

**GENERAL ASSEMBLY OF MARYLAND
REPORT OF THE
TASK FORCE ON DRUNK
AND
DRUGGED DRIVING**



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December 1, 1988

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable R. Clayton Mitchell, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

On behalf of the Task Force on Drunk and Drugged Driving, we are pleased to submit our report to you.


Since its appointment, the Task Force has met regularly. We wish to acknowledge the support of the individuals who attended and testified at the meetings and provided the Task Force with the benefit of their research, opinions, and suggestions.

The responsibility of the Task Force is serious and we hope the Task Force will continue to function in the 1989 Interim.

Respectfully submitted,



Laurence Levitan
Co-Chairman



William S. Horne
Co-Chairman

/slb

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INTRODUCTION

In recent years, the problems associated with drunk and drugged drivers have increasingly become the focus of attention from both concerned citizens and government officials. The reason for this attention can be found in the statistics that quantify the tragic waste of human life and public resources at the hands of drunk and drugged drivers. In Maryland alone, alcohol has been identified as a contributing factor in the highway deaths of 2,684 people since 1981 (See Appendix 1 - "Relevant Statistics", for information on highway fatalities in which alcohol was a contributing factor and other pertinent statistics).

Beginning in 1981, the General Assembly of Maryland dramatically increased efforts to curb the drinking driver. During the period of 1981 through 1988, the General Assembly enacted over 30 laws to counteract the problems associated with individuals who drink and drive. These legislative measures include increased criminal and administrative penalties, prohibitions of specific behavior associated with drunk driving, enhanced driver education and rehabilitation programs, provision of additional enforcement tools to law enforcement and judicial personnel, and improved enforcement and treatment of juvenile offenders.

The statistics show that these efforts have met with considerable success. For example, there has generally been an increase since 1981 in the number of alcohol-related driving arrests and convictions. Even more

importantly, the percentage of highway fatalities in which alcohol was a contributing factor markedly decreased in the past few years. In 1981, alcohol was a contributing factor in 500 fatalities, 63% of the total highway fatalities. In 1987, these figures dropped to 309 fatalities, 37% of the total. Preliminary figures for 1988 are comparable with the 1987 figures (See Appendix 1).

In 1988, recognizing that the goal of removing the impaired driver from the highways had not been fully realized, the General Assembly passed House Joint Resolution 53* establishing a Task Force on Drunk and Drugged Driving. The Task Force is composed of legislators, judges, law enforcement officials, a State's Attorney, the Administrator of the Motor Vehicle Administration ("MVA"), and other knowledgeable and concerned representatives of the public and private sectors.

The Task Force met regularly during the 1988 Interim and considered a wide range of issues including the establishment of new offenses and harsher penalties, testing for alcohol and drugs, treatment of juvenile offenders, and other impaired driver issues.

What follows is the Task Force's Report on Drunk and Drugged Driving including recommendations to the General Assembly.

* Signed and designated Joint Resolution No. 15 by Governor William Donald Schaefer, May 27, 1988.

BREATHALYZER EQUIPMENT

State law establishes presumptive levels for driving under the influence of alcohol ("DUI") at 0.07 or more blood alcohol content ("BAC") level and for driving while intoxicated ("DWI") at 0.10 or more BAC level. The law provides that the BAC test to determine whether or how much an individual has been drinking may be either a blood test or a breath test. Currently less than 10% of all BAC tests are blood tests, while over 90% are breath tests.

The machines used to conduct the breath tests are called breathalyzers. The Task Force heard testimony from Dr. Yale Caplan, State Toxicologist, Postmortem Examiners Commission, that the breathalyzers presently being used in the State are very old machines. Although they are accurate, they require constant maintenance and are subject to being operator influenced. Validating whether the machines were used properly is currently being done by hand, and therefore, the Toxicologist's office cannot know whether a test has been properly administered until 30 days or more after it is given.

As a result of these problems, the State is planning on replacing the present breathalyzers. The new breathalyzers will have a tamper proof instrumentation system that will be centrally monitored by computer for accuracy. If the machine is used improperly, the toxicologist would know of the error within 24 to 48 hours.

Dr. Caplan testified that it will take 1 1/2 to 3 years to implement fully the new breathalyzers and train the police in their use. Colonel Elmer H. Tippet, Jr., Superintendent of the State Police and a Task Force member, basically agreed with this statement (although stating that 2 years was the maximum time), estimating that the earliest that the new breathalyzers would be operational on a State-wide basis is June, 1990.

The Task Force heard testimony that the State planned to purchase 6 of the new breathalyzers in December, 1988, with a \$59,000 federal grant, and to begin training at that time. It was estimated that it would cost \$876,000 to fund the replacement in the first year, and \$20,000 in the second. The first machines will be used in Baltimore City and Baltimore County, with other regions to follow as the machines are purchased.

A problem related to the purchase of new breathalyzers concerns the definition of alcohol content in State law. The current statute (C&JP Article §10-307) states the presumptions in terms of blood alcohol content. Dr. Caplan testified that over 90% of all tests performed are breath tests. In order to convert breathalyzer results to blood alcohol content, a mathematical conversion based on certain assumptions must be used. This conversion assumes that there is an equivalent amount of alcohol by weight in 2,100 units of breath and in 1 unit of blood. There was evidence presented to the Task Force, however, that this conversion figure is not accurate in some cases, and the results are subject to being challenged on this basis.

In a case distributed to the Task Force, State v. Burling, 224 Neb. 725, 400 N.W.2d 872 (1987), the Nebraska Supreme Court found the results of a blood alcohol content measurement based on this conversion to be inaccurate, possibly resulting in a BAC that is double the amount of alcohol actually in the individual's blood.

In a California case, People v. Pritchard, 162 Cal.App.3d Supp. 13 (1984 App. Dept., Sup. Ct., L. A. County), the Court found, based on expert testimony, that there can be an error factor of 10% in the 2100 to 1 ratio. For 5% of the population, the error factor could be even larger. The court agreed that this evidence was relevant. The defendant, however, has control over determining whether his particular ratio was different than 2,100 to 1. Therefore, the burden of proof was on him to show this. Since he produced no evidence that his ratio was different, the verdict was affirmed.

ADMINISTRATIVE PER SE

The Task Force heard testimony that many first time offenders of the drunk driving laws were not in fact first time violators. Some have driven drunk many times. The justification for an administrative per se law can be understood in this light.

Background

An administrative per se law provides for the prompt suspension of the driver's license of an individual who, upon being detained by a police officer on suspicion of driving or attempting to drive while under the influence of alcohol or while intoxicated, either:

- 1) Refused to take a BAC test; or
- 2) Submitted to the BAC test, and the results exceeded a statutorily defined limit.

While Maryland's current implied consent law provides for administrative suspension, after a hearing, of the license of a driver who refused to take a chemical test, there is no provision for license suspension for driving with a specified BAC.

The adoption in Maryland of an administrative per se law is being advanced by the Governor's Internal Workgroup on impaired driving and by the National Highway Traffic Safety Administration (NHTSA). Mothers Against

Drunk Driving (MADD) has identified enactment of an administrative per se law as a top legislative priority. In testimony before the Task Force, these groups emphasized that enactment of an administrative per se law and an illegal per se law (discussed below) would qualify Maryland for nearly \$4 million in federal grant money over 5 years. The administrative per se concept studied by the Task Force would:

- 1) Establish an administrative offense of driving with a BAC of 0.10 or more and promptly suspend the license of any individual who drives or attempts to drive with a BAC that meets or exceeds that level; and
- 2) Alter Maryland's current provisions on license suspension for refusal to take a BAC test.

Under current law, after a driver refuses to take a test, the police officer sends a sworn report to the MVA within 72 hours stating the circumstances surrounding the detention of the driver and that the driver refused to submit to the BAC test. On receipt of the report, the MVA notifies the driver to attend a hearing, within 30 days, and show cause why the driver's license should not be suspended. Unless the driver prevails at the hearing, the MVA then proceeds to suspend the driver's license.*

* For a 1st offense, suspension for not less than 60 days nor more than 6 months.

For a 2nd or subsequent offense, suspension for not less than 120 days nor more than 1 year. (TR. Art. §16-205.1)

Under an administrative per se statute, if a driver whom a police officer has probable cause to stop refuses to submit to a BAC test, or fails the test, the police officer would confiscate the driver's license immediately and issue to the driver a form that:

- 1) Explains to the driver why the license was confiscated;
- 2) Notifies the driver that within 45 days the license will be suspended for a specified period of time; and
- 3) Notifies the driver of the driver's right to a hearing. Note that constitutional guarantees of due process (opportunity for a timely hearing) apply to the suspension of a driver's license.

The form that the police officer gives to the driver also serves as a temporary license which authorizes the driver to continue driving until the license is formally suspended within the statutorily specified time after arrest (probably 45 days).

Some members of the Task Force questioned the effect an administrative per se law would have on the rate of refusals to take a BAC test. Currently 1 in 3 drivers arrested refuses to take the BAC test. The Task Force heard testimony that if drivers believe that it is to their advantage to refuse to submit to a test rather than to risk failing the test, test refusal rates are likely to increase. Because test results are the foundation of both administrative and illegal per se laws, it was suggested to the Task Force that the penalty for refusing to submit to a BAC test be made more severe

than the administrative penalty for failing the test. Colonel Tippet recommended that the administrative penalty for failing the BAC test should be a license suspension for at least 120 days and the penalty for refusing to take the test should be suspension for 1 year.

Administrative Hearings

Advocates of an administrative per se offense argue that, while an opportunity for a hearing is required and that such a hearing may well be sought by the licensee, the suspension of the license should not be delayed pending the outcome of the hearing. This is because if a request for a hearing could result either in a stay of the suspension or an extension of the temporary driving privileges, it is logical to assume that the number of hearing requests would increase sharply. This could overburden the resources of the MVA resulting in the delay of suspensions and, thereby, frustrating the purpose of the statute.

If a hearing is requested, the issues to be considered at the hearing are whether:

- 1) There was probable cause to stop and arrest the individual. On this issue, Judge Alan Wilner, a Task Force member, questioned whether the MVA hearing officers had the expertise to decide this legal issue. He suggested that this matter be left to the courts, with the court result being binding on the MVA;

- 2) The individual was driving or attempting to drive the motor vehicle;
- 3) The individual was requested to take a BAC test;
- 4) The individual was properly warned by the police officer and
 - (a) Refused to take the BAC test; or
 - (b) Took the BAC test and failed (i.e. registered a BAC at or above the limit); and
- 5) The BAC test was accurate.

Note that in an administrative hearing the standard of proof required to be met is the "preponderance of evidence" standard, a lesser burden to meet than the "beyond a reasonable doubt" standard that is applicable in criminal trials.

Section 12-209(c) of the Transportation Article presently provides that if an individual appeals an adverse decision by the MVA to a circuit court, the MVA must stay its decision for not more than 60 days, unless the MVA finds "that substantial and immediate harm could result" to the individual or others if the individual's license is continued pending an appeal. If there is an appeal of MVA's suspension, the appellate court (circuit court) reviews the record of the proceedings before the administrative agency and

can reverse only if the agency's decision was illegal or arbitrary and capricious as not based upon substantial evidence. If the MVA's findings of fact are fairly debatable, the reviewing court cannot substitute its judgment for that of the agency.

Goals

An administrative per se statute seeks to remove unsafe drivers from the highways as promptly as possible, and to provide certainty of punishment for individuals who drive while impaired.

It should be emphasized that this proposal establishes an administrative process and penalty that is separate and distinct from any criminal process and penalty. That is, the imposition of the administrative penalty of license suspension is not dependent on a finding of guilt by a court.

It is argued by proponents of an administrative per se offense that the suspension of a driver's license is accomplished more readily through an administrative process than through the already overburdened criminal justice process and, further, that the administrative process generally provides a sure penalty. Conviction of an offense in court, it is argued, is never assured, and even if the driver is ultimately convicted, the penalty is subject to a degree of judicial discretion.

For these reasons, proponents claim that administrative per se is an effective deterrent to drunk driving because the public perceives that drunk drivers are more likely to suffer a swift and sure penalty (loss of license) under an administrative per se statute than under a system which ties the penalty only to a criminal conviction.

Effectiveness

As of July, 1988, 23 states and the District of Columbia had enacted administrative per se statutes.*

Several studies attribute to administrative per se laws reductions in drunk driving and alcohol-related crashes and fatalities as well as increased numbers of drunk driving arrests.

A national study conducted by the Insurance Institute for Highway Safety concluded that administrative per se laws reduced fatal crashes during periods of high alcohol involvement by 9%. In addition, individual states have reported success with administrative per se laws. The following information was supplied to the Task Force by Colonel Tippet.

* Alaska, Arizona, Colorado, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Utah, West Virginia, Wisconsin, and Wyoming.

Iowa - Crash fatalities reached a new 40 year low during the first full year of the program.

Minnesota - In June, 1985, roadside surveys revealed that one out of 24 drivers was drunk (BAC at or over 0.10) after midnight. Ten years earlier, prior to the adoption of administrative per se, one in ten drivers was drunk (a 60 percent reduction). Since 1976 the traffic death rate per 100 million miles has dropped from 3.0 to 1.76.

Nevada - Since the inception of administrative per se, alcohol-related fatalities were reduced by 41% (1982 - 1984).

North Dakota - Alcohol-related fatalities dropped 37% during the first full year of operation.

Oklahoma - In the three years following the implementation of administrative per se, alcohol-related fatalities dropped by 62%, and overall fatalities dropped by 30%.

Implementation of Administrative Per Se

W. Marshall Rickert, Administrator of the MVA and a Task Force member, testified that implementation of an administrative per se statute would require:

- 7 hearing officers to preside at the 8,000 additional hearings that he estimates will be requested each year. Currently, there are approximately 24,000 hearings annually for alcohol-related offenses;
- 8 new contractual employees;
- 1 new supervisor.

Funds for these positions have already been requested in the MVA's FY 1990 budget request to the Governor according to Mr. Rickert.

ILLEGAL PER SE

Background

An illegal per se statute would establish a new criminal offense of operating a motor vehicle with an alcohol concentration in the driver's blood that meets or exceeds a certain statutorily defined limit. It is not necessary under an illegal per se law to prove that a driver was intoxicated or under the influence of alcohol. All that is necessary is to prove that the individual was operating a motor vehicle with more than a certain amount of alcohol in the individual's blood.

As of January, 1988, 44 states¹ had enacted illegal per se laws, with 40 states establishing the illegal per se BAC level at 0.10.

Current Law

Currently in Maryland, the licenses of drivers under age 21 contain a restriction that prohibits an individual from driving or attempting to drive a motor vehicle with a BAC level of 0.02 or more.²

¹ All states except Maryland, Massachusetts, South Carolina, Tennessee, Kentucky, and Wyoming.

² Chapter 254, Acts of 1988.

This provision is, in effect, an illegal per se law for drivers under age 21. Whether the driver was under the influence of alcohol or intoxicated is not an issue. The driver is per se in violation of the law if he is driving with a BAC of 0.02 or more.

State law also prohibits any driver regardless of age from:

- 1) Driving while intoxicated;
- 2) Driving while under the influence of alcohol;
- 3) Driving while so far under the influence of any drug, any combination of drugs, or a combination of drugs and alcohol that the driver cannot safely drive; and
- 4) Driving while under the influence of a controlled dangerous substance. (TR. Art., §21-902)

In these situations, unlike the illegal per se case, it is necessary to prove that the driver was intoxicated or under the influence of alcohol or drugs. As part of that proof, the state may utilize the results of a BAC test and certain test results establish a rebuttable presumption of intoxication or being under the influence of alcohol.

An illegal per se law would not replace the current prohibitions, but would supplement them. For example, if an individual's BAC test revealed a BAC level at or above 0.10, the individual could be charged with 2 separate

violations; i.e. driving while intoxicated/under the influence, and the separate per se offense. If intoxication or being under the influence cannot be proved, for example, due to insufficient physical and behavioral evidence, the objective result of the BAC test alone, unless successfully challenged (e.g., lack of probable cause, testing error, etc.) would be sufficient to convict the individual of the per se offense.

Commercial Motor Carrier Regulations

Mr. Rickert reviewed new federal commercial motor carrier regulations which would create an illegal per se offense for operators of commercial motor vehicles at a BAC level of 0.04 or more. For a first offense, there would be a 1 year suspension from driving a commercial motor vehicle. For a second offense, there would be a lifetime disqualification. The federal regulations, which apply to trucks over 26,000 pounds, buses carrying more than 15 passengers, and any vehicle carrying hazardous materials, hold commercial drivers to a higher standard than other drivers, because of the dangers these vehicles present. Mr. Rickert noted that the federal law also requires the states to relicense all commercial motor carrier drivers by April, 1992 (See additional discussion of these regulations on p. 29).

Testing Equipment

Under a per se statute, where the only issue is the driver's blood alcohol concentration, the accuracy of the test is crucial. However, the Task Force heard testimony from Dr. Yale Caplan, State Toxicologist, that the inability to centrally monitor the current testing equipment and

methodology would lead to numerous challenges of the test's accuracy by defendants. The Task Force also recognized that under an illegal per se statute, such challenges may be a defendant's only option. Dr. Caplan testified, however, that he would be unable to certify test results obtained from the current equipment for purposes of an illegal per se statute. Currently, he is subpoenaed to testify at about 20 DWI trials a month. Without new breathalyzers, this figure surely would increase with an illegal per se law. He concluded, therefore, that enactment of an illegal per se statute in Maryland should be tied to replacement of the testing instruments currently in use (See "Breathalyzer Equipment" for further discussion).

Effect of Illegal Per Se Law

Proponents of illegal per se statutes argue that such laws will greatly increase the probability of conviction of individuals who drive while impaired due to alcohol. This is because the burden on the prosecutor, who is not required to prove that the driver was intoxicated or under the influence, is significantly lessened. Proponents reason that increased convictions will translate into an enhanced general deterrent effect.

Members of the Task Force, however, raised the possibility that an illegal per se law may result in long drawn-out trials focusing on the technical aspects of the test equipment and methodology, creating a potentially heavy burden in terms of manpower and money for the courts, the toxicologist's office, and law enforcement agencies. Also, it was suggested that absent a change in the law relating to Probation Before Judgment (PBJ), many first offenders likely will continue to be granted PBJ and, therefore,

the number of convictions may not increase very dramatically. This conclusion is based on the testimony of Judge Frederick C. Wright, III, a Task Force member, that the most important factor considered by judges in deciding whether to grant PBJ is the defendant's prior record, not his BAC level.

Other Issues

Some members of the Task Force questioned the potential for coerced self-incrimination when an administrative per se law and an illegal per se law work in tandem. Specifically, when the administrative penalty for refusal to take a chemical test for alcohol is severe (e.g. loss of license for 1 year), a driver's option to take a chemical test or not is, in effect, only a "Hobson's choice". Although a driver may know what he drank and how much, he is not likely to know precisely what his blood alcohol level is. Faced with choosing between automatic license suspension for 1 year for failing to take a chemical test, and taking the test with the hope that he may pass it, the driver is likely to opt for taking the test. This, of course, is precisely the policy behind mandating severe penalties for test refusals. However, in choosing to submit to the test, the driver risks conviction of the illegal per se law based solely on the results of the test.

A number of other questions were raised by the Task Force concerning the interrelationship between administrative and illegal per se laws. For example, what effect would a finding by the MVA that a driver had not

violated the administrative per se law have on a subsequent criminal prosecution for an illegal per se offense, the elements of which are identical to the administrative offense?

Unfortunately, time constraints have prevented full consideration of these issues by the Task Force. On the general issue, however, of the need to have both administrative and illegal per se laws on the books, Task Force member Marshall Rickert (MVA) testified, based on his knowledge of other states, that when an effective administrative per se statute is in place, the value of an illegal per se law is greatly diminished.

DRUGS AND DRIVING

Shock Trauma Study

One of the major problems investigated by the Task Force was the issue of drugged driving. To assist the Task Force in its investigation, Dr. Carl Soderstrom, a surgical staff member of the Maryland Shock Trauma Center of the Maryland Institute for Emergency Medical Services Systems briefed the Task Force on the results of a recent study of 1,023 patients, victims of both vehicular and nonvehicular trauma.

Dr. Soderstrom stated that the radioimmune serum test (i.e., a type of blood test) used in the study reliably indicates use of marijuana and other cannabinoids ("THC") within a period of 3 to 4 hours before the test is performed. On the other hand, Dr. Soderstrom stated that a urine test is not useful for determining the specific time period of drug use.

According to Dr. Soderstrom the results of the study indicated for all drivers:

- 1) 15% tested positive for THC alone;
- 2) 19% tested positive for alcohol alone; and
- 3) 17% tested positive for both THC and alcohol.

Dr. Soderstrom indicated that, although various drugs were detected in patients, prescription drugs and over-the-counter drugs were not revealed as a major problem. In addition to marijuana and other cannabinoids, Dr.

Soderstrom found that 7% of drivers tested positive for PCP, cocaine, methaqualone, or methadone alone or in combination with another drug.

Enforcement

Section 21-902(c) of the Transportation Article prohibits an individual from driving or attempting to drive while so far under the influence of any drug, any combination drugs, or a combination of one or more drugs and alcohol that the individual cannot drive a vehicle safely. Section 21-902(d) prohibits an individual from driving or attempting to drive "while under the influence of any controlled dangerous substance...if the person is not entitled to use the controlled dangerous substance under the laws of this State." Based on the prevalence of both legal and illegal drug use in our society, it is clear that arrests for these charges are underrepresented. Table A below shows the number of citations received in the District Court on these drug-related driving offenses and the guilty dispositions for drug-related driving offenses, and the total number of all §21-902 (a), (b), (c), and (d) drug-and alcohol-related driving arrests and guilty dispositions.

TABLE A
Drug-And Alcohol-Related Driving Offenses

	TA §21-902(c)	TA §21-902(d)	All TA §21-902 (does not reflect Circuit Ct. info.)
--	---------------	---------------	---

FY 1986			
Citations Received	352	414	33,302
Guilty Dispositions	77	45	10,843
FY 1987			
Citations Received	682	589	36,832
Guilty Dispositions	74	43	10,886
FY 1988			
Citations Received	739	620	42,367
Guilty Dispositions	103	68	11,217

The need for greater prosecution of the current laws against drugged driving resulted in study by the Task Force of additional enforcement techniques and tools.

Drug Evaluation and Classification Training

Mr. William E. Scott, Director, Office of Alcohol and State Programs, Traffic Safety Programs, NHTSA, testified before the Task Force on the topic of drug evaluation and classification training for police officers. Mr. Scott stated that very few police officers are trained to recognize the symptoms of impairment by drugs other than alcohol. Mr. Scott recommended to the Task Force a program, developed by the Los Angeles Police Department (LAPD), which enables a police officer to systematically administer a battery of physical and physiological tests to determine:

- 1) Whether a driver is impaired;
- 2) If so, whether the impairment is drug-related or medically-related (i.e., illness or injury); and
- 3) If drug-related, the broad category of drugs likely to have caused the impairment.

Sgt. William Tower of the Maryland State Police also briefed the Task Force on this topic. Sgt. Tower's extensive qualifications for discussing this subject include aiding the U.S. Department of Transportation in the development of a program to train police officers in drug testing and

participating in the program sponsored by the LAPD. According to Sgt. Tower, 20% of drivers who are charged and tested for blood alcohol content have symptoms more serious than the BAC test indicates. Sgt. Tower stated that an individual trained under the LAPD program has a 90% success rate in determining the type of drug an individual had used.

The LAPD program has two stages. The first stage trains the officer to conduct standardized field sobriety tests on an individual to determine whether the individual is under the influence of drugs. This first stage includes a 1 day course on how to recognize the basic signs of drug impairment. The second stage is an intensive 7 day course on how to identify the clinical signs of drug impairment followed by 2-3 weeks of hands-on experience with people under the influence of drugs.

According to Sgt. Tower, several hundred of Maryland's police officers have completed the field sobriety training. He stated that he would conduct the 1 day course to complete the first stage of the training in mid-December.

Drug Testing

A major law enforcement tool that the Task Force studied was medical testing of suspected drugged drivers. Current law authorizes breath or blood tests for alcohol. House Bill 822 of 1988, "Vehicle Laws - Tests for Alcohol Concentration and Drug Content", would have authorized drug tests

for drivers, but received unfavorable action during the 1988 Session of the General Assembly. However, the House Judiciary Committee requested that the issue be studied in detail by the Task Force.

Mr. Scott of NHTSA and other individuals who testified before the Task Force endorsed the concept of drug testing for a driver who has been detained by a police officer having reasonable grounds to believe that the driver is under the influence of a drug. Approximately 32 states allow testing of a driver to determine the presence of drugs. In essence, the drug testing proposal contained in House Bill 822 of 1988 would:

- 1) Expand the current implied consent statute to include consent to test for drugs other than alcohol; and
- 2) Allow testing of specimens of urine and "other bodily fluids".

In addition, House Bill 822 of 1988 would:

- 1) Change the definition of "qualified medical individual" (used to determine who is authorized to withdraw blood for testing) to include any individual authorized by an agency designated by the Secretary of Health and Mental Hygiene;
- 2) Increase the number of days (from 20 to 30) before trial that the State is required to notify the defendant or the defendant's attorney of the State's intention to introduce test results as

evidence without the presence or testimony of the technician who administered the test and to deliver a copy of the test results;

- 3) Increase the number of days (from 10 to 20) before trial that a defendant is required to notify the court and the State if the defendant desires the technician who performed the test to be present and testify;
- 4) Provide that, if the case is transferred to a circuit court from the District Court, the State is not required to file a second notice;
- 5) If the case is transferred to a circuit court from the District Court, require the defendant to notify the court and the State at least 20 days before trial that the defendant desires the technician to be present and testify at trial;
- 6) If a postponement is granted in the District Court or a circuit court, require the defendant to notify the court in writing at least 20 days before trial that the defendant desires the technician to be present and testify at trial;
- 7) Add manslaughter by automobile, motorboat, locomotive, etc., and any violation of an alcohol restriction on a driver's license to those offenses for which a test of alcohol or other drugs is admissible in evidence.

Dr. Yale Caplan, State Toxicologist, testified on some of the issues contained in House Bill 822 of 1988. Dr. Caplan suggested specifying what drugs should be the subject of testing. According to Dr. Caplan, testing should be concentrated on marijuana and other cannabinoids, cocaine, phencyclidine (PCP), opiates, and amphetamines. Dr. Caplan also stated that the implied consent law would need to be amended to allow testing for the presence of drugs and testing of specimens other than blood or breath (e.g., urine and other bodily fluids).

Dr. Caplan also stated that a drug testing entity, that does not currently exist, would be necessary to perform drug testing. Dr. Caplan stated that neither the Maryland State Police nor the Office of the Chief Medical Examiner within the Department of Health and Mental Hygiene has the resources of office space, personnel, and equipment to perform drug testing.

Dr. Caplan estimated that approximately 1,000 tests would be performed in the first year of testing, 2,000 to 3,000 in the second year, and multiple thousands in the third and subsequent years. Dr. Caplan also predicted that court appearances and testimony may be required of testing personnel in a large number of these cases. Dr. Caplan also estimated a fiscal impact of \$1 to \$2 million to establish the testing laboratory.

In response to questions on the drug testing issue, Dr. Caplan stated that there are no specific levels for drug content in the body that can be legislatively established as is currently done with blood alcohol content.

Dr. Caplan suggested that limiting testing to detect the presence of the illegal drugs to which he referred would obviate the need to establish specific levels of drug content in the body for a multitude of legal and illegal drugs. Dr. Caplan also viewed the use of the drug test result as confirmatory evidence, that would be introduced at trial in addition to drug evaluation and classification testimony by the arresting police officer, rather than establishing presumptive levels of intoxication or under the influence.

In response to questions regarding what type of test indicates recent use of a drug, Dr. Caplan stated that a blood test offers a greater interpretive value than a urine test in determining the time period of drug use. Dr. Caplan noted also that a blood test may be obtained only by qualified medical personnel. In responding to further questions regarding the greater expense of conducting blood tests, Dr. Caplan agreed that the current arrangement under which the State pays for the BAC tests for both the State and the counties may be the subject of a budgetary controversy as the number of tests and their costs increase.

Peter C. Cobb, Executive Assistant for Public Safety, Office of the Governor, and a member of the Task Force, indicated that the Governor will not budget funds for drug testing for drivers until at least fiscal year 1990 unless legislation authorizing drug testing is enacted first. Mr. Cobb also indicated a preference for allowing the executive branch to determine programatically by regulation the specific drugs for which testing would be conducted.

The staff of the Task Force also provided the members with copies of the case of Franklin v. State, 8 Md. App. 134 (1969), which held that evidence that an individual had a drug within his biological system tends to show possession and/or control prior to taking the drug and that evidence, together with the individual's statement to a physician, is sufficient to sustain a conviction for the crime of possession of a controlled dangerous substance.

Commercial Motor Carrier Regulations

The federal commercial motor carrier regulations (see discussion on p. 17) reviewed by Mr. Rickert of the MVA also address drugged driving by commercial drivers. As with the alcohol-related driving offenses, for a first offense of driving under the influence of drugs, there would be a 1 year suspension from driving a commercial motor vehicle. For a second offense, there would be a lifetime disqualification.

Medical Advisory Board

The Task Force also received testimony from William Bricker, former Administrator of the MVA and an attorney in private practice. Mr. Bricker suggested to the Task Force that anyone who was convicted or granted probation before judgment for any drug-related offense (e.g., possession of a controlled dangerous substance) should be referred to the MVA Medical Advisory Board to determine whether the individual is fit to drive.

JUDICIAL DISPOSITIONS

An important element of the Task Force's study concerned the judicial disposition of charges made under §21-902 of the Transportation Article. Since 1980, the legislature has made several changes in the law, providing for more severe penalties for individuals charged under §21-902. Administrative sanctions concerning the assessment of points, revocations, and suspensions have been tightened and increased.

Chapter 245 of 1981 requires the MVA to maintain records of every probation before judgment ("PBJ") disposition of a licensee for an alcohol-related driving offense, and to make these records available to the courts and criminal justice agencies. This is very important in light of Chapter 98 of 1982, which prohibits a judge from granting PBJ to an individual for a second or subsequent violation of §21-902 (a) or (b) in a 5-year period. A prior PBJ is considered a violation. Chapters 252 and 253 of 1988 amended this section to include all §21-902 offenses.

