illinois State Police conduct "roadside safety checks" that target DWI and license violations.

Other law enforcement agencies in the State conducting sobriety checkpoints:

Mundelein P.D.; Kendall County S.O.; Silvis P.D.; East Moline P.D.; Peoria County S.O.; South Jacksonville P.D.; Cahokia P.D.; Effingham P.D.; Mt. Vernon P.D.; Jefferson County S.O.; Canton P.D.; Ottawa P.D.; Staunton P.D.; Brighton P.D.; Quincy P.D.; Kankakee County S.O.; Massac County S.O.; Metropolis P.D.; Chicago P.D.; Cook County S.O.

Indiana

Conducting sobriety checkpoints: Yes No

Indiana State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 44

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:

Over 35 police agencies are conducting sobriety checkpoints in Indiana. The major agencies: Indianapolis P.D.; Marion County S.O.; Anderson P.D.; Tippecanoe County S.O.; Wayne County S.O.; Columbus P.D.; Johnson County S.O.; Indiana Department of Conservation; Indiana Department of State Excise; Elkhart P.D.; Hendricks County S.O.; Richmond P.D.

Iowa

Conducting sobriety checkpoints: Yes No

Iowa Department of Public Safety: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 12

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly

Other law enforcement agencies in the State conducting sobriety checkpoints: Davenport P.D.; Clinton P.D.; Sioux City P.D.; Council Bluffs P.D.

Kansas

Conducting sobriety checkpoints: Yes No

Kansas Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 40

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints: Wichita P.D.; Wichita S.O.; Kansas City P.D.; Kansas City S.O.; Topeka P.D.

Kentucky

Conducting sobriety checkpoints: Yes No

Kentucky State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 768

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Weekly

* The Kentucky State Police conducts "traffic checkpoints" that target license and DWI violations.

Other law enforcement agencies in the State conducting sobriety checkpoints: Jefferson County P.D.

Louisiana

Conducting sobriety checkpoints: Yes No

Louisiana State Police: Yes No

- Statewide: Yes N/A No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:

None

Court note: The Louisiana supreme court has ruled sobriety checkpoints are unconstitutional under both the State and U.S. Constitution (Louisiana v. Church, 538 So.2d 993 and State v. Parms, 523 So.2d 1293)

Maine

Conducting sobriety checkpoints: Yes No

Maine State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: Unknown

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly

Other law enforcement agencies in the State conducting sobriety checkpoints:

Auburn P.D.; Lewiston P.D.; Lisbon P.D.; Ft. Kent P.D.; South Portland P.D.; Westbrook P.D.; Bar Harbor P.D.; Waterville P.D.; Bangor P.D.; Brewer P.D.; Hampden P.D.; Lincoln P.D.; Old Town P.D.; Orono P.D.; Penobscot S.O.; Skowhegan P.D.; Baileyville P.D.; Kittery P.D.; Old Orchard P.D.; Saco P.D.; South Berwick P.D.; York P.D.

Maryland

Conducting sobriety checkpoints: Yes No

Maryland State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 15

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly

Note: The Maryland State Police is considering increased usage of sobriety checkpoints.

Other law enforcement agencies in the State conducting sobriety checkpoints:

Baltimore County P.D.; Prince George's County Police; Harford County S.D.; Howard County P.D.; Kent County S.O.

Massachusetts

Conducting sobriety checkpoints: Yes No

Massachusetts State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 5

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Quarterly

Note: Because of the State's current fiscal condition, the Massachusetts State Police is currently conducting sobriety checkpoints during holiday periods only.

Other law enforcement agencies in the State conducting sobriety checkpoints:

Massachusetts Dept. of Public Safety, Registry Police; Massachusetts Dept. of Environment, Metropolitan District Commission Police

Second Note: Region I reports sobriety checkpoints are not actively used at local level.

Michigan

Conducting sobriety checkpoints: Yes No

Michigan State Police: Yes No

- Statewide: Yes N/A No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:
None

Court note: (Michigan Department of State Police v. Sitz, 496 U.S. ___, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990))
This case is under review by the Michigan supreme court for the purpose of determining the legality of sobriety checkpoints under the State's constitution. As of 1992 legislation was introduced to allow checkpoints, however, it was defeated and will be reintroduced in 1993.

Minnesota

Conducting sobriety checkpoints: Yes No

Minnesota State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 17

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year X

- Conducted on a regular basis: Yes No

Frequency conducted: Random

Other law enforcement agencies in the State conducting sobriety checkpoints:
Bloomington P.D.; Blaine P.D.; Coon Rapids P.D.; Fridley P.D.; Duluth P.D.; Moorehead P.D.; Virginia P.D.;
Willmare P.D.; New Ulm P.D.; Edina P.D.; Maplewood P.D.

Mississippi

Conducting sobriety checkpoints: Yes No

Mississippi Highway Safety Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: Unknown

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year X

- Conducted on a regular basis: Yes No X

Frequency conducted: Random

Other law enforcement agencies in the State conducting sobriety checkpoints:
Ridgeland P.D.; Jackson P.D.; Sparkville P.D.; Grenada P.D.; Vicksburg P.D.

Missouri

Conducting sobriety checkpoints: Yes No

Missouri State Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 40

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Presently every other month at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:

Springfield P.D.; Rolla P.D.; Platte County S.O.; Kansas City P.D.; St. Charles County F.D.

Note: Central Missouri State University has developed a sobriety checkpoint training program.

Montana

Conducting sobriety checkpoints: Yes No

Montana Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 7

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Random

* Montana Highway Patrol conducts "safety spot checks" for license, equipment, and DWI violations.

Other law enforcement agencies in the State conducting sobriety checkpoints: Billings P.D.

Nebraska

Conducting sobriety checkpoints: Yes No

Nebraska State Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 12

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly

Other law enforcement agencies in the State conducting sobriety checkpoints: Lincoln P.D.; Omaha P.D.; Douglas County P.D.; Sarpy S.O.; Buffalo S.O.; Bellevue P.D.; Harlan S.O.; Lancaster S.O.; Dakota S.O.; South Sioux City S.O.; Offut Air Force Base; Scottsbluff S.O.; Grand Island P.D.

Note: Nebraska has programmed 12 sobriety checkpoints to begin mid-summer 1991. Nebraska Office of Highway Safety estimates 20 to 30 sobriety checkpoints will be conducted in fiscal year 1992.

Court note: The Nebraska high court ruled against the use of sobriety checkpoints. However, the court may allow sobriety checkpoints if the proper procedures are followed (State v. Crom. 383 N.W.2d 461 [1986]).

Nevada

Conducting sobriety checkpoints: Yes No

Nevada Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 12

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: The Nevada Highway Patrol requires each of its three (3) regions to conduct one (1) sobriety checkpoint each quarter.

Other law enforcement agencies in the State conducting sobriety checkpoints: Carson City S.O.; Las Vegas Metropolitan Police, Reno P.D.

New Hampshire

Conducting sobriety checkpoints: Yes No

New Hampshire State Police: Yes No

- Statewide: Yes *N/A* No *N/A*

- Number of sobriety checkpoints conducted within the last year: *N/A*

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions *N/A* Throughout year *N/A*

- Conducted on a regular basis: Yes *N/A* No *N/A*

Frequency conducted: *N/A*

Other law enforcement agencies in the State conducting sobriety checkpoints:
None

Court note: The New Hampshire supreme court has found sobriety checkpoints to be in violation the New Hampshire constitution (State v. Koppel, 499 A.2d 977 [1985]). Sobriety checkpoints may, however, be conducted if they conform to the guidelines developed by the New Hampshire Attorney General.

New Jersey

Conducting sobriety checkpoints: Yes No

New Jersey State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 108

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Each troop conducts approximately three (3) sobriety checkpoints per month.

Other law enforcement agencies in the State conducting sobriety checkpoints:
Municipalities within the counties of Middlesex, Bergen, and Monmouth.

New Mexico

Conducting sobriety checkpoints: Yes No

New Mexico State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 100

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:

Albuquerque P.D.; Bernalillo County S.O.; Rio Rancho P.D.; Las Cruces P.D.; Santa Fe P.D.

Note: The Albuquerque P.D. has an excellent DWI enforcement program and sobriety checkpoints are an integral part of their overall enforcement effort.

New York

Conducting sobriety checkpoints: Yes No

New York State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 125

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: The New York State Police requires each troop to conduct at least one (1) sobriety checkpoint each month.

Other law enforcement agencies in the State conducting sobriety checkpoints:

Binghamton P.D.; Cortland County P.D.; Dutchess County P.D.; Genesee County P.D.; Herkimer County P.D.; Onondago County P.D.; Albany County P.D. The New York City Police Department conducts sobriety checkpoints on a weekly basis at the local level.

North Carolina

Conducting sobriety checkpoints: Yes No

North Carolina State Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 20

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly statewide when possible

Other law enforcement agencies in the State conducting sobriety checkpoints:

Region IV advises approximately 40 police agencies are conducting sobriety checkpoints in North Carolina.

North Dakota

Conducting sobriety checkpoints: Yes No

North Dakota Highway Patrol: Yes No

- Statewide: Yes N/A No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:

None

Ohio

Conducting sobriety checkpoints: Yes No

Ohio State Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 4

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Quarterly

Other law enforcement agencies in the State conducting sobriety checkpoints:

Dayton P.D.; Sandusky P.D.; Union Township P.D.; Hamilton County S.O.; Port Clinton P.D.; Cleveland P.D.; Wood County S.O.

Oklahoma

Conducting sobriety checkpoints: Yes No

Oklahoma Department of Public Safety: Yes No

- Statewide: Yes N/A No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:

None.

Court note: (State v. Smith, 674 P.2d 562 (1984)) This case was decided prior to Michigan Department of State Police v. Sitz. The State high court held that sobriety checkpoints violated the U.S. Constitution. It is unknown if the court will address this matter with regard to the State constitution.

Oregon

Conducting sobriety checkpoints: Yes No X

Oregon State Police: Yes No X

- Statewide: Yes N/A No N/A
- Number of sobriety checkpoints conducted within the last year: N/A
- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions N/A Throughout year N/A
- Conducted on a regular basis: Yes N/A No N/A
- Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:
None

Court note: The Oregon supreme court has held that the use of sobriety checkpoints does not violate the U.S. Constitution (State v. Shankle, 647 p.2d 959 [1982] and Nelson v. Lane County, 743 P.2d 692 [1987]). The court in the Lane County case indicated that the State could establish "administrative checkpoints" to control the intoxicated driver problem. The sanctions associated with apprehending a person at such a checkpoint must be administrative in nature and not criminal. The court further noted that such "administrative checkpoints" must be authorized by statute.

Pennsylvania

Conducting sobriety checkpoints: Yes X No

Pennsylvania State Police: Yes X No

- Statewide: Yes X No
- Number of sobriety checkpoints conducted within the last year: 180
- Used only for special occasions or throughout the year as part of an over-all DWI enforcement program:
Special occasions Throughout year X
- Conducted on a regular basis: Yes X No
- Frequency conducted: Monthly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:
Allentown P.D.; Pittsburgh P.D. Counties in Pennsylvania in which sobriety checkpoints are being conducted: Chester; York; Dauphin; Delaware; Berks; Schuylkill; Cumberland; Erie; Luzerne; Lackawanna; Lehigh; Lycoming; Allegheny. Region III advises an additional 6 counties will be conducting sobriety checkpoints in fiscal year 1992: Northampton; Bucks; Montgomery; Westmoreland; Fayette; Lancaster.

Rhode Island

Conducting sobriety checkpoints: Yes No X

Rhode Island State Police: Yes No X

- Statewide: Yes N/A No N/A
- Number of sobriety checkpoints conducted within the last year: N/A
- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions N/A Throughout year N/A
- Conducted on a regular basis: Yes N/A No N/A
- Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:
None

Court Note: Sobriety checkpoints have been found to be in violation of the Rhode Island constitution (Primental v. Rhode Island, 561 A.2d 1348 [1989]).

