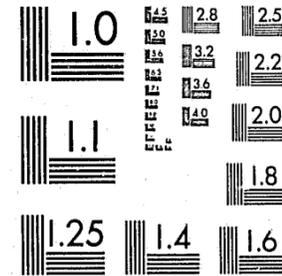


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# STOP DWI:

## New York's Response to Drunk Driving

A Report to the Senate Special Task Force on Drunk Driving  
by Senator William T. Smith, Chairman  
February, 1982

U.S. Department of Justice  
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STOP DWI:

NEW YORK'S RESPONSE TO DRUNK DRIVING

A REPORT TO THE SENATE SPECIAL  
TASK FORCE ON DRUNK DRIVING  
BY SENATOR WILLIAM T. SMITH,  
CHAIRMAN

FEBRUARY, 1982

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February 5, 1982

Dear Task Force Members:

Drunk drivers impose a staggering burden on our society. As a result of their actions, more than 25,000 Americans are killed and hundreds of thousands are injured in car crashes each year.

New York has long had laws designed to make possible the arrest, prosecution, and conviction of those who choose to drink excessively and drive. A number of these laws have been pioneering responses to the problem. New York's implied consent law, for example, was the first law in the nation providing that acceptance of a driver's license implies consent to a legal police request for a chemical test for blood alcohol content.

Later legislation defining driving while intoxicated in terms of specific levels of blood alcohol further assisted the prosecution of drunk drivers, while the state's law establishing drinking driver programs for those convicted of alcohol related driving offenses provided for education and rehabilitation of those convicted of the offense.

Despite these laws, the toll resulting from crashes involving drunk drivers has steadily increased. Thus, in 1980, Senate Majority Leader Warren Anderson created the Senate Special Task Force on Drunk Driving. His actions recognized the necessity of creating a group in the Legislature whose purpose is to focus on this problem.

As Chairman of the Task Force, I have directed its efforts in two directions. First, by organizing a series of hearings on local responses to drunk driving, I sought information about the problem, and what was already being done by our localities to counter it. At the same time, these hearings were intended to focus public attention on the problem.

The second focus of Task Force activity has involved working for the passage of a number of new laws that will improve the ability of the State and its localities to respond to the problem.

It is my belief that these new laws will provide uniform and tough penalties against drunk drivers. At the same time, the new legislation will provide New York's localities with the resources to enable them to carry out their responsibilities. With the new revenues made available by STOP DWI legislation, localities may increase their enforcement, prosecution, adjudication, or education efforts to deal with the problem.

With the passage of these thirteen new laws aimed at drunk driving in the past two years, we must once again begin to evaluate the effectiveness of New York's responses to drunk driving. In the coming years we shall see whether our actions have been effective.

At the same time, we must consider the many proposals for changes in our drunk driving laws that are now before the Legislature. During the coming session, the Task Force will evaluate this additional legislation and work for the enactment of those bills which would make New York's laws a more effective deterrent against drunk driving.

Your continued work on the Task Force and your support for its efforts will be essential to our success in the future.

Sincerely,

  
William T. Smith

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ACQUISITIONS

## INTRODUCTION

The danger posed by drunk drivers to those who use our highways is well known.

Although intoxicated drivers make up only about 2% of those on the road in the United States, they are involved in half - - 25,000 - - of the approximately 50,000 fatalities recorded in automobile accidents each year. In addition, drunk drivers are involved in 11% - - more than 200,000 - - of all personal injury crashes on a yearly basis.

Statistics further show that alcohol involvement is directly related to crash severity; the more severe the accident, the more likely it is that a drunk driver will be involved. Studies of the relationship between blood alcohol content (BAC) and fatal crash probability have shown that a driver with BAC of 0.15% is 25 times more likely to be involved in a fatal crash than a driver who has not been drinking.

Thus, drinking to intoxication and driving is clearly a risky combination. Yet, the data on the number of alcohol related personal injuries and fatalities resulting from car crashes demonstrates that far too many drivers risk injury or death to themselves and others by drinking and driving.

People drink and drive because both drinking and driving are viewed as acceptable or necessary by most people in our society. The so-called "love affair" of Americans and the automobile is a result of America's geographic development. The preference of Americans for low density housing, and the resultant geographic dispersion of commerce and industry have made the car a necessity

for most Americans. In New York State, for instance, there are more than nine million drivers licenses in force in New York for an eligible population of thirteen and a half million. Outside New York City, more than six million of the nine million eligible residents hold licenses.

At the same time, alcohol use in this society is widespread. Two-thirds of adult Americans consume alcohol, while 12% are characterized as heavy drinkers.

Given the widespread presence of drivers and drinkers in our society, it is not surprising that people do drive after drinking excessively. This fact points to another unfortunate characteristic of the relationship between drinking and driving; it is persistent

Studies of governmental attempts to reduce the number of drunk driving related accidents and fatalities have come to the conclusion that these efforts have not yet been successful over the long run. All evidence points to the fact that despite efforts by the Legislature, the police, the courts, and medical personnel, people continue to drink and drive. Thus, our responses to the problem are tempered by the knowledge that we must be open to new approaches to dealing with it and that many of them may fail.

Because past efforts have been unsuccessful in altering the attitudes of people who drink and drive, the State Senate recognized that it must do three things. First, it must make laws which provide uniform, substantial penalties against all drunk drivers. Second, it must provide the resources to localities to ensure that these drivers will be apprehended. Third, it must inform the public of the dangers imposed by drunk drivers and of the new substantial penalties that they face. In this way, tolerant public attitudes towards drunk driving may be changed.

## THE PROBLEM

Studies of drunk driving show that the blood alcohol content (BAC) of drivers is a strong predictor of alcohol crash involvement. As the BAC of drunk drivers approaches 0.08, their crash risk sharply increases. Chart I shows that drivers with a 0.08 BAC have a somewhat (4 times) greater chance of fatal crash involvement than drivers who have not been drinking. In contrast, drivers with a BAC of 0.15 would be as much as 25 times more likely to be involved in such a crash.<sup>1</sup>

To achieve a BAC of .08, a 160 pound person would have to drink 4 drinks (1-1/2 ounces of 86° alcohol, 12 ounces of beer, or 5 ounces of wine) in one hour or 5-1/2 drinks in 2 hours. Since the effect of liquor varies with weight, someone weighing 100 pounds would reach .08 BAC with only 2-1/2 drinks in one hour, or 3-1/2 drinks in two hours. (See Chart II).

The body eliminates alcohol slowly. Consequently, a person who continues to drink as rapidly in the second or third hour as he did in his first hour of drinking will not merely maintain his BAC, he will substantially increase it. Driving becomes very risky for the average person after a several hour period of moderately heavy drinking.

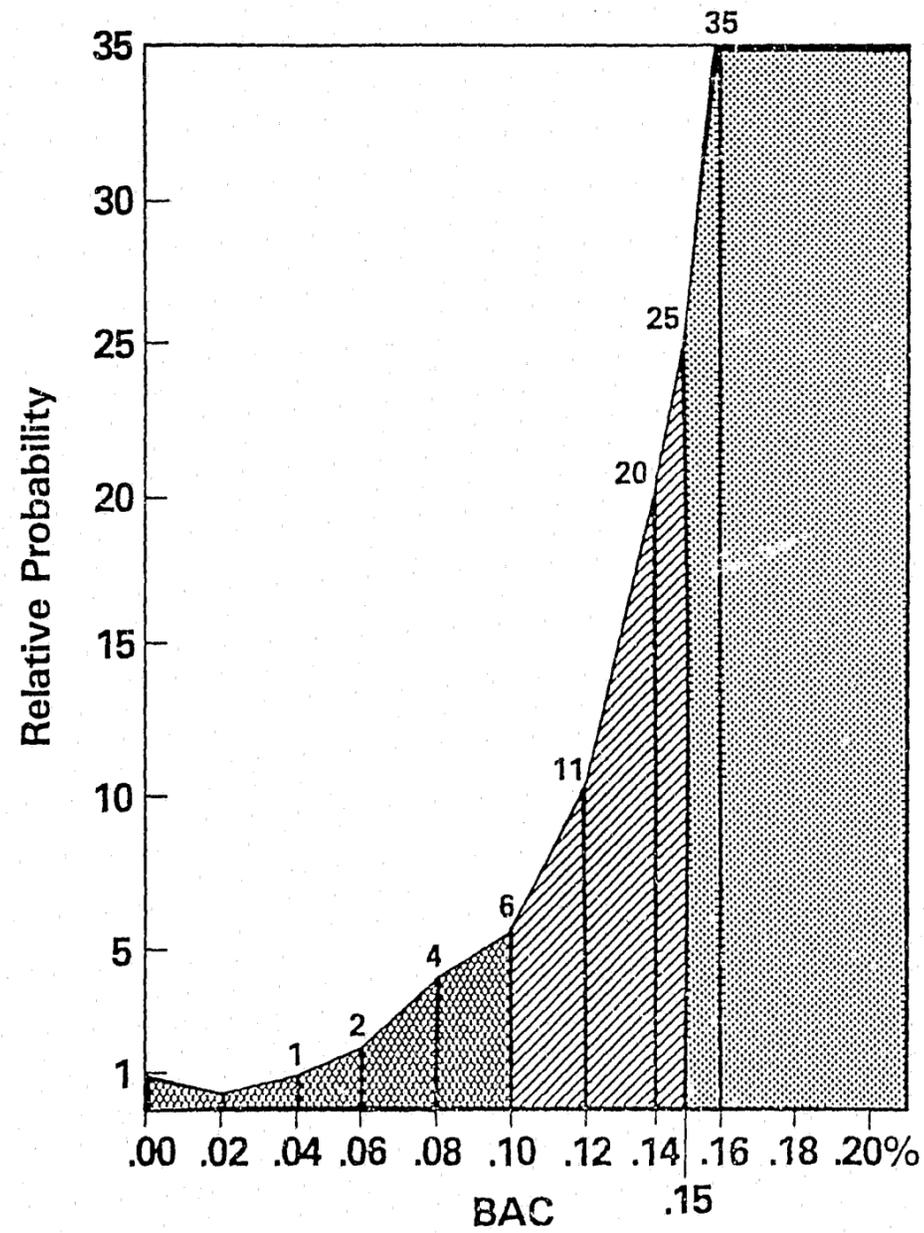
Since the amounts of alcohol required to greatly increase risk are not substantially different from the drinking patterns of many Americans in social circumstances, the problem is a difficult one to respond to.

Because of the widespread use of alcohol in our society, we find alcohol involvement in all age groups of drivers involved in

<sup>1</sup> P.M. Hurst, "Epidemiological Aspects of Alcohol and Driver Crashes and Citations" in Alcohol, Drugs and Driving, M.W. Perrine, ed.; National Highway Traffic Safety Administration, Technical Report, DOT-HS-801-096 (1974).

CHART I

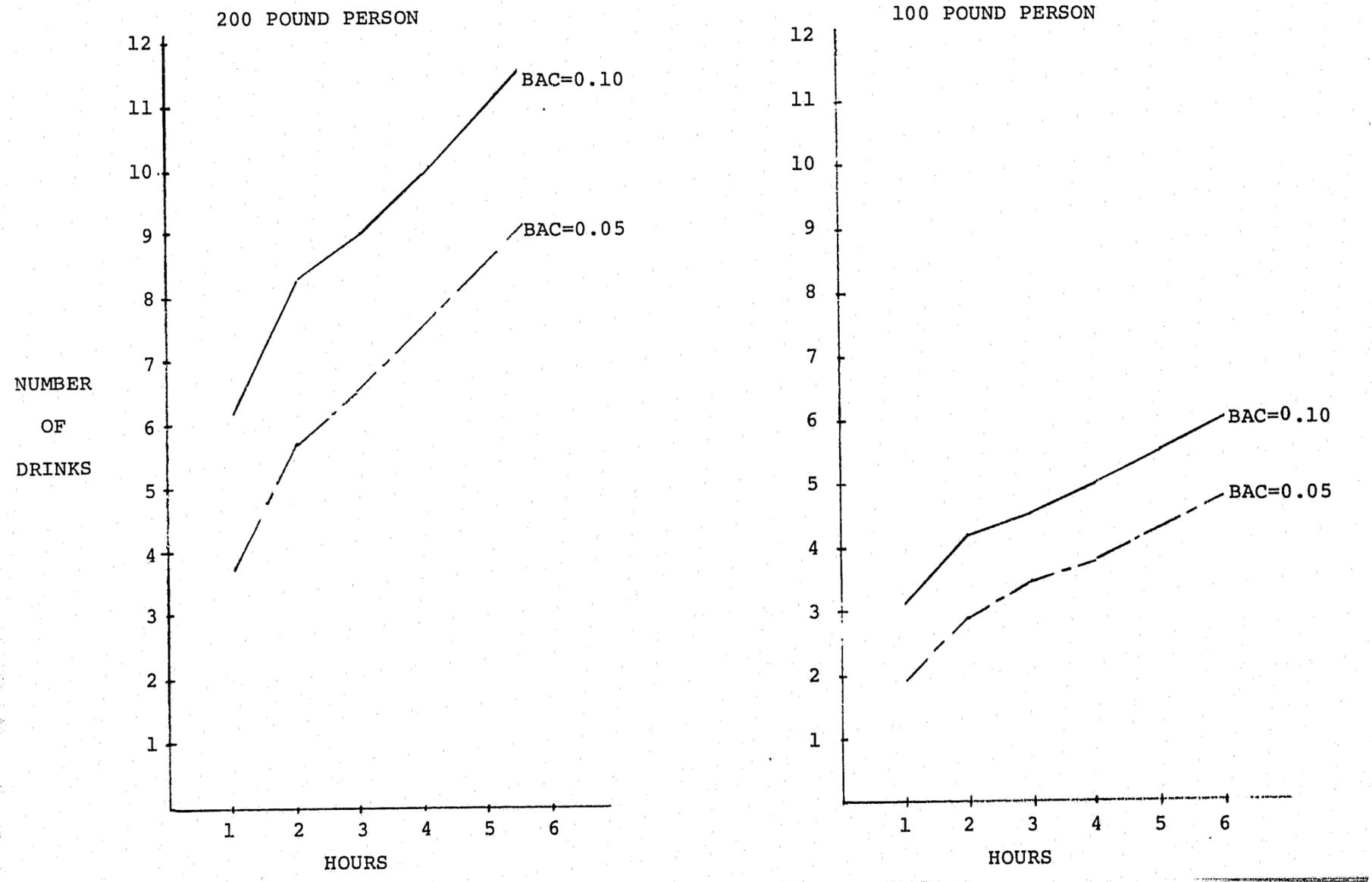
**Drivers With a BAC .15% Are  
25 Times as Likely to Cause an Accident  
as Drivers With a .00% BAC**



Source: National Highway Traffic Safety Administration

CHART II

BLOOD ALCOHOL CONTENT PER HOUR OF DRINKING



crashes. However, a disproportionate number of young drivers are involved (Chart III). Most of those drivers who show alcohol involvement in these crashes are male (90% in fatal crashes with alcohol involvement), since most drivers are male and since alcohol use by men is somewhat heavier than by women. In other respects, drunk drivers involved in accidents are similar in their demographic characteristics to other drivers.

Not surprisingly, drunk driving crashes are predominantly a nighttime phenomenon. In addition, since they reflect societal drinking patterns, they occur most often on Fridays, Saturdays and Sundays.

Drinking drivers involved in fatalities do differ in some important ways from non-drinking drivers. These drivers are far more likely to have had previous convictions for drunk driving - nine times more likely, according to one study - than are other drivers.<sup>2</sup> Several studies have shown problem drinkers to be involved in approximately half of the known drinking accidents.<sup>3</sup> Thus, drunk driving repeat offenders, problem drinkers and alcoholics appear to contribute to the alcohol crash problem to a much greater degree in proportion to their share of the population than other drivers.

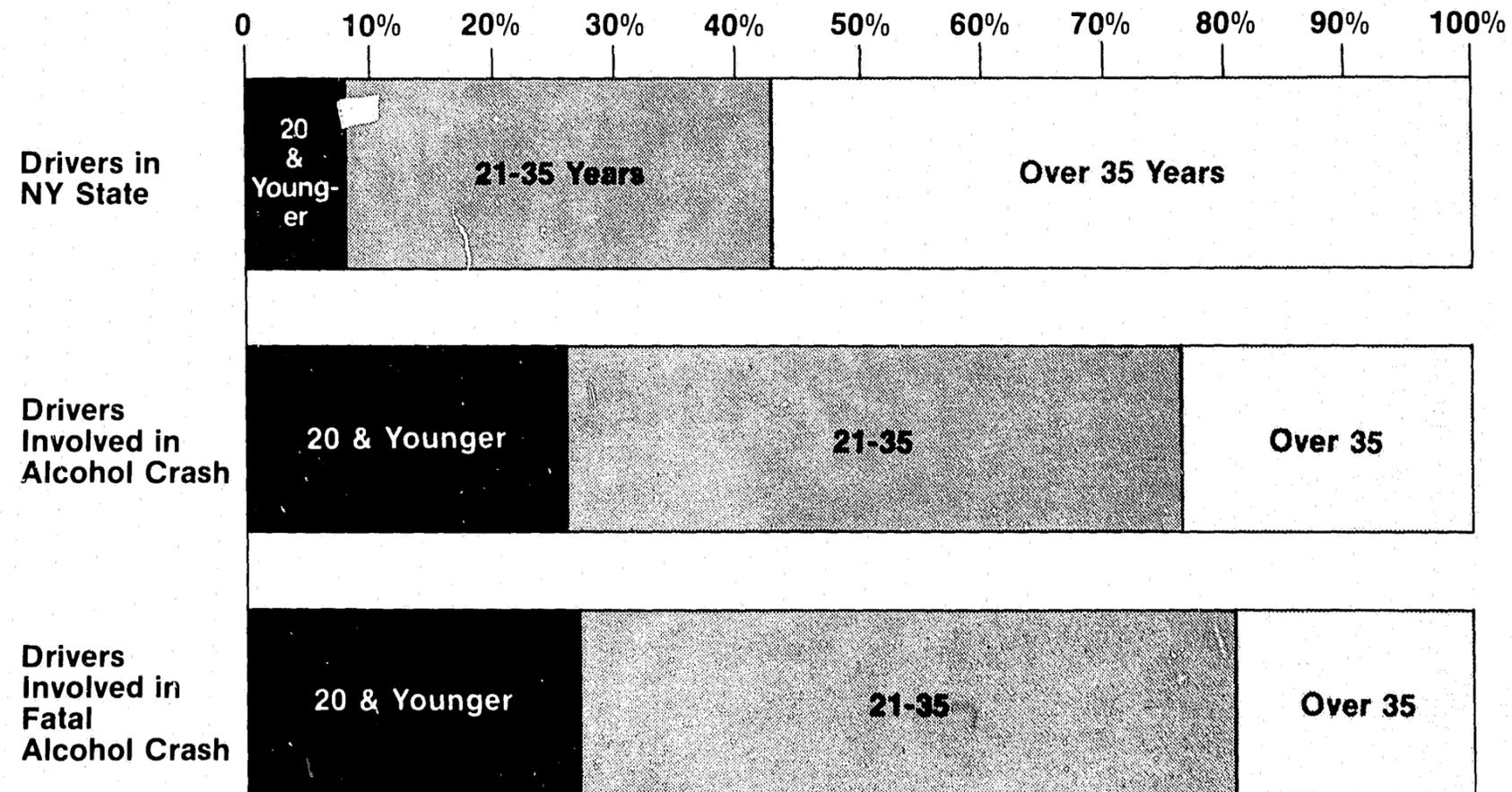
In responding to the drunk driving problem, then, we must deal with two significantly different groups. One group comprises a virtual cross section of the adult population. Many people in

<sup>2</sup> L.D. Filkens, C.D. Clark, C.A. Rosenblatt, W.L. Carlson, M.W. Kerian, H. Manson, Alcohol Abuse and Traffic Safety: A Study of Fatalities, DWI Offenders, Alcoholics, and Court Related Treatment Approaches, Final Report, U.S. Department of Transportation, National Highway Safety Bureau, Contract Numbers FH-11-6555 and FH-11-7129 (1970).