Chapter 272 of 1985 requires a court to impose a **mandatory minimum sentence** of at least 48 consecutive hours of imprisonment or 80 hours of community service for a second or subsequent offense of driving while intoxicated within a 3-year period. ("Imprisonment" includes confinement in an inpatient rehabilitation or treatment center.) The statute prohibits a court from suspending the minimum sentence or granting probation to the offender.

The maximum possible penalties for third and subsequent offenders of DWI have been increased from a fine of \$1,000 to \$2,000 in 1987 (Chapter 509) and from \$2,000 to \$3,000 in 1988 (Chapter 53), and from 2 years imprisonment to 3 years (Chapter 509 of 1987).

The attached Appendix 2 shows the dispositions of §21-902 citations in the District Court. Specifically, the Task Force addressed 4 issues concerning the judicial disposition of cases:

- 1) Use of Probation Before Judgment;
- 2) Geographical disparities in sentencing;
- 3) Whether sentencing guidelines should be adopted; and
- 4) Jury Trial Prayers

Probation Before Judgment

Article 27, §641 of the Code allows a court within certain broad guidelines to grant PBJ "(w)henever an individual accused of a crime pleads guilty or nolo contendere or is found guilty...". PBJ allows the court to impose a fine, order restitution, and require participation in rehabilitation programs, without an actual disposition of guilt. The main advantages of this for the accused are that without a finding of guilt, no

administrative action may be taken on the basis of a criminal conviction. In other words, the accused is allowed to keep the accused's driver's license, and no points are assessed. Because of this, there are no insurance ramifications with a PBJ. Further, the individual avoids the stigma of being found guilty of a crime.

Statistics for FY 1988 show that out of 38,855 §21-902 dispositions in the District Court, 10,790 individuals (27.8%) received PBJ. There were 11,217 convictions (28.9%), 2,483 not guilty verdicts (6.4%), 8,329 jury trial prayers (21.4%) (the eventual disposition of these cases is not known), and 6,036 "others" (nolle prosequis, stets, merged) (15.5%). The 27.8% PBJ's in FY 1988 is down slightly percentage-wise from the FY 1986 figure of 32.6% (10,027 total).

The members heard testimony that in areas where PBJ was frequently granted, the most important factor in deciding whether to grant PBJ was whether the accused had a prior violation (including a prior PBJ). In Baltimore County, 67% of first offenders received PBJ, while PBJ was granted in 43% of all DWI cases. Other factors, such as the BAC level of the accused and whether or not there was an accident involved were not of major importance. Figures from a 3 month study of District Court dispositions support this conclusion. In the District Court, for first offenders, 67% charged with DWI and 71% charged with DUI received PBJ. For second offenders charged with DWI, 7% received PBJ, and for third and subsequent offenders, 0% received PBJ. In the circuit court, 40% of all dispositions result in PBJ's. No study has been done on the difference between first offenders and other offenders in the circuit courts.

Proponents of the use of PBJ state that this is the appropriate finding for first offenders. Probation is usually imposed for a period of 1 year to 18 months. PBJ allows the judge to order an individual to undergo alcohol treatment. A jail sentence, they argue, is inappropriate for first offenders. The emphasis should be on education and treatment. Further, a finding of guilt can result in unnecessarily burdensome effects on employment, driving rights, and insurance rates.

Opponents of the use of PBJ believe that the concept of PBJ and treatment for first offenders has not proven to be successful. It is not in the best interests of the drunk driver or the citizens of the State except in the unusual situation. Often, the courts take no action against violators of probation. Alcoholics Anonymous ("AA") meetings are disrupted by the individuals, or there is no real participation. Private counseling has proven to be unworkable for various reasons. Family members often report that those who attend AA meetings go out drinking afterwards, indicating that they continue to drink and drive while on probation. Geographical disparities in the use of PBJ result in unfairness.

Opponents further argue that PBJ circumvents convictions, and adequate sanctions are not applied. Both specific and general deterrence are affected. The offender is less likely to confront the problem and make changes in behavior. Also, it has the effect of allowing a second offender to be treated as a first offender.

MADD had previously been a supporter of the use of PBJ and treatment for first offenders. Due to the problems that they see with the treatment program, they now view the use of PBJ as counter productive. At a public hearing before the Task Force, B. J. Brokus, a MADD representative, stated that MADD's position now is that jail or community service is the appropriate sanction for a first offender. Representatives from NHTSA also urged the elimination of PBJ, claiming that it had serious negative consequences.

The National Center of State Courts is presently conducting a study to determine the effectiveness of the various methods of disposition including the recidivism of those offenders granted PBJ and those who were not. It is anticipated that this report will be available by August 1, 1989.

Geographical Disparities

Testimony before the Task Force indicated that the most important factor in determining whether an individual received PBJ was the area of the State where the trial was scheduled. Courts in the urban and suburban areas of the Baltimore and Washington metropolitan areas were much more likely to grant PBJ than those in the rural areas, especially the Eastern Shore and Western Maryland. For instance, in Montgomery County, 50% of all cases resulted in PBJ's, while in some rural counties less than 10% of all cases resulted in PBJ's.

No one could explain why the geographical disparity existed, although there was testimony that this disparity was not unique to drunk driving

cases. There was speculation that attitudes and expectations about PBJ's in certain areas were self-perpetuating. Members of the bar in some areas expect PBJ for first offenders. Consistency also is expected among judges in the same area. Further, there may be peer group pressure among the judges of the rural areas not to grant PBJ's. Pressure from outside groups, such as MADD, although their opposition is recent, is also influential.

In the rural areas, PBJ is apparently granted only when special circumstances exist. Two judges from the Eastern Shore, Judge Thomas Sisk and Judge L. Edgar Brown, a Task Force member, stated that the PBJ statute required a finding that granting PBJ would serve "the welfare of the people of the State". This, they state, was rarely the case. Others questioned whether granting PBJ to any individual would ever serve the welfare of the state, and stated that this provision was essentially meaningless.

The problem is that, although there may be consistency in a particular district or area of the State, in the State as a whole there is a marked divergence, for no apparent reason.

Sentencing Guidelines

Due to the disparities in the State in sentencing under §21-902, a Sentencing Guideline Board was established to study whether sentencing guidelines should be adopted. As indicated earlier, one survey by the Board indicated that among judges who grant PBJ's, the most significant factor in

deciding whether to grant a PBJ is whether an individual has a prior offense. The work of this board has been placed on hold for 2 reasons. The first is that it decided to await the results of this Task Force's findings. Secondly, it is awaiting the results of the National Center of State Court's study which is being funded by the General Assembly. This study is designed to investigate what has occurred to past offenders of §21-902.

The main criticism of the concept of sentencing guidelines is that they detract from a judge's power to dispense justice based on the particular facts of the case before the judge. Each case should be judged on its own merits. Sentencing guidelines may prevent a judge from doing this.

Proponents of guidelines contend that the vast majority of cases are very similar. The interests of justice are not served when particular individuals with cases almost indistinguishable from each other receive very different sentences. Properly designed guidelines would allow a judge leeway in the unusual case, while encouraging uniformity in the normal cases.

The Task Force did not study any particular types of guidelines, or consider what factors should be considered if guidelines were to be adopted.

Jury Trial Prayers

An individual who is arrested for DWI has the right to pray a jury trial, which removes the case from the District Court to the circuit court (C&JP Article §4-302). In 1986, the Court of Appeals in Fisher v. State,

305 Md. 357, 504 A.2d 626 (1986), held that an individual arrested for DWI has a right to a jury trial that the State may not deny by limiting the maximum possible sentence to not more than 90 days. This eliminated the practice many prosecutors used to prevent jury trials of DWI cases.

Statistics show that there has been an increase in jury trial prayers since Fisher. In FY 1985, the year before Fisher, there were 4,903 jury trial prayers, which amounted to 14.9% of the total dispositions. In FY 1986, there were 5,970 jury trial prayers (19.4%) and in FY 1987, there were 7,420 jury trial prayers (21.3%). In FY 1988, ending June 30, 1988, there were 8,329 jury trial prayers (21.4%).

The Task Force heard testimony that 1/3 of all jury trial prayers in criminal cases were for DWI cases, and that very few of these cases resulted in trials. Many of the prayers were made to allow an individual to complete an alcohol education program before appearing before a judge, or to avoid a harsh judge. As stated earlier, one survey indicated that 40% of all circuit court dispositions were PBJ's. This is slightly higher than the percentage of District Court dispositions, which last year was 35% of all dispositions, not including jury trial prayers.

One idea that was discussed to remedy this situation was to have a DWI offense with a maximum imprisonment of 89 days and no right to a jury trial. Judge Wilner suggested that the Task Force recommend a statute be enacted with a maximum penalty of 60 days imprisonment for first time DWI offenders who did not cause personal injury or property damage. This penalty would be the same as for DUI, which the Court stated obiter in

Fisher was not a serious offense for purposes of right to a jury trial. It is not clear whether a statute of this nature would be constitutionally valid as there are other factors, in addition to the length of the sentence, in determining whether there is a right to a jury trial in the first instance.

In Fisher, the Court held that the following factors must be examined to determine whether there is a right to a jury trial under the Maryland Declaration of Rights:

- 1) Whether the offense was historically subject to summary jurisdiction of justices of peace or tried before a jury;
- 2) Whether the offense is an infamous crime or subject to infamous punishment;
- 3) The seriousness of the offense; and
- 4) The maximum sentence and place of incarceration established by legislation for the particular offense.

In applying these factors to the offense of driving while intoxicated the Court found the following:

- 1) The consideration of whether the offense had been tried before juries or had been subject to the summary jurisdiction of

justices of the peace at and before the time when the Declaration of Rights was adopted is inapplicable since the offense was unknown at that time;

- 2) The offense of driving while intoxicated is subject to infamous punishment because no statutory provisions limit the place of confinement to local jails, and an individual convicted of driving while intoxicated is subject to being sentenced to the custody of the Division of Corrections, under Article 27, §690, and may be required to serve the sentence in the Penitentiary;*
- 3) The offense of driving while intoxicated is extremely serious; and
- 4) The maximum terms of imprisonment authorized by the Legislature and a mandatory minimum term of imprisonment, which cannot be suspended, for a second offense committed within three years of the first offense, are further indication of the offense's seriousness.

A statute providing for a penalty of less than 90 days by itself would not solve all of these issues. It is unknown whether such a statute would pass constitutional muster.

* Article 27, §690 now provides that beginning January 1, 1989 no one can be sentenced to the Division of Corrections for a term of 1 year or less; only an individual sentenced to greater than 1 year may be confined in the State system.

SENTENCING ALTERNATIVES AND CONFISCATION

Sentencing Alternatives - Prince George's County DWI Facility

Incarceration of DWI offenders, especially first offenders, has not been a favored method of punishment. Judge John H. Garmer, a Task Force member, stated that a 3-month study showed that statewide less than 3% of first offenders received jail time.

One can speculate as to the reasons for this. First, one of the generally accepted methods of dealing with first offenders has been to grant PBJ and require supervised treatment. Also, most people view DWI offenders as being qualitatively different than other criminals. It is seen as counterproductive to sentence DWI offenders to jail with individuals convicted of other crimes. This is true even for weekend sentences, which judges sometimes give to DWI offenders. Yet, it is recognized that DWI offenders deserve punishment and often are in need of supervised treatment. It is estimated that 70% of all DWI offenders are problem drinkers.

Due to these concerns, in August, 1985, Prince George's County opened its DWI Facility, a special facility designed solely for DWI offenders. The facility is part of the Department of Corrections, and works in conjunction with the Health Department, which provides treatment for the residents. It is a minimum security, work release facility. Its goal is to walk the line between punishment and treatment.

The facility was started with a \$500,000 demonstration grant from the General Assembly, followed by a \$700,000 grant from the county. Its mandate required it to establish a program which could be replicated by other counties, and to be self-supporting. Most other counties have made inquiries about the program, and some are planning their own facilities. The facility is designed to be self supporting by requiring the residents to pay for their stay, at a cost of \$33.85 per day. Residents need not have the money at the time of admission, and the courts may provide special exemptions for indigents.

An annual report issued in the late spring, 1988, reported that since it opened in 1985, the facility has had about 1,700 residents. 90% of these have been males. The average age is 34 years and the average educational level is 12th grade. The average number of offenses, including PBJ's, is 2.2. 55% reported using 1 other drug besides alcohol, 16% 2 other drugs, and 12% 3 or more drugs. 93% considered themselves problem drinkers.

Sentences at the facility are generally 7, 14, 21, or 28 days. Most are either 7 or 14 day sentences. The treatment aspect of the program occurs mainly in the evenings and on the weekends, since most residents work during the days. The Health Department is responsible for the treatment and education programs. The facility encourages family participation in the treatment process. Following release from the facility, most residents have at least 1 year of supervised probation, usually involving attendance at AA and sometimes requiring urine testing. No study has been done on recidivism, because the facility has only been open a short time. A small number of residents have been sentenced to the facility twice.

Representatives of the facility reported the following findings:

- 1) 7 and 14 day sentences are too short for the program to work. 21 and 28 day sentences are necessary;
- 2) 1 year of probation following release is crucial to the success of the program;
- 3) Family participation is vital; and
- 4) Medical evaluation and treatment, including help with withdrawal and psychiatric evaluations, are critical.

Confiscation

The issue of how best to treat the repeat offender was addressed by Judge Wilner who expressed his concern particularly about the "hardcore" offender for whom no penalty currently available serves as an adequate deterrent.

One recommendation offered by Judge Wilner was to subject the offender's vehicle to forfeiture. Specifically, an offender's vehicle would be subject to forfeiture upon:

1. A 3rd or subsequent finding of guilt for any offense under §21-902 of the Transportation Article (DWI, DUI, etc.), including any finding for which PBJ was granted; or
2. A finding of guilt that the individual was driving while under a license suspension or revocation imposed for a §21-902 violation.

Precedent for such confiscation may be found in Maryland law in provisions dealing with "Controlled Dangerous Substances" (see Article 27, §297), and in the laws of at least 5 other states that provide for vehicle confiscation under certain circumstances for alcohol-related driving offenses.

The Judge emphasized that he was not calling for the immediate seizure of a vehicle upon arrest. Rather, he suggested that a police officer at the time of arrest check the driver's record with the MVA. If the above conditions appear to be present, the State's Attorney would be authorized to seek an injunction to prohibit the owner of the vehicle from transferring the vehicle and to require the owner to maintain the vehicle in good repair pending the outcome of the trial. This procedure would provide an incentive to the defendant to avoid delaying the trial.

Forfeiture of the vehicle would not be available if the vehicle was either owned by an innocent individual, or was co-owned, and the innocent owner or co-owner did not know or have reason to know of the violation. Judge Wilner recommended, however, that where an owner or a co-owner was a

passenger in the vehicle at the time of the violation, a rebuttable presumption should arise that the owner or co-owner knew or had reason to know of the violation.

A vehicle forfeited under this proposal would be sold and the proceeds, to the extent available, would be used to pay the cost of the sale and pay off any lienholders or secured parties. Any surplus funds could be dedicated, for example, to alcohol education programs. Judge Wilner also urged that the judgment records of the courts be required to indicate that the forfeiture was ordered and the reason for the forfeiture. This could inconvenience an offender seeking to purchase a replacement vehicle, it was suggested, since the lending institutions would have access to the public judgment records and likely would be less inclined to extend credit to an individual whose vehicle had been forfeited.

It should be noted also that Mr. Rickert, Administrator of the MVA, testified before the Task Force that the Governor's Workgroup supported a variation on the confiscation concept: specifically, the confiscation of license plates and evidence of registration of an individual who drives while his license is suspended or revoked for an alcohol-related driving offense.

EDUCATION, TREATMENT, AND SUPERVISION

There are 3 departments that are primarily responsible for the education, treatment, and supervision of DWI offenders. They are:

- 1) The Alcohol and Drug Abuse Administration;
- 2) The MVA; and
- 3) The Department of Parole and Probation, and the Drinking Driver Monitor Program.

Alcohol and Drug Abuse Administration

The comprehensive DWI program generally starts at the court with an interview by a representative of the Drug and Alcohol Abuse Administration, although frequently attorneys will refer clients to the programs before the court date. The Local Health Department (or designated representative) in all 23 counties and Baltimore City provide the District Court, at the court location, an initial assessment of the DWI offender to determine if the individual is a social drinker or a problem drinker. This is a health care service provided for every District Court in the State at no cost to the court or the DWI offender.

Assessment of the DWI offender is to determine the severity of the drinking problem and the most appropriate rehabilitative steps for the individual - whether it be treatment (for the problem drinker) or education

(for the social drinker). The assessment interview, which is guided by Code of Maryland regulations 10.47.02 (DWI Program Protocols), includes reviewing the following items:

- 1) Previous legal involvement;
- 2) Current employment status;
- 3) Drinking history;
- 4) Personal history; and
- 5) Appropriate tests including Mortimer-Filkins or MAST.

Offenders are determined to be social drinkers if they meet all of the following conditions:

- 1) BAC level was below 0.13;
- 2) There have been no previous DWI or DUI arrests;
- 3) Stable living situation; and
- 4) No drinking history noted in interview.

If individuals are not determined to be problem drinkers, they would be required to participate in an educational DWI program geared solely for social drinkers. Individuals enrolled in the Social Drinking Program may be referred back to the assessment unit at any time if they do appear to be problem drinkers.

Based on data collected during FY 1985 through FY 1987, the following conclusions can be made concerning individuals assessed under this program. The average age of the offender was 30 years. The offender is likely to be male (87%) and white (80%). Most offenders (68%) were first offenders. 72% of the offenders were classified as problem drinkers. Of the first offenders, 60% were found to be problem drinkers. For second and subsequent offenders, 98% were determined to be problem drinkers.

MVA Alcohol Education Program

If an offender is found to be a social drinker, the offender is referred to the MVA Alcohol Education Program. Referrals may be made by several sources and agencies. MVA hearing officers make the majority of referrals.

Education for nonproblem drinkers will include a structured educational program for a minimum of 6 weekly two hour sessions. The Education Program will be provided in the county of residence within a reasonable time of referral. The program will meet certain content criteria and be administered by qualified DWI instructors. All DWI education programs are

approved by the Alcohol and Drug Abuse Administration and the list of approved programs is forwarded to the Administrative Office of the Courts for distribution. The program costs \$60, payable in advance.

The Alcohol Education Program will report the individual's failure to attend or complete this program or other required treatment plan to the referral source for appropriate action. In addition, a suspension of the driving privilege will be imposed in cases involving referrals by the court, MVA hearing officers, or the MVA reinstatement unit.

The course has been satisfactorily completed when the individual has attended all 6 sessions and passed the written examinations. As evidence of completion, each individual will be presented with a class completion card at the end of the 6th session.

It is estimated by the MVA that there is about a 30 day wait to enroll in a program. It does not consider this to be a substantial backlog. Further, the possibility that an individual will have to enroll in more than 1 program is negligible, since the individual would inform the MVA hearing officer that the individual is already participating in a program as a result of a court order, or otherwise.

Parole and Probation/Drinking Driver Monitor Program

The Maryland Division of Parole and Probation and the related Drinking Driver Monitor Program, both part of the Department of Public Safety and

Correctional Services, deal primarily with the supervision of problem drinkers who have either been granted PBJ or been convicted of DWI or DUI and placed on probation under Article 27, §639(b).

The first and longest standing of the two major programs is the traditional probation supervision program, where the individual after intake is assigned to a parole and probation agent for supervision of individual's conduct in compliance with the court ordered probation conditions. The agent performs a risk and needs assessment in order to determine whether the individual will be placed in the maximum, medium, or minimum level of supervision. The supervision level will determine the frequency and quality of future contacts with the individual.

The second and latest of the two major programs is the Drinking Driver Monitor Program, where after intake the individual is assigned to a monitor for monitoring the individuals's compliance with the court ordered conditions of probation.

The goals of the programs are quite similar in that both seek to encourage compliance with the court ordered conditions of probation and swiftly report noncompliance to the court for necessary attention by the court. The methods used, however, in attempting to achieve that goal differ.

The Drinking Driver Monitor Program has more direct contact with the Departments of Health and Mental Hygiene and Transportation (particularly the MVA) than traditional probation does due to the specific nature of the

probation conditions with which this program must monitor compliance. However, both programs work cooperatively with other agencies (criminal justice, police, and social) as appropriate in attempting to realize their common goals.

Last year, in the District Court there were approximately 22,000 guilty dispositions and PBJ's. About half of these were referred to the Drinking Driver Monitor Program. In addition, 25% of all jury trial prayers (there were 8,329 jury trial prayers in FY 1988) are referred to the program. Currently the program is handling about 20,000 cases. 39% of the case load are PBJ's. The other 61% are guilty dispositions with a term of probation. 18 months is the usual term of probation. Individuals are required to report to their monitor once a week. About 20% of these individuals violate their probation, and are sent back to court.

There are 12 facilities in the State, coinciding with the districts of the District Court. Although the Monitor Program is part of Parole and Probation, it is funded by the Department of Transportation. Carole Hinkel, Administrator, Drinking Driver Monitor Program, stated that she believed that more offenders, especially second and subsequent offenders, should be sentenced to jail. Otherwise, the offenders do not take the situation seriously. Although she stated that DWI offenders are not criminals in the commonly understood sense, they still must be treated firmly. In order for the program to be successful, the courts must order:

- 1) Abstinance from alcohol;

- 2) Minimum of 1 year probation;
- 3) 6 months of structured treatment; and
- 4) Minimum participation for 1 year in a recovery group such as AA.

Although in the past AA was uncertain whether it should accept individuals under a court order into the program, it now is accepting all of these individuals. The national AA is encouraging this.

Members of the Task Force expressed concern about how it was determined that an individual was a problem drinker. Ms. Hinkel stated that if alcohol was causing a problem in the individual's life, the individual was a problem drinker. A DWI arrest was a problem. In addition, certain recognized tests are given to determine whether an individual is a problem drinker.

Abstinence is not a requirement of the Monitor Program. The courts, however, can and do require abstinence by filling out a probation form supplied to the courts by the Monitor Program stating that abstinence is a condition of probation. The monitors use an alpha scan test to determine whether an individual has complied with the abstinence requirement.

JUVENILE AND YOUNG ADULT OFFENDERS

National Trends

The following information is derived from Drunk Driving (Bureau of Justice Statistics Special Report), NCJ-109945, 2188, which was submitted to the Task Force by the staff. Table B below is from the Drunk Driving Special Report and, on a national basis, compares licensed drivers and estimated arrests for drunk driving by age for 1975 and 1986.

Since 1975 nationally there has not been consistent growth in DWI arrest rates for all age groups. In 1975, drivers between 18 and 49 years of age were overrepresented among individuals arrested compared to that age group's share of licensed drivers. Similarly, individuals 18-24 years old accounted for 18.9% of drivers, but 25.3% of the individuals arrested for drunk driving. On the other hand, drivers 16-17 years old were underrepresented among arrestees compared to their share of licenses. Individuals age 16-17 accounted for 3.7% of all drivers, but only 1.8% of arrestees.

Compared to 1975, data for 1986 reflects substantial growth nationally in the rates of DWI arrests for younger age groups. Drivers 18-29 years of age experienced arrest rates in 1986 that were more than double the arrest rates for drivers 18-29 in 1975. In 1986, drivers age 16-17 accounted for 2.6% of all drivers and 1.5% of arrests - remaining underrepresented, but an increase of 84% in the rate of arrests for that age group.

TABLE B
COMPARISON OF LICENSED DRIVERS AND ESTIMATED ARRESTS
FOR DRIVING WHILE INTOXICATED, BY AGE, 1975 AND 1986

AGE	1975			1986			PERCENT CHANGE IN RATE, 1975-86
	PERCENT OF: DRIVERS	ARRESTS	ARRESTS PER 100,000 DRIVERS	PERCENT OF: DRIVERS	ARRESTS	ARRESTS PER 101,100 DRIVERS	
Total	100%	100%	729	100%	100%	1,130	+ 55%
16-17 years old	3.7%	1.8%	352	2.6%	1.5%	447	+ 84%
18-24	18.9	25.3	979	15.7	28.8	2,175	+112%
25-29	12.9	15.0	847	13.0	22.0	1,909	+125%
30-34	10.3	12.2	867	12.2	15.8	1,471	+ 70%
35-39	8.5	10.6	909	10.9	11.1	1,158	+ 27%
40-44	7.9	9.8	904	8.5	7.2	358	+ 7%
45-49	8.0	8.9	812	6.9	4.9	305	- 1%
50-54	7.9	7.3	675	6.3	3.4	399	-10%
55-59	6.8	4.6	490	6.3	2.4	434	-11%
60-64	5.7	2.7	347	5.9	1.5	299	-14%
65 and older	9.5	1.8	141	11.9	1.2	118	-16%

NOTE: Percents may not add to 100% due to rounding. Table excludes licensed drivers and arrests for those less than 16 years old. For those 16 and older there were 129,671,000 licensed drivers in 1975 and 158,494,000 in 1986; there were 945,757 DWI arrests in 1975 and 1,791,575 in 1986. The age distribution of known arrests for DWI was applied to the total number of estimated DWI arrests. Sources: Federal Highway Administration, Selected Highway Statistics and Charts 1985. FBI, Crime in the United States (1975 and 1986).

There is no definitive explanation of why arrest rates increased between 1975 and 1986 among younger age groups. Although increased enforcement of drunk driving laws would be expected to affect all age groups to some degree, more stringent enforcement may have been selectively applied to younger age groups. Drinking among younger age groups probably increased over the period of 1975 to 1986 after the minimum drinking age was lowered in many jurisdictions between 1971 and 1983.

Many states lowered the minimum age for the sale and consumption of alcoholic beverages in response to the ratification of the 26th Amendment (1971) to the U.S. Constitution which granted the right to vote to individuals at least 18 years old. Between 1970 and 1973, 24 states reduced their minimum drinking age.

From 1983 through 1988, many states phased in new laws that raised the minimum drinking age to 21 in response to federal highway funds legislation. Currently, all 50 states and the District of Columbia have a minimum drinking age of 21 years. An apparent result of states raising the minimum drinking age is that arrest rates for individuals 18-20 years old peaked in 1982 and 1983.

Lower drunk driving arrest rates for 18-20 year old drivers since 1983 may also reflect in part changing drinking behavior among young adults. National surveys of high school seniors in 1986 report less prevalent daily drinking and drinking in the month before the survey than high school seniors in 1980. Additionally, a smaller percentage of high school seniors in 1986 reported engaging in binge drinking (defined as 5 or more drinks in a row at least once in the 2 weeks before the survey) than high school seniors in 1980 (See Table C below).

TABLE C
DRINKING PATTERNS AMONG HIGH SCHOOL SENIORS

	Senior class of:	
	1980	1986
Percent who drank in last 30 days	72.0%	65.0%
Percent who drank daily	6.0	4.8
Percent with binge drinking	41.2	36.8

See "Monitoring the Future: A Continuing Study of the Lifestyles and Values of Youth", conducted by the Institute of Social Research at the University of Michigan and funded primarily by the National Institute on Drug Abuse. See also High School Senior Drug Use: 1975-1986 (Rockville, Maryland: National Institute on Drug Abuse, March 1987).

The Task Force also received testimony on national trends relating to young adults and drunk driving from Mr. William E. Scott of NHTSA. In outlining national progress for the years 1980 to 1988, Mr. Scott noted that the number of teenage drivers with a BAC at 0.10 or above in fatal crashes decreased 28%. Mr. Scott also included in his summary of progress the following factors:

- 1) Special youth licensing laws;
- 2) Statutes in all U.S. jurisdictions requiring a minimum drinking age of 21 years;
- 3) Shift in public attitudes; and
- 4) Major behavioral changes.

The Task Force also received from the Honorable Robert H. Mason, Associate Judge, Seventh Judicial Circuit, copies of a study entitled Youth Alcohol-Related Motor Vehicle Fatalities (1982-1987). This report is included as Appendix 3. Unless otherwise noted, the sources of all data contained in the report are from the Fatal Accident Reporting System, National Center for Statistics and Analysis, National Highway Traffic Safety Administration and the current population surveys, Bureau of Census.

The report focuses on impaired driving fatal crashes by youth age 15-20, from 1982 to 1987. Generally, according to the report, alcohol involvement in youth crashes decreased from 1982 - 1987. In fact, the largest decrease among all age groups occurred for the group age 15-20,

although individuals age 21 and above also experienced declines. The percentage of youth alcohol-related fatalities decreased from 63.2 percent to 51.2 percent, a reduction of 19.1 percent. For the same period, the percentage of alcohol-related fatalities for adults at least 21 years old declined from 58.4 percent to 53.2 percent, a reduction of 8.9 percent.

However, young drivers continue to be overrepresented in fatalities and as drivers in fatal crashes compared to the population at least 21 years old. According to the report, this statement is accurate based on total population, driver licensed population, and vehicle miles traveled. The overrepresentation occurs in both alcohol and nonalcohol involvement cases.

The report also highlights the rising rate at which drivers under 21 years of age are dying in nonalcohol-related crashes. The rate of nonalcohol-related fatalities has risen and the rate of alcohol-related fatalities has declined 21.9 percent. Total youth fatalities (both alcohol and nonalcohol) declined only 3.4%. The reason for the increase in the youth fatality rate for nonalcohol involvement cases is not known. An increase in the number of vehicle miles traveled by the 15-20 year old age group may account for some of the increase, according to the report.

Despite progress, the report states that drinking and driving continues to be the primary killer of teenagers. More than 40% of all deaths for youth ages 15-20 result from motor vehicle crashes. About half of these motor vehicle fatalities involve alcohol. Therefore, drinking and driving account for about 20% of all fatalities in this age group.

Recent Maryland Legislation

The General Assembly of Maryland in its efforts to curb the drunk and drugged driver has recently enacted legislation specifically aimed at juvenile and young adult drivers.

In 1978, the General Assembly enacted a special youth licensing statute that applies to an applicant for a driver's license who is under the age of 18 and is the holder of a learner's permit. Under Chapter 803 of 1978, an applicant who is at least age 16 and passes an examination is entitled to receive a provisional driver's license from the MVA. The provisional driver's license contains a provisional symbol that limits the licensee to driving unsupervised only from 5:00 a.m. until 12 midnight. The holder of a provisional driver's license who is under the age of 18 may receive a regular driver's license that allows driving unsupervised at all times only if the individual:

- 1) Possesses a valid provisional driver's license for the 12-month period; and
- 2) Is not convicted of a traffic violation committed during the 12-month period and for which points may be assessed.