South Carolina

Conducting sobriety checkpoints: Yes No

South Carolina Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 550

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Weekly at local level

Other law enforcement agencies in the State conducting sobriety checkpoints:

Columbia P.D.; Anderson P.D.; Anderson S.O.; Charleston P.D.; Charleston S.O.; Florence P.D.;

Aiken P.D.; Spartanburg P.D.; Lexington County S.O.; Richland County S.O.; Spartanburg County S.O.;

Greenville County S.O.; York County S.O.; North Charleston P.D.; Irmo P.D.; Georgetown P.D.

South Dakota

Conducting sobriety checkpoints: Yes No

South Dakota Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 20

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Bi-monthly statewide

Note: The South Dakota Highway Patrol is increasing their involvement with sobriety checkpoints.

Other law enforcement agencies in the State conducting sobriety checkpoints: Sioux Falls P.D.

Tennessee

Conducting sobriety checkpoints: Yes No

Tennessee Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 1,210 (est.)

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Weekly at local level

* The Tennessee Highway Patrol conducts "road blocks" which target equipment and other safety violations.

Note: Sobriety checkpoint legislation has been introduced to the Tennessee legislature (House Bill 582 and Senate Bill 525). If enacted, the title of the legislation will be the "Tennessee Highway Checkpoint Act of 1991". Sobriety checkpoints will be allowed under this legislation with guidelines established as to how they will be conducted. These guidelines resemble those found in "The Use of Sobriety Checkpoints for Impaired Driving Enforcement".

Other law enforcement agencies in the State conducting sobriety checkpoints: Unknown if other agencies are conducting sobriety checkpoints.

Texas

Conducting sobriety checkpoints: Yes No

Texas Department of Public Safety: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year:

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted:

Other law enforcement agencies in the State conducting sobriety checkpoints:

Houston P.D. conducts sobriety checkpoints with other local police agencies. Those other agencies are not identified at this time.

Court note: Upon the finding of Michigan Department of State Police v. Sitz, Texas reviewed whether sobriety checkpoints are a violation of the U.S. Constitution (Higbie v. State, 780 S.W.2d 223 [1989]). At this time legislative authority needs to be granted to conduct checkpoints.

Utah

Conducting sobriety checkpoints: Yes No

Utah Department of Public Safety: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year:

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted:

Other law enforcement agencies in the State conducting sobriety checkpoints:

As of July 1, 1992 legislation becomes effective allowing checkpoints in Utah and enforcement activity is being planned to begin at that time.

Vermont

Conducting sobriety checkpoints: Yes No

Vermont State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 12

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Monthly

Other law enforcement agencies in the State conducting sobriety checkpoints:

Several police agencies in Chitterden County participated in a sobriety checkpoint in 1990, as well as all eight CRASH program agencies.

Virginia

Conducting sobriety checkpoints: Yes No

Virginia Department of State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 27 -

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Weekly

- The Virginia State Police conducted 27 checkpoints using their Batmobile last year and an undetermined number of sobriety checkpoints based out of the district or "barracks" level

Other law enforcement agencies in the State conducting sobriety checkpoints: Henrico P.D.; Hanover County S.O.; Richmond P.D.; Chesterfield County P.D.; Virginia Beach P.D.; Norfolk P.D.; Chesapeake P.D.; Prince William County P.D.; Charlottesville P.D.

Washington

Conducting sobriety checkpoints: Yes No

Washington State Patrol: Yes No

- Statewide: Yes N/A No N/A

Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:

None

Court note: Sobriety checkpoints have been found to be in violation of the Washington constitution by State court (City of Seattle v. Mesiani, 755 P.2d 775 [1988]). In an earlier case, a checkpoint for the purpose of checking driver's licenses, vehicle registrations and equipment was held to be an invalid seizure by the State supreme court (State v. Marchand, 706 P.2d 285 [1985]). Legislation was defeated in 1992 to allow checkpoints, however, legislation will be reintroduced in 1993.

West Virginia

Conducting sobriety checkpoints: Yes No

West Virginia State Police: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: 37

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:

Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: Presently every month at the local level

Other law enforcement agencies in the State conducting sobriety checkpoints: Cabell County S.O.; Beckley P.D.; St. Albans P.D.; Huntington P.D.; Harrison County Task Force; Taylor County S.O.; Fairmont P.D.

Wisconsin

Conducting sobriety checkpoints: Yes No

Wisconsin State Patrol: Yes No

- Statewide: Yes N/A No N/A

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions N/A Throughout year N/A

- Conducted on a regular basis: Yes N/A No N/A

Frequency conducted: N/A

Other law enforcement agencies in the State conducting sobriety checkpoints:

* The Walworth County S.O. conducted a series of sobriety checkpoints starting on Labor Day 1991. All police agencies in Walworth County participated in the sobriety checkpoints, with several other agencies from around the State participating in the planning process.

Note: Sobriety checkpoints are receiving strong opposition from the Wisconsin Tavern League. While support for sobriety checkpoints by law enforcement has been strong, it has not been sufficient to overcome the lobbying efforts of the League.

Wyoming

Conducting sobriety checkpoints: Yes No

Wyoming Highway Patrol: Yes No

- Statewide: Yes No

- Number of sobriety checkpoints conducted within the last year: N/A

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year

- Conducted on a regular basis: Yes No

Frequency conducted: N/A

Note: Department policy restricts the use of sobriety checkpoints to daylight hours only.

* The Wyoming Highway Patrol use "roadside safety checkpoints" that target safety and DWI violations.

** Department policy restricts the use of sobriety checkpoints to daylight hours only.

Other law enforcement agencies in the State conducting sobriety checkpoints:

None

American Samoa

Conducting sobriety checkpoints: Yes Unknown No Unknown

- Territory-wide: Yes Unknown No Unknown

- Number of sobriety checkpoints conducted within the last year: Unknown

- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Unknown Throughout year Unknown

- Conducted on a regular basis: Yes Unknown No Unknown

Frequency conducted: Unknown

Guam

Conducting sobriety checkpoints: Yes No

- Territory-wide: Yes N/A No N/A
- Number of sobriety checkpoints conducted within the last year: N/A
- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions N/A Throughout year N/A
- Conducted on a regular basis: Yes N/A No N/A
- Frequency conducted: N/A

Puerto Rico

Conducting sobriety checkpoints: Yes No

- Territory-wide: Yes No
- Number of sobriety checkpoints conducted within the last year: 350
- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year
- Conducted on a regular basis: Yes No
- Frequency conducted: Bi-monthly

Virgin Islands

Conducting sobriety checkpoints: Yes No

- Territory-wide: Yes No
- Number of sobriety checkpoints conducted within the last year: 14
- Used only for special occasions or throughout the year as part of an overall DWI enforcement program:
Special occasions Throughout year
- Conducted on a regular basis: Yes No
- Frequency conducted: Weekly

SEH: 02/06/91
Revised: 04/01/91
Revised: 04/10/91
Revised: 04/23/91
Revised: 08/21/91
JPM: 06/15/92

States	Conducting Sobriety Checkpoints	State Police/Highway Patrol						Number of Other Agencies in State Using Checkpoints
		Using Check-points	Used More than Holidays	State-Wide	Regular Basis	# of Check-points in Last Year	Frequency	
Ohio *	Yes	Yes	Yes	Yes	Yes	4	Quarterly	7
Oklahoma	No	No	N/A	N/A	N/A	N/A	N/A	None
Oregon	No	No	N/A	N/A	N/A	N/A	N/A	None
Pennsylvania *	Yes	Yes	Yes	Yes	Yes	180	Monthly	19
Rhode Island	No	No	N/A	N/A	N/A	N/A	N/A	None
South Carolina *	Yes	Yes	Yes	Yes	Yes	550	Weekly	16
South Dakota *	Yes	Yes	Yes	Yes	Yes	20	Bi-monthly	1
Tennessee *	Yes	Yes	Yes	Yes	Yes	1,210	Weekly	Unknown
Texas	Yes	No	N/A	N/A	N/A	N/A	N/A	1
Utah	Yes	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Vermont *	Yes	Yes	Yes	Yes	Yes	12	Monthly	1+
Virginia *	Yes	Yes	Yes	Yes	Yes	27+	Weekly	9
Washington	No	No	N/A	N/A	N/A	N/A	N/A	None
West Virginia *	Yes	Yes	Yes	Yes	Yes	37	Monthly	7
Wisconsin	Yes	No	N/A	N/A	N/A	N/A	N/A	1+
Wyoming	No	No	No	No	No	N/A	N/A	None

Territories and District	Conducting Sobriety Checkpoints	Territory-wide or District-wide	# of Check-points in Last Year	Used More Than Holidays	Regular Basis	Frequency
American Samoa	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Guam	No	N/A	N/A	N/A	N/A	None
Puerto Rico	Yes	Yes	350	Yes	Yes	Bi-monthly
Virgin Islands	Yes	Yes	14	Yes	Yes	Weekly
Washington D.C.	Yes	Yes	9	Yes	Yes	Monthly

* Indicates those States where the State Police/Highway Patrol agencies conduct sobriety checkpoints statewide at least once a month. These State agencies also coordinate and combine their checkpoints with local agencies. There are presently 30 States meeting this criteria (Hawaii is included in this figure due to the widespread use of sobriety checkpoints in that State).

Although they do not specifically meet the above criteria, an additional 9 States are conducting sobriety checkpoints on a limited basis.

10 States are not conducting sobriety checkpoints. Of these States, State supreme courts have found sobriety checkpoints to be in violation of State constitutions in Wyoming, Idaho, Louisiana, Rhode Island, and Washington. Five States have legal or administrative impediments precluding the use of sobriety checkpoints: Michigan, New Hampshire, Oklahoma, and Oregon. One State has made the decision not to do sobriety checkpoints: North Dakota.

SEH: 02/06/91
 Revised: 04/01/91
 Revised: 04/19/91
 Revised: 04/23/91
 Revised: 08/21/91
 JPM: 06/15/92

STATE AND FEDERAL APPELLATE COURT DECISIONS
 CONCERNING ROADSIDE SOBRIETY CHECKPOINTS
 (January 22, 1993)

State	Yes/No*	Case Name and Citation
Alabama	Yes	Smith v. State, 515 So.2d 149 (Ala. Cr. App. 1987) ^{4c}
Alaska		
Arizona	Yes	State v. Superior Court, 591 P.2d 1073 (1984) ^{4j}
Arkansas	Note:	See Footnote No. 12.
California	Yes	Ingersoll v. Palmer, 743 P.2d 1299 (Cal. 1987) ^{4b}
Colorado	Yes	People v. Rister, 803 P.2d 483 (Colo. 1990) ⁴¹
Connecticut		
Delaware	Note:	See Delaware v. Prouse, 440 U.S. 648 (1979) ¹⁷
Dist. of Columbia	Note:	Galberth v. U.S., 590 A.2d 990 (D.C. App. 1991) ⁵
Florida	Yes ³	State v. Jones, 483 So.2d 433 (1986) ^{4a}
Georgia	Yes	State v. Golden, 318 S.E.2d 693 (Ga. App. 1984) ^{3c}
Hawaii	Yes	Hawaii v. Nagamine (No. 8-91009) (1985) ¹⁹
Idaho	No ⁰	State v. Henderson, 756 P.2d 1057 (Idaho 1988)
Illinois	Yes	People v. Bartlev, 486 N.W.2d 880 (Ill. 1985) ^{4c}
Indiana	Yes	State v. Garcia, 500 N.E.2d 158 (Ind. 1986) ⁹
Iowa	Yes	State v. Riley, 377 N.W.2d 242 (IA 1985) ^{4s, 18}
Kansas	Yes	State v. Deskins, 673 P.2d 1174 (Kansas 1983)
Kentucky	Yes	Kinslow v. Com., 660 S.W.2d 677 (Ky. 1984) ⁴
Louisiana	No ⁰	State v. Parms, 523 So.2d 1293 (La. 1988) ⁴⁹
Maine	Yes	State v. Leighton, 551 A.2s 116 (Me. 1988) ^{3d}
Maryland	Yes	Little v. State, 479 A.2d 903 (Md. 1984)
Massachusetts	Yes	Com. v. Shields, 521 N. .2d 987 (Mass. 1988) ³⁵
Michigan	No	See Footnote No. 21.
Minnesota	Yes	Chock v. Comm. of Pub. Safety, 448 N.W.2d 592 ¹¹
Mississippi	Note:	See Miller v. State, 373 So.2d 1004 (Miss. 1979) ⁴⁰
Missouri	Yes	State v. Welch, 755 S.W.2d 624 (Mo. App. 1988) ⁴⁵
Montana	Note:	Checkpoints Authorized via Safety Spot Checks ⁴⁰
Nebraska	No ¹⁰	State v. Crom, 383 N.W.2d 461 (Nebr. 1986)
Nevada		See Footnote No. 33.
New Hampshire	No ⁰	State v. Koppel, 499 A.2d 977 (N.H. 1985) ⁻³
New Jersey	Yes	State v. Mazurek, 567 A.2d 277 (NJ Super AD 1989)
New Mexico	Ye	City of Law Cruces v. Betancourt, 735 P.2d 1161 ¹⁵
New York	Yes	People v. Scott, 473 N.E.2d 1 (N.Y. 1984) ⁴³
North Carolina	Note:	See Footnote No. 30.
North Dakota	Note:	State v. Wetzel, 456 N.W.2d 115 (N.D. 1990) ³⁸
Ohio	Note:	See State v. Goines, 474 N.E.2d 1219 (CA 1984) ¹³
Oklahoma	No	State v. Smith, 674 P.2d 562 (Okla. Cr. 1984) ⁴⁷
Oregon	No ⁰	State v. Bovanovsky, 743 P.2d 711 (Or. 1987) ⁴⁰
Pennsylvania	Yes	Com. v. Tarbert, 535 A.2d 1035 (Pa. 1987) ³⁰
Puerto Rico		
Rhode Island	No ⁵	Primental v. Rhode Island 561 A.2d 1348 (RI 1988)
South Carolina		
South Dakota	Note:	See State v. Halverson, 277 N.W.2d 723 ⁰
Tennessee		
Texas	No	King v. State, 816 S.W.2d 447 ³⁷
Utah	Note:	Authorized by Ut. Code Anno. 6 77-23-101 et seq. ³³

