



**National  
Transportation  
Safety Board**

**Safety Information**

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TESTIMONY OF

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BEFORE THE

DUI TASK FORCE  
COMMITTEES ON TRANSPORTATION AND JUDICIARY

PENNSYLVANIA HOUSE OF REPRESENTATIVES

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Good morning. It is a pleasure to be in Harrisburg. Today, I want to talk with you about the tragedy of the thousands of persons killed in traffic crashes each year and about some of our most important recommendations for reducing these crashes.

The National Transportation Safety Board is an independent Federal agency that investigates transportation accidents and makes recommendations to prevent their recurrence. You are undoubtedly aware of our ongoing investigation of the TWA crash off the coast of Long Island that killed a number of Pennsylvania residents. The recommendations that arise from our investigations and studies are our most important product. In our 27 year history, more than 80 percent of our recommendations have been adopted by the organizations and government bodies in a position to effect improvements in transportation safety.

The Safety Board has recognized for many years that traffic crashes are one of this nation's most serious transportation safety problems. More than 90 percent of all transportation related deaths each year result from highway crashes. We have made many recommendations to Pennsylvania and the other States regarding driving while impaired and other important highway safety concerns. I would like today to share with you several of the Safety Board's recommendations that could reduce the death toll on Pennsylvania's highways.

First, let me complement you on enactment of a zero tolerance law for young drivers. This is a very positive step that can be enhanced by one additional action, enactment of an administrative license suspension law. I would like to emphasize the positive results of Pennsylvania's graduated license system and nighttime driving restriction for young novice drivers. The Pennsylvania Liquor Control Board has developed outstanding public information materials including both point-of-sale items and BAC cards that have been used by States as far away as New Mexico. This proactive approach is a model for other such Boards and Commissions. As a result of your efforts, alcohol-related crashes in Pennsylvania are slightly below the national average. But more needs to be done.

You may ask why more action is necessary if your alcohol-related crashes are below the national average. First, there are many more lives that can be saved. Second, we are facing a second baby boom. The downward trend in the 15-20 year old population has already reversed. By the year 2010, the 16 year-old population is estimated to be 22 percent greater than it is today. As our population grows, we will have more drivers, especially young drivers, more exposure, more crashes, and more deaths. If you act now, you can put in place a system that can reduce crashes.

In 1988, the Safety Board launched a "Go Team" to Carrollton, Kentucky to investigate the worst alcohol-related highway collision in American history: the collision of a pick-up truck and a church activity bus.

The pick-up truck driver had been drinking and was going the wrong way on an Interstate highway. He survived the crash. The passengers on the bus were not as

fortunate -- 27 innocent people died and 34 more suffered injuries when the bus burst into flames. Ninety minutes after the crash, the driver's blood alcohol content was 0.26 percent.

The night of the crash, news of the tragedy flashed across the TV screens and the front pages of our newspapers. The deaths of those 27 people caught the nation's attention. People were outraged by the horror caused by one person's impairment and irresponsible behavior. They immediately called for action to prevent this kind of crash from happening again.

That is as it should be. Whenever a life is lost in a transportation crash, solutions to prevent similar incidents should be sought and implemented. Preventing loss of life or injuries is one of the Safety Board's most important missions.

But the problem goes far beyond that one tragedy. Traffic crashes -- nearly half of which involve alcohol -- are the fourth leading cause of death in our country today and the primary cause of death for all persons up to age 34. Preventing these impaired driving related deaths would cost significantly less than what society pays as a consequence of drunk driving. Motor vehicle crashes cost almost \$151 billion in 1994. This is \$580 for each and every American, each and every Pennsylvanian. Yet, the crashes are preventable; the deaths and injuries are preventable, and your actions can accomplish those goals.

In 1995, 41,798 people were killed in traffic crashes in this country. More than 17,274 of those fatalities involved alcohol. More than 300,000 people suffered injuries in alcohol-related crashes. Highway fatalities have increased for the last three years, and, for the first time in a decade, alcohol-related fatalities increased.

Most experts agree that many impaired drivers persist in their behavior because they believe they will not be caught and/or convicted. Unfortunately, that perception is based on reality. In most jurisdictions that do not have administrative license revocation, experience proves that drivers have little reason to fear apprehension. In fact, the odds of being arrested for driving while impaired are as low as one in one thousand. Stated another way, an intoxicated person can drive from New York to Los Angeles and halfway back without being arrested. Also, you should know that, nationwide, driving-while-impaired arrests have decreased 25 percent in the last five years. You can have no credible deterrence without strong and visible enforcement.

And, even if arrested, the DWI case crawls through the judicial system while the driver is still on the streets and highways. A typical drunk driving case takes an average of 90-120 days to complete and sometimes as long as a year. During that time, the driver retains his or her license. All too frequently the subject -- even before being tried for the first offense -- is arrested again for driving while impaired.

Following the Carrollton crash, the Safety Board issued a series of recommendations intended to help curb the threat of drunken drivers. The single most important one called for the States, including Pennsylvania, to adopt an administrative license revocation or suspension law.

