

**REPORT OF THE VIRGINIA STATE CRIME  
COMMISSION**

**CHRONIC TRAFFIC  
OFFENDERS/DWI**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 112**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2000**





**COMMONWEALTH of VIRGINIA**  
VIRGINIA STATE CRIME COMMISSION

Senator Ken Stolle  
Chairman

Rich Savage  
Director

January 10, 2000

To: The Honorable James S. Gilmore, III  
Members of the Virginia General Assembly

House Joint Resolution 551 agreed to by the 1999 General Assembly, directed the Virginia State Crime Commission to conduct a study on alternative sanctioning of chronic traffic offenders and vehicle seizure and to submit its findings and recommendations to the Governor and the Members of the 2000 Session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission in 1999. I have the honor of submitting herewith the study report.

Respectively submitted,

A handwritten signature in black ink, appearing to read "K. Stolle".

Kenneth W. Stolle  
Chairman

KWS:sr



---

# VIRGINIA STATE CRIME COMMISSION MEMBERS

---

## Chairman

Senator Kenneth W. Stolle

## Vice-Chairman

Delegate Raymond R. Guest, Jr.

## From the Senate

Senator Janet D. Howell  
Senator Thomas K. Norment, Jr.

## From the House

Delegate James F. Almand  
Delegate R. Creigh Deeds  
Delegate A. Donald McEachin  
Delegate Brian J. Moran  
Delegate Clifton A. Woodrum

## Appointments by the Governor

Sheriff Terry W. Hawkins  
The Honorable Robert J. Humphreys  
The Honorable William G. Petty

## Attorney General's Office

The Honorable Mark L. Earley

---





**Virginia State  
Crime Commission**

**Chronic Traffic  
Offenders/DWI**

**April 2000**

In 1999, the Virginia General Assembly passed House Joint Resolution 551 (HJR 551/Callahan) directing the Virginia State Crime Commission to continue its study of alternative means of sanctioning habitual offenders of the Commonwealth's laws regarding the operation of motor vehicles, and to examine the effectiveness of vehicle seizure in reducing re-arrest among recalcitrant drunk drivers. The study further directs the Crime Commission to determine what traffic offenses pose the greatest threat, through property damage, bodily injury and/or death to the citizens of the Commonwealth and to then develop additional or alternative sanctions aimed at preventing habitual offenders from illegally operating motor vehicles. Finally, the study mandate directs the Commission to assess the effectiveness of various vehicle seizure programs operating in other states, as well as determine the feasibility of

implementing such vehicle seizure programs in the Commonwealth.

**Findings**

The Crime Commission found:

- Based on statistics from the National Highway Safety Traffic Administration, that chronic traffic offenders pose a serious threat to the safety and well being of all Virginians. However, because Virginia agencies charged with collecting information related to the activities of chronic traffic offenders do not currently obtain and store this information in a manner that permits the assembling of Virginia specific statistics, the exact nature of the threat posed by these habitual offenders remains unclear. As a result, the effectiveness of laws passed by the Virginia General Assembly aimed at deterring such behavior remains unknown.
- Evidence suggests that the majority of license-deprived traffic offenders continue to drive, posing an elevated risk to the safety of others. Additionally, a significant number of drivers do not reinstate their licenses even after they are legally entitled to do so.
- Over one-third of all traffic-related accidents that occurred in the Commonwealth during 1998 were alcohol-related. Chronic drunk

driving presents an even larger threat to the safety of Virginia's citizens.

- Given the likelihood of license-deprived drivers to continue to drive, an apparent emphasis needs to be placed on physically preventing offenders from operating their vehicles. However, because of the recent Transportation Equity Act for the 21<sup>st</sup> Century, and the emphasis that it places on vehicle immobilization and impoundment sanctions, modifications and/or additions to Virginia's vehicle seizure programs at this time are unwarranted.

