

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10470 HOUSE TRANSPORTATION

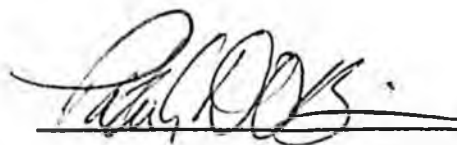
315



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

  
\_\_\_\_\_  
Signature of Camera Operator

12/4/2003  
Date

2001-2002  
HOUSE TRANSPORTATION COMMITTEE  
LIST OF FILES (PAGE 1)

MICROFICHE #

HB 4  
HB 8  
HB 12  
HB 22  
HB 39  
HB 44  
HB 55  
HB 64  
HB 68  
HB 79  
HB 127  
HB 235  
HB 241  
HB 244  
HB 298  
HB 350  
HB 369  
HB 374  
HB 397  
HB 405  
HB 473

2001-2002  
HOUSE TRANSPORTATION COMMITTEE  
LIST OF FILES (PAGE 2)

MICROFICHE #

---

HB 500

HB 502

HB 507

HB 510

HB 523

HJR 6

SB 79

SB 88

SB 119

SB 123

SB 226

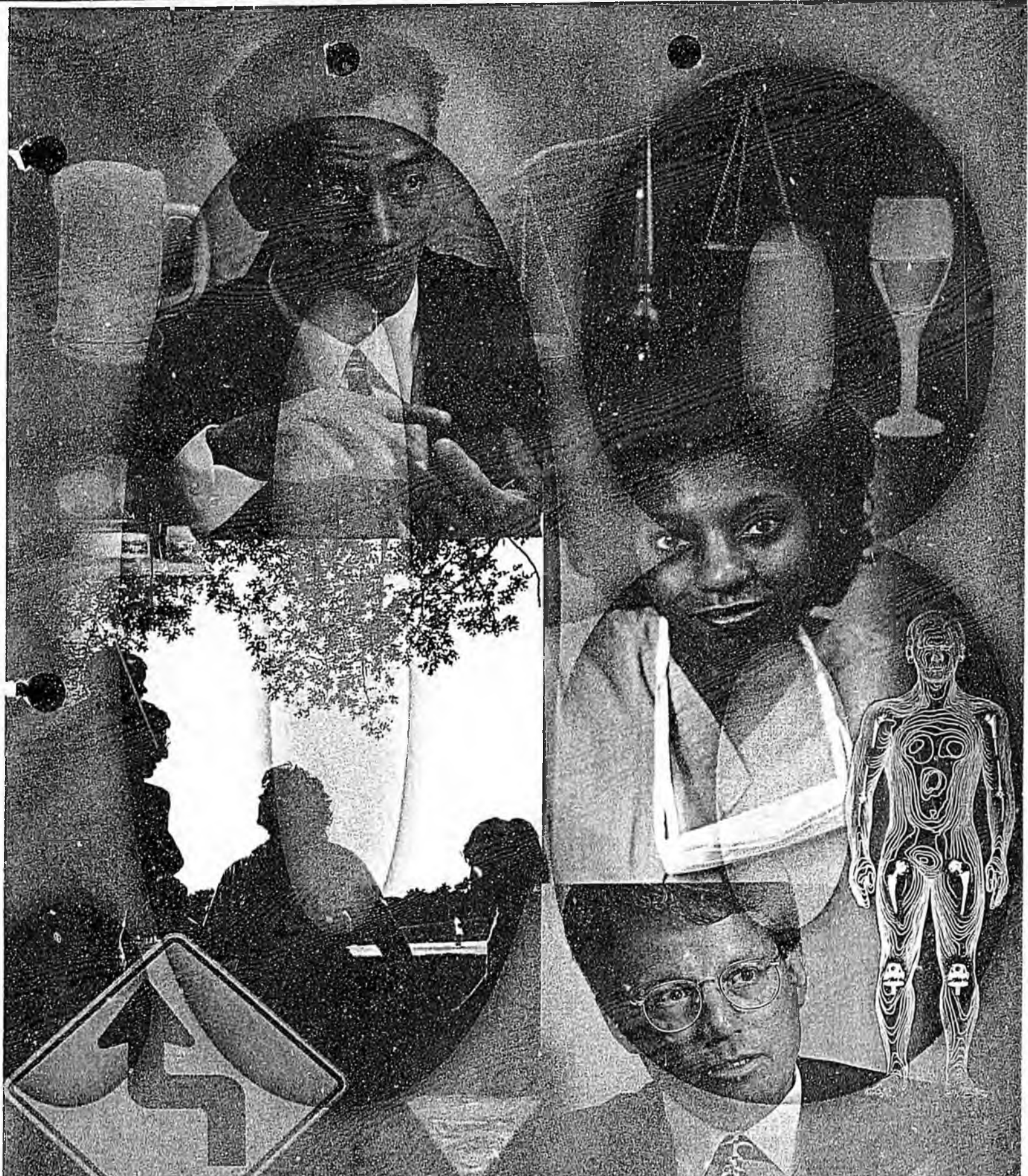
SB 260

SB 358

SJR 41

**HB**

**4**



# SETTING LIMITS, SAVING LIVES

THE CASE FOR .08 BAC LAWS

# Index

Section 1, Introduction	Page 3
Section 2, What is .08?	Page 7
Section 3, Effect of BAC on Traffic Crashes	Page 9
Section 4, The Case for .08 BAC Laws	Page 11
Section 5, Myths about .08 BAC	Page 15
Section 6, Consumer Education and Public Support	Page 17
Section 7, Law Enforcement	Page 19
Section 8, Summary	Page 21
Appendix A-Fact Sheets	
<i>Facts on The Impaired Driving Problem</i>	Page 23
<i>Facts on the Economic Issues</i>	Page 24
<i>The Facts About .08</i>	Page 25
<i>What You Can Do About Impaired Driving</i>	Page 26
Appendix B-Resources	Page 27
Appendix C-Model Law	Page 33
Acknowledgments	Page 35
Bibliography	Page 35

## SECTION 1

## Introduction

*Overview of the Problem*

Impaired driving is the most frequently committed violent crime in America. Every 33 minutes, someone in this country dies in an alcohol-related crash. In the time it takes you to read this booklet, someone else will die needlessly.

For many years, we were making good progress. Due to the tireless efforts of many organizations and citizens around the country, alcohol-related traffic deaths decreased significantly. In the last decade, alcohol-related fatalities dropped from 23,630 in 1988 to 15,935 in 1998, according to the National Highway Traffic Safety Administration (NHTSA).

This 33% drop in alcohol-related deaths is generally attributed to:

- STRONGER LAWS,
- TOUGHER ENFORCEMENT, AND
- GOOD CONSUMER EDUCATION.

Americans better understand the impaired driving problem, fewer are driving after drinking, and more are getting caught when they do.

While alcohol-related fatalities have decreased the past three years (after an increase in 1995),

alcohol involvement is still the single greatest factor in motor vehicle deaths and injuries. Only about 5% of all crashes involve the use of alcohol, but 38% of fatal crashes do.

15,935 deaths in one year is 15,935 grieving families too many. But the carnage doesn't end there. In addition to these tragic deaths, another one million people are injured in alcohol-related traffic crashes annually. And these crashes cost society over \$45 billion every year for things like:

- EMERGENCY AND ACUTE HEALTH CARE COSTS,
- LONG-TERM CARE AND REHABILITATION,
- POLICE AND JUDICIAL SERVICES,
- INSURANCE,
- DISABILITY AND WORKERS' COMPENSATION,
- LOST PRODUCTIVITY, AND
- SOCIAL SERVICES FOR THOSE WHO CANNOT RETURN TO WORK AND SUPPORT THEIR FAMILIES.

Just one alcohol-related fatality is estimated to cost society \$950,000. Each alcohol-related injury averages \$20,000. Eventually, we all bear the costs of these deadly actions, through taxpayer supported services and programs, higher insurance costs and even higher prices on goods and services, since employers pick up about half the costs associated with motor vehicle crashes.

**EVERY 33  
MINUTES SOMEONE  
IN THIS COUNTRY  
DIES IN AN  
ALCOHOL-RELATED  
CRASH. IN THE  
TIME IT TAKES  
YOU TO READ  
THIS BOOKLET,  
SOMEONE ELSE  
WILL DIE  
NEEDLESSLY.**

**TERMINOLOGY**

THE PHRASE "DRUNK DRIVING," WHILE STILL COMMON IN EVERYDAY LANGUAGE AND COMPLETELY UNDERSTANDABLE, IS NOT USED AS A LEGAL TERM SINCE MANY DRIVERS WHO ARE PART OF THE PROBLEM DO NOT EXHIBIT VISIBLE OUTWARD SIGNS OF DRUNKENNESS. "IMPAIRED DRIVING" IN GENERAL MEANS DRIVING WHILE ABILITIES ARE IMPAIRED BY ALCOHOL OR DRUGS. "DRIVING WHILE INTOXICATED" (DWI) OR "DRIVING UNDER THE INFLUENCE" (DUI) MEANS DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. IN GENERAL, THIS BOOKLET WILL USE THE TERM IMPAIRED DRIVING TO DESCRIBE THE OVERALL PROBLEM AND DWI TO DESCRIBE THE CRIME OF DRIVING WHILE OVER THE LEGAL LIMIT OR UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS.

**We Know What Works**

We know what works to reduce the incidence of impaired driving—a combination of:

- EFFECTIVE LAWS,
- STRONG ENFORCEMENT, AND
- HIGHLY VISIBLE PUBLIC INFORMATION AND EDUCATION.

The successes of the past two decades can be attributed to all of these factors combining to change people's behavior. We've made some real progress, thanks to grassroots organizations, citizen activists, national highway safety and public health groups, concerned legislators and other elected leaders, involved industries and millions of people with plain old common sense.

"One for the road" used to be the standard and the antics of a drunk used to be considered funny. Now we've made some changes in the way we look at impairment. Many of us have changed our behavior as well, either by moderating our drinking if we must drive or designating a driver before alcohol is consumed. Party hosts are more cautious and guests look out for one another. And the hospitality industry has made a commitment to training servers to recognize the signs of impairment.

Impaired driving has been reduced since the early 80's, but it is still an enormous problem. There is more we can do, and it all begins with effective laws.

**Key Laws That Every State Needs**

There are four key laws that have been proven effective in the fight against impaired driving (see chart, "State Anti-Impaired Driving Laws," page 6). It is important to understand what each is and how it works, both alone and together with other laws.

**Illegal per se** — An illegal *per se* law makes it illegal in and of itself to drive with an alcohol concentration measured at or above the

established illegal level. Forty-eight states have established a *per se* law (the exceptions are Massachusetts and South Carolina). In 31 of those states, the legal limit is .10% blood alcohol concentration (BAC) *per se*. That means it is against the law to drive a motor vehicle if you have a BAC of .10 or more, whether or not you exhibit visible signs of intoxication. Seventeen other states and DC have established .08 BAC as the legal limit (see chart, "States with BAC *Per Se* Laws," page 4).

**Administrative license revocation (ALR)** — An ALR law gives state officials the authority to suspend administratively the license of any driver who fails or refuses to take a BAC test. Notice of the suspension is given immediately, although a temporary permit is usually issued. The permit is valid from 7-45 days, depending on the state. During that time, the accused person can appeal through administrative channels. If no appeal is filed, the license is then automatically suspended for a prescribed period of time. Suspensions range from seven days to six months for first-time offenders, again depending on the state, and are longer for repeat offenders. ALR laws do not replace criminal prosecution, and their constitutionality has been consistently upheld whenever challenged. As of late 1990, 40 states had ALR laws.

**Zero tolerance** — Zero tolerance laws make it illegal for drivers under age 21 to drive with any measurable amount of alcohol in their system, regardless of the BAC limit for older drivers. Since it is illegal in every state for those under 21 to purchase or publicly possess alcoholic beverages, it makes sense that no amount of alcohol should be tolerated for drivers under that age. Many states have set the limit for underage drivers at .02 BAC. This helps reduce legal challenges that claim mouthwash, gum or cold medicine are somehow responsible for a positive but very low BAC reading (there is no evidence that such substances affect the standard breath analysis tests when they are

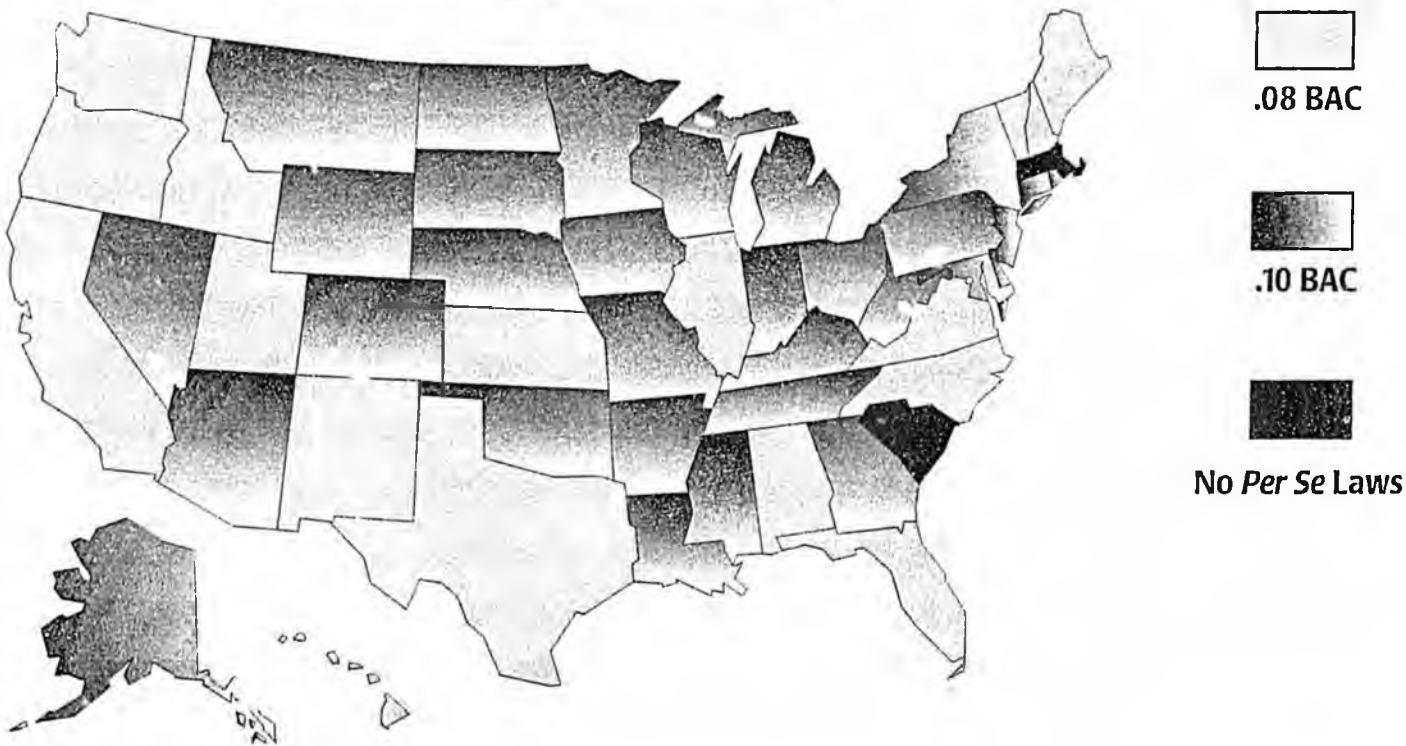
Conducted properly or that other challenges about the accuracy of alcohol detection equipment are valid). As of late 1999, all 50 states plus DC had zero tolerance laws for youth. States that did not have zero tolerance laws for youth by 1998 faced a federal sanction of the withholding of highway construction funds.

**.08 BAC** – .08 establishes a lower limit to define intoxication for all drivers. Lowering the BAC limit to .08 sets the illegal limit at a point at which driving skills are proven to be compromised. At .08 BAC, all drivers, even experienced ones, show impairment in driving ability. For the great majority, there is serious deterioration in driving performance at .08. Although virtually all highway safety groups and transportation safety agencies support .08, only 17 states, plus DC have adopted such laws as of late 1999. Some organizations in the alcohol and hospitality industries vigorously oppose .08 legislation whenever it is proposed.

In addition to these four key laws, the National Safety Council and the National Highway Traffic Safety Administration (along with many other organizations and agencies) encourage other anti-impaired driving steps such as:

- THE USE OF SOBRIETY CHECKPOINTS AND SATURATION PATROLS BY LAW ENFORCEMENT AGENCIES COUPLED WITH HIGH LEVELS OF PUBLICITY;
- INCREASED ENFORCEMENT FOR UNDERAGED DRINKING AND DRIVING;
- GRADUATED DRIVER LICENSING PROGRAMS FOR NEW, YOUNG DRIVERS;
- THE USE OF DESIGNATED DRIVER AND SAFE RIDE PROGRAMS;
- RESPONSIBLE SERVER PROGRAMS;
- CONSUMER EDUCATION; AND
- CONTINUED RESEARCH TO FIND NEW AND BETTER WAYS TO COMBAT IMPAIRED DRIVING.

**States With BAC *per se* Laws**



**"State Anti-Impaired Driving Laws"**

STATE	BAC per se level	ALR	Zero Tolerance*	.08 BAC
Alabama	.	.	.	.
Alaska	.	.	.	.
Arizona	.	.	.	.
Arkansas	.	.	.	.
California	.	.	.	.
Colorado	.	.	.	.
Connecticut	.	.	.	.
Delaware	.	.	.	.
Dist. of Col.	.	.	.	.
Florida	.	.	.	.
Georgia	.	.	.	.
Hawaii	.	.	.	.
Idaho	.	.	.	.
Illinois	.	.	.	.
Indiana	.	.	.	.
Iowa	.	.	.	.
Kansas	.	.	.	.
Kentucky	.	.	.	.
Louisiana	.	.	.	.
Maine	.	.	.	.
Maryland	.	.	.	.
Massachusetts	.	.	.	.
Michigan	.	.	.	.
Minnesota	.	.	.	.
Mississippi	.	.	.	.
Missouri	.	.	.	.
Montana	.	.	.	.
Nebraska	.	.	.	.
Nevada	.	.	.	.
New Hamp.	.	.	.	.
New Jersey	.	.	.	.
New Mexico	.	.	.	.
New York	.	.	.	.
N. Carolina	.	.	.	.
N. Dakota	.	.	.	.
Ohio	.	.	.	.
Oklahoma	.	.	.	.
Oregon	.	.	.	.
Pennsylv.	.	.	.	.
Rhode Isl.	.	.	.	.
S. Carolina	.	.	.	.
S. Dakota	.	.	.	.
Tennessee	.	.	.	.
Texas	.	.	.	.
Utah	.	.	.	.
Vermont	.	.	.	.
Virginia	.	.	.	.
Washington	.	.	.	.
W. Virginia	.	.	.	.
Wisconsin	.	.	.	.
Wyoming	.	.	.	.
<b>TOTAL</b>	<b>48</b>	<b>40+DC</b>	<b>50+DC</b>	<b>17 STATE + DC</b>

\*Zero tolerance is defined as .02 or less for all drivers under age 21.

## SECTION 2

## What is .08?

*Measuring Impairment*

The amount of alcohol in a person's body is measured by the weight of the alcohol in a certain volume of blood. This is called the blood alcohol concentration, or "BAC." Because the volume of blood varies with the size of a person, BAC establishes an objective measure to determine levels of impairment.

The measurement is based on grams per deciliter (g/dl), and in most states a person is considered legally intoxicated if his or her BAC is .10 g/dl or greater; that is, alcohol makes up one-tenth of one percent of the person's blood.

A driver's BAC can be measured by testing the blood, breath, urine or saliva. Breath testing is the primary method used by law enforcement agencies. Preliminary breath testing can be performed easily during a roadside stop using a hand-held

device carried by police officers. It is non-invasive and can even be performed while the person is still in his or her vehicle.

Evidentiary breath testing equipment is evaluated for precision and accuracy by NHTSA. Test instruments approved by NHTSA as conforming to specifications are accurate within plus or minus .005 of the true BAC value.

*State BAC Levels*

All states but two (Massachusetts and South Carolina) have established BAC *per se* levels. Seventeen of those states plus the District of Columbia have set that level at .08 (Alabama, California, Florida, Hawaii, Idaho, Illinois, Kansas, Maine, New Hampshire, New Mexico, North Carolina, Oregon, Texas, Utah, Virginia, Vermont and Washington). For more state-specific data, see the chart "The State of the States," on next page.