Administrative license suspension gives a law enforcement officer the authority, on behalf of the state licensing agency, to confiscate the license of any driver who either fails or refuses to take a chemical breath test. To be truly effective, the officer must be able to confiscate the license on the spot.

Once a driver's license has been confiscated, the driver is issued a temporary license that is valid for a short, specified period of time. During that time he or she may seek an administrative hearing – a process that is independent of any criminal proceedings. That hearing addresses a single issue: Did the driver fail or refuse to take a breath test? If the answer is yes, the license is revoked.

The impaired driver is off the road, with no dilatory tactics, no mitigating circumstances, no plea bargaining and no pre-trial diversion. The offender may still face criminal proceedings, but the important thing is that they are off the road in very short order.

Based upon the extensive experience of the 39 jurisdictions that have adopted administrative license revocation, it works. It specifically deters those drivers who are caught drinking and driving from doing it again. And, it generally deters those who have not been caught, because they are afraid of losing their driving privileges.

Opponents of administrative license suspension argue that it is unconstitutional – that it denies the impaired driver due process. However, in no state has ALR been declared unconstitutional. To the contrary, the U.S. Supreme Court ruled that revocation of a license, prior to an administrative hearing, is not a violation of due process as long as there are provisions for a swift post-suspension hearing. While some may argue individual rights, you know that the first duty in ensuring freedom is in ensuring life and security.

When the Federal Aviation Administration believes that public safety is endangered, it immediately revokes a pilot's license. The pilot's appeal is heard within 15 days by an Administrative Law Judge. And, if the action is further appealed to the full Safety Board, we are required to issue a decision within 60 days after the revocation. The immediacy of the process helps to insure the safety of the nation's airways. There is no reason why we cannot and should not do at least as much to protect the public on our nation's streets and highways. ALS is not roadside adjudication by a single officer because of the checks and balances inherent in the system.

The Safety Board's support of ALR is based on sound research and evidence gathered from states that have adopted the procedure.

The CALIFORNIA experience demonstrates how successful ALR can be in removing drunk drivers from our highways. Enacted in 1989, 300,000 drivers who failed or refused sobriety tests had their licenses taken on the spot in the program's first year. Only 10,400 of these suspensions were later set aside. Significantly, there were requests for hearings in only seven percent of the cases -- far fewer than had been anticipated.

DELAWARE, when possible, tests all fatally injured drivers for alcohol. When the state compared the number of drinking drivers (those with a BAC greater than 0.05 percent) before and after implementation of its law, it found that number had decreased by 19.1 percent in just one year. A more recent study sponsored by the AAA Foundation for Traffic Safety found a 14 percent decline in the presence of alcohol among fatally injured drivers.

In MINNESOTA the law was aggressively implemented -- and it is working. Administration license revocations for alcohol-related offenses have increased every year in the decade following its implementation in 1976. Roadside surveys in 1975 and 1985 revealed a 60 percent reduction in the number of drivers on the road after midnight with a BAC level of 0.10 percent or higher -- a drop from one driver in ten to only one in 24.

OKLAHOMA reported a "significant decrease" in the incidence of drinking and driving after implementation of its law. The year after the law took effect, overall traffic fatalities decreased 20 percent and alcohol-related fatalities declined 30 percent. And in the first two years of the program, alcohol involvement in all highway crashes declined 41 percent. Officials in Oklahoma consider administrative license revocation to be the single most important element in their anti-drunk driving program.

UTAH has noted an important -- and perhaps unanticipated -- collateral effect of its law. The prosecutor's offices in Salt Lake City and County report a 15-20 percent drop in their DWI caseload. Moreover, because of increased guilty pleas, they report that their overall DWI conviction rate is nearly 98 percent.

OREGON has experienced a reduction in the number of test refusal hearings since it enacted an administrative license revocation law. Prior to 1984, hearings were requested in 50 percent of the implied consent test refusal cases. That declined to only 19 percent of those drivers who have had their licenses suspended asking for a hearing.

The safety benefit to the state has been significant. The percentage of alcohol-related, night-time, single vehicle crashes with serious injury decreased 15-20 percent when the law was implemented. This reduction was still evident two years later. Also, DWI convictions reportedly have increased dramatically -- possibly because the penalty for refusing a test is more severe than the revocation penalty. An extensive public relations campaign was critical to the state's success -- 85 percent of those surveyed were aware of the law and its provisions.

WISCONSIN examined the general and specific deterrent effects of its 1982 law mandating a three to six month suspension for first time convictions. They found that drivers who were suspended under the law had fewer subsequent convictions and crashes. The authors of this study concluded that "100% mandatory license suspension is an effective legal sanction against drinking and driving."

In addition, they experienced a substantial reduction in the number of night-time fatal single vehicle crashes. Based upon the success of license sanctions under its 1982 law, Wisconsin adopted a full administrative revocation law in 1987.

NEW MEXICO has experienced only a one percent rate of hearing requests under its 1984 administrative revocation law. A time-series analysis by H. Laurence Ross in 1986 of alcohol-related fatal crash statistics, before and after implementation of the law, found that the percentage of fatally-injured drivers with a BAC greater than 0.05 percent fell from 66 to 56 percent.

