SETTING LIMITS, SAVING LIVES
THE CASE FOR .08 BAC LAWS
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Overview of the Problem

Impaired driving is the most frequently committed violent crime in America. Every 30 minutes, someone in this country dies in an alcohol-related crash. In the time it takes you to read this booklet, someone else will die needlessly.

For many years, we were making good progress. Due to the tireless efforts of many organizations and citizens around the country, alcohol-related traffic deaths decreased significantly. In the last decade, alcohol-related fatalities dropped from 24,050 in 1986 to 17,274 in 1995, according to the National Highway Traffic Safety Administration (NHTSA).

This 28% drop in alcohol-related deaths is generally attributed to:

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

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

Unfortunately, alcohol-related crashes may be headed back up. Fatalities in alcohol-related crashes rose by 4% from 1994 to 1995, the first increase in a decade. In 1995, 41% of the 41,798 motor vehicle crash deaths were attributed to alcohol use.

Alcohol involvement is still the single greatest factor in motor vehicle deaths and injuries, and it's a deadly involvement. Only 4% of all crashes involve the use of alcohol, but 41% of fatal crashes do.

17,274 deaths in one year is 17,274 grieving families too many. But the carnage doesn't end there. In addition to these tragic deaths, another one million people are injured in alcohol-related traffic crashes annually. And these crashes cost society over $45 billion every year for things like:

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

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

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

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

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

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

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

**Key Laws That Every State Needs**

There are four key laws that have been proven effective in the fight against impaired driving (see chart, “State Anti-Impaired Driving Laws,” page 5). It is important to understand what each is and how it works, both alone and together with other laws.

**Illegal per se** — An illegal per se law makes it illegal in and of itself to drive with an alcohol concentration measured at or above the established legal level. Forty-eight states have established a per se law (the exceptions are Massachusetts and South Carolina). In 35 of those states, the legal limit is .10% blood alcohol concentration (BAC) **per se.** That means it is against the law to drive a motor vehicle if you have a BAC of .10 or more, whether or not you exhibit visible signs of intoxication. Thirteen other states have established .08 BAC as the legal limit (see chart, “States with BAC Per Se Laws,” page 4).

**Administrative license revocation (ALR) —** An ALR law gives state officials the authority to suspend administratively the license of any driver who fails or refuses to take a BAC test. Notice of the suspension is given immediately, although a temporary permit is usually issued. The permit is valid from 7-45 days, depending on the state. During that time, the accused person can appeal through administrative channels. If no appeal is filed, the license is then automatically suspended for a prescribed period of time. Suspensions range from seven days to six months for first-time offenders, again depending on the state, and are longer for repeat offenders. ALR laws do not replace criminal prosecution, and their constitutionality has been consistently upheld whenever challenged. As of late 1996, 39 states had ALR laws.

**Zero tolerance** — Zero tolerance laws make it illegal for drivers under age 21 to drive with any measurable amount of alcohol in their system, regardless of the BAC limit for older drivers. Since it is illegal in every state for those under 21 to purchase or publicly possess alcoholic beverages, it makes sense that no amount of alcohol should be tolerated for drivers under that age. Many states have set the limit for underage drivers at .02 BAC. This helps reduce legal challenges that claim mouthwash, gum or cold medicine are somehow responsible for a positive but very low BAC reading (there is no evidence that such substances affect the standard breath analysis tests when they are conducted properly or that other challenges about the accuracy of alcohol detection equipment are valid). By late 1996, 37 states plus DC had zero tolerance laws for youth, but all states must pass zero tolerance laws in
the next few years that conform to recent federal legislation or they will be subject to Federal sanctions.

.08 BAC — .08 establishes a lower limit to define intoxication for all drivers. Lowering the BAC limit to .08 sets the legal limit at a point at which driving skills are proven to be compromised. At .08 BAC, all drivers, even experienced ones, show impairment in driving ability. For the great majority, there is serious deterioration in driving performance at .08. Although virtually all highway safety groups and transportation safety agencies support .08, only 13 states have adopted such laws as of late 1996. Some organizations in the alcohol and hospitality industries vigorously oppose .08 legislation whenever it is proposed.