## Recommendations

**B**ased on these findings, the Crime Commission recommended:

- The Department of Virginia State Police, the Virginia Department of Transportation and the Virginia Department of Motor Vehicles should be directed to form a task force to determine how to collect and store required data, and to then discern to what degree each traffic offense in Virginia results in property damage, injury, and death.
- Legislation be proposed to enhance punishments for persons convicted of driving with a suspended license. Specifically: First Offense, Class 1 misdemeanor; Second Offense, Class 1 misdemeanor; and Third or subsequent offense, Class 1 misdemeanor with a 10 day mandatory minimum. However, no mandatory minimums shall apply if

the person was required to drive because of an apparent and extreme emergency.

- Legislation be proposed to ensure drivers who have lost their driver's licenses for failure to pay cost and fines are able to drive to and from school, to and from work, and during work hours, and for travel necessary for medical attention and care of a minor child.
- Legislation be proposed to revoke, for a period of three years, the driver's license of offenders who drive drunk at the same time that their license is suspended pursuant to §46.2-391.



## Table of Contents

---

<b>I. Introduction</b> .....	<b>p. 1</b>
<b>Authority for Study</b> .....	<b>p. 3</b>
<b>II. Study Design</b> .....	<b>p. 4</b>
<b>III. Background</b> .....	<b>p. 6</b>
<b>IV. Findings and Recommendations</b> .....	<b>p.16</b>

*Appendices Attached*



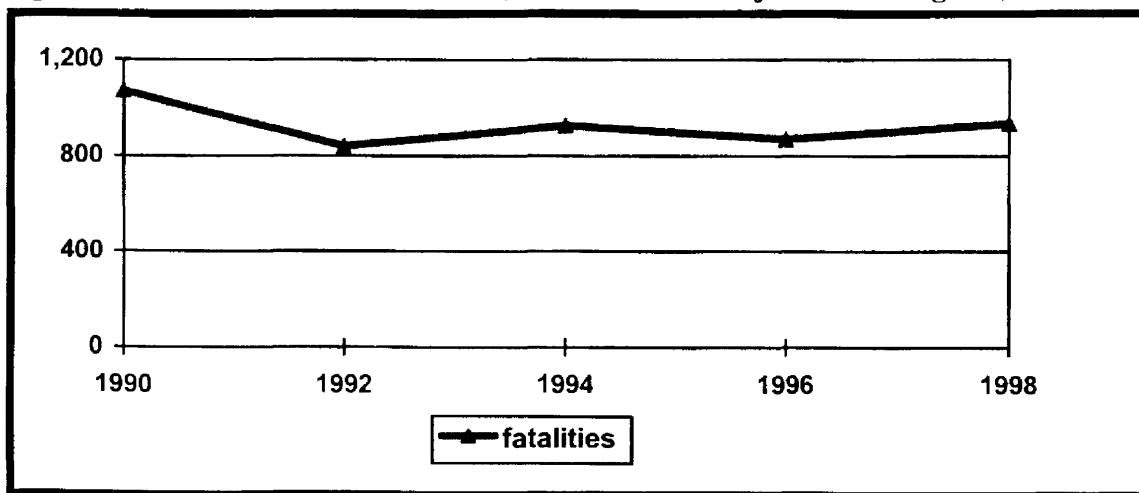
## Introduction

Historically, traffic violations have been perceived as minor infractions of the law. However, the public is becoming increasingly aware of the dangers posed by chronic traffic offenders (those who repeatedly commit traffic violations.) According to a recent survey conducted by the National Highway Traffic Safety Administration (NHTSA):

- 98% of the 6,000 drivers surveyed felt it was “necessary” to address the issue of unsafe driving and of that 98%, three-fourths felt that it was “very important;”
- 59% reported seeing vehicles travelling at unsafe speeds and of that percentage 31% reported seeing vehicles speeding all of the time and 35% reported vehicles speeding some of the time; and
- Of the unsafe behaviors encountered by those drivers surveyed, 24% reported weaving in and out of traffic, 17% reported tailgating, 15% listed driver inattention, and 10% reported unsafe lane changes.<sup>1</sup>

In Virginia, the total number of traffic crash deaths for 1998 was 935 (see Figure 1 below.) Moreover, the total number of traffic crashes (including fatalities and injuries) that same year was just under 140,000, increasing from just over 120,000 in 1992 (see Figure 2.)

