

Uniform Guidelines *for* State Highway Safety Programs



November 2006

Highway Safety Program Guideline No. 8

Impaired Driving

Each State, in cooperation with its political subdivisions and tribal governments and other parties as appropriate, should develop and implement a comprehensive highway safety program, reflective of State demographics, to achieve a significant reduction in traffic crashes, fatalities, and injuries on public roads. The highway safety program should include an impaired driving component that addresses highway safety activities related to impaired driving. (Throughout this guideline, the term *impaired driving* means operating a motor vehicle while affected by alcohol and/or other drugs, including prescription drugs, over-the-counter medicines, or illicit substances.) This guideline describes the components that a State impaired driving program should include and the criteria that the program components should meet.

I. PROGRAM MANAGEMENT AND STRATEGIC PLANNING

An effective impaired driving program should be based on strong leadership, sound policy development, program management and strategic planning, and an effective communication program. Program efforts should be data-driven, focusing on populations and geographic areas that are most at risk, and science-based, determined through independent evaluation as likely to succeed. Programs and activities should be guided by problem identification and carefully managed and monitored for effectiveness. Adequate resources should be devoted to the problem and costs should be borne, to the extent possible, by impaired drivers. Each State should include the following as part of its impaired driving program:

- **Task Forces or Commissions:** Convene Driving While Impaired (DWI) task forces or commissions to foster leadership, commitment, and coordination among all parties interested in impaired driving issues, including both traditional and non-traditional parties, such as highway safety enforcement, criminal justice, driver licensing, treatment, liquor law enforcement, business, medical, health care, advocacy and multicultural groups, the media, institutions of higher education, and the military.
- **Strategic Planning:** Develop and implement an overall plan for short- and long-term impaired driving activities based on careful problem identification.
- **Program Management:** Establish procedures to ensure that program activities are implemented as intended.

- **Resources:** Allocate sufficient funding, staffing, and other resources to support impaired driving programs. Programs should aim for self-sufficiency and, to the extent possible, costs should be borne by impaired drivers.
- **Data and Records:** Establish and maintain a records system that uses data from other sources (e.g., U.S. Census, Fatality Analysis Reporting System [FARS], Crash Outcome Data Evaluation System [CODES]) to fully support the impaired driving program, and that is guided by a statewide traffic records coordinating committee (TRCC) that represents the interests of all public and private sector stakeholders and the wide range of disciplines that need the information.
- **Communication Program:** Develop and implement a comprehensive communications program that supports priority policies and program efforts and is directed at impaired driving; underage drinking; and reducing the risk of injury, death, and resulting medical, legal, social, and other costs.

II. PREVENTION

Prevention programs should aim to reduce impaired driving through public health approaches, including altering social norms, changing risky or dangerous behaviors, and creating safer environments. Prevention programs should promote communication strategies that highlight and support specific policies and program activities and promote activities that educate the public on the effects of alcohol and other drugs, limit the availability of alcohol and other drugs, and discourage those impaired by alcohol and other drugs from driving.

Prevention programs may include responsible alcohol service practices, transportation alternatives, and community-based programs carried out in schools, work sites, medical and health care facilities, and by community coalitions. Prevention efforts should be directed toward populations at greatest risk. Programs and activities should be science-based and proven effective and include a communication component. Each State should:

- **Promote Responsible Alcohol Service:** Promote policies and practices that prevent underage drinking by people under age 21 and over-service to people age 21 and older.
- **Promote Transportation Alternatives:** Promote alternative transportation programs, such as designated driver and safe ride programs, especially during high-risk times, which enable drinkers age 21 and older to reach their destinations without driving.
- **Conduct Community-Based Programs:** Conduct community-based programs that implement prevention strategies at the local level through a variety of settings, including schools, employers, medical and health care professionals, community coalitions and traffic safety programs.
 - **Schools:** School-based prevention programs, beginning in elementary school and continuing through college and trade school, should play a critical role in preventing underage drinking and impaired driving. These programs should be developmentally appropriate, culturally relevant and coordinated with drug prevention and health promotion programs.