Chapters 90 and 96 of 1982 increased the minimum drinking age to 21 years of age, phased in over a 3-year period.

Chapter 844 of 1982 provides that misrepresentation of age by a juvenile in order to obtain alcoholic beverages subjects the juvenile to suspension of the driver's license and assignment to a community work program.

Chapter 237 of 1984 requires a juvenile services intake officer to forward a citation for an alcoholic beverage offense by a juvenile to the State's Attorney if the child fails to comply with the intake officer's referral of the juvenile to an alcohol rehabilitation program or supervised work program assignment.

Chapter 254 of 1988 requires the MVA to impose an alcohol restriction on the license of anyone under the age of 21. As with the regular alcohol restriction, this restriction prohibits the individual from driving with any alcohol in the individual's blood (defined as a BAC level of more than 0.02 by Chapters 255 and 734 of 1988). Violation of the restriction is a misdemeanor and subjects the youth to a \$500 fine. This is in addition to the possibility of being charged with violations of DWI and DUI. The alcohol restriction expires automatically when the individual reaches the age of 21.

Enforcement

The Task Force reviewed the current enforcement of both drunk driving offenses and alcoholic beverage violations by juveniles 16-17 years of age in Maryland. Although no statistical information on drugged driving by this age group was available, Colonel Tippet was able to provide information on arrests of 16 and 17 year old juveniles for drunk driving offenses under

§21-902 of the Transportation Article and alcoholic beverage law violations under Article 27 - Crimes and Punishments and the Education Article for the years 1985 through 1987.

The findings of the Maryland State Police are contained in the "Alcohol and Juveniles - Data Sheet" included as **Appendix 4**. Statewide arrests for drunk driving violations by drivers 16 or 17 years of age account for approximately 1% of all drunk driving arrests for each of the years 1985-1987. However, the first 6 months of 1988 reflect an increase in the number of arrests for this age group. Colonel Tippet also advised the Task Force that the percentage of drunk driving arrests for 16 and 17 year old drivers in Maryland is the same as the percentage of 16 and 17 year old arrests in other states in the region.

Alcoholic beverage law violations for individuals under age 18 years show an increase from 736 in 1985 to 1,154 in 1987. The increase in the number of alcoholic beverage arrests for that period is approximately 38%.

The Maryland State Police figures also indicate in all accidents in which drivers were drinking, 3% of these drivers were under the age of 18. Fatalities of drinking drivers under age 18 account for 3% of all fatalities of drinking drivers.

According to Colonel Tippet, the Maryland State Police requires its officers to treat juveniles in the same manner as adult offenders except

that juveniles are referred to the jurisdiction of the juvenile courts. The Maryland State Police do not track the dispositions of drunk driving offenses by juveniles after arrest.

Frank Weathersbee, State's Attorney for Anne Arundel County and a member of the Task Force, informed the Task Force that, based on his experience in Anne Arundel County and information from Baltimore County, when a state's attorney receives a complaint of a juvenile driving while intoxicated or driving under the influence, a petition is filed in the juvenile court. Mr. Weathersbee explained that disposition of these cases in juvenile courts probably mirrors dispositions of many cases involving adult first offenders in the metropolitan areas of Maryland. For example, a typical disposition of a juvenile offense for drunk driving would be to continue the case, without a finding of delinquency, conditioned on treatment and education of the juvenile offender.

The Honorable David Mitchell, Eighth Judicial Circuit, also appeared before the Task Force to provide his views and those of Judge Robert H. Mason, both of whom are members of the Special Joint Oversight Committee on the Juvenile Services Initiatives. Judge Mitchell and Judge Mason, who handle the most active juvenile dockets in Maryland (Baltimore City and Prince George's County, respectively), are certain that a tremendous problem of alcohol and substance abuse among juveniles exists, but juvenile drunk and drugged driving cases are not being prosecuted by law enforcement officers. However, Judge Mitchell acknowledged that the possibility exists that police officers are in the alternative charging juveniles with alcoholic beverage violations.

Judge Mitchell indicated that a committee of the Maryland Judicial Conference is conducting a preliminary study of a Virginia requirement that a juvenile must appear in court with a parent or guardian for a ceremony and lecture before being licensed to drive. Judge Mitchell also stated that if an administrative per se offense is created he would recommend including license sanctions for juvenile drivers within the scope of the legislation.

Limited Dram Shop Liability

The Task Force also received testimony from William Bricker. Mr. Bricker suggested that Maryland adopt a dram shop act for minors only. He discussed a case he had involving two minors who had been drinking heavily at a bar, and then driving at speeds in excess of 100 m.p.h., causing an accident in which his clients' daughter was killed. The Court of Special Appeals, feeling bound by precedent of the Court of Appeals, refused to allow the plaintiffs a cause of action against the bar owner. Copies of the opinion of the Court of Special Appeals were distributed to the Task Force. A writ of certiorari has been filed with the Court of Appeals by the plaintiffs.

Mr. Bricker stated that the liability should only be for serving minors, and should only apply to licensed establishments, and not to social hosts.

RECOMMENDATIONS

The Drunk and Drugged Driving Task Force recommends:

- I. That the Task Force be extended beyond December 1, 1988 and continue to be active during the 1989 Interim.
- II. That the Governor proceed with all possible haste to acquire new breathalyzer equipment.
- III. That the use in current law of the terminology relating to alcohol content of an individual's "blood" be changed to alcohol concentration in the individual's blood or breath.
- IV. That the General Assembly enact an administrative per se law that:
 - 1) Is based on the implied consent law;
 - 2) Requires a police officer to confiscate immediately the driver's license of an individual who either refuses to take a blood alcohol content test or submits to a test and has an alcohol concentration of 0.10 or more (and requires the police officer to issue a temporary license with full driving privileges valid until expiration of a period of 45 days or until a hearing, whichever occurs first);

- 3) Provides for suspension of the driver's license of the individual within 45 days of arrest; and
- 4) Does not allow postponement of the suspension if the administrative hearing is postponed at the request of the driver.
- 5) The following issues relating to enactment of an administrative per se offense were closely examined but unresolved by the Task Force:
 - a. Whether a hearing should be scheduled automatically or at the request of the individual whose license would be suspended;
 - b. The length of suspensions for first or subsequent offenders, for failure of the test, or for refusal to submit to the test, and whether to limit the authority of MVA hearing officers to determine the period of suspension;
 - c. The specific issues which are to be determined at the administrative hearing (e.g. whether the police officer had reasonable grounds to believe that an individual detained by the police officer had been driving while intoxicated or under the influence).

- d. Whether a hearing officer would have authority to modify a suspension; and
- e. Whether an appeal from the administrative hearing to a circuit court would stay a suspension.

However, the Task Force recommends that the General Assembly resolve these issues.

- V. That an illegal per se law not be enacted at this time but that the Task Force should reexamine the issue after the State's breathalyzer equipment has been replaced.
- VI. That adequate funding be provided for statewide drug evaluation and classification training of police officers.
- VII. That the implied consent law be expanded to include tests for drugs at such time as law enforcement agencies are prepared to conduct such tests and that the Administration move with all possible speed to reach a state of preparedness.
- VIII. That the law requiring mandatory blood tests in certain cases be expanded to include accidents resulting in serious bodily injury requiring immediate hospitalization.

IX. That the General Assembly enact legislation providing for vehicle forfeiture along the general lines of the proposal considered by the Task Force but with the specific terms and conditions of the legislation to be determined by the General Assembly. Specifically, the proposal before the Task Force provided that:

- 1) An offender's vehicle would be subject to forfeiture upon:
 - a. A 3rd or subsequent finding of guilt for any offense under §21-902 of the Transportation Article (DWI, DUI, etc.); or
 - b. A finding of guilt that the individual was driving while under a license suspension or revocation imposed for a §21-902 violation.
- 2) A police officer at the time of arrest would check the driver's record with the MVA and if the above conditions appear to be present, the State's Attorney would be authorized to seek an injunction to prohibit the owner of the vehicle from transferring the vehicle and to require the owner to maintain the vehicle in good repair pending the outcome of the trial;

- 3) A vehicle would not be subject to forfeiture if the vehicle was either owned by an innocent individual, or co-owned and the co-owner did not know or have reason to know of the violation; however, if an owner or co-owner was a passenger in the vehicle at the time of the violation, a rebuttable presumption would arise that the owner or co-owner knew or had reason to know of the violation;
 - 4) Proceeds from the sale of a forfeited vehicle would be used to pay the cost of the sale and any lienholder or secured party; and
 - 5) The judgment records of the courts would be required to indicate that the forfeiture was ordered and the basis for the forfeiture.
- X. Tracking the effects of Chapter 254 of 1988 that requires the MVA to impose an alcohol restriction on the license of drivers under age 21 and the effects of proposed administrative per se legislation on juvenile and young adult offenders; that efforts be made to publicize Chapter 254 of 1988; and that detailed reporting on juvenile and young adult offenders be compiled by the Maryland State Police and other law enforcement agencies and the Juvenile Services Administration.

APPENDIX 1

RELEVANT STATISTICS

HIGHWAY FATALITIES AND ALCOHOL INVOLVEMENT

YEAR	TOTAL NUMBER OF FATALITIES	FATALITY RATE (NO. of FATALITIES per 100 MILLION VEHICLE MILES)	PERCENTAGE IN WHICH ALCOHOL CONTRIBUTING FACTOR	NO. OF FATALITIES IN WHICH ALCOHOL CONTRIBUTING FACTOR
1988* (THROUGH JULY 31)	427	n/a	38%	162
1987	830	2.30	37%	309
1986	790	2.24	46%	361
1985	740	2.19	48%	355
1984	650	2.00	48.9%	317
1983	663	2.15	53%	351
1982	660	2.20	49.9%	329
1981	794	2.70	63%	500

* Preliminary figure may be adjusted upward when reports of Medical Examiner become available.

ARRESTS

YEAR	NO. OF DWI AND DUI ARRESTS	NO. OF DWI AND DUI ARRESTS RELATING TO ACCIDENTS	NO. OF ALL CITATIONS FOR MOTOR VEHICLE VIOLATIONS (FY)	PERCENTAGE OF ALL CITATIONS THAT WERE DWI OR DUI ARRESTS RELATED TO ACCIDENTS
1988 (THROUGH JUNE 30)	16,765	7,755	530,884*	1.46%
1987	33,017	15,221	913,581	1.67%
1986	31,154	14,116	873,607	1.62%
1985	31,873	12,996	851,504	1.53%
1984	33,728	14,493	735,827	1.97%
1983	33,778	16,282	715,212	2.27%
1982	33,556	15,788	646,313	2.44%
1981	23,651	11,590	660,813	1.75%
1980	15,575	6,096	638,792	0.95%

* This figure is one-half of the total for FY 1988 (July 1, 1987 through June 30, 1988)

NOTE: The figures for DWI and DUI arrests, and accident arrests, are based on calendar years (January 1 - December 31), and were obtained from the Maryland State Police. The total number of citations is based on fiscal years (July 1 - June 30), and was obtained from the District Court. For reasons that are unclear, the District Court figures for DWI and DUI arrests are higher than those obtained from the Maryland State Police.

CONVICTIONS

Unfortunately, there is no truly accurate method of determining the amount of convictions for alcohol-related driving offenses. The District Court keeps this information now, but prior to 1985 the numbers are spotty. In addition, the District Court 21-902 report shows the amount of the jury trial prayers, but not the disposition of these cases in the circuit court. There is no central record keeping office for the circuit courts.

MVA keeps track of the convictions certified to it by the courts. Unfortunately, the MVA records often lag far behind when the convictions actually occurred.

The Maryland State Police keep statistics, but these again lag due to the length of time it takes to obtain information from the various police departments and agencies.

The following is the best information available. The information up until 1986 is for those calendar years, and was obtained from MVA. The information for FY 1986-87 and FY 1987-88 was obtained from the District Court 21-902 reports, and again does not show the circuit court dispositions. A fiscal year lasts from July 1 to June 30. Undoubtedly, the circuit court dispositions would add significantly to these numbers, as there were 7,420 jury trial prayers in FY 1986-87 and 8,329 jury trial prayers in FY 1987-88.

CONVICTIONS

YEAR	NO. OF DWI CONVICTIONS	NO. OF DUI CONVICTIONS	TOTAL NO. OF CONVICTIONS
FY 1987-88	4,290	6,756	11,046
FY 1986-87	4,270	6,499	10,769
1986	3,986	6,025	10,011
1985	5,791	7,646	13,437
1984	5,973	8,431	14,404
1983	6,710	10,909	17,619
1982	4,710	8,174	12,884
1981	4,897	9,688	14,585
1980	2,315	7,578	9,893

SUSPENSIONS AND REVOCATIONS OF DRIVERS' LICENSES

	<u>FY 1987</u>	<u>FY 1986</u>	<u>FY 1985</u>	<u>FY 1984</u>	<u>FY 1983</u>	<u>FY 1982</u>	<u>FY 1981</u>
No. of Suspensions DWI	1,596	1,590	1,942	1,629	1,652	1,009	561
No. of Revocations DWI	146	733	580	892	876	664	354
Total No. of Suspensions and Revocations DWI	<u>1,742</u>	<u>2,323</u>	<u>2,522</u>	<u>2,521</u>	<u>2,528</u>	<u>1,673</u>	<u>915</u>
No. of Suspensions DUI	4,668	3,877	5,616	6,673	5,930	5,404	3,988
No. of Revocations DUI	224	337	654	438	311	331	178
Total No. of Suspensions and Revocations DUI	<u>4,892</u>	<u>4,214</u>	<u>6,270</u>	<u>7,111</u>	<u>6,241</u>	<u>5,735</u>	<u>4,166</u>
Total No. of Suspensions and Revocations DWI and DUI	<u>6,634</u>	<u>6,537</u>	<u>8,792</u>	<u>9,632</u>	<u>8,769</u>	<u>7,408</u>	<u>5,081</u>

NOTE: These figures reflect the numbers of suspensions and revocations for fiscal years 1981 through 1987. A suspension or revocation is counted in the year of the arrest regardless of the year of the license suspension or revocation by the MVA.

APPENDIX 2

DISTRICT COURT DISPOSITIONS OF §21-902 CITATIONS

DISTRICT COURT DISPOSITIONS OF §21-902 CITATIONS

The following table is a more complete breakdown of the disposition of Transportation Article §21-902 arrests in the District Court only. These figures do not show circuit court dispositions. No figures are available prior to FY 1985, making long term trends difficult to determine.

The Table shows a sharp decline in the percentage of convictions since 1985. This appears to be due to two causes: (1) The increase in jury trial prayers; and (2) the increase in "Other" dispositions, which are primarily nolle prosequis. The percentage of probations before judgment has decreased slightly, while the percentage of not guilty verdicts has risen to just over 6% of the total dispositions.

One of the most interesting figures in the table shows the number of jury trial prayers requested. This figure has steadily risen over the years, reaching a high of 8,329 prayers and 21.4% of the total dispositions in the fiscal year ending June 30, 1988. Although, as alluded to above, there is no central record keeping for the circuit courts, clearly the dispositions in the circuit courts would add significantly to the percentage of guilty verdicts, as well as to the other dispositions.

NOTE: These figures were obtained from the 21-902 reports issued by the District Court. The total disposition figures are higher than the arrest figures shown in **Appendix 1 - "Relevant Statistics (Arrests)"** which were obtained from the Maryland State Police. The reason for this difference is not entirely clear. It does appear, however, that the State Police figures are based on the number of BAC tests offered. Possibly, there are a certain number of arrests under §21-902 where, for various reasons, no BAC tests are offered. If this is so, that would account for the higher District Court figures, and these would be the more accurate number of arrests.

The figures for §21-902(a) and (b) (alcohol offenses) guilty findings would be slightly higher than the table shows, as the conviction rate for the small number of §21-902(c) and (d) (drug related offenses) is very low (See **Table A, P. 22**).

DISTRICT COURT DISPOSITIONS OF §21-902 CITATIONS

	<u>Total Dispositions</u>	<u>Convictions/%</u>	<u>Probation Before Judgment/%</u>	<u>Jury Trial Prayers/%</u>	<u>Not Guilty/%</u>	<u>Other (Nolle Prosequis, Stet, Merged)/%</u>
FY 1988	38,855	11,217/28.9%	10,790/27.8%	8,329/21.4%	2,483/6.4%	6,036/15.5%
FY 1987	34,840	10,886/31.2%	10,274/29.5%	7,420/21.3%	1,983/5.7%	4,277/12.3%
FY 1986	30,752	10,843/35.3%	10,027/32.6%	5,970/19.4%	1,347/4.4%	2,565/8.3%
FY 1985	32,929	13,426/40.8%	10,482/31.8%	4,903/14.9%	1,213/3.7%	2,123/6.4%

APPENDIX 3

YOUTH ALCOHOL - RELATED MOTOR VEHICLE FATALITIES (1982-1987)

SUBMITTED BY:

THE HONORABLE ROBERT H. MASON
ASSOCIATE JUDGE, SEVENTH JUDICIAL CIRCUIT



Seventh Judicial Circuit of Maryland

COURT HOUSE

UPPER MARLBORO, MARYLAND 20870

ROBERT H. MASON
JUDGE

October 21, 1988

(301) 952-4342


The Honorable William S. Horne
House of Delegates of Maryland
Post Office Box #204
Stewart Building
Easton, Maryland, 21601

Dear Delegate Horne

Attached is the material I said I would forward to you.

With kind regards, I remain

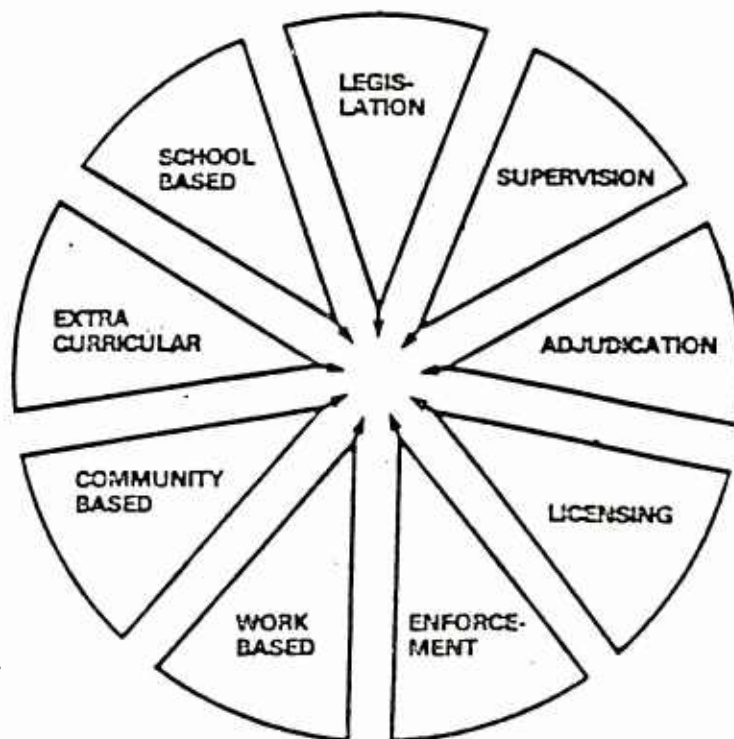
Very truly yours,


Robert H. Mason
Associate Judge

RHM/mso
Enclosure

YOUTH ALCOHOL-RELATED MOTOR VEHICLE FATALITIES

1982 - 1987



The figures and data contained in this package focus on impaired driving fatal crashes by young people, ages 15 through 20, from 1982 to 1987. The data chosen to illustrate this problem fall into four categories:

- o Youth Fatalities -- Those who died in motor vehicle crashes (drivers, passengers, or pedestrians) who were 15 to 20 years old. An "alcohol-related" fatality occurs if any driver or pedestrian involved in the crash had been drinking. The young person killed, therefore, may or may not have been drinking.
- o Young Drivers Involved in Fatal Crashes -- 15-to-20-year-old drivers involved in a crash that resulted in a fatality. These drivers may have survived the crash and the fatality may have been a youth or adult.
- o Young Drivers Killed -- 15-to-20-year-old drivers who were killed in a motor vehicle crash.
- o Youth Fatalities by Alcohol-Involvement of Young Drivers -- Youth who were killed in a motor vehicle accident in which a young person was driving. The fatality could have been the driver, a passenger, or a pedestrian 15 to 20 years old. The young driver involved in the crash may or may not have been "at fault."

The totals in these four categories are broken down by alcohol-related (A/R) involvement. If a fatality is alcohol-related, a driver or pedestrian had a measurable blood alcohol content (BAC). The alcohol involvement is further broken down to indicate if the BAC was between .01 and .09 percent (which is within the "legal limit" in most States) or if it was greater than or equal to .10 percent, which is over the legal limit in most States. (It should be noted that some States, such as Maine, Wisconsin, Rhode Island and New Mexico, have set lower BAC limits for young drivers.)

Some of this data have been graphed to highlight interesting trends or problem areas.

Generally, alcohol involvement in youth crashes has decreased since 1982. In fact, the largest decrease among all age groups has occurred within this population. Although adults (ages 21 and above for the purposes of this report) also experienced declines during this time period, it can be seen (Figures 9, 10 and 11) that the proportion of youth fatal crashes that were alcohol-involved declined at a greater rate. For instance, the percent of alcohol-related fatalities decreased for adults (21 and above) from 58.4 percent in 1982 to 53.2 percent in 1987 - an 8.9 percent reduction. During this same period, youth alcohol-related fatalities declined from 63.2 percent to 51.2 percent - a 19.1 percent reduction.

Unless otherwise noted, the sources of all data contained in this report are from the Fatal Accident Reporting System, National Center For Statistics And Analysis, National Highway Traffic Safety Administration and the current population surveys, Bureau of Census..

Prior to the availability of 1987 data, there was some concern that fatalities, crash involvement, and alcohol-related involvement in these crashes were on the rise once again. However, with the 1987 data included, it now appears that 1985 may have been a particularly good year (as was 1987) and that all three years ('85, '86 and '87) can be viewed as part of a general downward trend since 1982.

Since 1982 the population in the United States from ages 15 through 20 has decreased as has the driver-licensed population (Figure 12). Therefore, if the rate, per capita, at which young people are dying in crashes remained the same we would expect to see fewer deaths. In fact, based on their population, the rate at which young people are dying in alcohol-related crashes is declining (from 22 deaths per 100,000 in 1982 to 19 deaths per 100,000 in 1987, Figure 13). Although there has been a decline in the youth population since 1982 (down 8.4%), we have seen a greater decline in young alcohol-related fatalities during this same time (down 21.9%). This, in spite of the fact that total youth fatalities declined only 3.4%.

The rate at which young people are dying in non-alcohol related crashes should be highlighted. The numbers of young people dying, young drivers dying and young drivers involved in fatal non-alcohol crashes have all increased significantly since 1982 (Figures 1, 3, 5 and 7). The rate at which young people have been dying in these crashes has subsequently risen (Figure 13). Although the reason for this increase is not known, there may have been an increase in the number of vehicle miles traveled by this age group which would account for some of this increase. Since the rate of non-alcohol fatalities has risen and the rate of alcohol-related fatalities has declined slightly, we see a dramatic decline in the alcohol-related proportion of deaths and drivers involved compared to non-alcohol (Figures 2, 4, 6 and 8). Therefore, this decline in the proportion of alcohol-related deaths and crash involvement can be viewed as much a function of the increase in the rate of non-alcohol-related deaths as it can to the steady decline in the alcohol-related figures.

The overall rate that young people are dying in crashes has increased from 1982 to 1987 from 35 to 37 deaths per 100,000 population (Figure 15). The fact that the alcohol-related death rate has not also risen, in fact has declined from 22 to 19 deaths per 100,000 population, is a good indicator that we are making progress in this area of driving behavior.

Young people continue to be overrepresented in fatalities and as drivers in fatal crashes compared to the older population. This is true based on total population, driver licensed population and vehicle miles traveled (Figures 15, 16 and 17). This overrepresentation is in the form of both alcohol and non-alcohol involvement and in both cases is substantial. For instance, 77 young drivers per 100,000 young licensed drivers were involved in fatal crashes in 1987 (Figure 16). 25 of these drivers were alcohol-involved. In this same year, 34 adult drivers (over 20) were involved in fatal crashes per 100,000 adult licensed drivers. 11 of these adult drivers were alcohol-involved. Well over twice as many young drivers per licensed driving population were involved in alcohol and non-alcohol-involved crashes as were older drivers.

In summary, alcohol-involvement in fatalities and fatal crashes has decreased substantially since 1982 for young people. It should be recognized that the downward trend in alcohol-related crashes is magnified by the decrease in the youth population and the increase in non-alcohol-involved crashes by youth -- factors which moderate the impressive gains of the past six years. Compared to the older population, alcohol-involvement in fatal crashes has declined at a greater rate for youth, although youth are still overrepresented in these crashes.

IMPAIRED DRIVING BY THE YOUNG -- FACTS

- o Drinking and driving continues to be the number one killer of teenagers. More than 40 percent of all deaths for people ages 15 to 20, result from motor vehicle crashes. About half of these motor vehicle fatalities involve alcohol. Thus, drinking and driving accounts for about 20 percent of all fatalities in this age group.
- o 2,910 young (15 to 20) passengers were killed in motor vehicle crashes in 1987 - 25 percent of all passenger deaths for that year.
- o Although 15 to 20 year old drivers represented only 8% of the total driving population in 1987, they represented 17% of the drivers involved in alcohol-related fatal crashes.
- o The proportion of drivers, age 15 to 20, involved in fatal crashes who were intoxicated decreased from 31 percent in 1982 to 21 percent in 1987. The reduction in the proportion intoxicated from 1982 to 1987 is 32 percent - the largest of any age group.
- o The proportion of fatally injured drivers, aged 15 to 20, that were intoxicated decreased from 43 percent in 1982 to 30 percent in 1987. The reduction in the proportion intoxicated from 1982 to 1987 was 31 percent -- the largest of any age group.
- o Young people, aged 15 to 20, are overrepresented in involvement and deaths in fatal crashes compared to the older population. The rate of involvement is significantly greater for young people for both alcohol and non-alcohol-related crashes based on the total population, licensed driver population or amount of vehicle miles traveled.
- o The population of the United States, ages 15 through 20, has decreased from 24.2 million in 1982 to 22.2 million in 1987 -- a decrease of 8.4 percent. During this same time period, motor vehicle fatalities for this age group decreased only 3.4 percent, while alcohol-related fatalities decreased 21.9 percent.