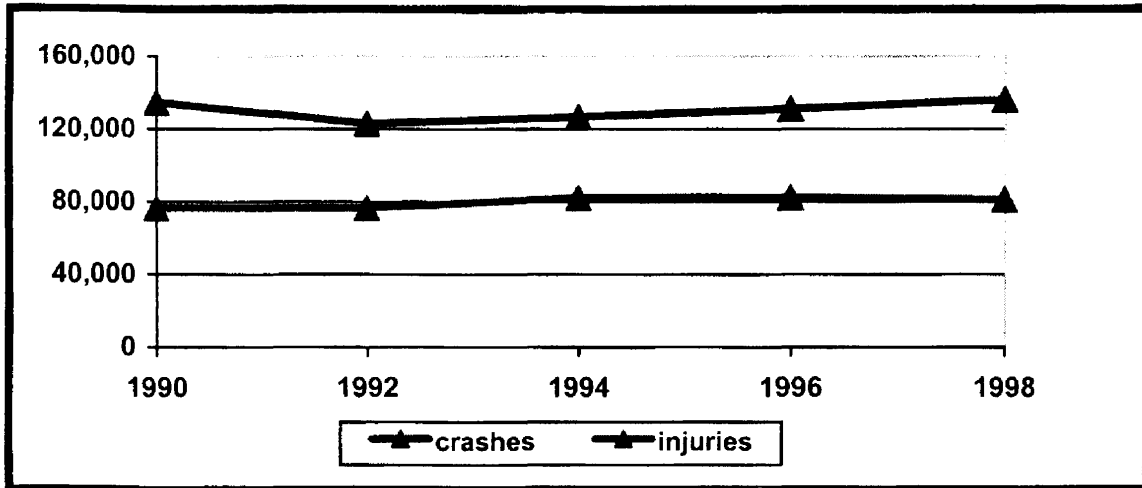
**Figure 1: Total Number of Crashes, Fatalities and Injuries in Virginia, 1990-1998**



Source: VSCC, Graphic of Information provided by the Department of Motor Vehicles data 1990-98.

<sup>1</sup> “Secretary Slater Announces Results of Survey On Speeding and Unsafe Driving, National Program To Prevent Red Light Running,” Press Release, January 22, 1999, US Department of Transportation.

**Figure 2: Total Number of Fatalities in Virginia, 1990-1998**



Source: VSCC, Graphic of Information provided by the Department of Motor Vehicles data 1990-98

Drunk drivers cause large amounts of property damage and bodily harm each year. At a national cost of \$1.5 billion annually in enforcement and adjudication, and \$45 billion in property damage, chronic drunk driving represents a serious threat to the Commonwealth.<sup>2</sup> Research indicates that more than half of the motor vehicle accident victims in emergency rooms across the United States may have an alcohol problem. Consequently, drunk driving represented more than one-third of all traffic offense related deaths in Virginia during 1998.<sup>3</sup> Moreover, the costs associated with alcohol related crashes in Virginia is significant. In 1998, the estimated average cost per alcohol-related fatality amounted to \$3.1 million and the statewide total cost associated with all alcohol-related crashes in the Commonwealth was \$2.5 billion.<sup>4</sup>

While there are chronic offenders in all categories of traffic violations, chronic drunk drivers represent a particularly dangerous threat among the chronic offender and risky driver population.<sup>5</sup> While risky drivers pose a general threat to society through poor driving habits, chronic drunk drivers amplify those poor driving habits through their consumption of alcohol.<sup>6</sup>

<sup>2</sup> "What the Research Says About Chronic Drunk Drivers," National Commission Against Drunk Driving, 1997.

<sup>3</sup> "What the Research Says About Chronic Drunk Drivers," National Commission Against Drunk Driving, 1997.

<sup>4</sup> "Traffic Deaths and Injuries and Their Costs," Mothers Against Drunk Driving, 1998.

