

# Traffic Safety Facts

## Laws

DOT HS 810 879

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## Repeat Intoxicated Driver Laws

### Background

The National Highway Traffic Safety Administration supports the enactment of repeat intoxicated driver laws. The Transportation Equity Act for the 21st Century (TEA-21) Restoration Act established a program to encourage States to adopt laws that provide for enhanced sanctions for repeat offenders of impaired driving laws (23 USC 164). Repeat offenders account for a large portion of the impaired driving problem. One-third of all driving while intoxicated (DWI) or driving under the influence (DUI) arrests each year involve people who have been convicted previously of DWI/DUI.

### Key Facts

- Motor vehicle crashes are the leading cause of death for Americans age 2 through 34.
- In 2006, there were 17,602 alcohol-related fatalities in motor vehicle crashes.
- Alcohol was involved in 41 percent of fatal crashes in 2006.
- About every 30 minutes, someone is killed in the United States in an alcohol-related crash.
- Alcohol-related crashes in the United States cost the public more than \$50 billion in 2000, and 75 percent of these costs occurred in crashes where a driver or nonoccupant had a blood alcohol concentration (BAC) of .08 grams per deciliter or higher.
- Inpatient rehabilitation costs for motor vehicle injuries average \$11,265 per patient.
- Impaired driving is the most frequently committed crime in the United States.
- Drivers with prior DWI convictions are overrepresented in fatal crashes and have a greater relative risk of involvement in a fatal crash.

### How Effective Are Repeat Intoxicated Driver Laws?

Research has shown that driver-licensing sanctions have a significant impact on reducing impaired driving. Licensing sanctions imposed under State administrative license revocation systems (ALR) have resulted in reductions in alcohol-related fatalities of between 6 and 9 percent. According to a NHTSA study, Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah experienced significant reductions in alcohol-related fatal crashes following enactment of ALR procedures. The studies support the notion that licensing sanctions deter repeat DWI offenders from driving impaired. Although many repeat intoxicated drivers continue to drive without a license after their licenses have been revoked, there is some indication that those who do drive tend to drive less frequently and more carefully. For further information about licensing sanctions, see NHTSA *Traffic Safety Facts – Administrative License Revocation*.

Additional sanctions, including a variety of vehicle sanction programs, have been applied successfully to deter repeat DWI offenses. For example, California's vehicle impoundment program

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resulted in substantially fewer subsequent offenses, convictions, and crashes for repeat offenders involved with the program (which included non-DWI offenses) compared with another control group of repeat offenders.

A study of ignition interlock devices in Maryland found that participation in an ignition interlock program decreased the risk of DWI recidivism by 65 percent. These programs are successful because they prevent many repeat DWI offenders from driving by either separating them from their vehicles or requiring them to be alcohol-free when they do drive. For more information about vehicle sanctions, see NHTSA *Traffic Safety Facts – Vehicle and License Plate Sanctions*.

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

A DWI court is a distinct court system dedicated to changing the behavior of the alcohol/drug dependent offender arrested for impaired driving. The goal of the DWI court is to protect public safety by using the drug court model to address the root cause of impaired driving: alcohol and other substance abuse. With the repeat offender as their target population,

these courts follow the Ten Key Components of Drug Courts and the Ten Guiding Principles of DWI Courts, as established by the National Association of Drug Court Professionals. Variants of DWI courts include drug courts that also accept DWI offenders, commonly referred to as "hybrid" DWI courts or DWI/drug courts. There are 81 designated DWI Courts and 249 hybrid DWI/Drug Courts currently operating in the United States.

The DWI court uses all criminal justice stakeholders (prosecutors, defense attorneys, judges, probation, law enforcement, and others), along with alcohol or drug treatment professionals. This group comprises a DWI Court team, which uses a cooperative approach to systematically change participant behavior. Compliance with treatment and other court-mandated requirements is verified by frequent alcohol and drug testing, close community supervision and interaction with the judge in non-adversarial court review hearings. A DWI court is being evaluated in Maricopa County (Phoenix), Arizona. Completion of this study, jointly funded with the Department of Justice, is expected in Spring 2008.

## Section 164

Section 164 of title 23 of the United States Code requires that States have certain repeat intoxicated driver laws in place or face a transfer of Federal-aid highway construction funds. Under the program, a repeat intoxicated driver is defined as a person convicted of driving while intoxicated or driving under the

influence of alcohol more than once during any 5-year period. Transferred funds may be used for alcohol-impaired driving countermeasures, enforcement of impaired driving laws, or hazard elimination activities, under Section 152.

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

### **must at a minimum:**

- Require a minimum one-year driver's license suspension for repeat intoxicated drivers;
- Require impoundment or immobilization for all motor vehicles of repeat intoxicated drivers for a specified period during the license suspension period, or require the installation of an ignition interlock system on all motor vehicles of such drivers for a specified period after the suspension is completed;
- Require the mandatory assessment of the repeat intoxicated driver's degree of alcohol abuse and referral to treatment as appropriate; and
- Establish a mandatory minimum sentence for repeat intoxicated drivers:
  - ▲ Of not less than 5 days of imprisonment or 30 days of community service for a second offense; and
  - ▲ Of not less than 10 days of imprisonment or 60 days of community service for a third or subsequent offense.

The transferred amount for non-compliant States is 3 percent.

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## Which States Have Complied With the Federal Repeat Intoxicated Offender Requirements?

To date, 39 States and the District of Columbia are in compliance with the requirements of Section 164: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

## References

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Reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Impaired Driving and Occupant Protection Office, ATTN: NTI-111, 1200 New Jersey Avenue SE., Washington, DC 20590; 202-366-2683; or NHTSA's Web site at [www.nhtsa.gov](http://www.nhtsa.gov).