Few NEVADA drivers were aware of the state's ALR law when it was first enacted, and, as a result, no change in the number of alcohol-related night-time crashes was noted in the first year. However, following a public information campaign that emphasized license revocation, alcohol-related crashes declined by 12 percent.

One of the most important studies of the issue was conducted by the Insurance Institute for Highway Safety (IIHS). This study examined the effects of administrative license revocation and other laws on fatal crashes in selected states. IIHS concluded that administrative license revocation laws were the most effective of the laws studied. Between 6:00 PM and 6:00 AM – when more than half of all fatally injured drivers had BACs over 0.10 percent – administrative license revocation is estimated to have reduced the involvement of drivers in fatal crashes by nine percent.

A U.S. Department of Justice study demonstrates that states with an ALR law have reduced recidivism rates among drinking/driving offenders. The most startling effect was found in North Dakota. The rate of recidivism declined by nearly 40 percent, suggesting the potential for long-term behavior modification. This study is consistent with others that indicate, even though some drivers will continue to drive after revocation, they tend to drive less frequently and more cautiously. Most important, however, is the fact that most drivers adhere to the law and do not drive at all.

Mr. Chairman, the Safety Board recognizes that these are difficult financial times for most state governments. It recognizes the necessity for new legislation to be cost effective and at least revenue neutral. Start-up and first year operating expenses of an administrative license revocation law have been less than \$1 million, and rarely have they exceeded \$500,000. All states have been able to recover their costs by charging license

reinstatement fees. In fact, one study in Illinois, Nevada and Mississippi found that each collected more in reinstatement fees than it spent in start-up and annual operating costs. Revenues generated were 1.3 to 2 times greater than required. Perhaps more significant are the societal cost-savings-realized from fewer highway crashes in the three states was over \$230 million – \$230 million that could be used for other programs.

The concern that the loss of driving privileges, especially in rural areas, would result in the loss of a job, prompted studies in New Mexico, Mississippi and Delaware to determine whether the concern is justified. In all three states, the problem was minimal. For example, in Delaware, a rural state with little public transit, only 1.2 percent of all whose licenses were revoked lost their jobs – a group that included two school bus drivers. Loss of employment resulting from the loss of a driver's license is rare.

Many States with strong worker organizations have enacted ALS or ALR laws. Ohio, for example, carefully considered the workplace issue in its deliberations. Ohio has a strong administrative license revocation law. I'm sure you know that transportation workplace testing regulations require transportation workers to submit to alcohol tests and prohibits them from entering on duty with a BAC of 0.02 or more and make a BAC of 0.04 or more cause for adverse action. These actions are purely administrative.

The public clearly recognizes the threat to public safety posed by drunk drivers. Recent public opinion surveys have shown that a large majority of the public supports administrative license revocation. According to a Louis Harris poll, 89 percent of those surveyed endorsed automatic license revocation. A more recent Lou Harris poll showed overwhelming support for government involvement in to ensure their safety and mobility. Those surveyed supported government action by as much as 9 to 1. In a survey published in the Journal of Public Health Policy, 67 percent of the respondents favored an immediate 90-day suspension of a driver's license for anyone arrested for DWI.

In summary, the Safety Board urges Pennsylvania to adopt an administrative license suspension law. The program:

1. Suspends the licenses of dangerous drivers more expediently;
2. Dramatically increases the certainty of receiving a penalty for impaired driving;
3. Enhances the effectiveness of zero tolerance laws;
3. Deters impaired driving both by those whose licenses have been suspended and by those who have not;
4. Is cost effective and may even generate revenue; and
5. Is supported by the public.

I would like to mention two other actions that can be taken. Sobriety checkpoints can be especially effective in reducing alcohol-related crashes. The North Carolina "Booze It and Lose It" and "Click It or Ticket" checkpoint and public information programs have

raised safety belt use to 83 percent and reduced impaired drivers (those with 0.08 percent BAC or greater) identified at checkpoints by 50 percent and reduced alcohol-related crashes. As a result, crashes and crash costs have decreased. And of importance to all drivers, insurance rates have decreased by tens of millions of dollars and North Carolina has gone from one of the most expensive insurance states to the 6<sup>th</sup> lowest. An aggressive alcohol and safety belt checkpoint program in every Pennsylvania county will save lives and costs.

Also, we note that Pennsylvania has a very low alcohol testing rate (42.4 percent in 1995) on fatally-injured drivers as reported to the National Highway Traffic Safety Administration. Accurate and complete data on alcohol involvement in fatal crashes is an essential step in documenting the extent of the impaired driving problem and designing effective countermeasures. The Safety Board has long recommended the testing of all drivers in fatal crashes. We urge you to investigate why the testing or reporting rate is so low, and to make appropriate changes.

Thank you for inviting the Safety Board to testify about these important changes that you can enact to save lives on Pennsylvania's streets and highways. Pennsylvania has made progress. Enactment of ALS is the most important action you can take this year, or any year. I would be happy to answer any questions you may have, and please let me know if the Safety Board can be of further assistance.