<sup>3</sup> J.A. Waller, "Patterns of Traffic Accidents and Violations Related to Drinking and to Some Medical Conditions", Quarterly Journal of Studies on Alcohol, Supplement No. 4:18-37 (1968).

CHART III

### Ratio of Age of Drivers to Alcohol & Fatal Alcohol Involved Crashes — New York State, 1979



Source: *Why Nineteen: The Minimum Drinking Age and Related Initiatives to Combat Alcoholism, Drunk Driving and Teenage Alcohol Abuse*, Senator Frank Padavan, 1981

the United States drink to the point that driving is risky, but drive anyway because they drove to the place where they did their drinking. A second group of heavy drinkers and chronic drunk drivers is disproportionately more likely to be involved in fatal alcohol related accidents and to be convicted of drunk driving.

#### PAST RESPONSES

Drunk driving is an extraordinarily difficult problem for government to respond to. Because it is widespread and often engaged in by otherwise law abiding citizens, harsh legal responses have often been ruled out. Incarceration of all offenders (more than 40,000 in New York State alone) would impose a very heavy burden on the prison system and would be very costly. The fact that DWI offenders come from a substantial cross section of the public often leads police, prosecutors, the public, and members of the legislature to minimize the seriousness of the offense: to accept the belief that they are not criminals, despite the great risk that the actions of drunk drivers impose upon themselves and others.

The approaches to the drunk driving problem described in the following section of this report represent attempts to deal with several aspects of a complex problem. Viewed as a system, government's responses to drunk driving must be made up of a series of discrete elements, or subsystems, which, nevertheless, interrelate. Because of the interrelationships within the system of drunk driving countermeasures, changes in one subsystem element will affect the performance of other subsystems within the system. At the same time, since the subsystems in the overall drunk driving system perform different functions, their performance cannot be evaluated by a single criterion.

The National Highway Traffic Safety Administration, in Alcohol and Highway Safety, a Review of the State of Knowledge, 1978,<sup>4</sup> identifies four subsystems within the overall system of drunk driving countermeasures adopted by governments as responses to drunk driving. These are legal, health, public information and education, and technological approaches. In addition, NHTSA identifies the systems approach itself as a governmental response to the problem. Within the systems approach, NHTSA places responses which take a broad perspective to the problem, integrating approaches from more than one subsystem.

The legal subsystem consists of those elements which involve the framework of legal sanctions against drunk driving and the personnel who apply them: Police, district attorneys, defense attorneys, and judges. This subsystem serves several functions. First is general deterrence. By stating the penalties which will be applied to those who violate the laws, by providing the personnel to enforce them in a sufficient number of cases to make drivers fear apprehension, and by applying the sanctions in the courts, this system serves to deter drivers in general from breaking the law by drinking and driving.

Effective performance of the general deterrence function is essential because it reaches all drivers. It commands them not to engage in a prohibited behavior, states the penalties for doing so, and provides a sufficient number of examples of its application to demonstrate to the general public what can happen if the law is disregarded.

<sup>4</sup> Alcohol and Highway Safety: A Review of the State of Knowledge, 1978, U.S. Department of Transportation, National Highway Traffic Safety Administration (1978).

Specific deterrence, on the other hand, has a narrow impact. The specific deterrence function is created by the application of the laws by enforcement personnel, attorneys, and judges to individuals who violate the State's drunk driving laws. The effectiveness of specific deterrence results from the sanctions that are applied to those who have already broken the law. The implicit message to such violators is that the penalties which will be applied the next time will be even worse. Therefore, the effect of specific deterrence can only be retrospective - following a violation of the law. In addition, because enforcement efforts yield only a very small portion of drunk driving violators, this specific deterrence function reaches only a small portion of the population.

The legal subsystem interacts with functions performed by other drunk driving subsystems in significant ways. Because those subject to specific deterrence through their contact with the legal subsystem can be compelled to submit to educational or rehabilitative efforts, the performance of this function by enforcement personnel and the court has other benefits.

Legal penalties for drunk driving infractions in most places have been light - small fines and license suspensions which are lifted if offenders agree to participate in a drunk driving education or rehabilitation course. In a few cases, courts have imposed short jail sentences, which are usually suspended. In places where "crackdowns" have mandated jail sentences for drunk driving, the result has been that those charged with applying the laws have found ways to avoid incarcerating the otherwise "good citizens" who are supposed to wind up in jail as a result of drunk driving.

Enforcement of the laws is similarly slight. Estimates of the risk of apprehension for drunk drivers have ranged from one in 200, in the places with the strictest enforcement, to one in 2,000 in localities where no special emphasis is placed on the problem.<sup>5</sup>

Enforcement efforts reach few drunk drivers for a variety of reasons, ranging from the fact that drunk driving may not result in any other violation of the traffic laws at the time such a driver is observed, to the low priority attached by police to traffic patrols in general, compared with more "serious" crimes. In many jurisdictions, most DWI arrests result from accidents.

The health subsystem performs the function of rehabilitating violators who have been determined to be alcohol abusers. By identifying problem drinkers and encouraging them to accept rehabilitation, personnel within the legal subsystem contribute to the rehabilitation function.

Rehabilitation can be successful for some individuals with alcoholism problems. It is not successful in all these cases, however. At the same time, alcohol rehabilitation is not an appropriate response for those drunk driving offenders who are not alcoholics. Finally, since a very small percentage of drunk drivers - less than 1/2 of one percent - is actually caught, efforts directed at convicted offenders reach only a very

<sup>5</sup> See R. F. Borkenstein, "Problems of Enforcement, Adjudication and Sanctioning", in Alcohol, Drugs and Traffic Safety, S. Israelstam, S. Lambert, Proceedings of the Sixth International Conference on Alcohol, Drugs, and Traffic Safety, Toronto, Ontario: Addiction Foundation of Ontario (1975) and G. A. Beitel, M. C. Sharp and W. D. Glauz, "Probability of Arrest While Driving Under the Influence of Alcohol", Journal of Studies on Alcohol 36(1):109-16 (1975).

small percentage of all drunk drivers, even when effective. Thus, this approach does not significantly reduce the incidence of the drunk driving problem, despite its therapeutic value for those who receive treatment.

The public information and education system identified in the NHTSA report contributes to both kinds of deterrence, as well. Messages about the crash risk associated with drinking and driving, the dangers of alcohol abuse, and the legal sanctions applied to violators perform essential roles in providing potential drinkers and drivers with information which may lead them to avoid drinking and driving. Presumably, without information about the consequences, people would be more likely to drive after drinking. These messages can be supplied through the media, in educational institutions, and by governmental and other community leaders.

Public information efforts have focused on educating the public about such issues as the relationship of BAC to crash-risk; debunking myths about the "sobering" effects of coffee; and creating more of a sense of personal responsibility for drinking and driving.

Carefully conducted research studies have shown that mandated participation by convicted drunk drivers in educational programs does increase their knowledge of the risks of drunk driving and the laws against this behavior, but has not proven to have a measurable effect on the tendency of these offenders to continue to drive after drinking.<sup>6</sup>

<sup>6</sup> See G.J.S. Wilde, J. L'Hoste, O. Sheppard and G. Wind, Road Safety Campaigns: Design and Evaluation, Paris: Organization for Economic Cooperation and Development (1971); J. W. Sinehart, "The Drinking Driver: Prevention and Deterrence through the Mass Media", Proceedings of the Joint Conference on Alcohol Abuse and Alcoholism, February 21-23, 1972. DHEW Publication No. (HSM) 75-905, Washington, D.C., U.S. Government Printing Office and J. S. Swinehart and A. C. Grimm, Public Information Programs on Alcohol and Highway Safety, Ann Arbor; University of Michigan; Highway Safety Research Institute (1972).

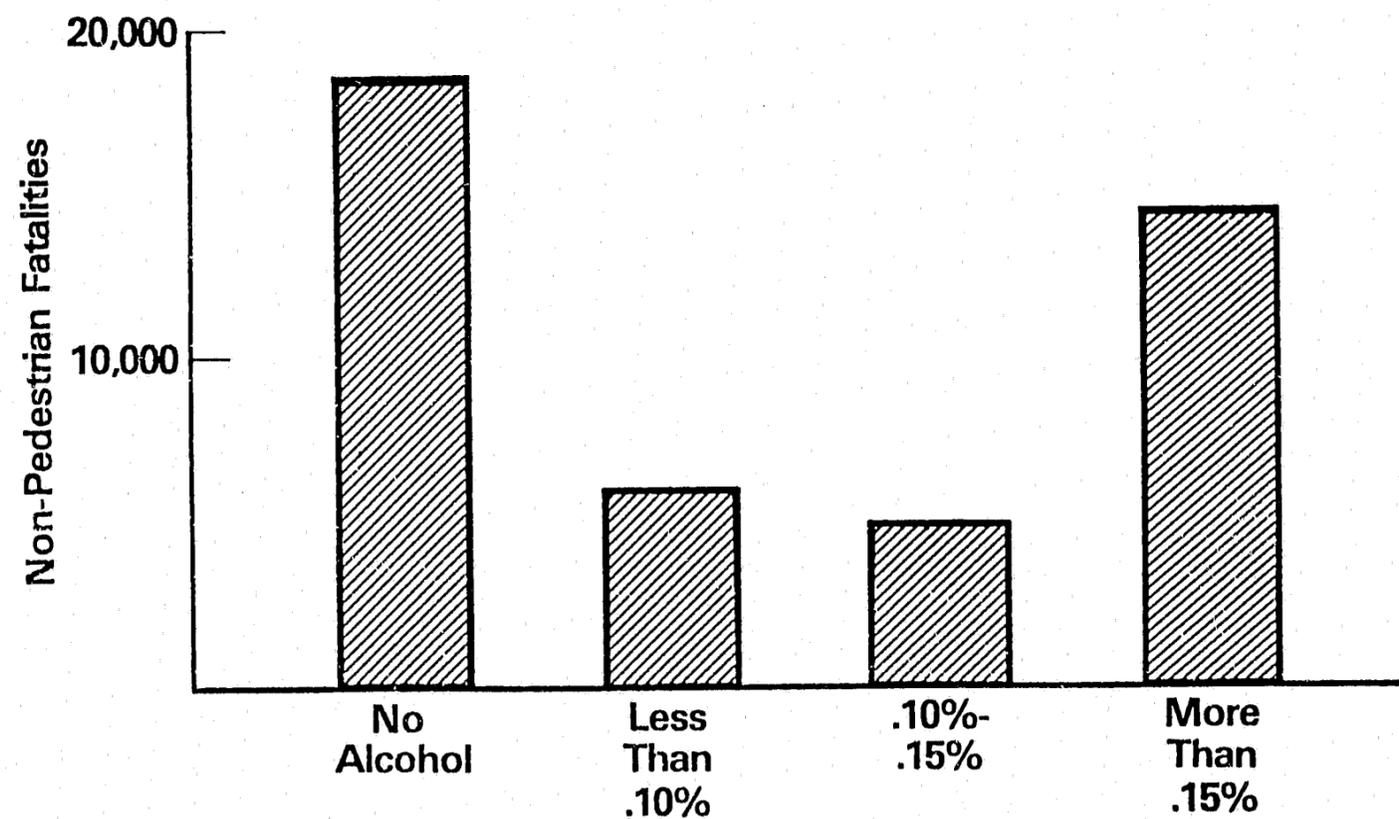
Finally, some have suggested that given the lack of success of other methods of dealing with the drunk driving problem, the driving environment must be altered through such methods as alcohol safety interlocks on cars, automatic headlights, and other changes aimed at making it impossible for drunks to drive, or making others aware that a drunk is behind the wheel. No large scale implementation of any of these approaches has taken place because none has yet proven feasible for mass production.

The idea of requiring the installation of passive restraints (air bags or automatic seat belts) in new cars would certainly reduce deaths and injuries substantially, if implemented. Neither of these devices must be installed under present law. Consequently, their availability is currently very limited. Laws mandating their installation have been resisted by drivers who fear them and who feel, in the case of automatic seatbelts, that they would be excessively confining. At the same time, automobile manufacturers have argued that these would be unpopular features. They point out that passive restraints would add substantially to the expense of vehicles at a time when price related sales resistance is already high.

While the reduction of crash related fatalities stemming from driver intoxication would be the most dramatic result of a successful anti-drunk driving campaign, deterring drunk driving has other crash benefits, as well. In terms of sheer numbers, the nearly 250,000 alcohol related personal injury crashes and 1,300,000 property damage crashes far outnumber the approximately 25,000 crashes in which death resulted. (Charts IV and V). Reduction of these other kinds of crashes is a significant goal for anti-drunk driving efforts. Because the reduction of fatal accidents has commanded the attention of most of those who have studied the problem, less is

CHART IV

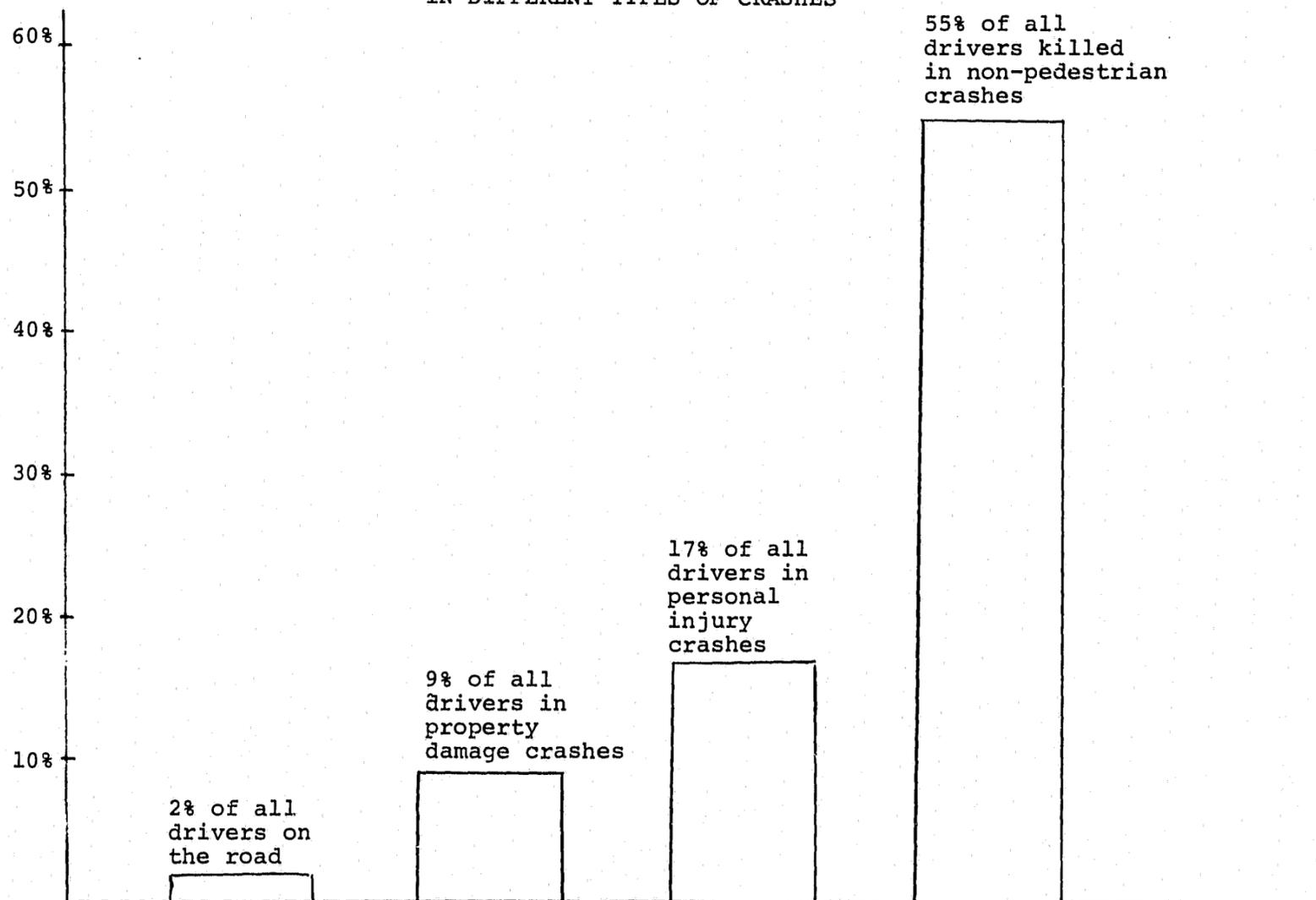
### ***Number of Fatalities Due to Drivers With Various BAC Levels***



**BAC Level of Drivers Responsible**  
(Extrapolated from 1968 Alcohol Report to Congress)

CHART V

DRUNK DRIVER INVOLVEMENT AS A PERCENT OF ALL DRIVER INVOLVEMENT  
IN DIFFERENT TYPES OF CRASHES



(Drivers with BAC levels greater than 0.05%)  
Source: Alcohol and Highway Safety: A review of the State of Knowledge: 1978, Summary Volume  
U. S. Department of Transportation (1978)

known about the effects of various kinds of countermeasures on them.

At the same time, because alcohol related automobile fatalities are a relatively infrequent event in most areas which have attempted greater countermeasures, assessment of the impact of anti-drunk driving campaigns on fatalities is often difficult. For example, in an area averaging fifty drunk driving related fatalities each year, a reduction of ten in a given year would not be statistically significant. On the other hand, the greater frequency of other kinds of alcohol related crashes makes the evaluation of the effect of drunk driving countermeasures on them more certain. A ten percent reduction in the four hundred fifty personal injury crashes in the same area would be statistically significant.

In addition to the deterrence of crashes, an appropriate goal of drunk driving legislation is to increase rehabilitative opportunities for individuals with alcohol abuse problems.

Since the population of alcohol abusers makes up a disproportionate number of those who are arrested for drunk driving, the enforcement process makes it possible to direct these people to treatment and to encourage them to face their problem before they would without such contact. Typically, alcoholics do not accept the need for treatment until the disease has had a far more serious impact on their ability to work, their relationship with their families, and their health.

The record of previous efforts to combat drunk driving is not encouraging. No simple formula for the effective long-term reduction of drunk driving is yet known. Consequently, this Task Force, as well as others dealing with the problem, must

confront the fact that in the absence of known, effective approaches to the reduction of drunk driving related crashes, we must be open to a variety of responses, conditioned on local problems, as well as to the very real possibility of failure, in relation to the goal of reducing drunk driving related injuries and fatalities.

