REDUCING DRINKING AND DRIVING THROUGH
ADMINISTRATIVE LICENSE REVOCATION

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THE PROBLEM

In 1990, the National Transportation Safety Board completed its investigation of the tragic school bus crash on I-71 near Carrollton, Kentucky. Twenty-six youngsters and the bus driver lost their lives in that fiery crash, the worst drunk driving crash in U.S. history (NTSB, 1989). The driver had a history of drunk driving arrests, but still was driving with a valid license. This type of situation is all too common when States rely on the standard judicial processing of drunk driving cases. The main recommendation that came out of the Board’s investigation of that crash was to request that States implement administrative license revocation (ALR).

In spite of toughened penalties and enhanced drunk driving enforcement programs throughout the country, injuries and fatalities still are too high. In fact, more than 19,900 people were killed in the United States in alcohol related crashes during 1991 -- almost half of all highway fatalities (DOT, 1992). If drunk driving is to be reduced significantly, motorists must be convinced that there is a strong likelihood that they will be arrested and seriously penalized if they drive drunk. Most experts agree that many drunk drivers persist in their behavior because they have a perception of low risk of arrest and penalty. All too often that perception is based on reality. In most jurisdictions drunk drivers have little to fear of apprehension (NTSB, 1984a). The odds of an intoxicated driver’s being arrested for drunk driving in the U.S. are as high as one in 1,000 (Sweedler, 1991). However, without unreasonably heavy enforcement, it is unlikely that this ratio can be greatly improved.

It is generally agreed that the best way to maximize the general deterrence effects of a law is to increase the certainty and swiftness of punishment. Unfortunately, the usual penalties applied through the judicial process to drinking drivers are far from swift or certain. The judicial process is slow under the best of circumstances, and a determined offender can engage in delaying tactics that can postpone punishment almost indefinitely. The average length of time between the offense and the imposition of any penalty can be six months (Stewart et al., 1987). Often, no penalty will ever be exacted. Offenders can plead bargain down to a lesser offense. Charges may be dismissed or offenders judged not guilty because of technical problems in the case. Even when offenders are found guilty, penalties may be suspended or the offenders may enter diversion programs that allow them to escape punishment.

Administrative revocation allows the arresting officer to immediately confiscate the driving license of a driver who is arrested with an illegal blood alcohol level or who refuses to be tested. Usually the arresting officer issues a temporary driving permit good for a prescribed length of time (usually 30 days). During this time, the offender has the right to appeal the revocation in an administrative process. If the
offender does not appeal or if the appeal is not upheld, the offender loses his or her license for a prescribed period (90 days for a first offense in most States, longer for subsequent offenses). License revocation occurs regardless of the outcome of a trial.

THE EFFECTIVENESS OF ADMINISTRATIVE LICENSE REVOCATION

To date, 31 of the 50 States and the District of Columbia have adopted some form of administrative license revocation. The effects of administrative license revocation are two-fold -- first the licenses of dangerous drivers are revoked more quickly and more certainly. A significant penalty for drunk driving is almost assured and dangerous drivers are removed from the road, at least temporarily. Second, knowing that they could lose their licenses, drivers in general think twice before drinking and driving. Several studies prove the effectiveness of ALR.

A study by the Insurance Institute of Highway Safety (IIHS) examined the effects of administrative revocation and other laws (such as mandatory jail sentences) on fatal crashes in selected States that have adopted such laws. Of special interest is the conclusion that administrative revocation laws were the most effective of the laws studied. During hours when over half of all fatally-injured drivers had a blood alcohol content (BAC) over 0.10 percent, administrative revocation is estimated to reduce the involvement of drivers in fatal crashes by 9 percent (Zador et al., 1989).

A comparison of crash statistics for the State of Washington (which does not have an ALR law) with those of its sister State of Oregon illustrates the potential effect of ALR. In 1982, in both States, 63 percent of all highway fatalities were alcohol-related. By 1990, progress had been made in both States. In Washington, alcohol-related fatalities had dropped to 57 percent -- a reduction of 9.5 percent (Washington, 1991). However, in Oregon, alcohol-related fatalities had dropped to 47 percent -- a reduction of 25 percent (Oregon, 1991). Comparing drivers in fatal crashes with a BAC at or above 0.10 percent for the same period, Washington reduced that percentage by 19 percent, but Oregon reduced it by 31 percent. Although we cannot conclusively determine the reasons for these differences, the evidence points to ALR as a major causal factor.

A study carried out for the U.S. Department of Justice shows that States with ALR also have reduced recidivism rates among drinking driving offenders. The most significant effect was found in North Dakota where the recidivism rate dropped from 29 to 17 percent -- a reduction of 41 percent. This indicates potential for long-term impact from these programs. The study concluded: "Administrative license penalties provide an easily applied and appropriate sanction for drunk driving (Stewart et al., 1989)."

Evidence of the feasibility and effectiveness of ALR has been gathered from several States that have actually used the administrative license revocation procedure. While it is difficult to isolate the effects of a single countermeasure on alcohol-related crashes, relevant evidence on the effectiveness of administrative revocation is now coming from several of the 31 States that have adopted this law. Here are a few examples:
A 1991 study of the States of Minnesota, Delaware and New Mexico by Ross indicates that ALR is capable of contributing to traffic safety and saving lives. Dr. Ross states that, "The revocation or suspension of licenses for drivers impaired by alcohol is among the most effective of deterrence-based policies available today. A large body of research suggests that these policies have the effect of reforming or incapacitating known drunk drivers, reducing their subsequent crashes and violations both during and following revocation, and deterring others, presumably through the threat of swifter and more certain punishment (Ross, 1991)."