Youth Fatalities — Ages 15 to 20
Motor Vehicle Deaths, 1982 to 1987

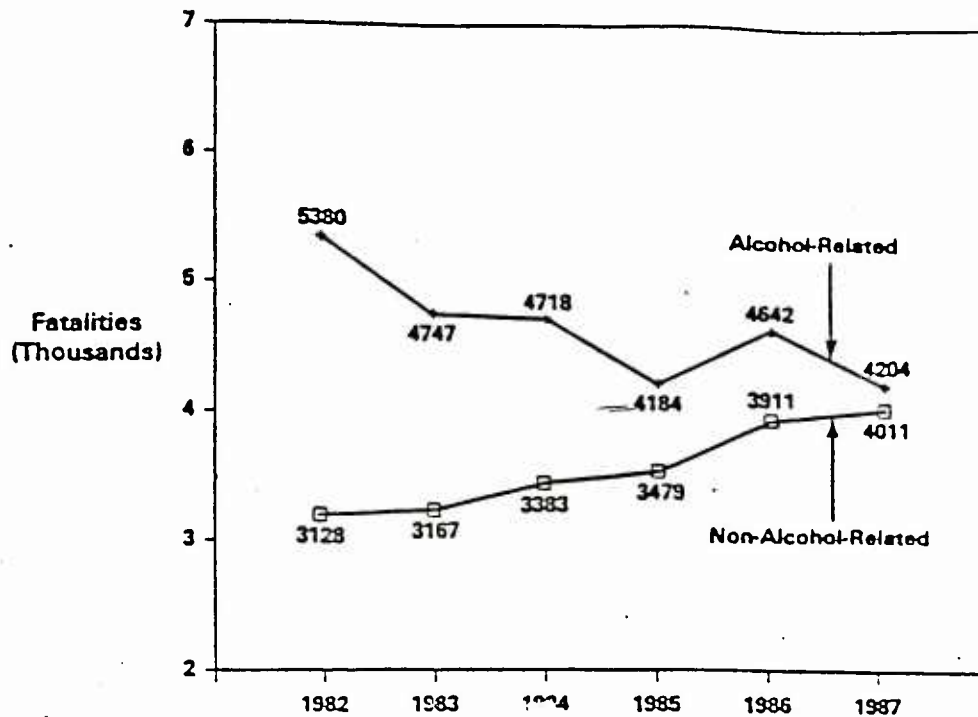


Figure 2

Youth Fatalities — Ages 15 to 20
Alcohol-Related Percent of Deaths

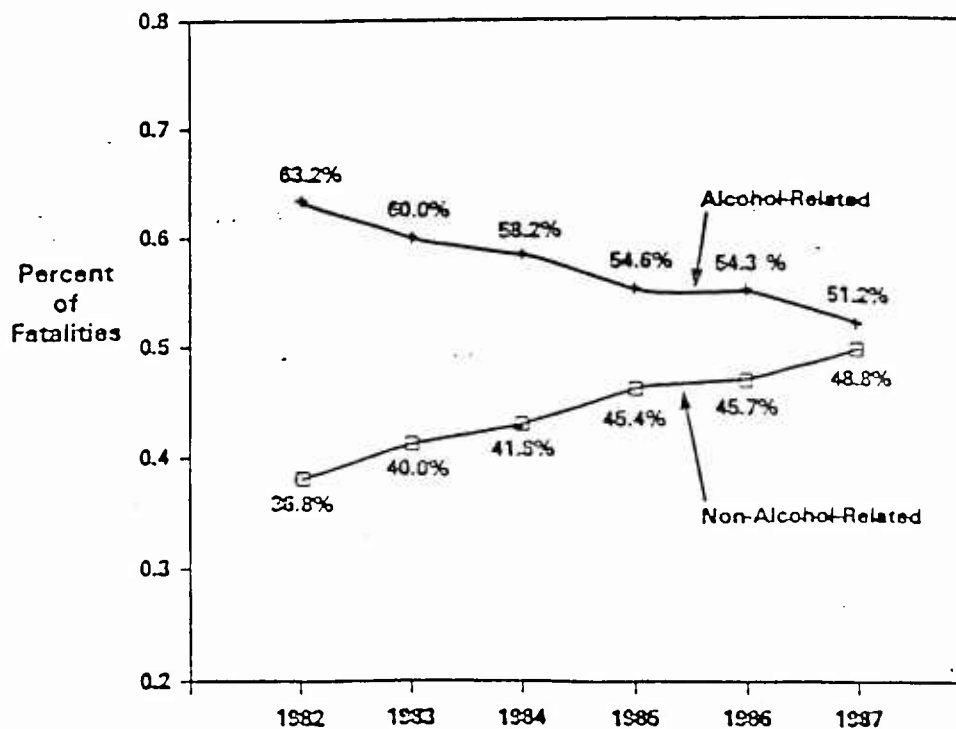


Figure 3
Youth Fatalities Involving a Young Driver
Ages 15 to 20

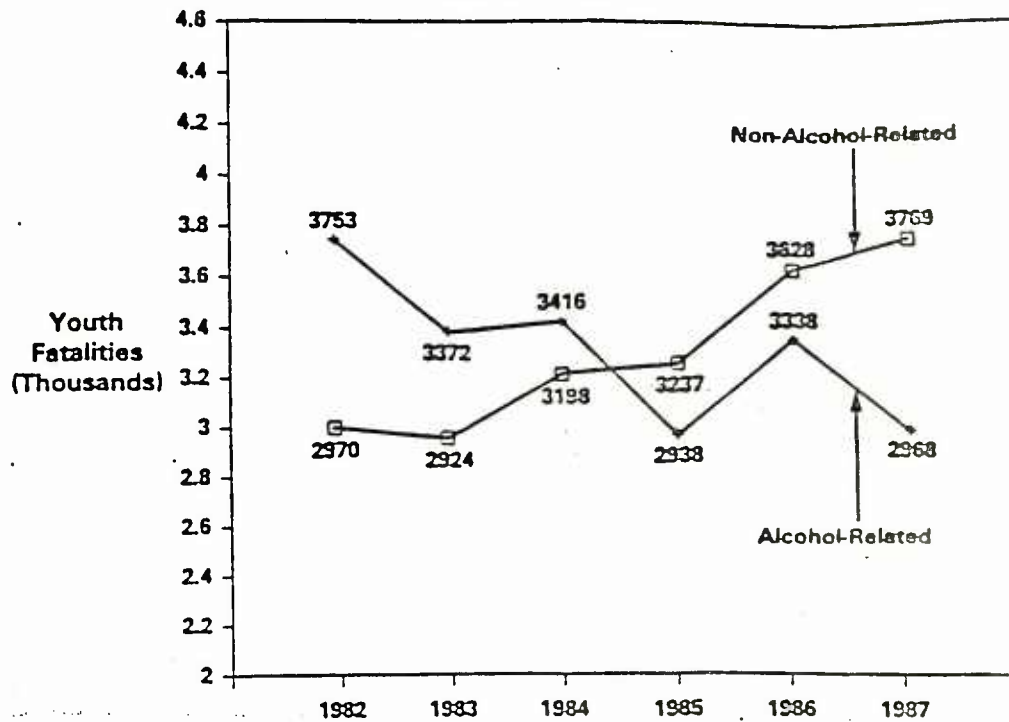


Figure 4
Youth Fatalities Involving a Young Driver
Percent of Total by Alcohol Involvement

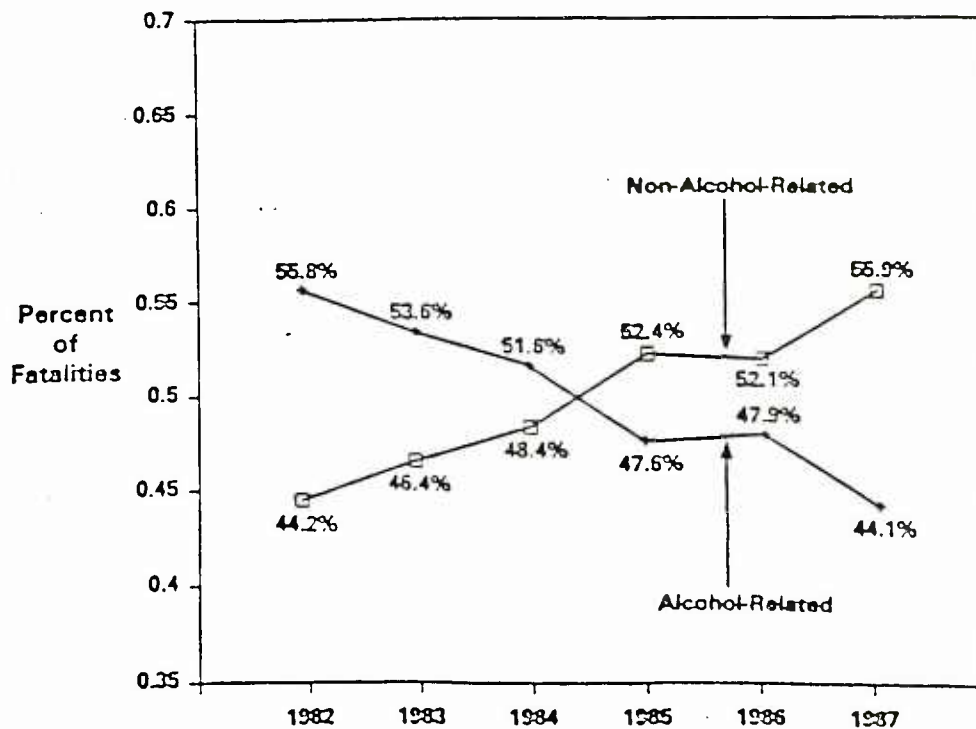


Figure 5

Young Drivers — Ages 15 to 20 Number Involved in Fatal Crashes: 1982-1987

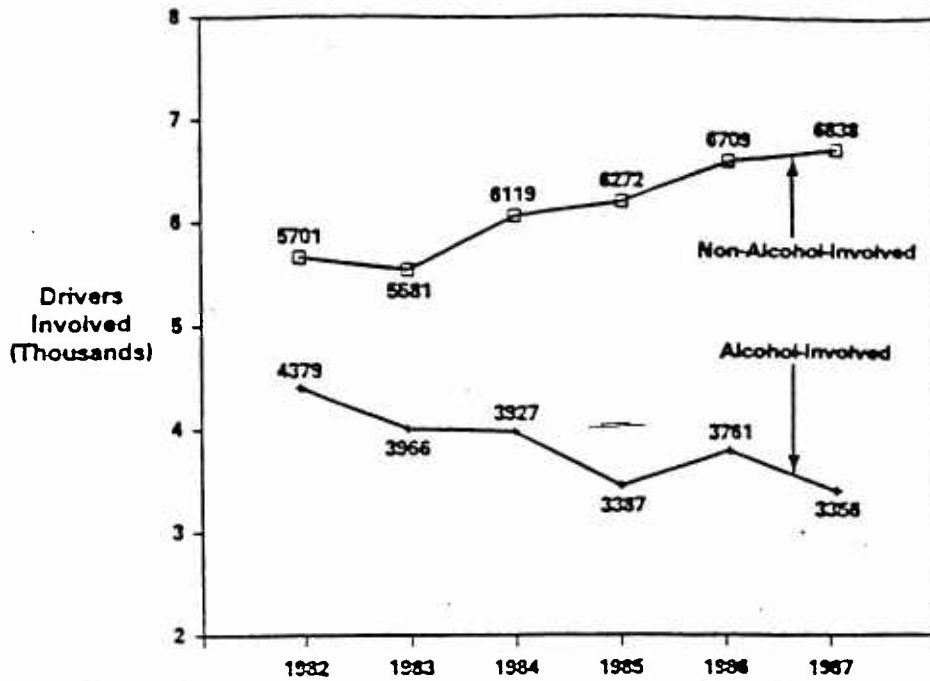
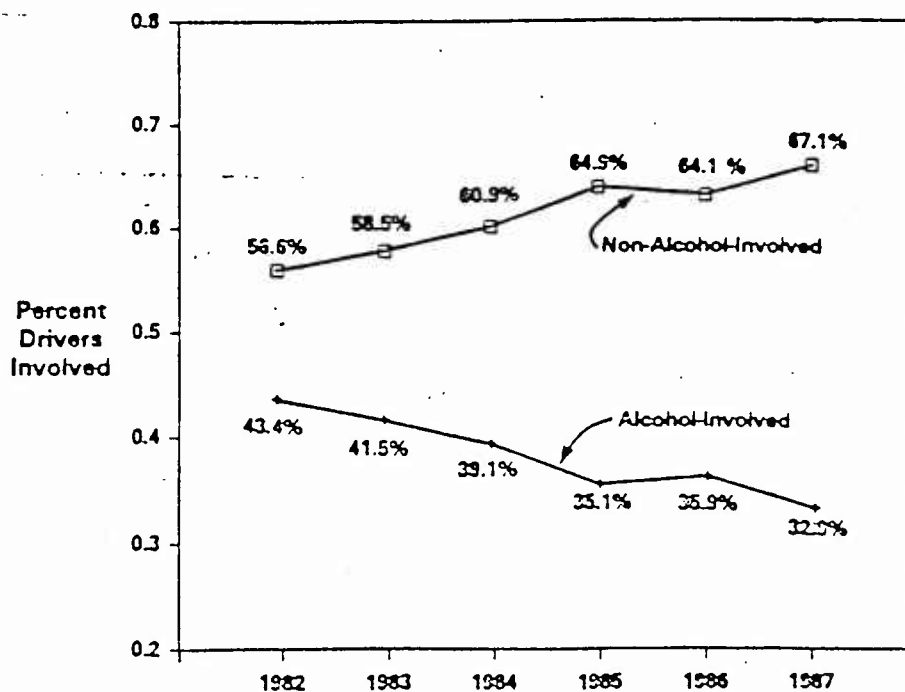


Figure 6

Young Drivers — Ages 15 to 20 Percent Involved in Fatal Crashes by Alcohol Involvement: 1982-1987



Young Drivers Killed Ages 15 to 20

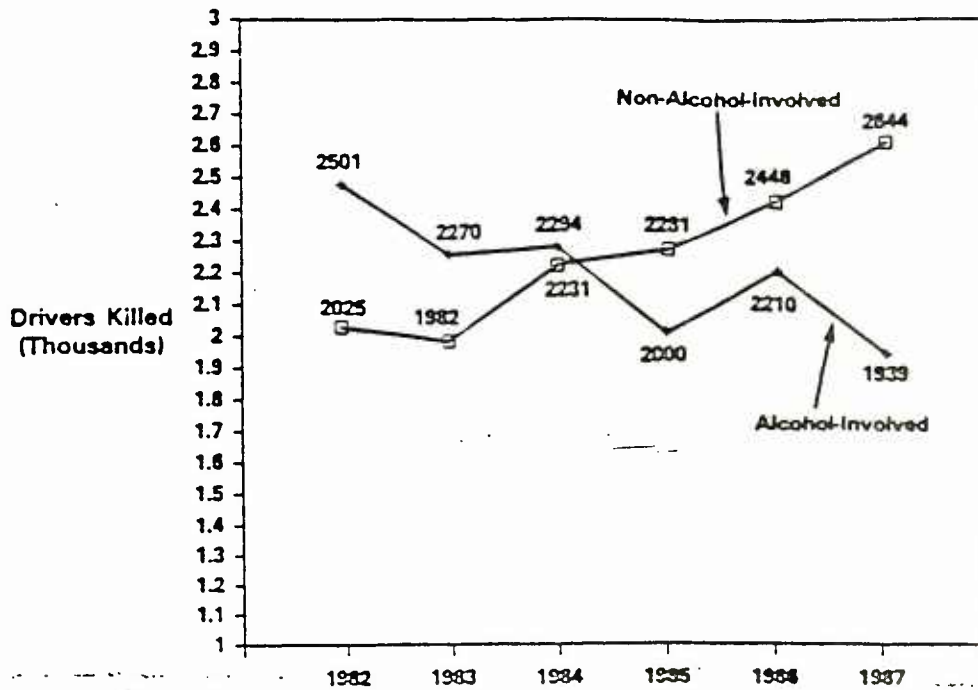
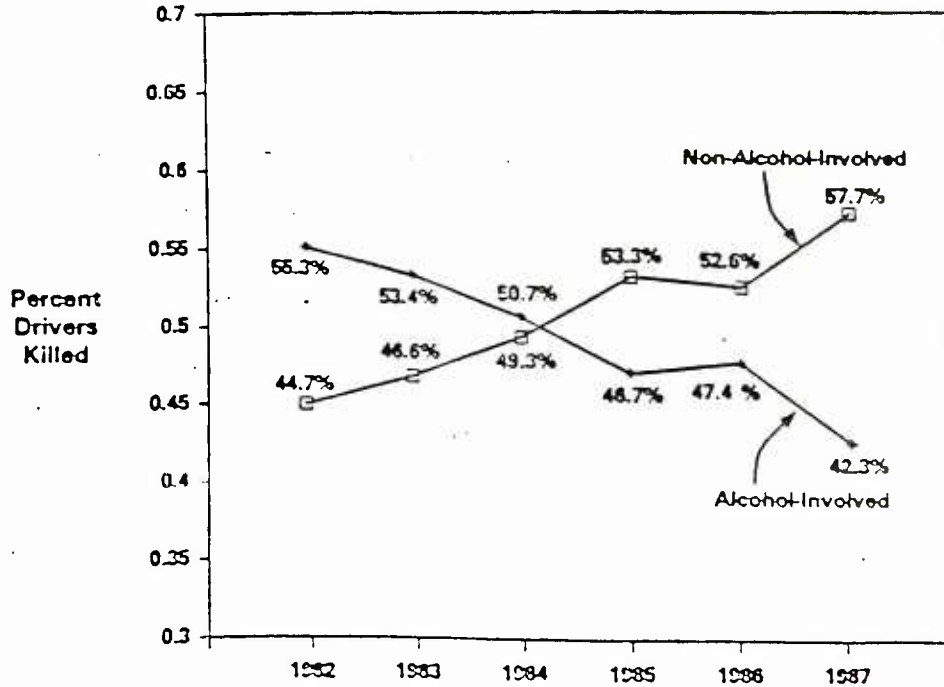


Figure 8
Young Drivers Killed
Percent Killed in Fatal Crashes by Alcohol Involvement



Youth vs Adult Motor Vehicle Fatalities

Alcohol-Related Percent of Each Total

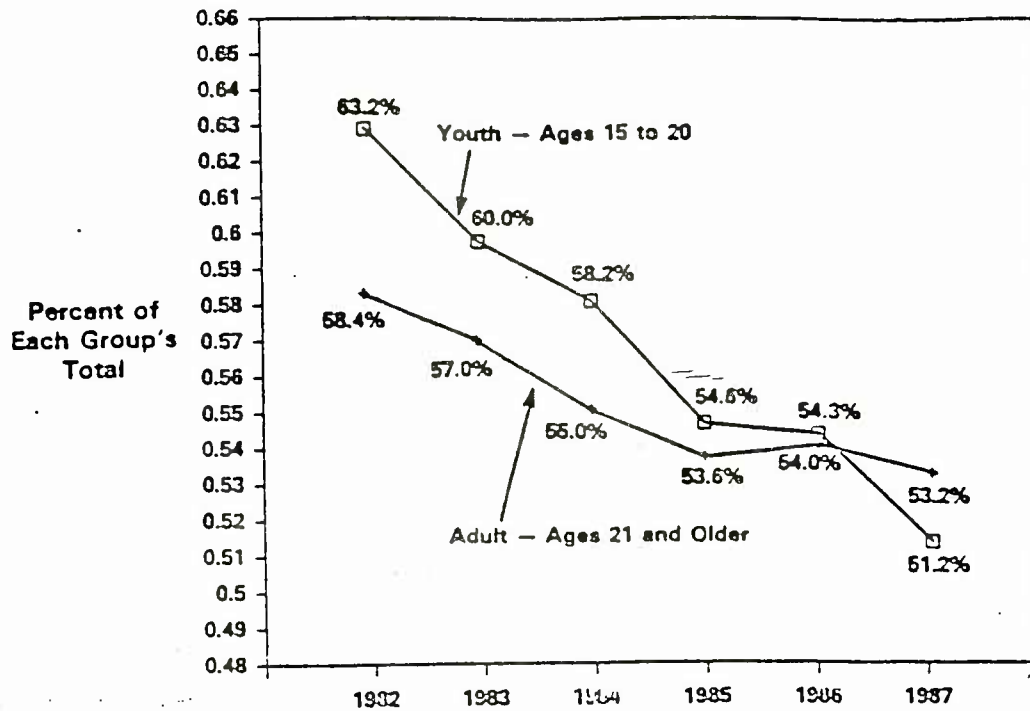


Figure 10

Youth vs Adult Drivers in Fatal Crashes

Alcohol-Related Percent of Each Total

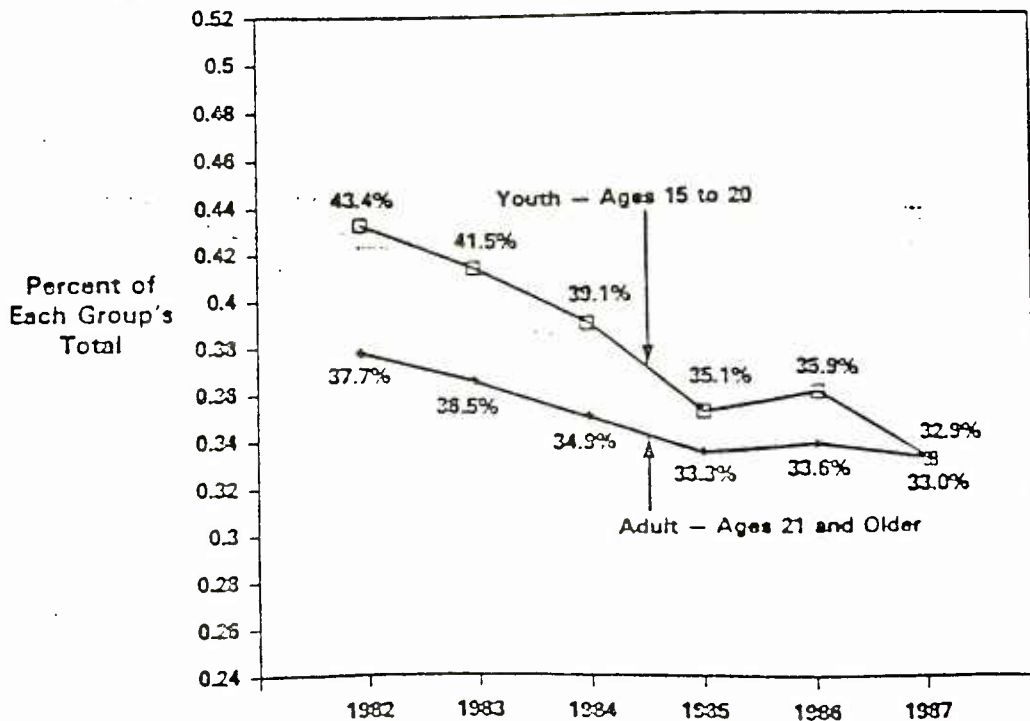


Figure 11
Youth vs Adult Drivers Killed
Alcohol-Related Percent of Each Total

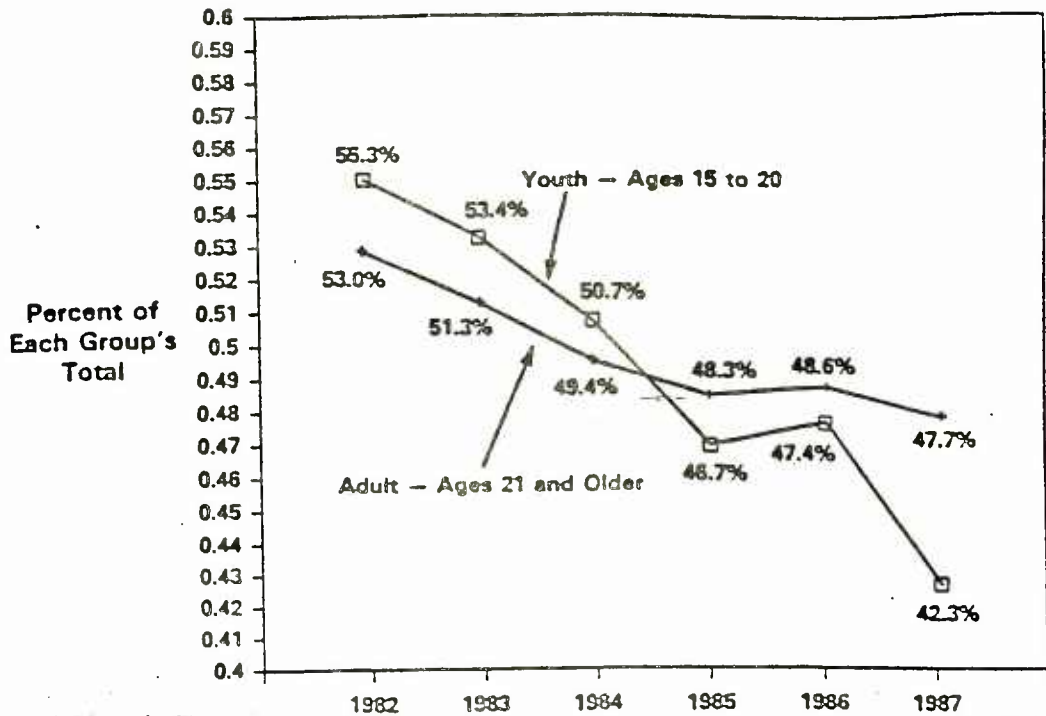
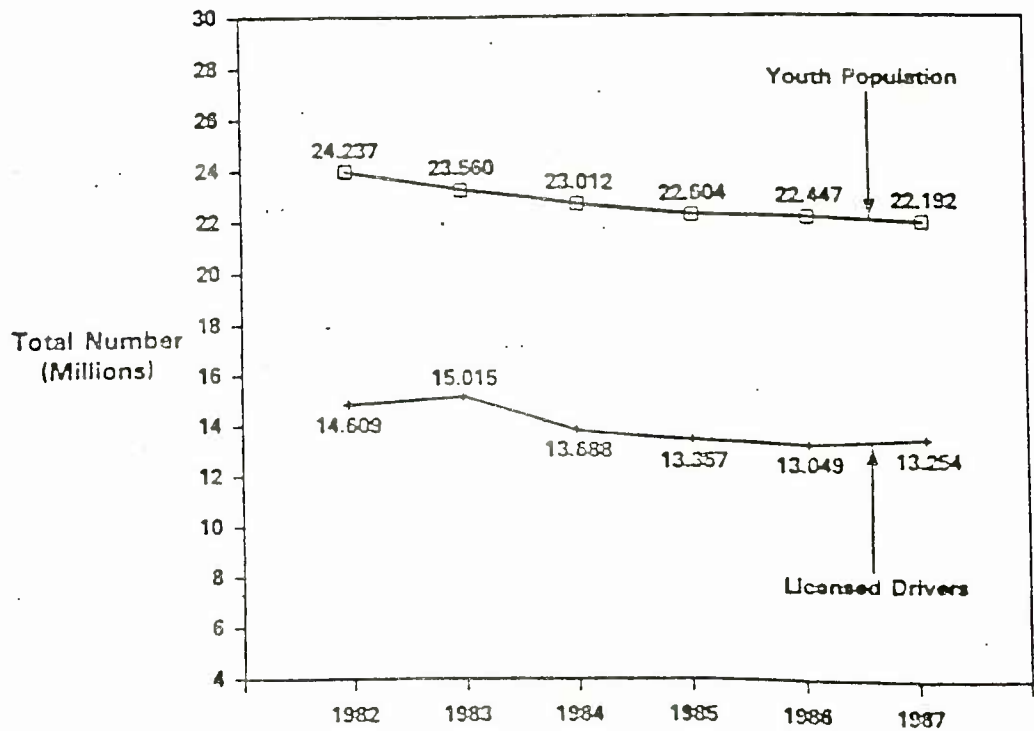


Figure 12
Youth Population — Ages 15 to 20
Total Population and Number of Licensed Drivers



Youth Crash Fatality Rate — Ages 15 to 20

Number of Young People Killed Per 100,000 Population

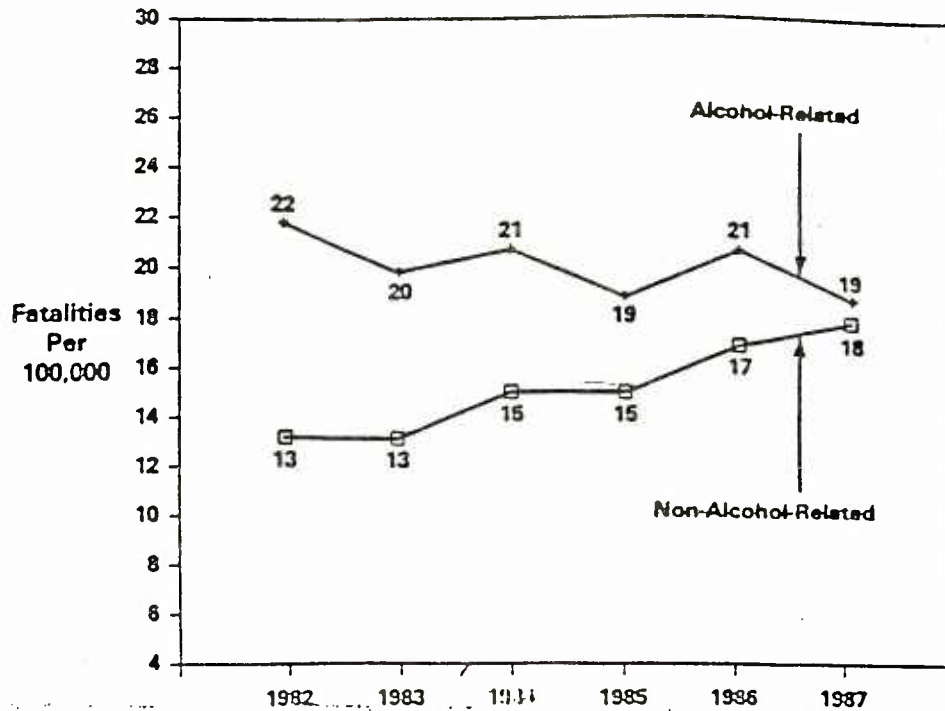


Figure 14

Young Drivers Involved in Fatal Crashes — Ages 15 to 20

Per 100,000 Young Licensed Drivers

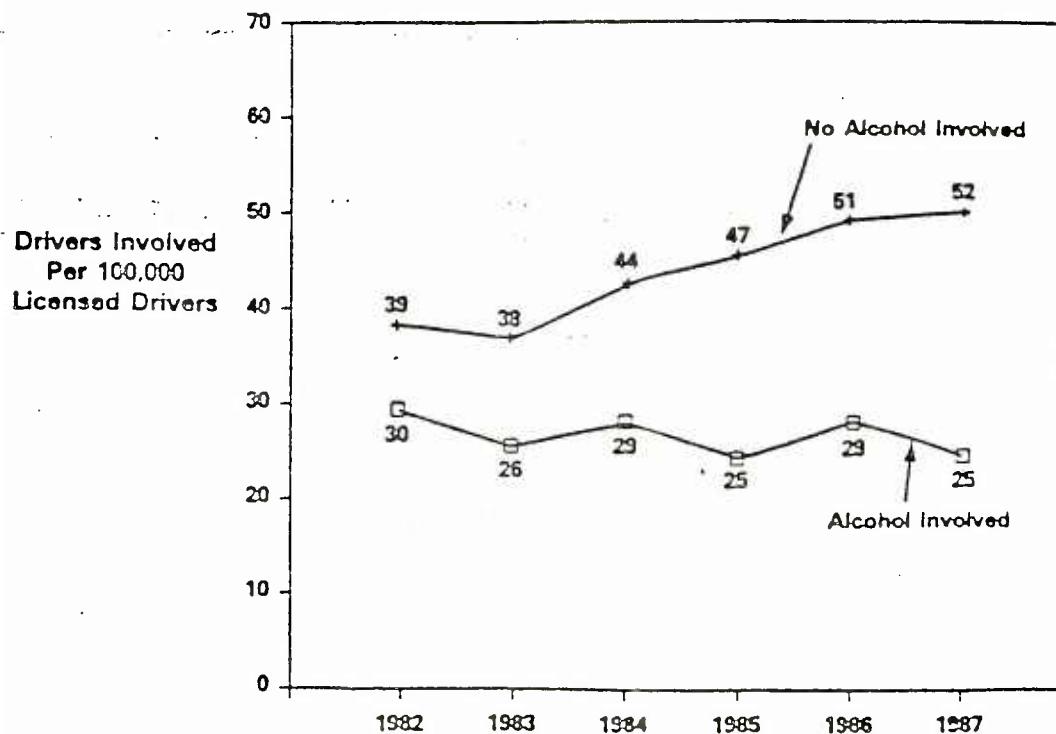


Figure 15

Crash Fatality Rate: Adult vs Youth

Numbers Killed Per 100,000 Population

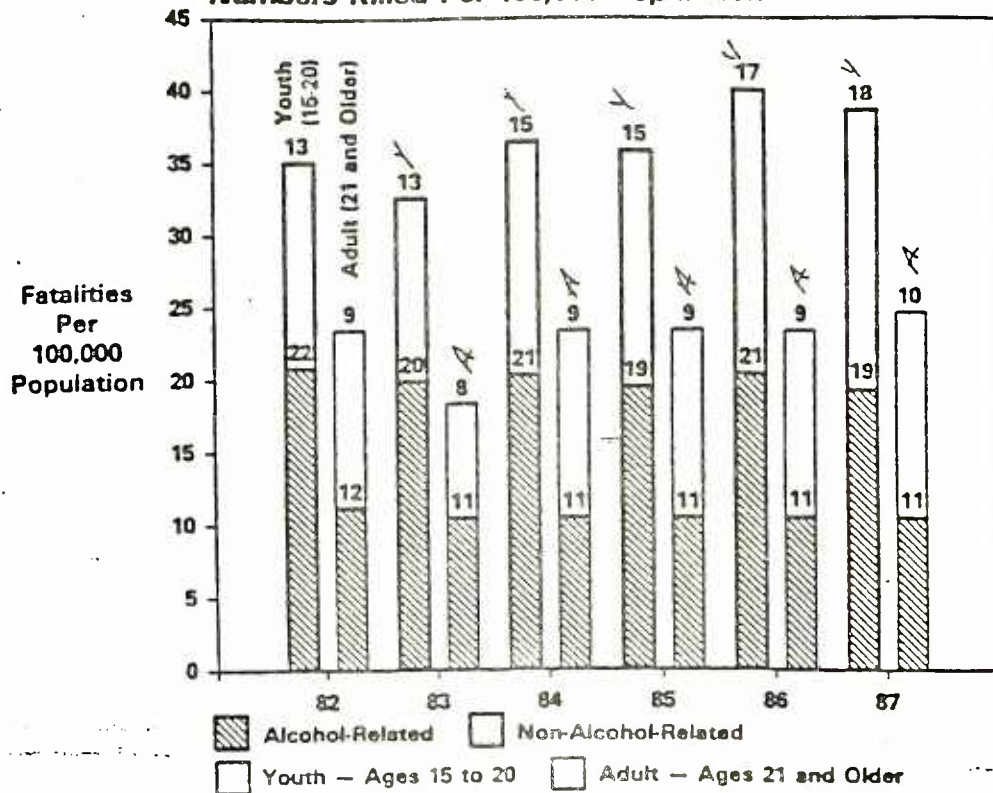
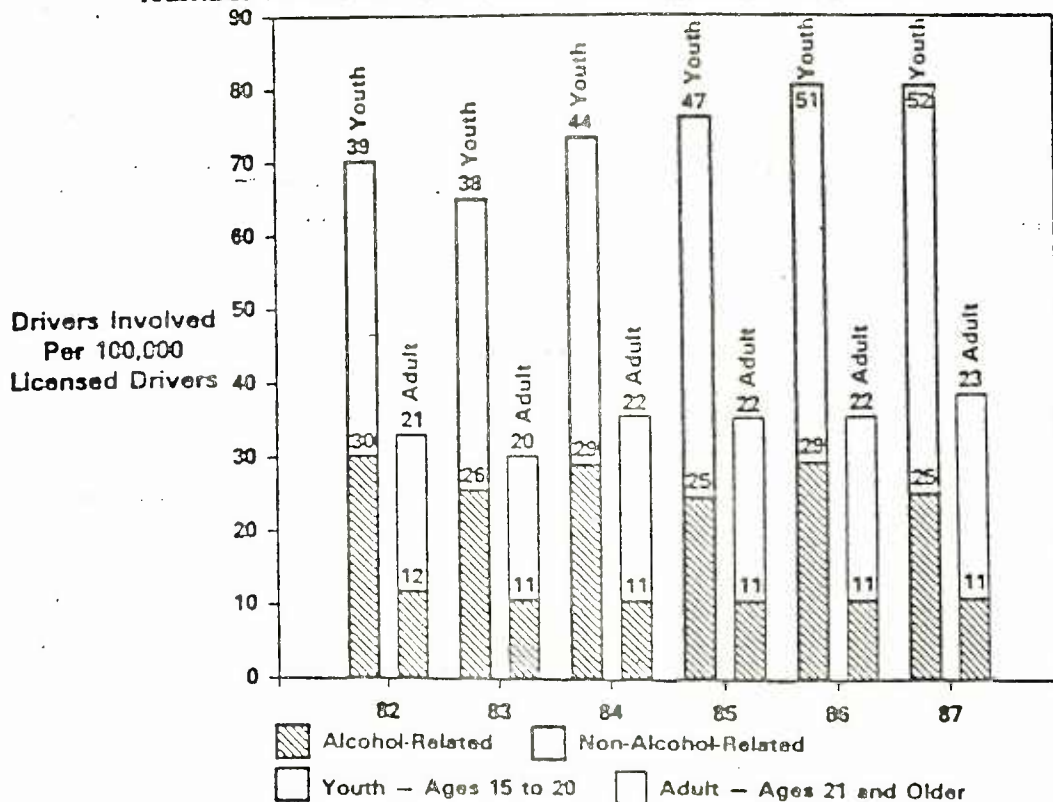