Thus, in what follows, a conscious effort has been made to avoid the development of a statewide plan, mandating a uniform response to the drunk driving problem. Our knowledge of the lack of effectiveness of existing approaches led us to look toward a plan which allows localities to develop responses which meet the needs that they perceive.

In fact, the local focus of responsibility for implementing the legal, rehabilitative, and educational responses to the problem, provides the State with the opportunity to respond to it in an appropriate way by allowing the development of a variety of local programs responding to the problem in different ways.

At the same time, one area of responsibility does rest with the Legislature: the legal framework within which local governments must respond to drunk driving. Thus, in the following section, the existing set of laws which has been developed in response to the problem will be discussed.

#### THE EVOLUTION OF NEW YORK'S DRUNK DRIVING LAWS

New York's drunk driving laws have evolved substantially in response to increasing knowledge of the nature of the problem.

Over the years, the State Legislature has acted to make it easier to convict drunk drivers by building a set of laws designed to serve as a tight framework for legal action against violators. One way in which it has done this has been by encouraging enforcement personnel to get drunk driving convictions based on drivers' blood alcohol content. Drunk drivers confronted by a potential conviction have been shown in many cases to be able to mask the effects of their drunkenness when given the traditional tests of psychomotor coordination. Thus, police officers have found it difficult to make the subjective, but necessary, judgment required when using this test that the suspected drunk driver is legally intoxicated.

Use of the BAC eliminates the necessity of this subjective judgment. In 1953, New York enacted the first implied consent law in the United States. This legislation was enacted to induce those arrested for DWI to take the chemical test. The law passed in that year stated that acceptance of a driver's license in this State implied consent to a properly requested blood test. Drivers who refused the test were made subject to license revocation and a fine for the refusal.

In later years, laws passed by the Legislature broadened the use of the BAC as evidence of intoxication. In 1960, a BAC of .10 was the lowest accepted as prima facie evidence of impairment, the lesser offense; while a BAC of 0.15 was prima facie evidence of

intoxication. In 1971, the Legislature made a BAC of .08 or more prima facie evidence of impairment, while a BAC of .12 became a violation per se of Section 1192(2). This new section of the Vehicle and Traffic Law defined the intoxication offense statutorily in terms of BAC for the first time. In 1972, a BAC of a .10 or more was made a violation of Section 1192(2), while beginning in 1974, a BAC of as low as .06 could be introduced as evidence of impairment.

A second major change in the State's drunk driving laws took place in 1975, with the passage of Senator John Caemmerer's legislation providing that the Department of Motor Vehicles shall offer alcohol and drug rehabilitation programs for convicted drunk drivers (commonly known as the Drinking Driver Program - the DDP).

The DDP provides offenders with information about the dangers of drinking and driving, and about the State's laws against drunk driving. At the same time, the program provides instructors with an opportunity to assess these offenders to determine whether they are problem drinkers. Those drunk drivers taking the course needing alcohol rehabilitation are then referred to treatment. Thus, Senator Caemmerer's legislation incorporated a public health approach to drunk driving into the State's legal response to the problem.

In fact, since the DDP has been established, it has become an important mechanism for identifying large numbers of people in need of alcohol treatment and directing them to clinics where they can receive counseling and treatment. In 1980, 7700 individuals were referred to alcoholism treatment by the program.

The legislation creating the DDP limits participation to those who have not taken the course following a drunk driving conviction within the preceding five years, to those who have not been prohibited from participation by the judge, and to those who have not had two previous convictions of Section 1192 involving personal injury in each case.

As the legislation was originally written, two significant incentives were provided to convicted drunk drivers to enter the program. First, they were granted conditional licenses upon entering the course. While conviction for any violation of Section 1192 provides for automatic license suspension or revocation, the conditional license given to those who enter the course allows them to drive back and forth to work and for an additional three hour period each week.

Second, the legislation provided that any fine which had been imposed for violation of Section 1192 would be returned upon successful completion of the course.

Senator Caemmerer's legislation had a dramatic impact on the number of drunk driving convictions in New York State. Prior to the passage of this law, many courts convicted drunk driving offenders of other charges, such as reckless driving. With enactment of this legislation, judges began to convict most drunk drivers of a drunk driving related charge, to ensure that they would be eligible for the drinking driver program. Thus, the number of reckless driving convictions dropped dramatically as the number of drunk driving convictions increased.

While the passage of laws to combat drunk driving reflects the best known function of the Legislature, its position also enables it to increase public awareness of the problem. Since increased public knowledge of the consequences of drunk driving is necessary to the development of public support for measures to control it, as well as to encourage more responsible patterns of alcohol consumption and driving, these informational activities have been important elements of the Legislature's response to the drunk driving problem.

Thus, the Senate initiated legislation providing funding for the film "Until I Get Caught". The film, produced at Cornell University, proved to be an effective tool to increase public awareness that received wide exposure. Produced by Dr. James Maas, a Cornell psychology professor, it uses a cinema verite approach, looking at the problem from the perspectives of a variety of those who have been involved in it, rather than the traditional blood-and-guts emphasis that traffic safety films have often had. "Until I Get Caught" has been shown nationally on PBS and is widely used by schools and civic groups concerned with the problem.

As a result of a grant from Motors Insurance Corporation, the film is available for distribution in New York State through the office of each State Senator. Additional copies are being distributed by the National Highway Traffic Safety Administration and the General Motors Film Library. Copies are also available on a free loan basis from the Modern Talking Picture Service, funded by a grant from the Exxon Educational Foundation.

#### ACTIONS OF THE SENATE SPECIAL TASK FORCE ON DRUNK DRIVING

With the decision of Senator Anderson to create a Special Task Force on Drunk Driving, the State Senate announced to the public its intention to bring its resources to bear on dealing with this problem. The creation of the Task Force was significant in making possible the further development of effective responses to the drunk driving problem in New York State.

Over the past several years, public awareness of the persistence and severity of this problem has been coupled with an increased frustration with our society's inability to effectively control it. Although the State had responded to the drunk driving problem over the years by developing a set of laws aimed at creating effective legal and medical responses to the problem, this State's experience, like that of other States, was that despite all its efforts, the frequency of drunk driving, and the resulting accidents and fatalities have continued unabated. While the creation of the State's new Drinking Driver Program provided a new, potentially effective, mechanism for helping those convicted of drunk driving offenses the deterrent effect of existing laws was clearly less than complete.

In order to understand why this is the case, it is useful to look at the deterrent function of the State's drunk driving laws as they were constructed at the time of the creation of the Task Force, in 1980.

The State's drunk driving laws were designed to deter drunk drivers in two ways. First, the laws, through the threatened application of penalties, such as fines, jail and license suspensions, act as a deterrent to all those who are aware that if they drink and drive they are likely to be caught; and if caught, they are likely to face penalties which create a meaningful monetary cost, an enforced incarceration, or the inconvenience of the loss of driving privileges. This is referred to as general deterrence. Unfortunately, the State's drunk driving laws in 1980 were not sufficiently strong to provide a significant general deterrent effect.

First, the State's laws provided no minimum penalties for drunk driving. At the same time, maximum fines for drivers convicted of the most common of these offenses were low. With the eligibility of most convicted drunk driving offenders for the DDP, few received any fine or actually lost their licenses. Statewide conviction data shows that fines for drunk driving offenses in 1979 averaged \$11 per convicted driver.

Second, most communities attached a low priority to the enforcement of DWI laws. Since societal attitudes about the problem have tended to minimize its seriousness, police, prosecutors and judges have tended to concentrate on more "serious" crimes. As a result, drunk drivers have had, in most places, a very small chance of being arrested, and if arrested, a small chance of receiving a substantial penalty for their actions. Thus, the State's laws were not an effective general deterrent to many drivers.

A second function of the laws is their specific deterrent function relative to those who are actually caught and prosecuted. Here, the State's laws reflected the weaknesses described in relation to the general deterrence function above. While they provided an effective mechanism to inform drivers about the problem and its consequences, and provided a significant screening mechanism for alcoholics and problem drinkers in need of counseling, they did not actually apply substantial penalties in most cases.

As the Task Force was being created, citizens' groups, such as PARKIT (Prevent Alcohol Related Killings in Tompkins), CCADD (Concerned Citizens Against Drunk Driving), and RID (Remove Intoxicated Drivers), in New York State, organized in an attempt to find innovative ways to respond to the problem. They sought to mobilize public opinion by publicizing the failure of the Legislature, the courts and enforcement officials to come up with effective answers to the problem. In many cases, these criticisms were uncomfortably close to the mark, since legislatures, police departments, courts and other agencies inevitably reflect public attitudes in their actions and in the priorities that they attach to them.

If the Legislature, police and court officials for many years did not effectively confront the societal damage imposed by drunk drivers, they were immobilized because they share the ambivalence of our society to imposing strong sanctions against those arrested for an activity which is so widespread, however severe its consequences, and its uncertainty about how to effectively deal with the problem. By bringing about public awareness of the danger posed by drunk drivers, these groups have made the jobs of those of us in the Legislature, who sought more effective responses, easier.

The Task Force had two functions with respect to the drunk driving problem. By organizing hearings across the State on drunk driving, and by providing those at the local level who have sought to deal with it with opportunities to testify, the Task Force generated statewide publicity about drunk driving, about the nature of local responses to it, and about our intent to take additional action at the State level. By working for the passage of legislation, it acted to improve the State's legal framework for responding to the problem.

#### Public Information

The Task Force held hearings in six locations across the State. Witnesses included representatives of citizens' groups, police agencies, district attorneys, judges, educators, and those involved in rehabilitation efforts. Their testimony helped us understand the kinds of things that are already being tried in communities throughout New York State. This information significantly shaped the legislation which resulted from Task Force activities.

Testimony heard by the Task Force demonstrated both the multi-faceted nature of the problem, and the variety of approaches to the problem already used by local agencies across the State. They showed that in places where local officials and community groups are aware of the seriousness of the drunk driving problem, ambitious programs to combat it have been put in place. In some cases, these programs have been funded by government - either locally, or through the federal ASAP program. In other cases, these efforts have been sponsored by concerned groups in the community. These programs have ranged from efforts to increase enforcement, to more effective prosecution, to programs to ensure that drunk drivers who are alcohol abusers are encouraged to undertake rehabilitation.

#### The Legal Framework

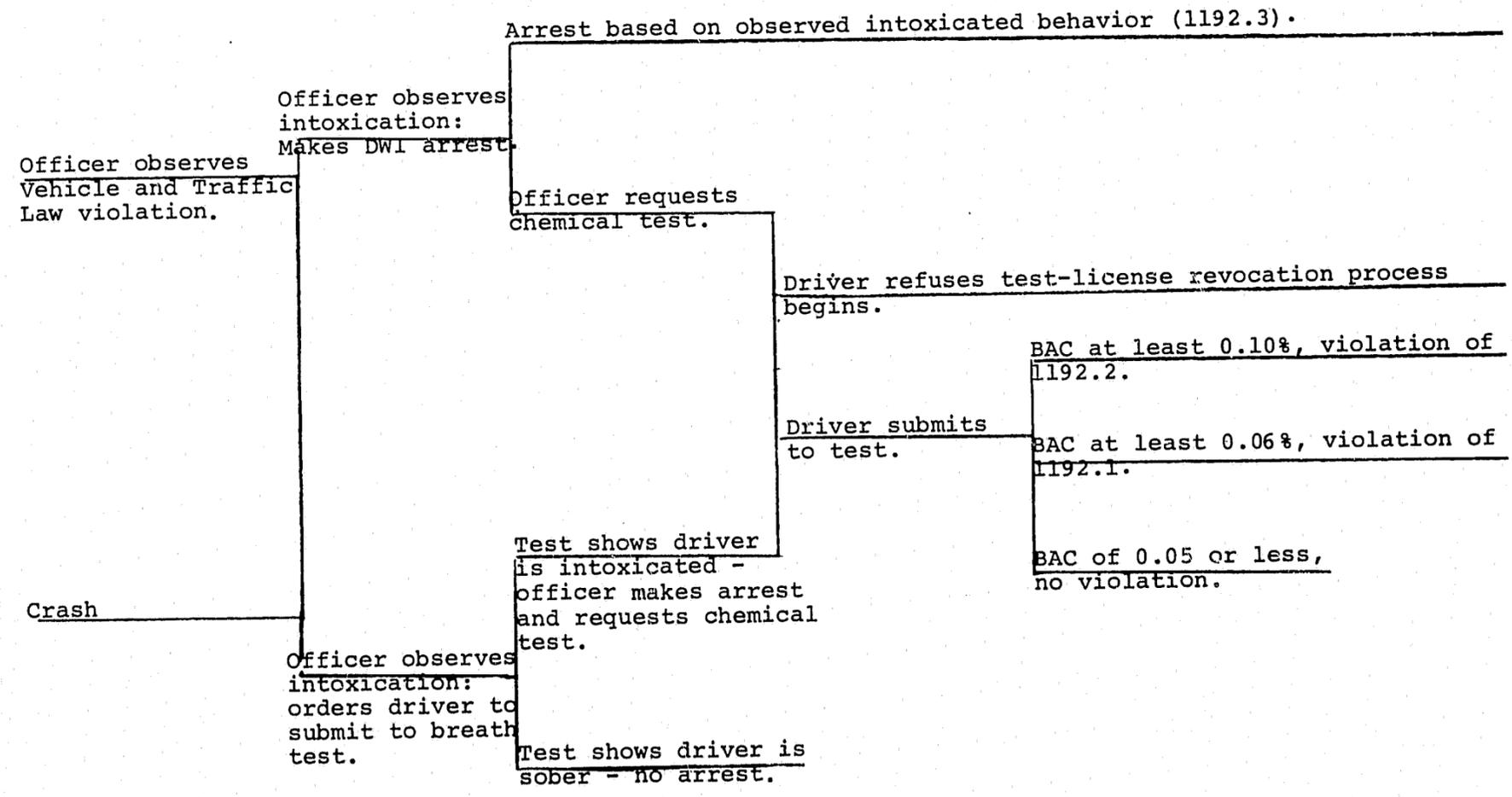
The legislative response of the Task Force had two emphases as a result of the information it received about the nature of the problem. First, it was clear that legislative action was necessary to strengthen existing laws to create an effective legal framework to provide general deterrence against drunk driving. Second, it was necessary to encourage those at the local level responsible for applying these laws to do so more effectively.

In 1980, the Task Force worked for the passage of two pieces of legislation tightening the State's laws against drunk driving. One law, which amends Section 1194 of the State's Vehicle and Traffic Law, provides a workable mechanism to implement the implied consent provisions that mandate license revocation and a \$100 civil penalty for those who refuse the chemical test following an arrest for a drunk driving offense.

The legislation provides for immediate license suspension following refusal of a chemical test request. Within 15 days of the offense (changed to within 15 days of arraignment in 1981), the Department of Motor Vehicles must hold an administrative hearing on the legality of the chemical test request. If the hearing officer finds that the chemical test request was made legally, the license is revoked, and the fine is imposed. This provision for an administrative hearing on the chemical test refusal lays a constitutional foundation for the license suspension and fine. (Chart VI describes the arrest process).

CHART VI

THE DRUNK DRIVING ARREST PROCESS



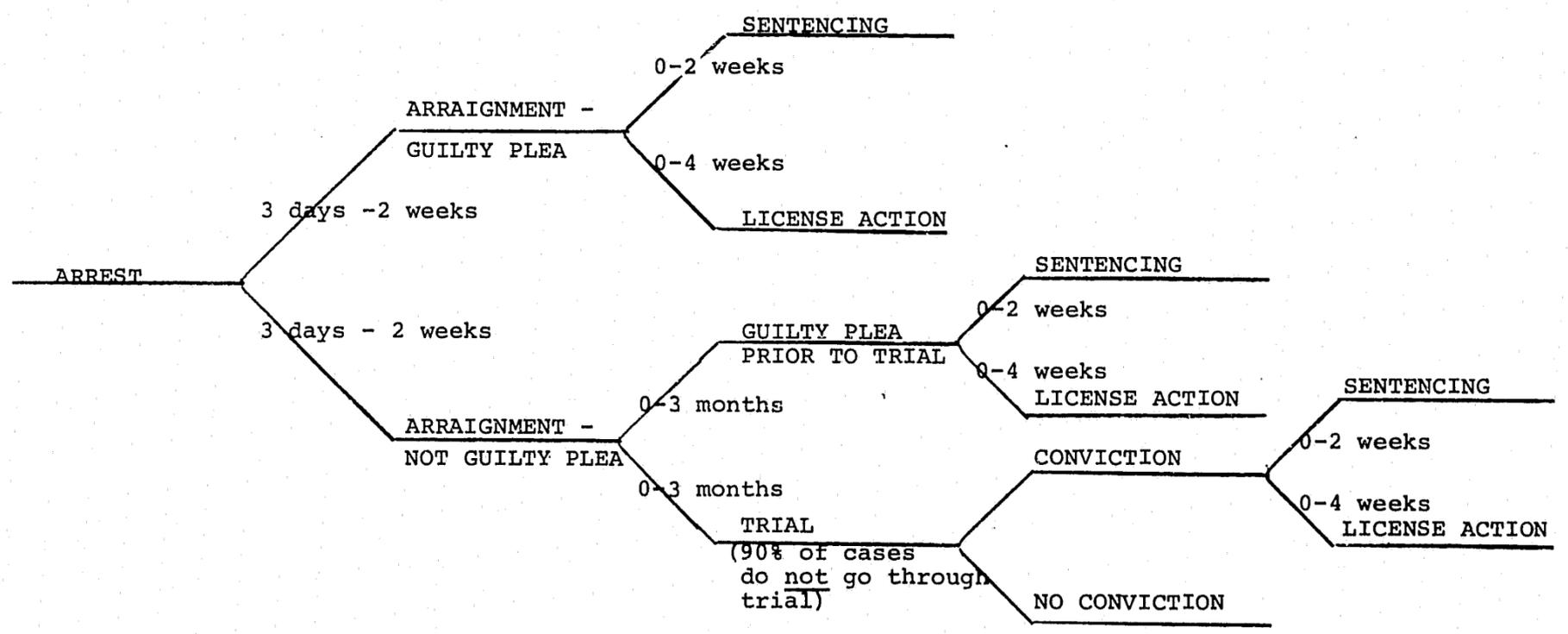
Also in 1980, the Legislature passed a law prohibiting courts from accepting plea bargains from those charged with DWI to other charges than DWI or Driving While Ability Impaired (DWAI) unless the prosecutor determines that the charge was not warranted in the first place. (Chart VII shows the court process in drunk driving cases). The net effect of these laws is to make successful drunk driving prosecutions easier and to make it almost impossible for drunk drivers to find ways to get around the State's laws against drunk driving.

This legislation also increased penalties for convicted drunk drivers, by increasing the length of mandatory license suspensions for the DWAI offense, the most frequent conviction received by first time offenders. These first time DWAI offenders now face a mandatory 90 day license suspension, with repeat offenders facing correspondingly longer suspensions or revocations. This change did two things: it created stronger penalties for all convicted DWAI offenders, while increasing the incentive for those eligible for the Department's Alcohol and Drug course to take it. (See Appendix A for the text of drunk driving laws passed in 1980 and 1981).