APPELLATE DECISIONS-SOBRIETY CHECKPOINTS

State	Yes/No*	Case Name and Citation
Vermont	Yes	State v. Martin, 496 A.2d 442 (1985) ^{2a}
Virginia	Yes	Lowe v. Commonwealth, 337 S.E.2d 273 (1985) ^{10&25}
Washington	No ^b	City of Seattle v. Mesiani, 755 P.2d 775 (1988) ¹⁴
West Virginia	Note:	See State v. Frisbv, 245 S.E.2d 622 (W.Va. 1978) ³¹
Wisconsin	Note:	Checkpoints Prohibited by Law § 349.02(2)(a)
Wyoming		
TOTALS	Yes=23 No=10	

*Yes=A favorable decision on the use of sobriety checkpoints (e.g., constitutional).

No=An unfavorable decision on the use of sobriety checkpoints (e.g., unconstitutional).

References: See 37 ALR4th 10 and, under "Automobile" in West's Digests, "Key Number" 349(9).

FOOTNOTES:

¹Sobriety checkpoints held unconstitutional as applied/administered by law enforcement personnel.

²See also State v. Hillesheim, 291 N.W.2d 314 (Iowa 1980), where the State supreme court indirectly decided that properly conducted checkpoints would not violated the U.S. Constitution (Fourth Amendment).

³The court held that sobriety checkpoints are generally constitutional if the correct procedures are followed. However, as such procedures were not followed in this case, the checkpoint was unconstitutional as applied.

⁴Cert. den. by the U.S. Supreme Court, 465 U.S. 1105 (1984).

⁵Certain types of checkpoints (e.g., sobriety checkpoints) were indirectly approved. See also U.S. v. McFayden, 865 F.2d 1306 (D.C.Cir. 1989), where the U.S. Court of Appeals for the District of Columbia Circuit upheld the use of a roadblock (checkpoint) for the purpose of checking the validity of drivers' licenses and vehicle registrations.

⁶Sobriety checkpoints found to be in violation of the State's constitution. See State v. DeCamera, 568 A.2d 86 (N.J.Super.A.D. 1989). See also, State v. Moskal, 86 A.2d 845 (N.J.Super.A.D. 1991), and State v. Kirk, 493 A.2d 127 (N.J.Super.A.D. 1985). For a case involving an unreasonable roadblock that interfered with individual liberties and interstate commerce, see State v. Barcia, 549 A.2d 491 (N.J.SuperL. 1988).

APPELLATE DECISIONS--SOBRIETY CHECKPOINTS

FOOTNOTES: (continued)

⁸(S.D. 1979) In the Halverson case, a person was charged with driving with a revoked license following a stop at temporary checkpoint to determine violations of the State's wild game laws. However, in an earlier case, *State v. Olgaard*, 248 N.W.2d 392 (S.D. 1976), a DWI checkpoint was found to be unconstitutional; the court felt that a "prior judicial warrant" was needed before a DWI checkpoint could be conducted. Note: These cases were decided prior to *Delaware v. Prouse*, 440 U.S. 648 (1979). In a recent case, the South Dakota Supreme Court held that the police had probable cause to stop a driver for a criminal traffic offense when the driver tried to avoid a checkpoint. See *State v. Thill*, 474 N.W.2d 86 (S.D. 1991).

⁹Cert. den. by the U.S. Supreme Court, 481 U.S. 1014 (1987). See also *Snyder v. State*, 538 N.E.2d 961 (Ind.App. 4 Dist. 1989).

¹⁰Cert. den. by the U.S. Supreme Court, 475 U.S. 1084 (1986).

¹¹(Minn.App. 1990). In an earlier case, this court held against sobriety checkpoints, in part, because there was a lack of evidence showing the "need" for them. See *State v. Muzik*, 379 N.W.2d 599 (Minn.App. 1985). However, if proper procedures are not followed, the court will invalidate a checkpoint. See *State v. Larson*, 485 N.W.2d 571 (Minn.App. 1992). Note: A voluntary roadside "drunk driver survey" was held constitutional by a Federal District Court; see *Stark v. Perpich*, 590 F.Supp. 1057 (1984).

¹²In several cases involving DWI arrests associated with roadblocks established to check the validity of driver's licenses/vehicle registrations, the Arkansas Court of Appeals has held that the roadblocks used were constitutional; see *Coffman v. State*, 759 S.W.2d 573 (Ark.App. 1988), *Tims v. State*, 760 S.W.2d 78 (Ark.App. 1988) and *Camp v. State*, 764 S.W.2d 463 (Ark. App. 1989). See also *Stobaugh v. State*, 769 S.W.2d 25 (Ark. 1989). Note: In *Garrett v. Goodwin*, 569 F.Supp. 106 (1982), a Federal district court issued a consent decree requiring the State to issue written procedures on how license and registration check roadblocks are to be conducted.

¹³Motor vehicle safety inspection "checkpoints" were upheld as conducted in this case. Language in this case, however, gives no indication as to whether the court would uphold sobriety checkpoints.

¹⁴Sobriety checkpoints found to be in violation of the State's constitution. Note: In an earlier case, *State v. Marchand*, 706 P.2d 285 (1985), a checkpoint for the purpose of checking driver's licenses, vehicle registrations and equipment was held to be an invalid seizure by the State supreme court; language in this case indicated that this court would be opposed to any type of checkpoint.

¹⁵(CA 1987). Note: See *United States v. Prichard*, 645 F.2d 854 (1981) (Cert. den. by the U.S. Supreme Court, 454 U.S. 832) where a routine driver's license and vehicle registration check by the New Mexico State Police was held valid. For another case, which also upheld this type of checkpoint, see *United States v. Diaz-Albertini*, 772 F.2d 654 (1985).

¹⁶The court may allow sobriety checkpoints if the proper procedures are followed. The court, however, was not clear on this point.

APPELLATE DECISIONS--SOBRIETY CHECKPOINTS

FOOTNOTES: (continued)

¹⁷The U.S. Supreme Court case that, prior to *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990), appears to have established, via dicta, the constitutionality of certain types of checkpoints (sobriety and otherwise). See also *Brower v. County of Inyo*, 489 U.S. 593 (1989), 109 S.Ct. 1378, 103 L.Ed.2d 628.

¹⁸Under § 321K.1, routine drunk driver roadblocks may be prohibited.

¹⁹This is an unpublished opinion. Note: Hawaii Revised Statutes § 286-162.6 and Notice 86-10 (an internal police regulation) provide for the minimum standards that law enforcement officers must use when conducting sobriety checkpoints. For a cases decided with reference to these standards, see *State v. Aguinaldo*, 782 P.2d 1225 (Hawaii 1989), and *State v. Fedak*, 825 P.2d 1068 (HawaiiApp. 1992).

²⁰However, a DWI arrest following an officer's observation of a violation while stopping and directing traffic around an accident was approved: see *State v. Holmes*, 813 P.2d 28 (Ore. 1991). See also, *State v. Gerrish*, 815 P.2d 1244 (Or. 1991), *State v. Anderson*, 743 P.2d 715 (Or. 1987), and *Nelson v. Lane County*, 743 P.2d 692 (Or. 1987). Both in the Lane County case and in *State v. Shankle*, 647 P.2d 959 (Or. 1982), the Oregon Supreme Court held that the use of sobriety checkpoints did not violate the Fourth Amendment to the U.S. Constitution. Note: The court in the Lane County case indicated that the State could establish "administrative checkpoints" to control the drunk driver problem. The sanctions associated with apprehending a person at such a checkpoint must be administrative in nature (e.g., driver's license suspension or revocation) not criminal (as in the *Boyanovsky* and *Anderson* cases). The court further noted that such "administrative checkpoints" must be authorized by statute. 743 P. 692, 679 (See especially Footnote No. 9 on p. 697.)

²¹In *Mich. Dept. of State Police v. Sitz*, 496 U.S.444, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990) the U.S. Supreme Court held that sobriety checkpoints do not on their face violate the U.S. Constitution's protections against unreasonable searches and seizures under the Fourth Amendment. However, on remand from the U.S. Supreme Court, the Michigan Court of Appeals held that sobriety checkpoints violated Michigan's Constitution. See *Sitz v. Mich. Dept. of State Police*, 485 N.W.2d 135 (Mich.App. 1992). (Note: The Michigan Supreme Court had declined to review the first court of appeals decision on this issue (432 Mich. 872). This cleared the way for the U.S. Supreme Court to review the case.) The decision in the remanded case has been appealed to the Michigan Supreme Court for the purpose of determining the legality of sobriety checkpoints under the State constitution's search and seizure provision (Const. 1963, art. 1, §11). Comment: In a recent case, the Michigan Supreme Court appears to have indicated that it will interpret the State constitution's provision on search and seizure the same way as the U.S. Supreme Court interprets the Fourth Amendment of the U.S. Constitution. See *People v. Mamon*, 457 N.W.2d 623 (Mich. 1990).

²²Cert. den. by the U.S. Supreme Court, 475 U.S. 1068 (1986).

APPELLATE DECISIONS--SOBRIETY CHECKPOINTS

FOOTNOTES: (continued)

²³See Opinion of the Justices, 509 A.2d 744 (N.H. 1986), where judicially authorized sobriety checkpoints via legislation may be allowed.

²⁴See also State v. Record, 548 A.2d 422 (Vt. 1988), that upheld the use of sobriety checkpoints under the State's constitution.

²⁵See Crandol v. City of Newport News, 386 S.E.2d 113 (Va. 1989), and Simmons v. Commonwealth, 380 S.E.2d 656 (Va. 1989), and Hall v. Com., 406 S.E.2d 674 (Va.App. 1991). In the Simmons and Hall cases, the courts held the sobriety checkpoints invalid because they did not follow the standards for such roadblocks as detailed in the Lowe case. In Com. v. Eaves, 408 S.E.2d 925 (Va.App. 1991), the court held that the police had probable cause to stop a driver for a criminal offense if they made a U-turn just in front of a checkpoint.