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

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

States With BAC per se Laws
### "State Anti-Impaired Driving Laws"

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**TOTAL** | **48** | **39+DC** | **37+DC** | **13 STATES**

*Zero tolerance is defined as .02 or less for all drivers under age 21. Some states have less stringent laws (such as only applying to those under age 18) that are not included here.*
"A Drink is a Drink is a Drink"

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

Measuring Impairment

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

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

A driver's BAC can be measured by testing the blood, breath, urine or saliva. Breath testing is the primary method used by law enforcement agencies. Preliminary breath testing can be performed easily during a roadside stop using a hand-held device carried by police officers. It is non-invasive and can even be performed while the person is still in his or her vehicle.

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

State BAC Levels

All states but two (Massachusetts and South Carolina) have established BAC per se levels. Thirteen of those states have set that level at .08 (Alabama, California, Florida, Hawaii, Kansas, Maine, New Hampshire, New Mexico, North Carolina, Oregon, Utah, Virginia and Vermont). For more state-specific data, see the chart "The State of the States," at right.

### Number of Drinks and BAC in One Hour of Drinking

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Male 170 lbs. Female 137 lbs.

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Male 170 lbs. Female 137 lbs.
"The State of the States"

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<tr>
<th>STATE</th>
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<td>326</td>
<td>26.3</td>
</tr>
<tr>
<td>Vermont</td>
<td>.08</td>
<td>106</td>
<td>41.4</td>
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<tr>
<td>Virginia</td>
<td>.08</td>
<td>900</td>
<td>39.8</td>
</tr>
<tr>
<td>Washington</td>
<td>.10</td>
<td>653</td>
<td>48.5</td>
</tr>
<tr>
<td>W. Virginia</td>
<td>.10</td>
<td>376</td>
<td>42.7</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>.10</td>
<td>745</td>
<td>42.6</td>
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<tr>
<td>Wyoming</td>
<td>.10</td>
<td>170</td>
<td>48.9</td>
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</tbody>
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| U.S. Total     | 41,798           | 41.3                   |

Because the volume of blood varies with the size of a person, BAC establishes an objective measure to determine levels of impairment.
SECTION 3

Effect of BAC on Traffic Crashes

The Effect of Alcohol on Ability

With each drink consumed, a person's blood alcohol concentration increases. Although the outward appearances vary, virtually all drivers are substantially impaired at .08 BAC. Laboratory and on-road research shows that the vast majority of drivers, even experienced drivers, are significantly impaired at .08 with regard to critical driving tasks such as braking, steering, lane changing, judgment and divided attention (see chart, "BAC and Areas of Impairment," at right).

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

.08 Sets a Reasonable Limit

Setting the BAC limit at .08 is a reasonable response to the problem of impaired driving. This is not a couple of beers after work or a glass or two of wine with dinner. At .08, everyone is impaired to the point that driving skills are degraded. Most states that have lowered their BAC to .08 have found a measurable drop in impaired driving crashes and fatalities, as have many countries that have adopted .08 (see chart, "BAC Levels in Other Countries," on page 10).

.08 also serves to deter driving after drinking. Crash statistics show that even heavy drinkers, who account for a high percentage of DWI arrests, are less likely to drink and drive because of the general deterrent effect of .08. At the same time, lowering the BAC limit to .08 makes it possible to convict seriously impaired drivers whose BAC levels are now considered marginal because they are at or just over .10.
.08 Laws Work

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

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

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

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

The study concluded that if all states lowered their BAC limits to .08, alcohol-related highway deaths would decrease by 500-600 per year.
SECTION 4

The Case for .08 BAC Laws

Impaired Driving Affects Us All

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

As BAC levels rise, so does the risk of being involved in a fatal crash. Research has shown that, in single vehicle crashes, the relative fatality risk for drivers with BACs between .05 and .09 is over eleven times greater than for drivers with a BAC of zero.

States Have the Responsibility

In the United States, BAC limits are set by states. The limit of .10 found in most states is the highest in the industrialized world (see chart, "BAC Levels in Other Countries, at right). The recent analysis of the first five states that lowered the BAC limit to .08 showed that significant decreases in alcohol-related fatal crashes occurred in four out of five states as a result of the legislation.

