

MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DWI

Program Purpose

Section 5 of the TEA-21 Restoration Act established a new program (under Section 164 of chapter 1 of Title 23) to encourage States to enact Repeat Intoxicated Driver laws. A State which does not have a Repeat Intoxicated Driver law by October 1, 2000, will have certain Federal-aid highway funds transferred to the State's Section 402 State and Community Highway Safety grant program.

Requirements

Each State shall have in effect a Repeat Intoxicated Driver law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated (DWI) or driving under the influence (DUI) 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) for 2nd offense, not less than 30 days community service or 5 days of imprisonment; and

(ii) for 3rd and subsequent offense, not less than 60 days community service or 10 days of imprisonment.

For purposes of this section, those jurisdictions defined as "States" in chapter 1 of Title 23 are subject to the Section 164 transfer provisions; this includes the 50 States, the District of Columbia, and Puerto Rico.

Transfer of Funds

On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, 1-1/2 percent of the funds apportioned to the State under paragraphs (1), (3), and (4) of Section 104(b) will be transferred to the State's Section 402 apportionment.

On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, the transferred amount increases to 3 percent of the State's apportionment for the specified Federal-aid programs.

Obligation authority transfers with the highway funds. No limitation on Section 402 obligation authority applies to the transferred funds.

Funds transferred to Section 402 must be used for alcohol-impaired driving countermeasures or enforcement of DWI or DUI and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the Section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

Program Administration

This program will be administered by the National Highway Traffic Safety Administration.