**"A DRINK IS A  
DRINK IS A DRINK"**

**1 DRINK EQUALS .54  
OUNCES OF ALCOHOL.  
THIS IS THE  
APPROXIMATE AMOUNT  
FOUND IN:  
ONE SHOT OF DISTILLED  
SPIRITS, OR ONE CAN  
OF BEER, OR ONE GLASS  
OF WINE.**

## "The State of the States"

BECAUSE THE  
VOLUME OF BLOOD  
VARIES WITH THE  
SIZE OF A PERSON,  
BAC ESTABLISHES  
AN OBJECTIVE  
MEASURE TO  
DETERMINE LEVELS  
OF IMPAIRMENT.

STATE	BAC PER SE LEVEL	# OF FATALITIES (1998)	PERCENT ALCOHOL- RELATED
Alabama	.08	1,071	38
Alaska	.10	71	44
Arizona	.10	980	43
Arkansas	.10	625	31
California	.08	3,494	38
Colorado	.10	328	37
Connecticut	.10	329	43
Delaware	.10	115	39
Dist. of Col.	.08	54	51
Florida	.08	2,824	33
Georgia	.10	1,569	32
Hawaii	.08	120	47
Idaho	.08	265	34
Illinois	.08	1,393	43
Indiana	.10	978	39
Iowa	.10	449	36
Kansas	.08	493	35
Kentucky	.10	858	33
Louisiana	.10	922	46
Maine	.08	192	28
Maryland	.10	606	34
Massachusetts	-	406	47
Michigan	.10	1,367	39
Minnesota	.10	650	43
Mississippi	.10	948	37
Missouri	.10	1,169	45
Montana	.10	237	44
Nebraska	.10	316	38
Nevada	.10	361	49
New Hamp.	.08	128	47
New Jersey	.10	743	36
New Mexico	.08	426	45
New York	.10	1,498	24
N. Carolina	.08	1,596	32
N. Dakota	.10	92	47
Ohio	.10	1,422	33
Oklahoma	.10	755	33
Oregon	.08	538	43
Pennsylv.	.10	1,481	42
Rhode Isl.	.10	74	48
S. Carolina	-	1,002	30
S. Dakota	.10	165	41
Tennessee	.10	1,216	41
Texas	.08	3,577	50
Utah	.08	350	14
Vermont	.08	104	37
Virginia	.08	935	37
Washington	.08	660	46
W. Virginia	.10	354	41
Wisconsin	.10	714	42
Wyoming	.10	154	44
<b>U.S. Total</b>		<b>41,471</b>	<b>38</b>

## SECTION 3

# Effect of BAC on Traffic Crashes

## *The Effect of Alcohol on Ability*

With each drink consumed, a person's blood alcohol concentration increases. Although the outward appearances vary, virtually all drivers are substantially impaired at .08 BAC. Laboratory and on-road research shows that the vast majority of drivers, even experienced drivers, are significantly impaired at .08 with regard to critical driving tasks such as braking, steering, lane changing, judgment and divided attention. In a recent study of 168 drivers, every one was significantly impaired with regard to at least one measure of driving performance at .08 BAC. The majority of drivers (60-94%) were impaired at .08 BAC in any one given measure. This is regardless of age, gender, or driving experience (see chart, "BAC and Impairment," at right).

The risk of being in a motor vehicle crash also increases as the BAC level rises. The risk of being in a crash rises gradually with each BAC level, but then rises very rapidly after a driver reaches or exceeds .08 BAC compared to drivers with no alcohol in their system.

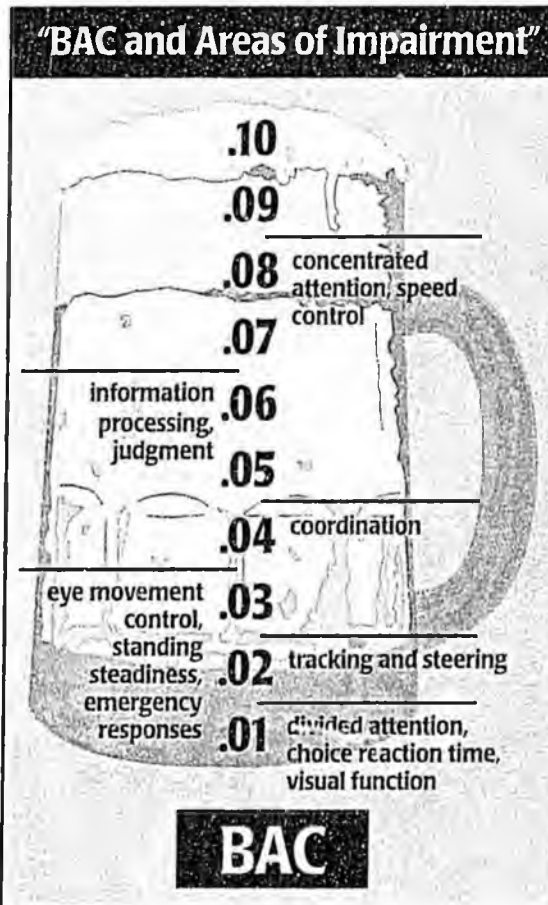
A recent study found that the risk of being killed in a single vehicle crash at .08 to .099 BAC ranged from 11 times the risk at .00 BAC for older drivers to 52 times the risk at .00 BAC for young male drivers.

### *.08 Sets a Reasonable Limit*

Setting the BAC limit at .08 is a reasonable response to the problem of impaired driving. This is not a couple of beers after work or a glass or two of wine with dinner. At .08, everyone is impaired to the point that driving skills are degraded. Most states that have lowered their

BAC to .08 have found a measurable drop in impaired driving crashes and fatalities, as have many countries that have adopted .08 (see chart, "BAC Levels in Other Countries," on page 10). .08 also serves to deter driving after drinking. Crash statistics show that even heavy drinkers, who account for a high percentage of DWI arrests, are less likely to drink and drive because of the general deterrent effect of .08. At the same time, lowering the BAC limit to .08 makes it possible to convict seriously impaired drivers whose BAC levels are now considered marginal because they are at or just over .10.

**SETTING THE BAC  
LIMIT AT .08 IS A  
REASONABLE  
RESPONSE TO THE  
PROBLEM OF  
IMPAIRED  
DRIVING.**



## SECTION 4

# The Case for .08 BAC Laws

## *.08 Laws Work*

The effect of California's .08 law was analyzed by NHTSA, which found that 81% of the driving population knew that the BAC limit was stricter (from a tremendously successful public education effort). The state experienced a 12% reduction in alcohol-related fatalities, although some of this can be credited to the new administrative license revocation law. The state also experienced an increase in DUI arrests.

The second multi-state analysis of the effect of lowering BAC levels to .08 was conducted recently by Ralph Hingson, Sc.D., a professor at Boston University's School of Public Health and Chairman of the school's Social and Behavioral Sciences Department, along with two other researchers. The results of their study were reported in the September 1996 issue of the *American Journal of Public Health*, a peer-reviewed journal.

Hingson compared the first five states to lower their BAC limit to .08 (California, Maine, Oregon, Utah and Vermont) with five nearby states that retained the .10 limit. Overall, the .08 states experienced a 16% reduction in the proportion of fatal crashes with a fatally injured driver whose BAC was .08 or higher, as well as an 18% reduction in such crashes with a fatally injured driver whose BAC was .15 or higher.

The immediate significance of these findings is that, not only did the .08 BAC laws reduce the overall incidence of alcohol fatalities, but also reduced fatalities at the higher BAC levels. The effect on extremely impaired drivers (the "problem drinking drivers") was even greater than the overall effect.

The study concluded that if all states lowered their BAC limits to .08, alcohol-related highway deaths would decrease by 500-600 per year.

In a NHTSA analysis of these five states (Johnson and Fell, 1995), significant reductions in alcohol-related fatal crashes were found in 4 out of the 5 states ranging from 4% to 40% when compared to the rest of the states with .10 BAC laws.

## *Impaired Driving Affects Us All*

About two out of every five Americans will be involved in an alcohol-related crash at some time in their lives, and many of them will be innocent victims. There is no such thing as a drunk driving accident. Virtually all crashes involving alcohol could have been avoided if the impaired person were sober.

As BAC levels rise, so does the risk of being involved in a fatal crash. Recent research has shown that, in single vehicle crashes, the relative fatality risk for drivers with BACs between .08 and .099 is at least eleven times greater than for drivers with a BAC of zero and is 52 times greater for young males.

**A RECENT COMPARISON STUDY (COVERING ALL 50 STATES) ANALYZED THE EFFECTS OF .08 BAC AND OTHER LAWS OVER A 16 YEAR PERIOD. THE STUDY ESTIMATED THAT .08 BAC LAWS HAD AN 8% EFFECT IN REDUCING FATAL CRASHES INVOLVING DRIVERS AT BOTH HIGH BACs AND LOWER BACs. IT ESTIMATES THAT IF ALL 50 STATES HAD .08 BAC LAWS IN EFFECT IN 1997 AN ADDITIONAL 590 LIVES WOULD HAVE BEEN SAVED.**

### States Have the Responsibility

In the United States, BAC limits are set by states. The limit of .10 found in most states is the highest in the industrialized world (see chart, "BAC Levels in Other Countries, on next page).

An eleven state study also examined the effects of .08 BAC (and ALR) laws. It found that .08 BAC legislation was associated with reductions in alcohol-related fatalities, alone or in conjunction with ALR laws, in seven of the eleven states studied. In five of these states (VT, KS, NC, FL, NM), implementation of the .08 BAC law itself was associated with significantly lower rates of alcohol-related fatalities. These results take into account any pre-existing downward trends the states were already experiencing, due to other factors such as the presence of other laws, use of sobriety checkpoints, etc. In two states (CA and VA), significant reductions were associated with the combination of .08 BAC and ALR laws, implemented within 6 months of each other. This study also found evidence of reduced alcohol (beer) consumption in several states following implementation of .08 laws.

The third study analyzed the effects of a .08 BAC law implemented in 1993 in North Carolina, a state which had already been experiencing a sharp decline in alcohol-related fatalities since 1987. This study concluded that there was little clear effect of the lower BAC limit. Results from various analyses suggested that some portion

of the reductions may have been associated with the law but the magnitude of these effects was not sufficient to make this conclusion.

In aggregate, these three recent studies provide additional support for the premise that .08 BAC laws help to reduce alcohol-related fatalities, particularly when they are implemented in conjunction with other impaired driving laws and programs. Nearly all of the findings of these and previous studies show changes that suggest that .08 BAC legislation (as well as .10 BAC laws and ALR laws) have contributed to the trend toward reduced alcohol-related crashes and fatalities that have been experienced across the nation.

NHTSA, the federal agency charged with the safety of motor vehicles and our nation's highway safety, has long supported .08 state laws. In a 1992 Report to Congress, the agency recommended that all states lower their illegal *per se* limit to .08 for all drivers 21 years and



above. (NHTSA supports zero tolerance for drivers under the legal drinking age – see Section 1 for more information.) Numerous other federal agencies with an interest in public health and safety issues, as well as dozens of private sector organizations, support NHTSA's call for universal .08 state laws (see box, "Who Supports .08 BAC Laws?," page 13).

### Why Some States Don't Have .08

As a public policy to deter impaired driving, .08 has lagged behind other countermeasures such as *per se*, administrative license revocation and zero tolerance for those under 21. Nearly all states have *per se*, the vast majority have ALR and all have zero tolerance.

But the passage of new .08 laws have been few and far between, despite consistent evidence that they work, because some organizations in the alcohol and hospitality industries oppose any and all such proposals at the state level. This is both sad and ironic, since these industries have not only been strong supporters of many other anti-impaired driving laws, but have also been crucial partners in getting safety messages out to hard-to-reach audiences.

Promotions such as designated driver programs and sober ride/call-a-cab efforts showcase their concern, generate enormous goodwill from the general public and raise awareness. It is tragic that some of the same companies and trade associations that have launched excellent server training programs, public information campaigns and other efforts to reduce impaired driving so vigorously oppose legislation when it comes to .08 (see box, "What the Hospitality Industry Can Do," on page 18).

A recently released report by the General Accounting Office (GAO), which reviewed the currently available .08 BAC studies stated that, while the evidence of impact of .08 BAC laws is not conclusive, "there are...strong indications that

### "Who Supports .08 BAC Laws?"

The following organizations support a BAC limit of .08 or lower:

ADVOCATES FOR HIGHWAY AND AUTO SAFETY  
 ALLSTATE INSURANCE  
 AMERICAN ALLIANCE FOR RIGHTS AND RESPONSIBILITIES  
 AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS  
 AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS  
 AMERICAN AUTOMOBILE ASSOCIATION  
 AMERICAN AUTOMOBILE MANUFACTURERS ASSOCIATION  
 AMERICAN COALITION FOR TRAFFIC SAFETY  
 AMERICAN INSURANCE ASSOCIATION  
 AMERICAN MEDICAL ASSOCIATION  
 AMERICAN SPINAL CORD INJURY ASSOCIATION  
 AMERICAN SPINAL INJURY ASSOCIATION  
 AMERICAN TRUCKING ASSOCIATIONS  
 ASSOCIATION FOR THE ADVANCEMENT OF AUTOMOTIVE MEDICINE  
 CENTER FOR SUBSTANCE ABUSE PREVENTION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 DAIMLER-CHRYSLER CORPORATION  
 FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION  
 FORD MOTOR COMPANY  
 INSURANCE INFORMATION INSTITUTE  
 INSURANCE INSTITUTE FOR HIGHWAY SAFETY  
 INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE  
 KEMPER INSURANCE GROUP  
 MOTHERS AGAINST DRUNK DRIVING (MADD)  
 NATIONAL ASSOCIATION OF GOVERNORS' HIGHWAY SAFETY REPRESENTATIVES  
 NATIONAL COMMISSION AGAINST DRUNK DRIVING  
 NATIONAL COMMITTEE ON UNIFORM TRAFFIC LAWS AND ORDINANCES  
 NATIONAL DISTRICT ATTORNEYS ASSOCIATION  
 NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION  
 NATIONAL INSTITUTE FOR ALCOHOL ABUSE AND ALCOHOLISM  
 NATIONAL SAFETY COUNCIL  
 NATIONAL SHERIFFS' ASSOCIATION  
 NATIONWIDE INSURANCE  
 OPERATION LIFESAVER  
 REMOVE INTOXICATED DRIVERS  
 STUDENTS AGAINST DESTRUCTIVE DECISIONS (SADD)  
 USAA INSURANCE  
 U.S. DEPARTMENT OF JUSTICE  
 U.S. SURGEON GENERAL

.08 BAC laws, in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement, can save lives.”

We commend GAO for reaching the sound and accurate conclusion that a .08 blood alcohol concentration (.08 BAC) law can be an important component of a state’s overall highway safety program. We agree that highway safety research shows that the best countermeasure against drunk driving is a combination of laws, including .08 BAC, sustained public education, and vigorous enforcement and we agree that there are strong indications the .08 BAC laws, when added to existing laws and programs, are associated with reductions in alcohol-related fatalities.

With regard to whether the studies are “conclusive,” it must be pointed out that all research is equivocal and therefore, by that definition,

inconclusive. In context, however, particularly with the addition of the recently released studies conducted by NHTSA, the evidence is consistent and convincing that, in most states where .08 BAC laws have been added to existing impaired driver control efforts, they have been associated with reductions in alcohol-related fatalities.

### *The Time is Now*

Recent research by NHTSA and past studies by the Boston University School of Public Health and the California Department of Motor Vehicles have shown impaired driving reductions already attributable to .08, as well as the potential for saving additional lives if all states adopted .08 BAC laws. Not only would deaths and injuries go down, but costs would as well. Alcohol-related crashes cost society \$45 billion every year, not including pain, suffering and lost quality of life. For more information on these enormous costs, see the fact sheet “Economic Issues” in the appendix.

## SECTION 5

## Myths about .08 BAC

Myths about .08 abound, many proliferated by those who actively oppose .08 laws. Here are a few of the commonly heard myths, countered by research-based facts from the National Highway Traffic Safety Administration, academic and scientific institutions, and credible private sector organizations such as Mothers Against Drunk Driving.

**MYTH:**

**"If you lower the BAC limit to .08, it means I can't even have a couple of drinks with my dinner."**

**FACT:** While there is no "safe" amount of alcohol for drivers, most people can drink moderately and drive legally when the illegal *per se* limit is set at .08. A 170-pound male typically would have to consume more than four drinks in one hour on an empty stomach to reach a BAC of .08. A 135-pound female typically would have to consume three drinks in the same time frame.

**MYTH:**

**"I know when I'm 'too drunk to drive' – I don't need to be concerned about my blood alcohol concentration."**

**FACT:** Your driving skills can be seriously compromised even when your behavior is not observably "drunk." Alcohol causes impairment in reaction time, attention, tracking, comprehension and other skills essential for safe driving. Even when attempting to drive carefully, an impaired driver cannot compensate for those reduced abilities. In addition, alcohol affects your ability to judge whether or not you are impaired.

**MYTH:**

**"The American public does not support .08 because most people have no idea how much alcohol it would take to put them over the legal limit."**

**FACT:** According to several national surveys, most Americans would not drive after having two or three drinks in one hour, an amount that would put them below .08. Most people know how much alcohol it takes to impair their driving ability and they accept lower limits such as .08 for adults.

**MYTH:**

**".08 BAC legislation will not affect problem drinker drivers who have high BAC levels."**

**FACT:** The latest research shows that .08 laws not only reduce the incidence of impaired driving at lower BACs, they also reduce the incidence of impaired driving at high BACs over .10 (Voas and Tippetts, 1999). A .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink. .08 is a key part of a complete package to reduce impaired driving. While problem drinker drivers do account for a significant part of the DWI problem, most fatally injured drinking drivers (70-80%) had no prior alcohol-related offenses. A comprehensive anti-impaired driving program must use all available laws and programs to reduce DWI.

**A .08 LAW SERVES AS A GENERAL DETERRENT TO DRINKING AND DRIVING, SENDS A MESSAGE THAT THE STATE IS GETTING TOUGHER ON IMPAIRED DRIVING, AND MAKES PEOPLE THINK TWICE ABOUT GETTING BEHIND THE WHEEL AFTER THEY'VE HAD TOO MUCH TO DRINK.**

**MYTH:**

**"Lowering the BAC limit to .08 places an unnecessary strain on the law enforcement community by forcing officers to monitor the behavior of currently legal drivers and pay less attention to the real problem, repeat offenders and those with high BACs."**

FACT: Lowering the *per se* limit to .08 does not place an unnecessary strain on police. Officers still must have probable cause to stop and test drivers to determine if they are impaired. A .08 law will actually make it easier for police to arrest drivers at .10 or .11 BACs because these are no longer "borderline" cases.

**MYTH:**

**"If you start arresting people driving with a .08 BAC, you will clog up the court system."**

FACT: In the largest state, California, the .08 law has had little impact on the state's judicial system. No increases have been reported in the proportion of arrested drivers who plead guilty, request jury trials or appeal convictions. .08 is a deterrent to impaired driving, especially when coupled with other effective anti-DWI measures. Anything that reduces the incidence of DWI reduces the overall burden on society, including the judicial system.

**MYTH:**

**".08 is just the first step toward even lower BACs and eventually another attempt at prohibition."**

FACT: Widely accepted public health research has identified .05 as the BAC level at which driving

skills begin to deteriorate. Because of this, some organizations — most notably the American Medical Association — officially support .05 as the safest limit. However, safety professionals generally do not believe such laws would have any reasonable chance politically in this country. Even those organizations that have adopted such policies accept .08 as the best reasonable and acceptable compromise that will save lives, prevent injuries and reduce costs to society. The notion that safety organizations seek a return to prohibition is unfounded.

**MYTH:**

**"The United States General Accounting Office (GAO) says .08 BAC laws do not work."**

FACT: The GAO report actually stated the following: "Overall, the evidence does not conclusively establish that .08 BAC laws, by themselves, result in reductions in the number or severity of alcohol-related crashes." They went on to say: "There are, however, strong indications that .08 BAC laws in combination with other drunk driving laws (particularly licence revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives." Of course, .08 BAC laws do not save lives by "themselves". They must be publicized as enforced and work in combination with the other laws of the state. The evidence shows that, in aggregate, when states adopt .08 BAC laws, they can save lives, especially in combination with administrative licence revocation laws which 40 states already have.

## SECTION 6

# Consumer Education and Public Support

## *Polls Support Anti-DWI Efforts*

The American public overwhelmingly supports legislation and programs to curb impaired driving. In a poll conducted for Mothers Against Drunk Driving (MADD), the Gallup Organization found that the vast majority of the American public considers drunk driving the number one major highway safety problem and most support tough laws and sanctions to reduce impaired driving.