- **Employers:** States should provide information and technical assistance to employers and encourage employers to offer programs to reduce underage drinking and impaired driving by employees and their families.
- **Community Coalitions and Traffic Safety Programs:** Community coalitions and traffic safety programs should provide the opportunity to conduct prevention programs collaboratively with other interested parties at the local level and provide communications toolkits for local media relations, advertising, and public affairs activities. Coalitions may include representatives of government such as highway safety; enforcement; criminal justice; liquor law enforcement; public health; driver licensing and education; business, including employers and unions; the military; medical, health care and treatment communities; multicultural, faith-based, advocacy and other community groups; and neighboring countries, as appropriate.

III. CRIMINAL JUSTICE SYSTEM

Each State should use the various components of its criminal justice system—laws, enforcement, prosecution, adjudication, criminal and administrative sanctions and communications—to achieve both specific and general deterrence.

Specific deterrence focuses on individual offenders and seeks to ensure that impaired drivers will be detected, arrested, prosecuted, and subject to swift, sure, and appropriate sanctions. Using these measures, the criminal justice system seeks to reduce recidivism. General deterrence seeks to increase the public perception that impaired drivers will face severe consequences, discouraging individuals from driving impaired.

A multidisciplinary approach and close coordination among all components of the criminal justice system are needed to make the system work effectively. In addition, coordination is needed among law enforcement agencies at the State, county, municipal, and tribal levels to create and sustain both specific and general deterrence.

A. LAWS

Each State should enact impaired driving laws that are sound, rigorous, and easy to enforce and administer. The laws should clearly define offenses, contain provisions that facilitate effective enforcement, and establish effective consequences. The laws should define offenses to include:

- Driving while impaired by alcohol or other drugs (whether illegal, prescription or over-the-counter) and treating both offenses similarly;
- Driving with a blood alcohol concentration (BAC) limit of .08 grams per deciliter, making it illegal “per se” to operate a vehicle at or above this level without having to prove impairment;
- Driving with a high BAC (i.e., .15 BAC or greater) with enhanced sanctions above the standard impaired driving offense;

- Zero Tolerance for underage drivers, making it illegal “per se” for people under age 21 to drive with any measurable amount of alcohol in their system (i.e., .02 BAC or greater);
- Repeat offender with increasing sanctions for each subsequent offense;
- BAC test refusal with sanctions at least as strict or stricter than a high BAC offense;
- Driving with a license suspended or revoked for impaired driving, with vehicular homicide or causing personal injury while driving impaired as separate offenses with additional sanctions;
- Open container laws, prohibiting possession or consumption of any open alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-of-way (limited exceptions are permitted under 23 U.S.C. 154 and its implementing regulations, 23 CFR Part 1270); and
- Primary seat belt provisions that do not require that officers observe or cite a driver for a separate offense other than a seat belt violation.

The laws should include provisions to facilitate effective enforcement that:

- Authorize law enforcement to conduct sobriety checkpoints, (i.e., stop vehicles on a nondiscriminatory basis to determine whether operators are driving while impaired by alcohol or other drugs);
- Authorize law enforcement to use passive alcohol sensors to improve the detection of alcohol in drivers;
- Authorize law enforcement to obtain more than one chemical test from an operator suspected of impaired driving, including preliminary breath tests, evidential breath tests, and screening and confirmatory tests for alcohol or other impairing drugs; and
- Require law enforcement to conduct mandatory BAC testing of drivers involved in fatal crashes.

The laws should establish effective penalties that include:

- Administrative license suspension or revocation for failing or refusing to submit to a BAC or other drug test;
- Prompt and certain administrative license suspension of at least 90 days for first-time offenders determined by chemical test(s) to have a BAC at or above the State’s “per se” level or of at least 15 days followed immediately by a restricted, provisional or conditional license for at least 75 days, if such license restricts the offender to operating only vehicles equipped with an ignition interlock;
- Enhanced penalties for BAC test refusals, high BAC, repeat offenders, driving with a suspended or revoked license, driving impaired with a minor in the vehicle, vehicular homicide, or causing personal injury while driving impaired, including longer license suspension or revocation; installation of ignition interlock devices; license plate confiscation; vehicle impoundment, immobilization or forfeiture; intensive supervision and electronic monitoring; and threat of imprisonment;
- Assessment for alcohol or other drug abuse problems for all impaired driving offenders and, as appropriate, treatment, abstention from use of alcohol and other drugs, and frequent monitoring; and

- Driver license suspension for people under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs.