In 1981, the Legislature passed a law providing for immediate license suspension pending prosecution of repeat drunk driving offenders. Recognizing the greater crash risk posed by repeat drunk drivers, this law provides a mechanism to immediately get them off the road.

Also, in 1981, the Legislature passed a law providing a minimum mandatory jail sentence of seven days and a fine of not less than \$200 for offenders who drive while their licenses have been suspended or revoked for drunk driving offenses.

CHART VII  
PROSECUTION OF DRUNK DRIVERS



## STOP DWI

The most comprehensive legislation aimed at deterring drunk driving through the imposition of more severe penalties was the STOP DWI law, enacted in 1981. This law provides for the first time that judges must impose mandatory, substantial fines against convicted drunk drivers. These new laws increase penalties from a minimum of nothing and a maximum of \$50 for a first-time DWAI conviction (the most frequent plea accepted to a drunk driving charge in most places) to a new mandatory fine of \$250. Correspondingly higher minimum and maximum fines for repeat DWI and DWAI offenders were also instituted. (See Chart VIII).

At the same time, the law was changed to provide that participants in the Department of Motor Vehicles Drinking Driver Program would have their fines reduced by half, rather than eliminated. This would result in a driver convicted of DWAI for the first time paying a fine of \$125 and a course fee of about \$100. The total \$225 cost of the course and fine is substantial, but would still be slightly less than the fine of \$250 for those who do not take the course.

With the conditional license, the course remains attractive to these offenders. The new fine reduction provision, however, maintains a large enough fine to deter people from drinking and driving.

With the Task Force's activity in 1980 and 1981, the Legislature has created a series of laws to combat drunk driving which will do three things.

CHART VIII

COMPARISON OF PENALTIES: STOP DWI AND OLD LAW

SECTION	OLD PENALTY	NEW PENALTY
1192.1 (Driving While Ability Impaired)	<u>First Offense</u> Maximum \$50 fine No minimum fine Maximum 15 days in jail 90 day license suspension	<u>First Offense</u> Mandatory \$250 fine Maximum 15 days in jail No change
	<u>Second Offense</u> Maximum \$100 fine No minimum fine Maximum 45 days in jail 180 day license suspension	<u>Second Offense</u> Maximum \$500 fine Minimum \$350 fine Maximum 30 days in jail No change
	<u>Third Offense</u> Maximum \$250 fine No minimum fine Maximum 90 days in jail Minimum 6 month license revocation	<u>Third Offense</u> Maximum \$1500 fine Minimum \$500 fine Maximum 90 days in jail No change
1192.2 + 3 (Driving While Intoxicated)	<u>First Offense</u> Maximum \$500 fine No minimum fine Maximum one year in jail Minimum 6 month license revocation	<u>First Offense</u> No change Minimum \$350 fine No change No change
	<u>Second Offense</u> Maximum \$5,000 fine No minimum fine Maximum four years in jail Minimum 6 month license revocation	<u>Second Offense</u> No change Minimum \$500 fine No change No change
521(c)	Provides conditional license for driving to and from work and three hours day time driving per week  Completion of course automatically satisfies fine/jail penalty	No change  Completion of course satisfies one-half of fine penalty and all of jail penalty

First, it has established offenses and rules regarding the disposition of drunk driving cases which make prosecution of them easier. At the same time, these laws make it nearly impossible for defense attorneys to find ways to plea-bargain out of a drunk driving charge. Second, the State's drunk driving laws have been toughened to provide longer license suspensions and more appropriate fines to drunk drivers. Third, the State's laws provide a mechanism to encourage convicted drunk drivers to take a departmental course which provides an opportunity to screen them to determine whether alcoholism rehabilitation is appropriate. These actions reflect the Legislature's ability to establish the sanctions which are applied to those who violate the law and its ability to establish programs at the State level to respond to the drunk driving problem.

The role of the State Legislature, and of State government as a whole, is limited by the fact that the enforcement of laws like those against drunk driving is primarily a local function. Local police and county sheriffs make most drunk driving arrests; county district attorneys prosecute cases; and town and village justices and city courts handle their adjudication.

At the same time, attempts to create a single State master plan for the implementation of drunk driving laws are complicated by the fact that local drunk driving problems vary substantially. Resort communities with large numbers of bars frequented by young people face different problems than large cities with more stable populations and good mass transit services. Existing responses to drunk driving by local governments reflect both the differing priorities which communities attach to it as well as the existence of different points of view about proper approaches to the problem

by those who deal with it. Given the facts that local drunk driving problems differ and that there is no sure way to prevent drunk driving, the existence of diversity in local responses is healthy.

Recognizing the existence of variations in local drunk driving problems and responses, the research into the drunk driving problem discussed already has shown that without State action to increase incentives to localities to make the prevention of drunk driving a high priority, it is not likely to be one, despite the very high social cost resulting from drunk driving related crashes. At the same time, we know that unless those who are responsible for applying the laws against drunk driving make it a high priority, it will continue to be a leading cause of death and injury to the State's residents.

STOP DWI was designed as a response to these characteristics of the drunk driving problem. The law provides that where counties establish plans to combat drunk driving through increased enforcement, prosecution, adjudication, education or rehabilitation, they shall receive the fines collected from drunk drivers. These newly increased fines have been estimated to yield between \$7,000,000 and \$9,000,000 annually to counties across the State, depending on actual enforcement practices and the levels of fines imposed.

By allowing counties to identify their own needs and responses STOP DWI is sufficiently flexible to permit localities to try a variety of approaches to the problem. The law also contains

requirements for evaluation of the success of these programs, measured against county program goals, in order to help identify the effectiveness of different approaches used in participating counties.

#### Conclusions

New York's laws against drunk drivers have evolved considerably since the creation of the Task Force. The legal framework for dealing with the problem is now much better developed than it was in the past, providing easier prosecution, strict limits on plea bargaining, stiffer fines and license suspensions, and financial incentives to localities which will enable them to increase local efforts to control drunk driving. However, since many of the State's laws against drunk driving have been enacted in the past two years, their effectiveness is yet to be measured.

The State's tough new drunk driving laws create a legal framework which differs from those in other places when serious efforts to combat the drunk driving problem have been undertaken. While most of these projects took an approach in which greater enforcement was coupled with educational activities, New York's new laws provide the basis for a legal deterrence system differing from those in place during those federally supported Alcohol Safety Action Programs ("ASAP's").

Earlier approaches to the problem were hampered by State laws which failed to follow through by actually carrying out the tough responses that they threatened. For example, laws which mandated prison sentences in the past were rarely applied, because plea

bargaining and the availability of suspended sentences permitted courts to allow most drunk drivers to escape actually serving time in jail. Similarly, enforcement crackdowns often suffered from the ability of drunk drivers to avoid meaningful penalties because of weak or flexible legal provisions that allowed them to escape substantial penalties for their acts.

New York's laws differ in important respects from those found in analyses of previous responses to the drunk driving problem. They have three characteristics which are likely to result in the application of a successful system of deterrence. First, the State's laws should result in relatively certain convictions for drunk driving where the initial charge is drunk driving. Unlike previous laws which allowed many drivers to successfully contest a drunk driving charge or to plead to an unrelated charge, such as unsafe equipment, New York's laws require evidence (the BAC) which is not excessively difficult to obtain; contain disincentives to drivers who would avoid prosecution by refusing to take the chemical test; and contain strict limits on plea bargaining.

Second, New York's laws now contain meaningful penalties for convicted offenders. With the passage of STOP DWI, judges can no longer grant drunk drivers sentences with no fine or a minimal fine. The law's provision of a mandatory minimum fine ensures the application of substantial sanctions against these offenders.

Third, with the enactment of STOP DWI in 1981, the State's localities now have strong incentives to make drunk driving a high priority. The provisions of the law governing the availability of drunk driving fines to counties will make those at the local level who are responsible for the implementation of the State's

drunk driving laws look at the problem in their own localities. They must evaluate existing drunk driving countermeasures to determine where the additional money made available through the STOP DWI legislation can be most effectively spent. As a result, the enactment of STOP DWI will result in the development of a variety of different local drunk driving countermeasure programs whose effectiveness will be evaluated as is required by the legislation.

RECOMMENDATIONS BY THE GOVERNOR'S  
ALCOHOL AND HIGHWAY SAFETY TASK FORCE

The recent past has seen a substantial increase in public awareness of the State's drunk driving problem, a series of new laws creating a stronger response to it, and greater local efforts to combat it. Nevertheless, drunk driving continues to be a focus of public concern. A notable example of the State's response to that concern was the creation of the Governor's Alcohol and Highway Safety Task Force. Consisting of a variety of officials of Executive agencies and legislators, the Governor's Task Force was given the responsibility of taking an overall look at the State's response to the drunk driving problem. Its report, "DWI - Driving While Intoxicated" details the recommendations of the Task Force. These constitute a comprehensive set of proposals which would make additional substantial changes in the State's anti-drunk driving laws.

The first set of recommendations prepared by the Governor's Task Force, argues for increased enforcement and more severe penalties for drunk driving, as well as for administrative changes to support these efforts. The specific recommendations of the Governor's Task Force follow, almost immediately, the major changes already enacted into law following the recommendations of the Senate Task Force on Drunk Driving. The already enacted laws provide for substantial mandatory fines for all drunk driving offenses, longer mandatory license suspensions, mandatory suspensions for those who refuse a legally ordered chemical test, and immediate mandatory suspensions for repeat offenders. In addition, STOP DWI provides localities with fine revenues to substantially increase enforcement and other activities designed to combat drunk driving.

The Governor's Task Force recommendations are:

Better Enforcement and Stronger Penalties

1. Establishment of an administrative license suspension process where all drivers arrested for driving with a BAC of more than .10 would receive a mandatory 90 day administrative suspension to go automatically into effect, unless the driver requested a hearing within five days of the offense. The Governor's Task Force recommends, in addition, that where drivers request a hearing, the Commissioner of Motor Vehicles temporarily suspend the license, pending the hearing.

This proposal is aimed at speeding the imposition of license suspensions in DWI cases. At present, the legal rights that individuals are entitled to in the criminal process can result in delays in the imposition of penalties. In more than two-thirds of all drunk driving cases, case dispositions take more than one month, while in about one-third of them, dispositions take more than two months. Enactment of legislation to provide for administrative license suspensions in those cases where a driver's BAC exceeds 0.10 would reduce these delays, because the legal requirements to establish an administrative finding concerning a driver's BAC are less substantial than those which must be met to successfully sustain a prosecution in the courts.

The proposal carries with it some substantial problems, however. First, by setting up parallel, duplicative administrative and legal processes, it will increase the cost and complication of dealing with these offenses. The Department will face a dramatic workload increase as the result of hearings which will be requested by many of the approximately 50,000 drivers who are arrested each year for drunk driving.

Second, the proposal separates the imposition of penalties into two parts - one administrative, and one judicial. By reducing the role of the court to determining whether or not a fine and jail term should be imposed, and by eliminating court action as a prerequisite to eligibility for a conditional license, this proposal weakens the position of the courts. At present, judges are able to use their discretion regarding drunk driver eligibility for the conditional license as a way to get these offenders to cooperate.

Third, by requiring that the Department grant an administrative hearing within 20 days of the arrest, when one is requested, the proposal may jeopardize later criminal proceedings against drunk drivers. This may occur because such a hearing would require prosecuting agencies to divulge information concerning the circumstances of the arrest to the defendant, while the criminal case is still being developed.

Finally, by placing primary emphasis on license suspension as the deterrent applied to drunk drivers, this proposal substitutes a less certain deterrent (license suspension) for a more certain one; (fine plus possible jail sentence). Since it is impossible for police to detect those who continue to drive on suspended and revoked licenses, except where they are stopped for another traffic violation, a substantial number of drivers continue to operate their vehicles, despite license suspensions. In contrast, fine sentences imposed by courts are executed with a much greater degree of certainty. Thus, this proposal could be disruptive to existing procedures which result in the sure application of sanctions to convicted drunk drivers.

2. A coordinated technical assistance program for law enforcement agencies throughout the State. The Task Force calls for this program to be administered by the State Police, in cooperation with the Division of Criminal Justice Services.

This sort of effort reflects the State's appropriate role in assisting those governments which are responsible for most drunk driving law enforcement in New York State. By providing assistance to local police agencies in apprehension problems, training needs, enforcement techniques and other local concerns, the State can help make local enforcement more effective.

The proposal to locate this function in the State Police is, however, unnecessarily duplicative of the work of the Bureau for Municipal Police in the Division of Criminal Justice Services. Since the Bureau already provides training to local enforcement agencies, it should provide technical assistance in this area.

3. Inclusion of visible, consistent and coordinated public information programs to heighten risk perception among the general public and special target groups. Public awareness of the risk of arrest and substantial penalties for drunk driving are the key to effective deterrence. In the absence of this kind of awareness of the risk associated with drunk driving, strong enforcement and substantial penalties will not serve as an effective deterrent. Thus, local and State public information programs will be essential to dealing with the drunk driving program.

4. The campaign must include a range of known techniques such as systematic traffic checkpoints at known DWI and high accident locations at peak hours. Checkpoints are legal under present laws, if random. However, these checkpoints should carefully adhere to present procedures governing the use of screening devices and chemical tests. Without evidence of probable cause for an arrest for drunk driving, an accident, or an arrest for another traffic violation; requiring individuals to submit to tests which could expose them to criminal prosecution may interfere with important bill of rights protections.

Second, such a procedure can easily lead to the appearance of harassment of customers of particular bars around which the police choose to establish checkpoints. These bar owners and their customers may well question why they are being singled out for this kind of attention.

Third, use of these checkpoints could lead to a strong public backlash against police tactics which many would view as excessively heavyhanded.

Stronger enforcement is a key to effective drunk driving deterrence. That enforcement can be made effective by being highly visible, such as through the use of clearly marked drunk driving patrols, and by concentration on the detection of observable traffic violations during peak drunk driving hours and in high accident locations.

5. Enactment of legislation to expand the grounds for requesting alcohol testing to include any other observable criterion of alcohol impairment such as slurred speech, odor of alcohol, and impaired motor coordination. At present, enforcement personnel may request

drivers to take an alcohol screening test following arrest for a traffic violation or following a crash. Since a police officer may make such an arrest when he has reasonable grounds to believe that an individual has violated the law, it is unclear what purpose would be served by this proposed change. Changing present requirements would do little to make enforcement more effective, while tampering with an effective procedure for identifying drunk drivers that does not violate individual rights.

6. Routine fingerprinting of drinking drivers subsequent to arrest should be terminated. The Governor's Task Force justifies this recommendation by characterizing fingerprinting as the least productive, yet most time-consuming, aspect of the apprehension. Their report contends that elimination of this routine could save 47,000 man hours annually.

Although the report characterizes fingerprinting as the least productive aspect of the apprehension, the fingerprinting process is an important part of the arrest routine. Fingerprinting sends the message to offenders that they have been arrested for a serious violation. Thus, it is a significant element of the package of actions in the arrest process that are designed to deter future drunk driving.

The annual manpower savings of 47,000 man hours translates to an additional twenty-five police officers across the State. Much of the savings could be achieved by ~~moving fingerprinting to the arraignment and~~ having personnel other than arresting officers perform it. This approach would have the benefit of freeing police time for patrolling and having the fingerprinting take place when the offender is sober, and presumably more cooperative.

7. Elimination of routine police appearances at pre-trial proceedings, except where defendants request the officer's presence and develop and use standard depositions at court and administrative proceedings. The use of written depositions, rather than routine police appearances, in cases where the defense does not request the arresting officer's presence, can increase efficiency in the handling of these cases. The use of these written depositions is already possible under present law. Thus, their use by local agencies should be encouraged.

8. Increasing license sanctions for a second DWAI conviction from a six month suspension to a revocation. This proposal would require a driver convicted of a second DWAI offense to reapply for a new license upon the completion of the six month revocation period. With a suspension, a driver automatically gets his license back at the end of the period. By requiring reapplication, the Commissioner of Motor Vehicles would be able to exercise his discretion to establish conditions for granting a new license to these repeat offenders. This proposal would serve to deter drunk drivers by increasing the severity of the sanctions applied to them.

9. Conditional licenses should be issued for the full term of the license revocation or suspension, or completion of the program, whichever occurs later. This proposal would provide an incentive for drivers to complete the DDP in those cases where they would ordinarily get their licenses back following the suspension period, but before the completion of the course.

10. Driving with open containers of alcoholic beverages in a motor vehicle should be prohibited. Although it is illegal to drink in a moving vehicle, present law does not prohibit open containers. Thus, prosecution is difficult. This proposal would discourage drinking while driving.

11. All drivers involved in a fatal or serious personal injury accident be required to submit to a chemical test to determine levels of alcoholic impairment, if any. This proposal would ensure that in serious crash cases, alcohol involvement would be determined, and where appropriate, prosecuted.

12. Testing, in a few selected localities, alcohol education for restaurant owners, bar owners, and bartenders. This proposal is designed to test the idea that by informing those who work in establishments serving alcohol about the laws relating to its sale, about its effects on driving, and about the laws regarding drinking and driving, they will act more responsibly in dealing with their customers.

13. Any State agency planning to release information about drinking and driving be required to submit a detailed description of its plan to the Department of Motor Vehicles. By this proposal, the Governor's Task Force would ensure that all State agencies provide uniform, accurate messages to the public about drunk driving. The proposal can be implemented without the passage of new legislation.

#### Increasing Public Awareness

14. The Department of Motor Vehicles, the Division of Alcoholism and Alcohol Abuse and other Task Force agencies should offer technical assistance to local groups and organizations wishing to offer informational campaigns; to inform localities of successful programs; and to modify the direction, content, and form of State and local information programs based on well designed program evaluations. This proposal would use the resources of State government to facilitate the role of localities in deterring drunk driving through well publicized strong enforcement of the laws. It is an essential element of a well designed deterrence strategy. No additional legislation is needed to implement this proposal.

15. Applications for State and federal alcohol highway safety funds include detailed plans for public information and education. While education and public information are essential elements of a deterrent strategy, it does not follow that these activities would necessarily be a part of every application for federal or State funds. Informational functions should be ongoing activities which are related to other kinds of local anti-drunk driving efforts. Localities should not have to establish new public information plans for every State or federal drunk driving fund application.

16. Develop a new series of quality radio and television news features and announcements. The development of information campaigns emphasizing the dangers, risk of apprehension, and severe penalties for drunk driving will assist in deterring drunk driving.

17. Establishment of an Alcohol and Highway Safety clearinghouse. This clearinghouse would provide research, information and training materials to organizations interested in the field. This proposal again reflects the important role of the State in facilitating the efforts of counties, cities, towns, villages, and non-governmental groups at the local level in developing well informed responses to the drunk driving problem that meet local needs. The clearinghouse should develop a model alcohol and highway safety program for colleges. Given the age of the college population, this could be a significant way to provide more information about drinking and driving to inexperienced but frequent alcohol consumers and drivers.

18. The Education Department should assure that local school personnel present alcohol and highway safety information in appropriate classes and other settings. Schools are an important mechanism for informing young people, who are likely to be exposed to peer pressure to use liquor, of the dangers of its abuse and of drinking and driving. This recommendation reflects existing State policy.