Figure 16

Drivers Involved in Fatal Crashes

Number Involved Per 100,000 Driver License Population



Drivers Involved in Fatal Crashes — 1985

Number Per 100 Million Vehicle Miles Traveled

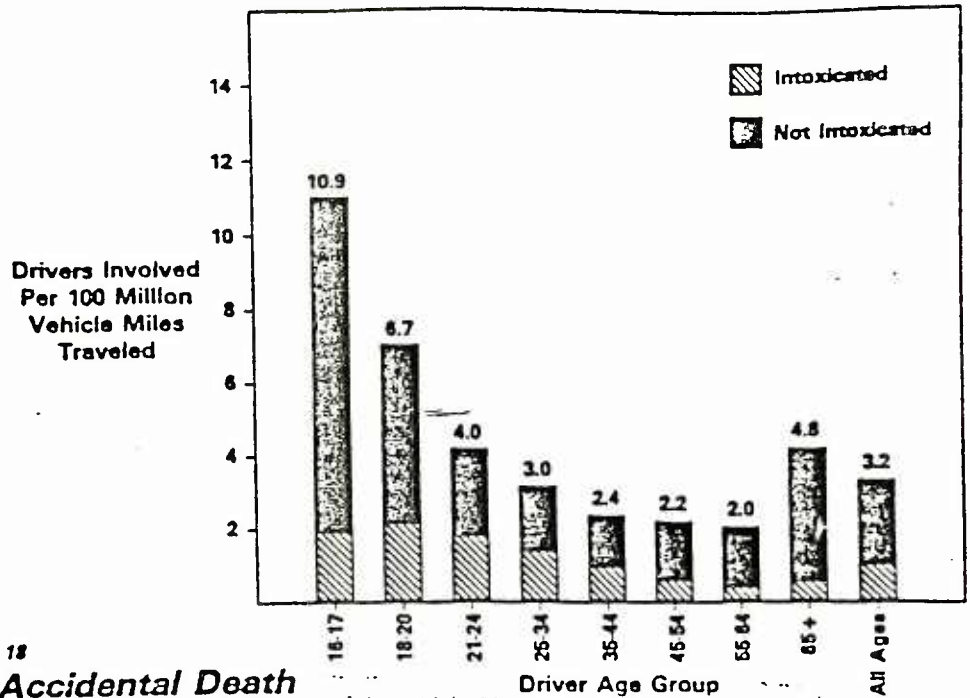
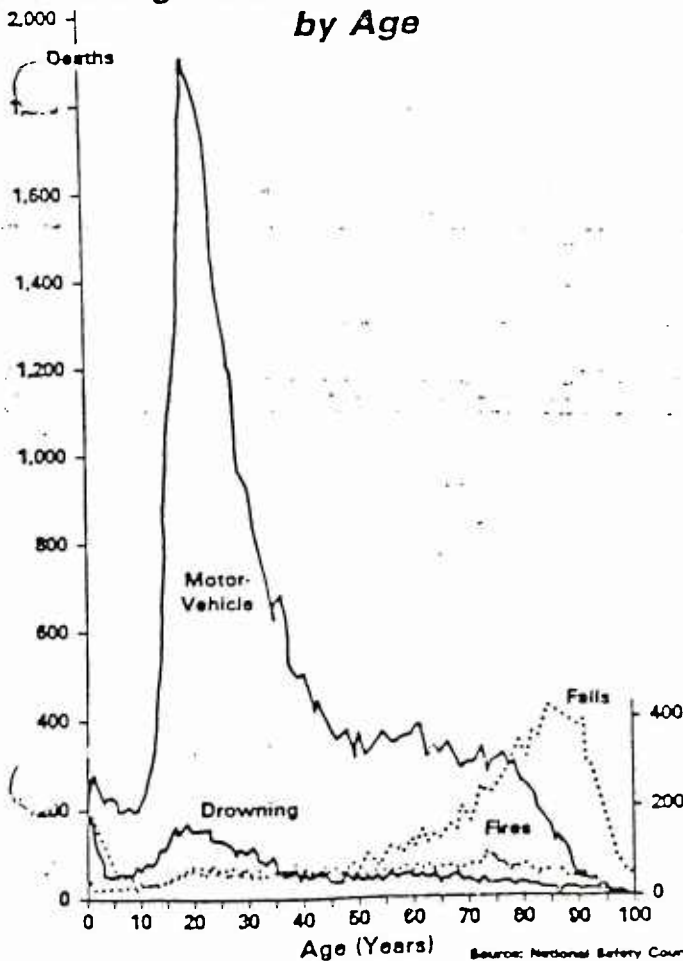


Figure 18

Leading Causes of Accidental Death by Age



Youth Fatalities and A/R Fatalities 1982-1987
Ages 15 Through 20

	1982	1983	1984	1985	1986	1987	Pct. Change Fr:	
	----	----	----	----	----	----	1982	1986
I. Youth (15-20) Fatalities	-----							
Total Fatalities	8508	7914	8101	7663	8553	8215	-3.4%	-4.0%
A/R Fatalities	5380	4747	4718	4184	4642	4204	-21.9%	-9.4%
	63.2%	60.0%	58.2%	54.6%	54.3%	51.2%	-19.1%	-5.7%
.01-.09 BAC Fatalis	1257	1130	1231	1136	1371	1316	4.7%	-4.0%
	14.8%	14.3%	15.2%	14.8%	16.0%	16.0%	8.4%	-0.1%
>=.10 BAC Fatalis	4123	3617	3487	3048	3271	2888	-30.0%	-11.7%
	48.5%	45.7%	43.0%	39.8%	38.2%	35.2%	-27.5%	-8.1%

II. Young Drivers Involved in Fatal Crashes

Total Drivers	10080	9547	10046	9659	10470	10194	1.1%	-2.6%
A/R Drivers	4379	3966	3927	3387	3761	3356	-23.4%	-10.8%
	43.4%	41.5%	39.1%	35.1%	35.9%	32.9%	-24.2%	-8.4%
.01-.09 Drivers	1287	1177	1291	1111	1327	1247	-3.1%	-6.0%
	12.8%	12.3%	12.9%	11.5%	12.7%	12.2%	-4.2%	-3.5%
>=.10 Drivers	3092	2789	2636	2276	2434	2109	-31.8%	-13.4%
	30.7%	29.2%	26.2%	23.6%	23.2%	20.7%	-32.6%	-11.0%

III. Young Drivers Killed

Total Drivers	4526	4252	4525	4281	4658	4583	1.3%	-1.6%
A/R Drivers	2501	2270	2294	2000	2210	1939	-22.5%	-12.3%
	55.3%	53.4%	50.7%	46.7%	47.4%	42.3%	-23.4%	-10.8%
.01-.09 Drivers	548	528	582	560	639	582	6.2%	-8.9%
	12.1%	12.4%	12.9%	13.1%	13.7%	12.7%	4.9%	-7.4%
>=.10 Drivers	1953	1742	1712	1440	1571	1357	-30.5%	-13.6%
	43.2%	41.0%	37.8%	33.6%	33.7%	29.6%	-31.4%	-12.2%

IV. Youth Fatalities by Alcohol Involvement of Young Drivers

Total Fatalities	6723	6296	6614	6175	6966	6737	0.2%	-3.3%
A/R Fatalities	3753	3372	3416	2938	3338	2968	-20.9%	-11.1%
	55.8%	53.6%	51.6%	47.6%	47.9%	44.1%	-21.1%	-8.1%
.01-.09 Fatalities	990	889	1013	897	1090	1037	4.7%	-4.9%
	14.7%	14.1%	15.3%	14.5%	15.6%	15.4%	4.5%	-1.6%
>=.10 Fatalities	2763	2483	2403	2041	2248	1931	-30.1%	-14.1%
	41.1%	39.4%	36.3%	33.1%	32.3%	28.7%	-30.3%	-11.2%

APPENDIX 4

ALCOHOL AND JUVENILES

DATA SHEET

DATA SHEET

ALCOHOL AND JUVENILES

I. STATE-WIDE ARREST FOR VIOLATIONS OF TA 21-902:

	<u>1985</u>	<u>1986</u>	<u>1987</u>
ALL AGES	31,641	31,154	33,017
UNDER 18 YRS.	377 (1%)	409 (1%)	430 (1%)

*ARRESTS FOR 21-902 UNDER 18 YEARS FOR THE FIRST 6 MONTHS OF 1988 REFLECT AN INCREASE OF 17 PERCENT (31 ARRESTS) OVER THE SAME PERIOD OF 1987.

II. STATE-WIDE LIQUOR LAW VIOLATION ARRESTS FOR PERSONS UNDER 18 YRS:

	<u>1985</u>	<u>1986</u>	<u>1987</u>
	736	1,014	1,154

III. CRASH DATA :

ALL ACCIDENTS WHERE DRIVERS (ALL AGES)
WERE DRINKING

	<u>1985</u>	<u>1986</u>	<u>1987</u>
	11,567	11,538	11,586

ACCIDENTS WHERE DRIVERS UNDER 18 YEARS WERE DRINKING

	<u>1985</u>	<u>1986</u>	<u>1987</u>
	351 (3%)	364 (3%)	337 (3%)

FATAL ACCIDENTS WHERE DRINKING DRIVERS (ALL AGES) WERE KILLED

	<u>1985</u>	<u>1986</u>	<u>1987</u>
	182	199	161

FATALITIES OF DRINKING DRIVERS UNDER 18 YEARS

	<u>1985</u>	<u>1986</u>	<u>1987</u>
	5 (3%)	6 (3%)	5 (3%)

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November 6, 1989

Maryland State Law Library
Courts of Appeal Building
361 Rowe Blvd.
Annapolis, Maryland 21401
Attention: Ruth Hodgson

Dear Ms. Hodgson:

You have been included on a distribution list for purposes of receiving copies of the testimony and other materials which are submitted to the Task Force on Drunk and Drugged Driving, which was continued by Joint Resolution 14 of 1989, and whose members are in the process of studying selected issues for the purpose of making recommendations to the Legislative Policy Committee of the General Assembly.

It is anticipated that the report of the Task Force will be completed before January 1, 1990, and a copy will be sent to you for your information.

If you do not wish to receive the above mentioned items, please kindly notify me and your name will be removed.

For additional information, please contact the following legislative analysts, Donald J. Hogan, Douglas Nestor, or J. Patrick Ford, who are the staff for the Task Force.

Sincerely,

Sharon Beatty

Sharon Beatty

**GENERAL ASSEMBLY OF MARYLAND
REPORT OF THE
TASK FORCE ON DRUNK
AND
DRUGGED DRIVING**



1989 INTERIM

MJN 370.2/1989

GENERAL ASSEMBLY OF MARYLAND
REPORT OF THE
TASK FORCE ON DRUNK
AND
DRUGGED DRIVING



1989 INTERIM

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December 19, 1989

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable R. Clayton Mitchell, Jr., Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

On behalf of the Task Force on Drunk and Drugged Driving, we are pleased to submit our report to you.

The Task Force met regularly during the 1988 Interim, and issued a report and recommendations to the General Assembly. Several of the recommendations were adopted by the General Assembly, including the recommendation that the Task Force continue its study during the 1989 Interim.

The Task Force continued to meet during this interim. We wish to acknowledge the support of the individuals who contributed their knowledge, expertise, and experience to the Task Force.

We hope that the information we provide proves valuable in dealing with the problem of drunk and drugged driving.

Respectfully submitted,



Laurence Levitan
Co-Chairman



Daniel M. Long
Co-Chairman

/slb

TASK FORCE MEMBERSHIP ROSTER

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Co-Chairman

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INTRODUCTION

The Task Force on Drunk and Drugged Driving was created in 1988 by Joint Resolution 15 in response to the realization that drunk and drugged driving continues to be a major problem in the State. During the 1988 Interim, the Task Force met regularly and issued a report and recommendations to the General Assembly.

During its study, however, the members of the Task Force realized that there were issues that could not be adequately studied in one year, and would need to be revisited. Therefore, the Task Force included in its package of proposals a recommendation that the Task Force be extended and continue to be active during the 1989 Interim. In response to this recommendation, Joint Resolution 16 was passed by the General Assembly and signed by the Governor on May 19, 1989 (See **Appendix 1**). This Resolution authorized the continuance of the Task Force.

The Task Force was charged with:

- (1) examining methods to increase the effectiveness of the remedies currently available for combating drunk and drugged driving;
- (2) studying remedies developed by other states and jurisdictions to deal with the problem of drunk and drugged drivers;

(3) studying the feasibility of giving a single executive agency responsibility for administering and coordinating efforts to deal with the problem of drunk and drugged driving;

(4) identifying and examining methods to fund costs associated with improving equipment and facilities used in preventing and detecting drunk and drugged driving; and

(5) continuing to develop recommendations that will change or add to current laws and recommendations dealing with drunk and drugged driving.

The Resolution further required the Task Force to report its findings to the General Assembly by December 31, 1989. The following is the report of the Task Force for the 1989 Interim.

Initially, this Report presents an overview of current law and statistics related to drunk and drugged driving. The following sections examine the implementation of the administrative per se law (Chapter 284 of 1989) and review the findings of the Task Force on drugged driving and drug testing. The Report concludes with the recommendations of the Task Force to the Legislative Policy Committee of the General Assembly.

OVERVIEW

In general, statistics indicate that the changes in laws and the heightened public awareness of the problem of drunk and drugged driving are having a positive effect (See Appendix 2 - "Relevant Statistics"). Since 1981 the General Assembly has passed over 40 laws to combat the problem. In 1989 alone, 10 new statutes were enacted, including major legislation providing for an administrative per se offense and a new law strictly regulating commercial drivers' licenses (See section on Administrative Per Se, *infra*). The statistics also make it clear, however, that drunk and drugged driving remains a serious problem.

Table A of Appendix 2 shows that arrests for 1988 totaled 34,815, up almost 1,800 over 1987. Figures for the first half of 1989 indicate that most likely the number of arrests will increase again this year.

Tables B and C of Appendix 2 show a breakdown of the dispositions of citations issued under § 21-902 of the Transportation Article in the District Court. Total convictions in fiscal year 1989 were 11,757, up slightly over the 1988 figures. Remarkably, on a percentage basis the figures under all categories of dispositions are nearly identical for 1988 and 1989. In fiscal year 1989, 28.2% of the cases resulted in convictions, 27.7% in probation before judgment, 20.7% in jury trial prayers, 6.2% in not guilty verdicts, and 17.2% in some "other" disposition (*nolle prosequi*, *stet*, or merger). The ultimate dispositions of the jury trial prayers in the circuit courts are unknown.

Table D of Appendix 2 shows that both suspensions and revocations of driver's licenses for alcohol-related offenses were down in fiscal year 1988. The reason for this decrease is unknown. However, it should be noted that in the year of arrest there may be significant delays between the time of arrest, the criminal trial, and the administrative hearing before the Motor Vehicle Administration ("MVA"). Statistics for fiscal year 1989 were unavailable at the time this report was prepared. Table E of Appendix 2 shows that in 1988, 10,142 out of 34,815 (29%) people refused to submit to a test for alcohol concentration. This percentage has remained almost constant since 1984, although preliminary figures for 1989 indicate that there may be a decrease in refusals this year. It is hoped that the administrative per se law will result in a smaller percentage of persons refusing to submit to the test for alcohol concentration (See section on Administrative Per Se, *infra*).

Tables F and G of Appendix 2 are illustrative of both the progress made in deterring drunk and drugged driving, and the substantial costs in human lives that drunk and drugged drivers continue to impose in the State. Table F of Appendix 2 shows that in both 1988 and 1981, 794 people were killed on the highways in the State. The major difference is that in 1981, 500 of the deaths were alcohol related, representing 63% of all fatalities. In 1988, 301 deaths were alcohol related, 38% of the total.* The 301 alcohol-related motor vehicle fatalities were the lowest total this decade, and as

*The increase in non-alcohol-related fatalities appears to reflect an increase in the total number of miles driven in the State (See Table F of Appendix 2).

a percentage of the total number of motor vehicle fatalities for the year, comparable to the total in 1987. Preliminary figures for 1989 indicate that total number of alcohol-related motor vehicle fatalities may decrease slightly, while the percentage of the total may increase slightly.

The graph in Table G of **Appendix 2** supports the proposition that the incidence of drunk driving is on the decrease. For vehicular crash patients admitted to the Shock Trauma Center from 1981 to 1989, the percentage who tested positive for alcohol has decreased for every age group. This is especially true for those under the age of 18 years. Nonetheless, these statistics also show that use of alcohol remains a significant factor in motor vehicle accidents.

In considering these statistics, it is crucial to keep in mind that the new administrative per se law (Chapter 284 of 1989) does not go into effect until January 1, 1990. As reported in the 1988 Report of the Task Force, a national study conducted by the Insurance Institute for Highway Safety concluded that administrative per se laws in other states reduced fatal crashes during periods of high alcohol involvement by 9%. Some states have experienced much more dramatic reductions in alcohol-related fatalities. In Nevada, alcohol-related fatalities have been reduced by 41%, while North Dakota experienced a reduction of 37%. And in Oklahoma, in the three years following the implementation of its administrative per se law, alcohol-related fatalities dropped by 62%, and overall fatalities dropped by 30% (See 1988 Interim Report of the Task Force on Drunk and Drugged Driving,

pp. 12-13; see **Appendix 3** for 50 state survey of Drunk Driving Laws). Based on these findings, it is hoped that in 1990, the State will see a further dramatic reduction in alcohol-related fatalities.

THE "ADMINISTRATIVE PER SE" LAW

Legislative Overview

During the 1989 Session, the General Assembly sought to deal in a comprehensive manner with the drunk driving problem. In so doing, it focused on the issues studied by the Task Force on Drunk and Drugged Driving during the 1988 Interim and enacted a number of the recommendations adopted by the Task Force in its final report.

The most significant recommendation of the Task Force was that the General Assembly amend Maryland's implied consent law (§ 16-205.1 of the Transportation Article) to allow a police officer to confiscate immediately the driver's license of an individual stopped on suspicion of driving while intoxicated or while under the influence of alcohol if the individual:

- 1) refused to take an alcohol concentration* test; or

*Note the use of the term "alcohol concentration". The Task Force recommended in its 1988 report that the use in current law of the terminology relating to "blood-alcohol content" be changed to "alcohol concentration" in the blood or breath. This recommendation was intended to deal with a problem that was raised in the Task Force's hearings. Specifically, while the law defining the alcohol levels that give rise to a presumption of intoxication or being under the influence was stated in terms of "blood-alcohol content", over 90% of all alcohol tests are breath tests. In order to convert breath test results into blood-alcohol content, a mathematical conversion based on certain assumptions had to be used. This conversion assumed that there is an equivalent amount of alcohol by weight in 2100 units of breath and in 1 unit of blood. Evidence was presented to the Task Force, however, that this conversion figure was not accurate in a significant minority of cases. The General Assembly included the Task Force's recommendation in Chapter 284 of 1989 and changed the term "blood alcohol level" to "alcohol concentration", specifying that the measurement of "alcohol concentration" shall be in terms of:

Grams of alcohol per 100 milliliters of blood; or
Grams of alcohol per 210 liters of breath.

2) submitted to a test the results of which indicated an alcohol concentration of 0.10 or more. (0.10 is the presumptive level for intoxication as established by Maryland law.)

This proposal was the essence of House Bill 556, popularly known as the "administrative per se" law (Chapter 284 of 1989). Chapter 284 contains a number of the specific recommendations offered by the Task Force. The law, effective January 1, 1990, establishes an administrative sanction of license suspension for a test refusal or a test result of 0.10 or more regardless of whether the driver is found guilty in a criminal trial of an alcohol-related driving offense.

A person whose license is confiscated under the provisions of the statute is given a temporary license by the police officer which is valid for 45 days. The person then has 10 days from the date the license was confiscated to request an administrative hearing. The issue of whether the hearing should be automatically scheduled or only scheduled on request of the person whose license was suspended was an issue raised by the Task Force but left unresolved. In the statute, the General Assembly placed the burden on the driver to request a hearing rather than on the MVA to automatically schedule one. A number of other issues relating to the hearing were raised by the Task Force but were left to the General Assembly to resolve.

For example, one issue was whether the scope of the administrative hearing should be limited to certain issues. The new law limits the hearing to the following issues:

(1) whether the police officer had reasonable grounds to believe that the person was driving or attempting to drive while intoxicated, under the influence, or in violation of an alcohol restriction;

(2) whether there was evidence of alcohol consumption;

(3) whether the police officer requested a test to determine the alcohol concentration after the person was fully advised of the potential administrative sanctions that could be imposed;

(4) whether the person refused to take the test; and

(5) whether the person drove or attempted to drive while having an alcohol concentration of 0.10 or more.

The MVA is required under the law to suspend the driver's license for a first offense of refusing to take an alcohol test for a period of 120 days and for a second or subsequent refusal, for one year.

In the case of a driver who submits to a test and who is found to have an alcohol concentration of 0.10 or more, the MVA is required to suspend the license for 45 days for a first offense, and for a second or subsequent violation, for 90 days. The Task Force did not take a specific position on the lengths of suspensions for first or subsequent offenses or on the issue of how much discretion, if any, the hearing officer should have relative to suspensions. Last interim, the Task Force heard testimony that 30% of the drivers arrested refuse to take the alcohol test. It was suggested to the Task Force that in order to encourage drivers to submit to the test, the penalty for refusing the test should be made more severe than the penalty for taking the test and failing it. This policy was, in fact, included in the bill as passed.

Another issue relating to administrative per se was whether or not the effective date of a suspension should be postponed if a requested hearing is postponed. The Task Force recommended that if the driver requested the postponement, the effective date of the suspension should not be delayed beyond the 45 day period. The new law provides that a hearing delay will postpone the suspension only if:

- (1) the delay is agreed to by both the person and the MVA;
- (2) MVA cannot provide a hearing within 45 days; or
- (3) certain problems arise with regard to the subpoenaing of a witness.

The Task Force considered the issue of whether a suspension should be stayed pending an appeal of the suspension to a circuit court, but chose to leave resolution of the issue to the General Assembly. The statute that emerged provides that a person who files an appeal may file a written request with the MVA for a stay of the suspension. The Director of the Administrative Adjudication Division of the MVA is authorized to stay a suspension upon such a request.

Also, the Task Force raised the issue of whether a hearing officer should have the authority to modify a license suspension. Chapter 284 authorizes a hearing officer to modify a suspension or issue a restrictive license only in the case of a driver who submitted to a test, has not had a license suspended in the last five years, has not been convicted of an alcohol-related driving offense in the last five years, and:

- (1) the licensee is required to drive in the course of employment;
- (2) the license is required for the purpose of attending an alcoholic prevention or treatment program; or
- (3) the licensee has no alternative means of transportation available to or from the licensee's place of employment thereby severely impairing the licensee's ability to earn a living.

Implementation of Administrative Per Se

(a) Regulations

The MVA recently submitted to the Joint Committee on Administrative, Executive, and Legislative Review regulations to implement the administrative per se statute. The regulations establish procedures for administrative hearings, stays of administrative proceedings, and modifications of suspensions under certain circumstances as defined in the statute. The Administrator of the MVA has requested that the regulations be approved on an emergency basis beginning January 1, 1990 (to coincide with the effective date of the authorizing legislation) for a period of 150 days during which other regulations will be adopted through normal, "non-emergency" regulatory procedures.

(b) Administrative Apparatus

The MVA is also currently working to put into place the apparatus necessary to implement the administrative per se law, and W. Marshall Rickert, Administrator of the MVA stated before the Task Force that he anticipates no problems in preparing for the statute's effective date of January 1, 1990. According to Mr. Rickert, there could be as many as 20,000

additional administrative hearings per year as a result of the new law. This increased burden has necessitated the hiring of seven additional hearing officers, one office supervisor, and eight new support staff. Mr. Rickert also noted that funds for these positions were included in the MVA's operating budget for FY 1990.

Procedures mandated by the new law also have necessitated the development of new forms to be used by police officers when detaining a person suspected of an alcohol-related driving offense. Specifically, the State Police and the MVA have devised forms that advise the driver of his rights under the law and of the administrative sanctions that may be imposed for a test refusal or for a test result showing an alcohol concentration of 0.10 or more. In addition, there is a new form which serves as a temporary driver's license, and a form that may be used to request a hearing within 10 days as provided in the law (See Appendix 4).

Effective implementation of Chapter 284 also has required special training, both of police officers and court personnel. Training seminars for police officers as well as District Court judges are currently being offered by the MVA. In addition, First Sergeant William Tower of the Maryland State Police informed the Task Force that he is conducting training seminars for police officers and that a booklet and videotape demonstrating proper police procedures are available for training purposes.

One problem related to the administrative per se law has recently become evident in the light of another significant law enacted during the 1989 Session, the Commercial Driver's License Act (Chapter 291 of 1989). Chapter 291 contains several provisions designed to deal with the particular

dangers presented by the drunk or drugged driver of a commercial motor vehicle. The Act provides that in the case of a commercial motor vehicle driver who refuses to submit to an alcohol test upon being detained by a police officer, or who drives a commercial motor vehicle in violation of § 21-902 of the Transportation Article (or any substantially equivalent law of the United States or any state), the MVA shall disqualify the person from driving a commercial motor vehicle for one year for a first offense, three years for a first offense occurring while transporting hazardous materials, and for life for a second or subsequent offense. The law also prohibits an individual from driving or being in physical control of a commercial motor vehicle while the individual has any alcohol concentration in his blood or breath. An individual who violates this provision or who refuses to take an alcohol test may be placed out of service for 24 hours.

As of April 1, 1992, the MVA will be required to disqualify an individual from driving a commercial motor vehicle for one year if the individual drives or attempts to drive a commercial motor vehicle while having an alcohol concentration of 0.04 or more. While current law provides that no presumption of intoxication or being under the influence arises from an alcohol concentration of 0.05 or less, Chapter 291 establishes the administrative sanction of disqualification of a commercial driver's license for a test result indicating an alcohol concentration of 0.04 or more.