B. ENFORCEMENT

Each State should conduct frequent, highly visible, well publicized and fully coordinated impaired driving (including zero tolerance) law enforcement efforts throughout the State, especially in locations where alcohol-related fatalities most often occur. To maximize visibility, States should maximize contact between officers and drivers using sobriety checkpoints and saturation patrols and should widely publicize these efforts—before, during, and after they occur. Highly visible, highly publicized efforts should be conducted periodically and also on a sustained basis throughout the year. To maximize resources, the State should coordinate efforts among State, county, municipal, and tribal law enforcement agencies. States should utilize law enforcement liaisons for activities such as promotion of national and local mobilizations and increasing law enforcement participation in such mobilizations, and for collaboration with local chapters of police groups and associations that represent diverse groups to gain support for enforcement efforts.

Each State should coordinate efforts with liquor law enforcement officials. To increase the probability of detection, arrest, and prosecution, participating officers should receive training in the latest law enforcement techniques, including Standardized Field Sobriety Testing, and selected officers should receive training in media relations and Drug Evaluation and Classification (DEC).

C. PUBLICIZING HIGH VISIBILITY ENFORCEMENT

Each State should communicate its impaired driving law enforcement efforts and other elements of the criminal justice system to increase the public perception of the risks of detection, arrest, prosecution and sentencing for impaired driving. Each State should develop and implement a year-round communications plan that provides emphasis during periods of heightened enforcement, provides sustained coverage throughout the year, includes both paid and earned media and uses messages consistent with national campaigns. Publicity should be culturally relevant, appropriate to the audience, and based on market research.

D. PROSECUTION

States should implement a comprehensive program to visibly, aggressively, and effectively prosecute and publicize impaired-driving-related efforts, including use of experienced prosecutors (e.g., traffic safety resource prosecutors), to help coordinate and deliver training and technical assistance to prosecutors handling impaired driving cases throughout the State.

E. ADJUDICATION

States should impose effective, appropriate, and research-based sanctions, followed by close supervision and the threat of harsher consequences for non-compliance when adjudicating cases. Specifically, DWI courts should be used to reduce recidivism among repeat and high-BAC offenders. DWI courts involve all criminal justice stakeholders (prosecutors, defense attorneys, probation officers, and judges) along with alcohol and

drug treatment professionals and use a cooperative approach to systematically change participant behavior. The effectiveness of enforcement and prosecution efforts are strengthened by knowledgeable, impartial, and effective adjudication. Each State should provide state-of-the-art education to judges, covering SFST, DEC, alternative sanctions, and emerging technologies.

Each State should utilize DWI courts to help improve case management and to provide access to specialized personnel, speeding up disposition and adjudication. DWI courts also increase access to testing and assessment to help identify DWI offenders with addiction problems and to help prevent them from re-offending. DWI courts additionally help with sentence monitoring and enforcement. Each State should provide adequate staffing and training for probation programs with the necessary resources, including technological resources, to monitor and guide offender behavior.

F. ADMINISTRATIVE SANCTIONS AND DRIVER LICENSING PROGRAMS

States should use administrative sanctions, including the suspension or revocation of an offender's driver's license; the impoundment, immobilization or forfeiture of a vehicle; the impoundment of a license plate; or the use of ignition interlock devices, which are among the most effective actions to prevent repeat impaired driving offenses. In addition, other licensing activities can prove effective in preventing, deterring and monitoring impaired driving, particularly among novice drivers. Publicizing related efforts is part of a comprehensive communications program.

- **Administrative License Revocation and Vehicle Sanctions:** Each State's Motor Vehicle Code should authorize the imposition of administrative penalties by the driver licensing agency upon arrest for violation of the State's impaired driving laws, including administrative driver's license suspension, vehicle sanctions and installation of ignition interlock devices.
- **Programs:** Each State's driver licensing agency should conduct programs that reinforce and complement the State's overall program to deter and prevent impaired driving, including graduated driver licensing (GDL) for novice drivers, education programs that explain alcohol's effects on driving, the State's zero-tolerance laws, and a program to prevent individuals from using a fraudulently obtained or altered driver's license.