19. The amount and quality of alcohol and highway safety information presented in driver education programs and in the driver licensing process should be evaluated. The implementation of this recommendation should make possible assessment of the accuracy and effectiveness of current information on drunk driving presented to those who take driver education and to those who must prepare for the written test required of all new drivers in New York State.

#### Vehicle and Road Safety

20. The Federal Government should mandate the installation of passive restraint systems in new cars. The Federal Government also should mandate the installation of headlights that automatically turn on at dusk, standardize instrumentation and install taillights and brake lights higher on vehicles. These recommendations involve federal rather than state issues.

21. The State should develop an experimental demonstration program to assess the benefits of drinking driver warning systems. Such a project could help lead to the development of effective equipment to discourage those who would attempt to drive after excessive drinking.

22. More programs to provide shuttle buses to transport college students to and from drinking places should be established. Since these shuttle buses provide safe transportation for a significant drinking population, these efforts should be encouraged. Other programs providing free transportation at times of high alcohol consumption, such as the free cab rides to drinkers provided on New Year's Eve in the Albany area by the American Automobile Association (AAA), should be encouraged, as well.

23. More frequent application of striping. Studies have shown that clear lane delineation reduces accident frequency, including alcohol accidents. Hence, an adequate program of striping applications will contribute to alcohol highway safety.

24. A location listing of alcohol involved accidents should be generated to determine whether there are any roadway related patterns for such accidents. Accident location studies can identify dangerous roadway conditions for possible correction. Studies have shown that the frequency of alcohol related accidents where the roadway is a factor can best be reduced as a part of a strategy aimed at reducing all accidents where the roadway is a contributing factor.

25. Increased State control over roadside signing with alcoholic beverage messages. This recommendation proposes that eating rather than drinking establishments be identified through this program.

#### Rehabilitation

26. A demonstration project for early screening for problem drinking should be implemented. The proposal suggests that at the time of an administrative license suspension, as was proposed earlier, drunk drivers' drinking patterns should be screened. Heavy and problem drinkers should be referred to rehabilitation, while social drinkers should be referred to the Department's Drinking Driver Program. Although we believe that the Governor's Task Force proposal for administrative license suspension is undesirable, a demonstration project for screening offenders for rehabilitation after sentencing but prior to the DDP would be a useful mechanism to test the argument that early screening and rehabilitation is a more effective approach than the current practice of referring problem drinkers to rehabilitation following completion of the DDP.

27. The Division of Alcoholism and Alcohol Abuse should improve the certification process and develop a system to maximize income from clients, placing the cost of treatment on those who receive its benefits. At present, clients in rehabilitation programs are asked how much they make and an ability to pay formula is applied. Establishment of income verification procedures could increase program income. However, since many of those who are referred to rehabilitation have little income as a result of their alcohol abuse problem, the program will continue to require some taxpayer support.

The current State funding mechanism covering outpatient treatment inhibits the process of increasing user based support since user fees generated by local agencies are now used to reduce the State share of local program costs. As a result, there is no incentive for local agencies to maximize fee revenues. Consideration should be given to revision of the current formula.

28. The Division should mandate specific guidelines for existing agencies which treat drinking drivers to ensure greater efficiency and treatment capacity. Recent changes in the law and proposed modifications are likely to increase the number of referrals to rehabilitation. This proposal, which can be achieved without new legislation, could help increase the capacity of rehabilitation programs to handle these referrals.

29. The Division of Alcoholism and Alcohol Abuse should provide training to all staff members who provide services to drinking drivers. This recommendation is intended to ensure that treatment personnel understand the legal and licensing systems and how they relate to treatment programs.

30. Sanctions should be strengthened to increase rehabilitation program participation. The proposed six month license revocation for second DWAI violators would give the Commissioner of Motor Vehicles the power to compel rehabilitative efforts prior to relicensing.

31. Increased emphasis on program evaluation. Evaluation designs should be included in all projects funded, authorized, or initiated under State law. This proposal, which does not require legislative action, would enable the State to measure the effectiveness of various drunk driving countermeasures applied by localities through STOP DWI and other programs. As such, it should help guide further efforts to deal with the problem.

32. Research, baseline data and program evaluation information gathered by various agencies should be coordinated to assure consistency and inclusion of necessary elements. Implementation of this proposal should result in the availability of higher quality data to those interested in the problem.

33. The Traffic Safety Law Enforcement and Disposition Program should be implemented statewide. This computerized ticket issuance, tracking and disposition system provides complete and accurate arrest disposition and conviction information for the first time. It is an important data source, while at the same time its computerized tracking mechanism encourages the proper handling and disposition of cases by localities.

TSLE&D is now in operation in ten central New York counties (see Chart IX). It has provided a wealth of information on drunk driving enforcement and adjudication in these counties.

A positive evaluation of the TSLE&D system by Roy E. Lucke of the Northwestern University Traffic Institute, concluded that the system reduced administrative workload by local enforcement agencies and courts; that the uniform traffic ticket designed for the system was easy to use and less likely to result in errors than previous tickets; that the system can produce a multiplicity of reports to system users on their operations, and that it contributes significantly to ticketing accountability.

The Legislature provided \$750,000 in the State's 1981-1982 fiscal year to allow the expansion of the system into other parts of the State. However, the State Division of the Budget permitted expenditure of only enough funds to maintain the system at its existing, ten county, level during that year. Thus, only \$250,000 was expended by the program in 1981-1982.

The Governor's 1982-1983 Executive Budget proposes no funding for the TSLE&D program. Consequently, the program will be eliminated in April 1982, unless the Legislature acts to restore funding.

The Report of the Governor's Alcohol and Highway Traffic Safety Task Force, DWI-Driving While Intoxicated, states:

In order to establish such a statewide information base regarding DWI arrests and convictions, the Task Force recommends statewide implementation of the Traffic Safety Law Enforcement and Disposition Program (TSLE&D)...This system, and others...enable the Governor, Legislature, State agencies, law enforcement and judicial authorities to effectively evaluate alcohol and highway safety countermeasures.

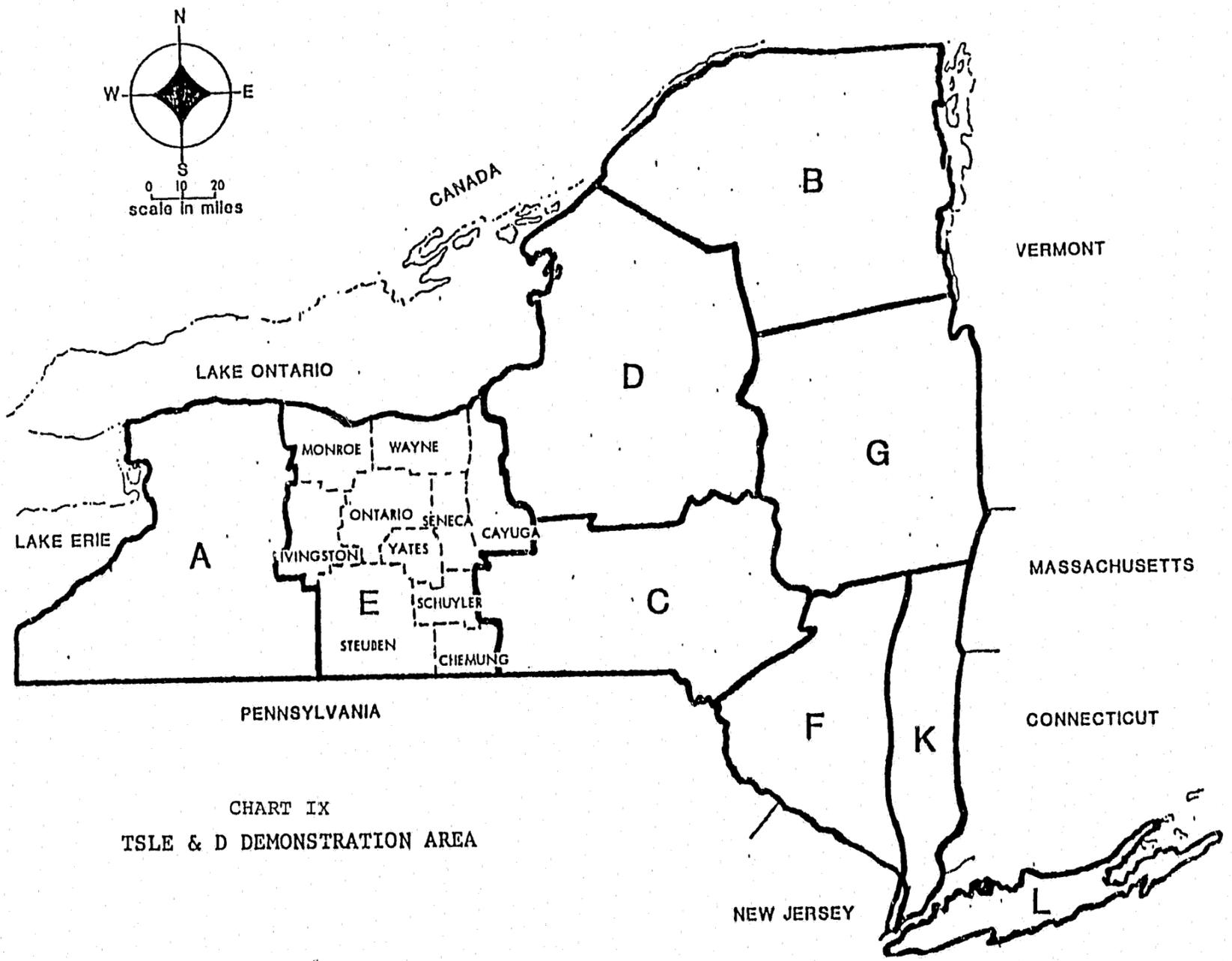


CHART IX  
TSLE & D DEMONSTRATION AREA

#### OTHER SIGNIFICANT LEGISLATIVE PROPOSALS

In addition to the proposals of the Governor's Task Force, a number of other drunk driving issues may be considered by the Legislature. Among them, two issues which deal with the overall availability of alcohol in New York State have a substantial relationship to the drunk driving problem.

##### Proposals to Raise the Drinking Age

Several legislators have introduced bills to raise New York State's legal drinking age from eighteen. One bill, introduced by Senator Frank Padavan, Chairman of the Senate Mental Hygiene and Addiction Control Committee, would increase the legal age to nineteen. A similar bill by Assemblyman Paul Harenberg would increase it to twenty, while another bill, introduced by Assemblyman Melvin Zimmer, would increase the drinking age to twenty-one.

Proponents of a change argue that the present 18 year old drinking age contributes to an epidemic of problem drinking among high school students. Senator Padavan's 1981 report, "Why Nineteen", points out that increasing the age to 19 would substantially reduce the number of high school students who could legally purchase alcoholic beverages.

At the same time, studies of vehicular crashes in New York clearly demonstrate that young drivers, under 21 years old, are much more likely to be involved in alcohol related fatal and non-fatal automobile crashes than are older drivers. In fact, they are involved in alcohol related crashes three times as often as we would expect, based on the number of drivers under 21 years old.

Studies of the impact of the drinking age on drunk driving point to the fact that the combination of inexperienced drinkers and inexperienced drivers creates great risk. In fact, where states have increased their drinking ages, it has been shown that alcohol related crashes among these young drivers and consequently in the population as a whole have been reduced.<sup>7</sup>

At the same time, New York's 18 year old drinking age has long been a problem for other states with higher legal drinking ages, attracting their young residents. Senator Padavan's study points out that "39% of New Jersey drivers involved in alcohol related accidents in New York border counties are under 21, and 49% of the similarly involved Pennsylvania drivers are under 21."

#### Earlier Bar Closings

Present laws provide for bar closings to be established at county option, although they may not be later than 4:00 A.M. As a result, although many counties allow bars to stay open until 4:00 A.M., some upstate counties require closings by 1:00, 2:00, or 3:00 A.M. (Chart X).

Legislation has been proposed by Senator Padavan to require bar closings by no later than 3:00 A.M. Earlier closing is advocated because the hours preceding mandatory bar closings are "prime time" for alcohol related crashes. In these hours, the dangerous combination of high levels of blood alcohol come together with fatigue to produce a disproportionate number of fatalities. Proponents of the bill argue that by requiring bars to close earlier, alcohol related fatalities could be reduced.

<sup>7</sup> See Richard L. Douglass, "The Legal Drinking Age and Traffic Casualties: A Special Case of Changing Alcohol Availability in a Public Health Context" in Minimum Drinking Age Laws, Henry Weschler, ed. Lexington, Mass.; D.C. Health (1980).

#### CHART X

#### NEW YORK STATE COUNTY CLOSING HOURS

<u>Counties</u>	<u>Closing Hour</u>
Albany, Clinton, Columbia, Dutchess, Erie, Fulton, Greene, Montgomery, Nassau, New York City, Orange, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester	Monday-Sunday 4 A.M.
Delaware, Essex, Franklin, Putnam	Monday-Sunday 3 A.M.
Niagara, Otsego	Monday-Friday 2 A.M. Saturday-Sunday 3 A.M.
Allegany, Cattaraugus, Cayuga, Chautauqua, Cortland, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Oneida, Onondaga, Orleans, Oswego, St. Lawrence, Wayne, Wyoming (Monday 1 A.M.)	Monday-Sunday 2 A.M.
Broome, Chenango	Monday-Friday 1 A.M. Saturday-Sunday 3 A.M.
Seneca, Tioga	Monday-Friday 1 A.M. Saturday-Sunday 2 A.M.
Ontario	Monday-Saturday 1 A.M. Sunday 2 A.M.
Chemung, Schuyler, Steuben, Tompkins, Yates	Monday-Sunday 1 A.M.

#### OPENING HOURS

All counties allow bars to open at 8:00 A.M., Monday through Saturday.

All counties allow bars to open at 12:00 noon on Sunday.

All counties have special hours for selected holidays.

### Legislative Proposals to Change Drunk Driving Laws

In addition to the general proposals aimed at curbing drunk driving by restricting the availability of alcoholic beverages, changes in the State's drunk driving laws have been proposed, as well. Most of these changes are intended to facilitate prosecution, increase court penalties, or impose tougher license actions against drunk drivers.

#### Changes in Evidentiary Requirements

A number of proposals before the Legislature would alter the standards concerning the level of blood alcohol required for conviction under the State's laws and the circumstances under which suspected offenders may be required to submit to a test.

One proposal before the Legislature would set new minimum BAC levels for driving while intoxicated and driving while ability impaired convictions. Bills introduced by Senator Frank Padavan and Assemblywoman Elizabeth Connelly would make a BAC of .05 or more prima facie evidence of impairment (Section 1192.1) while a BAC of more than .08 would be prima facie evidence of intoxication (Section 1192.2). At present, a BAC of .08 is prima facie evidence of impairment, and a BAC of .10 is prima facie evidence of intoxication.

Sponsors of these bills argue that .08 is a threshold point at which crash risk begins to climb rapidly. Consequently, they believe that this BAC level should be the lower limit of the legal definition of intoxication.

Another proposal before the Legislature would enable police to enforce the laws against drunk driving in parking lots, which are private property but generally open to the public. At present, they cannot enforce violations of the laws against drunk driving in these places, but must wait until drunk drivers enter public roads before arresting them. This situation creates a risk to other citizens which cannot be countered under present law.

A third proposal would require all drivers involved in crashes where fatalities or serious personal injuries result to submit to a chemical test. This requirement would aid in the detection of drunk driving violations in these serious cases. Those who refuse the test would be subject to the existing six month license revocation and \$100 civil penalty applied to other drivers who refuse it. Opposition to the proposal is based on the argument that it could interfere with the provision of necessary medical care in these cases. In fact, chemical tests given within two hours of an arrest provide satisfactory evidence for a prosecution and would not interfere with medical care.

#### License Requirements, Suspensions, and Revocations

A number of proposals would use the license privilege as a tool to deter prospective drunk drivers.

One proposal would alter licensing requirements to require all those who apply for drivers licenses to complete a three hour or more course on drunk driving and to successfully pass an exam on the subject. These applicants would pay a fee, (\$10 in one version of the bill), for the course.

Present laws require applicants to take a three to five hour classroom course dealing with driver training and highway safety. The proposal would subject drivers to an equal amount of instruction on the subject of drunk driving. The DMV, with the Division of Alcoholism and Alcohol Abuse, would set qualifications for course instructors. In addition, the proposals state that these instructors must have previous experience or training in alcohol and highway safety.

Adoption of this proposal would commit the State and its residents to a substantial investment in an education program without prior assessment of its effectiveness. Prior to the statewide establishment of such a requirement, the course should be tested in some setting, such as high school driver education courses or in specified localities, and its effects should be evaluated. At the same time, the additional three hour course commitment to specific instruction on drunk driving should be assessed against an expansion of the general driver safety instruction requirement to six hours. This assessment should evaluate the effectiveness of each approach in improving driver safety.

A number of bills would increase the severity of current license suspensions and revocations in certain circumstances as a deterrent to drunk driving and to enhance prosecution of these cases. Several proposals would increase the length of the current six month revocation for the refusal to take the chemical test. At present, drivers who refuse the test are also subject to

a \$100 civil penalty. Advocates of proposals to increase the revocation to a year or more contend that adoption would deter drunk drivers who would refuse the test in the belief that a six month revocation for a refusal is preferable to a conviction for drunk driving. At the same time, it would subject those who refuse the test to a substantial penalty for their actions. Assembly bill A-8020, introduced by Assemblyman Roger Robach, would extend the revocation to a year in all chemical test refusal cases.

Two bills, Senate bill S-6395, introduced by Senator James Donovan, and Assembly bill A-7900-A, introduced by Assemblywoman Connelly, would increase the length of revocations applied to those who refuse the chemical test when it is requested following a crash involving death or serious personal injury. Senator Donovan's bill punishes the driver who refuses the test in these circumstances, despite his implied consent to it, with a five year revocation. This approach would more strongly penalize those who refuse the test who are in serious accidents than other refusers, regardless of which driver is at fault.

Assemblywoman Connelly would impose a two year revocation, but couples that penalty with a requirement that an administrative hearing officer make a finding that the refuser was the proximate cause of the accident. By placing this evidentiary burden on the prosecution at a pre-trial administrative hearing, the Connelly version shifts the focus of the penalty from the refusal to take the test to the determination by an administrative officer of which driver caused the accident. This approach

requires prosecutors to submit evidence of culpability in an administrative hearing at a time when the development of the prosecution's case may be incomplete.

Each approach may create problems. The approach used in Senate bill S-6395 would severely penalize both test refusers who are the cause of the accident and those who are not at fault, while Assembly bill A-7900-A creates a complicated administrative process which could make later prosecution of these offenders more difficult.

Similarly, a proposal by Assemblyman Robach, Assembly bill A-7896, to require a five year revocation where a DWI or DWAI related accident involves the death or serious personal injury of another driver imposes a severe revocation on all drunk drivers in these crashes, even if they do not cause them.

This problem is addressed in Assemblyman Eugene Levy's bill, A-1590, which would permanently revoke the licenses of all those who are convicted of DWAI or DWI, and whose intoxication is determined to have caused a vehicular homicide. In these cases, the determination of the culpability of the drunk driver would take place after criminal action against him. Consequently, this bill does not pose the same problems presented by Assemblywoman Connelly's proposal for license revocations where drivers refuse the chemical test in death or serious personal injury cases.