All of the approaches to deal with impaired driving do well in public opinion polls, but the programs that have received more attention in the media and other public forums — ALR, zero tolerance, sobriety checkpoints and vehicle confiscation for repeat offenders — poll higher than .08. The likely reason is that people do not understand the technical aspects of how BACs are determined and what .08 means in real terms. When it comes to their own tolerance for alcohol and their own abilities, however, the American public is certain: most say they would not drive after consuming two or three drinks in one hour.

## *.08 is a Public Health Policy*

The challenge for .08 supporters is to help people make a connection between their own common sense and the public policy that would define impaired driving as .08. Clearly, the more people know about the problem and the potential solutions, the more they support changes to bring about those solutions. .08 is a key part of any public health initiative that aims to reduce society's burden from impaired driving.

Supporters of .08 have many allies and resources to call upon, both at the national level and in the states. A list of resource organizations is included in the appendix.

## *Help is Available*

Federal and State Governments and several private sector organizations hold workshops, publish idea samplers and planners, and offer other helpful organizing tools that may help .08 supporters achieve their public policy goals.

## **"What You Can Do"**

Around the country, voluntary efforts are underway by concerned citizens who support adoption of .08 BAC laws. To become part of the activities in your state:

**FIND OUT YOUR STATE'S BAC LIMIT, AND WHETHER THERE IS AN ILLEGAL PER SE LAW, BY CALLING YOUR GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE, YOUR LOCAL SAFETY COUNCIL OR YOUR LOCAL MADD CHAPTER (SEE RESOURCE SECTION);**

**IF YOUR STATE DOESN'T HAVE AN ILLEGAL PER SE LAW OF .08, CONTACT EXISTING GRASSROOTS AND GOVERNMENT ORGANIZATIONS INVOLVED IN PREVENTION EFFORTS TO FIND OUT HOW YOU CAN HELP;**

**JOIN OR HELP FORM A COALITION TO SUPPORT LEGISLATIVE EFFORTS IN YOUR STATE TO LOWER THE BAC LIMIT;**

**SPREAD THE WORD ABOUT THE IMPORTANCE OF .08 LAWS, THROUGH NEWSLETTER ARTICLES, PRESS RELEASES, CONFERENCES, SPEECHES TO LOCAL ORGANIZATIONS, ETC.; COOPERATE WITH STATE HIGHWAY AND PUBLIC HEALTH AGENCIES TO DRAW ATTENTION TO YOUR EFFORT;**

**LET YOUR GOVERNOR AND STATE LEGISLATORS KNOW ABOUT THE EFFECTIVENESS OF .08 LAWS IN SAVING LIVES AND TAXPAYER DOLLARS.**

**A MADD/GALLUP POLL FOUND THAT THE VAST MAJORITY OF THE AMERICAN PUBLIC CONSIDERS DRUNK DRIVING THE NUMBER ONE MAJOR HIGHWAY SAFETY PROBLEM AND MOST SUPPORT TOUGH LAWS AND SANCTIONS TO REDUCE IMPAIRED DRIVING.**

Contact information on these and other organizations is available in the appendix. Here are just a few suggestions:

**Campaign Safe and Sober** – The National Highway Traffic Safety Administration publishes a quarterly planner with useful facts, tips and suggestions for state and community-based highway safety programs, particularly in the area of impaired driving, occupant protection and speed. For copies of past planners or to receive future quarterly planners, contact your NHTSA Regional Administrator.

**Drunk and Drugged Driving (3D) Prevention Month Program Planner** – The annual 3D planner is chock full of ideas and helpful information on organizing grassroots efforts around the December 3D Month as well as other times of the year. The planner is produced by NHTSA in cooperation with a national coalition of anti-drunk driving organizations and is available through your NHTSA Regional Administrator.

**Mothers Against Drunk Driving** – MADD offers many resources to local activists through chapters in every state, including Impaired Driving Issues Workshops, publications and training materials, victim support services, and community programs such as Project MADD Ribbon, Operation Prom/Graduation and Team Spirit. Contact your local MADD chapter or the national office.

**National Safety Belt Coalition** – Although not directly involved in impaired driving issues, the Coalition and its parent organization, the National Safety Council, have published several useful books for local organizers, including *Patterns for Partnerships – A Guide to Creating and Nurturing Grassroots Coalitions* and *Building Traffic Safety Partnerships – A Guide for State Highway Safety Professionals to Work with Local Government Associations*.

## “What the Hospitality Industry Can Do”

The restaurant and hospitality industries have plenty of incentives to bring customers into their establishments while helping reduce the risk of impaired driving. Here are some of the ideas many establishments already have used successfully:

**PROMOTING DESIGNATED DRIVER PROGRAMS BY PROVIDING FREE OR REDUCED-PRICE NON-ALCOHOLIC BEVERAGES AND FOOD TO DESIGNATED DRIVERS;**

**PROMOTING NON-ALCOHOLIC BEVERAGES AND WINES;**

**PROVIDING FREE RIDES HOME TO DRIVERS WHO APPEAR IMPAIRED (OR PARTICIPATING IN AND PROMOTING FREE RIDE PROGRAMS SPONSORED BY SAFETY GROUPS, TAXI COMPANIES, ETC.);**

**ENGAGING IN RESPONSIBLE ALCOHOL SERVICE BY TRAINING SERVERS, MAKING FOOD AVAILABLE TO PATRONS, NOT SERVING INTOXICATED CUSTOMERS, OR THOSE UNDER THE AGE OF 21.**



## SECTION 7

# Law Enforcement

## *Enforcing .08*

One of the arguments used against .08 is the impact on the law enforcement and judicial system. However, when the largest state, California, lowered the BAC limit to .08, there was little impact on court administrators or judges.

The main impact in California has been on prosecutors' decisions concerning whether or not cases should be filed. Previously, those arrested for DWI with BACs below .12 typically were allowed to plea to reduced charges. Since the limit was changed, this plea-bargain "cut off" has dropped to about .10 BAC. No increases were reported in the proportion of DWI defendants pleading guilty, requesting jury trials, or appealing convictions.

## *Quick and Easy Testing*

Modern breath analysis equipment is easy to use during a roadside stop, whether the legal limit is .08 or any other limit. The devices are small enough and inexpensive enough that every patrol car on traffic duty can be equipped with one. Law enforcement officers can administer the test quickly and easily, without the driver even leaving the car. If the preliminary breath test shows the person is not impaired, motorists can be on their way and police can continue their duties. .08 does not change the fact that law enforcement officers can conduct these roadside tests quickly and easily.

## *Law Enforcement Supports .08*

.08 is supported by law enforcement organizations, including two of the largest: the International Association of Chiefs of Police and the National Sheriffs' Association. These organizations and others like them would not support a law that is unenforceable, ineffective or burdensome on police officers.

## *Treatment Can Help*

Medical treatment programs for repeat offenders – and sometimes even first time offenders – have become an increasingly popular part of the sentencing process. Some states require certain treatments while others recommend but do not require them.

This leads to concern that programs will be overcrowded with long waiting lists. Most safety organizations recommend that impaired driving programs be self-supporting. Fines and fees paid by offenders should cover the cost of all sentencing, including treatment for alcoholism or alcohol abuse. This reduces the burden on taxpayers while helping to ensure that offenders get the help they need.

Medical treatment for impaired drivers, whether required by law or ordered at the discretion of a judge, correctly positions impaired driving as a public health problem. .08 laws do not contribute to burdens on society but help to identify those with a problem and get them into programs to reduce the chance they will eventually kill or injure themselves or someone else.

**.08 IS SUPPORTED  
BY LAW  
ENFORCEMENT  
ORGANIZATIONS ...  
[GROUPS THAT]  
WOULD NOT  
SUPPORT A  
LAW THAT IS  
UNENFORCEABLE,  
INEFFECTIVE OR  
BURDENSOME ON  
POLICE OFFICERS.**

## SECTION 8

## Summary

*.08 is Reasonable*

.08 is a reasonable BAC level. A .08 BAC is not reached with a couple of beers after work or a glass or two of wine with dinner. The public supports .08, and surveys show that most people would not drive after consuming two or three drinks.

*.08 Works*

As a public health initiative and a traffic safety policy, .08 works and works well, especially in combination with other laws and programs. A .08 BAC *per se* law will:

- INCREASE THE ARREST AND CONVICTION RATES FOR IMPAIRED DRIVERS AT .10 AND ABOVE;
- RAISE THE PERCEIVED RISK OF ARREST FOR DRIVING AFTER DRINKING;
- IMPROVE PUBLIC AWARENESS ABOUT HOW MUCH ALCOHOL IT TAKES TO BE DANGEROUSLY IMPAIRED; AND
- BRING THE U.S. CLOSER TO *PER SE* LIMITS OF MOST INDUSTRIALIZED NATIONS.

*.08 Could Save Your Life*

If every state adopted a .08 *per se* law, hundreds of lives could be saved every year, with thousands of injuries prevented and millions of dollars saved. But even more important would be all the extra birthday candles that would get blown out, the graduation ceremonies that would be attended, the weddings that would be celebrated and the millions of everyday smiles that would be exchanged.

No one will ever know if they or one of their loved ones will be the next victim of impaired driving, just as no one will ever know if they are the one who was spared thanks to good public policy. .08 is sensible, reasonable and effective. It's time to adopt .08 in every state.

IF EVERY STATE  
ADOPTED A .08 PER  
SE LAW, HUNDREDS  
OF LIVES COULD BE  
SAVED EVERY YEAR,  
WITH THOUSANDS  
OF INJURIES  
PREVENTED AND  
MILLIONS OF  
DOLLARS SAVED.

## APPENDIX A

# Facts on The Impaired Driving Problem

According to the US Department of Transportation's Fatality Analysis Reporting System and the National Highway Traffic Safety Administration's National Center for Statistical Analysis:

- In 1998, 41,471 people were killed in highway crashes. Another 3 million were injured. These crashes cost society \$150 billion every year.
- Of those killed on our highways in 1998, 15,935 died in alcohol-related crashes (38%).
- Approximately one million people are injured in alcohol-related traffic crashes annually.
- Alcohol involvement is the single greatest factor in motor vehicle deaths and injuries. While about 5% of all crashes involve the use of alcohol, 38% of fatal crashes do.
- Anti-impaired driving efforts work. From 1988 to 1998, alcohol-related fatalities dropped 33%. This drop is generally attributed to stronger laws, tougher enforcement, and good consumer education.
- Among all drivers involved in fatal crashes in 1998, 23% had been drinking.
- Many states now are lowering the BAC defining impaired driving from .10 to .08. A BAC as low as .02 has been shown to affect driving ability and crash likelihood.
- The probability of a crash increases significantly at .05 and even more rapidly at .08.
- Among drivers with BACs above .15 on weekend nights, the likelihood of death in a single-vehicle crash is more than 380 times higher than it is for nondrinking drivers.
- The highest proportion of driver deaths involving BACs at or above .08 in 1998 occurred in passenger vehicles. The group of drivers with the lowest proportion was tractor-trailer drivers.
- In 1998, 29 percent of all fatal crashes during the week were alcohol-related, compared to 52 percent on weekends. For all crashes, the alcohol involvement rate was 5 percent during the week and 12 percent during the weekend.
- The highest rates of drivers involved in fatal crashes in 1998 with BACs at or above .10 were recorded for drivers 21-24 years old (28 percent), followed by ages 25-34 (24 percent) and 35-44 (21 percent).

## Facts on the Economic Issues

According to the National Highway Traffic Safety Administration:

- In 1998, 41,471 people were killed in highway crashes. Another 3 million were injured.
- Motor vehicle crashes cost society \$150 billion each year in emergency and acute health care costs, long-term care and rehabilitation, police and judicial services, insurance, disability and workers compensation, lost productivity, and social services for those who cannot return to work and support their families.
- Alcohol-related crashes cost society over \$45 billion every year. Just one alcohol-related fatality is estimated to cost society about \$950,000. Each alcohol-related injury averages about \$20,000.
- Almost a quarter of first-year medical costs for persons hospitalized as a result of a crash are paid by tax dollars, about two-thirds through Medicaid and one-third through Medicare.
- Employers pay for approximately half the cost of motor vehicle crashes, through insurance, disability, worker's compensation, and lost productivity. Eventually, we all bear the costs through tax-payer supported services and programs, higher insurance costs, and higher prices on goods and services.

According to a 1994 study by economist Ted R. Miller of the National Public Services Research Institute:

- *The indirect costs of alcohol-related crashes (pain, suffering and lost quality of life) increase the toll for alcohol-related crashes to \$134 billion a year.*
- *Alcohol-related crashes cost society \$1.00 per drink or \$2.20 per ounce of alcohol consumed. This figure includes drinks consumed in the home.*
- *Crash costs are \$5.54 for every mile driven drunk. This includes \$2.34 to people other than the drunk driver. By comparison, crash costs are \$.10 per mile driven while sober.*
- *Alcohol-related crashes account for 19% of auto insurance payments in 1993 (a decline from 26% in 1990).*
- *A drunk driving crash costs each innocent victim \$36,000. Comparable crime costs per victim are: assault – \$30,000; robbery – \$16,000; motor vehicle theft – \$4,000. Yet, the drunk driving crash is the only one of these crimes that is often not considered a felony upon the first offense.*

## The Facts About .08

- A law making .08 BAC the legal limit is a reasonable, sensible approach to the problem of impaired driving.
- .08 laws increase the arrest and conviction rates for impaired drivers at .10 and above while raising the perceived risk of arrest for driving after drinking.
- .08 laws raise public awareness about how much alcohol it takes to be dangerously impaired.
- Most other industrial nations already set their legal limit at .08 or lower.
- Supporters of .08 BAC laws include federal and state agencies, consumer and victim's organizations, highway safety groups, law enforcement organizations, medical and public health groups, insurance companies and other business interests, and many others.
- According to a recent poll by the Gallup Organization for Mothers Against Drunk Driving, 97% of Americans believe drunk driving is a major highway safety problem.
- If every state had adopted a .08 *per se* law in 1997, instead of the 15 states that had .08 laws, an additional 590 lives could have been saved, according to a recent study conducted by researchers at the Pacific Institute for Research and Evaluation.
- It takes about 3-4 drinks in one hour on an empty stomach to reach a .08 BAC. This does not affect the casual, social drinker who may have a couple of beers after work or a glass or two of wine with dinner once in a while.
- On average, alcohol metabolizes in the body and dissipates from the blood at a rate of about .015 BAC per hour.
- At .08, virtually all drivers are impaired to the point that critical driving skills such as reaction time, attention, tracking, and comprehension are degraded.

## What You Can Do About Impaired Driving

Mothers Against Drunk Driving (MADD) offers the following suggestions to help fight impaired driving:

- *Your best defense against a drunk driver is to wear your safety belt and be sure children are properly secured in child safety seats.*
- *Be a responsible host. Serve food and have non-alcoholic drinks available. Don't let your guests drive after drinking alcohol and never serve alcohol to someone under the age of 21.*
- *Write letters to the editor of local newspapers expressing your concern over drunk driving and underage drinking in your community.*
- *Never ride in a car operated by someone who has been drinking - call a cab or ask a friend to drive you home.*
- *Support measures to strengthen drunk driving and victims rights laws by contacting elected officials.*
- *Report drunk drivers immediately to area law enforcement from a car phone or pay phone with the license plate number, description of the vehicle, and the direction in which it was traveling. Keep a safe distance from anyone driving erratically and do not try to intervene yourself.*

If you or someone you love becomes the victim of a drunk driving crash, call 800-GET-MADD or your local MADD chapter for victim assistance and support.

## APPENDIX B

## Resources

*The Federal Government*

The National Highway Traffic Safety Administration (NHTSA), an agency of the US Department of Transportation, is responsible for anti-impaired driving and other highway safety programs. NHTSA maintains statistics and fact sheets, and provides information to the media, grassroots organizations, other government agencies, and the general public. Check out their homepage on the World Wide Web (<http://www.nhtsa.dot.gov>) for more information about the agency's services and publications, as well as highway safety facts.

NHTSA also has ten regional offices to serve the safety community and the general public. The NHTSA regional administrator that serves your state is a great resource for those working to fight impaired driving.

**NHTSA Region I**

*(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont)*

Volpe National Transportation Systems Center  
Kendall Square, Code 903  
Cambridge, MA 02142  
Phone 617/494-3427  
Fax 617/494-3646

**NHTSA Region II**

*(New Jersey, New York, Puerto Rico, Virgin Islands)*

222 Mamaroneck Avenue, Suite 204  
White Plains, NY 10605  
Phone 914/682-6162  
Fax 914/682-6239

**NHTSA Region III**

*(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)*

10 South Howard Street, Suite 4000  
Baltimore, MD 21201  
Phone 410/962-0077  
Fax 410/962-2710

**NHTSA Region IV**

*(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)*

Atlanta Federal Center  
61 Forsyth Street, Suite 17T30  
Atlanta, GA 30303  
Phone 404/562-3739  
Fax 404/562-3763

**NHTSA Region V**

*(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)*

19900 Governor Drive, Suite 201  
Olympia Fields, IL 60461  
Phone 708/503-8822  
Fax 708/503-8991

**NHTSA Region VI**

*(Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Indian Nations)*

819 Taylor Street, Room 8A38  
Fort Worth, TX 76102  
Phone 817/334-3653  
Fax 817/334-8339

**NHTSA Region VII**

*(Iowa, Kansas, Missouri, Nebraska)*

901 Locust Street  
Kansas City, MO 64106  
Phone 816/329-3900  
Fax 816/329-3910

**NHTSA Region VIII**

*(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)*

555 Zang Street, 4th Floor  
Lakewood, CO 80228  
Phone 303/969-6917  
Fax 303/969-6294

**NHTSA Region IX**

*(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands)*

201 Mission Street, Suite 2230  
San Francisco, CA 94105  
Phone 415/744-3089  
Fax 415/744-2532

**NHTSA Region X***(Alaska, Idaho, Oregon, Washington)*

3140 Jackson Federal Building  
 915 Second Street  
 Seattle, WA 98174  
 Phone 206/220-7640  
 Fax 206/220-7651

Two other federal agencies are also good sources of information:

**National Clearinghouse for Alcohol and Drug Information**  
**Center for Substance Abuse Prevention**  
 US Department of Health and Human Services  
 PO Box 2345  
 Rockville, MD 20847-2345  
 Phone: 800/729-6686  
 Web site: <http://www.health.org>

**National Transportation Safety Board**  
 490 L'Enfant Plaza, SW  
 Washington, DC 20594  
 Phone: 202/314-6000  
 Web site: <http://www.nts.gov>

**State Governments**

Each governor appoints a highway safety representative to manage the state's highway safety program, including administration of the federal Highway Safety Community Grant program. The governor's representative also serves as a liaison between the governor and the highway safety community. These professionals and their staffs are a great resource on all highway safety issues, particularly impaired driving. The governor's representatives have a national organization in Washington:

**National Association of Governors' Highway Safety Representatives**  
 750 First Street, NE, Suite 720  
 Washington, DC 20002  
 Phone: 202/789-0942  
 Fax: 202/789-0946

The following are the offices of the governors' highway safety representatives:

**Alabama Department of Economic & Community Affairs**  
**Law Enforcement/Traffic Safety Division**  
 PO Box 5690  
 Department of Economic & Community Affairs  
 401 Adams Avenue, Suite 580  
 Montgomery, AL 36103-5690  
 Phone: 334/242-5803  
 Fax: 334/242-0712

**Highway Safety Planning Agency**  
 Alaska Department of Public Safety  
 PO Box 111200  
 Juneau, AK 99811-1200  
 Phone: 907/465-4374  
 Fax: 907/463-5860

**Governor's Representative/Commissioner of Public Safety**  
**American Samoa Government**  
 PO Box 1086  
 Pago Pago, AS 96799  
 Phone: 011-684-633-1111  
 Fax: 011-684-633-5111

**Governor's Office of Community and Highway Safety**  
**Arizona Department of Public Safety**  
 3030 North Central, Suite 1550  
 Phoenix, AZ 85012  
 Phone: 602/255-3216  
 Fax: 602/255-1265

**Highway Safety Program**  
**Arkansas Highway & Transportation Department**  
 PO Box 2261  
 11300 Baseline Road  
 Little Rock, AR 72203  
 Phone: 501/569-2648  
 Fax: 501/569-2651

**Office of Traffic Safety California Business, Transportation, & Housing Agency**  
 7000 Franklin Boulevard, Suite 440  
 Sacramento, CA 95823  
 Phone: 916/262-0990  
 Fax: 916/262-2960

**Colorado Office of Transportation Safety**  
**Department of Transportation**  
 Headquarters Complex  
 4201 East Arkansas Avenue  
 Denver, CO 80222  
 Phone: 303/757-9381  
 Fax: 303/757-9439