The potential difficulty alluded to above arises from the fact that the publisher of the Annotated Code of Maryland, the Michie Company, had significant problems in trying to harmonize the provisions of the administrative per se law with the Commercial Driver's License Act

in the most recent supplement to § 16-205.1 of the Transportation Article. For example, the administrative per se law places the burden on the driver to request a hearing within 10 days while the Commercial Driver's License Act, by failing to repeal certain provisions in the current law appears to require the MVA to schedule a hearing. Because neither statute referred to the other, the Michie Company correctly attempted to give effect to both, but in so doing, included apparently contradictory provisions in the supplement to Title 16 of the Transportation Article. It is likely that a resolution of this problem will require a technical corrective bill which could be passed as an emergency measure in the upcoming session of the General Assembly. The MVA and the Office of the Attorney General are drafting such a bill and are consulting with the Department of Legislative Reference on how best to proceed.

DRUGS AND DRIVERS

The Task Force decided to concentrate its efforts in the 1989 Interim primarily on the problem of drugged drivers. The extent of the problem of drug abuse by drivers was highlighted by the testimony of Dr. Carl Soderstrom, Assistant Professor of Surgery, Shock Trauma Center, Maryland Institute for Emergency Medical Services Systems (MIEMSS).

Dr. Soderstrom's testimony centered on the results of a study of the use of certain drugs (i.e. cocaine, PCP, and heroin) among a sample of 1207 drivers admitted to the Shock Trauma Center of MIEMSS between January, 1988, and July, 1989. Although the Center is located in downtown Baltimore, only about 20% of the patients admitted to the Center are from Baltimore. Because of triage and transportation protocols, which include the use of medevac helicopters, the data gathered in the study represents information from a broad geographical base. The results of that study are set forth below in Table A.

Table A

<u>DRUG</u>	<u>NO. OF DRIVERS TESTED</u>	<u>PERCENT OF DRIVERS TESTED</u>	<u>PERCENT OF DRIVERS POSITIVE FOR DRUG USE</u>
COCAINE	1034	86%	7.1%
PCP	1041	86%	3.3%
HEROIN	1028	85%	1.1%

According to Dr. Soderstrom, marijuana is not a drug for which testing is routinely conducted at the Shock Trauma Center, or in other trauma centers or emergency rooms in the United States. However, another study of 393 automobile drivers who were admitted to the Center between July 29, 1985, and May 8, 1986, showed that approximately 16% of those drivers tested positive for THC, the active ingredient in marijuana and other cannabinoids (i.e. hashish and hashish oil). In addition, approximately another 16% of the automobile drivers tested positive for both THC and alcohol. These percentages are comparable to the 18% of drivers who tested positive for alcohol alone.

This earlier study also found that approximately 7% of the drivers tested positive for PCP, cocaine, methaqualone, or methadone either alone or in combination with another drug.

According to the testimony of Sergeant Tower, the problem of drugged driving reflects the broader problem of drug abuse generally in the United States. Although no one can state with any appreciable degree of certainty how many people nationwide abuse drugs, Sergeant Tower provided an estimate, based on a number of studies, that approximately 40 to 50 million Americans regularly use drugs other than alcohol. These include:

- o 20 million marijuana users
- o 8 to 20 million cocaine users
- o 6 million prescription drug users
- o 1 million hallucinogen users
- o 500,000 heroin users

Enforcement

(a) Criminal Offenses

The Maryland Vehicle Law currently contains specific prohibitions against drugged driving. Sections 21-902(c) and (d) of the Transportation Article establish the criminal offenses as follows:

"(c) (1) A person may not drive or attempt to drive any vehicle while he is so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol that he cannot drive a vehicle safely.

(2) It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make him incapable of safely driving a vehicle.

(d) A person may not drive or attempt to drive any vehicle while he is under the influence of any controlled dangerous substance, as that term is defined in Article 27, § 279 of the Code, if the person is not entitled to use the controlled dangerous substance under the laws of this State".

(b) Penalties

Both criminal and administrative sanctions may be imposed for violations of the current drugged driving laws.

Under § 27-101(c) of the Transportation Article, a person who is convicted of a violation of either § 21-902(c) or (d) is subject to a fine of not more than \$500 or imprisonment for not more than two months or both.

In addition to the criminal penalties set forth above, § 16-205 of the Transportation Article provides for the imposition of administrative sanctions against the driver's license of any person who is convicted of a drugged driving offense. Section § 16-205(a) authorizes the MVA to revoke the license of any person who is convicted under § 21-902(d) of driving or attempting to drive under the influence of a controlled dangerous substance, or, within a three-year period, is convicted under § 21-902(b) or (c) of three or more violations of driving or attempting to drive while under the influence of alcohol or while under the influence of a drug, any combination of drugs, or a combination of one or more drugs and alcohol.

Section 16-205(c) authorizes the MVA to suspend for not more than 120 days the license of any person who, within a three-year period, is convicted under § 21-902(b) or (c) of two or more violations of driving or attempting to drive while under the influence of alcohol or while under the influence of a drug, any combination of drugs, or a combination of one or more drugs and alcohol.

Section 16-205(b) authorizes the MVA to suspend for not more than 60 days the license of any person who is convicted under § 21-902(b) or (c) of driving or attempting to drive under the influence of alcohol, or while under the influence of a drug, any combination of drugs, or a combination of one or more drugs and alcohol.

Beginning January 1, 1990, § 16-812 of the Transportation Article will require the MVA to disqualify any person from driving a commercial motor vehicle for a period of one year if the person is convicted of driving a commercial motor vehicle in violation of any provision of § 21-902 of the Transportation Article (including any drugged driving offense). For any subsequent drunk or drugged driving offense while driving a commercial motor vehicle, the MVA will be required to disqualify any person from driving a commercial motor vehicle for life (See discussion on Commercial Driver's License Act in the previous section).

(c) Arrests and Convictions

The Task Force determined that based on the prevalence of drug abuse and drugged driving, both arrests and convictions for drugged driving offenses in Maryland are underrepresented when compared with arrests and convictions for drunk driving offenses. Sergeant Tower testified that the Maryland State Police estimate that approximately 20% of the drivers who submit to a test for alcohol concentration have symptoms of impairment which

are more severe than the alcohol test results indicate. However, Table B set forth below indicates that few of those drivers are charged with drugged driving offenses and far fewer of those drivers ultimately receive a guilty disposition in their cases.

Table B
DRUGGED DRIVING AND DRUNK DRIVING OFFENSES

	TA §21-902(c)	TA §21-902(d)	All TA §21-902
FY 1989			
Citations Received	952	987	44,666
Guilty Dispositions	106	122	11,757
FY 1988			
Citations Received	739	620	42,367
Guilty Dispositions	103	68	11,217
FY 1987			
Citations Received	682	589	36,832
Guilty Dispositions	74	43	10,886
FY 1986			
Citations Received	352	414	33,302
Guilty Dispositions	77	45	10,843

NOTE: These figures were obtained from the District Court of Maryland's § 21-902 Report. The numbers of convictions do not reflect guilty dispositions in the circuit courts.

Carole Hinkel, Administrator of the Drinking Driver Monitor Program, in her testimony before the Task Force confirmed that very few individuals are referred to the Program for drugged driving violations under § 21-902(c) and (d) of the Transportation Article.

In the 1988 Interim, the Task Force concluded that the current difficulties that exist in identifying and prosecuting drugged driving offenders are to a great extent due to the lack of authority to test suspected drugged driving offenders under the implied consent statute (§ 16-205.1 of the Transportation Article) and the limited training that police officers receive in recognizing and identifying drivers who are under the influence of drugs.

In its 1988 report submitted to the Legislative Policy Committee, the Task Force recommended that adequate funding be provided for statewide drug evaluation and classification training for police officers. The type of training which is envisioned by the Task Force would be patterned on the training originally developed by the Los Angeles Police Department. The process in which the police officers are trained involves a series of clinical and psycho-physical examinations and is referred to as the "drug evaluation and classification ("DEC") process".

Police officers who receive the training are referred to as "drug recognition experts" ("DRE") and they are able to obtain evidence, based on their observations, that a driver was impaired at the time of the stop by the arresting officer and that the nature of the impairment was consistent with a particular category of drugs. This type of evidence is not only important at a subsequent trial, but it also provides guidance to a

laboratory in narrowing the scope of a drug analysis of any specimen collected to a specific category of drugs. This lowers the cost of the analysis and increases the chances that the analysis identifies the presence of a drug in the specimen.

According to Sergeant Tower, the accuracy of DREs has been established by a 1984 study conducted by researchers at Johns Hopkins University, sponsored by the National Highway Traffic Safety Administration (NHTSA) and the National Institute on Drug Abuse. In the double-blind study, volunteer subjects received varying clinical doses of either marijuana, depressants (secobarbital, Valium), or stimulants (d-Amphetamines). Certified DREs evaluated the subjects and stated their opinions as to whether the subjects were impaired and the categories of drugs which caused the impairment.

The study indicated that the DRE's:

- (1) correctly identified 95% of drug-free subjects as not being under the influence of a drug;
- (2) correctly classified 98.7% of subjects who had received high dosages of a drug as being under the influence of a drug; and
- (3) correctly identified the category of drugs for 91.7% of the high-dose subjects.

The success of the Johns Hopkins study resulted in the sponsorship by NHTSA of a field validation study in 1985. This later study included the following findings:

(1) in 94% of the cases, the DRE's correctly recognized that some category (or categories) of drugs, other than alcohol, was present;

(2) in 79% of the cases, the DRE's correctly identified a specific drug that was present; and

(3) in 6% of the cases, the DRE's incorrectly identified the presence of a drug which could not be confirmed by an analysis of the suspect's blood. (It should be noted that this error rate may have been affected by certain limitations of the study: e.g., the specific drugs being tested for; the possibility of the drug's analogue, rather than the drug itself, being present but not tested for; the inability of the laboratory to test for drugs below a specific threshold.)

The DEC process is not a means for a DRE to determine the specific drug which a suspect has ingested, but it allows the presence of drugs to be narrowed down to one of the following seven broad categories of drugs:

(1) central nervous system depressants (examples: alcohol, barbiturates, and tranquilizers, e.g. Valium and Librium);

(2) central nervous system stimulants (examples: cocaine and amphetamines);

(3) hallucinogens (examples: LSD, peyote, MDA, and psilocybin);

(4) phencyclidine (PCP);

(5) narcotic analgesics (examples: heroin, morphine, codeine, demerol, methadone, and other synthetic opiates);

(6) inhalants (examples: glue, paint, gasoline, aerosols, nitrous oxide, ether, and chloroform); and

(7) cannabis (examples: marijuana, hashish, and hashish oil).

The DEC process for identifying which category or categories of drugs are present in a driver involves the following 12 steps:

- (1) breath alcohol test;
- (2) the DRE's interview with the arresting officer;
- (3) preliminary examination;
- (4) examination of the eyes;
- (5) divided attention psycho-physical tests;
- (6) darkroom examinations;
- (7) vital signs examinations;
- (8) examination of muscle tone;
- (9) examination for injection sites;
- (10) suspect's statements and other observations;
- (11) the DRE's opinion; and
- (12) toxicological examination.

The various general and eye indicators associated with the seven broad categories of drugs described above are set forth in **Appendix 5**.

In 1987, NHTSA began pilot drug evaluation and classification programs in certain parts of Arizona, Colorado, New York, and Virginia. The programs have since been expanded to Indiana, Texas, and Utah, and additional jurisdictions within the original states. As of May, 1989, 44 municipal, county, and state law enforcement agencies were participating in the NHTSA pilot programs.

Drugged Driver Testing

The Task Force also recommended in its 1988 report that the current implied consent statute be expanded to include tests for drugs at such time as law enforcement agencies are prepared to conduct such tests and that the Administration move with all possible speed to reach a state of preparedness.

Senate Bill 398/House Bill 556 (Chapter 284) of 1989, as originally introduced, would have expanded Maryland's implied consent statute to include the authority to test a suspected drugged driving offender for the presence of drugs. Those provisions of the bills were removed by both the Senate Judicial Proceedings Committee and the House Judiciary Committee because a statewide drug testing program was not in place and the executive agency which would be responsible for operating the program had not been determined. As a result, the General Assembly adopted Joint Resolution 14 of 1989 which requested the Governor to direct appropriate State agencies and officials to design, develop, and propose a comprehensive program for testing drugged drivers. Joint Resolution 14 also stated that the proposed drugged driving testing program should address the following:

- (1) the appropriate unit of State government that should be responsible for the program;
- (2) procedures for training and screening;

- (3) recommendations for instrumentation;
- (4) proposed operating and capital budgets;
- (5) legislative changes that may be necessary; and
- (6) any other relevant concerns.

During the 1989 Interim, Peter C. Cobb, Executive Assistant for Public Safety, Office of the Governor, briefed the Task Force on the progress that has been made on developing a comprehensive drugged driver testing program. Mr. Cobb testified that the Administration plans to propose during the 1990 Session of the General Assembly that the State Toxicologist, Office of the Chief Medical Examiner, have the responsibility for conducting the drugged driver testing program. According to Mr. Cobb, this decision is based on the existing expertise in forensic toxicology of that agency and its independence from law enforcement agencies.

As outlined by Mr. Cobb, the Administration plans to implement a testing program over a two-year period. In the first year, the Administration plans to hire key personnel, such as the toxicologists and support staff, and develop policies, procedures, and regulations. During the second year of implementing the program, the Administration plans to hire and train court support staff, hire additional toxicologists, procure laboratory supplies, and train police officers on regulations adopted under the program. Mr. Cobb stated that, if the implied consent statute were expanded to include drug testing effective July 1, 1990, testing could begin January, 1992.

Mr. Cobb also provided the Task Force with estimates of the costs of the program during the two-year start-up period. It was stated that the costs of the first year would be \$1,562,000 which would reflect expenditures for personnel, equipment, vehicles, locating, renting and renovating laboratory space, and other operating expenses. In the second year, costs of \$728,000 for additional personnel and operating expenses were estimated. Mr. Cobb stated that the Governor was aware of the budget implications and was in the process of reviewing the matter.

Mr. Cobb also reviewed the following legislative changes related to drugged driving that the Administration will seek in the 1990 Session:

(1) authorize the confiscation of a driver's license by a police officer on a refusal by the driver to submit to a drug test;

(2) mandate compulsory drug testing in the case of a motor vehicle accident that results in the death of another person;

(3) mandate compulsory drug and alcohol testing in the case of a motor vehicle accident that results in transportation of another person by an emergency vehicle to a medical facility;

(4) authorize the Secretary of Health and Mental Hygiene to designate by regulation individuals who will be authorized to conduct drug testing;

(5) provide that the fact that a driver refused to submit to a drug test is admissible as evidence in a criminal trial for a drugged driving offense;

(6) provide that a drug test result would not be admissible as evidence in any other criminal trial;

(7) provide that the results of a drug test would be admissible as evidence in a criminal trial for a drugged driving offense only if there was other competent evidence that the driver was driving or attempting to drive while under the influence of drugs; and

(8) increase the criminal penalties for driving while under the influence of a controlled dangerous substance to be equal to the penalties for driving while intoxicated.

The Task Force also heard testimony from H. Richard Sampson, Director of the Alcohol and Drug Abuse Administration, Department of Health and Mental Hygiene, on the proposed drug testing program.

Mr. Sampson recommended that drugged drivers be referred for treatment in addition to the other sanctions they may receive. Mr. Sampson reviewed the following basic elements of the program within that office:

(1) The Alcohol and Drug Abuse Administration identifies individuals who abuse drugs or who are addicted, including drugged drivers, either through voluntary evaluations or through pre-sentence investigations which are requested by the courts;

(2) Assessment of individuals who have been identified is accomplished by an interview which includes gathering information regarding:

- (a) criminal history;
- (b) current employment status;
- (c) drug history;

- (d) personal history;
- (e) arrest information; and
- (f) drug screening results.

(3) Treatment indicated by the assessment may consist of one or any combination of the following:

- (a) in-patient detoxification;
- (b) in-patient residential care;
- (c) in-patient halfway house care;
- (d) out-patient individual counseling;
- (e) out-patient group counseling; and
- (f) out-patient family counseling.

(4) The Alcohol and Drug Abuse Administration uses clinical supervision of the individuals to ensure that they follow through with the treatment determined to be necessary by the evaluation. A report is made available to the court regarding each individual's use of the recommended rehabilitation steps at termination of supervision. The information provided by a tracking system provides information for long-range planning and recidivism studies. The tracking system is currently in place in all publicly funded programs and it will be implemented in all private programs by FY 1991.

The Task Force was also briefed by its staff on other states which have expanded their implied consent statutes to include testing for drugs other than alcohol. Approximately 39 states and the District of Columbia provide for some form of drug testing of drivers. Most states allow testing for all

drugs, and not just controlled dangerous substances. Also, most states statutorily provide for the testing of both urine and blood specimens, and specifically provide for multiple tests. **Appendix 6** sets forth a comparison of the most significant features of the drugged driver testing statutes of other states and the District of Columbia.

The staff of the Task Force also provided information on the relative advantages and disadvantages of testing blood and urine specimens. Both blood specimens and urine specimens can be used to obtain test results to corroborate other evidence of drug impairment, such as the testimony of a police officer who has been trained as a drug recognition expert. However, testing of blood specimens generally yields results which have greater evidentiary value. This is due to the fact that blood tests provide information about drugs circulating in the body and available to the central nervous system. On the other hand, urine tests rely to a greater extent on the presence of metabolites, which are a by-product of drug use that may have occurred days or weeks before the urine test was performed.

Other advantages of drug testing of blood specimens are:

- (1) there is already a considerable data base available on what levels of certain drug concentrations in blood exceed therapeutic levels;
- (2) collection of blood specimens does not require police officers to engage in the unpleasant task of collecting urine samples; and
- (3) both an initial screening and a second confirming test can be performed with a single specimen of blood.

Notwithstanding the above, the testing of urine specimens has its own advantages. A major advantage is that the cost of testing urine tends to be significantly less than testing blood because the collection of urine specimens does not require medical training or medical personnel. In addition, drug concentrations may be higher in the urine than in the blood at times and more easily detected using an initial screening test. Also, urine collection is not as invasive as the withdrawal of blood, and poses no risk to individuals who have hemophilia or who take anti-coagulant medication.

Regardless of the type of specimen or specimens used, most states use a qualitative test as a preliminary screen. If the qualitative test indicates the presence of drugs, a second quantitative test is performed to confirm the presence, and measure the concentration of the drug or drugs initially detected in the screening test.

The costs of drug testing are directly related to:

- (1) the type of specimen tested;
- (2) the number of specimens tested;
- (3) the scope of the drug screening; and
- (4) the sophistication of the analytical techniques used.

Drug Offenders and the Medical Advisory Board

The Task Force also received testimony from William Bricker, former Administrator of the MVA and an attorney in private practice. Mr. Bricker reviewed a proposal made during the 1988 Interim to require that anyone convicted or granted probation before judgment for any drug-related offense (e.g. possession of a controlled dangerous substance) be referred to the MVA Medical Advisory Board to determine whether the individual is fit to drive.

The staff of the Task Force reviewed the Maryland statutes relating to the current authority of the MVA to deny drivers' licenses to drug abusers under certain circumstances.

Section 16-103.1 of the Transportation Article prohibits the MVA from issuing a driver's license to an individual who is a habitual user of narcotics or who is a habitual user of any other drug to a degree that renders the individual incapable of driving safely.

Section 16-206 of the Transportation Article authorizes the MVA to suspend, revoke, or refuse to issue or renew a license on a showing that an applicant or licensee is unfit or unsafe.

Section 16-207 of the Transportation Article allows the MVA to require a reexamination of a licensee if there is good cause to believe the individual is unfit or unsafe.

Section 16-118 of the Transportation Article permits the MVA Administrator to refer an applicant or a licensee to the Medical Advisory Board for an advisory opinion on whether driving by the individual would be contrary to the public safety due to a suspected mental or physical disability.

Mr. Rickert, Administrator of the MVA reviewed the current practices of the Medical Advisory Board. Mr. Rickert included in his testimony comments on the practice of some judges who refer individuals who committed traffic violations, other than drugged driving, or who possessed or used controlled dangerous substances to the Medical Advisory Board. Although the MVA accepts these types of referrals, Mr. Rickert estimated that requiring all drug offenders to be referred to the Board would double the caseload and expenses of the Board. In addition, he stated that the proposal to require such referrals would move the Board away from its function of evaluating medical conditions.

RECOMMENDATIONS

The Task Force Recommends That:

- I. An emergency bill be passed to rectify the inconsistencies in the implied consent statute (§ 16-205.1 of the Transportation Article) due to the enactment of the administrative per se law and the Commercial Driver's License Act.
- II. The implied consent law be expanded to include tests for drugs at such time as law enforcement agencies are prepared to conduct such tests and that the Administration move with all possible speed to reach a state of preparedness.
- III. If a person is involved in a motor vehicle accident that results in the transportation of another person by an emergency vehicle to a medical facility and the person is detained by a police officer who has reasonable grounds to believe that the person has been driving or attempting in violation of § 21-902(a) or (b) of the Transportation Article (driving while intoxicated or driving while under the influence of alcohol), the person shall be required to submit to a test, as directed by the police officer, to determine the alcohol concentration of the person's blood or breath.

- IV. If a person is involved in a motor vehicle accident that results in the death of another person or in the transportation of another person by an emergency vehicle to a medical facility and the person is detained by a police officer who has reasonable grounds to believe that the person has been driving or attempting to drive in violation of § 21-902(c) or (d) of the Transportation Article (driving while under the influence of drugs or drugs and alcohol, or driving while under the influence of a controlled dangerous substance), the person shall be required to submit to a test, as directed by the police officer to determine the presence of drugs in the person's body.
- V. The penalties for a violation of § 21-902(d) of the Transportation Article (driving while under the influence of a controlled dangerous substance) be increased to equal the penalties for a violation of § 21-902(a) of the Transportation Article (driving while intoxicated).
- VI. The General Assembly track the effects of Chapter 254 of 1988, and Chapters 438 and 551 of 1989 that require the MVA to impose an alcohol restriction on the license of drivers under age 21, and also track the effects of the administrative per se legislation (Chapter 284 of 1989) on juvenile and young adult offenders; that efforts be made to publicize these recent enactments concerning drivers under age 21; and that detailed

reporting on juvenile and young adult offenders be compiled by the Maryland State Police and other law enforcement agencies, and the Department of Juvenile Services.

- VII. The Task Force be extended beyond December 31, 1989, and continue to be active during the 1990 Interim.

Appendix 1

JOINT RESOLUTION 6 (SJR 16)

(Authorizing Continuation of the Task Force on Drunk and Drugged Driving)

ENROLLED RESOLUTION

Introduced by **Senator Levitan (Drunk and Drugged Driving Task Force)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

RESOLUTION NO. _____

1 A Senate Joint Resolution concerning

2 **Task Force on Drunk and Drugged Driving**

3 FOR the purpose of authorizing the Task Force on Drunk and Drugged Driving to
4 continue to study the problem of drunk and drugged driving; requiring the Task
5 Force to issue a report and make recommendations by a certain date; adding certain
6 members to the Task Force; and generally relating to the continuation of the Task
7 Force on Drunk and Drugged Driving.

8 WHEREAS, Drunk and drugged drivers kill and injure many people on the highways
9 every year; and

10 WHEREAS, The problem of drunk and drugged driving is of continuing concern to
11 the citizens of the State of Maryland; and

12 WHEREAS, A united effort of government, private industry, and public interest
13 groups is essential for solving the problem of drunk and drugged drivers; and

14 WHEREAS, Both immediate, concerted action and continuous attention is necessary
15 in order to safeguard the people of the State of Maryland from drunk and drugged drivers;
16 and

EXPLANATION:

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken by amendment.

Script denotes opposite chamber/conference committee amendments.

1 WHEREAS, During the 1988 legislative interim, the Task Force on Drunk and
2 Drugged Driving was appointed by the Speaker of the House and the President of the
3 Senate in accordance with HJR 53 of the 1988 session and is composed of 3 Delegates, 3
4 Senators, 5 representatives of the judiciary, the Superintendent of the Maryland State
5 Police, the Executive Assistant for Public Safety of the Executive Office of the Governor,
6 the State's Attorney for Anne Arundel County, the Administrator of the Motor Vehicle
7 Administration, 2 representatives of private industry, and 2 representatives of public
8 interest groups; and

9 WHEREAS, The Task Force has been examining:

- 10 (1) Legislative proposals on drunk and drugged driving;
- 11 (2) The role of the judiciary in combating drunk and drugged driving;
- 12 (3) Drug testing;
- 13 (4) Juvenile arrests as they relate to drunk and drugged driving;
- 14 (5) Modernization of equipment used to combat drunk and drugged driving;
- 15 and
- 16 (6) Modes of training to enable law enforcement officers to detect drug use;
- 17 and

18 ~~WHEREAS, It is advisable to add two additional members to serve on the Task Force~~
19 ~~to represent certain interests whose aid is essential for solving the problem of drunk and~~
20 ~~drugged drivers; and~~

21 WHEREAS, The problem of drunk and drugged driving is complex and requires
22 further study and evaluation; now, therefore, be it

23 RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the current
24 Task Force on Drunk and Drugged Driving continue to function; and be it further

25 ~~RESOLVED, That one representative from the Restaurant Association of Maryland~~
26 ~~with knowledge of available server training programs and one representative from the~~
27 ~~Department of Health and Mental Hygiene shall be appointed by the Speaker of the House~~
28 ~~and the President of the Senate in addition to the members of the Task Force currently~~
29 ~~serving; and be it further~~

30 RESOLVED, That the Task Force is charged with continuing its examination of:

- 31 (1) Methods to increase the effectiveness of the remedies currently available
32 for combating drunk and drugged driving;
- 33 (2) Remedies developed by other states and jurisdictions to deal with the
34 problem of drunk and drugged drivers;
- 35 (3) The feasibility of giving a single executive agency responsibility for
36 administering and coordinating efforts to deal with the problem of drunk and drugged
37 driving; and
- 38 (4) The identification and funding of costs associated with improving
39 equipment and facilities used in preventing and detecting drunk and drugged driving; and
40 be it further

SENATE JOINT RESOLUTION No. 6

3

1 RESOLVED, That the Task Force continue to develop recommendations that will
2 change or add to current laws and recommendations dealing with drunk and drugged
3 driving; and be it further

4 RESOLVED, That the Task Force report its findings and recommendations to the
5 General Assembly by December 31, 1989; and be it further

6 RESOLVED, That staff for the Task Force continue to be provided by the
7 Department of Legislative Reference; and be it further

8 RESOLVED, That copies of this Resolution be forwarded by the Department of
9 Legislative Reference to the Honorable William Donald Schaefer, Governor of Maryland;
10 the Honorable Robert C. Murphy, Chief Judge of the Court of Appeals of Maryland; the
11 Honorable Robert F. Sweeney, Chief Judge of the District Court; the Honorable Thomas
12 V. Mike Miller, Jr., President of the Senate of Maryland; and the Honorable R. Clayton
13 Mitchell, Jr., Speaker of the House of Delegates.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

TABLE A

ARRESTS

<u>YEAR</u>	<u>NO. OF DWI AND DUI ARRESTS</u>	<u>NO. OF DWI AND DUI ARRESTS RELATING TO ACCIDENTS</u>	<u>NO. OF ALL CITATIONS FOR MOTOR VEHICLE VIOLATIONS (FY)</u>	<u>PERCENTAGE OF ALL CITATIONS THAT WERE DWI OR DUI ARRESTS RELATED TO ACCIDENTS</u>
1989 (Through June 30)	18,203	7,854	533,148*	1.47%
1988	34,815	16,155	1,061,768	1.52%
1987	33,017	15,221	913,581	1.67%
1986	31,154	14,116	873,607	1.62%
1985	31,873	12,996	851,504	1.53%
1984	33,728	14,493	735,827	1.97%
1983	33,778	16,282	716,212	2.27%
1982	33,556	15,788	646,313	2.44%
1981	23,651	11,590	660,813	1.75%
1980	15,575	6,096	638,792	0.95%

* This figure is one-half of the total for FY 1989 (July 1, 1988 through June 30, 1989)

NOTE: The figures for DWI and DUI arrests, and accident arrests, are based on calendar years (January 1 - December 31), and were obtained from the Maryland State Police. The total number of citations is based on fiscal years (July 1 - June 30), and was obtained from the District Court. For reasons that are unclear, the District Court figures for DWI and DUI citations are higher than those obtained from the Maryland State Police.

TABLE B - CONVICTIONS

YEAR	NO. OF DWI CONVICTIONS	NO. OF DUI CONVICTIONS	TOTAL NO. OF CONVICTIONS
FY 89	4,844	6,685	11,529
FY 88	4,290	6,756	11,046
FY 87	4,270	6,499	10,769
1986	3,986	6,025	10,001
1985	5,791	7,646	13,437
1984	5,973	8,431	14,404
1983	6,710	10,909	17,619
1982	4,710	8,174	12,884
1981	4,897	9,688	14,585
1980	2,315	7,578	9,893

Unfortunately, there is no truly accurate method of determining the amount of convictions for alcohol-related driving offenses. The District Court keeps this information now, but prior to 1985 the numbers are spotty. In addition, the District Court § 21-902 report shows the amount of the jury trial prayers, but not the disposition of these cases in the circuit courts. There is no central record keeping office for the circuit courts.

The MVA keeps track of the convictions certified to it by the courts. Unfortunately, the MVA records often lag far behind when the convictions actually occurred.

The Maryland State Police keep statistics, but these again lag due to the length of time it takes to obtain information from the various police departments and agencies.

The above is the best information available. The information up until 1986 is for those calendar years, and was obtained from the MVA. The information for FY 87, FY 88, and FY 89 was obtained from the District Court § 21-902 reports, and again does not show the dispositions in the circuit courts. A fiscal year lasts from July 1 to June 30. Undoubtedly, the circuit court dispositions would add significantly to these numbers, as there were 7,420 jury trial prayers in FY 87, 8,329 jury trial prayers in FY 88, and 8,643 jury trial prayers in FY 1989.