Senate bill S-6128, introduced by Senator Ralph Marino, would revoke drivers licenses for five years in cases where a driver has two or more DWI convictions within ten years, or where he is convicted of drunk driving and causes the death of another person in a crash. Assemblyman Philip Healey has introduced a similar bill, Assembly bill A-928, which would impose a permanent revocation in these cases.

A final proposal by Senator Smith dealing with license suspensions and revocations would improve the enforcement of court orders in these cases. This legislation provides that in the case of mandatory suspensions or revocations, or permissive suspensions or revocations by judges or magistrates; the judges or magistrates shall require offenders to surrender their licenses upon conviction or sentencing.

Judges may issue a temporary 30 day license in cases where these individuals may be eligible for a conditional or restricted license to be issued by the DMV.

At present, most judges do not collect licenses when they are to be suspended or revoked, leaving this to the Department of Motor Vehicles. Since in most cases the only enforcement of DMV suspension and revocation orders is a mail notice, drivers who do not wish to comply can easily ignore the Department's order. Those who do not comply can produce their licenses if stopped by a police officer, and may, if the officer fails to request a license check, escape punishment for driving on a suspended or revoked license. This proposal is intended to remedy these problems.

#### Reciprocity With Other States

A bill introduced by Senator Smith (S-7554) and Assemblywoman Connelly (A-9322) would allow the Commissioner to extend conditional driving privileges to out of staters who are convicted of drunk driving in New York, and who take the DMV's drinking driver program.

#### Penalties

Several bills seek to increase the effectiveness of drunk driving countermeasures by increasing the penalties imposed on drunk driving offenders.

A bill introduced by Senator Marino, S-6126, would impose mandatory jail sentences on all repeat drunk driving offenders. Repeat DWAI offenders would be subject to a minimum 15 day jail sentence, while those who are convicted of DWI two or more times within ten years would be subject to a minimum sentence of a year in jail.

To date, the Senate Task Force has not advocated mandatory jail sentences because they have not been successful in the past. Where they have been mandated, those charged with enforcement and adjudication have found ways to avoid applying them, with the result that the risk of being charged with drunk driving has been reduced. At the same time, the imprisonment of large numbers of drunk drivers would be costly to the public.

Jail would appear to be a potentially effective sanction in repeat drunk driving cases, however. Since repeat offenders constitute a portion of the population which imposes a particularly high risk to the public, it may be appropriate in these cases. Thus, the Legislature may wish to consider this approach in the future for repeat offenders, if the experience of other states which are now trying it proves to be successful.

A bill proposed by Assemblyman Robach would allow county District Attorneys to establish programs where offenders who agree to surrender their licenses and to participate in rehabilitation programs would be permitted to plead to misdemeanor Driving While Intoxicated charges where charged with a felony DWI, and to Driving While Ability Impaired when charged with misdemeanor DWI.

This approach would allow prosecutors to provide an incentive for those who are charged with drunk driving and who are in need of alcoholism rehabilitation to plead to a lesser charge, thus avoiding a trial, while placing them in a rehabilitative program.

Finally, a proposal by Senator Jay Rolison would include a new definition of criminally negligent homicide as operating a motor vehicle in an intoxicated condition and thereby causing the death of another person. This definition would make those DWI violators who cause fatalities subject to prosecution for a felony.

At present, since drunk driving is not defined as criminal negligence, prosecutors who wish to subject these drunk drivers to prosecution for that charge must prove that their actions grossly deviated from the standard of care that a reasonable person would exert in the situation, and thereby resulted in someone's death.

The question posed by this legislation is whether the State should define all deaths caused by drivers who are drunk as criminally negligent homicide. The point of view favoring this approach takes the position that driving while intoxicated constitutes such a gross deviation from the standard of care to be expected of reasonable persons that it should be defined as criminal negligence. Others would argue that despite the risk posed by this behavior, it is too widespread to label as criminally negligent, unless accompanied by other indications of disregard for reasonable care.

## CONCLUSIONS

The recommendations of the Governor's Task Force and of legislators deal with many drunk driving issues. A great number of these proposals, such as those for increased public information, the elimination of unnecessary court appearances by police, and increased programs represent suggestions for administrative actions which would improve current procedures for dealing with drunk drivers that could be accomplished within existing laws.

Some proposed changes in the legal framework for dealing with drunk driving, such as that for revocation for the second DWAI offense and required administration of the chemical test to drivers in serious accidents, would further New York's response to the problem. Other legal changes, such as the proposal for administrative suspensions for all drunk driving offenses, and for the elimination of the fingerprinting requirement, could actually weaken the ability of those responsible for law enforcement and prosecution to effectively apply the penalties stated in the law.

With enactment of the recent drunk driving laws, the Legislature will be faced with the job of assessing the effectiveness of what has already been done. At the same time, the recommendations discussed above point up the need for careful consideration by the Legislature of further changes to improve the State's legal framework for dealing with drunk driving. These recommendations

also point up a series of actions which executive agencies should take to improve the effectiveness of the laws now on the books.

It is clear that the thrust of the Legislature's efforts must continue to be to build a set of laws that will act as a more effective general deterrent to those who would otherwise drink and drive. Thus, in the future, we must continue to work to ensure that the penalties against drunk driving are sufficiently severe to send the message to the potential offender that the drunk driving offense is a crime for which he will pay a substantial penalty if he is apprehended.

Legislation which would make the treatment of offenders in the enforcement and adjudication processes more streamlined, such as decriminalization proposals, sends precisely the wrong message to these offenders. Decriminalization proposals suggest that drunk driving be treated as a routine traffic ticket, rather than a serious offense.

At the same time, we must continue to look for ways to make possible effective local efforts to improve enforcement, prosecution, and public information to combat drunk driving. The tough laws against this offense must be coupled with high levels of enforcement, the actual application of the strong penalties threatened by the law, and public awareness of this local commitment, if the Legislature's efforts are to be effective.

APPENDIX A

DRUNK DRIVING LEGISLATION - 1980

2239-A

Cal. No. 1423

1979-1980 Regular Sessions

IN SENATE

February 12, 1979

Introduced by Sens. CAEMMERER, OHRENSTEIN—read twice and ordered printed, and when printed to be committed to the Committee on Transportation—recommitted to Committee on Transportation in accordance with Senate Rule 6, sec. 8—reported favorably from said committee and committed to the Committee on Rules—reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the vehicle and traffic law, in relation to conviction for different charges and revocation and suspension of licenses and certificates of registration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section eleven hundred ninety-six of the vehicle and traf-  
2 fic law, as added by chapter two hundred seventy-five of the laws of  
3 nineteen hundred seventy, is amended to read as follows:  
4 § 1196. Conviction for different charge; limitations. 1. A driver  
5 may be convicted of a violation of [subdivisions] subdivision one, two  
6 or three of section eleven hundred ninety-two of this chapter,  
7 notwithstanding that the charge laid before the court alleged a viola-  
8 tion of subdivision two or three of section eleven hundred ninety-two of  
9 this chapter, and regardless of whether or not such conviction is based  
10 on a plea of guilty.  
11 2. In any case wherein the charge laid before the court alleges a vi-  
12 olation of subdivision two, three or four of section eleven hundred  
13 ninety-two of this chapter, any plea of guilty thereafter entered in  
14 satisfaction of such charge must include at least a plea of guilty to

EXPLANATION—Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 the violation of the provisions of one of the subdivisions of such sec-  
 2 tion and no other disposition by plea of guilty to any other charge in  
 3 satisfaction of such charge shall be authorized provided, however, if  
 4 the district attorney upon reviewing the available evidence determines  
 5 that the charge of a violation of section eleven hundred ninety-two of  
 6 this chapter is not warranted, he may consent, and the court may allow a  
 7 disposition by plea of guilty to another charge in satisfaction of such  
 8 charge.

9 § 2. Subparagraph (v) of paragraph a of subdivision two of section  
 10 five hundred ten of such law, as amended by chapter four hundred forty-  
 11 five of the laws of nineteen hundred sixty-nine, is amended to read as  
 12 follows:

13 (v) of a third or subsequent violation, committed within a period of  
 14 [three] seven years, of subdivision one of section eleven hundred  
 15 ninety-two prohibiting the operation of a motor vehicle or motorcycle  
 16 while the ability to operate such motor vehicle or motorcycle is im-  
 17 paired by the consumption of alcohol;

18 § 3. Subparagraphs (i) and (ii) of paragraph b of subdivision two of  
 19 section five hundred ten of such law, subparagraph (i) having been added  
 20 by chapter four hundred forty-five of the laws of nineteen hundred  
 21 sixty-nine and subparagraph (ii) having been amended by chapter one hun-  
 22 dred fifty-six of the laws of nineteen hundred seventy-three, are  
 23 amended to read as follows:

24 (i) for a period of [sixty] ninety days where the holder is convicted  
 25 of a violation of subdivision one of section eleven hundred ninety-two;

26 (ii) for a period of one hundred [twenty] eighty days, which suspen-  
 27 sion shall not run concurrently with any suspension issued under sub-  
 28 paragraph (i) of this paragraph where the holder is convicted of a  
 29 second violation of subdivision one of section eleven hundred ninety-two  
 30 committed within a period of [three] five years;

31 § 4. This act shall take effect on the first day of September next  
 32 succeeding the date on which it shall have become a law.

## SENATE—ASSEMBLY

June 11, 1980

IN SENATE—Introduced by COMMITTEE ON RULES—read twice and ordered  
 printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY—Introduced by COMMITTEE ON RULES—(at request of M. of A.  
 Bersani, Graber)—read once and referred to the Committee on Transpor-  
 tation

AN ACT to amend the vehicle and traffic law, in relation to temporary  
 suspensions and mandatory revocations in certain cases

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Subdivision two of section five hundred ten of the vehicle  
 2 and traffic law is amended by adding a new paragraph d to read as  
 3 follows:

4 d. Mandatory revocations; arrest and refusal to submit to chemical  
 5 test. Such licenses shall be revoked by the commissioner when the hol-  
 6 der has been charged with a violation of any subdivision of section  
 7 eleven hundred ninety-two of this chapter and has refused to submit to a  
 8 chemical test pursuant to the provisions of section eleven hundred  
 9 ninety-four of this chapter.

10 § 2. Subdivisions two and three of section eleven hundred ninety-four  
 11 of such law, subdivision two as amended by chapter two hundred ninety-  
 12 eight of the laws of nineteen hundred seventy-six and subdivision three  
 13 as amended by chapter four hundred forty-five of the laws of nineteen  
 14 hundred seventy-one, are amended to read as follows:

15 2. If such person having been placed under arrest or after a breath  
 16 test indicates the presence of alcohol in his system and having thereaf-  
 17 ter been requested to submit to such chemical test and having been in-  
 18 formed that his license or permit to drive and any non-resident operat-  
 19 ing privilege shall be immediately suspended and subsequently revoked  
 20 for refusal to submit to such chemical test, refuses to submit to such  
 21 chemical test, the test shall not be given and a written report of such  
 22 refusal shall be [forwarded by the police officer under whose direction

EXPLANATION—Matter in *italics* (underscored) is new; matter in brackets  
 [ ] is old law to be omitted.

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1 the test was requested to the commissioner within seventy-two hours and  
 2 the commissioner shall revoke his license or permit to drive and any  
 3 non-resident operating privilege; provided, however, the commissioner  
 4 shall grant such person an opportunity to be heard, unless such opportu-  
 5 nity is waived by such person, and provided further, however, that no  
 6 license, permit or non-resident operating privilege shall be revoked  
 7 because of a refusal to submit to such chemical test unless the hearing  
 8 officer is satisfied that the person was given sufficient warning, in  
 9 clear and unequivocal language prior to such refusal that such refusal  
 10 to submit to such chemical test may result in the revocation of his  
 11 license or operating privilege whether or not he is found guilty of the  
 12 charge for which he was arrested and that the person persisted in his  
 13 refusal.

14 3. A license, permit or non-resident operating privilege may, upon  
 15 the basis of a report, verified as hereinafter provided, of the police  
 16 officer that he had reasonable grounds to believe such arrested person  
 17 to have been driving in violation of any subdivision of section eleven  
 18 hundred ninety-two and that said person had refused to submit to such  
 19 test, be temporarily suspended without notice pending the determination  
 20 upon any such hearing. Such report may be verified by having the report  
 21 sworn to, or by affixing to such report a form notice that false state-  
 22 ments made therein are punishable as a class A misdemeanor pursuant to  
 23 section 210.45 of the penal law and such form notice together with the  
 24 subscription of the deponent shall constitute a verification of the  
 25 report] immediately made by the police officer before whom such refusal  
 26 was made. Such report may be verified by having the report sworn to, or  
 27 by affixing to such report a form notice that false statements made  
 28 therein are punishable as a class A misdemeanor pursuant to section  
 29 210.45 of the penal law and such form notice together with the subscrip-  
 30 tion of the deponent shall constitute a verification of the report. The  
 31 report of the police officer shall state that he had reasonable grounds  
 32 to believe such arrested person to have been driving in violation of any  
 33 subdivision of section eleven hundred ninety-two of this chapter and  
 34 that said person had refused to submit to such chemical test. The  
 35 report shall be presented to the court upon the arraignment of the ar-  
 36 rested person. The license or permit to drive and any non-resident  
 37 operating privilege shall upon the basis of such written report, be tem-  
 38 porarily suspended by the court without notice pending the determination  
 39 of a hearing as provided in subdivision three of this section. Copies  
 40 of such report shall be forwarded by the court, within forty-eight  
 41 hours, to the commissioner. The court shall provide such person with a  
 42 scheduled hearing date, a waiver form, and such other information as may  
 43 be required by the commissioner. If a hearing, as provided for in sub-  
 44 division three of this section, is waived by such person, the commis-  
 45 sioner shall immediately revoke the license, permit, or non-resident  
 46 operating privilege retroactive to the date of refusal to submit to such  
 47 chemical test in accordance with the provisions of subdivisions two, six  
 48 and seven of section five hundred ten of this chapter.

49 3. a. Any person whose license or permit to drive or any non-resident  
 50 driving privilege has been suspended pending revocation pursuant to the  
 51 terms of subdivision two of this section is entitled to a hearing in ac-  
 52 cordance with a hearing schedule to be promulgated by the commissioner  
 53 but no later than fifteen days after the date of the refusal to submit  
 54 to a chemical test as required by this section. If the department fails  
 55 to provide for such hearing within the time prescribed herein, the

1 license, permit to drive or non-resident operating privilege of such  
 2 person shall be reinstated pending a hearing pursuant to this section.  
 3 The hearing shall be limited to the following issues: (1) did the police  
 4 officer have reasonable grounds to believe that such person had been  
 5 driving in violation of any subdivision of section eleven hundred  
 6 ninety-two of this chapter; (2) did the police officer make a lawful ar-  
 7 rest of such person; (3) was such person given sufficient warning, in  
 8 clear or unequivocal language, prior to such refusal that such refusal  
 9 to submit to such chemical test would result in the immediate suspension  
 10 and subsequent revocation of his license or operating privilege whether  
 11 or not he is found guilty of the charge for which he was arrested; and  
 12 (4) did such person refuse to submit to such chemical test. If, after  
 13 such hearing, the hearing officer, acting on behalf of the commissioner,  
 14 finds on any one of said issues in the negative, he shall immediately  
 15 reinstate such license or permit to drive or any non-resident operating  
 16 privilege subject to any existing restriction, revocation, or suspension  
 17 of such license or permit to drive or any non-resident operating priv-  
 18 ilege under this chapter. If, after such hearing, the hearing officer,  
 19 acting on behalf of the commissioner finds all of the issues in the af-  
 20 firmative, he shall immediately revoke the license or permit to drive or  
 21 any non-resident operating privilege retroactive to the date of the  
 22 refusal to submit to a chemical test in accordance with the provisions  
 23 of subdivision two, six and seven of section five hundred ten of this  
 24 chapter. A person who has had his license or permit to drive or non-  
 25 resident operating privilege suspended or revoked pursuant to this sub-  
 26 division may appeal the findings of the hearing officer in accordance  
 27 with the provisions of article three-A of this chapter. Any person may  
 28 waive his right to a hearing under this section. Failure by such person  
 29 to appear for his scheduled hearing shall constitute a waiver of such  
 30 hearing, provided, however, that such person may petition the commis-  
 31 sioner for a new hearing which shall be held as soon as practicable.  
 32 b. Any person whose license, permit to drive, or any non-resident  
 33 operating privilege is revoked pursuant to the provisions of this sec-  
 34 tion shall also be liable for a civil penalty in the amount of one hun-  
 35 dred dollars. No new driver's license or permit shall be issued, or  
 36 non-resident operating privilege restored to such person unless such  
 37 penalty has been paid. All penalties collected by the department pur-  
 38 suant to the provisions of this section shall be the property of the  
 39 state and shall be paid into the general fund of the state treasury.  
 40 c. The commissioner shall promulgate such rules and regulations as  
 41 may be necessary to effectuate the provisions of subdivisions one, two,  
 42 and three of this section.  
 43 § 3. This act shall take effect on the first day of January next suc-  
 44 ceeding the date on which it shall have become a law.

**CONTINUED**

**1 OF 2**

1979-1980 Regular Sessions

## IN SENATE

March 6, 1979

Introduced by Sen. CAEMMERER—read twice and ordered printed, and when printed to be committed to the Committee on Transportation

**AN ACT to amend the vehicle and traffic law, in relation to the grounds for giving chemical tests to operator**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

- 1 Section 1. Paragraph one of subdivision one of section eleven hundred ninety-  
 2 four of the vehicle and traffic law, as amended by chapter four hundred forty-  
 3 five of the laws of nineteen hundred seventy-one, is amended to read as follows:  
 4 (1) having reasonable grounds to believe such person to have been [driving]  
 5 operating in violation of any subdivision of section eleven hundred ninety-two  
 6 and within two hours after such person has been placed under arrest for any  
 7 such violation, or  
 8 § 2. This act shall take effect immediately.