*California* enacted administrative license revocation in 1989, and recently has provided information on its first year of experience. During that first year, the licenses of almost 300,000 drivers who refused or failed sobriety tests were taken on the spot by police officers. There have been less than 8,000 requests for hearings, which is far fewer than had been anticipated -- a rate of less than 3 percent. California's law has been successful in revoking the licenses of drunken drivers and has reduced alcohol-related fatalities. (California, 1991)

*Delaware* examined the number of drinking drivers in fatal accidents before and after implementation of their law (which included sobriety checkpoints as well as ALR), and found that number had decreased by 19.1 percent (NTSB, 1984b).

*Oklahoma* reports a "significant decrease" in the incidence of drinking and driving after implementation of its administrative license revocation law. While overall traffic fatalities decreased 20 percent the year after the law took effect, alcohol-involved fatalities declined 30 percent (Reed, 1985).

*Utah* has reported an important collateral effect of its administrative revocation law on DWI caseloads in the courts. The prosecutor's offices in Salt Lake City and Salt Lake County report a drop in DWI caseload of 15 to 20 percent. Drivers who know they will lose their license in any case, are less inclined to fight the judicial conviction.

*Oregon* has experienced a reduction in the number of test refusal hearings since enactment of its administrative license revocation law. Under the old law, hearings were requested in 50 percent of the implied consent test refusal cases. With a prompt administrative license revocation statute in place, only 16 percent of those who have been suspended have asked for hearings. The safety benefit has been significant. The percentage of alcohol-related nighttime single vehicle with serious injury decreased about 15-20 percent when the law was implemented in 1984. This reduction was still present 24 months later. Also, DWI convictions reportedly have increased dramatically. (Possibly because there are now fewer test refusals since the refusal penalty is more severe than the administrative license revocation penalty.) Key to Oregon's success has been an extensive public relations campaign -- 85 percent of those surveyed were aware of the law and its provisions (Jones, 1985).

*Wisconsin* examined the general and specific deterrent effects of their 1982 law mandating 3- to 6-month license suspensions for first-time convicted drinking drivers. General deterrence effects were measured by examining a surrogate measure for alcohol-involvement -- late-night, single vehicle, injury crashes involving male drivers -- both before and after the law. The results showed a substantial reduction in this surrogate measure for alcohol-involved crashes. A companion study of those drivers actually
suspended under the law indicated that they had fewer subsequent convictions and crashes. The authors of this study concluded that "100% mandatory license suspension is an effective legal sanction against drinking and driving." Based upon the success of license sanctions under their 1982 law, Wisconsin adopted a full administrative revocation law in 1987 (Blomberg et al., 1987).

*New Mexico* has experienced only a 10 percent rate of hearing requests under its 1984 administrative revocation law. A time-series analysis by Ross (1986) of alcohol-related fatal crash statistics before and after implementation of the law found that the percentage of fatally-injured drivers with a BAC greater than 0.05 percent fell from 66 to 56 percent.

In a 1987 study by Ross and Gonzales, the authors interviewed New Mexico drivers whose licenses had been suspended or revoked for drunk driving. They found that while "driving is not eliminated, . . . it is modified, specifically, (it was) reduced in quantity and improved in quality."

This finding is consistent with other studies which indicate that even though some drivers will continue to drive after revocation, they tend to drive less frequently and more cautiously. More importantly, however, is the fact that many drivers adhere to the law and do not drive at all. For these drivers license revocation is 100 percent effective in protecting public safety, at least during the period of revocation.

**QUESTIONS ABOUT ALR**

Concerns about the constitutionality of administrative license revocation have been raised. Every State court decision so far has ruled that ALR laws are constitutional. The U.S. Supreme Court ruled that revocation of a driver's license before an administrative hearing is not a violation of due process so long as provisions are made for a swift post-suspension hearing (Stewart, 1991).

States are also concerned about the budgetary implications of a law like ALR. These are difficult financial times for most State governments. Therefore, it is important to recognize that this law is cost effective. Start up and first year operating costs have in every case been less that $1 million. In fact, only in a few States have these costs been more than $500,000. Further, States have been able to recover their costs by charging increased license reinstatement fees. Indeed, a recent study of three States -- Illinois, Nevada, Mississippi -- found that each collected more in reinstatement fees than it expended in start-up and annual operating costs. Fees from license reinstatements in these three States generate from 1.3 to 2 times the revenue required for start-up and operating costs. Further, the societal cost savings obtained from fewer highway crashes in the three States was over $230 million. (Lacey et al., 1991)

Concerns have been raised about the impact of ALR on offenders. Society wants the offenders to be punished and taken off the roads, but we do not want the punishment to cause them to lose their jobs and thus have a negative effect on their families and society in general. Research carried out in Delaware, Mississippi and New Mexico indicates, however that job loss is a very rare consequence of license revocation. (Johnson, 1986; Wells-Parker and Cosby, 1987; Ross and Gonzales 1988).
CONCLUSION

There is no greater threat to transportation safety than the drunk driver. The public recognizes this and supports administrative license revocation. Three recent surveys have shown that a large majority of the public supports this type of law. In one instance, 67 percent favored an immediate 90 day suspension of a driver’s license for anyone arrested for DWI. In another, 89 percent endorsed automatic license revocation. Other polls had similar findings (ICADTS, 1991). The public wants action taken. They want it taken now and they want it taken in the most effective manner possible.

In summary, ALR works --

• It gets the drunk driver off the road;
• States don’t lose money - in fact they can profit from ALR;
• Offenders don’t lose their jobs - they just stop drinking and driving;
• Most importantly, ALR saves lives.

REFERENCES


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