²⁶Note: In a separate sobriety checkpoint case, the California Supreme Court, based on the Ingersoll decision, vacated an opinion of a lower State appellate court that had held that the use of such checkpoints was unconstitutional. The defendant in this vacated case filed a petition with the U.S. Supreme Court for a writ of certiorari; the Court, however, denied the writ. See People v. In Re Richard T., 750 P.2d 297 (Calif. 1988) (No. 88-318), cert. den., 488 U.S. 986 (1988), 109 S.Ct. 542, 102 L.Ed.2d 572. The California Court of Appeals has held that advanced publicity is a necessary part of any checkpoint. Failure to have such publicity renders a checkpoint unconstitutional. The court based its decision on the fact that the checkpoint that was approved by the U.S. Supreme Court in the Sitz case had advanced public notice. See People v. Banks, 13 Cal.Rptr.2d 920 (Cal.App. 4th Dist. 1992).

²⁷This case was decided prior to Michigan Dept. of State Police v. Sitz, 496 U.S. 444, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990). The court held that a temporary sobriety checkpoint violated the Fourth Amendment to the U.S. Constitution. Note: Oklahoma has a statute (21 § 540B) authorizing the use of roadblocks for the purpose of apprehending persons who (1) have eluded the police, (2) have escaped custody or (3) have committed a felony. The Oklahoma courts have not determined whether either this statute or type of roadblock violates either the U.S. or State constitutions.

²⁸For another case upholding the use of sobriety checkpoints, see State v. Payne, 759 S.W.2d 252 (Mo.App. 1988). However, the court of appeals did hold a sobriety checkpoint illegal where there were no written procedures on how the checkpoint was to be conducted; see State v. Canton, 775 S.W.2d 352 (Mo.App. 1989).

²⁹See also Louisiana v. Church, 538 So.2d 993 (La. 1989). In these cases, the court also found sobriety checkpoints in violation of the U.S. Constitution as well as the State constitution.

³⁰North Carolina law establishes the minimum procedures needed to operate a sobriety checkpoint: see § 20-16.3A.

APPELLATE DECISIONS--SOBRIETY CHECKPOINTS

FOOTNOTES: (continued)

³¹Cert. den., 439 U.S. 1127 (1979). In this case, the West Virginia Supreme Court of Appeals held that checkpoints, established for the purpose of examining licenses and vehicle registrations, were constitutional if such were conducted according to a preconceived plan that used nondiscriminatory procedures. In a published opinion, the West Virginia Attorney General has determined that sobriety checkpoints, if properly conducted, would be constitutional under both the Federal and State constitutions; see Op. Attn. Gen., Dec. 27, 1984, No. 3.

³²and *Evans v. State*, 380 S.E.2d 332 (Ga.App. 1989). For other cases upholding the use of some form of checkpoint, see *Sapp v. State*, 374 S.E.2d 114 (Ga.App. 1988), *Mims v. State*, 410 S.E.2d 824 (Ga.App. 1991), *Brimer v. State*, 411 S.E.2d 128 (Ga.App. 1991) and *Christopher v. State*, 413 S.E.2d 236 (Ga.App. 1991).

³³Nevada law establishes minimum standards for conducting either administrative or temporary emergency roadblocks; see §§ 484.359 and 484.3591.

³⁴See also *State v. McMahon*, 557 A.2d 1324 (Me. 1989), and *State v. Babcock*, 559 A.2d 337 (Me. 1989). Note: In *State v. D'Angelo*, 605 A.2d 68 (Me. 1992), the court held that there was "reasonable and articulable suspicion" for a law enforcement officer to stop and question occupants of a vehicle where the vehicle was observed to have turned into a residential driveway just before a checkpoint, the vehicle's lights and engine were turned off and it appeared to the officer that the occupants did not live in the residence.

³⁵See also *Com. v. Cameron*, 545 N.E.2d 619 (Mass.App.Ct. 1989). In another appellate case, however, the State supreme court held that a sobriety checkpoint was illegal because it did not comply with written guidelines; see *Com. v. Anderson*, 547 N.E.2d 1134 (Mass. 1989).

³⁶See also *Com. v. Myrtetus*, 580 A.2d 42 (Pa.Super. 1990). Also, in *Com. v. Blouse*, 611 A.2d 1177 (Pa. 1992), the court held that systematic, non-discriminatory and non-arbitrary checkpoints established for the purpose of enforcing vehicle registration and equipment laws and driver licensing laws did not violate the Pennsylvania Constitution (Article I, § 8).

³⁷(*Tex.App. - Dallas 1991*), and *State v. Wagner*, 821 S.W.2d 288 (Tex.App. - Dallas 1991). These cases were decided on remand from the Texas Court of Criminal Appeals (see below); the court held that sobriety checkpoints were unconstitutional because there was no "legislatively developed administrative scheme (i.e., no legislative authorization to conduct such checkpoints). The cases decided by the Texas Court of Criminal Appeals, which appear to generally uphold the use of sobriety checkpoints, were *King v. State*, 800 S.W.2d 528 (TexCrApp 1990) and *State v. Wagner*, 810 S.W.2d 207 (Tex.Cr.App. 1991); these cases were decided after *Michigan Dept of State Police v. Sitz*, 496 U.S. 444, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990). (Note: The *King* case overturned a previous decision on this same subject by this same court; see *Higbie v. State*, 780 S.W.2d 228 (TexCrApp 1989).) However, the court remanded these cases for consideration of other issues. Note: An intermediate appellate court held against the use of sobriety checkpoints on "efficiency" grounds; see *State v. Van Natta*, 805 S.W.2d 40 (Tex.App. - Fort Worth 1991).

APPELLATE DECISIONS--SOBRIETY CHECKPOINTS

FOOTNOTES: (continued)

³⁸In this case, the State supreme court upheld the validity of a vehicle safety inspection checkpoint. Also, in *State v. Everson*, 474 N.W.2d 695 (N.D. 1991), the State supreme court upheld the validity of a checkpoint that was conducted to apprehend drug traffickers.

³⁹Under this law, the "Administrative Traffic Checkpoint Act," law enforcement officers are authorized to conduct sobriety and other checkpoints after approval of a plan by a magistrate. This statute was necessary because an appellate court had held that the State's constitution prohibited "suspicionless investigation roadblocks" unless they have been authorized via legislation. See *State v. Sims*, 808 P.2d 141 (UtahApp. 1991). The roadblock (checkpoint) that was found by the court to be operating illegally was being used "to detect driver's license, registration, and equipment violations as well as liquor and drug violations." The defendant was convicted of a drug offense as a consequence of the stop at the roadblock. The Utah Supreme Court has also held that roadblocks (or checkpoints) must be authorized by specific legislation. The court felt that legislation that granted the police general powers to enforce the laws were not sufficient to authorize the use of roadblocks where there was a lack of evidence to warrant a stop. See *Sims v. Tax Commission*, 841 P.2d 6 (Utah 1992). See also *State v. Park*, 810 P.2d 456 (UtahApp. 1991), and *State v. Small*, 829 P.2d 129 (UtahApp. 1992). In addition, in all three of the above cases, the court held that, since the roadblocks in question were not being conducted according to "established guidelines," they violated the Federal Constitution.

⁴⁰This case concerned a "roadblock" to check for the validity of drivers' licenses. The court held that the stop and the procedures used at this "roadblock" did not violate a person's rights under the federal constitution.

⁴¹*Orr v. People*, 803 P.2d 509 (Colo. 1990)

⁴²See also *Cains v. State*, 555 So.2d 290 (Ala.Cr.App. 1989), and *Brunson v. State*, 580 So.2d 62 (Ala.Cr.App. 1991)

⁴³See also *State v. Tykwinski*, 824 P.2d 761 (Ariz.App. 1991). In this case, defendants were convicted of offenses based upon evidence obtained at a checkpoint. However, the checkpoint was not being conducted for the purpose of obtaining evidence of such offenses. Nevertheless, the court held that the evidence obtained and the convictions were legal since the checkpoint was itself legal.

⁴⁴A three to four minute delay at a sobriety checkpoint before the defendant was asked to step out of their vehicle was found to be constitutional. *Cahill v. State*, 595 So.2d 258 (Fla.App. 4 Dist. 1992)

⁴⁵An intermediate appellate court has held that the police are entitled to stop a vehicle where the driver thereof attempts to evade a sobriety checkpoint (e.g., turning into a parking lot prior to the checkpoint). The court felt that the purpose of the checkpoint to deter and apprehend drunk drivers would be voided if evasion were possible. See *People v. Chaffee*, ___ N.Y.S.2d ___ (App.Div. 1992). Note: For a case concerning the legality of a checkpoint to deter prostitution, see *People v. Evans*, 579 N.Y.S.2d 853 (N.Y.CityCrim.Ct. 1992). The court found that this checkpoint was unconstitutional based largely on the determination that there was no rational for the location of the checkpoint.

⁴⁶See § 46-5-501 et seq.

APPELLATE DECISIONS--SOBRIETY CHECKPOINTS

The following attorneys for the Justice Department handled the U.S. v. McFayden, 865 F.2d 1306 (D.C.Cir. 1989), case for the Government.

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APPELLATE DECISIONS-SOBRIETY CHECKPOINTS

ALCOHOL3 #1699



U.S. Department
of Transportation
National Highway
Traffic Safety
Administration

DOT HS 807 656

November 1990

The Use of Sobriety Checkpoints for Impaired Driving Enforcement

Technical Report Documentation Page

1. Report No. DOT HS 807 656	2. Government Accession No.	3. Recipient's Catalog No.	
4. Title and Subtitle The Use of Sobriety Checkpoints for Impaired Driving Enforcement		5. Report Date November 1990	6. Performing Organization Code
7. Author(s)		8. Performing Organization Report No.	
9. Performer's Organization Name and Address		10. Work Unit (TRAIS)	11. Contract or Grant No.
12. Sponsoring Agency Name and Address U.S. Department of Transportation National Highway Traffic Safety Administration 400 Seventh Street, S.W. Washington, DC 20590		13. Type of Report and Period Covered	
13. Supplementary Notes		14. Sponsoring Agency Code	
<p>16. Abstract</p> <p>Sobriety checkpoints have been a valuable tool for law enforcement's continuing fight to remove impaired drivers from the road. The purpose of the checkpoint is twofold; to apprehend impaired drivers at the physical location of the checkpoint; and secondly, to increase the "risk of apprehension" in those who might decide to drive while impaired.</p> <p>The legality of checkpoints has been questioned on numerous occasions in the courts. The rulings indicate that certain standards must be upheld when operating checkpoints. This report has compiled the court ruled requirements and put them together in the form of guidelines. The guidelines can be used by police agencies to formulate individual policies governing the use of sobriety checkpoints. This will put a degree of uniformity in the operation of sobriety checkpoints and give departments much needed information on the requirements and procedures they should use. This report comes at a time when many agencies are reinstating sobriety checkpoints.</p> <p>The report contains guidelines to govern the establishment of departmental policy and procedure; a briefing guide that can be used for personnel staffing the checkpoints; a set of questions that can be utilized on questionnaires for public comment and feedback; and, a model policy which can be adopted by individual departments.</p>			
17. Key Words Checkpoints, impaired driving, enforcement, alcohol		18. Distribution Statement Document is available to the U.S. public through the National Technical Information Service, Springfield, VA 22161	
19. Security Classification of this report Unclassified	20. Security Classification of this page Unclassified	21. No. of Pages	22. Price

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THIS DOCUMENT SUPERSEDES SECTION II OF "THE USE OF SAFETY CHECKPOINTS FOR DWI ENFORCEMENT," DOT HS 806-476, PUBLISHED SEPTEMBER 1983

PREFACE

Impaired driving and impaired-related crashes constitute one of the nation's leading health problems. These events result in more deaths each year than do total homicides. The impact is particularly severe among young people, age 15-24, where impaired driving is the leading cause of death. Clearly, impaired driving and impaired related crashes constitute a major threat to the safety and well-being of the public. The costs resulting from alcohol-related crashes should be recognized and weighed against the costs and inconveniences associated with efforts to reduce them.

These guidelines have been designed to provide law enforcement agencies with a uniform and successful method to plan, operate and evaluate sobriety checkpoints. When implemented in conjunction with departmental policy and any constraints imposed by state or local courts, sobriety checkpoints provide an effective enforcement tool to combat the impaired driving problem.