**Division of Highway Safety**  
**Connecticut Department of Transportation**  
 2800 Berlin Turnpike  
 PO Box 3,7546  
 Newington, CT 06131-7546  
 Phone: 860/594-2363  
 Fax: 860/594-2374

**Office of Highway Safety**  
**Delaware Department of Public Safety**  
 PO Box 1321  
 Dover, DE 19903-1321  
 Phone: 302/739-3295  
 Fax: 302/739-5995

**Transportation Safety Branch**  
**DC Department of Public Works**  
 2000 14th Street, NW, 7th Floor  
 Washington, DC 20009  
 Phone: 202/939-8018  
 Fax: 202/939-7185

**Safety Office Florida Department of Transportation**

605 Suwannee Street, MS 53  
Tallahassee, FL 32399-0450  
Phone: 904/488-3546  
Fax: 904/922-2935

**Georgia Governor's Office of Highway Safety**

1 Park Tower  
34 Peach Tree Street, Suite 1600  
Atlanta, GA 30303  
Phone: 404/656-6996  
Fax: 404/651-9107

**Highway Safety Coordinator**

Guam Department of Public Works  
PO Box 2950  
Agana, GU 96910  
Phone: 011-671-646-3211  
Fax: 011-671-649-3733

**Operator Assisted Calls: 01-671-646-3211****Motor Vehicle Safety Office**

Hawaii Department of Transportation  
601 Kamokila Boulevard, Suite 511  
Kapolei, HI 96707  
Phone: 808/692-7650  
Fax: 808/692-7665

**Office of Highway Safety**

Idaho Transportation Department  
PO Box 7129, 3311 West State Street  
Boise, ID 83707-1129  
Phone: 208/334-8101  
Fax: 208/334-3858

**Division of Traffic Safety**

Illinois Department of Transportation  
PO Box 19245  
3215 Executive Park Drive  
Springfield, IL 62794-9245  
Phone: 217/782-4972  
Fax: 217/782-9159

**Indiana Governor's Council on Impaired and Dangerous Driving**

150 West Market Street, Suite 330  
Indianapolis, IN 46204  
Phone: 317/232-1299  
Fax: 317/232-5150

**Indian Highway Safety Program**

Bureau of Indian Affairs  
Department of the Interior  
PO Box 2006  
Albuquerque, NM 87103  
Phone: 505/248-5053  
Fax: 505/248-5064

**Governor's Traffic Safety Bureau**

Iowa Department of Public Safety  
307 East 7th Street  
Des Moines, IA 50319-0248  
Phone: 515/281-3907  
Fax: 515/281-6190

**Kansas Bureau of Traffic Safety**

Thacher Building, 2nd Floor  
217 S.E. 4th  
Topeka, KS 66603-3504  
Phone: 913/296-3756  
Fax: 913/291-3010

**Highway Safety Standards Branch**

Kentucky State Police Headquarters  
919 Versailles Road  
Frankfort, KY 40601  
Phone: 502/695-6356  
Fax: 502/573-1634

**Highway Safety Commission**

Louisiana Department of Public Safety  
PO Box 66336  
Baton Rouge, LA 70896  
Phone: 504/925-6991  
Fax: 504/922-0083

**Bureau of Highway Safety**

Maine Department of Public Safety  
164 State House Station  
Augusta, ME 04333  
Phone: 207/624-8756  
Fax: 207/624-8768

**Northern Mariana Islands**

Department of Public Safety  
PO Box 791  
Saipan, M.P. 96950  
Phone: 011-670-034-6505  
Fax: 011-670-234-8531

**Office of Traffic & Safety**

Maryland State Highway Administration  
7491 Connelley Drive  
Hanover, MD 21076  
Phone: 410/787-5822  
Fax: 410/787-5823

**Massachusetts Governor's Highway Safety Bureau**

100 Cambridge Street, Room 2104  
Boston, MA 02202  
Phone: 617/727-5073  
Fax: 617/727-5077

**Michigan Office of Highway Safety Planning**

4000 Collins Road, PO Box 30633  
Lansing, MI 48909-8133  
Phone: 517/333-5291  
Fax: 517/333-5756

**Office of Traffic Safety**

Minnesota Department of Public Safety  
Town Square, Suite 100-B  
444 Cedar Street  
St. Paul, MN 55101-2128  
Phone: 612/296-3804  
Fax: 612/297-4844

**Highway Safety Office**

Mississippi Department of Public Safety  
PO Box 23039  
401 North West Street, 8th Floor  
Jackson, MS 39225-3039  
Phone: 601/359-7842  
Fax: 601/359-7832

**Missouri Division of Highway Safety**

PO Box 104808  
Jefferson City, MO 65110-4808  
Phone: 573/751-7643  
Fax: 573/634-5977

**Highway Traffic Safety**  
**Montana Department of Justice**  
 P.O. Box 201001  
 2701 Prospect Avenue, Room 109  
 Helena, MT 59620-1001  
 Phone: 406/444-3412  
 Fax: 406/444-7303

**Office of Highway Safety**  
**Nebraska Department of Motor Vehicles**  
 PO Box 94612  
 301 Centennial Mall South  
 Lincoln, NE 68509-4789  
 Phone: 402/471-3900  
 Fax: 402/471-3865

**Office of Traffic Safety Nevada Department of**  
**Motor Vehicles & Public Safety**  
 555 Wright Way  
 Carson City, NV 89711-0900  
 Phone: 702/687-3243  
 Fax: 702/687-5328

**New Hampshire Highway Safety Agency**  
 Pine Inn Plaza  
 117 Manchester Street  
 Concord, NH 03301  
 Phone: 603/271-2131  
 Fax: 603/271-3790

**Division of Highway Traffic Safety**  
**New Jersey Dept. of Law & Public Safety, CN 048**  
 225 East State Street  
 Trenton, NJ 08625  
 Phone: 609/633-9300  
 Fax: 609/633-9020

**Traffic Safety Bureau New Mexico State Highway &**  
**Transportation Department**  
 PO Box 1149  
 Santa Fe, NM 87504-1149  
 Phone: 505/827-0429  
 Fax: 505/827-0431

**New York State Governor's Traffic Safety Committee**  
 Empire State Plaza, Swan St. Bldg., Room 521  
 Albany, NY 12228  
 Phone: 518/474-0858  
 Fax: 518/473-0041

**North Carolina Governor's Highway Safety Program**  
 215 East Lane Street  
 Raleigh, NC 27601  
 Phone: 919/733-3083  
 Fax: 919/733-0604

**Driver Licensing & Traffic Safety**  
**North Dakota Department of Transportation**  
 608 East Boulevard Avenue  
 Bismarck, ND 58505-0700  
 Phone: 701/328-2601  
 Fax: 701/328-4545

**Office of the Ohio Governor's Highway Safety**  
**Representative**  
 PO Box 182081  
 1970 W. Broad Street  
 Columbus, OH 43218-2081  
 Phone: 614/466-3250  
 Fax: 614/466-0433

**Highway Safety Office**  
**Oklahoma Department of Public Safety**  
 3223 N. Lincoln  
 Oklahoma City, OK 73105  
 Phone: 405/521-3314  
 Fax: 405/524-4906

**Transportation Safety Section**  
**Oregon Department of Transportation**  
 555 13th Street, N.E.  
 Salem, OR 97310-1333  
 Phone: 503/986-4192  
 Fax: 503/986-4189

**Pennsylvania Bureau of Highway & Traffic Engineering**  
 555 Walnut Street, 7th Floor, Forum Place  
 Harrisburg, PA 17105-2047  
 Phone: 717/787-7350  
 Fax: 717/783-8012

**Traffic Safety Commission**  
**Puerto Rico Department of Public Works**  
 Box 41289, Minillas Station  
 Santurce, PR 00940  
 Phone: 809/723-3590  
 Fax: 809/727-0486

**Rhode Island Governor's Office of Highway Safety**  
 345 Harris Avenue  
 Providence, RI 02909  
 Phone: 401/277-3024  
 Fax: 401/277-2086

**South Carolina Department of Public Safety**  
**Office of Safety & Grants**  
 5400 Broad River Road  
 Columbia, SC 29210  
 Phone: 803/896-7896  
 Fax: 803/896-8393

**South Dakota Office of Highway Safety**  
 118 West Capital  
 Pierre, SD 57501  
 Phone: 605/773-4493  
 Fax: 605/773-6893

**Tennessee Governor's Highway Safety Program**  
**Department of Transportation**  
 505 Deaderick Street, Suite 600  
 James K. Polk State Office Bldg.  
 Nashville, TN 37243-0341  
 Phone: 615/741-7590  
 Fax: 615/741-9673

**Traffic Operations Division**  
**Texas Department of Transportation**  
 125 E. 11th Street  
 Austin, TX 78701-2483  
 Phone: 512/416-3167  
 Fax: 512/416-3349

**Utah Department of Public Safety**  
**Highway Safety Office**  
 5263 South 300 West, Suite 202  
 Salt Lake City, UT 84107  
 Phone: 801/293-2481  
 Fax: 801/293-2498

**Governor's Highway Safety Program**  
**Vermont Department of Public Safety**  
 103 South Main Street  
 Waterbury, VT 05671-2101  
 Phone: 802/244-1317  
 Fax: 802/244-1106

**Virginia Department of Motor Vehicles  
Transportation Safety Office**  
PO Box 27412  
2300 West Broad Street  
Richmond, VA 23269  
Phone: 804/367-8140  
Fax: 804/367-6631

**Governor's Representative  
Virgin Islands Office of Highway Safety**  
Lagoon Street Complex, Fredricksted  
St. Croix, VI 00840  
Phone: 809/776-5820  
Fax: 809/772-2626

**Washington Traffic Safety Commission**  
PO Box 40944  
1000 South Cherry Street  
Olympia, WA 98504-0944  
Phone: 360/733-6197  
Fax: 360/586-6489

**Governor's Highway Safety Program West Virginia  
Criminal Justice & Highway Safety Division**  
Capitol Complex, Building 3, Room 118  
Charleston, WV 25301  
Phone: 304/558-6080  
Fax: 304/558-0391

**Bureau of Transportation Safety  
Wisconsin Department of Transportation**  
PO Box 7936  
4802 Sheboygan Avenue, Room 809  
Madison, WI 53707  
Phone: 608/266-0402  
Fax: 608/267-0441

**Highway Safety Program  
Wyoming Transportation Department**  
PO Box 1708  
Cheyenne, WY 82003-1708  
Phone: 307/777-4450  
Fax: 307/777-4250

## The Private Sector

The National Safety Council, with chapters all over the country, can provide information on a wide range of occupational, home and traffic safety issues. The Council produces dozens of publications and provides services and educational opportunities in these areas.

**National Safety Council**  
1121 Spring Lake Drive  
Itasca, IL 60143  
Phone: 630/285-1121  
Fax: 630/285-1315  
Web site: <http://www.nsc.org>

Mothers Against Drunk Driving is a non-profit, grass roots organization with more than 400 chapters nationwide. It "is not a crusade against alcohol consumption;" its focus is "to look for effective solutions to the drunk driving and underage drinking problems, while supporting those who have already experienced the pain of these senseless crimes." To join, find a chapter in your area or for more information, contact the National Office at:

**Mothers Against Drunk Driving**  
511 E. John Carpenter Freeway, #700  
Irving, Texas 75062  
Phone: 214/744-MADD (6233)  
Fax: 972/869-2206/2207  
Web site: <http://www.madd.org>

Other private sector groups may be helpful. Here is a list of some of the national organizations that support .08 BAC laws.

**Advocates for Highway and Auto Safety**  
750 First Street, NE, Suite 901  
Washington, DC 20002  
Phone: 202/408-1711  
Web site: <http://www.saferoads.org>

**American Automobile Association**  
1000 AAA Drive  
Healthrow, FL 32746  
Phone: 407/444-7000  
Web site: <http://www.aaa.com>

**American Automobile Manufacturers Association**  
1401 H Street, NW, Suite 900  
Washington, DC 20005  
Phone: 202/326-5500  
Web site: <http://aama.com>

**American Coalition for Traffic Safety**  
1110 N. Glebe Road, Suite 1020  
Arlington, VA 22201  
Phone: 703/243-7501

**American Insurance Association**  
1130 Connecticut Avenue, Suite 1000  
Washington, DC 20036  
Phone: 202/828-7100  
Web site: <http://www.aiadc.org>

**American Medical Association**  
515 North State Street  
Chicago, IL 60610-4379  
312/464-5000  
Web site: <http://www.ama-assn.org>

**Insurance Institute for Highway Safety**  
1005 North Glebe Road  
Arlington, VA 22201  
Phone: 703/247-1500  
Web site: <http://www.hwysafety.org>

**International Association of Chiefs of Police**  
515 North Washington Street  
Alexandria, VA 22314  
Phone: 703/836-6767  
Web site: <http://www.theiacp.org>

**National Commission Against Drunk Driving**  
1900 L Street NW, Suite 705  
Washington, DC 20036  
Phone: 202/452-6004  
Web site: <http://www.ncadd.com>

**Remove Intoxicated Drivers (RID)**  
PO Box 520  
Schenectady, NY 12301  
Phone: 518/393-4357  
Web site: TBA

**Students Against Destructive Decisions (SADD)**  
PO Box 800  
Marlboro, MA 01752  
Phone: 508/481-3568  
Web site: [www.sadd.org](http://www.sadd.org)

## APPENDIX C

## Model Law

The Uniform Vehicle Code, published by the National Committee on Uniform Traffic Laws and Ordinances, is a document developed by transportation and highway safety professionals to serve as a guideline for those developing state motor vehicle legislation. Inclusion of this model law here should not be interpreted as a formal endorsement by the National Safety Council or the National Highway Traffic Safety Administration. The entire Uniform Vehicle Code is available on the World Wide Web at <http://www.ncutlo.org>.

## CHAPTER 11 - Rules of the Road

## ARTICLE IX – SERIOUS TRAFFIC OFFENSES

## 11-902 – Driving while under the influence of alcohol or drugs

(a) A person shall not drive or be in actual physical control of any vehicle while:

1. The alcohol concentration in such person's blood or breath is 0.08 or more based on the definition of blood and breath units in [Section 11-903(a)(5)].

Optional 1. The alcohol concentration in such person's blood or breath as measured within three hours of the time of driving or being in the actual physical control is 0.08 or more based on the definition of blood and breath units in [Section 11-903]. If proven by a preponderance of evidence, it shall be an affirmative defense to violation of this subsection that the defendant consumed a sufficient quantity of alcohol after the time of driving or actual physical control of a

vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to be 0.08 or more. The foregoing provision shall not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than three hours after such alleged violation.

2. Under the influence of alcohol;

3. Under the influence of any other drug or combination of other drugs to a degree which renders such person incapable of safely driving; or

4. Under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving.

(b) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drug shall not constitute a defense against any charge of violating this section.

(c) In addition to the provisions of [Section 11-904], every person convicted of violating this section shall be punished by imprisonment for not less than 10 days or more than one year, or by fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment and on a second or subsequent conviction, such person shall be punished by imprisonment for not less than 90 days nor more than one year, and, in the discretion of the court, a fine of not more than \$1,000.

## ACKNOWLEDGMENTS

This publication was written by Katherine R. Hutt, APR, President of Nautilus Communications, designed by Bobbi Kittner, principal of Kittner Design, and edited by Jane Roemer, Director of Public Policy, and Laura Wilkinson, Public Policy Associate, of the National Safety Council. Special thanks to the National Highway Traffic Safety Administration for their support of this project, especially James C. Fell, Chief of the Research and Evaluation Division, Kay Chopard, Highway Safety Specialist and Sue Ryan, Chief of the Impaired Driving Division.

## Bibliography

*Traffic Safety Facts: Alcohol 1998, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, 1999.*

*"Lowering State Legal Blood Alcohol Limits to 0.08%: The Effect on Fatal Motor Vehicle Crashes," by Ralph Hingson, Sc.D., Timothy Heeren, Ph.D. and Michael Winter, M.P.H., Social and Behavioral Science Department and Department of Epidemiology and Biostatistics, Boston University, as published in American Journal of Public Health, September 1996.*

*.08 BAC Limit Saves Lives – Why Every State Needs a .08 BAC Law (brochure); National Safety Council, Natick, MA, and National Highway Traffic Safety Administration, Washington, DC; 1994.*

*.08 BAC Illegal Per Se Level (State Legislative Fact Sheet); National Highway Traffic Safety Administration, Washington, DC; September 1996.*

*.08 – Save Lives in Your State, 11-minute video produced by USAA, San Antonio, TX, for the National Highway Traffic Safety Administration, Washington, DC; 1985.*

*The Effects Following the Implementation of an 0.08 BAC Limit and an Administrative Per Se Law in California, National Highway Traffic Safety Administration (DOT HS 807 777), August 1991.*

*Mothers Against Drunk Driving, fact sheets (various)*

*Mothers Against Drunk Driving, press release dated September 20, 1996.*

*"The Impact of Lowering the Illegal BAC Limit to .08 in Five States in the U.S.," by Delmas Johnson and James Fell, National Highway Traffic Safety Administration, Washington, DC, 39th Annual Proceedings of the Association for the Advancement of Automotive Medicine, Chicago, IL, October 16-18, 1995.*

*Too Impaired to Drive?, 12-minute video on impairment at .08 BAC by USAA, San Antonio, TX, for the National Highway Traffic Safety Administration, Washington, DC, 1999.*

*The Relationship of Alcohol Safety Laws to Drinking Drivers in Fatal Crashes, by Robert B. Voas and A. Scott Tippetts, Pacific Institute for Research and Evaluation, Bethesda, MD, for the National Highway Traffic Safety Administration, April, 1999.*

*The Effects of .08 BAC Laws, by Robert Apsler, A.R. Choat, and Wayne M. Harding, Rainbow Technology, and Terry M. Klein, National Highway Traffic Safety Administration, March, 1999, DOT HS 808 892.*

*Evaluation of the Effects of North Carolina's .08 BAC Law, by Robert D. Foss, J. Richard Stewart, and Donald W. Reinfort, Highway Safety Research Center, University of North Carolina, for the National Highway Traffic Safety Administration, March, 1999.*

*Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 Percent, by Jack W. Stuster and Marcelline Burns, Anacapa Science, Santa Barbara, CA, for the National Highway Traffic Safety Administration, August 1998, DOT HS 808 839.*

*Effectiveness of State .08 Blood Alcohol Laws, General Accounting Office (GAO) Report to Congressional Committees, June 1999, GAO/RCED-99-179.*

*A Review of the Scientific Literature Regarding the Effects of Alcohol on Driving-Related Behavior at Blood Alcohol Concentration of 80 mg/dl and Lower, by Herbert Moskowitz and Dary Fiorentino, Southern California Research Institute, for the National Highway Traffic Safety Administration, 1999, in press.*

*Alcohol-Related Relative Risk of Driver Fatalities and Driver Involvement in Fatal Crashes in Relation to Age and Sex: An Update Using 1996 Data, by Paul Zador and Sheila Krawchuk of Westat, Olinc, and Robert B. Voas of Pacific Institute for Research and Evaluation, May 1999, in press.*

*Driver Characteristics and Impairment at Various BACs, by Herbert Moskowitz, et al, Southern California Research Institute, for the National Highway Traffic Safety Administration, 1999, in press.*

**For additional copies of this publication please contact NHTSA at (202) 366-2727.**



**National  
Safety  
Council**



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



**NSC #82353-0000**

**DOT HS 808 524  
Revised December 1999**

Printed In the U.S.A.

Full report: <http://www.ci.anchorage.ak.us/mayor/>

# Final Report of the DUI Prevention Task Force



Municipality of Anchorage

October 30, 2000

# Table of Contents

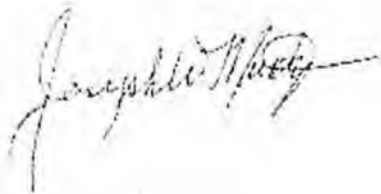
Statement of Intent	2
Executive Summary	3
Summary of Task Force Recommendations	5
Recommendations	
State and Municipal Legislative Enforcement	7 17
Other Government Programs	20
Public/Private Organizations	23
Addendum	24
Subcommittee Reports & Recommendations	
Alternative Solutions	25
Court	30
Current Laws, Enforcement & Sentencing	35
Discussion Points for Work Sessions	39
Minutes of Work Sessions	
September 25, 2000	44
October 2, 2000	47
October 9, 2000	51
October 30, 2000	53

October 30, 2000

## Statement of Intent

The intent of this DUI Task Force has been to fashion realistic recommendations that fulfill its mandate to advise the Mayor and the Assembly on appropriate action necessary to prevent and deter drunken driving in Anchorage. The Task Force addressed many potentially effective suggestions regarding drunken driving prevention and deterrence. Some proved polarizing, complex, and not subject to immediate implementation. Research, testimony, and debate eventually produced consensus as to the recommendations. While the majority of the recommendations were the product of pure consensus, certain elements within the report met with objections by one or two members. As a whole, however, the entire Task Force endorses the report.