IV. COMMUNICATION PROGRAM

States should develop and implement a comprehensive communication program that supports priority policies and program efforts. Communication programs and material should be culturally relevant and multilingual as appropriate. States should:

- Develop and implement a year-round communication plan that includes policy and program priorities; comprehensive research; behavioral and communications objectives; core message platforms; campaigns that are audience-relevant and linguistically appropriate; key alliances with private and public partners;

specific activities for advertising, media relations, and public affairs; special emphasis periods during high-risk times; and evaluation and survey tools;

- Employ a communications strategy principally focused on increasing knowledge and awareness, changing attitudes, and influencing and sustaining appropriate behavior;
- Use traffic-related data and market research to identify specific audience segments to maximize resources and effectiveness; and
- Adopt a comprehensive marketing approach that coordinates elements like media relations, advertising, and public affairs/advocacy.

V. ALCOHOL AND OTHER DRUG MISUSE: SCREENING, ASSESSMENT, TREATMENT AND REHABILITATION

Impaired driving frequently is a symptom of a larger alcohol or other drug problem. Many first-time impaired driving offenders and most repeat offenders have alcohol or other drug abuse or dependency problems. Without appropriate assessment and treatment, these offenders are more likely to repeat their crimes.

In addition, alcohol use leads to other injuries and health care problems. Frequent visits to emergency departments present an opportunity for intervention, which might prevent future arrests or motor vehicle crashes, and result in decreased alcohol consumption and improved health.

Each State should encourage its employers, educators, and health care professionals to implement a system to identify, intervene, and refer individuals for appropriate substance abuse treatment.

- **Screening and Assessment:** Each State should encourage its employers, educators, and health care professionals to have a systematic program to screen and/or assess drivers to determine whether they have an alcohol or drug abuse problem and, as appropriate, briefly intervene or refer them for appropriate treatment. A marketing campaign should promote year-round screening and brief intervention to medical, health, and business partners and to identified audiences. In particular:
 - **Criminal Justice System:** Within the criminal justice system, people convicted of an impaired driving offense should be assessed to determine whether they have an alcohol or drug abuse problem and whether they need treatment. The assessment should be required by law and completed prior to sentencing or reaching a plea agreement.
 - **Medical and Health Care Settings:** Within medical or health care settings, any adults or adolescents seen by medical or health care professionals should be screened to determine whether they may have an alcohol or drug abuse problem. A person may have a problem with alcohol abuse or dependence, a brief intervention should be conducted and, if appropriate, the person should be referred for assessment and further treatment.
- **Treatment and Rehabilitation:** Each State should work with health care professionals, public health departments, and third-party payers to establish and maintain treatment programs for persons referred through the criminal justice system, medical or health care professionals, and other entities. This will help

ensure that offenders with alcohol or other drug dependencies begin appropriate treatment and complete recommended treatment before their licenses are reinstated.

- **Monitoring Impaired Drivers:** Each State should establish a program to facilitate close monitoring of impaired drivers. Controlled input and access to an impaired driver tracking system, with appropriate security protections, is essential. Monitoring functions should be housed in the driver licensing, judicial, corrections, and treatment systems. Monitoring systems should be able to determine the status of all offenders in meeting their sentencing requirements for sanctions and/or rehabilitation and must be able to alert courts to noncompliance. Monitoring requirements should be established by law to assure compliance with sanctions by offenders and responsiveness of the judicial system. Noncompliant offenders should be handled swiftly either judicially or administratively. Many localities are successfully utilizing DWI courts or drug courts to monitor DWI offenders.

VI. PROGRAM EVALUATION AND DATA

Each State should have access to and analyze reliable data sources for problem identification and program planning. Each State should conduct several different types of evaluations to effectively measure progress, to determine program effectiveness, to plan and implement new program strategies, and to ensure that resources are allocated appropriately.

Each State should establish and maintain a records system that uses data from other sources (e.g., U.S. Census, FARS, CODES) to fully support the impaired driving program. A statewide traffic records coordinating committee that represents the interests of all public and private sector stakeholders and the wide range of disciplines that need the information should guide the records system.

- Each State's driver licensing agency should maintain a system of records that enables the State to: (1) identify impaired drivers; (2) maintain a complete driving history of impaired drivers; (3) receive timely and accurate arrest and conviction data from law enforcement agencies and the courts, including data on operators as prescribed by the commercial driver licensing regulations; and (4) provide timely and accurate driver history records to law enforcement and the courts.