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

LBD9-3-99

S. 5435--A  
Cal. No. 1256

A. 7516--A

As amended by chapter amendment (S7092)  
1981-1982 Regular Sessions

## SENATE—ASSEMBLY

March 31, 1981

IN SENATE—Introduced by Sens. SMITH, CAEMMERER, ACKERMAN, ANDERSON, AUER, BABBUSH, BARCLAY, BERMAN, BERNSTEIN, BRUNO, COOK, DALY, DONOVAN, DUNNE, ECKERT, FARLEY, FLOSS, FLYNN, GOODHUE, GOODMAN, HALPERIN, JOHNSON, KEHOE, LACK, LAVALLE, LEICHTER, LEVY, LOMBARDI, MARCHI, MARINO, MEGA, MENDEZ, NOLAN, OHRENSTEIN, PADAVAN, PRESENT, ROLISON, STAFFORD, TRUNZO, VOLKER, WEINSTEIN, WINIKOW, PISANI, KNORR, GALIBER, BEATTY—read twice and ordered printed, and when printed to be committed to the Committee on Transportation—reported favorably from said committee with amendments and ordered reprinted as amended and when reprinted to be committed to the order of first report

IN ASSEMBLY—Introduced by M. of A. CONNELLY, GRABER, RUGGIERO—Multi-Sponsored by—M. of A. BARBARO, BEHAN, BRANCA, CASALE, CHESBRO, DANIELS, DAVIS, DEARIE, DELTORO, DUGAN, ENGEL, FELDMAN, FERRIS, FLACK, FLANAGAN, FOSSEL, GRANNIS, HAGUE, HANNA, HARENBERG, HAWLEY, HEALEY, HEVESI, HINCHEY, HIRSCH, HOCHBRUECKNER, HOYT, KIDDER, KISOR, KOPPELL, LAFAYETTE, LANE, LARKIN, LEVY, MacNEIL, MADISON, H. M. MILLER, MURPHY, NADLER, NAGLE, NEWBURGER, O'NEIL, ORAZIO, PILLITTERE, PROUD, RAPPLEYEA, RATH, RETTALIATA, ROBACH, ROBLES, SALAND, SCHIMMINGER, SEARS, SHAFFER, SIWEK, SMOLER, TALLON, WARREN, WEINSTEIN, WEMPLE, WILSON, WINNER, YEVOLI—read once and referred to the Committee on Transportation—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

**AN ACT to amend the vehicle and traffic law, in relation to establishment of special traffic options programs for driving while intoxicated and the imposition of penalties in such cases, generally**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

4 Section 1. New York state has long had laws intended to prevent indiv-  
5 iduals who have consumed excessive amounts of alcoholic beverages from  
6 driving. These laws have been enacted because intoxicated drivers are  
7 far more likely to become involved in accidents than those who have not  
8 been drinking. In fact, alcohol is a factor in more than half of all  
9 vehicular fatalities, despite the fact that the state has laws against  
10 driving while intoxicated. Because of the persistence of this problem,  
11 it is essential that the state take further steps to protect those who  
12 make use of roads from the needless deaths, injuries, and property  
13 damage resulting from drunk driving.

14 This legislation recognizes that an effective program to combat drunk  
15 driving must encompass three elements. First, the penalties must be made  
16 commensurate with the crime. Second, local officials must educate the  
1 public about the crime. Third, localities must consistently enforce the  
2 laws.

3 [Thus, this act establishes increased penalties for driving while  
4 ability impaired, for driving while intoxicated and provides stronger  
5 penalties for driving with a license suspended as a result of a drunk  
6 driving conviction.]

7 Thus, this act establishes increased penalties for driving while abil-  
8 ity impaired and for driving while intoxicated.

9 Also, recognizing that education and enforcement of the law are local  
10 functions, the law provides for the creation and funding of special  
11 traffic options programs for driving while intoxicated (stop-dwi) to be  
12 established throughout the state at the option of its counties. Those  
13 counties establishing stop-dwi programs shall formulate a plan [and  
14 provide funding for the coordinated] for coordinating the efforts of in-  
15 involved governmental units and community organizations to reduce alcohol-  
16 related traffic injuries and fatalities. These efforts may include im-  
17 provements in law enforcement [and] adjudication, [increased] educa-  
18 tion, rehabilitation or other related activities.

22 ARTICLE 43-A

23 SPECIAL TRAFFIC OPTIONS PROGRAM  
24 FOR DRIVING WHILE INTOXICATED

25 Section 1678. Special traffic options program for driving while  
26 intoxicated.

- 27 1678-a. Program establishment.  
28 1678-b. Program organization.  
29 1678-c. Purposes.  
30 1678-d. Duties of the coordinator; reports.  
31 1678-e. Functions of the coordinator.  
32 1678-f. County purpose and charge.  
33 1678-g. Program approval.  
34 1678-h. Duties of the commissioner.  
35 1678-i. Program cessation.  
36 1678-j. Program evaluation.

37 § 1678. Special traffic options program for driving while intoxicated.  
38 "The program", as used in this section, shall mean the special traffic  
39 options program for driving while intoxicated, a program established  
40 pursuant to this article, and approved by the chairman of the governing  
41 board of a participating county and the commissioner of motor vehicles.

§ 1678-a. Program establishment. 1. Where a county establishes a spe-  
cial traffic options program for driving while intoxicated, pursuant to  
this article, it shall receive fines and forfeitures collected by any  
court, judge, magistrate or other officer within that county from  
violations of section eleven hundred ninety-two and subdivision two of  
section five hundred eleven of this chapter, as provided in section  
eighteen hundred three of this chapter. Upon receipt of these monies,  
the county shall deposit them in a separate account entitled "special  
traffic options program for driving while intoxicated" and they shall be  
under the exclusive care, custody and control of the chief fiscal  
officer of each county participating in the program.

3 2. Expenditures from such account shall only be made pursuant to the  
4 approval of a county program by the commissioner of motor vehicles. The  
5 chief fiscal officer of each participating county shall, on a quarterly  
6 basis, forward to the commissioner a written certificate of moneys ex-  
7 pended from such account.

8 § 1678-b. Program organization. 1. Where a program is established by a  
9 county, it shall be organized by a coordinator for the special traffic  
10 options program for driving while intoxicated, who shall be designated  
11 by the chief executive officer of the county, if there be one, otherwise  
12 the chairman of the governing board of the county or in the city of New  
13 York a person designated by the mayor thereof. Where a coordinator is  
14 designated, he shall receive such salary and expenses as the board of  
15 legislators or other governing body of such county may fix and properly  
16 account for such expenses and shall serve at the pleasure of such ap-  
17 pointing body or officer.

18 2. In counties having a county traffic safety board, the chief exe-  
19 cutive officer, if there be one, otherwise the chairman of the governing  
20 board of the county or the mayor of the city of New York, may designate  
21 the chairman of the board or a member thereof as coordinator of the  
22 program.

23 § 1678-c. Purposes. 1. The program shall provide a plan for coordina-  
24 tion of county, town, city and village efforts to reduce alcohol-related  
25 traffic injuries and fatalities.

26 2. The program shall, where approved by the county board or other gov-  
27 erning body, provide funding for such activities as the board or other  
28 body may approve, for the above described purposes.

39 § 1678-d. Duties of the coordinator; reports. 1. It shall be the duty  
40 of the coordinator to:

41 (a) Render annually or at the request of the county legislature or  
42 other governing body of the county, a verified account of all monies  
43 received and expended by him or under his direction and an account of  
44 other pertinent matters.

45 (b) Submit annually or upon request of the chief fiscal officer of  
46 each county participating in the program, in such manner as may be  
47 required by law, an estimate of the funds required to carry out the pur-  
48 poses of this article.

49 (c) Make an annual report to the commissioner, which shall be due on  
50 or before the first day of April of each year following the implementa-  
51 tion of said program, and shall include the following:

52 (i) the progress, problems and other matters related to the adminis-  
53 tration of said program; and

54 (ii) an assessment of the effectiveness of the program within the geo-  
1 graphic area of the county participating therein and any and all recom-  
2 mendations for expanding and improving said program.

3 2. Any annual report shall also contain the following, in a form  
4 prescribed by the commissioner:

5 (a) Number of arrests for violations of section eleven hundred ninety-  
6 two and subdivision two of section five hundred eleven of this chapter;

7 (b) Number and description of dispositions resulting therefrom;

8 (c) Number of suspensions issued in the county for alleged refusals to  
9 submit to chemical tests;

10 (d) Total fine monies returned to the participating county in connec-  
11 tion with the program;

12 (e) Contemplated programs; [and]

13 (f) Distribution of monies in connection with program  
14 administration[.]; and

15 (g) Any other information required by the commissioner.

16 § 1678-e. Functions of the coordinator. In addition to the duties of  
17 the coordinator as provided in section sixteen hundred seventy-eight-d  
18 of this article, the coordinator shall perform the following functions:

19 1. Formulate a special traffic options program for driving while in-  
20 toxicated and coordinate efforts of interested parties and agencies en-  
21 gaged in alcohol traffic safety, law enforcement, adjudication, rehabil-  
22 itation and preventive education.  
23  
24  
25  
26

27 2. Receive proposals from county, town, city or village agencies or  
28 non-governmental groups for activities related to alcohol traffic safety  
29 and to submit them to the county board of legislators or other such gov-  
30 erning body, together with a recommendation for funding of the activity  
31 if he deems it appropriate.

32 3. Cooperate with and assist local officials within the county in the  
33 formulation and execution of alcohol traffic safety programs including  
34 enforcement, adjudication, rehabilitation and education.

35 4. Study alcohol traffic safety problems within the county and to  
36 recommend to the appropriate legislative bodies, departments or commis-  
37 sions, such changes in rules, orders, regulations and existing law as  
38 the coordinator may deem advisable.

39 5. Promote alcohol traffic safety education for drivers.

40 6. Obtain and assemble data on alcohol-related accident arrests, con-  
41 victions and accidents and to analyze, study, and consolidate such data  
42 for educational, research and informational purposes.

43 § 1678-f. County purpose and charge. The provisions of this article  
44 and expenditures made hereunder shall be deemed a county purpose and  
45 charge.

46 § 1678-g. Program approval. The program, including a proposed opera-  
47 tional budget, shall be submitted by each county coordinator to the com-  
48 missioner for approval. The commissioner shall consider the following  
49 before approving said program:

50 1. The interrelationship of such program with existing drunk driving  
51 related programs in areas including, but not limited to, law enforce-  
52 ment, prosecution, adjudication and education.

53 2. Avoidance of duplication of existing programs funded or operated by  
54 either the state or any municipality including, but not limited to, the  
1 alcohol and drug rehabilitation program, established under article  
2 twenty-one of this chapter.

3 3. All other factors which the commissioner shall deem necessary.

4 § 1678-h. Duties of the commissioner. 1. The commissioner shall com-  
5 pile the reports submitted by the county coordinators and shall issue a  
6 comprehensive report on such programs to the governor and to the  
7 legislature.

8 2. The commissioner shall monitor all programs to ensure satisfactory  
9 implementation in conjunction with the established program application  
10 goals.

11 § 1678-i. Program cessation. When a participating county wishes to  
12 cease its program, the coordinator shall notify the commissioner in  
13 writing of the date of termination and all money remaining in the fund  
14 established by that county pursuant to section sixteen hundred seventy-  
15 eight-a of this article on such date shall be transferred to the general  
16 fund of the state treasury. All fines and forfeitures collected pursuant  
17 to the provisions of this article on and after the termination date  
18 shall be disposed of in accordance with subdivision one of section  
19 eighteen hundred three of this chapter.

20 § 1678-j. Program evaluation. On or before March thirty-first,  
21 nineteen hundred eighty-five, the commissioner of motor vehicles shall  
22 report to the governor, the temporary president of the senate, the  
23 speaker of the assembly, the chairman of the senate finance committee  
24 and the chairman of the assembly ways and means committee with an eval-  
25 uation of the program together with recommendations as to whether it  
26 shall continue in operation, or whether it shall be changed in some man-  
27 ner, or whether it shall be dissolved. The commissioner may call upon  
28 the division of alcoholism and alcohol abuse or any other agency he  
29 deems appropriate to provide such data and data analysis as may assist  
30 in the formulation of this evaluation and these recommendations.

39 § 3. Paragraph (c) of subdivision one of section five hundred twenty-  
40 one of such law, as amended by chapter six hundred seven of the laws of  
41 nineteen hundred seventy-nine, is amended to read as follows:

42 (c) Participation in the program shall be limited to those persons  
43 convicted of alcohol or drug-related traffic offenses or persons who  
44 have been adjudicated youthful offenders for alcohol or drug-related  
45 traffic offenses, who choose to participate and who satisfy the criteria  
46 and meet the requirements for participation as established by this arti-  
47 cle and the regulations promulgated thereunder; provided, however, the  
48 judge imposing sentence may, in his discretion, prohibit the defendant  
49 from enrolling in such program. An adjudicated youthful offender shall  
50 be eligible to apply for participation only if the sentencing judge  
51 recommends that he so apply. The commissioner or his deputy in his  
52 discretion, may reject any person from participation referred to such  
53 program and nothing herein contained shall be construed as creating a  
54 right to be included in any course or program established under this  
55 section. In addition, no person shall be permitted to take part in such  
1 program if, during the five years immediately preceding conviction for  
2 an alcohol or drug-related traffic offense, such person has participated  
3 in a program established pursuant to this article. In his discretion,  
4 the commissioner or his deputy shall have the right to expel any partic-  
5 ipant from the program who fails to satisfy the requirements for partic-  
6 ipation in such program or who fails to satisfactorily participate in or  
7 attend any aspect of such program. Notwithstanding any contrary provi-  
8 sions of this chapter, satisfactory participation in and completion of a  
9 course in such program shall be deemed a proper alternative sentence to  
10 an alcohol or drug-related traffic offense and shall be considered full  
11 and adequate satisfaction of one-half of any penalty of fine [or] and  
12 complete satisfaction of any imprisonment that may have been imposed by  
13 reason of a conviction therefor.

14 § 4. Section eleven hundred ninety-two of such law, as added by chap-  
15 ter two hundred seventy-five of the laws of nineteen hundred seventy,  
16 subdivision two as amended by chapter four hundred fifty of the laws of  
17 nineteen hundred seventy-two and subdivision five as amended by chapter  
18 one hundred fifty-four of the laws of nineteen hundred seventy-five, is  
19 amended to read as follows:

33 1. No person shall operate a motor vehicle while his ability to oper-  
34 ate such motor vehicle is impaired by the consumption of alcohol. [A vi-  
35 olation of this subdivision shall be a traffic infraction and shall be  
36 punishable by a fine of two hundred fifty dollars, or by imprisonment in  
37 a penitentiary or county jail for not more than thirty days, or by both  
38 such fine and imprisonment. A person who operates a vehicle in violation  
39 of this subdivision after having been convicted of a violation of any  
40 subdivision of this section within the preceding five years shall be  
41 punished by a fine of not less than three hundred fifty dollars nor more  
42 than five hundred dollars, or by imprisonment of not more than sixty  
43 days in a penitentiary or county jail or by both such fine and  
44 imprisonment. A person who operates a vehicle in violation of this sub-  
45 division after having been convicted [of] two or more times of a viola-  
46 tion of any subdivision of this section within the preceding ten years  
47 shall be punished by a fine of not less than five hundred dollars nor  
48 more than fifteen hundred dollars, or by imprisonment of not more than  
49 one hundred eighty days in a penitentiary or county jail or by both such  
50 fine and imprisonment.] A violation of this subdivision shall be a traf-  
51 fic infraction and shall be punishable by a fine of two hundred fifty  
52 dollars, or by imprisonment in a penitentiary or county jail for not  
53 more than fifteen days, or by both such fine and imprisonment. A person  
54 who operates a vehicle in violation of this subdivision after having  
55 been convicted of a violation of any subdivision of this section within

1 the preceding five years shall be punished by a fine of not less than  
2 three hundred fifty dollars nor more than five hundred dollars, or by  
3 imprisonment of not more than thirty days in a penitentiary or county  
4 jail or by both such fine and imprisonment. A person who operates a  
5 vehicle in violation of this subdivision after having been convicted two  
6 or more times of a violation of any subdivision of this section within  
7 the preceding ten years shall be punished by a fine of not less than  
8 five hundred dollars nor more than fifteen hundred dollars, or by impri-  
9 sonment of not more than ninety days in a penitentiary or county jail or  
10 by both such fine and imprisonment.

39 2. No person shall operate a motor vehicle while he has .10 of one  
40 per centum or more by weight of alcohol in his blood as shown by chemi-  
41 cal analysis of his blood, breath, urine or saliva, made pursuant to the  
42 provisions of section eleven hundred ninety-four of this chapter.

43 3. No person shall operate a motor vehicle while he is in an intoxi-  
44 cated condition.

45 4. No person shall operate a motor vehicle while his ability to oper-  
46 ate such a motor vehicle is impaired by the use of a drug as defined in  
47 this chapter.

48 5. A violation of subdivisions two, three or four of this section  
49 shall be a misdemeanor and shall be punishable by imprisonment in a  
50 penitentiary or county jail for not more than one year, or by a fine of  
51 not less than three hundred fifty dollars nor more than five hundred  
52 dollars, or by both such fine and imprisonment. A person who operates a  
53 vehicle in violation of subdivisions two or three of this section after  
54 having been convicted of a violation of subdivisions two or three of  
55 this section, or of driving while intoxicated, within the preceding ten

1 years, shall be guilty of a felony, and shall be punished by a fine of  
2 not less than five hundred dollars and such other penalties as are  
3 provided in the penal law. A person who operates a vehicle in violation  
4 of subdivision four of this section, after having been convicted of a  
5 violation of subdivision four of this section, or of driving while his  
6 ability is impaired by the use of drugs within the preceding ten years,  
7 shall be guilty of a felony.

8 6. Notwithstanding any provision of the penal law, no judge or magis-  
9 trate shall impose a sentence of unconditional discharge for a violation  
10 of any subdivision of this section nor shall he impose a sentence of  
11 conditional discharge unless such conditional discharge is accompanied  
12 by a sentence of a fine as provided in this section. Where a suspended  
13 sentence is imposed, the court shall set forth, in the record, the reas-  
14 ons for its action.

15 § 5. The opening paragraph and paragraph c of subdivision one of sec-  
16 tion eighteen hundred three of such law, as amended by chapter six hun-  
17 dred seventy-nine of the laws of nineteen hundred seventy, are amended  
18 to read as follows:

19 Except as otherwise provided in subdivision four of section two hun-  
20 dred twenty-seven of this chapter and as provided in section sixteen  
21 hundred seventy-eight of this chapter, all fines and penalties collected  
22 under a sentence or judgment of conviction of a violation of this chap-  
23 ter or of any act relating to the use of highways by motor vehicles or  
24 trailers, now in force or hereafter enacted, shall be distributed in the  
25 following manner:

26 c. for violations of section eleven hundred eighty which are not in-  
27 cluded in paragraph a or paragraph b of this subdivision, violations of  
28 sections eleven hundred eighty-two, eleven hundred ninety and eleven  
29 hundred ninety-two, except in those counties adopting a special traffic  
30 option program for driving while intoxicated, pursuant to section six-  
31 teen hundred seventy-eight of this chapter, and violations of this chap-  
32 ter or of any act relating to the use of highways by motor vehicles or  
33 trailers, now in force or hereafter enacted, for which no other dis-  
34 tribution is prescribed, all fines, penalties and forfeitures shall be  
35 paid to the state.

36 § 6. Section eighteen hundred three of such law is amended by adding a  
37 new subdivision nine to read as follows:

38 9. Where a county establishes a special traffic options program for  
39 driving while intoxicated, approved by the commissioner of motor vehi-  
40 cles, pursuant to section sixteen hundred seventy-eight of this article,  
41 all fines, penalties and forfeitures collected from violations of sub-  
42 division two of section five hundred eleven or section eleven hundred  
43 ninety-two of this chapter shall be paid to such county.

44 (a) Any such fine, penalty, or forfeiture collected by any court,  
45 judge, magistrate or other officer referred to in subdivision one of  
46 section thirty-nine of the judiciary law, establishing a unified court  
47 budget, shall be paid to that county within the first ten days of the  
48 month following collection.