It is our intent to provide you simple, not simplistic, guidance in dealing with the problem of drunken driving in Anchorage. You will find no footnotes and few data quotes to complicate the recommendations. As chairmen, we can assure you that the Task Force has done its homework. The Task Force was appointed as a reflection of the community, and the consensus reached in this report should be a good measure of how the recommendations will be embraced by the citizens of Anchorage.



Joe Murdy  
Co-Chairman



Bob Bailey  
Co-Chairman

## Executive Summary

A special citizen's task force on DUI (Driving Under the Influence) was proposed by Mayor George Wuerch and created by a resolution of the Anchorage Assembly on July 18, 2000. The Task Force was created to advise the Mayor and the Assembly on appropriate legislative action necessary to prevent and deter drunken driving in Anchorage. The Task Force consisted of twenty original members, two ex-officio members, two alternates, and one replacement member.

Original Task Force members were co-chairmen Bob Bailey and Joe Murdy, Charlotte Phelps, Marti Greeson, Obed Nelson, Gail Schubert, Judge Elaine Andrews, Jewel Jones, Denise Henderson, Ron Perkins, Jack Amon, John Richard, Janet Seitz, Paul Reid, Curtis Thayer, Rob Heun, Jasmyne Thea Faulk, Bob Young, Bill Chadwick, and Leslie Ridle. Ex-officio members were Chief Duane Udland and Municipal Attorney Bill Greene. Alternate members were Karen Rogina and Denise Trutanic. Judge Andrews eventually withdrew from the task force and was replaced by Wendy Lyford. Assistant Municipal Prosecutor Carmen Clarkweeks provided valuable legal interpretations of state and municipal law.

The Task Force had an organizational meeting in July 2000, and began work sessions in August 2000. Ten full Task Force meetings were held, including one meeting dedicated solely to public testimony in which twenty-two citizens testified. Those testifying were James Gay, Cheryl Mann, Gary T. Spezialy, Dennis Kalpakoff, Joseph Young, Shannon McBride, Rep Norm Rokeberg, Michelle Villard, John Wood, Dan Coffey, Pat Knowles, Jim Messick, Nelson Page, Bill Herman, Don Grasse, Kelly Gillilan-Gibson, Barbara Bennett, Ken Smith, Janet McCabe, Cliff Lamb, Mike Krukar and Philip Petree. One meeting was devoted to an overview of DUI Courts as the Task Force was interested in this concept and its potential. All full Task Force meetings were electronically recorded.

The Task Force's charter outlined the following issues to address:

- State and/or municipal legislation to prevent and deter drunken driving, particularly those previously convicted of driving under the influence of alcohol;
- Enforcement of existing laws and ordinances;
- Other government programs;
- Other organizations, both public and private, that can be of assistance.

The Task Force created three subcommittees to carry out its work in the following areas:

- Current Laws Subcommittee - examined current laws on the books, addressed issues of enforcement and sentencing without additional legislation;
- Courts Subcommittee - examined alternative legal venues for prosecuting offenders, such as DWI and Drug Courts;
- Alternative Solutions Subcommittee - examined what additional can be done to address the problem of drinking and driving, and considered sentencing alternatives.

The subcommittees held several meetings and then presented reports to the full Task Force. The subcommittee reports can be found in the Addendum to this report. These reports generated a composite list of twenty-five subcommittee recommendations that functioned as discussion points for the full task force. The Task Force used a consensus model to develop final recommendations from the discussion points. The final recommendations contained in this Final Report are not presented in any particular order indicating priority.

## Summary of Task Force Recommendations

The Task Force addressed the broad spectrum of legislative modifications, enforcement issues, potential government programs, and other types of public and private organizations within the scope of the charter statement and reached consensus on the following recommendations:

### State and Municipal Legislative Recommendations

- Change the legal designation from DWI (Driving While Intoxicated) to DUI (Driving Under the Influence)
- Update present statutes to reflect subsequent court decisions
- Make third and subsequent DUIs felonies by eliminating "look back" provisions
- Identify enhancements for charging and sentencing considerations
- Graduate Blood Alcohol Concentration (BAC) levels and penalties from .08, and consider modifying AS 28.35.032, Refusal To Submit To A Chemical Test, to reflect the graduated penalty implications
- Require a valid driver's license and proof of insurance to register a vehicle
- Adopt a mandatory impoundment and forfeiture procedure at the state level
- Explore the feasibility of a centralized clearinghouse for licenses and investigate the expanded options provided by technological advances for tracking licenses whose holders have convictions for certain alcohol related offenses
- Require mandatory alcohol awareness training and a victim's panel as a prerequisite for obtaining a valid resident driver's license
- Provide parameters for monitored, certifiable residential treatment in sentencing when enhancement factors are present
- Offer screening, mandatory alcohol education, and mandatory alcohol assessment during incarceration for DUI
- Provide for monitored alcohol treatment and ensure certifiable minimum standards in all DUI treatment programs
- Adopt Alaska Criminal Justice Assessment Commission recommendation #15 that the state should encourage the expansion of the Department of Health and Social Services Alcohol Safety Action Program (ASAP) through legislation and funding
- Recognize that halfway houses are not appropriate for repeat offenders and analyze halfway house administration
- Adopt Alaska Criminal Justice Assessment Commission recommendation #8 which relates to underage drinkers
- Make AS 04.16.050, Possession, Control, or Consumption by Persons Under 21 a misdemeanor and provide for alcohol treatment or counseling, peer options such as Youth Court, and parental/guardian notification
- Repeal AMC 10.50.015(H), Solicit the Purchase, Attempt to Purchase, or Possess Intoxicating Liquor, and require these offenses be charged under a revised AS 04.16.050

- Establish and fund a DUI Court
- Make AS 28.05.095, Use of Seat Belts and Child Safety Devices Required, a primary law

#### **Enforcement Recommendations**

- Encourage focused enforcement of youthful offenders
- Encourage the state to enforce and prosecute AS 28.35.280, Minor Operating a Vehicle After Consuming
- Establish a Report Every Drunk Driver Immediately (REDDI) program in Anchorage
- Expand "Drunk Busters" program, and initiate year round saturation patrols
- Streamline drunken driver arrest processing procedures
- Initiate safety checkpoints when deemed appropriate by law enforcement
- Implement ignition interlock devices as a condition of probation for DUI offenders after their driving privileges have been reinstated

#### **Other Government Programs**

- Increase alcohol server mandatory training from every three years to every two years
- Establish media awareness campaigns that target the "uncaught offender"
- Establish mandatory alcohol education and awareness programs in schools
- Study alternative forms of transportation between Girdwood and Anchorage
- Establish an umbrella group to facilitate continued coordination, compilation and exchange of data, and exchange of materials between interested groups and organizations

#### **Public/Private Organizations**

- Establish a Responsible Hospitality Institute Chapter in Anchorage

# LEGISLATIVE RESEARCH REPORT

NOVEMBER 28, 2000



REPORT NUMBER 01.023

## FEDERAL HIGHWAY FUNDING AND STATE DWI LAWS

PREPARED FOR REPRESENTATIVE NORMAN ROKEBERG

BY PATRICIA YOUNG, LEGISLATIVE ANALYST

SUMMARY.....	2
INCENTIVE GRANT—ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES (SECTION 410).....	3
INCENTIVE GRANT—0.08 BAC (SECTION 163) .....	6
TRANSFER PROGRAMS—OPEN CONTAINER (SECTIONS 154) AND REPEAT OFFENDER (SECTION 164).....	7
Section 154—Open Container Requirements.....	7
Section 164—Minimum Penalties for Repeat DWI Offenders.....	8
SANCTION—0.08 BAC [SECTION 163(A)].....	9
<i>Table One: Federal Highway Funding and Alcohol-Related Programs.....</i>	10

You asked for an explanation of the connection between federal highway dollars and a state's drinking and driving laws. Specifically, you asked whether Alaska has foregone federal funding opportunities as a result of not having enacted certain provisions regarding open containers and repeat offenders. If so, you wished to know how long the state has foregone such revenue and the amount of funding that has been "lost." Additionally, you asked for an explanation of the funding consequences of the recent federal requirement concerning a blood alcohol concentration standard of 0.08 percent.

For purposes of this report, we focus on measures relating to driving while intoxicated (DWI) addressed by Congress in the Transportation Equity Act for the 21<sup>st</sup> Century, the current federal authorization for surface transportation programs. After a brief summary, we address each provision, and its impact on transportation and highway safety funding in Alaska, individually. We consolidate the data in Table One.

## SUMMARY

In order to encourage states to adopt and enforce specific anti-drunk driving laws, Congress authorized two incentive grant programs and two transfer provisions as part of the Transportation Equity Act for the 21st Century (TEA-21) in 1998.<sup>1</sup> These provisions are in effect from federal fiscal year 1998 through 2003. More recently, President Clinton signed into law a sanction provision to take effect in federal fiscal year 2004, for states that fail to adopt and enforce a 0.08 percent blood alcohol concentration (BAC) standard by that time.

Under the two incentive programs authorized by TEA-21, grant funds are available to states that have enacted specific drunk driving countermeasures (Section 410) and to states that have enacted a 0.08 percent BAC standard (Section 163). The countermeasures incentive under Section 410—with different eligibility criteria—was available under ISTEA, the predecessor of TEA-21. Alaska qualified for funding under the ISTEA version of the program, and because of a delayed effective date, received approximately \$200,500 during 1998. With the change in requirements, however, the state no longer qualifies, and as a result, "lost" approximately \$127,000 in 1999. Section 410 is a broad program with numerous eligibility requirements and several variables in the funding formula. According to Mary Moran, director of the state's highway safety program, qualification demands more staff resources than are presently available. Thus, even if the state were to qualify, she would not apply with the program's current staffing level.

Potential funding under the Section 163 incentive program is significantly more substantial than that available under Section 410. Because Alaska has not implemented the 0.08 BAC standard needed to qualify for funding under this section, since 1998, the state has foregone approximately \$2.3 million that could have been used for any transportation project eligible for federal assistance. The state will continue to "lose" approximately \$700,000 to \$800,000 during each year through 2003 unless lawmakers choose to lower the BAC from 0.10 percent to 0.08.

The transfer provisions require states to implement specific provisions regarding open containers (Section 154) and minimum penalties for repeat offenders (Section 164) by October of 2000. Because Alaska's laws do not conform precisely to the federal requirements of either provision, 1.5 percent of the state's highway construction funds will be transferred to the highway safety program for each of the provisions during FY 2001—a combined total of approximately \$5.2 million. Another 1.5 percent for each provision will be transferred for fiscal year 2002 if the state has not complied with the federal requirements; the transferred amounts double to three percent for each provision during fiscal year 2003 and each year thereafter that the state has not complied.

Lastly, beginning with federal fiscal year 2004, the U.S. Department of Transportation will begin to withhold a percentage of the highway funds apportioned to states that continue to resist implementing the 0.08 BAC standard for *per se* DWI (Section 163[a]). According to federal estimates, if Alaska has not implemented such a standard by FY 2004, the state will lose 2

---

<sup>1</sup> The Transportation Equity Act for the 21st Century (TEA-21), enacted June 9, 1998, as Public Law 105-178, authorized federal surface transportation programs for the six-year period of 1998-2003. The Act reauthorized existing National Highway Traffic Safety Administration programs, including the DWI countermeasures incentive grant program under Section 410. Additionally, TEA-21 created the incentive grant program for 0.08 BAC under Section 163. The TEA-21 conferees also agreed upon two provisions for transfer of a portion of a state's highway construction funds to its highway safety program if the state fails to establish and enforce minimum penalties for repeat drunk driving (Section 164) and for open containers in the passenger compartment of a vehicle (Section 154). These two initiatives, omitted from the conference report, were restored to TEA-21 by the TEA-21 Restoration Act, on July 22, 1998, as Public Law 105-206.

percent, or approximately \$3.6 million of its 2004 funding. The annual penalty would rise by an additional 2 percent each year to an estimated \$14.3 million by FY 2007. States that implement the standard before the end of FY 2007, however, will recover the withheld funding.

## INCENTIVE GRANT—ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES (SECTION 410)

As part of the Transportation Equity Act for the 21<sup>st</sup> Century, Congress authorized approximately \$220 million for grants under Section 410, to encourage states to adopt and implement programs to reduce traffic safety problems resulting from individuals driving under the influence of alcohol.<sup>2</sup> The program includes two basic grant options. States may qualify for both basic grants, and those that qualify for either can also apply for supplemental grants.

The Section 410 program was in place under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Congress reauthorized the program with TEA-21 but amended the eligibility requirements and delayed the effective date until FY 1999. According to Mary Moran, director of the Alaska Highway Safety Office, the amendments, to a large extent, reversed the eligibility requirements for the basic and the supplemental grants. As a result, although Alaska qualified under ISTEA, the state no longer does so.

Prior to the eligibility change, Alaska qualified for basic grant funding because criteria such as videotaping of drunk drivers by police, an on-going DWI-prevention program, and the use of passive alcohol sensors (breath tests) by police were in place. Because the shift did not become effective until 1999, Alaska received approximately \$200,500 during 1998. Since the shift, however, those criteria pertain to the supplemental grants, rather than to the basic ones. Because a state must qualify for a basic grant to apply for a supplemental grant, Alaska is currently ineligible for all Section 410 funding. Had Alaska qualified, the state would have received approximately \$127,000 in 1999 to support anti-drunk driving programs. Because of the high number of variables involved in Section 410 funding, Ms. Moran is unable to estimate the amount that Alaska "lost" in 2000. Specific details of the current Section 410 program follow.<sup>3</sup>

Section 410 Eligibility. States have two options for qualifying for the basic Section 410 grant funding. States that qualify for a basic grant may apply for supplemental grants:

Basic Grant A—implement at least 5 of the following 7 criteria:

- ◆ Administrative license revocation;
- ◆ A program to prevent drivers under age 21 from obtaining alcoholic beverages;
- ◆ A program for intensive impaired driving law enforcement;

---

<sup>2</sup> 23 USC 410, Alcohol-Impaired Driving Countermeasures.

<sup>3</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Alcohol-Impaired Driving Countermeasures Incentive Grants," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_410.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_410.htm) (accessed 10/10/2000).

- ◆ A graduated licensing law with nighttime driving restrictions and zero tolerance;
- ◆ A program to target drivers with high BAC;
- ◆ Young adult drinking programs to reduce impaired driving by individuals age 21 through 34;
- ◆ An effective system for increasing the rate for BAC of drivers in fatal accidents—beginning in FY2001, the testing rate must be above the national average.

Basic Grant B—demonstrate both of the following:

- ◆ A reduction in the percentage of fatally injured drivers with 0.10 BAC or greater, in each of the last 3 years; and
- ◆ A percentage of fatally injured drivers with 0.10 BAC or greater that is lower than the national average for each of the last 3 years.

Supplemental Grants—implement any of the following:

- ◆ Videotaping of drunk drivers by police;
- ◆ A self-sustaining impaired driving prevention program;
- ◆ Laws to reduce driving with suspended license;
- ◆ Use of passive alcohol sensors by police;
- ◆ Effective system for tracking information on drunk drivers;
- ◆ Other innovative programs.

Distribution of Funds: Beginning in FY 1999, qualifying states receive up to 25% of their FY 1997 Section 402 apportionment for each basic grant; supplemental grants may not exceed 10% of funding made available for Section 410.

Program Administration: The federal share for Section 410 shall not exceed 75% in the 1<sup>st</sup> and 2<sup>nd</sup> years in which a state receives a grant, 50% in the 3<sup>rd</sup> and 4<sup>th</sup> years, and 25% in the 5<sup>th</sup> and 6<sup>th</sup> years. States may use Section 410 grant funds only to implement and enforce impaired driving programs.

At present, Alaska meets at least two of the seven program criteria for basic grant A. The state must meet at least five in order to qualify for funding. According to Ms. Moran, Alaska's eligibility in regard to some criteria is debatable: the state might qualify, for example, in regard to programs for reducing alcohol-impaired driving by young adults. Similarly, the state might qualify in regard to the rate of BAC testing of drivers involved in fatal crashes if the rate is above the national

average.<sup>4</sup> Alaska's DWI countermeasures scheme does not qualify in regard to the following basic grant A criteria:

*Administrative license revocation.* Alaska qualified in regard to this criterion until state lawmakers reduced the duration of license revocation for minors driving after consuming alcohol from 90 days, one year, and three years for first, second, and third or subsequent revocations to 30 days, 60 days, 90 days, and one year for first, second, third, and fourth or subsequent revocations, respectively.<sup>5</sup> Although other provisions still qualify, the revocation scheme as a whole now does not.

*Graduated licensing law with nighttime restrictions and zero tolerance.* Although the state has a graduated licensing system in place and an absolute zero tolerance law (rather than the federally required 0.02 BAC), Alaska's system does not satisfy the federal requirements in the following ways:

- ◆ Program eligibility requires that all occupants must be properly restrained. Alaska law refers only to proper restraint of children under the age of 16.<sup>6</sup>
- ◆ Program eligibility requires that, absent a state-approved exception, a person authorized to drive under a learner's permit or an intermediate driver's license may not drive during some period of the night unless a licensed driver who is 21 years of age or older is in the vehicle. Alaska law has no nighttime restriction.<sup>7</sup>
- ◆ Program eligibility requires that holders of learner's permits and intermediate licenses must remain crash and conviction free. In addition to the revocation provisions noted above, Alaska law addresses license revocation for minors between the ages of 13 and 17 who are convicted of or adjudicated as delinquent for misconduct involving a controlled substance, or for offenses involving the illegal use or possession of a firearm.<sup>8</sup>

*Program targeting drivers with high BAC* (a system of graduated sanctions for DWI offenders with higher than average BAC).

In regard to basic grant B, according to Ms. Moran, the state is close to qualifying for both criteria. She notes, however, that applying for and monitoring either of the Section 410 grant possibilities require a substantial amount of effort. Even if the state could qualify today, she concludes, she would not apply because she lacks sufficient staff to handle the paperwork.

---

<sup>4</sup> Testing the BAC of all drivers involved in crashes that result in fatalities—regardless of whether the drivers survive—would provide highly useful data, according to Ms. Moran.

<sup>5</sup> AS 28.15.183(d), Administrative Revocation of License to Drive; changed by Chapter 88, SLA 1999.

<sup>6</sup> AS 28.05.095, Use of Seat Belt and Child Safety Devices Required.

<sup>7</sup> AS 28.15.051-055, Instruction Permits and Provisional Driver's License.

<sup>8</sup> AS 28.15.185, Court Revocation of a Minor's License to Drive.

## INCENTIVE GRANT—0.08 BAC (SECTION 163)

Along with the reauthorization of Section 410 funding, Congress authorized a new incentive program under Section 163.<sup>9</sup> Section 163 provides a total of \$500 million in incentive grant funds for states that enact and enforce laws providing that any person with a BAC of 0.08 percent or greater while operating a motor vehicle will be deemed to have committed a *per se* offense of driving while intoxicated. These funds may be used for highway safety or highway construction—any project eligible for assistance under Title 23 U.S.C. No matching state dollars are required. Program particulars follow.<sup>10</sup>

Section 163 Eligibility: Any state that has in effect and is enforcing a 0.08 BAC law, before the end of the fiscal year, is eligible to receive incentive funds for that fiscal year. To be eligible, a state's law must meet six basic elements:

- ◆ It must apply to all drivers;
- ◆ It must set a BAC level of no more than 0.08;
- ◆ It must establish driving at 0.08 BAC as an offense that is illegal *per se*;
- ◆ It must provide for primary enforcement of the law (rather than requiring probable cause that another violation has been committed before allowing enforcement of the 0.08 BAC law);
- ◆ It must apply to the criminal code and, in states with administrative license revocation (ALR) laws, to the ALR law as well; and
- ◆ It must be deemed to be equivalent to the state's standard DWI offense.

Distribution of Funds: Available funding each year is apportioned among all eligible states. According to the Section 402 formula—

- ◆ 75 % based on the ratio of the state's population in the latest federal census to the total population in all states.
- ◆ 25 % based on the ratio of the public road miles in the state to the total public road miles in all states.

The apportionment to each state is no less than one-half of one percent.

Program Administration: The federal share of a project funded under Section 163 is 100 percent. States may use Section 163 grant funds for any project eligible for federal funding under Title 23.

---

<sup>9</sup> 23 USC 163, Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons.

<sup>10</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_163.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_163.htm) (accessed 10/10/2000).