NHTSA, the federal agency charged with the safety of motor vehicles and our nation's highway safety, has long supported .08 state laws. In a 1992 Report to Congress, the agency recommended that all states lower their illegal per se limit to .08 for all drivers 21 years and above. (NHTSA supports zero tolerance for drivers under the legal drinking age — see Section 1 for more information.) Numerous other federal agencies with an interest in public health and safety issues, as well as dozens of private sector organizations, support NHTSA's call for universal .08 state laws (see box, "Who Supports .08 BAC Laws?", page 11).

Why Some States Don't Have .08

As a public policy to deter impaired driving, .08 has lagged behind other countermeasures such as per se, administrative license revocation and

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<thead>
<tr>
<th>BAC Levels in Other Countries</th>
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<tbody>
<tr>
<td>Austria</td>
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<tr>
<td>Australia</td>
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<td>Canada</td>
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<tr>
<td>Sweden</td>
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<tr>
<td>Switzerland</td>
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zero tolerance for those under 21. Nearly all states have *per se*, the vast majority have ALR and most have zero tolerance. (The rest are expected to pass zero tolerance laws within the next several years as the result of a congressionally mandated federal program.)

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

Promotions such as designated driver programs and sober ride/call-a-cab efforts showcase their concern, generate enormous goodwill from the general public and raise awareness. It is tragic that some of the same companies and trade associations that have launched excellent server training programs, public information campaigns and other efforts to reduce impaired driving so vigorously oppose legislation when it comes to .08 (see box, "What the Hospitality Industry Can Do," on page 15).

**The Time is Now**

As mentioned in the previous section, recent research by NHTSA and the Boston University School of Public Health has been quite conclusive in showing the impaired driving reductions already attributable to .08, as well as the potential for saving additional lives if all states adopted .08 BAC laws. Not only would deaths and injuries go down, but costs would as well. Alcohol-related crashes cost society $45 billion every year, not including pain, suffering and lost quality of life. For more information on these enormous costs, see the fact sheet "Economic Issues" in the appendix.
Myths about .08 BAC

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

**MYTH:**
A .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink.

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

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

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

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

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

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

FACT: The latest research shows that .08 laws not only reduce the incidence of impaired driving at .08, they also reduce even more the incidence of impaired driving at high BACs over .15 (Hingson, et. al., American Journal of Public Health). A .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink. .08 is a key part of a complete package to reduce impaired driving.

While problem drinker drivers do account for a significant part of the DWI problem, most fatally injured drinking drivers (70-80%) had no prior alcohol-related offenses. A comprehensive anti-impaired driving program must use all available laws and programs to reduce DWI.
MYTH:
"Lowering the BAC limit to .08 places an unnecessary strain on the law enforcement community by forcing officers to monitor the behavior of currently legal drivers and pay less attention to the real problem, repeat offenders and those with high BACs."

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

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

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

MYTH:
".08 BAC legislation will affect alcohol consumption and, therefore, affect the economy."

FACT: There is no evidence that per capita consumption of alcohol was affected in any of the five .08 BAC states examined by NHTSA in a recent analysis. Even a four-state analysis by several alcohol industry organizations showed virtually no affect on overall consumption (see chart at right). In Maine, overall alcohol consumption dipped slightly in 1988, the year .08 went into effect, but restaurant sales actually increased 11%. Concern about impaired driving can lead to increased sales of food and non-alcoholic beverages in bars and restaurants, and designated driver programs offer a reasonable alternative that has little or no impact on overall alcohol consumption. Smart business owners know that demonstrating concern for their patrons' safety is a good business practice that encourages customer loyalty.