49 (b) Any such fine, penalty, or forfeiture collected by any other  
50 court, judge, magistrate or other officer shall be paid to the state  
51 comptroller within the first ten days of the month following collection.  
52 Every such payment to the comptroller shall be accompanied by a state-  
53 ment in such form and detail as the comptroller shall provide. The comp-  
54 troller shall pay these funds to the county in which the violation  
55 occurs.

1 (c) Upon receipt of any monies referred to in this section, the county  
2 shall deposit them in a separate account entitled "special traffic op-  
3 tions program for driving while intoxicated".

11 § 4. The sum of eighty thousand dollars (\$80,000), or so much thereof  
12 as shall be necessary, is hereby appropriated out of any moneys in the  
13 state treasury in the general fund to the credit of the state purposes  
14 fund, and not otherwise appropriated to the department of motor vehicles  
15 for services and expenses of the state department of motor vehicles for  
16 the purposes of carrying out the provisions of this act. Such sum shall  
17 be payable on the audit and warrant of the state comptroller on vouchers  
18 certified or approved by the commissioner of motor vehicles, or his duly  
19 designated representative in the manner provided by law. No expenditure  
20 shall be made from this appropriation until a certificate of approval of  
21 availability shall have been issued by the director of the budget and  
22 filed with the state comptroller and a copy filed with the chairman of  
23 the senate finance committee and the chairman of the assembly ways and  
24 means committee. Such certificate may be amended from time to time by  
25 the director of the budget and a copy of each such amendment shall be  
26 filed with the state comptroller, the chairman of the senate finance  
27 committee and the chairman of the assembly ways and means committee.

28 § 5. This act shall take effect on the same date as such chapter of  
29 the laws of nineteen hundred eighty-one takes effect.

4 § 7. This act shall take effect one hundred twenty days after it shall  
5 become a law and shall only apply to violations occurring on and after  
6 such effective date.

1981-1982 Regular Sessions

# IN ASSEMBLY

March 31, 1981

Introduced by M. of A. ROBACH, CONNELLY, RUGGIERO, NEWBURGER, KREMER—Multi-Sponsored by—M. of A. BRANCA, SHAFFER, PILLITTERE, HARENBERG, HOCHBRUECKNER, YEVOLI—read once and referred to the Committee on Transportation—reported and referred to the Committee on Rules—Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules—passed by Assembly and delivered to the Senate, recalled from Senate, vote reconsidered, bill amended, ordered reprinted and restored to third reading—again amended on third reading, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the vehicle and traffic law, in relation to penalties for operation of a motor vehicle with a revoked or suspended license in certain cases

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision two of section five hundred eleven of the vehicle and traffic law, as added by chapter one hundred six of the laws of nineteen hundred seventy-six, is amended to read as follows:

2 2. Notwithstanding the provisions of subdivision one of this section  
3 or the provisions of the penal law, any person operating a motor vehicle  
4 [or motorcycle] upon a public highway while knowing or having reason to  
5 know that his license or his privilege of operating a motor vehicle in  
6 the state or his privilege of obtaining a license issued by the commis-  
7 sioner is suspended or revoked based on either a refusal to submit to a  
8 chemical test pursuant to section eleven hundred ninety-four of this  
9 chapter or following a conviction for a violation of any of the provi-  
10 sions of section eleven hundred ninety-two of this chapter and, while  
11 such suspension or revocation is in effect, shall be guilty of a mis-  
12 demeanor, and upon conviction shall be subject to a [fine of not less  
13 than two hundred dollars nor more than five hundred dollars or by imprisonment for not exceeding one hundred eighty days or by both such fine and imprisonment] period of imprisonment of not less than seven days nor more than one hundred eighty days and a fine of not less than two hundred dollars nor more than five hundred dollars. The court may allow such person to serve the sentence imposed as a sentence of intermittent imprisonment pursuant to the provisions of article eighty-five of the penal law.

14 § 2. This act shall take effect on the first day of September next  
15 succeeding the date on which it shall have become a law.

1981-1982 Regular Sessions

# IN SENATE

May 5, 1981

Introduced by Sens. PADAVAN, SMITH—read twice and ordered printed, and when printed to be committed to the Committee on Transportation—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to mandatory suspensions in certain cases

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph b of subdivision two of section five hundred ten  
2 of the vehicle and traffic law is amended by adding a new paragraph (vi)  
3 to read as follows:  
4 (vi) without notice, pending any prosecution, the court shall suspend  
5 such license, where the holder has been charged with a violation of sub-  
6 division two or three of section eleven hundred ninety-two of this chap-  
7 ter and has been convicted of any violation under such section eleven  
8 hundred ninety-two within the preceding three years. In order for a  
9 suspension made pursuant to the terms of this subparagraph to remain in  
10 effect pending any prosecution, the court must, on or before the date of  
11 arraignment, make the following findings: (1) that the arresting police  
12 officer has reasonable grounds to believe that the holder has been driv-  
13 ing in violation of subdivision two or three of section eleven hundred  
14 ninety-two of this chapter, and (2) that the holder has been previously  
15 convicted of a violation of section eleven hundred ninety-two of this  
16 chapter within the past three years. At such time the holder shall be  
17 entitled to an opportunity to make a statement regarding the enumerated  
18 issues and to present evidence tending to rebut the court's findings.  
19 § 2. This act shall take effect immediately.

EXPLANATION—Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.

1981-1982 Regular Sessions

# IN ASSEMBLY

March 3, 1981

Introduced by M. of A. JENKINS, PERONE—read once and referred to the Committee on Codes—reported from said committee with amendments, ordered reprinted as amended and placed on the order of second reading

AN ACT to amend the criminal procedure law, in relation to return of certain records upon conviction for noncriminal offense

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of subdivision one of section 160.55  
2 of the criminal procedure law, as added by chapter one hundred ninety-  
3 two of the laws of nineteen hundred eighty, is amended to read as  
4 follows:

5 Upon the termination of a criminal action or proceeding against a per-  
6 son by the conviction of such person of a traffic infraction or a viola-  
7 tion, other than a violation of loitering as described in paragraph (d)  
8 or (e) of subdivision one of section 160.10 of this chapter or the vi-  
9 olation of operating a motor vehicle while ability impaired as described  
10 in subdivision one of section eleven hundred ninety-two of the vehicle  
11 and traffic law, unless the district attorney upon motion with not less  
12 than five days notice to such person or his attorney demonstrates to the  
13 satisfaction of the court that the interests of justice require other-  
14 wise, or the court on its own motion with not less than five days notice  
15 to such person or his attorney determines that the interests of justice  
16 require otherwise and states the reasons for such determination on the  
17 record, the court wherein such criminal action or proceeding was termi-  
18 nated shall enter an order, which shall immediately be served by the  
19 clerk of the court upon the commissioner of the division of criminal  
20 justice services and upon the heads of all police departments and other  
21 law enforcement agencies having copies thereof, directing that:

1 § 2. Subdivision two of section 160.55 of such law, as added by chapter  
2 one hundred ninety-two of the laws of nineteen hundred eighty, is  
3 amended to read as follows:

4 2. A person against whom a criminal action or proceeding was termi-  
5 nated by such person's conviction of a traffic infraction or violation  
6 other than a violation of loitering as described in paragraph (d) or (e)  
7 of subdivision one of section 160.10 of this chapter or the violation of  
8 operating a motor vehicle while ability impaired as described in subdiv-  
9 ision one of section eleven hundred ninety-two of the vehicle and traf-  
10 fic law, [or of a traffic infraction] prior to the effective date of  
11 this section, may upon motion apply to the court in which such termina-  
12 tion occurred, upon not less than twenty days notice to the district at-  
13 torney, for an order granting to such person the relief set forth in  
14 subdivision one of this section, and such order shall be granted unless  
15 the district attorney demonstrates to the satisfaction of the court that  
16 the interests of justice require otherwise.

17 § 3. This act shall take effect immediately.

1981-1982 Regular Sessions

# IN SENATE

March 25, 1981

Introduced by Sens. CAEMMERER, BERMAN—(at request of the Department of Motor Vehicles)—read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the driving privileges of conditional driver's license

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (f) of subdivision one of section five hundred  
2 twenty-one of the vehicle and traffic law, as added by chapter two hun-  
3 dred ninety-one of the laws of nineteen hundred seventy-five, is amended  
4 to read as follows:

5 (f) Notwithstanding any inconsistent provision of this chapter, par-  
6 ticipants in the program may, in the commissioner's discretion, be is-  
7 sued a conditional driver's license. Such a conditional license shall  
8 be valid only for use, by the holder thereof, (i) enroute to and from  
9 his place of employment, (ii) if his employment requires the operation  
10 of a motor vehicle then during the hours thereof, and (iii) enroute to  
11 and from a class or an activity which is an authorized part of the alco-  
12 hol and drug rehabilitation program and at which his attendance is  
13 required and (iv) enroute to and from a class or course at an accredited  
14 school, college or university or at a State approved institution of  
15 vocational or technical training, and (v) to or from court ordered pro-  
16 bation activities, and (vi) for a three hour consecutive daytime period,  
17 chosen by the administrators of the program, on a day during which the  
18 participant is not engaged at his usual employment or vocation. Such  
19 license shall remain in effect during the term of the suspension or  
20 revocation of the participant's license unless earlier revoked by the  
21 commissioner.

22 § 2. This act shall take effect immediately.

EXPLANATION—Matter in *italics* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD1-36-10-1051p

1981-1982 Regular Sessions

# IN SENATE

March 31, 1981

Introduced by Sen. GOODHUE—read twice and ordered printed, and when printed to be committed to the Committee on Transportation—reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the vehicle and traffic law, in relation to temporary suspensions and mandatory revocations in certain cases

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (d) of subdivision one of section five hundred  
2 twenty-one of the vehicle and traffic law, as amended by chapter six  
3 hundred seven of the laws of nineteen hundred seventy-nine, is amended  
4 to read as follows:

5 (d) Upon successful completion of a course in such program as certi-  
6 fied by its administrator, a participant may apply to the commissioner  
7 on a form provided by him for that purpose, for the termination of the  
8 suspension or revocation order issued as a result of the participant's  
9 conviction or adjudication as a youthful offender which caused his par-  
10 ticipation in such course, as well as any suspension or revocation order  
11 still in effect as a result of a refusal to submit to a chemical test  
12 arising out of the same incident. Upon receipt of such application in  
13 his discretion, and upon payment of any civil penalties for which the  
14 applicant may be liable, the commissioner is authorized to terminate  
15 such order or orders and return the participant's license.

16 § 2. Subdivision two of section eleven hundred ninety-four of such  
17 law, as amended by chapter eight hundred seven of the laws of nineteen  
18 hundred eighty, is amended to read as follows:

1 2. If such person having been placed under arrest or after a breath  
2 test indicates the presence of alcohol in his system and having thereaf-  
3 ter been requested to submit to such chemical test and having been in-  
4 formed that his license or permit to drive and any non-resident operat-  
5 ing privilege shall be immediately suspended and subsequently revoked  
6 for refusal to submit to such chemical test, whether or not he is found  
7 guilty of the charge for which he is arrested, refuses to submit to such  
8 chemical test, the test shall not be given and a written report of such  
9 refusal shall be immediately made by the police officer before whom such  
10 refusal was made. Such report may be verified by having the report sworn  
11 to, or by affixing to such report a form notice that false statements  
12 made therein are punishable as a class A misdemeanor pursuant to section  
13 210.45 of the penal law and such form notice together with the subscrip-  
14 tion of the deponent shall constitute a verification of the report. The

15 report of the police officer shall state that he had reasonable grounds  
16 to believe such arrested person to have been driving in violation of any  
17 subdivision of section eleven hundred ninety-two of this chapter and  
18 that said person had refused to submit to such chemical test. The report  
19 shall be presented to the court upon the arraignment of the arrested  
20 person. The license or permit to drive and any non-resident operating  
21 privilege shall upon the basis of such written report, be temporarily  
22 suspended by the court without notice pending the determination of a  
23 hearing as provided in subdivision three of this section. Copies of such  
24 report shall be forwarded by the court, within forty-eight hours, to the  
25 commissioner. The court shall provide such person with a scheduled hear-  
26 ing date, a waiver form, and such other information as may be required  
27 by the commissioner. If a hearing, as provided for in subdivision three  
28 of this section, is waived by such person, the commissioner shall imme-  
29 diately revoke the license, permit, or non-resident operating privilege  
30 [retroactive to the date of refusal to submit to such chemical test] in  
31 accordance with the provisions of subdivisions two, six and seven of  
32 section five hundred ten of this chapter.

33 § 3. Paragraph a of subdivision three of section eleven hundred  
34 ninety-four of such law, as added by chapter eight hundred seven of the  
35 laws of nineteen hundred eighty, is amended to read as follows:

36 a. Any person whose license or permit to drive or any non-resident  
37 driving privilege has been suspended pending revocation pursuant to the  
38 terms of subdivision two of this section is entitled to a hearing in ac-  
39 cordance with a hearing schedule to be promulgated by the commissioner  
40 but no later than fifteen days after the date of the [refusal to submit  
41 to a chemical test] arraignment of the arrested person as required by  
42 this section. If the department fails to provide for such hearing within  
43 the time prescribed herein, the license, permit to drive or non-resident  
44 operating privilege of such person shall be reinstated pending a hearing  
45 pursuant to this section. The hearing shall be limited to the following  
46 issues: (1) did the police officer have reasonable grounds to believe  
47 that such person had been driving in violation of any subdivision of  
48 section eleven hundred ninety-two of this chapter; (2) did the police  
49 officer make a lawful arrest of such person; (3) was such person given  
50 sufficient warning, in clear or unequivocal language, prior to such  
51 refusal that such refusal to submit to such chemical test would result  
52 in the immediate suspension and subsequent revocation of his license or  
53 operating privilege whether or not he is found guilty of the charge for  
54 which he was arrested; and (4) did such person refuse to submit to such  
55 chemical test. If, after such hearing, the hearing officer, acting on

1 behalf of the commissioner, finds on any one of said issues in the nega-  
2 tive, he shall immediately reinstate such license or permit to drive or  
3 any non-resident operating privilege subject to any existing restric-  
4 tion, revocation, or suspension of such license or permit to drive or  
5 any non-resident operating privilege under this chapter. If, after such  
6 hearing, the hearing officer, acting on behalf of the commissioner finds  
7 all of the issues in the affirmative, he shall immediately revoke the  
8 license or permit to drive or any non-resident operating privilege  
9 [retroactive to the date of the refusal to submit to a chemical test] in  
10 accordance with the provisions of [subdivision] subdivisions two, six  
11 and seven of section five hundred ten of this chapter. A person who has  
12 had his license or permit to drive or non-resident operating privilege  
13 suspended or revoked pursuant to this subdivision may appeal the find-  
14 ings of the hearing officer in accordance with the provisions of article  
15 three-A of this chapter. Any person may waive his right to a hearing un-  
16 der this section. Failure by such person to appear for his scheduled  
17 hearing shall constitute a waiver of such hearing, provided, however,  
18 that such person may petition the commissioner for a new hearing which  
19 shall be held as soon as practicable.

20 § 4. This act shall take effect immediately.

1981-1982 Regular Sessions

# IN ASSEMBLY

March 31, 1981

Introduced by M. of A. GOTTFRIED, NEWBURGER, TALLON, McCABE, GRABER—  
Multi-Sponsored by—M. of A. BRANCA, SHAFFER, PILLITTERE, HARENBERG,  
HOCHBRUECKNER, ROBACH—read once and referred to the Committee on  
Transportation—reported and referred to the Committee on Rules—Rules  
Committee discharged, bill amended, ordered reprinted as amended and  
recommitted to the Committee on Rules

AN ACT to amend the vehicle and traffic law, in relation to restoration  
of licenses in certain cases

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Subdivision five of section five hundred ten of the vehi-  
2 cle and traffic law, as renumbered by chapter six hundred fifty-one of  
3 the laws of nineteen hundred sixty-five, is amended to read as follows:

4 5. (a) Restoration. A license or certificate of registration may be  
5 restored by direction of the commissioner but not otherwise. Reversal  
6 on appeal, of any conviction because of which any license or registra-  
7 tion has been revoked or suspended, shall entitle the holder to restora-  
8 tion thereof forthwith. The privileges of a non-resident may be  
9 restored by direction of the commissioner in his discretion but not  
10 otherwise.

11 (b) When a license to operate a motor vehicle has been revoked or  
12 suspended pursuant to this chapter, and the holder is subject to a sen-  
13 tence of probation imposed pursuant to section 65.00 of the penal law  
14 for a violation of any provision of this chapter, or any other provision  
15 of the laws of this state and a condition of probation is:

16 (i) that the holder thereof not apply for a license to operate a motor  
17 vehicle during the period of such condition of probation, the commis-  
18 sioner may not restore such license until the period of the condition of  
19 probation has expired;

1 (ii) that the holder thereof not operate a motor vehicle during the  
2 period of such condition of probation, upon the expiration of a minimum  
3 period of revocation, and subject to any other requirements set forth in  
4 this chapter, the commissioner may restore such license to the holder  
5 provided the period of the condition of probation is noted on such  
6 license and the information contained in such notation is recorded by  
7 the department; or

8 (iii) that the holder thereof not operate a motor vehicle during the  
9 period of such condition of probation, upon the termination of a period  
10 of suspension and subject to any requirements set forth in this chapter,  
11 the commissioner shall restore such license to the holder provided the  
12 period of the condition of probation is noted on such license and the  
13 information contained in such notation is recorded by the department.

14 § 2. This act shall take effect on the first day of September next  
15 succeeding the date on which it shall have become a law.

1981-1982 Regular Sessions

# SENATE—ASSEMBLY

May 5, 1981

IN SENATE—Introduced by Sen. PADAVAN—read twice and ordered printed,  
and when printed to be committed to the Committee on Investigations  
and Taxation—committee discharged, bill amended, ordered reprinted as  
amended and recommitted to said committee

IN ASSEMBLY—Introduced by COMMITTEE ON RULES—(at request of M. of A.  
Hinchey, Connelly, Newburger)—read once and referred to the Committee  
on Commerce, Industry and Economic Development—reported and referred  
to the Committee on Rules—Rules Committee discharged, bill amended,  
ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the alcoholic beverage control law, in relation to  
requiring the posting of the prohibition of sales to an intoxicated  
person in certain cases

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The alcoholic beverage control law is amended by adding a  
2 new section sixty-five;c to read as follows:

3 § 65-c. Posting of signs. 1. The authority shall prepare, have printed  
4 and distribute across the state to all persons with a license to sell  
5 liquor for consumption on the premises or a license to sell liquor for  
6 consumption off the premises a sign or poster with conspicuous lettering  
7 that states the provisions of subdivision two of section sixty-five of  
8 this article. Such sign or poster shall be captioned with the word  
9 "warning" in at least two inch lettering.

10 2. All persons with a license to sell liquor for consumption on the  
11 premises or a license to sell liquor for consumption off the premises  
12 shall display in a conspicuous place the sign or poster upon receiving  
13 it from the authority.

14 3. Any person with such license who violates the provisions of this  
15 section shall be subject to a civil penalty, not to exceed one hundred  
16 dollars for each day of violation.

17 § 2. This act shall take effect immediately.

EXPLANATION—Matter in *italics* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD1-21-37-775A

**END**