Any agency considering the use of sobriety checkpoints should integrate them with a continuing, systematic and aggressive program, including vigorous enforcement, public information and education. The purpose of the program is to maximize the deterrent effect and increase the perception of "risk of apprehension" of motorists who would operate a vehicle while impaired by alcohol or drugs. There is convincing evidence that the use of checkpoints has a marked, dramatic effect on reducing alcohol-related crashes in a community.¹

The National Highway Traffic Safety Administration wishes to express its appreciation to Sergeant Barbara Bent, Dayton Police Department, Dayton, Ohio; Sheriff Earl Smith, Franklin County Sheriff's Department, Columbus, Ohio; 1st Sergeant Larry Larkin, Indiana State Police; Maryland State Police; Lieutenant Nancy Brunzos, Sergeant David Kochubka and Technician Floyd Wing, Metropolitan Police Department, Washington, D.C.; 1st Lieutenant Al Slaughter, Michigan State Police; Major Raymond Dutcher, New York State Police; Deputy Charles Fortunato, Palm Beach County Sheriff's Department, West Palm Beach, Florida; Sergeant Keith Adams, Redding Police Department, Redding, California. We are grateful for the effort and contribution from each of these individuals.

We also wish to acknowledge the International Association of Chiefs of Police (IACP) and the National Sheriffs' Association for their recommendations and participation. Mr. Charles Peltier (IACP) provided valuable technical assistance.

¹ "Sobriety Checkpoints for DWI Checkpoints - A Review of Current Research," National Highway Traffic Safety Administration, 1987

GUIDELINES FOR SOBRIETY CHECKPOINTS

These guidelines suggest and describe operational procedures that police administrators may want to consider in order to ensure that sobriety checkpoints are used legally, effectively and safely. These points are consistent with those specified in recent court decisions, including the United States Supreme Court ruling in Michigan Department of State Police v. Sitz, upholding the constitutionality of sobriety checkpoints. An effective sobriety checkpoint program consists of the following components:

- Ongoing Program to Deter Impaired Driving
- Judicial Support
- Existing Departmental Policy
- Site Selection
- Special Warning Devices
- Visible Police Authority
- Chemical Testing Logistics
- Contingency Planning
- Detection and Investigation Techniques
- Operational Briefings
- Comprehensive Public Information and Education Programs
- Data Collection and Evaluation

Ongoing Program to Deter Impaired Driving - Agencies considering implementing sobriety checkpoints should integrate them with a continuing, systematic and aggressive enforcement program. Vigorous enforcement, public information and education need to be part of this program. The purpose of the checkpoint is to maximize the deterrent effect and increase the perception of "risk of apprehension" to motorists who would operate a vehicle while impaired by alcohol or other drugs. The use of checkpoints alone will not maintain the perception of risk essential to an effective general deterrence program.

Judicial Support - When officials decide to use sobriety checkpoints, they should involve their prosecuting attorney (district attorney, attorney general, etc.) in the planning process to determine legally acceptable procedures. This person can assist in identifying any legally mandated requirements and the types of evidential information that will be needed to prosecute cases emanating from checkpoint apprehension.

The jurisdiction's presiding judge should be informed of the proposed checkpoints and procedures, an essential step if the judiciary is to accept their use. The judge can provide insight on what activities would be required to successfully adjudicate such cases.

Prosecutors, judges, and other involved members of the criminal justice system can be invited to observe the actual operation of the checkpoint.

Existing Policy/Guidelines - Before using sobriety checkpoints, the agency must have specifically established procedures outlining how the checkpoints are to be conducted. The courts have been very clear in requiring the advance planning of sobriety checkpoints. Failure to do so has been used as evidence that the checkpoint techniques involved unfettered discretion. The policy should also assure that the checkpoints are conducted with a minimal amount of intrusion or motorist inconvenience.

Site Selection - Planning should assure the safety of the general public and law enforcement officers when selecting an operational site. Sobriety checkpoints must not create more of a traffic hazard than the results of the driving behavior they are trying to modify.

Planners should remember to select a site that allows officers to pull vehicles out of the traffic stream without causing significant subjective intrusion (fright) to the drivers (United States v. Ortiz 422 U.S. 891 (1975)) and/or creating a safety hazard, e.g., by creating a traffic backup. Furthermore, officers' safety must be taken into account when deciding where to locate the checkpoint.

The department should objectively outline criteria used in the site selection process, e.g., an unusual incidence of alcohol/drug involved crashes or driving violations, unusual number of nighttime single vehicle crashes or other documented alcohol/drug related vehicular incidents.

The site should permit the safe flow of traffic through the checkpoint. Consideration should be given to the posted speed limits, traffic volume and visibility. Most jurisdictions have the capability to review the Average Traffic Volume (ATV) during the surveillance period for major roadways in their area. Once a jurisdiction has decided on possible locations for the sobriety checkpoints, the effect on traffic flow can be determined by ascertaining how long each interview takes, then, multiplying that time by the number of available officers, and finally, dividing that figure into the average number of vehicles which can be expected at that location. This will suggest whether all vehicles can be examined without causing a traffic build-up.

If the traffic volume precludes stopping every vehicle, a nondiscretionary scheme should be adopted, in advance, for stopping some subset of vehicles. In Delaware v. Prouse, 440 U.S. 648 (1979) the United States Supreme Court indicates that stopping all cars would be an acceptable method of conducting spot checks. In a concurring opinion, Justice Blackmun (joined by Justice Powell) suggests that other methods would also be acceptable, such as stopping every tenth car that passes a given point. If every vehicle is not stopped, the method used to determine which ones will be stopped must appear in the administrative order authorizing the use of the sobriety checkpoint.

The site should have maximum visibility from each direction and sufficient illumination for the safety of both the motorists and officers. If permanent lighting is unavailable, ensure that adequate portable lighting is provided. Planners should also ensure that sufficient adjoining space is available to pull vehicles off the traveled portion of the roadway. Any other conditions that may pose a hazard should be taken into consideration.

Warning Devices - Special care should be taken to warn approaching motorists of the sobriety checkpoint. Such notice can be accomplished using warning signs indicating the upcoming checkpoint; flare or fusees (if weather permits); and safety cones or similar devices for marking and/or closing lanes on the roadway; permanent or portable lighting to illuminate the checkpoint area; and, marked patrol vehicles with warning lights flashing.

A sign or device should be placed to provide advance warning stating why motorists are stopped. The U.S. Supreme Court has found that visible signs of the officers' authority generate less concern and fright on the part of lawful travelers, and is therefore less of a subjective intrusion (United States v. Martinez-Fuerte, 428 U.S. 643 (1976)).

The placement and types of traffic control devices used should comply with federal, state or local transportation codes. Planners should check with appropriate agencies administering the location and placement of signing devices.

Visible Police Authority - The visibility of uniformed officers and their marked vehicles makes the police presence obvious. It also serves to reassure motorists of the legitimate nature of the activity. This is an important aspect of the sobriety checkpoint and part of the effort to reduce the intrusion to the passing motorists affected by the checkpoint.

A sworn, uniformed officer should be assigned to provide on-site supervision of the checkpoint operation. This officer should be responsible for the overall operation and should be well versed in contingency planning for the checkpoint. The checkpoint should be staffed by a sufficient number of uniformed personnel to assure a safe and efficient operation, based on traffic volume, roadway size, type of location, etc.

Chemical Testing Logistics - Since impaired driving arrests are anticipated at the selected location, the logistics of chemical testing must also be included. If possible, a mobile breath testing unit with a qualified operator could be physically located at the checkpoint. If one is not available, a system for expeditiously transporting suspected violators to chemical test sites should be established. In applicable locations, a Drug Recognition Technician (DRT) should be available, at a suitable location, to examine subjects who may be impaired by drugs other than or in combination with alcohol.

Contingency Planning - Any deviation from the predetermined plan for stopping vehicles should be thoroughly documented and the reason for the deviation given (e.g., traffic backing up, intermittent inclement weather). Courts have allowed this as long as documentation of the reason requiring the deviation from the interview sequence is kept (United States v. Prichard, 645 F2d 854). If such an event occurs, jurisdictions should have prepared an alternative plan, in advance, to handle the checkpoint.

Detection and Investigation Techniques - An agency considering the use of sobriety checkpoints should ensure that the participating officers are properly trained in detecting impaired drivers. The use of sobriety checkpoints which allow impaired drivers to pass through undetected will not achieve the desired deterrence effect. Officers should look for the following indicators of impairment during initial contact with a driver at a checkpoint: odor of alcoholic beverages or other drugs (marijuana, hashish, some inhalants); bloodshot eyes; alcohol containers or drug paraphernalia; fumbling fingers; slurred speech; admission of drinking or drug use; inconsistent responses; detection of alcohol by a passive alcohol sensor; etc. It is highly desirable that officers assigned to conduct the sobriety checkpoint receive the DWI Detection and Standardized Field Sobriety Testing (SFST) training. Police are using these techniques taught in the SFST course to quickly detect whether a driver is impaired.

Once an officer's suspicion is raised, further investigation can take place out of the traffic lane without impeding the flow of traffic. If an officer believes it is necessary to move a suspect's car after he or she has reasonable suspicion of impairment, it should be moved by someone other than the suspect.

The officer should then continue the investigation using non-incriminating divided attention questions (e.g., by the officer simultaneously asking for driver's license and vehicle registration, requiring the subject to do two things at once) and the administration of the SFST battery, which includes the Walk and Turn test, One-Leg Stand test, and Horizontal Gaze Nystagmus. After the completion of the SFST, the officer may use a portable breath testing device (PBT), if permissible in that jurisdiction. An evidential test to determine the blood alcohol concentration (BAC) should then be administered.

If the officer determines the subject is impaired and obtains a low BAC, a DRT should be utilized for further investigation. If a DRT is not available, normal departmental procedures regarding drug impaired drivers should be followed.

Operational Briefings - The success of a sobriety checkpoint depends greatly upon smooth and efficient operations. The persons selected as supervisors of the operation should be briefed thoroughly on all procedures. This includes maintaining as little delay to the motoring public as possible and keeping records of any deviation from the original operational plan.

Persons selected to staff the checkpoint should be briefed on both its purpose and operation. They should understand the necessity for standard and uniform questions asked of drivers to avoid subjectivity. The use of an operational briefing is one way to accomplish this.

Public Information and Education - To obtain maximum benefit in terms of its general deterrent effect, sobriety checkpoints should be publicized aggressively. Most drivers will probably never encounter a sobriety checkpoint, but will only learn of it through media reports or by word of mouth. These two valuable forms of public communication will greatly enhance any such program and should be employed consistently.

Checkpoints are an ideal opportunity to give educational materials regarding impaired driving, speeding, child restraint and seat belt usage, as well as seasonal reminders such as schools opening, to persons stopped at the checkpoint.

Data Collection and Evaluation - A systematic method of data collection and evaluation should be used to monitor and ensure standardization and consistency of sobriety checkpoints. This may be done by measuring the reaction of the public to the checkpoint and administrative evaluation of collected data.

Public reaction - This can be measured by immediate feedback received by officers at the site of the sobriety checkpoint. Also, a short questionnaire which includes an explanation of why the checkpoint is conducted, given to drivers stopped at the checkpoint, can provide data. It may ask of the driver such questions as; Does the driver believe the checkpoint is fair? Did the driver mind being stopped briefly? Did the driver feel checkpoints help deter driving while impaired? The response can be completed later and mailed back to the agency. If the jurisdiction has the resources, a stamped, self-addressed postcard can be used as the questionnaire.

Evaluation - This concerns the extent to which the program's implementation, operation and efficiency meets targets set for the program. The following items may be addressed:

- Number of vehicles passing through the checkpoint
- Average time delay to motorists
- Number of motorists detained for field sobriety testing
- Number and types of arrests
- Identification of unusual incidents such as safety problems or other concerns

- Reaction of police officers participating in the sobriety checkpoint, including degree of support and effect on morale
- Perception of the quality of checkpoint cases brought before prosecutors and judges, including special problems
- Change in number of impaired driving arrests
- Change in number of impaired driving related nighttime crashes
- Other information deemed necessary by individual agencies

The National Highway Traffic Safety Administration strongly supports the regular use of sobriety checkpoints. They should be integrated into an overall drunk and drugged driving program, along with vigorous selective enforcement, public information and education. Effective enforcement of drunk driving laws, combined with swift and sure license removal, provides the most important element for reducing alcohol-related fatal and serious injury crashes. Roadside sobriety checkpoints have provided among the most effective results of any enforcement procedure. Checkpoints are an important part of a comprehensive enforcement program designed to raise the perceived probability among potential impaired drivers that they will be stopped and arrested for DWI.