<sup>5</sup> Risky drivers, while not always chronic traffic offenders (perhaps due the fact that they have not been identified by law enforcement while demonstrating such risky behavior) exhibit many of the same behaviors as chronic traffic offenders and commit many of the same traffic offenses.

<sup>6</sup> "What the Research Says About Chronic Drunk Drivers," National Commission Against Drunk Driving, 1997.)

## *Authority for Study*

Realizing the impact that habitual traffic offenders, and chronic drunk drivers, have on the safety and well-being of the citizens of Virginia, the Virginia General Assembly passed House Joint Resolution 551 (1999). House Joint Resolution 551 directed the Virginia State Crime Commission to study alternative means of sanctioning chronic traffic offenders, and to examine the effectiveness of vehicle seizure in reducing re-arrest among recalcitrant drunk drivers. Specifically, the study mandate directed the Crime Commission to:

- Determine those offenses relating to the operation of a motor vehicle that pose the greatest threat to the citizens of the Commonwealth;
- Develop additional or alternative sanctions or methods, including increased incarceration, to restrict the access of habitual offenders to motor vehicles and equipment;
- Investigate the feasibility of implementing a vehicle seizure program in the Commonwealth and the potential benefits of vehicle seizure; and
- Determine the effectiveness of such programs in other states.

The *Code of Virginia*, Section 9-125, establishes and directs the Virginia State Crime Commission “to study, report, and make recommendations on all areas of public safety and protection. In addition, the *Code of Virginia* provides that the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Section 9-125, and to formulate its recommendations to the Governor and the General Assembly.” Section 9-134 of the *Code of Virginia* also authorizes the Commission to “conduct private and public hearing, and to designate a member of the Commission to preside over such hearings.” The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of additional and alternative sanctions for the chronic traffic offenders and vehicle seizure options for deterrence of recalcitrant drunk drivers.

## *Study Design*

---

In response to the issues raised by the study mandate, Crime Commission staff identified four distinct issues for examination that facilitated a focused, yet comprehensive study of chronic traffic offenders in Virginia. Specifically, the following study issues were identified:

- What violations of Virginia's law governing the operation of motor vehicles are most serious to the risk of property damage, injury, and death?
- What are the most effective ways a person can be deterred from driving in violation of a license suspension, received as a result of a conviction for a serious offense?
- What means are available to effectively seize the vehicles of repeat DWI offenders?
- What cost will be borne by the Commonwealth in implementing a vehicle seizure law?

In addressing chronic traffic offenses and recalcitrant drunk driving, Crime Commission staff undertook a variety of research activities. First, an extensive literature review was conducted. The literature review was guided by the conceptual framework of the study mandate and the research questions identified by staff in relation to the study mandate.

Educated by the literature review, staff then performed a legal analysis of the *Code of Virginia* laws regarding traffic offenses, with the purpose of determining those offenses for which license restriction, suspension, and revocation is currently a punishment. This legal analysis allowed staff to determine the various means available to law enforcement officials for implementing vehicle seizure. In addition, staff conducted a cost-benefit analysis of the various means available for affecting vehicle seizure, focusing primarily on the monetary costs applicable to the Commonwealth through such seizures. This analysis, combined with the legal analysis, allowed staff to determine what, if any, vehicle seizure methods would be most appropriate in the Commonwealth.

Staff also met with representatives from the Department of Motor Vehicles (DMV), the Department of State Police (VSP), The National Highway Traffic Safety Administration (NHTSA), the Virginia Alcohol Safety Action Program (VASAP) and private state and national non-profit organizations involved in researching traffic safety issues with the intent of developing and exploring the issues outlined in HJR 551.

Finally, staff requested DMV in conjunction with the VSP to compile a data-set of repeat traffic violations committed in the Commonwealth, as well as the number of crashes, injuries, and fatalities associated with such offenses. The analysis of this data will allow staff to determine the severity and potential impact of various traffic offenses, as well as identify the number of drivers who repeatedly violate the terms of license suspension.