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

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

Effects of .08 Legislation on Alcohol Consumption

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<tr>
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<td>2.74</td>
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<tr>
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</tbody>
</table>

Source: Distilled Spirits Council of the U.S., the Beer Institute, the National Institute for Alcohol Abuse and Alcoholism
Consumer Education and Public Support

**Polls Support Anti-DWI Efforts**

The American public overwhelmingly supports legislation and programs to curb impaired driving. In a poll conducted for Mothers Against Drunk Driving (MADD), the Gallup Organization found that the vast majority of the American public considers drunk driving the major highway safety problem and most support tough laws and sanctions to reduce impaired driving. All of the approaches to deal with impaired driving do well in public opinion polls, but the programs that have received more attention in the media and other public forums — ALR, zero tolerance, sobriety checkpoints and vehicle confiscation for repeat offenders — poll higher than .08. The likely reason is that people do not understand the technical aspects of how BACs are determined and what .08 means in real terms. When it comes to their own tolerance for alcohol and their own abilities, however, the American public is certain: most say they would not drive after consuming two or three drinks in one hour.

**.08 is a Public Health Policy**

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

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

**Help is Available**

NHTSA and several private sector organizations hold workshops, publish idea samplers and planners, and offer other helpful organizing tools.
that may help .08 supporters achieve their public policy goals. Contact information on these and other organizations is available in the appendix. Here are just a few suggestions:

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

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

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

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

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**What the Hospitality Industry Can Do**

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

- **Promoting Designated Driver Programs by Providing Free or Reduced-Price Non-Alcoholic Beverages to Designated Drivers;**

- **Promoting Non-Alcoholic Beers and Wines;**

- **Providing Free Rides Home to Drivers Who Appear Impaired (or Participating in and Promoting Free Ride Programs Sponsored by Safety Groups, Taxi Companies, Etc.);**

- **Engaging in Responsible Alcohol Service by Training Servers, Making Food Available to Patrons, Not Serving Intoxicated Customers, or Those Under the Age of 21.**

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A MADD/GALLUP poll found that the vast majority of the American public considers drunk driving the major highway safety problem and most support tough laws and sanctions to reduce impaired driving.
Enforcing .08

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

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

Quick and Easy Testing

Modern breath analysis equipment is easy to use during a roadside stop, whether the legal limit is .08 or any other limit. The devices are small enough and inexpensive enough that every patrol car on traffic duty can be equipped with one. Law enforcement officers can administer the test quickly and easily, without the driver even leaving the car. If the breath test shows the person is not impaired, no additional tests (either roadside physical coordination maneuvers or blood or urine tests in a lab) are usually required. Motorists can be on their way and police can continue their duties. .08 does not change the fact that law enforcement officers can conduct these roadside tests quickly and easily.

Law Enforcement Supports .08

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

Treatment Can Help

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

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

Medical treatment for impaired drivers, whether required by law or ordered at the discretion of a judge, correctly positions impaired driving as a public health problem. .08 laws do not contribute to burdens on society but help to identify those with a problem and get them into programs to reduce the chance they will eventually kill or injure themselves or someone else.
SECTION 8

Summary

.08 is Reasonable

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

.08 Works

As a public health initiative and a traffic safety policy, .08 works and works well. A .08 BAC per se law will:

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

.08 Could Save Your Life

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

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

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

- In 1995, 41,798 people were killed in highway crashes. Another 3 million were injured. These crashes cost society $150 billion every year.

- Of those killed on our highways in 1995, 17,274 died in alcohol-related crashes (41%).

- Approximately one million people are injured in alcohol-related traffic crashes annually.

- Alcohol involvement is the single greatest factor in motor vehicle deaths and injuries. Only 4% of all crashes involve the use of alcohol, but 41% of fatal crashes do.

- Anti-impaired driving efforts work. From 1986 to 1995, alcohol-related fatalities dropped 28%. This drop is generally attributed to stronger laws, tougher enforcement, and good consumer education.

- However, fatalities in alcohol-related crashes rose by 4% from 1994 to 1995, the first increase in a decade. All of this increase involved alcohol-impaired adult drivers over the age of 21.

- Among fatally injured motor vehicle drivers in 1995, 36% had BACs at or above .10. Since 1992, this percentage has remained in the 35-38% range.

- Many states now are lowering the BAC defining impaired driving from .10 to .08. A BAC as low as .02 has been shown to affect driving ability and crash likelihood.

- The probability of a crash increases significantly at .05 and even more rapidly at .08.

- Among drivers with BACs above .15 on weekend nights, the likelihood of death in a single-vehicle crash is more than 380 times higher than it is for nondrinking drivers.