APPENDIX A

SOBRIETY CHECKPOINTS BRIEFING GUIDE

Prior to conducting the sobriety checkpoint, the following items should be discussed and thoroughly explained to all officers and supervisors participating in the detail. Routine information, such as location, times, and personnel assignments, including chemical test operators, should be included at each briefing.

- Explain the goal(s) of the roadside sobriety checkpoint.
- Discuss the sobriety checkpoint location and the statistical data supporting the chosen checkpoint site.
- Stress the need for safety for both the officers and motorists
- Assign the sobriety checkpoint operational supervisor. The supervisor shall remain at the checkpoint location to oversee all on-site enforcement activities.
- Discuss the placement of personnel and traffic control devices in conformance with established roadside sobriety checkpoint guidelines and federal, state and/or municipal signing regulations.
- Develop and establish a systematic approach to stopping the vehicles as they enter the checkpoint location. For example, all vehicles or every fifth vehicle will be stopped. At no time will a random stop be utilized. If a problem such as traffic congestion occurs and requires a change in the pattern of stopping vehicles, the on-scene supervisor will determine if there will be a change from the systematic vehicles stopping sequence. All changes, no matter how slight, shall be documented including the time of change with an appropriate explanation of the reason for the change.
- Instruct all participating officers to explain the purpose of the checkpoint to the motorist as they approach a vehicle. A uniform statement/question to the driver should be used, for example:
 - "Good Evening. You have been stopped at a Department Name sobriety checkpoint. We use checkpoints in an effort to detect and deter the impaired driver. Have you consumed any alcohol or controlled substance today?"
 - If the driver's answer is no and there is no other compelling reason to detain the vehicle, the officer should permit the motorist to proceed.

- If the driver's answer is yes, ask how much and when. Depending on the answers and other circumstances, the officer should decide if further investigation is warranted. If so, direct the driver to safely exit the vehicle and escort him or her to the designated area for further investigation. If not, permit the motorist to proceed.
- Sobriety checkpoint pamphlets, questionnaires and occupant protection booklets should be given to each motorist stopped during the detection phase.
- Also during the detection phase, the officer should see if the occupants of the stopped vehicle are properly using required safety restraints (including child safety seats). If a violation exists a verbal reminder may be given.
- Instruct officers to inspect the driver for the smell of alcoholic beverages or other drugs, bloodshot eyes, fumbling fingers, slurred speech, admission of drinking or drug use, abusive language, inconsistent responses, etc. Be observant of the interior of the vehicle for alcoholic beverage containers, drug paraphernalia or other contraband, such as weapons, that are in plain view.
- The motorist should be permitted to proceed on his/her way unless the officer observes evidence of intoxication, or there is evidence of another serious violation requiring immediate action.
- Those persons suspected of impairment should be subjected to the battery of Standardized Field Sobriety Tests. If impairment is obvious and the blood alcohol level (BAC) is low, a Drug Recognition Technician (DRT) should evaluate the subject. If a DRT is not available, normal departmental policy for handling impaired drivers should be followed.
- Searches of a motor vehicle, the driver, or passengers, shall be conducted only when consistent with departmental policies or when legally permissible.
- A motorist who wishes to avoid the checkpoint by legally turning before entering the checkpoint area should be allowed to do so unless a traffic violation(s) is observed or probable cause exists to take other action. The act of avoiding a sobriety checkpoint does not constitute grounds for a stop.

Sobriety Checkpoints Briefing
Page Three

An accurate and complete written evaluation report shall be prepared for each sobriety checkpoint operation. Items in the report should include but are not limited to:

- number of vehicles passing through the checkpoints
- number of motorists detained for Standardized Field Sobriety Testing
- average time delay for motorists
- number and types of arrests
- identification of unusual incidents such as safety problems or other concerns
- reaction of police officers participating in the sobriety checkpoint, including the effect on morale and degree of officer support
- reaction of the motoring public to the sobriety checkpoint

APPENDIX B

Motorist Survey - Sobriety Checkpoints

- Question 1 Did the sobriety checkpoint cause a significant delay to your journey?
- Question 2 Do you believe sobriety checkpoints will deter some people from driving while impaired by alcohol or other drugs?
- Question 3 Do you believe that sobriety checkpoints will increase an impaired driver's risk of being detected and arrested?
- Question 4 Do you approve of sobriety checkpoints as a Name of Department enforcement measure to detect and remove drunk and drugged drivers from the highway?
- Question 5 Do you have any comments about sobriety checkpoints?
- Question 6 What is your age?
- Question 7 What is your sex?

These questions, with appropriate spaces for answers, can be utilized in questionnaires given to motorists going through sobriety checkpoints. They can be filled out and later mailed back to the agency.

(Prepared by Maryland State Police Traffic Program Planning Unit and Washington, D.C. Metropolitan Police)

MODEL POLICY

SOBRIETY CHECKPOINT GUIDELINES

I. PURPOSE

The purpose of this policy is to provide guidelines for the physical construction and operation of a sobriety checkpoint in order to maximize the deterrent effect and increase the perception of "risk of apprehension" of motorists who would operate a vehicle while impaired by alcohol or other drugs.

II. POLICY

It shall be the policy of this law enforcement agency to implement a sobriety checkpoint program. This will be done as part of a comprehensive enforcement program. To ensure standardization of this program a clear and concise set of written guidelines has been developed governing procedures on how checkpoints will be operated within this jurisdiction.

To implement this policy this agency must:

- Satisfy federal, state and local legal requirements.
- Conduct checkpoints with a minimal amount of intrusion or motorist inconvenience.
- Assure the safety of the general public as well as law enforcement officers involved.
- Provide for an objective site selection process based on relevant data.
- Provide for public information and education to maximize the deterrent effect and heighten awareness of the impaired driving problem.
- Provide for a systematic procedure for data collection and after impact analysis report to monitor and ensure standardization and consistency of the sobriety checkpoint program.
- Officer selection should be based on experience and training. Operational procedures will be covered during a briefing period prior to each checkpoint.

III. DEPARTMENTAL GUIDELINES

Written guidelines, consistent with existing agency policies, prepared in advance of the checkpoint program must:

- A. Be approved by the agency's chief law enforcement official or designee prior to commencement of the checkpoint.
- B. Specify signing, safety equipment, warning devices, barriers, etc. that will be used, their placement and proper use at the scene. This specification will be consistent with applicable standards and regulations. (See the relevant state or local manuals on traffic control devices, etc.)
- C. Specify the method for selecting motorists to be contacted, e.g., "every vehicle, every fifth vehicle," etc. to ensure objectivity.
- D. Provide for an operational briefing of personnel prior to each checkpoint. At this time designate assignments and respective duties.
- E. Specify dialogue and educational material to be used by checkpoint personnel.
- F. Provide for the removal of vehicles to the predetermined area when further investigation is required.
- G. Public reaction to the use of sobriety checkpoints can be obtained by several different methods. Recommended procedures for obtaining feedback are:
 1. Mail in surveys.
 2. Verbal feedback from motorists at checkpoint site.
 3. Periodic public opinion polls.

IV. PROCEDURES

A. Site Selection

This department must be able to objectively outline criteria utilized in the site selection process:

1. Alcohol/Drug related traffic experiences.
 - a. Unusual incidence of alcohol/drug related crashes.
 - b. Alcohol/drug impaired driving violations.
 - c. Unusual number of nighttime single vehicle crashes.
 - d. Any other documented alcohol/drug related vehicular incidents.
2. Select locations which permit the safe flow of traffic through the checkpoint.

- a. Consideration should be given to posted speed limits, traffic volume and visibility.
 - b. Ensure sufficient adjoining space is available to pull vehicles off the traveled portion of the roadway.
 - c. Consider other conditions that may pose a hazard.
3. The site should have maximum visibility from each direction and sufficient illumination. If permanent lighting is unavailable ensure that portable lighting is provided.

B. PERSONNEL

1. A sworn, uniformed officer will be assigned to provide on-scene supervision of the checkpoint.
2. The checkpoint will be staffed by a sufficient number of uniformed personnel to assure a safe and efficient operation.

C. ADVANCE NOTIFICATION

1. For the purpose of public information and education, this agency will announce to the media that checkpoints will be conducted.
2. This agency will encourage media interest in the sobriety checkpoint program to enhance public perception of aggressive enforcement, to heighten the deterrent effect and to assure protection of constitutional rights.
3. This agency will provide advance notification of the checkpoint to public safety agencies expected to be impacted.

D. MOTORISTS WARNINGS / SAFETY METHODS

1. Special care is required to warn approaching motorists of the sobriety checkpoint.
2. Basic equipment will include, but is not limited to:
 - a. Warning signs placed in advance of the checkpoint
 - b. Flares, fusees, or similar devices
 - c. Safety cones or similar devices
 - d. Permanent/portable lighting
 - e. Marked patrol vehicles
3. The use, placement and types of traffic control devices must comply with federal, state, or local transportation codes.

E. CONTINGENCY PLANNING

Any deviation from the predetermined guidelines must thoroughly document the reason for the deviation. (i.e. traffic backing up, intermittent inclement weather.)

F. DATA COLLECTION AND EVALUATION

To monitor and ensure standardization and consistency of the sobriety checkpoint program a systematic method of data collection will be incorporated.

1. After action report may include, but is not limited to:
 - a. Time, date, and location of checkpoint.
 - b. Weather conditions.
 - c. Number of vehicles passing through checkpoint.
 - d. Average time delay to motorists.
 - e. Predetermined order of selecting motorists.
 - f. Number and types of arrests.
 - g. Number of motorists detained for field sobriety testing.
 - h. Identification of unusual incidents such as safety problems/other concerns.

2. To assist in determining the effectiveness of a checkpoint operation, a periodic impact analysis will include the following types of information.
 - a. Crash rate reduction.
 - b. Impaired driving offenses.
 - c. Impaired driving convictions
 - d. Public opinion survey to determine increased perception of detection and apprehension of impaired drivers.

SB

279

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/25/94

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 279

"An Act relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft."

Died in SFC 1994.

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS

OTHER RECOMMENDATIONS:

1. _____
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

John

SENATE COMMITTEE REPORT

DATE: 3/14/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 4/25/94

Judiciary Committee considered SENATE BILL NO. 279

"An Act relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft."

and a majority of the committee recommends it be replaced with

and recommends:

replace with _____ CS SB 279 (JUD)

or adopt previous _____ CS _____

attaches amendment(s)

- same title
- new title
- technical title change (HB only)

and do pass

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

Fall

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
<i>EMV</i>			<input checked="" type="checkbox"/>
<i>Adm - Pub Adm</i>			<input checked="" type="checkbox"/>
<i>" Pub Admin</i>			<input checked="" type="checkbox"/>
<i>Public Safety</i>			<input checked="" type="checkbox"/>

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

Suzanne Little

Rich Haldord

George K. Kojaku

OTHER RECOMMENDATIONS:

Adrian L. Taylor *DO Pass*

Chair: Signature and Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/4/94

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 3-3-94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-11-94

State Affairs Committee considered SB 279

"~~An Act~~ relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft."