TABLE C
DISTRICT COURT DISPOSITIONS OF § 21-902 CITATIONS

FY	1989	1988	1987	1986	1985
Convictions	11,757	11,217	10,886	10,843	13,426
Percentage	28.2%	28.9%	31.2%	35.3%	40.8%
Probation Before Judgement	11,548	10,790	10,274	10,027	10,482
Percentage	27.7%	27.8%	29.5%	32.6%	31.8%
Jury Trial Prayers	8,643	8,329	7,420	5,970	4,903
Percentage	20.7%	21.4%	21.3%	19.4%	14.9%
Not Guilty	2,585	2,483	1,983	1,347	1,213
Percentage	6.2%	6.4%	5.7%	4.4%	3.7%
Other (Nolle Prosequis, Stet, Merged)	7,163	6,036	4,277	2,565	2,123
Percentage	17.2%	15.5%	12.3%	8.3%	6.4%
TOTAL DISPOSITIONS	41,696	38,855	34,840	30,752	32,929

Note: These figures were obtained from the § 21-902 reports issued by the District Court. The total disposition figures are higher than the arrest figures shown in Table A (Arrests) which were obtained from the Maryland State Police. The reason for this difference is not entirely clear. It does appear, however, that the State Police figures are based on the number of alcohol content tests offered. Possibly, there are a certain number of arrests under §21-902 where, for various reasons, no alcohol content tests are offered. If this is so, that would account for the higher District Court figures, and these would be the more accurate number of arrests.

The figures for §21-902(a) and (b) (alcohol offenses) guilty findings would be slightly higher than the table shows, as the conviction rate for the small number of §21-902(c) and (d) citations (drug related offenses) is very low.

TABLE D

SUSPENSIONS AND REVOCATIONS OF DRIVER'S LICENSES

	<u>FY 1988</u>	<u>FY 1987</u>	<u>FY 1986</u>	<u>FY 1985</u>	<u>FY 1984</u>	<u>FY 1983</u>	<u>FY 1982</u>	<u>FY 1981</u>
No. of Suspensions DWI	993	1,596	1,590	1,942	1,629	1,652	1,009	561
No. of Revocations DWI	402	146	733	580	892	876	664	354
Total No. of Suspensions and Revocations DWI	<u>1,395</u>	<u>1,742</u>	<u>2,323</u>	<u>2,522</u>	<u>2,521</u>	<u>2,528</u>	<u>1,673</u>	<u>915</u>
No. of Suspensions DUI	3,041	4,668	3,877	5,616	6,673	5,930	5,404	3,988
No. of Revocations DUI	377	224	337	654	438	311	331	178
Total No. of Suspensions and Revocations DUI	<u>3,378</u>	<u>4,892</u>	<u>4,214</u>	<u>6,270</u>	<u>7,111</u>	<u>6,241</u>	<u>5,735</u>	<u>4,166</u>
Total No. of Suspensions and Revocations DWI and DUI	<u>4,773</u>	<u>6,634</u>	<u>6,537</u>	<u>8,792</u>	<u>9,632</u>	<u>8,769</u>	<u>7,408</u>	<u>5,081</u>

Note:

These figures reflect the numbers of suspensions and revocations fiscal years 1981 through 1988. A suspension or revocation is counted in the year of the arrest regardless of the year of the license suspension or revocation by the MVA.

TABLE E - TESTS FOR ALCOHOL CONCENTRATION

<u>YEAR</u>	<u>OFFERED TEST</u>	<u>REFUSED TEST</u>	<u>PERCENTAGE REFUSED</u>
1989 (through Sept. 30)	27,373	7,406	27%
1988	34,815	10,142	29%
1987	32,471	10,039	31%
1986	31,029	9,308	30%
1985	31,641	9,524	30%
1984	33,250	9,563	29%
1983	33,432	9,203	27.5%
1982	27,681	7,252	26%
1981	12,558	3,756	30%

Information obtained from Chemical Tests for Alcohol Division of the Maryland State Police.

TABLE F

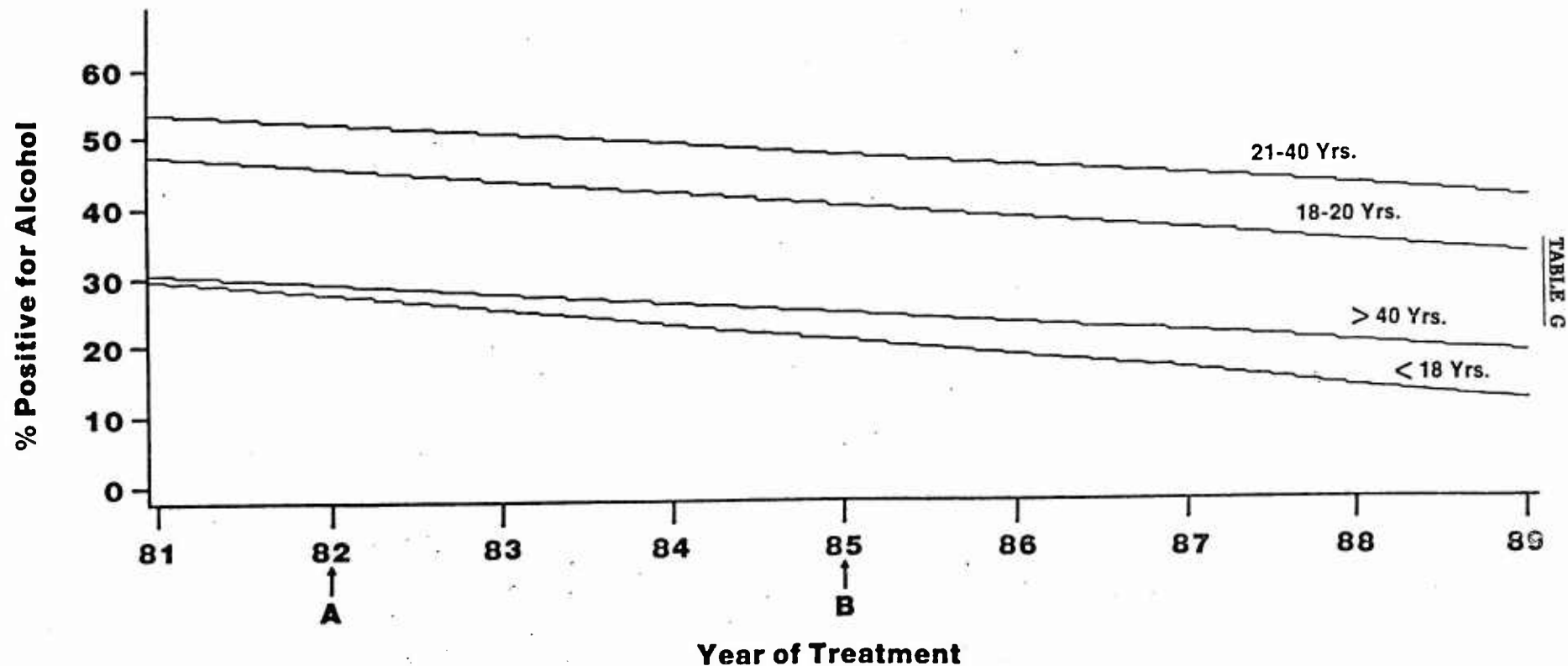
HIGHWAY FATALITIES AND ALCOHOL INVOLVEMENT

YEAR	TOTAL NUMBER OF FATALITIES	FATALITY RATE (NO. of FATALITIES PER 100 MILLION VEHICLE MILES)	PERCENTAGE IN WHICH ALCOHOL CONTRIBUTING FACTOR	NO. OF FATALITIES IN WHICH ALCOHOL CONTRIBUTING FACTOR
1989* (THROUGH 12/2/89)	664	n/a	39.3%	261
1988	794	2.1	38%	301
1987	830	2.30	37%	309
1986	790	2.24	46%	361
1985	740	2.19	48%	355
1984	650	2.00	48.9%	317
1983	663	2.15	53%	351
1982	660	2.20	49.9%	329
1981	794	2.70	63%	500

*Preliminary figures may be adjusted upward when reports of Medical Examiner become available.

Figures based on field officer reports and reports of the Medical Examiner compiled by the Central Accident Records Division of the Maryland State Police.

Alcohol Use Trends in Shock Trauma Center Vehicular Crash Patients* 1981-1989



* Linear Regression Analysis Through June 1989

A. Purchase of alcohol illegal under 21; "Grandfather Clause" for those 18-20.

B. All under 21 cannot purchase alcohol.

Appendix 3

50 STATE SURVEY (plus Washington, D.C. and Puerto Rico) of Drunk Driving Laws

**Source - "Digest of State Alcohol-Highway Safety Related Legislation"
Published by U.S. Department of Transportation**

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	PBT Law ¹	Implied Consent Ref		Admin- istrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Pre- sumptive (BAC level)	In Vehicle		Draw Shop Law ¹³	Legal Purch/ Sale Age for Alc Bev	STATE
		Mand	Min Lic Action		1st	2nd	3rd			Open Con- tainer ¹²	Anti- Consump tion			
AL		S-90 dys	S-1 yr	N	—	—	—	0.10	0.10			Statute	21	AL
AK	X	R-90 dys	R-1 yr	Y-0.10	R-30 dys	R-1 yr	R-10 yrs	0.10	—	X		Statute	21	AK
AZ		S-12 mos	S-12 mos	Y-0.10	S-30 dys	S-90 dys	S-90 dys	0.10	0.10		X ¹⁴	Statute	21	AZ
AR		S-6 mos	S-1 yr	N	—	—	—	0.10	—		X ¹⁵	No	21	AR
CA		S-6 mos	S-6 mos ³⁴	A ²	—	—	—	0.10	0.10	X	X	Statute ¹⁶	21	CA
CO	X	R-1 yr	R-1 yr	Y-0.10	R-3 mos	R-1 yr	R-1 yr	0.10	>.05...10 ¹⁷		X	Statute ¹⁹	21	CO
CT		S-6 mos	S-1 yr	N	—	—	—	0.10	—			Statute ¹⁹	21	CT
DE	X	R-6 mos	R-18 mos	Y ³	R-3 mos	R-1 yr	R-18 mos	0.10	0.10 ²⁰			No	21	DE
DC		S-12 mos	S-12 mos	Y ⁴	—	—	—	0.10	>0.05 ²⁰		X	Case Law	21 ²¹	DC
FL	X	—	S-18 mos	N	—	—	—	0.10	0.10 ²⁰	X		Statute ²²	21	FL
GA		S-6 mos	S-6 mos	N	—	—	—	0.12	0.10			Statute	21	GA
HI		R-12 mos	R-2 yrs	N	—	—	—	0.10	0.10 ¹⁸	X	X	Case Law	21	HI
ID		S-180 dys	S-180 dys	N	—	—	—	0.10	>0.08	X	X	Statute ¹⁹	21	ID
IL	X	—	S-90 dys	Y-0.10	—	S-90 dys	S-90 dys	0.10	0.10	X		Statute ¹⁹	21	IL
IN		S-1 yr	S-1 yr	Y-0.10	S-180 dys ⁵	S-180 dys ⁵	S-180 dys ⁵	0.10	0.10 ³¹			Statute	21	IN
IA	X	R-240 dys ⁶	R-360 dys ⁶	Y-0.10	—	R-1 yr	R-1 yr	0.10	—	X	X	Statute	21	IA
KS	X	S-180 dys	S-1 yr	Y-0.10	S-30 dys	S-1 yr	S-1 yr	0.10	0.10 ²⁰	X	X	No	21	KS
KY	X	—	—	A ⁷	—	—	—	—	0.10		X	Statute	21	KY
LA		S-90 dys	S-545 dys	Y-0.10	S-30 dys	S-365 dys	S-365 dys	0.10	0.10			Possible ²³	21	LA
ME		S-90 dys	S-1 yr	Y-0.08	—	—	—	0.08	—			Statute ¹⁹	21	ME
MD	X	S-120 dys	S-1 yr	Y-0.10	—	S-90dys	S-90dys	—	.07...10 ^{20,24}	X ²⁵	X ¹⁴	No	21	MD
MA		S-120 dys	S-120 dys	A ⁷	—	—	—	—	0.10		X ¹⁴	Case Law	21	MA
MI	X	—	S-1 yr	N	—	—	—	0.10	.07...10 ¹⁷	X	X	Statute	21	MI
MN	X	—	—	Y-0.10	—	—	—	0.10	—	X	X	Statute	21	MN
MS	X	S-90 dys ⁸	S-90 dys ⁹	Y-0.10 ⁹	—	—	—	0.10	—			Statute	21	MS
MO		—	R-1 yr	Y-0.13	—	R-1 yr ³⁹	R-1 yr ³⁹	0.10	—			Statute ²⁶	21	MO
MT		S-90 dys	R-1 yr	N	—	—	—	0.10	0.10	X	X	Statute	21	MT
NE	X	R-60 dys	R-6 mos	N	—	—	—	0.10	—		X	No	21	NE
NV	X	R-1 yr	R-3 yrs	Y-0.10	—	—	—	0.10	0.10		X ¹⁴	No	21	NV

Digest of State Alcohol-Highway Safety Related Legislation, current as of January 1, 1989.
Maryland Law, current as of January 1, 1990.

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	PBT Law	Implied Consent Ref		Administrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Pre-sumptive (BAC Level)	In Vehicle		Dram Shop Law ¹³	Legal Purch/Sale Age for Alc Bev	STATE
		Mand 1st Refusal	Min 2nd Refusal		1st Offense	2nd Offense	3rd Offense			Open Con-tainer ¹²	Anti-Consump-tion ¹⁵			
NH	X	R-90 dys	R-1 yr	N	—	—	—	0.10	0.10 ²⁰		X ¹⁵	Statute	21	NH
NJ		R-6 mos	R-2 yrs	N	—	—	—	0.10	—		X	Statute	21	NJ
NM		R-1 yr	R-1 yr	Y-0.10	R-90 dys ¹⁰	R-1 yr ³⁵	R-1 yr ³⁵	0.10	—			Statute	21	NM
NY	X	R-6 mos	R-1 yr	A ⁷	—	—	—	0.10	0.07-0.10 ³⁸		X	Statute	21	NY
NC	X	R-6 mos	R-12 mos	Y-0.10 ⁹	R-10 dys	R-10 dys	R-10 dys	0.10	—	X ²⁵	X ^{14,25}	Statute ^{19,27}	21	NC
ND	X	R-1 yr	R-2 yrs	Y-0.10	S-30 dys	S-364 dys	S-2 yrs	0.10	—	X	X	Statute	21	ND
OH		—	—	A ⁷	—	—	—	0.10	—		X	Statute	21	OH
OK		—	—	Y-0.10	R-30 dys	R-1 yr	R-3 yrs	0.10	0.10 ²⁰	X	X	Case Law	21	OK
OR		S-90 dys	S-1 yr	Y-0.08	S-30 dys	S-1 yr	S-1 yr	0.08	0.08 ²⁸	X	X	Statute	21	OR
PA	X	S-12 mos	S-12 mos	N	—	—	—	0.10	—		X ¹⁴	Statute	21	PA
PR	X	—	—	N	—	—	—	—	0.10			No	18	PR
RI	X	S-3 mos	S-1 yr	N	—	—	—	0.10	—		X ¹⁴	Statute	21	RI
SC		S-90 dys	S-90 dys	N	—	—	—	—	0.10 ³⁶	X	X ¹⁵	Possible ³⁷	21	SC
SD	X	—	—	N	—	—	—	0.10	0.10	X		No	21	SD
TN		—	—	N	—	—	—	—	0.10			Statute	21	TN
TX		—	—	N	—	—	—	0.10	—		X ¹⁴	Statute ³²	21	TX
UT		R-1 yr	R-1 yr	Y-0.08	S-90 dys	S-120 dys	S-120 dys	0.08	—	X	X	Statute ¹⁹	21	UT
VT	X	S-6 mos	S-18 mos	N	—	—	—	0.10	—		X ¹⁴	Statute	21 ²⁹	VT
VA	X	S-6 mos	S-1 yr	N	—	—	—	0.10	0.10		X ¹⁵	No	21	VA
WA		R-1 yr	R-2 yrs	N	—	—	—	0.10	—	X	X	Case Law ^{19,30}	21	WA
WV	X	R-1 yr	R-5 yrs	Y-0.10 ¹¹	R-90 dys	R-5 yrs	R-10 yrs	0.10	0.10 ³¹		X	No	21	WV
WI	X	R-30 dys	R-90 dys	Y-0.10	R-15 dys	R-15 dys	R-15 dys	0.10	—	X	X	Statute ¹⁶	21	WI
WY		S-6 mos	S-6 mos	Y-0.10	—	S-90 dys	S-90 dys	—	0.10			Statute ³³	21	WY
TOTAL 26		S - 23 R - 17	S - 25 R - 19	Admin Per Se - 24	S - 7 R - 8	S - 10 R - 10	S - 10 R - 10	.08 - 3 .10 - 41 .12 - 1	> .07-1 .10 - 17 .10 or more prima facie - 9	21	35	Case Law - 5 Statute - 35 Possible Case Law - 2	18 - 1 21 - 51	
		S = Suspension R = Revocation		Y = Yes N = No A = Alternative										

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

- ¹Preliminary Breath Test (Pre-arrest/non-evidentiary breath test) Law
- ²Pre-DWI adjudication licensing action for persons who have been involved in a DWI related accident and who have had a previous DWI related vehicle homicide conviction.
- ³Based on probable cause of DWI.
- ⁴Based on sufficient evidence of DWI.
- ⁵Suspension up to 180 days or until the DWI charges have been disposed of which ever occurs first.
- ⁶A restricted license may be issued for an implied consent law violation provided the defendant pleads guilty to a subsequent DWI charge.
- ⁷Alternative pre-DWI criminal adjudication licensing action by the courts.
- ⁸License suspension for one (1) year if the driver has a prior DWI offense conviction.
- ⁹Special provisions/procedures.
- ¹⁰Applies to persons 18 years old or above.
- ¹¹Or under the influence of alcohol.
- ¹²Laws prohibiting the possession of an open container of an alcoholic beverage in the passenger compartment of a motor vehicle.
- ¹³Ten (10) States do not have dram shop liability.
- ¹⁴Applies only to drivers.
- ¹⁵Possible.
- ¹⁶Applies only to the actions of intoxicated minors.
- ¹⁷The lower of the two numbers is driving while impaired; the higher is driving while under the influence.
- ¹⁸Competent evidence of DWI.
- ¹⁹This state has a statute that places a monetary limit on the amount of damages that can be awarded in dram shop liability actions.
- ²⁰BAC level or levels which indicated prima facie evidence.
- ²¹Persons who were 18 before 9/30/86, may continue to purchase beer and light wine (14% alcohol or less).

- ²²Applies only to the actions of intoxicated minors or persons known to be habitually addicted to alcohol.
- ²³Possible case law based upon the actions of minors.
- ²⁴The lower of the two numbers is prima facie evidence of driving while under the influence; the higher is prima facie evidence of driving while intoxicated.
- ²⁵Limited application.
- ²⁶Cause of action limited to licensees who have been convicted of the offense of selling alcoholic beverages either to minors or to intoxicated individuals.
- ²⁷The statute applies specifically to the actions of intoxicated minors, but the law does not foreclose developing case law as to other types of dram shop actions.
- ²⁸Not less than 0.08 constitutes being under the influence of intoxicating liquor.
- ²⁹Persons who were 18 as of 6/30/86 may continue to purchase alcoholic beverages.
- ³⁰Applies only to the actions of (1) intoxicated minors and/or (2) adults who have lost their will to stop drinking.
- ³¹This state has both prima facie and presumptive evidence laws with BAC levels of 0.10.
- ³²Statutory law has limited dram shop actions.
- ³³Liability limited only to the actions of persons who are under 21 years old.
- ³⁴Rev for 2 yrs (mandatory) if a person refuses to submit to a chemical test after having been convicted of a DWI offense w/n 5 yrs.
- ³⁵Provided there is also a 2nd or sub. DWI conviction.
- ³⁶This BAC level is an inference of DWI.
- ³⁷Possible case law.
- ³⁸Prima facie evidence of impairment.
- ³⁹This revocation is mandatory only if a restricted hardship license has not been issued for a previous offense w/n 5 years.

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	Fine (\$) (Mandatory Minimum For a DWI Conviction)			Imprisonment (Mandatory Minimum For a DWI Conviction)			Community Service In Lieu of Jail For a DWI Conviction			License Sanction (Mandatory Minimum For a DWI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
AL	—	—	—	—	48 con hrs	60 dys	—	20 dys	—	S-90 dys	R-1 yr	R-3 yrs	AL
AK	—	—	—	72 con hrs	20 con dys	30 con dys	—	—	—	R-30 dys	R-1 yr	R-10 yrs	AK
AZ	\$250	\$500	—	24 con hrs	60 dys	6 mos	8 hrs	—	—	S-90 dys ²⁰	R-1 yr	R-3 yrs	AZ
AR	—	—	—	—	—	—	—	—	—	—	S-1 yr	S-2 yrs	AR
CA	\$390	\$375	\$390	—	48 hrs ^{1,2}	120 dys ^{1,2}	—	10 dys ²	— ²	—	S-30 dys	R-3 yrs	CA
CO	—	—	—	—	7 dys	7 dys	(48 hrs) ¹⁸	(60 hrs) ^{1b}	(60 hrs) ¹⁸	—	R-1 yr	R-2 yrs	CO
CT	—	—	—	48 con. hrs	10 dys	120 dys	100 hrs	—	—	S-1 yr	S-2 yrs	S-3 yrs	CT
DE	—	—	—	—	60 dys	60 dys	—	—	—	R-90 dys	R-6 mos	R-6 mos	DE
DC	—	—	—	—	—	—	—	—	—	R-6 mos	R-1 yr	R-2 yrs	DC
FL	—	—	—	—	10 dys	30 dys	(50 hrs) ¹⁸	—	—	—	R-12 mos	R-24 mos	FL
GA	—	—	—	—	48 hrs	10 dys	—	80 hrs	30 dys	—	S-120 dys	R-5 yrs	GA
HI	\$150-1000 ³	—	—	48 hrs ³	48 con hrs	—	72 hrs ³	10 dys	—	S-30 dys	S-1 yr	R-1 yr	HI
ID	—	—	—	—	10 dys	30 dys	—	—	—	—	S-30 dys	S-1 yr	ID
IL	—	—	—	—	48 con hrs	—	—	10 dys	—	—	—	—	IL
IN	—	—	—	—	5 dys ⁴	5 dys ⁴	—	10 dys	10 dys	S-30 dys	S-1 yr	S-1 yr	IN
IA	\$500 ⁶	\$750	\$750	—	7 dys ⁷	30 dys	—	—	—	—	R-1 yr ³⁰	R-2 yrs ³⁰	IA
KS	—	—	—	48 con. hrs	5 con. dys	90 dys	100 hrs	—	—	S-30 dys	S-1 yr	S-1 yr	KS
KY	—	—	—	—	7 dys	30 dys	—	—	—	S-30 dys	R-12 mos	R-24 mos	KY
LA	—	—	—	2 dys ²³	15 dys ²³	6 mos ²³	4 dys	30 dys	—	—	R-12 mos	R-12 mos	LA
ME	\$300	\$500	\$750	48 con hrs ¹⁷	7 dys	30 dys	—	—	—	S-60 dys ²⁴	S-1 yr ²⁴	S-2 yrs ²⁴	ME
MD	—	—	—	—	48 con hrs	48 con hrs	—	80 hrs	80 hrs	—	—	—	MD
MA	—	—	—	—	14 dys ^{8&25}	60 dys ²⁵	—	—	—	S-45 dys	R-1 yr	R-2 yrs	MA
MI	—	—	—	—	—	—	—	—	—	—	R-1 yr	R-5 yrs	MI
MN	—	—	—	—	30 dys	30 dys	—	— ²⁶	— ²⁶	—	—	—	MN
MS	\$200	\$400	\$500	—	—	—	—	—	—	S-45 dys	S-1 yr	S-1 yr	MS
MO	—	—	—	—	48 con hrs	—	—	10 dys ¹⁹	—	—	R-1 ²¹	R-1 yr ²¹	MO
MT	—	—	—	24 con hrs ⁹	3 dys ¹⁰	10 dys ¹⁰	—	—	—	—	R-3 mos ²⁹	R-3 mos ²⁹	MT
NE	—	—	—	—	48 hrs	7 dys	—	—	—	R-60 dys	R-6 mos	R-1 yr	NE
NY	—	—	—	2 dys ¹¹	10 dys ¹²	1 yr ¹³	48 hrs	—	—	R-45 dys	R-1 yr	R-1.5 yrs	NY

Digest of State Alcohol-Highway Safety Related Legislation, current as of January 1, 1989.

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	Fine (\$) (Mandatory Minimum For a DWI Conviction)			Imprisonment (Mandatory Minimum For a DWI Conviction)			Community Service In Lieu of Jail For a DWI Conviction			License Sanction (Mandatory Minimum For a DWI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
NH	—	—	—	—	10 dys ¹⁴	10 dys ¹⁴	—	—	—	R-90 dys	R-3 yrs	R-3 yrs	NH
NJ	—	—	—	— ¹⁵	48 con hrs	90 dys ²⁷	—	(30 dys) ¹⁸	(90 dys) ¹⁸	6 mos ²²	2 yrs ²²	10 yrs ²²	NJ
NM	—	—	—	—	48 con hrs	48 con hrs	—	—	—	—	R-1 yr	R-5 yrs	NM
NY	\$350	\$500	\$500	—	—	—	—	—	—	—	R-1 yr	R-1 yr	NY
NC	—	—	—	—	7 dys	7 dys	—	—	—	—	R-2 yrs	R-3 yrs	NC
ND	\$250	\$500	\$1,000	—	4 dys ⁴	60 dys ⁴	—	10 dys	—	S-30 dys	S-364 dys	S-728 dys	ND
OH	\$150	\$150	\$150	—	10 con dys ²⁸	30 con dys ²⁸	—	—	—	—	—	S-180 dys	OH
OK	—	—	—	—	—	—	—	— ²⁸	— ²⁸	R-30 dys	R-1 yr	R-3 yrs	OK
OR	—	—	—	48 hrs	48 hrs	48 hrs	80 hrs	80 hrs	80 hrs	—	S-90 dys	S-1 yr	OR
PA	\$300	\$300	\$300	—	30 dys	90 dys	—	—	—	S-1 mo	S-12 mos	S-12 mos ⁵	PA
PR	—	—	—	—	—	—	—	—	—	—	—	—	PR
RI	\$100	\$400	\$400	—	10 dys ⁴	6 mos ⁴	—	—	—	S-3 mos	S-1 yr	S-2 yrs	RI
SC	\$200	\$1,000	\$3,500	48 hrs	48 hrs	60 dys	48 hrs	10 dys	—	—	S-1 yr	S-2 yrs	SC
SD	—	—	—	—	—	—	—	—	—	—	R-1 yr	R-1 yr	SD
TN	\$250	\$500	\$1,000	48 hrs	45 dys	120 dys	—	—	—	—	R-2 yrs	R-3 yrs	TN
TX	—	—	—	—	72 hrs ¹⁶	10 dys ¹⁶	—	—	—	—	—	—	TX
UT	\$50	\$1,000	\$1,000	48 con hrs	240 con hrs	720 dys	24 hrs	80 hrs	240 hrs	S-90 dys	R-1 yr	R-1 yr	UT
VT	—	—	—	—	48 con hrs	48 con hrs	—	10 dys	10 dys	S-90 dys	S-18 mos	R-2 yrs	VT
VA	—	—	—	—	48 hrs	30 dys	—	—	—	—	R-2 yrs ²⁴	R-5 yrs	VA
WA	\$250	\$500	\$500	24 con hrs	7 dys ⁴	7 dys ⁴	—	—	—	S-30 dys	R-1 yr	R-2 yrs	WA
WV	\$100	\$1,000	\$3,000	24 hrs	6 mos	1 yr	—	—	—	N/A	N/A	N/A	WV
WI	—	—	—	—	—	—	—	—	—	S-15 dys	R-60 dys	R-90 dys	WI
WY	—	—	—	—	7 dys	7 dys	—	—	—	—	S-1 yr	R-3 yrs	WY
TOTAL	16	15	14	15	43	40	9	14	6	S - 17 R - 8	S - 17 R - 28	S - 12 R - 33	

S = Suspension
R = Revocation

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

- ¹The 48 hours (2nd off) and 120 days (3rd off) are not necessarily served consecutively.
- ²48 consecutive hours or 10 days of community service are mandatory if the Dept. of Motor Vehicles certifies that an application for 23 USC 408 grant funds has been submitted to the U.S. Dept. of Transportation.
- ³The court must sentence defendants to at least one of these sanctions but may sentence them to more than one such sanction.
- ⁴Must serve at least 48 consecutive hours.
- ⁵Could be 5 yrs under the habitual offender law.
- ⁶Not more than 200 hours of community service in lieu of the fine.
- ⁷This sentence may not be suspended; however, the statute is silent as to probation.
- ⁸Or 14 days in a treatment facility.
- ⁹Does not apply to illegal per se offense; this sanction only applies to "regular" DWI offenses.
- ¹⁰Must serve 48 consecutive hours; does not apply to illegal per se offenses.
- ¹¹One day imprisonment or 24 hrs of community service if rehabilitation is taken.
- ¹²5 days if rehabilitation is taken; 48 hours must be served consecutively.
- ¹³48 hrs. must be served consecutively.
- ¹⁴Three (3) consecutive 24 hour periods in a house of correction and seven (7) consecutive 24 hour periods in a DWI detention center.
- ¹⁵Mandatory treatment of not less than 12 nor more than 48 hours; this time is to be spent in an intoxicated driver resource center.
- ¹⁶As a part of probation.
- ¹⁷Provided the defendant either (1) had a BAC level of 0.15 or more, (2) was driving 30 MPH over the speed and had a BAC level of 0.10 or more, (3) was eluding a police officer and had a BAC level of 0.08 or more or (4) refused to submit to a chemical test.
- ¹⁸Mandatory community service regardless of whether there is a mandatory imprisonment sanction.
- ¹⁹Involving at least 40 hours.
- ²⁰May not apply to certain offenders who have been suspended pursuant to the administrative per se law.
- ²¹Applies only to intoxicated offenses; for illegal per se and admin. per se actions, a restricted hardship license may be granted provided the defendant has not received such a privilege within the passed 5 years.
- ²²The law states that the right to operate a motor vehicle is "forfeited."
- ²³Home incarceration is possible.
- ²⁴Temporary restricted license may be issued only for the purpose of attending either an alcohol education or treatment program.
- ²⁵Work release is available for this period of time.
- ²⁶In lieu of imprisonment for 30 dys, 8 hrs of community service may be substituted for each day less than 30 dys that the person would have served in jail.
- ²⁷Not more than 90 dys as an alternative to imprisonment.
- ²⁸If there is no imprisonment sanction, the defendant must serve either 48 con. hrs. of impatient rehabilitation/treatment or 10 dys of community service.
- ²⁹This revocation may not be mandatory if the defendant meets certain eligibility requirements for and does participate in a driver rehabilitation or improvement program.
- ³⁰A person may be issued a restricted license notwithstanding this revocation if certain conditions are met.