- The highest proportion of driver deaths involving BACs at or above .10 in 1995 occurred in passenger vehicles. The group of drivers with the lowest proportion was tractor-trailer drivers.

- Among fatally injured car drivers in 1995, 41% of the males and 20% of the females had BACs at or above .10. Alcohol involvement in crashes is highest among men age 21-30.

- Alcohol involvement in crashes peaks at night and is higher on weekends than on weekdays. Among passenger vehicle drivers fatally injured between 9 pm and 6 am in 1995, 58% had BACs at or above .10, compared with 20% during other hours.
Facts on the Economic Issues

According to the National Highway Traffic Safety Administration:

- In 1995, 41,798 people were killed in highway crashes. Another 3 million were injured.

- Motor vehicle crashes cost society $150 billion each year in emergency and acute health care costs, long-term care and rehabilitation, police and judicial services, insurance, disability and workers compensation, lost productivity, and social services for those who cannot return to work and support their families.

- Alcohol-related crashes cost society over $45 billion every year. Just one alcohol-related fatality is estimated to cost society about $950,000. Each alcohol-related injury averages about $20,000.

- Almost a quarter of first-year medical costs for persons hospitalized as a result of a crash are paid by tax dollars, about two-thirds through Medicaid and one-third through Medicare.

- Employers pay for approximately half the cost of motor vehicle crashes, through insurance, disability, worker's compensation, and lost productivity. Eventually, we all bear the costs through tax-payer supported services and programs, higher insurance costs, and higher prices on goods and services.

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

- The indirect costs of alcohol-related crashes (pain, suffering and lost quality of life) increase the toll for alcohol-related crashes to $134 billion a year.

- Alcohol-related crashes cost society $1.00 per drink or $2.20 per ounce of alcohol consumed. This figure includes drinks consumed in the home.

- Crash costs are $5.54 for every mile driven drunk. This includes $2.34 to people other than the drunk driver. By comparison, crash costs are $.10 per mile driven while sober.

- Alcohol-related crashes account for 19% of auto insurance payments in 1993 (a decline from 26% in 1990).

- A drunk driving crash costs each innocent victim $36,000. Comparable crime costs per victim are: assault – $30,000; robbery – $16,000; motor vehicle theft – $4,000. Yet, the drunk driving crash is the only one of these crimes that is often not considered a felony upon the first offense.
The Facts About .08

• A law making .08 BAC the legal limit is a reasonable, sensible approach to the problem of impaired driving.

• .08 laws increase the arrest and conviction rates for impaired drivers at .10 and above while raising the perceived risk of arrest for driving after drinking.

• .08 laws raise public awareness about how much alcohol it takes to be dangerously impaired.

• Most other industrial nations already set their legal limit at .08 or lower.

• Supporters of .08 BAC laws at the state level include federal agencies, consumer and victim's organizations, highway safety groups, law enforcement organizations, medical and public health groups, insurance companies and other business interests, and many others.

• According to a recent poll by the Gallup Organization for Mothers Against Drunk Driving, 97% of Americans believe drunk driving is a major highway safety problem.

• If every state adopted a .08 per se law, between 500-600 lives could be saved every year, according to a recent study conducted by researchers at Boston University.

• It takes about 3-4 drinks in one hour on an empty stomach to reach a .08 BAC. This does not affect the casual, social drinker who may have a couple of beers after work or a glass or two of wine with dinner once in a while.

• On average, alcohol metabolizes in the body and dissipates from the blood at a rate of about .015 BAC per hour.

• At .08, everyone is impaired to the point that critical driving skills such as reaction time, attention, tracking, and comprehension are degraded.
What You Can Do About Impaired Driving

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

- Your best defense against a drunk driver is to wear your safety belt and be sure children are properly secured in child safety seats.

- Be a responsible host. Serve food and have non-alcoholic drinks available. Don't let your guests drive after drinking alcohol and never serve alcohol to someone under the age of 21.

- Write letters to the editor of local newspapers expressing your concern over drunk driving and underage drinking in your community.

- Never ride in a car operated by someone who has been drinking - call a cab or ask a friend to drive you home.

- Support measures to strengthen drunk driving and victims rights laws by contacting elected officials.