*as flows
+ ~~may~~ rpt back ~~info~~*

and recommends:

replace with _____ CS _____ ()

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

*3 φ FN
1 FN*

Guerra's previous

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DOL	1-25-94	✓	—
DPS	1-10-94	—	119.5
DOA, P.D.B.	12-27-93	✓	—
DOA, P.A.W.	12-27-93	✓	—

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

- ② Mike Miller No Rec
- ② Aldrin L. Taylor No Rec
- ② Mr. Ellis No Rec.
- ② ~~Adrian~~ ~~Guerra~~ NO REC

① *Adrian L. Guerra* Do Pass
Chair: Signature and Recommendation

HISTORY IN THE SENATE

1994

Read first time and referred to:

2/4

STA, JUD, FIN

3/14

SPA RPT() CS 1 DP 4 NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN
1 FN 3 OFN To Jud

4/25

Jud RPT() CS 4 DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN
1 FN ___ OFN To SP

___ RPT() CS ___ DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN
___ FN ___ OFN To ___

___ Rules Calendar() CS ___ AM ___ Other
New Title ___ Same Title ___ Previous FN
___ FN ___ OFN

Read second time

___ CS Adopted () ___ New Title
___ Amended ___ Advanced

Read third time

___ Letter of Intent adopted
___ Return to second for specific amendment

PASSED	EFD Same ___ or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reconsideration

Reconsideration not taken up

PASSED	EFD Same ___ or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reported correctly engrossed
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

Read second time

CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED	EFD Same ___ or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

___ Intent adopted

Reconsideration

Reconsideration not taken up

PASSED ON RECON.	EFD Same ___ or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

___ Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19

Received from the House
Version: _____

Concur in House amendment
Y ___ N ___ E ___ A ___
_____ Efd same or Y ___ N ___ E ___ A ___

Failed to concur in House amendment, ask House recede
Y ___ N ___ E ___ A ___

House failed to / receded from amendment
Y ___ N ___ E ___ A ___

CC appointed by Senate _____ Chair

CC appointed by House _____ Chair

(S) Granted Limited Powers of Free Conference

(H) Granted Limited Powers of Free Conference

19

(S) Adopted CC Rpt _____
Y ___ N ___ E ___ A ___
_____ Efd same or Y ___ N ___ E ___ A ___

(H) Adopted CC Rpt _____
Y ___ N ___ E ___ A ___
_____ Efd same or Y ___ N ___ E ___ A ___

To enrolling
Received from enrolling
Sent to Governor

_____ By Governor

Chapter Number _____

Filed with Lieutenant Governor

FISCAL NOTE

No. 5
 Bill Version: SSB 279 (JUD)
 (S) Publish Date: 5.3.94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO:

Revision Date: 04/26/94 Dept. Affected: Public Safety
 Title: DWI Laws BRU: Driver Services
 Component: Motor Vehicles
 Sponsor: BLS/GOVERNOR
 Requestor: (S) JUDICIARY COMPONENT SERIAL NO. 500

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	0	0	0	0	0	0
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

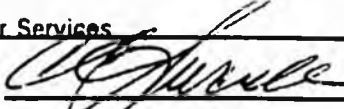
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 It is not anticipated that this bill will impact the Division of Motor Vehicles.

Prepared By: Juanita Hensley Phone: 465-2650
 Division: Chief, Driver Services Date: 04/26/94
 Approved by Commissioner:  Date: 04/26/94
 Agency: Richard I. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

HB. 4
Bill Version: SB 279
(C) Publish Date: 2-4-94

Revision Date: _____
Title: "An Act relating to driving a motor vehicle ..."
Sponsor: Rules/By Request of the Governor
Requestor: Governor's Office

Department Affected: Department of Law
BRU: Prosecution
Component: All

COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: January 25, 1994
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law Date: January 25, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION:

This bill makes several changes to state law to provide for "implied consent" for, and administration of, chemical tests to detect the presence of drugs in drivers of motor vehicles or commercial motor vehicles that are in accidents that cause death or serious physical injury to another person. Of particular importance, is the provision for blood chemical tests, after a serious accident, because drug use often goes undetected by breath chemical tests. Consequently, the bill will assist in the collection of better evidence for use by state prosecutors and will not, therefore, have a fiscal impact.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 3

Bill Version: SB 279

(S) Publish Date: 2-4-94

Revision Date: _____ Dept. Affected: Public Safety
 Title: Mandatory Drug / Alcohol Testing BRU: DPS Statewide Support
 Component: Laboratory Services
 Sponsor: Rules
 Requestor: Governor COMPONENT SERIAL NO. 527

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	49.6	49.6	49.6	49.6	49.6	49.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	49.6	49.6	49.6	49.6	49.6	49.6
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other Interagency Rcpts.	49.6	49.6	49.6	49.6	49.6	49.6
TOTAL	49.6	49.6	49.6	49.6	49.6	49.6

Estimate of current year (FY 94) impact: \$ 0

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 See attached analysis.

Changes in CSRB 279 (JUD)
 reflect **NO FISCAL CHANGE** from the original
 fiscal note. This fiscal note is appropriate.
5-2-94 R. Sullivan
 date Comte Aide (initial)

Prepared By: Francis C. Allan Phone: (907) 269-5691
 Division: Administrative Services Date: 01/10/94
 Approved by Commissioner: [Signature] Date: 01/10/94
 Agency: Richard J. Burton, Dept. of Public Safety

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Department of Public Safety
Fiscal Note Analysis
Law Log 94-0019
Mandatory Drug/Alcohol Testing
Page 2 of 4

In 1992, 382 major injury crashes involving approximately 550 drivers and 89 fatal crashes involving approximately 125 drivers were reported statewide.

Implementation of this legislation will require chemical test or tests to be administered at the direction of a law enforcement officer who has reasonable grounds to believe that a person was operating or driving a motor vehicle or commercial vehicle involved in an accident that causes death or serious physical injury to another person, for the purpose of determining the presence of controlled substances in that person's blood and urine, even if the person is not under arrest.

The Scientific Crime Detection Laboratory oversees all breath instrument tests statewide. Approximately 6,000 DWI breath tests are conducted per year by city and state. Additionally 250 blood tests are administered for the purpose of determining the alcohol content of the person's blood. It is estimated that approximately 200 chemical tests will be administered statewide per year to detect the presence of alcohol and/or controlled substances in drivers of motor vehicles or commercial vehicles that are involved in accidents that cause death or serious physical injury to another person.

To perform this function the Scientific Crime Detection Laboratory will require one additional scientist, a Criminalist I, who will be a trained Toxicologist. This employee will utilize a sophisticated Ion Trap Mass Spectrometer instrument to analyze urine and blood samples to determine the presence or the lack of the presence of alcohol and/or controlled substances. Other duties performed by this employee would include: instrumental identification of controlled substances; drug analysis of specimens from suspects in murder and assault cases; analyses of solid dosages of controlled substances; and other tasks associated with the Statewide Breath Alcohol Program such as instrument calibration and certification.

Currently, the Scientific Crime Detection Laboratory is not performing these toxicology analyses; they are sent out-of-state. To our knowledge, there are no laboratories in the state (other than this laboratory) equipped to do these analyses. Additionally, if court testimony is needed of the analyst, it is very costly to bring them up from the Lower 48 for court purposes.

Department of Public Safety
Fiscal Note Analysis
Law Log 94-0019
Mandatory Drug/Alcohol Testing
Page 3 of 4

It is anticipated that federal highway funds through the Highway Safety Planning Agency will be available to fund the initial three years of this position. Contingent upon the success of the program and review by the regional administrator, federal highway funds may be available to continue this position beyond the initial three year period.

PERSONAL SERVICES

Salary - Criminalist I Range 15, Step A	\$34,260
Benefits	<u>15,321</u>

Total Personal Services	\$49,581
-------------------------	----------

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

12/30/93

Position Information Inquiry/Update

07:58:10

Position: 12-12#091	Project: 0	Salary Costs: 34,260.00
Component: 12-62-06-02-01-10		Benefits Costs: 15,321.37
Scenario: 3 FY: 95	COLA %= 0.00	Total Costs: 49,581.37

 Actuals not available (Status: UNKNOWN) ° Retirement Code: A

 ° Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
 00/00/00 ° Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
 0 ° Class/Sched Prefix: 1 Schedule: 1A (actual:)
 ° Bargaining Unit: GG Range: 15 (actual:)
 ° Location Code: EBA Place: ANCHORAGE
 ° Job Class Code: P8371 Title: CRIMINALIST I
 ° Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_
 SÉÔ Aa æÅæ06 FX

FISCAL NOTE

STATE OF ALASKA

No. 2

Bill Version: SB 279

(S) Publish Date: 2-4-94

1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Administration

Title: Relating to operating a motor vehicle

BRU: Public Defender Agency

Sponsor: Rules Committee

Component: Public Defender Agency

Requestor: Governor

COMPONENT SERIAL NO. 3540

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: John B. Salemi, Public Defender
 Division: Public Defender Agency

Phone: 264-4400
 Date: _____

Approved by Commissioner: Nancy Bear Usera, Commissioner
 Agency: Department of Administration

Date: 12/27/93

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FISCAL NOTE

No. 1
 Bill Version: SB 279
 (S) Publish Date: 2-4-94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: _____
 Title: Relating to operating a motor vehicle
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES (Thousands of Dollars)

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Director
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Nancy Bear Usara
 Agency: Administration

Date: 12/27/93

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

279

*The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft.

Sections 5, 7, 12, and 13 of the bill contain the main objective of the bill. Those sections contain provisions relating to implied consent for, and administration of, chemical tests to detect the presence of drugs in drivers of motor vehicles or commercial vehicles that are involved in accidents that cause death or serious physical injury to another person.

The use of drugs by motor vehicle drivers, both alone and in combination with alcohol, is a major traffic safety concern. The apprehension and successful prosecution of the drug-impaired driver has been and remains a major concern of law enforcement.

The state's implied consent law is contained in existing AS 28.35.031 and, for commercial motor vehicle drivers, in AS 28.33.031. These sections provide that a vehicle driver who is under arrest for driving while intoxicated is considered to have given "consent" to a chemical breath test to determine the amount of alcohol in the person's blood or breath. Existing AS 28.35.032 authorizes law enforcement officers to request that an arrested driver submit to that chemical breath testing.

Sections 5 and 7 of the bill amend the implied consent statutes (AS 28.33.031 and AS 28.35.031) to specify that a person who operates a motor vehicle or commercial

The Honorable Rick Halford
February 4, 1994
Page 2

motor vehicle in this state is considered to have given consent to submit to a chemical test to determine the presence of both alcohol and drugs if the person is involved in an accident that causes death or serious physical injury to another person, even if the person is not under arrest. A specific definition for "serious physical injury" is provided in sec. 16 of the bill. Driving is a privilege granted by the state that can be conditioned upon consent to reasonable terms, such as consent to the chemical tests enumerated in AS 28.33.031 and AS 28.35.031 as amended by the bill.

Under existing AS 28.35.032(a), a person can refuse to submit to a chemical breath test; existing AS 28.35.032(f) makes the refusal a misdemeanor offense. Section 8 of the bill amends AS 28.35.032(a) to add references to the chemical tests provided for in secs. 5 and 7 of the bill; sec. 10 of the bill amends AS 28.35.032(f) in the same way. Several "housekeeping" amendments to AS 28.35.032(a) are also made by sec. 8 of the bill.

Under AS 28.35.032(a) and 28.35.035, if a person has been notified of the penalties that will result from refusal to submit to a chemical breath test, and the person then refuses to submit, the test may not be given unless the person has been arrested and the arrest resulted from an accident that causes death or physical injury to another person. This bill does not change those provisions other than to add references to the additional chemical tests provided for in secs. 5 and 7 of the bill. See secs. 8, 12, and 13 of the bill.

Sections 1 - 4, 9, 11, and 14 of the bill make additional conforming amendments to statutes in AS 28 to refer to the chemical tests provided for in secs. 5 and 7 of the bill. The amendment to AS 28.33.190 in sec. 6 of the bill is generally to provide a definition for "controlled substance" in AS 28.33. That term is used in AS 28.33.031(a) as that statute is amended by sec. 5 of the bill. Additionally, the amendment to AS 28.33.190 will provide other needed definitions for AS 28.33.010 - 28.33.031. The existing language of AS 28.33.190 unnecessarily excludes those sections.

The amendments made by secs. 15 and 17 of the bill are to provide a definition of "controlled substance" for AS 28.35.029 - 28.35.039. The existing definition, which is specific to only AS 28.35.030, is repealed and is replaced by the same definition located in a general definition section for AS 28.35.029 - 28.35.039.