MAXIMUM CRIMINAL SANCTIONS for
DWI OFFENSES*

MAXIMUM ADMINISTRATION SANCTIONS
for DWI OFFENSES

	<u>1ST</u>	<u>2ND</u>	<u>3RD</u>	<u>1ST</u>	<u>2ND</u>	<u>3RD</u>
ALABAMA	1yr 1,000	1yr 2,500	1yr 5,000	S. 90dys	R. 1yr	R. 3yr
ALASKA	1yr 5,000	1yr 5,000	1yr 5,000	R. 30dys	R. 1yr	R. 10yr
ARIZONA	6mo 1,000	6mo 1,000	2yr 150,000	S. 90dys	R. 1yr	R. 3yr
ARKANSAS	1yr 1,000	1yr 3,000	1yr 5,000	S. 120dys	S. 16mo	S. 30mo
CALIFORNIA	6mo 1,000	1yr 1,000	1yr 1,000	S. 6mo	S. 18mo	R. 3yr
COLORADO	1yr 1,000	1yr 1,500	---	S. 1yr	R. ---	R. --
CONNECTICUT	6mo 1,000	1yr 2,000	2yr 4,000	S. 1yr	S. 2yr	S. 3yr
DELAWARE	6mo 1,000	18mo 2,000	18mo 2,000	R. 1yr	R. 1yr	R. 18mo
D. OF COLUMBIA	90dys 300	1yr 5,000	1yr 10,000	R. 6mo	R. 1yr	R. 2yr
FLORIDA	6mo 500	9mo 1,000	12mo 25,000	R. 1yr	R. 5yr	R. 10yr
GEORGIA	1yr 1,000	1yr 1,000	1yr 1,000	S. 1yr	S. 3yr	R. 5yr
HAWAII	48hr 1,000	48hr 1,000	180dys 1,000	S. 90dys	S. 1yr	R. 5yr
IDAHO	6mo 1,000	1yr 2,000	5yr 5,000	S. 180dys	S. 1yr	S. 5yr
ILLINOIS	1yr 1,000	1yr 1,000	3yr 1,000	R. 1yr	R. 3yr	R. 6yr
INDIANA	1yr 5,000	1yr 5,000	1yr 5,000	S. 2yr	S. 2yr	S. 2yr
IOWA	1yr 1,000	2yr 5,000	5yr 7,500	R. 180dys	S. 1yr	R. 6yr
KANSAS	6mo 500	1yr 1,000	1yr 2,500	S. 30dys	S. 1yr	R. 1yr
KENTUCKY	30dys 500	6mo 500	12mo 1,000	R. 600	R. 12mo	R. 24mo
LOUISIANA	6mo 500	6mo 1,000	5yr 2,000	S. 60dys	R. 1yr	R. 1yr
MAINE	1yr 1,000	1yr 1,000	1yr 1,000	S. 90dys	S. 1yr	S. 2yr
MARYLAND	1yr 1,000	2yr 2,000	3yr 3,000	R. ---	R. ---	R. --
MASSACHUSETTS	2yr 1,000	2yr 1,000	2yr 1,000	R. 1yr	R. 2yr	R. 5yr
MICHIGAN	90dys 300	1yr 1,000	1yr 1,000	S. 2yr	R. 5yr	R. 5yr
MINNESOTA	90dys 700	1yr 3,000	1yr 3,000	R. 30dys	R. 90dys	R. 1yr
MISSISSIPPI	24mo 500	1yr 1,000	1yr 1,000	S. 1yr	S. 2yr	S. 2yr
MISSOURI	6mo ---	1yr --	5yr --	S. 90dys	S. 1yr	S. 1yr
MONTANA	60dys 500	6mo 500	1yr 1,000	S. 6mo	R. 1yr	R. 1yr
NEBRASKA	30dys 500	30dys 500	6mo 500	R. 6mo	R. 1yr	R. 15yr
NEVADA	6mo 1,000	6mo 1,000	6mo 5,000	R. 90dys	R. 1yr	R. 3yr
NEW HAMPSHIRE	--1,000	1yr 1,000	1yr 1,000	R. 98dys	R. 3yr	R. --
NEW JERSEY	30dys 400	90dys 1,000	180dys 1,000	R. 1yr	R. 2yr	R. 10yr
NEW MEXICO	90dys 500	1yr 1,000	3yr 5,000	R. 1yr	R. 1yr	R. 5yr
NEW YORK	1yr 250	4yr 5,000	4yr 5,000	R. 6mo	R. 1yr	R. 1yr
N. CAROLINA	6mo 500	1yr 1,000	2yr 2,000	R. 1yr	R. 4yr	R. 30
N. DAKOTA	30dys 500	30dys 500	1yr 1,000	S. 91dys	S. 364dys	S. 728
OHIO	6mo 1,000	6mo 1,000	1yr 1,000	S. 3yr	S. 5yr	S. 10yr
OKLAHOMA	1yr 2,500	5yr 2,500	5yr 2,500	R. 6mo	R. 1yr	R. 3yr
OREGON	1yr 2,500	1yr 2,500	1yr 2,500	S. 1yr	S. 3yr	S. 3yr
PENNSYLVANIA	2yr 300	2yr 300	2yr 300	S. 12mo	S. 12mo	S. 12mo
PUERTO RICO	15dys 300	30dys 400	60dys 500	S. 1yr	S. 1yr	S. 1yr
RHODE ISLAND	1yr 100	1yr 400	1yr 400	S. 6 mo	S. 2yr	S. 3yr
S. CAROLINA	30dys 200	1yr 5,000	3yr 6,000	S. 6mo	S. 1yr	S. 2yr
S. DAKOTA	1yr 1,000	1yr 1,000	2yr 2,000	R. 1yr	R. 1yr	R. --
TENNESSEE	12mo 1,000	12mo 2,500	12mo 5,000	R. 1yr	R. 2yr	R. 10yr
TEXAS	2yr 2,000	2yr 2,000	5yr 2,000	S. 365dys	S. 24mo	S. 24mo
UTAH	6mo 299	6mo 299	6mo 299	S. 90dys	R. 1yr	R. 1yr
VERMONT	1yr 750	1yr 1,000	1yr 1,500	S. 90dys	R. 18mo	R. 36mo
VIRGINIA	12mo 1,000	12mo 1,000	1yr 1,000	S/R. 6mo	R. 3yr	R. 10yr
WASHINGTON	1yr 1,000	1yr 2,000	1yr 2,000	S. 90dys	R. 1yr	R. 2yr
W. VIRGINIA	6mo 500	1yr 3,000	3yr 5,000	R. 90dys	R. 5yr	R. 10yr
WISCONSIN	-300	6mo 1,000	1yr 1,000	R. 6mo	R. 14yr	R. 24yr
WYOMING	6mo 750	6mo 750	6mo 750	S. 90dys	S. 1yr	S. 3yr

*The first number in each column is the maximum term of imprisonment. The second number is the maximum possible fine.

S - Suspension
R - Revocation

Appendix 4

ADMINISTRATIVE PER SE - POLICE/MVA FORMS

(As provided in 16.205.1 of the Maryland Vehicle Law)
OFFICER'S COPY

By law, any person who drives or attempts to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State is deemed to have consented with certain limitations, to take a test of breath or a test of blood to determine the alcohol concentration of the person's

You are hereby advised that you have been stopped or detained and that reasonable grounds exist to believe that you have been driving or attempting to drive a motor vehicle while intoxicated, while under the influence of alcohol or in violation of an Alcohol Restriction. [If you were operating a commercial motor vehicle, reasonable grounds exist to believe that you have been driving or attempting to drive with any alcohol in your blood or breath.]

Under Maryland law, the test to be administered, at no cost to you, shall be the test of breath. However, a test of blood shall be administered, if the equipment for administering a breath test is not available or if your injuries require removal to a medical facility. You may also have a physician of your choice administer a test for alcohol, at your expense, in addition to the test administered at the direction of the police officer.

The results of such test or a refusal of such test may be admissible as evidence in any criminal prosecution.

You have the right to refuse to submit to the test. Your refusal shall result in an administrative suspension of your Maryland driver's license or your driving privilege if you are a non-resident. The suspension by the Motor Vehicle Administration shall be 120 days for a first offense and one year for a second or subsequent offense.

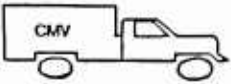

If you submit to a test which indicates an alcohol concentration of 0.10 or more, it shall result in an administrative suspension of your Maryland driver's license or your driving privilege if you are a non-resident. The suspension by the Motor Vehicle Administration shall be 45 days for a first offense and 90 days for a second or subsequent offense.

If you refuse the test or submit to a test which indicates an alcohol concentration of 0.10 or more, the Motor Vehicle Administration shall be notified, your Maryland driver's license shall be confiscated, an Order of Suspension issued, and a temporary license issued which allows you to continue driving for 45 days or until a hearing is completed.

If you have an alcohol restriction on your Maryland license, the Motor Vehicle Administration may, in addition to the suspension already mentioned, suspend or revoke your license upon satisfactory evidence of a violation of the alcohol restriction.

YOU HAVE TEN (10) DAYS IN WHICH TO REQUEST AN ADMINISTRATIVE HEARING FROM THE MOTOR VEHICLE ADMINISTRATION TO SHOW CAUSE WHY YOUR DRIVER'S LICENSE OR PRIVILEGE SHOULD NOT BE SUSPENDED FOR A REFUSAL OR FOR A TEST INDICATING AN ALCOHOL CONCENTRATION OF 0.10 OR MORE. YOU WILL BE GIVEN A FORM TO REQUEST A HEARING WITH YOUR TEMPORARY LICENSE.

Your driver's license or privilege will be suspended as mentioned above if: (1) you do not request a hearing within ten (10) days, (2) you fail to appear for a hearing; or (3) upon an immediate decision by the hearing officer to suspend.

	Was the driver operating a Commercial Motor Vehicle?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
If yes, read the following:			
<p>In addition to any suspension, if you were operating a commercial motor vehicle and you refuse to submit to a test for alcohol concentration, your commercial driver's license and/or driving privilege will be disqualified for 1 year for a first offense or 3 years for a first offense while transporting hazardous materials required to be placarded. For a second or subsequent offense while operating any commercial motor vehicle you will be disqualified for life.</p>			

I have read or have been read the Advice of Rights for an alcohol test and have been advised of administrative sanctions that shall be imposed for refusal to take a test or for a test result indicating an alcohol concentration of 0.10 or more. I understand that this requested test is in addition to any preliminary tests that were taken.

Having been so advised, do you now agree to submit to a test to determine the alcohol concentration of your body? (This is not an admission of guilt).

(Officer Check Reply)

☐ YES - Agree to submit to an alcohol test
☐ NO - Test Refused

(Officer Complete Form DR-15A and Send to MVA if test refused or alcohol test results were 0.10 or more).

Driver's Signature _____ Date _____ Time _____
Signature of Officer _____ DR-15A Control # _____
I.D. No. _____ Police Agency _____



Maryland Department of Transportation
MOTOR VEHICLE ADMINISTRATION
400 GLENE STREET, BALTIMORE, MD 21201

OFFICER'S CERTIFICATION AND ORDER OF SUSPENSION

(As provided in §16-205.1 of the Maryland Vehicle Law)

(FOR OFFICIAL USE ONLY)

"M V A" COPY

DR-15A (9-89) EFFECTIVE (1-90)

OCCURRENCE OF OFFENSE (MONTH/DAY/YEAR/TIME) _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.		COMMERCIAL LICENSE? <input type="checkbox"/> YES <input type="checkbox"/> NO COMMERCIAL VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO HAZARDOUS MATERIAL? <input type="checkbox"/> YES <input type="checkbox"/> NO	CONTROL NUMBER
LOCATION (SPECIFY COUNTY OR BALTO. CITY):			

LAST NAME		FIRST		MIDDLE	
RESIDENCE STREET ADDRESS		CITY	STATE	COUNTY	ZIP CODE
DRIVER'S LICENSE NUMBER		STATE	SPECIAL CODE	RESTRICTION	ENDORSEMENT
LICENSE CLASS	LICENSE TYPE	HGT.	WGT.	SEX	RACE
BIRTH MONTH / DAY / YEAR		VEHICLE TAG NO.		STATE	

ORDER OF SUSPENSION - ISSUE DATE: (MONTH / DAY / YEAR): _____

You are hereby notified that on the date of detention shown above, you were asked to take a test to determine the alcohol concentration of your body pursuant to Transportation Article, Section 16-205.1, of the Maryland Vehicle Law.

Your Maryland Driver's License/Privilege will be suspended effective on the Forty-Sixth (46) day from the above "Issue Date" because: ☐ You refused to take a test when requested by the Police Officer.

or

☐ You submitted to a test indicating an alcohol concentration of 0.10 or more.

SURRENDER OF DRIVER'S LICENSE

By law, the officer is required to take your Maryland driver's license and if valid, issue a temporary license to allow you to continue driving 45 days from the above "Issue Date". ☐ License was confiscated. ☐ License was not confiscated because: _____

DRIVER'S CERTIFIED STATEMENT

I hereby certify under penalty of perjury, that I do not possess a Maryland driver's license to surrender to the police officer and should the license come into my possession I will immediately forward it to the Motor Vehicle Administration.

SIGNATURE

DATE

TEMPORARY LICENSE

The "Driver's Copy" of this entire form, signed by you and the police officer, serves as a valid temporary license which expires on the 45th day after issuance of the Order of Suspension or upon completion of a hearing.

SIGNATURE OF DRIVER (If Temp. Issued)

SIGNATURE OF OFFICER (If Temp. Issued)

I acknowledge that a temporary license was not issued.

SIGNATURE OF DRIVER

CERTIFICATION OF POLICE OFFICER

I had reasonable grounds, which I have set forth below on this form, to believe that the person described above had been driving or attempting to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State while intoxicated, while under the influence of alcohol, or in violation of an alcohol restriction.

REASONABLE GROUNDS: _____

Odor Of Alcohol: ☐ None ☐ Faint ☐ Moderate ☐ Strong Refer Summons No. _____

I certify under penalty of perjury that the contents of the foregoing document are true and correct to the best of my knowledge, information and belief, and after being fully advised of sanctions that shall be imposed as provided in the Advice of Rights Form DR-15, the person described above refused to take the test for alcohol when requested by this officer or was tested and the test result indicated an alcohol concentration of 0.10 or more as indicated above.

OFFICER'S SIGNATURE _____ DATE _____ OFFICER'S PRINTED NAME _____

LAW ENFORCEMENT AGENCY _____ IO NUMBER _____

ADDRESS _____

CERTIFICATION OF TEST TECHNICIAN OR ANALYST

I do solemnly declare and affirm, under penalty of perjury, and upon personal knowledge that I performed a test for alcohol concentration on the person described above and the test result was 0. _____.

SIGNATURE OF TEST TECHNICIAN/ANALYST _____ DATE _____ PRINTED NAME OF TEST TECHNICIAN/ANALYST _____

FACILITY NAME AND ADDRESS _____

IMPLIED CONSENT ADVISORY

Refusal to take any tests for alcohol requested by a police officer will result in the suspension of your Maryland driving privilege for 120 days for a first offense and one year for a second or subsequent offense. In addition, if you were operating a commercial motor vehicle, your commercial driver's license/privilege will be disqualified for 1 year for a first offense or 3 years for a first offense while transporting hazardous materials required to be placarded. For a second or subsequent offense while operating any commercial motor vehicle you will be disqualified for life.

A test result indicating an alcohol concentration of 0.10 or more at the time of testing, will result in the suspension of your Maryland driving privilege for 45 days for a first offense and 90 days for a second or subsequent offense.

The suspension imposed will become effective on the 46th day from the date of issuance of the Order of Suspension or upon completion of a hearing.

REQUEST FOR HEARING

You may request a hearing concerning the suspension of your driving privilege. An extra copy of the Order of Suspension is given to you by the police officer to use as a hearing request. Hearing requests must be in writing and submitted to the Motor Vehicle Administration within 10 days from the date of the issuance of the Order of Suspension. SEND THE "HEARING REQUEST COPY" OF THE ORDER OF SUSPENSION TO:

MOTOR VEHICLE ADMINISTRATION
ADMINISTRATIVE ADJUDICATION
PER SE UNIT
6601 Ritchie Highway, N.E.
Glen Burnie, Maryland 21062

If a hearing is requested within 10 days and YOUR MARYLAND DRIVER'S LICENSE WAS SURRENDERED, a hearing will be scheduled within 30 days of the receipt of your request. IF YOU WISH TO BE REPRESENTED BY AN ATTORNEY, YOU SHOULD CONTACT ONE IMMEDIATELY.

WITHDRAWAL INFORMATION

After serving the required period of suspension, your Maryland driver's license will be automatically returned to you provided it is still valid and provided there are no other suspensions, revocations or disqualifications existing against your driving privilege.

LICENSE CLASS CODES (Issued Prior to 1/1/90)

- A- All vehicles except motorcycles.
- B- All vehicles and combination vehicles with GVW or GCW over 25,000 lbs., except combination Class F (tractor) and Class G (trailer) and motorcycles.
- C- Bus or any vehicle under Class D license.
- D- All vehicles and combination vehicles except those under Class A-B-C and E.
- E- Motorcycles.

SPECIAL CODES

- H- Hearing Impairment
- S- Speech Impairment
- HS- Hearing and Speech Impairment

RESTRICTION CODES (Issued Prior to 1/1/90)

1. Glasses or Contact Lenses
2. Outside Rear View Mirror
3. Valid In Maryland Only
4. Automatic Transmission
5. Directional Signals
6. Daylight Driving Only
7. Limited to Certain Vehicle Only (See Restriction Card)
8. Other (See Restriction Card)
9. Alcohol

LICENSE CLASS CODES (Issued After 1/1/90)

COMMERCIAL DRIVER'S LICENSE CLASS CODES:

- A- All vehicles except motorcycles.
- B- Motor Vehicles 26,001 or more pounds GVW except trailers over 10,000 pounds and motorcycles. All Class C & B non-commercial vehicles.
- C- Motor Vehicles under 26,001 pounds GVW except trailers over 10,000 pounds and motorcycles.

COMMERCIAL DRIVER'S LICENSE ENDORSEMENT CODES:

- T- Doubles/Triples
- P- Passenger Transport (Bus, 16 or more passengers, Includes driver)
- N- Liquid Bulk/Cargo Tank (Tanker)
- H- Hazardous Materials
- X- N and H combined

NONCOMMERCIAL DRIVER'S LICENSE CODES:

- A- Any noncommercial vehicle except motorcycles.
- B- Noncommercial vehicles and combination vehicles with GVW 26,001 or more pounds GVW, except combination Class F (tractor) and Class G (trailer) and motorcycles.
- C- All noncommercial vehicles under 26,001 pounds GVW except motorcycles.
- M- Motorcycles.

RESTRICTION CODES (Issued After 1/1/90)

- B- Corrective lenses
- C- Special brakes, hand controls or other (See Restriction Card)
- D- Prosthetic Aid
- E- Automatic Transmission
- F- Outside Mirror
- G- Limited to Daylight Only
- H- Limited (See Restriction Card)
- I- Limited (See Restriction Card)
- J- Other (See Restriction Card)
- L- Vehicles Without Airbrakes.
- Z- Under 21 Alcohol Restricted

Appendix 5

SIGNS AND SYMPTOMS OF DRUG USE

CATEGORY

Signs/ Symptoms	CNS Depressants	CNS Stimulants	Hallucinogens	(PCP)
ACTION	Slow down the operations of the brain. Depress the heartbeat, blood pressure, respiration and many other processes controlled by the brain.	Accelerate the heartrate and respiration, elevate the blood pressure and "speed up" or over-stimulate many other processes of the body.	Cause hallucinations, i.e., they cause the user to perceive things differently from the way they really are.	Powerful anesthetic. It also causes bizarre and sometimes violent behavior.
GENERAL INDICATORS	"Drunken" behavior, Uncoordinated, Drowsy, Sluggish, Disoriented, Thick, Slurred Speech	Restlessness, Talkative, Excitation, Euphoria, Exaggerated Reflexes, Loss of Appetite, Grinding Teeth (Bruxism), Redness to Nasal Area (if "snorting"), Body Tremors	Hallucinations, Dazed Appearance, Body Tremors, Uncoordinated, Perspiring, Disorientation, Paranoia, Difficulty in Speech, Nausea	Perspiring, Repetitive Speech, Confused, Possibly Violent and Combative, Blank Stare, Incomplete Verbal Responses, Muscle Rigidity
EYE INDICATORS				
Nystagmus-Horizontal	Usually is present	Usually not present	Usually not present	Usually will be present, with very early onset and very distinct jerking
Nystagmus-Vertical	May be present	Usually not present	Usually not present	Usually will be present
Pupil Size	Is usually normal (except that the drug Methaqualine causes pupils to dilate)	Usually will be noticeably dilated	Usually will be noticeably dilated	Is usually normal

CATEGORY

Signs/ Symptoms	Narcotic Analgesics	Inhalants	Cannabis
ACTION	All narcotic analgesics share three important characteristics; they will relieve pain; they will produce withdrawal signs and symptoms when the drug is stopped after chronic administration; and, they will suppress the withdrawal signs and symptoms of chronic morphine administration.	Some inhalants include psycho-active chemicals that produce a variety of effects. Others exert their major effect by blocking the passage of oxygen to the brain.	Marijuana and other Cannabis products apparently impair the attention process. Ability to perform divided attention tasks diminishes under the influence of Cannabis.
GENERAL INDICATORS	"On the Nod", Droopy Eyelids, Depressed Reflexes, Dry Mouth, Facial Itching, Low, Raspy Speech, Fresh Puncture Marks May Be Evident	Disorientation, Confusion, Slurred Speech, Possible Nausea, Possible residue of substance on face, hands, clothing	Very Bloodshot Eyes, Body Tremors, Odor of Marijuana Disoriented, Relaxed Inhibitions, Difficulty in Dividing Attention
EYE INDICATORS			
Nystagmus- Horizontal	Usually not present	Usually will be present	Usually not present
Nystagmus- Vertical	Usually not present	May be present	Usually not present
Pupil Size	Usually will be severely constricted	Usually is normal	Will be near normal or possibly slightly dilated

Appendix 6

DRUG TESTING - IMPLIED CONSENT STATUTES

DRUG TESTING - IMPLIED CONSENT STATUTES

STATE	TYPE OF DRUG		TYPES OF TESTS			MULTIPLE TESTS
	ANY	OTHER	BL	UR	OTHER	
ARIZONA	YES		YES	YES	NO	YES
ARKANSAS	NO	(A)	YES	YES	NO	YES
CALIFORNIA	YES		YES	YES	NO	YES
COLORADO	YES		YES	YES	SAL	NO
CONNECTICUT	YES		YES	YES	NO	NO
DELAWARE	YES		YES	YES	NO	YES
D.C.	YES		YES	YES	NO	YES
FLORIDA	NO	(B)	YES	YES	NO	YES
GEORGIA	YES		YES	YES	OBS	YES
IDAHO	YES		YES	YES	OBS	NO
ILLINOIS	YES		YES	YES	NO	YES
INDIANA	YES		YES	YES	OBS	YES
IOWA	YES		YES	YES	SAL	YES
KANSAS	YES		YES	YES	OBS	YES
KENTUCKY	YES		YES	YES	SAL	YES
LOUISIANA	NO	(C)	YES	YES	OBS	YES
MICHIGAN	NO	(A)	YES	YES	NO	YES
MINNESOTA	NO	(A)	YES	YES	NO	YES
MISSISSIPPI ¹	YES		YES	YES	NO	YES
MISSOURI	YES		YES	YES	SAL	YES
NEVADA	NO	(A)	YES	YES	OBS	YES
NEW HAMPSHIRE	NO	(A)	YES	YES	NO	YES
NEW YORK	YES		YES	YES	SAL	NO
NORTH CAROLINA	YES		"CHEMICAL ANALYSIS"			YES
NORTH DAKOTA	YES		YES	YES	SAL	YES
OHIO	NO	(D)	YES	YES	NO	YES
OKLAHOMA	YES		YES	YES	SAL	YES
OREGON ²	NO	(A)	YES	YES	NO	YES
PENNSYLVANIA	NO	(A)	YES	YES	NO	YES
RHODE ISLAND	NO	(A)	YES	YES	NO	YES
SOUTH CAROLINA	YES		YES	YES	NO	YES
SOUTH DAKOTA	NO	(A)	YES	YES	OBS	YES
TENNESSEE	YES		YES	YES	NO	NO
TEXAS	YES		YES	NO	NO	YES
UTAH	YES		YES	YES	NO	YES
VERMONT	YES		YES	NO	NO	YES
VIRGINIA	YES		YES	NO	NO	YES
WEST VIRGINIA	YES		YES	YES	NO	NO
WISCONSIN	YES		YES	YES	NO	YES
WYOMING	NO	(A)	YES	YES	NO	YES
TOTAL (40)	27	13	39	36	14	34

(A) controlled substances

(B) specified chemical substances or controlled substances

(C) specified abused or illegal controlled dangerous substances

(D) drugs of abuse

BL=BLOOD

UR=URINE

SAL=SALIVA

OBS=OTHER BODILY SUBSTANCE

¹ Drug testing permitted if driver expressly consents.

² Drug testing permitted if driver expressly consents or is unconscious or otherwise in a condition rendering the person incapable of expressly consenting.

Prepared by the Department of Legislative Reference

DRUNK AND DRUGGED DRIVING TASK FORCE



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December 13, 1989

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable R. Clayton Mitchell, Jr., Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

On behalf of the Task Force on Drunk and Drugged Driving, we are pleased to submit to you a summary of our activities during the 1989 interim.

The Task Force on Drunk and Drugged Driving was first appointed in 1988 in response to Joint Resolution 15 which was passed during the 1988 Session. Although the Task Force studied a broad range of issues during the 1988 Interim and issued a comprehensive report prior to the 1989 Session, it became clear to the members of the Task Force that their work was not completed and that a number of issues would need to be revisited at a later date. Therefore, the Task Force recommended that its mandate to study the problems associated with drunk and drugged driving be continued through the 1989 interim. In response to this recommendation, Joint Resolution 16, which authorized the continuance of the Task Force, was passed by the General Assembly and signed by the Governor.

During the 1989 Interim, the Task Force first focused its attention on a review of the status of the recommendations made by the Task Force in its 1988 Report. Specifically, the Task Force looked at the major drunk driving legislation that passed the General Assembly in 1988 (e.g. Chapter 284, the "administrative per se" bill and Chapter 291, the Commercial Driver's License Act) and was briefed on the implementation of the legislation. The Task Force learned that emergency regulations to implement administrative per se have been proposed by the Motor Vehicle Administration, necessary staff has been hired, new police and Administration forms have been developed, and police and court personnel have undergone training. The Administrator of the MVA advised the Task Force that he anticipated no impediment to the full implementation of the new law when it goes into effect January 1, 1990.

While the available statistics appear to indicate that the numerous changes in the law over the last several years as well as heightened public awareness of the problems of drunk and drugged driving are generally having a positive effect, the impact of the administrative per se law, due to its delayed effective date, remains to be seen.

During the 1988 Interim, the Task Force dealt primarily with drunk driving; however, the Task Force's primary substantive focus in 1989 was the issue of drugged driving.

The extent of the drugged driving problem was highlighted for the Task Force by Dr. Carl Soderstrom who reported the results of a study of drivers admitted to the Shock Trauma Center of the Maryland Institute for Emergency Medical Services Systems. The study indicated that of the drivers tested:

7.1% tested positive for cocaine;
3.3% tested positive for PCP; and
1.1% tested positive for Heroin.

A separate study found that out of 393 drivers admitted to the Shock Trauma Center, approximately 16% tested positive for THC, the active ingredient in marijuana, and another 16% tested positive for both THC and alcohol.

The Task Force found that despite the prevalence of drug abuse and drugged driving, and the prohibitions in Maryland law against drugged driving, arrests and convictions for drugged driving offenses are under-represented when compared to drunk driving offenses. One reason for this is the limited training that police officers receive in recognizing and identifying drivers who are under the influence of drugs. The Task Force was briefed on the benefits of a training program of the type developed by the Los Angeles Police Department. This program has been shown to be quite successful in giving police officers the ability to recognize an impaired driver and to identify the category of drugs causing the impairment.

Other problems related to the relatively low arrest and conviction rate for drugged driving are the lack of a laboratory testing facility and legal authorization to test drivers for drugs. The Task Force had recommended in 1988 that the State's implied consent statute be expanded to include tests for drugs at such time as law enforcement agencies are prepared to conduct the tests. The Task Force was briefed during the 1989 Interim on the progress being made by the Governor in developing a comprehensive drugged driver testing program as requested in Joint Resolution 14 of 1989. It is hoped that a laboratory testing facility will be fully operational on a statewide basis by January 1, 1992. The Task Force also heard testimony on what other states are doing relative to drug testing of drivers, the relative advantages of various types of tests, which Maryland entity is best equipped to conduct the tests, and the costs associated with a comprehensive drug testing program.

Finally, the Task Force heard testimony on a proposal that anyone convicted or granted probation before judgment for any drug-related offense be referred to the MVA Medical Advisory Board for a determination of whether the person is fit to drive.

The Task Force expects to hold one additional meeting in the near future for the purpose of proposing, discussing, and adopting final recommendations. Those recommendations will be included in the final report of the Task Force which will be forthcoming under separate cover.

We wish to acknowledge the generous assistance provided to the Task Force by those individuals who testified at our meetings and provided the Task Force with their research, opinions, and suggestions.

Respectfully submitted,

Laurence Levitan
Co-Chairman

Daniel M. Long
Co-Chairman