Because Alaska's BAC standard is 0.10 percent, Alaska has not qualified for Section 163 incentive funding. Had Alaska lawmakers lowered the BAC limit to 0.08 and had that law been in effect before the end of 1998, Alaska would have received approximately \$762,500 for that year. Had the state qualified in 1999 or 2000, the funding received would have been approximately the same. As Ms. Moran notes, although federal authorization for the program has increased slightly each year, the number of states that qualify has also increased. Nevertheless, at this point, the state has foregone roughly \$2.3 million in funding that could have been used for any project eligible for assistance under Title 23. If the state certifies with the U.S. Department of Transportation before the end of September, 2001, that Alaska has enacted and is enforcing a conforming law, Alaska could receive an estimated \$700,000 to \$800,000 a year in Section 163 funds for federal fiscal years 2001 through 2003.<sup>11</sup>

### TRANSFER PROGRAMS—OPEN CONTAINER (SECTIONS 154) AND REPEAT OFFENDER (SECTION 164)

In addition to the incentive funding programs, Congress authorized two new programs in which a percentage of a state's highway construction funds (National Highway System, Surface Transportation Program, and Interstate Maintenance) will be transferred to its highway safety program if that state has not enacted or does not enforce specific provisions to counter alcohol-impaired driving by October 1, 2000.<sup>12</sup> These programs have identical funding consequences. The penalty for each is transfer of 1.5 percent of a state's construction funds for FY 2001 and 2002, and 3 percent for each year thereafter. The funds transferred to the safety program must be used for alcohol-impaired driving countermeasures, for DWI law enforcement, or for hazard elimination programs. Projects funded with the transferred funds do not require state matching funds.

---

#### SECTION 154—OPEN CONTAINER REQUIREMENTS

---

For the purposes of Section 154, a state must have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle on a public highway or the right-of-way of a public highway in the state.<sup>13</sup>

U.S. Department of Transportation officials deem Alaska's open container law as nonconforming because of ambiguous wording in regard to motor cycles. The problematic portion of AS 28.35.029 reads as follows:

(b) . . . a person may transport an open bottle, can or other receptacle containing an alcoholic beverage

---

<sup>11</sup> Mary Moran, director, Alaska Highway Safety Office. (907) 465-4374.

<sup>12</sup> 23 USC 154, Open Container Requirements; and 23 USC 164, Minimum Penalties for Repeat Offenders for DWI or DUI.

<sup>13</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Open Container Requirements," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_154.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_154.htm) (accessed 10/25/2000).

(1) in the trunk of a motor vehicle;

(2) on a motor driven cycle, or behind the last upright seat in a motor home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or other receptacle is enclosed within another container . . . .

State officials have attempted to persuade federal officials that the provision was intended to mean—and is enforced as meaning—that a person may transport an open bottle on a motor cycle only if it is enclosed within another container. Federal officials maintain, however, that the provision could be interpreted to mean that a person may transport an open bottle on a motor cycle. Under this view, the phrase “if the open bottle . . . is enclosed . . .” could have been intended—and could be interpreted—to refer to “motor home, station wagon, hatchback, or similar trunkless vehicle” without also referring to “motor cycle.” As a result, federal officials conclude that Alaska law does not meet Section 154 requirements.

---

#### SECTION 164—MINIMUM PENALTIES FOR REPEAT DWI OFFENDERS

---

To meet the requirements of Section 164, a state must have in effect a law that provides, as a minimum penalty, that an individual convicted of a second or subsequent DWI offense shall be subject to the following penalties.<sup>14</sup>

- ◆ License suspension for not less than one year;
- ◆ Impoundment or immobilization of each of the individual's motor vehicles, or installation of an ignition interlock system on each of the individual's motor vehicles;
- ◆ Assessment of the individual's degree of alcohol abuse and treatment as appropriate; and
- ◆ Receiving, for a 2<sup>nd</sup> offense, assignment of not less than 30 days community service, or not less than 5 days imprisonment; and for a 3<sup>rd</sup> or subsequent offense, an assignment of not less than 60 days of community service, or not less than 10 days imprisonment.

Alaska's statutory provisions meet Section 164 requirements except in regard to impoundment and immobilization of a repeat offender's vehicles and the installation of ignition interlock devices. Alaska law provides that the state may order the forfeiture of a vehicle involved in a DWI offense, but forfeiture is not mandatory, and it applies only in third or subsequent offenses. Further, the sanction applies only to the vehicle used in the offense, rather than to all vehicles owned by the offender.<sup>15</sup> As with vehicle forfeiture, the installation of ignition interlock devices is authorized but not mandatory and would not be required in all vehicles owned by an offender. Additionally, installation of such devices applies only in cases wherein the offender receives probation.<sup>16</sup>

---

<sup>14</sup> Federal Highway Administration, “TEA-21 Fact Sheet: Minimum Penalties for Repeat Offenders for DWI or DUI,” September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_164.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_164.htm) (accessed 10/10/2000).

<sup>15</sup> AS 28.35.036, Forfeiture of Vehicle or Aircraft.

<sup>16</sup> AS 12.55.102, Alcohol Related Offenses.

As noted earlier, in order to avoid transfer of highway construction funds, states must have met the requirements by October 1, 2000, the beginning of federal fiscal year 2001. As a result of not meeting the requirements for Sections 154 and 164, a total of approximately \$5.2 million in funds that would have gone for highway construction in Alaska will be transferred to the state's safety program. The same percentage will be transferred for fiscal year 2002 if the state has not complied with the federal provisions; the transferred amounts double to three percent for fiscal years 2003 and each year thereafter that the state has not complied.

**SANCTION--0.08 BAC [SECTION 163(A)]**

As you know, on October 23, 2000, President Clinton signed into law a national standard for drunk driving. The act requires states to implement laws providing that any person driving with a blood alcohol concentration of 0.08 percent or greater is deemed to have committed a *per se* offense of driving while intoxicated. Currently, 31 states, including Alaska, define *per se* drunken driving at 0.10 percent BAC.

Under the act, states have until October 1, 2003, to pass a 0.08 BAC *per se* law. Those that do not will face the withholding of 2 percent of their highway construction funds in federal fiscal year 2004, with the penalty increasing by an additional 2 percent each year for a total of 8 percent in FY 2007. States that implement the standard by 2007 will recoup the withheld funding. Based on estimated FY 2003 apportionments, the U.S. Department of Transportation foresees the possibility of up to approximately \$36 million withheld from Alaska by the end of FY 2007 if the state does not pass a conforming BAC law.

We consolidate data and information on each of the TEA-21 alcohol-related programs—incentives, transfers, and sanctions—in Table One, "Federal Highway Funding and Alcohol Related Program."

---

I hope this information is useful to you. Please do not hesitate to contact us if you have questions or need additional information.

**Table One: Federal Highway Funding and Alcohol-Related Programs**

(dollars in thousands)

Programs	Fiscal Year						Comments
	1998	1999	2000	2001	2002	2003	
Section 410 DWI Countermeasures Incentive Grants	200 <sup>(a)</sup>	127 <sup>(b)</sup>	no estimate	no estimate	no estimate	no estimate	Congress amended eligibility requirements beginning in FY 1999; as a result, Alaska no longer qualifies. The federal share decreases from 75% in the 1st and 2nd years a state receives a Section 410 grant, to 50% in the 3rd and 4th years, and 25% in the 5th and 6th years. States may use Section 410 grant funds only to implement and enforce impaired driving programs.
Section 163 0.08 BAC Incentive Grants	762 <sup>(b)</sup>	762 <sup>(b)</sup>	762 <sup>(b)</sup>	700-800 <sup>(c)</sup>	700-800 <sup>(c)</sup>	700-800 <sup>(c)</sup>	As a result of not having a 0.08 BAC law in effect, Alaska has forgone approximately \$2.3 million in Section 163 grant funds between FY 1998 and FY 2000. A similar amount could be gained or forgone through FY 2003. States may use Section 163 funds for any project eligible for federal assistance under Title 23.
Section 154 Open Container Transfer	not applicable	not applicable	not applicable	2,581 <sup>(d)</sup>	2,581 <sup>(e)</sup>	5,162 <sup>(e)</sup>	Federal officials deem Alaska's open container law to be nonconforming because of ambiguous wording. On October 1, 2000, therefore, an amount equal to 1.5% of the funds apportioned to Alaska for NHS, STP, and IM is to be transferred to the Highway Safety Program. As similar amount will be transferred if the state's law does not conform at the beginning of federal FY 2002; the transferred amount increases to 3% for FY 2003 and thereafter. Section 154 transferred funds must be used for DWI countermeasures, enforcement of DWI and related laws, or for hazard elimination.
Section 164 Repeat Offender Transfer	not applicable	not applicable	not applicable	2,581 <sup>(d)</sup>	2,581 <sup>(e)</sup>	5,162 <sup>(e)</sup>	Alaska's minimum penalties for repeat DWI offenders does not comply with federal requirements because forfeiture of vehicles or the installation of ignition interlock devices is not mandatory and because such provisions do not apply to all vehicles owned by the offender. Transfer of funds is identical to that under Section 154--1.5% of NHS, STP, and IM funding for states out of compliance in FY 2001 and FY 2002; 3% thereafter. Section 164 transferred funds must be used for alcohol-impaired driving countermeasures or enforcement of DWI and related laws.
Section 163(a) Sanction	Fiscal Year						Comments
	2004	2005	2006	2007	2008	2009	
	3,581 <sup>(f)</sup>	7,162 <sup>(f)</sup>	10,743 <sup>(f)</sup>	14,324 <sup>(f)</sup>	14,324 <sup>(f)</sup>	14,324 <sup>(f)</sup>	States that have not complied with the 0.08 BAC standard by October 1, 2003, will have 2% of their federal apportionment withheld. The withheld amount will increase by 2% each year until reaching 8% for FY 2007 and thereafter. States that implement a conforming law before the end of FY 2007 will recoup the withheld funds.

**Notes and Sources:**

- (a) Funding Alaska received. National Highway Safety Administration, "FY 1998 Section 410 Grant"; available at [http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/410\\$98.html](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/410$98.html) (accessed 11/17/2000).
- (b) Funding Alaska did not receive. Estimate provided by Mary Moran, director, Alaska Highway Safety Office, (907) 465-4374.
- (c) Funding Alaska could receive if laws conforming to federal requirements are enacted and enforced. Estimate provided by Mary Moran.
- (d) Funding already transferred from highway construction (National Highway System, Surface Transportation Program, and Interstate Maintenance) to the Alaska Highway Safety Office. Federal Highway Administration, "Transfers Pursuant to 23 USC 154 (Open Container Requirements)"; available at <http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/154.html> and <http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/164.html> (accessed 11/26/2000).
- (e) Funding that will be transferred from highway construction to the Alaska Highway Safety Office unless laws conforming to federal requirements are enacted and enforced. Estimates provided by Mary Moran.
- (f) Funding that will be withheld from Alaska's highway apportionment if the state does not have a 0.08 BAC law in force by October 1, 2003; based on estimated FY 2003 apportionment, after distribution of minimum guarantee funds, and calculating penalties of 2% in FY 2004, and an additional 2% each year up to 8% in FY 2007 and thereafter. Withheld funding can be recouped if the state passes a conforming law by the end of FY 2007. Federal Highway Administration, "Annual Core Apportionments and Potential Penalties Under Sec. 163(a) for FY 2004 and Thereafter"; available at [http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/08\\$SANCTION.html](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/08$SANCTION.html) (accessed 11/9/2000).

Post-it* Fax Note	7671	Date	# of pages 5
To	Dennis Bshard	From	Tam Cook
Co/Dept.	DOTPF	Co.	LAA-legal
Phone #		Phone #	465-2450
Fax #	586-8365	Fax #	

106TH CONGRESS  
2D SESSION

# H. R. 5394

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2000

Mr. WOLF introduced the following bill; which was referred to the Committee on Appropriations

---

## A BILL

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the following sums are appropriated, out of any
- 4 money in the Treasury not otherwise appropriated, for the
- 5 Department of Transportation and related agencies for
- 6 the fiscal year ending September 30, 2001, and for other
- 7 purposes, namely:

2

1 TITLE I  
2 DEPARTMENT OF TRANSPORTATION  
3 OFFICE OF THE SECRETARY  
4 SALARIES AND EXPENSES

5 For necessary expenses of the Office of the Secretary,  
6 \$63,245,000: *Provided*, That not more than 52 percent  
7 of the funds made available under this heading shall be  
8 obligated and not more than 224 full time equivalent staff  
9 years funded through the end of the second quarter of fis-  
10 cal year 2001: *Provided further*, That funds in excess of  
11 52 percent and 224 full time equivalent staff years shall  
12 be available only if the Secretary transmits a request to  
13 the House and Senate Committees on Appropriations for  
14 these additional funds: *Provided further*, That not to ex-  
15 ceed \$60,000 for allocation within the Department for of-  
16 ficial reception and representation expenses as the Sec-  
17 retary may determine: *Provided further*, That not more  
18 than \$15,000 of the official reception and representation  
19 funds shall be available for obligation prior to January 20,  
20 2001.

21 OFFICE OF CIVIL RIGHTS

22 For necessary expenses of the Office of Civil Rights,  
23 \$8,140,000.

1 That all information submitted in such reports shall be  
2 current as of the last day of the preceding quarter.

3       Sec. 351. Notwithstanding any other provision of  
4 law, beginning in fiscal year 2004, the Secretary shall  
5 withhold 2 percent of the amount required to be appor-  
6 tioned for Federal-aid highways to any State under each  
7 of paragraphs (1), (3), and (4) of section 104(b) of title  
8 23, United States Code, if a State has not enacted and  
9 is not enforcing a provision described in section 163(a)  
10 of chapter 1 of title 23, United States Code, in fiscal year  
11 2005, the Secretary shall withhold 4 percent of the  
12 amount required to be apportioned for Federal-aid high-  
13 ways to any State under each of paragraphs (1), (3), and  
14 (4) of section 104(b) of title 23, United States Code, if  
15 a State has not enacted and is not enforcing a provision  
16 described in section 163(a) of title 23, United States Code;  
17 in fiscal year 2006, the Secretary shall withhold 6 percent  
18 of the amount required to be apportioned for Federal-aid  
19 highways to any State under each of paragraphs (1), (3),  
20 and (4) of section 104(b) of title 23, United States Code,  
21 if a State has not enacted and is not enforcing a provision  
22 described in section 163(a) of title 23, United States Code;  
23 and beginning in fiscal year 2007, and in each fiscal year  
24 thereafter, the Secretary shall withhold 8 percent of the  
25 amount required to be apportioned for Federal-aid high-

*Oct. 2003*

1 ways to any State under each of paragraphs (1), (3), and  
2 (4) of section 104(b) of title 23, United States Code, if  
3 a State has not enacted and is not enforcing a provision  
4 described in section 163(a) of title 23, United States Code.  
5 If within four years from the date the apportionment for  
6 any State is reduced in accordance with this section the  
7 Secretary determines that such State has enacted and is  
8 enforcing a provision described in section 163(a) of chap-  
9 ter 1 of title 23, United States Code, the apportionment  
10 of such State shall be increased by an amount equal to  
11 such reduction. If at the end of such four-year period, any  
12 State has not enacted and is not enforcing a provision de-  
13 scribed in section 163(a) of title 23, United States Code,  
14 any amounts so withheld shall lapse.

15       SEC. 352. (a) IN GENERAL.—Notwithstanding any  
16 other provision of law, including the Surplus Property Act  
17 of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622  
18 et seq.), the Secretary of Transportation (or the appro-  
19 priate Federal officer) may waive, without charge, any of  
20 the terms contained in any deed of conveyance described  
21 in subsection (b) that restrict the use of any land de-  
22 scribed in such a deed that, as of the date of enactment  
23 of this Act, is not being used for the operation of an air-  
24 port or for air traffic. A waiver made under the preceding

HIGHWAYS FEDERAL-AID HIGHWAYS

23 USCS § 164

obligated at the end of... withheld under subsection... under paragraph (1), the... shall lapse.

June 9, 1998, P. L. 105-

ES

paragraphs (1), (3), 104(b)

a national scenic byways... ural, natural, recreational... Scenic Byways or All-

under the national scenic... ry.

nominated by a State or... State scenic byway or, in... ncy byway.

make grants and provide

ways or All-American

as been designated as a... istent with the corridor

at is consistent with the... e development of such a... n as a National Scenic

of a State scenic byway

ral assistance under this

scenic byway program.

to maintain the scenic... ics of a byway corridor... ent of related amenities.

yway, or All-American... te increased traffic and... designation as a State

nd bicyclists, rest area... rpretive facility.

area for the purpose of

enatological resources

including interpretive

gram...

any project that would

not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

(e) Savings clause. The Secretary shall not withhold any grant or impose any requirement on a State as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter [23 USCS §§ 101 et seq.]

(f) Federal share. The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to, or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

(Added June 9, 1998, P. L. 105-178, Title I, Subtitle B, § 1219(a), 112 Stat. 219.)

§ 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

(a) General authority. The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

(b) Grants. For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

- (1) the amount authorized to carry out this section for the fiscal year; by
(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(c) Use of grants. A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

(d) Federal share. The Federal share of the cost of a project funded under this section shall be 100 percent.

(e) Authorization of appropriations. (1) In general. There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$55,000,000 for fiscal year 1998, \$65,000,000 for fiscal year 1999, \$80,000,000 for fiscal year 2000, \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, and \$110,000,000 for fiscal year 2003.

(2) Availability of funds. Notwithstanding section 118(b)(2), the funds authorized by this subsection shall remain available until expended.

(Added June 9, 1998, P. L. 105-178, Title I, Subtitle D, § 1404(a), 112 Stat. 240.)

§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

(a) Definitions. In this section, the following definitions apply:

(1) Alcohol concentration. The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) Driving while intoxicated; driving under the influence. The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(3) License suspension. The term "license suspension" means the suspension of all driving privileges.

(4) Motor vehicle. The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) Repeat intoxicated driver law. The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

- (A) receive a driver's license suspension for not less than 1 year;
(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;
(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and
(D) receive—

(i) in the case of the second offense—

## Responses to Statements Regarding .08 BAC Laws

Statement: Most state legislatures have looked at the research evidence and have concluded that .08 laws are not effective. In New Jersey, for example, a Task Force concluded that there is no evidence that .08 laws result in reductions in alcohol-related fatalities.

Response: The research with regard to the effectiveness of .08 BAC laws is consistent and persuasive. At least eight studies have indicated that these laws are associated with reductions in alcohol-related crashes, fatalities, and injuries, particularly in conjunction with administrative license revocation (ALR) laws.

The New Jersey Task Force reviewed only four early studies of the effects of .08 BAC laws and concluded that the results were "mixed." Since that time, four additional comprehensive studies have been conducted. Together with the four original studies, these studies provide consistent and even more persuasive evidence of the effectiveness of .08 BAC laws, both alone and in conjunction with other laws and activities.

A 1999 GAO review of seven of these eight studies concluded that there are "*strong indications that .08 BAC laws in combination with other drunk driving laws ... can save lives*" (p2). GAO also stated that "*.. we and DOT reach essentially the same conclusion regarding the effectiveness of .08 BAC laws, both by themselves and in combination with other measures*" (p24).

While the studies of effectiveness have been persuasive, effectiveness is not the primary basis for supporting a .08 BAC law. **The primary reasons for supporting such a law are that, at .08 BAC, virtually everyone is impaired in important skills related to driving and their risk of being involved in a fatal crash is greatly increased.** Several states have recognized this. In New Mexico, for example, a State Task Force carefully reviewed only the evidence of impairment and crash risk at .08 BAC. Following this review, New Mexico chose to enact a .08 BAC law.

Statement: The Government Accounting Office (GAO) has recently conducted a critical review of the .08 studies and has concluded that these laws are not effective in reducing alcohol-related fatalities.

Response: This statement is not correct! The GAO report stated that there are "*strong indications that .08 BAC laws in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives*" (p2).

Statement: The GAO study concluded that "the evidence does not conclusively establish that

.08 laws, by themselves, result in reductions in the number and severity of alcohol-related crashes.

Response: No research is ever conclusive in an "unequivocal" sense. Neither are laws ever implemented "by themselves." The combination of strong laws, highly visible enforcement, and strong public information is the key to reducing alcohol-related fatalities. NHTSA has maintained that the evidence of the effectiveness of .08 BAC laws is consistent and persuasive, particularly in conjunction with the administrative license revocation (ALR) laws, already enacted in 40 states.

The GAO report confirms this relationship and further states that *"although we characterize the strength of the study results differently, we and DOT reach essentially the same conclusion regarding the effectiveness of .08 BAC laws, both by themselves and in combination with other measures"* (p24).