In my State of the State address on January 12, 1993, I identified "alcoholism, along with the abuse of other drugs," as "Alaska's number one health problem." I reiterated my commitment to dealing with this issue in my State of the State address this year, as well. This proposed legislation gives police and prosecutors the tools they need to

The Honorable Rick Halford
February 4, 1994
Page 3

combat the significant highway safety problem presented by those drivers who use drugs and then cause fatal or serious injury accidents.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, reading "Walter J. Hickel". The signature is written in a cursive style with a large, prominent "W" and "H".

Walter J. Hickel
Governor

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 279 (JUD)

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: DWI Laws BRU: Trial Courts
 Components: _____
 Sponsor: By request of the Governor
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	705.4	705.4	705.4	705.4	705.4	705.4
TRAVEL	35.0	35.0	35.0	35.0	35.0	35.0
CONTRACTUAL	222.1	222.1	222.1	222.1	222.1	222.1
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	22.3					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	986.9	964.6	964.6	964.6	964.6	964.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

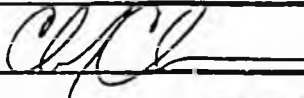
1002 Federal Receipts						
1003 GF Match						
1004 GF	986.9	964.6	964.6	964.6	964.6	964.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	986.9	964.6	964.6	964.6	964.6	964.6

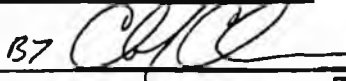
POSITIONS

FULL-TIME	10.0	10.0	10.0	10.0	10.0	10.0
PART-TIME	4.0	4.0	4.0	4.0	4.0	4.0
TEMPORARY	4.0	4.0	4.0	4.0	4.0	4.0

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 04/29/94

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/29/94
 Agency: Alaska Court System

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ALASKA COURT SYSTEM
CSSB 279 (JUD)
FISCAL ANALYSIS

CSSB 279 (JUD) increases the penalty for three or more driving while intoxicated or refusing to submit to a chemical test convictions, from a class A misdemeanor to a class C felony. Three or more convictions will result in a minimum mandatory sentence of 360 days imprisonment.

The bill also extends existing vehicle forfeiture provisions for driving while intoxicated or refusing to submit to a chemical test, to make vehicle forfeiture mandatory upon a first conviction. A person having an ascertainable security interest in a forfeited vehicle, other than the person who committed the offense resulting in the forfeiture, would be permitted to seek remission of the forfeiture. A court hearing would be required. At the present time, the state rarely seeks vehicle forfeiture in DWI cases. CSSB 279 (JUD) would require the state to seek forfeiture in 3000 cases per year. This note assumes that 10 percent of these cases will result in a remission hearing. Such hearings can be expected to take one-half day of judicial time.

At the present time, approximately 700 persons are charged and 650 persons are convicted each year for driving while intoxicated three or more times. Handling these as felony cases rather than misdemeanor cases will substantially increase the court costs associated with the offense. An average misdemeanor DWI trial can be expected to last two days, and is tried before a six member jury. A felony DWI trial can be expected to average five days in length, and would be tried before a 12 member jury. The extra time results from the more serious consequences of a felony conviction; attorneys for both sides spend more time on matters such as jury selection, examination of witnesses, and motion practice.

Because of the more serious consequences of a felony conviction, and because the mandatory minimum penalty is much longer than the current mandatory minimum for most third and subsequent DWI convictions, the trial rates can be expected to increase substantially. Because there is no prosecutorial discretion with respect to charge or recommended sentence as there is in most other felony cases, the trial rate for this crime will most likely equal or exceed the trial rate for more serious felonies with presumptive sentences. This note assumes that the trial rate will increase from approximately five percent to 20 percent.

Unlike misdemeanor cases, felony cases require presentment to a grand jury. CSSB 279 (JUD) will increase the number of cases presented to grand juries each year by approximately 15 percent, with a corresponding increase in grand jury costs.

Fiscal notes for legislation which requires additional judicial time normally assume that retired judges will receive pro tem appointments to hear the new caseload. This is the

most economical way of increasing the availability of judges, since the court system only needs to pay a retired judge the difference between his or her retirement benefits and the salary of an active judge. However, the caseload increase made by CSSB 279 (JUD) is so large that it cannot be met by existing pro tem resources; additional superior court judgeships will need to be added by the legislature. Because this bill does not create those judgeships, this note does not reflect such costs; instead, it reflects the lower cost of pro tem judges. This is misleading, in that the bill cannot be implemented without the addition of several superior court judgeships or the full-time reassignment of several judges handling civil cases, with the resulting massive slippage in the civil caseload.

This fiscal note estimates a trial rate of 20 percent. Note that each increase of five percent in the trial rate for this offense would require an additional full-time judge. Thus, it is possible that this note dramatically underestimates the actual costs of CSSB 279 (JUD).

Alaska Court SystemFiscal AnalysisCSSB 279 (JUD)Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Anchorage, PFT, 12 months, 50% vested	\$48,300	\$30,370	\$78,670
Pro Tem Superior Court Judge, Anchorage, PFT, 12 months, 50% vested	48,300	30,370	78,670
Pro Tem Superior Court Judge, 1st District, PFT, 12 months, 50% vested	48,300	30,370	78,670
Pro Tem Superior Court Judge, 4th District, PFT, 12 months, 50% vested	48,300	30,370	78,670
In-Court Clerk, range 12A, Anchorage, PFT, 12 months	27,108	12,234	39,342
In-Court Clerk, range 12A, Anchorage, PFT, 12 months	27,108	12,234	39,342
In-Court Clerk, range 12A, 1st District, PFT, 12 months	27,108	12,234	39,342
In-Court Clerk, range 12A, 4th District, PFT, 12 months	30,780	13,200	43,980
Balliffs, range 6A, all courts, NPP, 48 months, 4 positions	76,320	8,492	84,812
Law clerk, range 13D, Anchorage, PFT, 12 months	31,824	13,474	45,298
Law clerk, range 13D, Anchorage, PFT, 12 months	31,824	13,474	45,298
Secretary, range 12A, Anchorage, PFT, 2 months	27,108	12,234	39,342
Secretary, range 12A, Anchorage, PFT, 12 months	27,108	12,234	39,342
Court Clerk II, range 10A, Anchorage, PFT, 12 months	24,012	11,419	35,431
Court Clerk II, range 10A, Anchorage, PFT, 12 months	24,012	11,419	35,431
			<u>801,640</u>
			New position costs
Personal services cost offset for existing judicial and clerical resources devoted to DWI misdemeanors			<u>(96,200)</u>
			Net Personal Services
			<u>705,440</u>
 <u>Travel</u>			
Judicial travel to outlying courts			35,000
 <u>Contractual</u>			
Petit jury fees for 140 felony trials (20% trial rate on 700 cases) of 5 days, 13 jurors at \$25 day			227,500
Grand jury fees. Estimated 15% increase in grand jury costs (using FY 93 costs of \$175,900)			26,385
Jury costs offset for fees paid in existing misdemeanor trials			(36,750)
Telephone, postage and other contractual costs related to new employees			5,000
			<u>222,135</u>
			Total contractual costs
 <u>Supplies</u>			
Estimated supply costs for new employees and from increased workload			2,000
 <u>Equipment (one-time cost)</u>			
Equipment for new permanent full-time positions			<u>22,300</u>
			<u>5986,875</u>
			Total estimated cost

FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. CSSB 279 (Jud)

Revision Date: _____	Dept. Affected: <u>Administration</u>
Title: <u>"An Act relating to operating a motor vehicle..."</u>	BRJ: <u>Office of Public Advocacy</u>
	Component: <u>Office of Public Advocacy</u>
Sponsor: <u>Rules Committee</u>	
Requestor: <u>(S) Judiciary</u>	COMPONENT SERIAL NO. <u>43</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Director
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Nancy Bear Usura
Agency: Administration

Date: 4/27/94

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FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. CSSB 279 (JUD)

Revision Date: _____
 Title: 'An Act relating to operating or driving a motor vehicle,
 commercial motor vehicle, aircraft, or watercraft . . . '
 Sponsor: Senate Rules Committee
 Requestor: _____

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	377.7	389.0	400.7	412.7	425.1	437.9
TRAVEL	3.0	3.1	3.2	3.3	3.4	3.5
CONTRACTUAL	6.0	6.2	6.4	6.6	6.8	7.0
SUPPLIES	6.0	6.2	6.4	6.6	6.8	7.0
EQUIPMENT	9.0	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	401.7	404.5	416.7	429.2	442.1	455.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	401.7	404.5	416.7	429.2	442.1	455.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	401.7	404.5	416.7	429.2	442.1	455.4

Estimate of any current year (FY 94) cost: \$ -0-

POSITIONS:

FULL-TIME	5	5	5	5	5	5
PART-TIME	2	2	2	2	2	2
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: 264-4400
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Department of Administration

Date: 4/27/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 279 (JUD)

ANALYSIS: (continued)

The Committee Substitute to SB 279 makes a third DWI or refusal conviction a felony crime, with a mandatory year in jail. While the original bill's implied consent provision had negligible fiscal impact, this proposal would have a profound and immediate fiscal impact. Department of Motor Vehicle statistics indicate that in the last 3 years such a change would have resulted in an increase of between 650 and 750 new felony charges per year. The increased seriousness of this charge and the consequent cost to defend assure the likelihood of Public Defender appointment. Felony charges are the most expensive and work intensive of Public Defender cases. With the possibility of a felony record and a mandatory year in prison there is little likelihood of a plea to the charge. Trial preparation, investigation, independent chemical testing, possible accident reconstruction, expert testimony and constitutional challenges as well as lengthy trials will be the likely consequence. National law enforcement standards require a minimum of four attorneys qualified to conduct felony litigation, as well as necessary support services.

Budget Analysis

100 Personal Services

2 - Attorney III - Anchorage	146.8
1 - Attorney III - Fairbanks	83.1
1 - Attorney III - Juneau	73.4
1 - Legal Secretary I - Anchorage	36.9
1/2 - Legal Secretary I - Fairbanks	19.1
1/2 - Legal Secretary I - Juneau	<u>18.4</u>
	377.7

200 Travel

Outer offices from Anchorage, Fairbanks and Juneau	3.0
---	-----

300 Contractual

Office Space	6.0
--------------	-----

400 Supplies	6.0
--------------	-----

500 Equipment (one time)	<u>9.0</u>
TOTAL	401.5

Position Title Attorney III		No. of Positions 4	Range / Step 22/A	Barg. Unit PX
Time Status PFT	Staff Months 48	Location EBA - JBA - AWA		Election District 50 - 60 - 3
TYPE OF EXPENDITURE		AMOUNT		
Salary		220,920		
Benefits		82,216		
Premium Pay				
Other				
Total Personal Services		303,136		
Travel		3,000		
Contractual		6,000		
Commodities		4,000		
Equipment		6,000		
Other				
Total Cost		322,136		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	322,136		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification This bill, CSSB 279, could result in an additional 650 to 750 new felony cases per year for the Public Defender Agency. The recommended felony load for an attorney is 150 cases so the agency will need a minimum of 4 attorneys plus support staff. Two Attorney III's and a Legal Secretary I would be assigned to Anchorage; one Attorney III and a part-time Legal Secretary I would be assigned to Fairbanks and Juneau respectively. The attorneys would include a travelling calendar to serve outer agency offices with fewer cases.				

1/Leg94/17/11607d.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 95

Page 3 or 5
 Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10/A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location EBA		Election District 50
TYPE OF EXPENDITURE		AMOUNT		Justification This bill, CSSB 279, could result in an additional 650 to 750 new felony cases per year for the Public Defender Agency. The recommended felony load for an attorney is 150 cases so the agency will need a minimum of 4 attorneys plus support staff. Two Attorney III's and a Legal Secretary I would be assigned to Anchorage; one Attorney III and a part-time Legal Secretary I would be assigned to Fairbanks and Juneau respectively. The attorneys would include a travelling calendar to serve outer agency offices with fewer cases.
Salary		24,756		
Benefits		12,110		
Premium Pay				
Other				
Total Personal Services		36,866		
Travel		-0-		
Contractual		-0-		
Commodities		1,000		
Equipment		1,500		
Other				
Total Cost		39,366		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	39,366		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

1/Leg94/17/11607b.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 95

Page 4 of 5
 Revised Date: _____