- Report drunk drivers immediately to area law enforcement from a car phone or pay phone with the license plate number, description of the vehicle, and the direction in which it was traveling. Keep a safe distance from anyone driving erratically and do not try to intervene yourself.

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

Resources

The Federal Government

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

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

**NHTSA Region I**
(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont)
Volpe National Transportation Systems Center
Kendall Square, Code 903
Cambridge, MA 02142
Phone 617/494-3427
Fax 617/494-3636

**NHTSA Region II**
(New Jersey, New York, Puerto Rico, Virgin Islands)
222 Mamaroneck Avenue, Suite 204
White Plains, NY 10605
Phone 914/682-6162
Fax 914/682-6239

**NHTSA Region III**
(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)
BWI Commerce Park
7526 Connelley Drive, Suite L
Hanover, MD 21076
Phone 410/768-7111
Fax 410/768-7118

**NHTSA Region IV**
(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)
Atlanta Federal Center
100 Alabama Street, SW, Suite 17T30
Atlanta, GA 30303-3106
Phone 404/562-3739
Fax 404/562-3763

**NHTSA Region V**
(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)
19900 Governor Drive, Suite 201
Olympia Fields, IL 60461
Phone 708/503-8822
Fax 708/503-8991

**NHTSA Region VI**
(Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Indian Nations)
819 Taylor Street, Room 8A38
Fort Worth, TX 76102
Phone 817/334-3653
Fax 817/334-8339

**NHTSA Region VII**
(Iowa, Kansas, Missouri, Nebraska)
6301 Rockhill Road, Room 100
Kansas City, MO 64131
Phone 816/822-7233
Fax 816/822-2069

**NHTSA Region VIII**
(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)
555 Zang Street, 4th Floor
Lakewood, CO 80228
Phone 303/969-6917
Fax 303/969-6294

**NHTSA Region IX**
(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands)
201 Mission Street, Suite 2230
San Francisco, CA 94105
Phone 415/744-3089
Fax 415/744-2532
NHTSA Region X
(Alaska, Idaho, Oregon, Washington)
3140 Jackson Federal Building
915 Second Street
Seattle, WA 98174
Phone 206/220-7640
Fax 206/220-7651
Two other federal agencies are also good sources of information:

National Clearinghouse for Alcohol and Drug Information
Center for Substance Abuse Prevention
US Department of Health and Human Services
PO Box 2345
Rockville, MD 20847-2345
Phone: 800/729-6686
Web site: http://www.health.org
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594
Phone: 202/314-6000
Web site: http://www.ntsb.gov

State Governments

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

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

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

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

Highway Safety Planning Agency
Alaska Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
Phone: 907/465-4374
Fax: 907/463-5860
Governor's Representative/Commissioner of Public Safety
American Samoa Government
PO Box 1086
Pago Pago, AS 96799
Phone: 011-684-633-1111
Fax: 011-684-633-5111
Governor's Office of Community and Highway Safety
Arizona Department of Public Safety
3010 N. Second Street, Suite 105
Phoenix, AZ 85012
Phone: 602/255-3216
Fax: 602/255-1265
Highway Safety Program
Arkansas Highway & Transportation Department
PO Box 2261
11300 Baseline Road
Little Rock, AR 72203
Phone: 501/569-2648
Fax: 501/569-2651
Office of Traffic Safety California Business, Transportation, & Housing Agency
7000 Franklin Boulevard, Suite 440
Sacramento, CA 95823
Phone: 916/262-0990
Fax: 916/262-2960
Colorado Office of Transportation Safety Department of Transportation
Headquarters Complex
4201 East Arkansas Avenue
Denver, CO 80222
Phone: 303/757-9381
Fax: 303/757-9439
Division of Highway Safety
Connecticut Department of Transportation
2800 Berlin Turnpike
PO Box 317546
Newington, CT 06131-7546
Phone: 860/594-2363
Fax: 860/594-2374
Office of Highway Safety Delaware Department of Public Safety
PO Box 1321
Dover, DE 19903-1321
Phone: 302/739-3295
Fax: 302/739-5995
Transportation Safety Branch
DC Department of Public Works
2000 14th Street, NW, 7th Floor
Washington, DC 20009
Phone: 202/939-8018
Fax: 202/939-7185
Safety Office Florida Department of Transportation
605 Suwannee Street, MS 53
Tallahassee, FL 32399-0450
Phone: 904/488-3546
Fax: 904/922-2935