Statement: We keep hearing that enactment of .08 BAC laws in all states would result in 500 lives being saved every year. The GAO report looked at the study that made this estimate and found it to be groundless.

Response: At the time of the GAO study, two studies had independently formulated estimates of lives saved. A Boston University study estimated that 500-600 additional lives would be saved if all states adopted .08 BAC laws. An NHTSA (50-state) study used a more detailed analysis and estimated that 590 lives would be saved -- a very similar estimate. While GAO criticized the Boston University Study for not describing how it arrived at its estimate, GAO did not criticize the elaborate and detailed methodology of the NHTSA 50-state study.

Further, a new Boston University study was recently published. This study evaluated the effectiveness of .08 BAC laws enacted in six states in 1993 and 1994 and concluded that, overall, these states experienced a 5-6 percent greater decline in measures of alcohol-related crashes, compared with six nearby states that did not lower their BAC limits. This study estimated that, if all states adopted a .08 BAC law, 400-500 fewer fatalities would occur annually.

Advocates of .08 BAC laws have used the mid-point of these three estimates and have projected that, if all states were to adopt .08 BAC laws, an additional 500 lives would be saved each year. This estimate of 500 lives saved is well within the confidence boundaries of all of the estimates made to date.

Statement: .08 BAC laws make criminals out of normal social drinkers.

Response: Impairment and crash risk are the issues - not how many drinks it may take to get to .08 BAC. Scores of studies have been conducted which indicate that, at .08 BAC virtually everyone is impaired in important skills related to driving and that, at that level, the risk of being involved in a fatal crash is many times greater than at .00 BAC.

Statement: ".08 BAC legislation will not affect problem drinker drivers who have high BAC levels."

Response: The research shows that .08 laws not only reduce the incidence of impaired driving at lower BACs, they also reduce the incidence of impaired driving at higher BACs (i.e., over .10). A .08 law serves as a general deterrent to drinking and driving. It sends a message that the state is getting tougher on impaired driving, and it makes many people think twice about getting behind the wheel after they've had too much to drink. A .08 BAC law is a key component of an overall program to reduce impaired driving. While problem drinkers do account for a significant part of the problem, most fatally injured drinking drivers (70-80%) have no prior alcohol-related offenses.

A comprehensive anti-DWI program must use all available laws and programs to reduce fatalities.

Statement: ".08 is just the first step toward even lower BACs and eventually another attempt at prohibition."

Response: The notion that safety organizations seek a return to prohibition is unfounded. Although there is strong research evidence that driving-related skills begin to deteriorate below .08 BAC, most safety advocates have adopted .08 BAC as a reasonable and acceptable compromise that will save lives, prevent injuries and reduce costs to society.

**US DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
ANNUAL CORE APPORTIONMENTS AND POTENTIAL PENALTIES UNDER SEC. 163(a)  
FOR FY 2004 AND THEREAFTER\*  
(Assuming Various Rates of Penalty)**

<u>State</u>	<u>IM / STP / NHS Total</u>	<u>.08 BAC adopted as Legal Standard</u>	<u>2% Penalty</u>	<u>4% Penalty</u>	<u>6% Penalty</u>	<u>8% Penalty</u>
<b>Alaska</b>	<b>179,048,339</b>	-	<b>3,580,967</b>	<b>7,161,934</b>	<b>10,742,900</b>	<b>14,323,867</b>
Washington	297,631,829	X	0	0	0	0
Oregon	221,819,579	X	0	0	0	0
Idaho	140,668,319	X	0	0	0	0
Wyoming	156,383,521	-	3,127,670	6,255,341	9,383,011	12,510,682

- Based on estimated FY 2003 apportionments, after distribution of Minimum Guarantee funds

Powered By

Web posted Friday, April 21, 2000

## Two die in 2-car wreck

By McKIBBEN JACKINSKY  
Peninsula Clarion

A two-vehicle accident at Mile 37.5 of the Seward Highway, just north of the Sterling Highway cutoff, claimed the lives of two men and injured two others on Wednesday.

Killed were Martin John Richard, 50, and Ladd E. Macaulay, 57, both of Juneau.

Injured were Steven Gregory McGee, 49, also of Juneau, and Michael J. Glaser, 43, of Crown Point.

Alaska State Troopers reported that shortly after 4 p.m., Glaser was driving an older model Chevrolet crew cab southbound on the Seward Highway. The pickup crossed the center line, striking a northbound Toyota Camry head on.

The pickup then rolled on its side, trapping Glaser, the sole occupant.

The Toyota, a rental vehicle, hit the side of the surrounding mountain, trapping the three occupants, Richard, Macaulay and McGee.

Richard, who had been driving the Toyota, and Macaulay, the backseat passenger, were pronounced dead at the scene.

McGee and Glaser were transported to Central Peninsula General Hospital.

Richard had served as director of Alaska's Division of Investments since 1986 and was a 21-year state employee. He was married to Barbara J. "Jill" Richard, a nurse. The two had no children.

Macaulay was a loan officer with the Division of Investments and previously served as director of the Douglas Island Pink and Chum fish hatchery in the Juneau area.

He is survived by his wife, Linda, a state employee, and two sons and two daughters.

According to a press release from Gov. Tony Knowles, Martin, Macaulay and McGee had been inspecting hatcheries on the Kenai Peninsula. They were returning to Anchorage at the time of the accident.

McGee, a biologist, has been with Alaska's Department of Fish and Game for 17 years. His wife, Bonnie, is a teacher at Floyd Dryden Middle School in Juneau. They have two children.

Bonnie Nichols, a spokesperson for Central Peninsula General Hospital, reported that McGee had suffered broken facial bones, contusions and bruises. Information on Glaser's injuries was unavailable.

Nichols said both McGee and Glaser were in fair condition.

"We reach out with our sympathies and condolences to the family and friends of Martin Richard and Ladd Macaulay, two dedicated state employees who enriched the state through their public service, their commitment to their families, their love of Alaska, and numerous other personal contributions," said Knowles in a press release on Thursday. He ordered state flags be lowered to half-staff.

Rep. Gail Phillips, R-Homer, worked with Richard on financing issues for limited entry fishery programs and boat loans.

"The state of Alaska suffered a tragedy ... with the senseless loss of two longtime, well-respected state employees," said Phillips. "(Their deaths) will have a profound impact on the Department of Commerce.

"My deepest sympathy and condolences go to both families and friends," Phillips said. "Our prayers and hopes are for the speedy recovery for Fish and Game employee Steven McGee, who was also seriously injured in this tragedy."

Sen. Jerry Ward, R-Anchorage, said the Senate remembered Richard and Macaulay with a moment of silence on Thursday.

"Everybody is really quite devastated about this," said Ward. "My prayers and wishes go out to (their families)."

Greg Wilkinson, information officer for the Alaska State Troopers, said alcohol is being investigated as a contributing factor of the accident. The troopers are asking for anyone who may have witnessed either the pickup truck or the Toyota to contact the troopers in Soldotna, at 262-4453, or Seward, at 224-3346.

The Chevrolet crew cab was described by Wilkinson as yellow, but rusty

and dirty. Glaser, the driver of the pickup, may have picked up a hitchhiker at some point on his drive. Troopers would like to contact that person, as well.

Wilkinson described the Toyota Camry as a late model four-door, brown in color.

Discuss this story in our [Discussion Forum](#)

**E-mail this story to a friend**



Comments or questions? Contact the web master at [Peninsula Clarion](#)

Copyrighted by Peninsula Clarion, a Division of Morris Communications  
Privacy and terms of use.

---

Search text: **Glaser**  
7/27

↓ [Previous Document](#) | [Search Results](#) | [Next Document](#) ↗

---

[Previous Document](#) [Search Results](#) [Next Document](#)

Search text: **Glaser**  
Collection: ken\_2000 6/27



Powered By

Web posted **Tuesday, May 2, 2000**

## Troopers arrest man charged in double-fatal accident

ANCHORAGE (AP) -- Alaska State Troopers on Monday arrested a man charged with two counts of second-degree murder resulting from an accident on the Seward Highway.

Michael J. Glaser, 43, is charged with the deaths of Martin John Richard, 50, of Juneau, and Ladd E. Macaulay, 57, of Juneau. He also is charged with one count of assault for causing injuries to Steven Gregory McGee, 49, of Juneau.

An investigation determined that **Glaser's** blood alcohol following the April 19 crash was .258, more than two-and-half times above the legal driving limit of .10.

**Glaser** was arrested Monday morning after being released from Alaska Regional Hospital. A Kenai grand jury issued a \$75,000 cash only bail warrant on Friday. **Glaser** was being held at Cook Inlet Pre-Trial Facility.

**Glaser** was driving a pick-up truck when it crossed the center line at milepost 37.5 of the Seward Highway. The truck struck a car, killing Richard and Macaulay. McGee was injured. **Glaser** also was hospitalized.

If convicted, **Glaser** could be sentenced up to 99 years for each second-degree murder charge and 20 years for first-degree assault.

Discuss this story in our [Discussion Forum](#)

[Email this story to a friend](#)



Comments or questions? Contact the web master at [Peninsula Clarion](#)

Copyrighted by Peninsula Clarion, a Division of Morris Communications  
[Privacy and terms of use.](#)

ADN  
5 July  
2000

# Pickup hits, kills bicyclist

## Police say man drunk had 6 previous DWIs

By LISA DEMER  
Daily News reporter

An Anchorage man with six previous drunken driving convictions was driving drunk when he struck and killed a college student riding her bicycle on the sidewalk along Minnesota Drive late Monday, Anchorage police said.

Russell D. Carlson, 39, who had a 2-year-old child in the truck with him, was charged with manslaughter, child abuse, driving while intoxicated and driving while his license was revoked, according to police.

The bicyclist was Jessie Withrow, 20, who grew up in Anchorage and



Jessie Withrow died Tuesday in Anchorage.

See Back Page, BICYCLIST

# BICYCLIST: Student enjoyed friends, family, music

Continued from Page A-1

was a dean's list student at Bates College in Lewiston, Maine. She was pronounced dead at Providence Alaska Medical Center on Tuesday afternoon.

Police Lt. Bob Griffiths said Carlson had six DWI convictions in Alaska. Details about those cases were not available Tuesday because of the July Fourth holiday.

The crash happened about 11:30 p.m. Carlson was driving a white full-size pickup, police spokesman Ron McGee said.

Witnesses told police that Carlson was weaving and driving fast while heading south on Minnesota. He ran into a Ford Explorer that had stopped for a red light on Northern Lights Boulevard, then went on the sidewalk and struck Withrow on

her bike, according to police. His truck then went into the parking lot of the Aurora Village Shopping Center and crashed into three parked cars, police said.

The 2-year-old child and another man in the truck were not hurt, police said. The relationship between Carlson and the child wasn't clear.

Family friends of the young woman who died described her as exceptionally bright and creative.

"Jessie was a very unusual child. It was like she was way grown up beyond her years. She was destined to do great things. The world is going to be a cheated place for the fact she was not able to achieve her potential," said Susan Peck, who has a daughter close to Withrow and who is a friend of Withrow's mother, Wendy.

Withrow wrote for Perfect World, the

teen-oriented pages in the Anchorage Daily News. She sang with her mother at the Renaissance Festival and the Anchorage Folk Festival. She served on the Anchorage Youth Court, helping kids who had gotten in trouble. In 1998, she graduated with honors from Steller Secondary School and won a scholarship to Bates College, a liberal arts school. She was home for summer break and would have been a junior, studying English.

"Her friends, her family and her music were the things she enjoyed the most," said another family friend, Ray Booker.

Carlson is being held at Cook Inlet Pre-Trial Facility on \$100,000 bail.

Reporter Lisa Demer can be reached at ldemer@adn.com and 257-4390.

**adn.com**

Anchorage Daily News

## **3RD WRECK PINNED ON BOOZE WOMAN CRITICALLY HURT; CRASH HIGHLIGHTS DWI ISSUE**

By Larry Campbell And Lisa Demer  
Daily News Reporters

*(Published July 6, 2000)*

A young Anchorage woman was hospitalized in critical condition Wednesday following the third collision in the past two weeks involving drunken driving suspects with previous DWI convictions.

Gloria B. Steelman, 19, suffered massive head injuries when the Ford Escort in which she was riding collided with a pickup headed the wrong way on Northern Lights Boulevard early Wednesday morning. Steelman, an East High graduate, was in intensive care Wednesday at Alaska Regional Hospital. The Escort's driver, Jacqueline Fetherolf, 20, a Chugiak High graduate and University of Alaska Anchorage student, was listed in stable condition with less severe injuries at Providence Alaska Medical Center.

Police charged the pickup driver, Albert T. Bowman, 48, with two counts of first-degree assault, driving while intoxicated and driving with a revoked license. He was held at Cook Inlet Pre-Trial Facility in lieu of \$80,000 bail.

Witnesses said Bowman turned east off the Seward Highway into the oncoming traffic lanes of Northern Lights shortly after midnight Tuesday. At the same time, Steelman and Fetherolf were headed west to the Village Inn restaurant, according to a friend following in another car.

The truck and Escort collided nearly head-on. Another vehicle traveling west behind the Escort also hit the compact car.

The crash was the third alcohol-related tragedy in the past two weeks.

Monday night Jessie Withrow, a college student home for the summer, was struck by a pickup while riding her bicycle on a sidewalk along Minnesota Drive and West Northern Lights Boulevard. She died the next afternoon at Providence. Russell D. Carlson, 39, was charged with manslaughter, driving while intoxicated, driving with a revoked license and child endangerment for having two children in the truck with him, including a 2-year-old.

And on June 24, 69-year-old Donna Hobson suffered broken bones and internal injuries when she was knocked down by a pickup that careened onto the bike trail on which she was walking in South Anchorage. Charged with first-degree assault, leaving the scene of an accident and drunken driving was Alfred W. Meyer, 36. Blood tests show his alcohol level at 0.22, more than twice the 0.10 level considered too drunk to drive, police said.

Despite passage in recent years of more stringent drunken driving laws, state justice officials say chronic

drinkers remain on the street. And the law allows it. The same thing is happening across the nation, according to the National Transportation Safety Board, which last month released a report on the problem of chronic drunken drivers.

Current law jacks up jail time with every DWI conviction - three days on the first conviction, 20 days on the second, 60 days on the third and at least 360 days for five or more. Under a provision added in 1995, those who rack up three or more convictions in a five-year period can get even more time.

But court records show that with each of the three men currently charged, their DWI convictions never amassed to the critical point in any five-year span since the 1995 provision was added. And even if they had, the minimum sentence for any number of DWI convictions, within five years or not, is 360 days.

Bowman has been convicted of five previous DWIs, all more than a decade ago. His most recent conviction was in 1990. He received two months in jail, was ordered to spend up to 90 days in a residential alcohol treatment program, and lost his driver's license for 10 years.

Carlson's criminal history includes 19 criminal convictions stretching back to 1979 and includes seven drunken driving convictions as well as convictions for negligent driving and reckless driving.

At the time of Monday's wreck, he was on probation for a 1998 DWI and his driver's license was revoked. At his October 1998 sentencing, prosecutor Ben Walters warned: "This man, unless he changes his ways, is going to kill himself or someone else pretty soon."

At sentencing, District Court Judge Natalie Finn said because most of the prior DWIs occurred years earlier, the sentence was fair: six months in jail, \$3,000 in fines, five years' probation, alcohol treatment, and the loss of his driver's license for another year. It was already revoked until 2006.

Carlson also has two pending child abuse cases against him from May and June. In both cases, police said he was intoxicated and unable to care for young children in his charge, including his 5-month-old son. Police who visited his home on June 1 found him on the couch with a bottle of vanilla extract, the baby screaming in a crib and a 2-year-old and 4-year-old hungry and running about the house, according to a charging document.

In 1990, Meyer was convicted of drunken driving and sentenced to five days in jail after an accident in Anchorage. He lost his license for 90 days. In 1991, he was convicted again after police found his truck stuck in a snowbank. He received 20 days in jail, lost his license for a year and was ordered to complete an alcohol treatment program.

Even when offenders are sentenced, they don't always spend the time in jail, said John Novak, chief assistant district attorney in Anchorage. Increasingly in recent years, defendants have been able to substitute time spent in alcohol treatment programs for time behind bars, Novak said. And the time in a treatment program can count even if it's done before a defendant is sentenced.

"That's what we're commonly seeing now," Novak said. "And it's frustrating. Jail time and treatment time are becoming confused."

People who work with criminals and alcohol problems say the specter of drunken driving has fallen out of general public consciousness in recent years. A spate of concentrated attention by lawmakers, police and citizens groups in the mid- and late-1980s helped reduce some of the problem.

But what remains are the chronics, the ones who keep getting behind the wheel after a judge has told them

not to.

In May a small group pulled together, made up of state social service workers, Mothers Against Drunk Driving, the state Alcohol Safety Action Program, churches and other interested people. The goal was to take the drunken driving problem from obscurity to the forefront again.

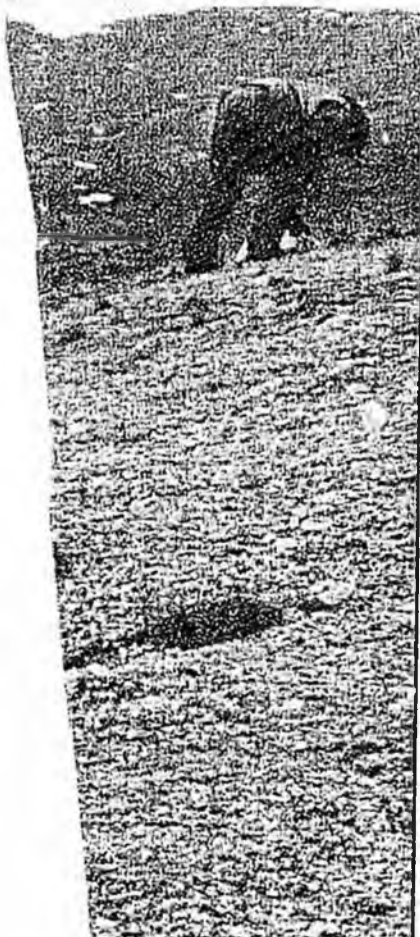
"We've realized this for a long time that there's a part of the problem that's not getting the attention it needs," said Linda Hornstein, MADD president. "People have got to start realizing that anytime they're on the street, this kind of thing could happen to them."

Reporters Larry Campbell and Lisa Demer can be reached at [lcampbell@adn.com](mailto:lcampbell@adn.com) and [ldemer@adn.com](mailto:ldemer@adn.com). Daily News reporter Mike Hinman contributed to this story.

Close Window

Copyright © 2000 The Anchorage Daily News (www.adn.com)

si  
ref  
af  
ie  
n  
i



MAUREEN CLARK / The Associated Press  
are brought into the park  
ch summer. Below: John  
native weeds in the park.



# Injured women improving

ADW  
July  
2000

## DWI suspect had truck, not license, police say

By LARRY CAMPBELL  
Daily News reporter

Two young Anchorage women showed slight signs of improvement Thursday after being seriously injured in a collision with a suspected repeat drunken driver.

Gloria Steelman, 19, was listed in critical but stable condition at Alaska Regional Hospital with severe head injuries. Steelman had been riding in a car driven by Jacqueline Fetherolf, 20. Fetherolf was listed in serious condition Thursday at Providence Alaska Medical Center.



Bowman

The two were struck early Wednesday morning by a pickup driving the wrong way down East Northern Lights Boulevard. Police charged the truck driver, Albert T. Bowman, 48, with two counts of first-degree assault, driving while intoxicated and

See Page B-2, WOMEN

# Firefighters accept 5-year labor contract

By KAREN AHO  
Daily News reporter

Anchorage firefighters have voted to accept a five-year labor contract with the city.  
"The city deserves five years of labor

140 to 150 pounds, with blond hair and a mustache. He was driving a dark sport utility vehicle, possibly red or maroon. Carr lived in Anchorage but owned about an acre of undeveloped land off Knik Goose Bay Road. Anyone with information is asked to call troopers at 428-7200.

### Man sentenced for killing best friend

FAIRBANKS — A 26-year-old Fairbanks man has been sentenced to 99 years in prison for killing his best friend. Adam Hamilton, 26, was convicted of first-degree murder by a jury in March for the Nov. 24 killing of David Dixon of Fairbanks. Dixon was stabbed in the neck, chest and back at his home. Hamilton was covered with blood when he was arrested shortly after the attack, according to police. The victim's

### New APRN pre

Paul Stankavich has been appointed as the new pre-licensure officer of the Alaska Board of Nursing. He has 33 years of experience, served as general manager of the Alaska Public Radio Network in Minnesota and worked in commercial television in Ohio. He wants to develop a local program committed to the success of the profession. Stankavich succeeds

## WOMEN: Crash victims' conditions improve slightly

Continued from Page B-1

driving with a revoked license. Bowman has been convicted of five previous DWIs.

Anchorage police Detective Everett Robbins said Thursday that the truck Bowman was driving was registered to him, even though he didn't have a valid driver's license. There's no law that bars someone without a license from owning a car or truck or any motor vehicle.

Robbins is also investigating two similar recent cases in which, like Bowman, the suspects charged with drunken driving have a history of previous convictions.

Earlier this week Russell D. Carlson, 39, was charged with manslaughter, driving while intoxicated and driving with a revoked license after the truck he was driving struck 20-year-old Jessie Withrow in Spenard. Carlson's criminal history includes seven previous drunken-driving convictions as well as convictions for negligent driving and reckless

driving.

The truck Carlson was driving Monday evening belonged to someone who was out of town. Carlson ended up behind the wheel when a man with whom Carlson had been riding decided he was too drunk to drive and let Carlson take the wheel, Robbins said.

Late last month 69-year-old Donna Hobson suffered broken bones and internal injuries when she was knocked down by a pickup driving on a South Anchorage bike trail.

Alfred W. Meyer, 36, was charged with first-degree assault, leaving the scene of an accident and drunken driving. He had drunken-driving convictions in 1990 and 1991.

Meyer works as general manager of the Muffler City shop downtown, Robbins said. He was driving a company-owned truck.

All three cases remain under investigation.

□ Reporter Larry Campbell can be reached at [lcampbell@adn.com](mailto:lcampbell@adn.com).

## FIREF

Continued from

living increases and 4 percent 2004.

The city estimates that the contract will cost \$182,000 more than the previous contract would have had for arbitrator and arbitrator's fees. A settlement was reached.

This way, the predictable labor sides get to contract with the help of mediators Smith said.

Smith said that the 1984 contract reached an outside help.

Other changes in the contract include

- A new firefighter will get a 1 percent pay raise.
- They train paramedics.

- Firefighter bachelor's degree field, success will get a

## DENALI: Crews take whack a

## Accused drunken driver charged

JO C. GOODE / *The Frontiersman* / July 25, 2000

[Email this story.](#)

ANCHORAGE An Anchorage man accused of killing a Palmer boy and his cousin, and injuring their grandparents while driving drunk near Portage, was arraigned Friday on manslaughter charges in Anchorage District Court.

Robert Richardson, 35, was arrested after his release Thursday from Alaska Regional Hospital, where he had been treated for a ruptured aorta, severed fingertip and a broken leg injuries he sustained in the July 12 crash that killed Kenneth Kramer, 11, of Palmer, and his cousin, Kevin Blake, 15, of Tatitlek.

Alaska State Troopers say the boys died shortly before 5 p.m. July 12 after an intoxicated Richardson crossed the center line on Portage Valley Road in his Ford F-150 and smashed into the drivers side of a compact Ford Aspire which Blake was driving.

Blake, who was driving with a learners permit, apparently swerved to avoid Richardsons oncoming truck, but had little time, his grandfather, David Glasen, said.

David Glasen, 61, and the boys grandmother, Patsy Glasen, 57, both of Tatitlek, were injured in the crash.

Blood tests in Anchorage soon after the crash revealed Richardson had a blood-alcohol level of 0.175, according to court documents. The legal limit in Alaska is 0.10.

Two days later, Richardson was charged with two counts of manslaughter, driving while intoxicated (DWI), and two counts of first-degree assault.

Richardson is being held at Cook Inlet Pre-Trial Facility in lieu of \$100,000 cash bail.

Last Tuesday, David Glasen underwent 14 hours of surgery to repair damage to his hip and pelvis at Providence Alaska Medical Center. Patsy Glasen, who suffered head injuries, was released from Providence Medical Center.

Also last Tuesday, Kenneth Kramer was laid to rest in Cordova. The 11-year-old was buried with his father, Darryl Kramer, who passed away in January.

Richardsons truck was pulled out of a Portage Lake by a tow truck just 20 minutes before the fatal collision. Richardson managed to travel about 1-1/2 miles toward the Seward Highway before he slammed into the familys compact sedan, according to troopers.

Richardson allegedly told Trooper Barry Wilson at the crash site that he had consumed a six-pack of beer earlier that day and was on his way from Anchorage to Wasilla. According to Wilson, Richardson said he thought he was near Wasilla.

[Back to Top](#)

[Back to News Stories](#)



*Best viewed in 4.0 or higher*

Copyright © 2000 Wick Communications, Inc.

# METRO

SATURDAY, July 29, 2000 ★

ANCHORAGE DAILY NEWS • www.adn.com

SECTION B

Donna Hobson rests in her hospital bed on her last day in the hospital on Friday. She was hit on a bike path by a driver who has been charged with first-degree assault, felony hit and run, and driving while intoxicated.



BOB HALLIEN / Anchorage Daily News

## Hit-run victim on bike path recalls 'outlandish' accident

By KAREN AHO  
Daily News reporter

Five weeks after being hit on a bike path by a suspected drunken driver, 69-year-old Donna Hobson rolled out of Providence Alaska Medical Center on Friday in a wheelchair.

Her left leg will never be the same, but she's not feeling sorry for herself. She said the accident was so outlandish and so devastating that she's just grateful to be alive.

"I feel God's given me another chance, given me a message," she said before her release.

"I don't know what it is ...," she added, laughing.

Hobson had been walking with her husband, Bob, on a bike path near O'Malley Road and the Old Seward Highway the evening of June 24. She was still recovering from knee surgery, so she supported herself with a cane in one hand and her husband's hand in the other, both tucked inside his warm pocket. He walked their miniature poodle, Tiny.

As they approached an alder-lined bend, a pickup suddenly rounded the curve. The driver swerved out of control in an apparent effort

to miss the pond, she said, and came last at them.

Her husband tried to push her out of the way, but somewhat delicately because of her knee. Both they and the dog ended up in the pond, but Hobson was hit. She flew out of her shoes and landed face down in weeds and water some 20 feet away.

She doesn't remember much.

"It seems like I had a vision of crinkled tin in front of my eyes, all that metal. And everything going black. And he told me to lay still and he

See Page B-2, VICTIM

• We can all take lessons from the crisis

# VICTIM: Is grateful to be alive JET SKI

Continued from Page B-1

was going for help," she said.

Her husband later told her that she kept saying she hurt. Paramedics said she kept asking, "What happened?" which is common for trauma victims.

The pickup got stuck in the pond, and the driver and his passenger fled, refusing to help Hobson pull his wife from the water or call for help, police said. A K-9 tracked a scent and found two men hiding behind a Dumpster outside Sports Authority, Hobson said.

"They thought it was all fun and games. Police said they were laughing about it when they found them," she said.

Alfred W. Meyer, who police identify as the driver, is charged with first-degree assault, felony hit and run, and driving while intoxicated. Police said Meyer, 36, has two prior convictions for DWI.

Hobson underwent 15 surgeries on her lower left leg. She thinks it got tangled in the pickup's metal. The tissue was so crushed, doctors thought they would have to amputate. But enough muscle and nerve remained.

Over a two-week period, doctors stripped and cleaned what was left, then wrapped the thin portion that remained with a long patch of skin cut from her thigh.

She'll wear a brace from her heel to her thigh for the rest of her life. But she will be able to walk. Slowed circulation through the calf will leave her left foot permanently swollen.

Her pelvis, fractured on both sides along with bones in her lower back, is slowly healing on its own. A tube inserted in her chest helped her punctured lung recover.

"I thought that I would just be devastated — oh, another day at the hospital — but I felt so fortunate that I came through it that I felt a sense of peace about it," she said.

"I'm angry at them at getting their kicks for taking a joy ride down the bike trail," she said. "I guess if he stops drinking and learns something from it then it's not in vain. ... Some people, they just can't seem to get away from their drinking."

□ Reporter Karen Aho can be reached at kaho@adn.com or 257-4450.

Continued from Pa

Alaska. "A personal watercraft is a boat. It has no difference from the environment or any other boat. In some

The watercraft club response to the ongoing debate swirling around urged jet skiers as well as boaters and motorcyclists get in touch with law Gov. Tony Knowles.

They believe the teaching boaters and jet proper etiquette and wildlife instead of success. "This is the tip of the iceberg and we need to act now."

Kevin Hite, president of the Alaska State Snowmobile Association, called the ban a limiting recreational activity in Alaska. In a prepared statement, Hite said the Knowles administration was on a "crusade to deprivatize public land and water."

The jet ski group is part of the motorboat industry's ABATE — Alaska Boating Training and Education

# CRITTERS: Man spreads smiles, mess

Continued from Page B-1

... we can't afford to start with the ... died prior to the

# Driver drunk in 6-fatality July wreck

## Chena road collision worst ever in Interior

By KAREN AHO  
Daily News reporter

A July auto accident that killed six people east of Fairbanks, making it the deadliest crash in Interior memory, can now join another list: that of crashes blamed on drinking and driving.

Alaska State Troopers said Saturday that the driver of the pickup that slammed head-on into another pickup on Chena Hot Springs Road had a blood-alcohol level nearly three times the legal limit for driving. His three passengers, all of whom were thrown from the truck and pronounced dead at the scene, also were highly intoxicated, troopers said.

Two Army soldiers who were killed when the pickup crossed into their lane

See Back Page, CHENA

# CHENA: Driver, 3 others were drunk

Continued from Page A-1

had not been drinking, troopers said. They also died on the road. Their wives were critically injured.

The alcohol test results from the July 2 crash, forwarded to troopers Friday by the state medical examiner's office, put a spike in a recent run of crashes blamed on drunken driving, especially in Southcentral.

In the Anchorage area alone, four people have been killed and six seriously injured by suspected drunken drivers since June.

Troopers say they would like to step up patrols but have limited manpower. Federal grants aimed at seat belt enforcement are paying overtime of extra officers on

the street. Some posts are juggling shifts to hit peak drunken driving hours.

"It is frustrating because I know they're there. If I could get out there more, if my guys could get out there more, we could arrest more," trooper Sgt. Lee Oly said. "There's only so much blood you can get out of a turnip."

In a state House committee meeting Thursday, officials spent three hours addressing the problem. Among draft bills being discussed for the next legislative session: lowering the blood-alcohol level for driving to 0.08, lengthening minimum prison sentences and requiring alcohol-purchase ID cards that mark past convictions.

In the crash outside Fairbanks, the driver had come

from a Fairbanks bar, trooper Capt. Mike Stickler said Saturday.

Jacky L. Moore, 39, had a blood-alcohol level of 0.27 percent, nearly three times the 0.10 legal limit for driving, troopers said. Passengers Christy Simon, 29; Harvey Grau, 27p; and Kristine Fuit, 47, were "highly intoxicated," a troopers press release said.

Christopher McFadin, 21, and Bruno Guglielmi, 24, soldiers at Fort Wainwright, were killed. Their wives, Teri Jo McFadin, 18, and Krystal Guglielmi, 22, were seriously injured.

---

□ Reporter Karen Aho can be reached at kaho@adn.com or 254450.

---

*ADN  
bang  
2000*

Activities, Destinations, Tours, Wildlife, Video, Postcards...  
**inAlaska.com**  
 Find out what you want to know about Alaska. Where you want to go in Alaska!

**inAlaska.com**  
 Click here for your ticket to Alaska!

**MSNBC**  
 HOME

- News
- Business
- Sports
- Local
- Health
- Technology
- Living Travel
- TV News
- Opinions
- Weather
- Shop@MSNBC
- MSN.com

**Local**

LOCAL NEWS | LOCAL WEATHER | LOCAL SPORTS | MORE CITIES | WRITE US | NEXT STORY

# Anchorage, AK

Station Home Page & More Local Information



Justin Freeman / KTVU

Robert Mersing is loaded into a police car, following the crash.



Dan Fagan

## Man faces 3rd DUI

**Anchorage, Aug. 9-** One year ago, 22-year-old Robert Allan Mersing was arrested for drunken driving. A month ago, he was arrested again for drunken driving. Then on Tuesday night, for the third time in a year, Mersing found himself once again handcuffed and headed to jail for allegedly driving drunk.

POLICE SAY MERSING'S THIRD drunken driving incident could have easily been the most dangerous. Eric Quint's young daughter was playing in their yard by a fence just minutes before police say Mersing came speeding and crashing into the fence.

"After hearing so much in the press recently about drinking and driving, it really scares me actually," Quint said. "It really does."

Police say Mersing failed his sobriety test and refused to take a blood alcohol test. He also was uncooperative with police and at one point refused to spread his legs and be searched. After a while, police spread Mersing's legs for him.

One witness says Mersing told police he had been through this before and that it was no big deal. But it was a big deal for neighbors who saw it all. After Mersing crashed into the fence, he then ran over a nearby stop sign. Two neighbors approached his car when it became disabled because of an air bag.

"He hit the stop sign, then we got a hold of him and we pulled him out of the car and grabbed the keys, threw them up on the roof of the car," neighbor Clint Belcher said.

"He would have ran," Vic Shincke said. "He would have ran."

Mersing was charged with DWI and driving with a suspended license. His license was suspended because of his two DWI arrests.

**MSNBC COVERAGE**

**STORY** [Click here for more news in Alaska](#)

**▶ NEXT STORY →**



MSNBC is optimized for  
• Microsoft Internet Explorer  
• Windows Media Player

• [MSNBC Terms, Conditions and Privacy © 2000](#)

[Cover](#) | [Headlines](#) | [News](#) | [Business](#) | [Sports](#) | [Local](#) | [Technology](#) | [Living & Travel](#) | [Health](#)  
[TV News](#) | [Opinions](#) | [Weather](#) | [Shop@MSNBC](#) | [MSN](#) | [Comics](#) | [Find](#) | [About MSNBC](#) | [Help](#) | [Index](#)  
[Cool Tools](#) | [Jobs](#) | [Write Us](#) | [Advertising on MSNBC](#) | [Y2K Statement](#) | [Terms, Conditions, and Privacy](#)



[Find](#) • [Help](#) • [Newstools](#) • [Write Us](#)



SAM HARRAL / Fairbanks Daily News-Miner

Alaska State Troopers investigate a three-vehicle accident on Chena Hot Springs Road on July 2. Six people were pronounced dead at the scene, and two more suffered critical injuries.

## DWI

### *The road to tragedy*

Now we know the truth about the crash on Chena Hot Springs Road near Fairbanks last month: The driver of the pickup that caused the head-on collision was drunk as a skunk.

Because Jacky L. Moore, 39, chose to leave a bar and drive with a blood-alcohol level nearly three times the legal limit, six people, including Mr. Moore, are dead.

The young soldiers in the pickup Mr. Moore crashed into had not been drinking. They were two more innocent victims of an intoxicated driver in a summer of intoxicated drivers and innocent victims.

The soldiers' wives were seriously injured. They have to try to recover physically while somehow accepting that, at 18 and 22, they are widows.

What must keep them awake nights is the knowledge that this tragedy could have been avoided if Mr. Moore had called a cab. Or if the bartender had insisted Mr. Moore leave his keys and arranged a ride for him.

There are at least three parties involved in creating a drunken driver: the driver, the person providing the booze, and a community that tolerates the behavior.

Anchorage, like many Alaska towns and cities, in effect tolerates drunken driving.

Bad bars aren't the only contributors to the problem, but they play a part.

"We're not trying to get bars to stop selling people their 10th or 11th drink," Anchorage Police Department officer Derek Hsieh says. "We're trying to get them to stop at the 14th or 15th drink."

Think about being on the road with somebody who has had 14 drinks.

Of three high-profile Anchorage drunken driving cases this summer, one driver came from an "entertainment establishment," one had been drinking at home, and one picked up booze at a liquor store and drank in his vehicle.

Inspector John Bilyeu of the Alcoholic Beverage Control Board says 90 percent to 95 percent of liquor sellers are law-abiding businesses doing their best to follow rules. "It's that 5 to 10 percent that are doing anything to make a buck" who cause problems, Bilyeu says.

Officer Hsieh and Inspector Bilyeu agree that long-term, consistent enforcement is the key to producing responsible liquor sellers and drinkers.

"Our community has known about this problem for a long time," officer Hsieh says. "We've missed an opportunity to be proactive and now we're being reactive."

Let's be reactive in a way that's most likely to produce the results we want. Drunks by definition have no judgment. Society must step in when they stagger and fall — before others die needlessly.

As officer Hsieh says, this community needs to "make a commitment to stand by the standards we're going to set in the short term and live by them for the long term."

We don't need vigilantes gathering under the tree to hang each convicted killer. We need to stop relatively harmless drunks — whether first-time social drinkers or hard-core alcoholics — before they become killers.

At a minimum we need strict, consistent enforcement of liquor laws and adequate police and trooper highway and street patrols. We need to consider a lower blood-alcohol limit, alcohol-purchase ID cards, and any other reasonable idea.

Selling, buying and drinking alcohol is a right that society should only tolerate if done responsibly. And responsibly means at the very least not drinking and driving.

If we don't prepare to deal with drivers who drink, we're really preparing for more, more and more drunken

Anchorage  
Daily  
News

9 Aug 2000

## Driver involved in fatal crash had high blood alcohol

October 17, 2000

By BETH IPSEN  
Staff Writer

The driver involved in a fatal accident that killed a 17-year-old Lathrop High School student Sept. 30 had a blood-alcohol level nearly three times the legal limit, according to Alaska State Troopers.

Trooper Sgt. Tim Schoenberg said Kirk Johnson, 32, of Fairbanks had a blood-alcohol level of 0.29, according to information obtained from his medical records at Fairbanks Memorial Hospital. A search warrant was authorized to examine the records.

Blood alcohol levels of 0.10 percent and higher are considered drunken driving.

Johnson was driving a full-sized 1987 GMC truck that slid into the opposing lane around 3 p.m. that day and collided head-on with a 1991 Toyota sedan driven by 17-year-old Heather Dowdy at 3.5 Mile Old Steese Highway. Both individuals were the only occupants in the vehicles.

Dowdy suffered several injuries and died at FMH that day. Johnson received facial injuries and was admitted to the hospital.

Trooper Aileen Witorsky, who is investigating the accident, said the ice on both sides of the road also contributed to the collision.

Schoenberg said charges are pending completion of the investigation on the accident itself, which takes longer.

"We'll research all of the statutes that are appropriate with that particular incident," he said. "There will be more charges pending than a DWI; that's a forgone conclusion."

After the investigation is complete, Witorsky said it will be reviewed at the district attorney's office before the report and charges are made public.

Johnson was convicted of driving while intoxicated in 1988 after troopers stopped him for weaving across the center line of the Richardson Highway, according to court records. In that incident, he had a blood-alcohol level of 0.18.



**adn.com**

Anchorage Daily News

## Family, friends express outrage

**Something should have put a stop to repeat DWI offender long ago DWI:  
Repeat offender charged in Muldoon collision**

By Karen Aho  
Daily News Reporter

*(Published October 12, 2000)*

In 1998, after his fifth drunken driving conviction, Franklin Schug asked to be excused from his court-ordered alcohol counseling.

"I will be 67 next birthday," he wrote a judge in a one-page note contained in court files. "I don't intend to drive, nor could I afford a car and insurance. I would like to have this order dismissed."

The court denied his request. Two years later, Schug did drive, despite the fact that, according to prosecutors, he did not have a license and couldn't have had insurance.

He also drove while intoxicated, according to charging documents. Police said he had a blood-alcohol level of .229, more than twice the legal limit, when he collided with two motorcycles Saturday evening on Muldoon Road, injuring four people, one of them critically.

Schug has been charged with four counts of assault, as well as leaving the scene of an accident, DWI, and driving without a valid license. He is being held at Cook Inlet Pre-Trial Facility in lieu of \$290,000 cash bail.

Family and friends of the victims attended Schug's hearing earlier this week and expressed outrage at his repeated drunken driving. His convictions, none of them felonies, date back to 1976.

"I have a DWI conviction from 1987 and I have a perfectly clear driving record now," said Brad Mork, a friend of the victims. "Some people learn and some don't."

Mork, 36, said he was riding his motorcycle behind his friends down Muldoon Road on Saturday when Schug's pickup pulled out of a side street in front of them. The bikes struck metal. His friend Mark Thorn looked up at Mork from the pavement and said, "Go get that SOB."

The pickup had taken off, Mork said. "It was the worst thing I ever seen."

Mork caught up, and hollered through the driver's closed window as the pair moved down Muldoon, he said. With the aid of another driver, Mork blocked the pickup 29 blocks later. Mork jumped on the running board, punched out the window, and pulled the gearshift into park.

He said he told Schug, "Pull over, now! You just caused a major accident. Pull over!"