Georgia Governor’s Office of Highway Safety
Equitable Building
100 Peachtree Street, Suite 2000
Atlanta, GA 30303
Phone: 404/656-6996
Fax: 404/651-9107

Highway Safety Coordinator
Guam Department of Public Works
PO Box 2950
Agana, GU 96910
Phone: 011-671-646-3211
Fax: 011-671-649-3733
Operator Assisted Calls: 01-671-646-3211

Motor Vehicle Safety Office
Hawaii Department of Transportation
1505 Dillingham Blvd., Suite 214
Honolulu, HI 96817
Phone: 808/832-5820
Fax: 808/832-5830

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

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

Indiana Governor’s Council on Impaired and Dangerous Driving
150 West Market Street, Suite 330
Indianapolis, IN 46204
Phone: 317/232-1299
Fax: 317/232-5150

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

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

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

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

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

Bureau of Highway Safety
Maine Department of Public Safety
Station #42
Augusta, ME 04333
Phone: 207/624-8756
Fax: 207/624-8768

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

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

Massachusetts Governor’s Highway Safety Bureau
100 Cambridge Street, Room 2104
Boston, MA 02202
Phone: 617/727-5073
Fax: 617/727-5077

Michigan Office of Highway Safety Planning
4000 Collins Road, PO Box 30633
Lansing, MI 48909-8133
Phone: 517/333-5291
Fax: 517/333-5756

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

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

Missouri Division of Highway Safety
PO Box 104808
Jefferson City, MO 65110-4808
Phone: 573/751-7643
Fax: 573/634-5977
The Private Sector

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

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

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

Mothers Against Drunk Driving
511 E. John Carpenter Freeway, #700
Irving, Texas 75062
Phone: 214/744-MADD (6233)
Fax: 972/869-2206/2207

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

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

American Automobile Association
1000 AAA Drive
Heathrow, FL 32746
Phone: 407/444-7000

American Coalition for Traffic Safety
1005 North Glebe Road
Arlington, VA 22201
Phone: 703/247-1500
Web site: http://www.hwysafety.org

International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
Phone: 703/836-6767
Web site: http://www.internationalchiefs.org (as of March 1997)

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

International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
Phone: 703/836-6767
Web site: http://www.internationalchiefs.org (as of March 1997)

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

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

Students Against Driving Drunk (SADD)
PO Box 800
Marlboro, MA 01752
Phone: 508/481-3568

The Private Sector

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

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

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Irving, Texas 75062
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Phone: 202/408-1711
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Heathrow, FL 32746
Phone: 407/444-7000

American Coalition for Traffic Safety
1005 North Glebe Road
Arlington, VA 22201
Phone: 703/247-1500
Web site: http://www.hwysafety.org

International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
Phone: 703/836-6767
Web site: http://www.internationalchiefs.org (as of March 1997)

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

International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
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Web site: http://www.internationalchiefs.org (as of March 1997)

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

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

Students Against Driving Drunk (SADD)
PO Box 800
Marlboro, MA 01752
Phone: 508/481-3568
APPENDIX C

Model Law

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

CHAPTER 11 - Rules of the Road

ARTICLE IX - SERIOUS TRAFFIC OFFENSES

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

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

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

Optional 1. The alcohol concentration in such person’s blood or breath as measured within three hours of the time of driving or being in the actual physical control is 0.08 or more based on the definition of blood and breath units in [Section 11-903]. If proven by a preponderance of evidence, it shall be an affirmative defense to a violation of this subsection that the defendant consumed a sufficient quantity of alcohol after the time of driving or actual physical control of a vehicle and before the administration of the evidentiary test to cause the defendant’s alcohol concentration to be 0.08 or more. The foregoing provision shall not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than three hours after such alleged violation.

2. Under the influence of alcohol;

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

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

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

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

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

Mothers Against Drunk Driving, fact sheets (various)

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


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