By addressing these research issues, a comprehensive portrait of the problem of chronic traffic-offenders and DWI offenders pose to the citizens of the Commonwealth was developed. Moreover, the research examining the various options available to legislators and law enforcement officials for preventing and deterring such offenses helped staff develop recommendation to ensure that the citizens of Virginia will be safeguarded from such erratic, and potentially lethal, behavior.

In order to discuss comprehensively the issues surrounding chronic traffic offenders and recalcitrant drunk driving, it is first necessary to define the scope of the problem, both nationally and in Virginia, and to examine the various sanctions available to law enforcement officials for discouraging repeat offenses. Therefore, the following discussion will first outline the extent of damage that chronic traffic offenders inflict through property-damage, personal injury and death. Secondly, the specific traffic offense of chronic drunk driving will be examined. Third, the various traditional and non-traditional sanctions for deterring recalcitrant behavior will be outlined. Finally, federal initiatives for addressing drunk driving will be discussed.

### *Chronic Offenders and Potentially Dangerous Traffic Offenses*

While evidence does suggest that chronic traffic offenders present a serious threat to the safety of Virginia's citizens, the severity and number of traffic accidents that occur in Virginia are currently indeterminable due to the variation of record-keeping between agencies. Staff at the Crime Commission worked closely with Virginia's DMV to determine which traffic offenses pose the greatest risk of property damage, personal injury and death in Virginia. DMV developed and ran an ad hoc program (A9154-PC) comparing drivers who had an offense date the same as a crash date for the years 1995 to 1998. However, because of the way in which DMV records its data, the data may not reflect the actual nature of the crashes, thus, undermining the reliability and validity of any proposed analysis.<sup>7</sup> Realizing that the DMV data was inconsistent, staff attempted to gather information from other state agencies. However, due to discrepancies in data collection between agencies, staff could not draw any conclusive results as to which traffic offenses posed the greatest risk. Specifically, the following discrepancies exist:

- **Virginia Alcohol Safety Action Program (VASAP):** while VASAP plays an integral role in the monitoring and rehabilitation of chronic drunk-driving offenders, VASAP does not maintain records of participant offenses.
- **Department of Virginia State Police (VSP):** Although VSP maintains detailed records of traffic offenses, the recorded charge may not accurately reflect the violation committed. For example, an officer might reduce a reckless driving charge to a speeding violation.
- **Virginia Department of Transportation (VDOT):** VDOT does not maintain its own records; instead VDOT relies on information provided by the Department of Motor Vehicles.

---

<sup>7</sup> DMV records the most serious offense for an accident (for example, DMV might record bodily injury over property damage.) Additionally, DMV records do not accurately reflect the amount of damage in a particular category (for example, a DMV listing of "death" might represent multiple fatalities.)



- **Virginia Department of Motor Vehicles (DMV):** While DMV does maintain crash, injury and fatality records, due to the method of record-keeping, the actual number of deaths, the degree of injury and/or the amount of property damage resulting from a crash is indeterminable.

While no definitive results can be drawn from the data compiled by Virginia's DMV for use in this study, certain estimates and assumptions can be drawn and support the following conclusion: chronic traffic offenders, regardless of the traffic crime, do present a danger to the citizens of the Commonwealth (see Appendix A.) National statistics indicate that chronic offenders do pose a lethal threat to the safety of others, with roughly 41% of drivers involved in fatal crashes in 1998 having been previously convicted for other traffic offenses or involved in previous accidents and approximately 11% driving were with invalid licenses (see figure 3 below.)

**Figure 3: Drivers Involved In Fatal Crashes by Previous Driving Record and License Status for 1998**

Previous Convictions	Valid License (49,046)		Invalid License (6,033)		Total (55,079)	
	#	%	#	%	#	%
Previous Recorded Crashes	7,790	15.9	877	14.5	8,667	15.7
Previous Recorded Suspensions or Revocations	3,548	7.2	2,862	47.4	6,410	11.6
Previous DWI Convictions	950	1.9	892	14.8	1,842	3.3
Previous Speeding Convictions	10,335	21.1	1,134	18.8	11,469	20.8
Previous Other Harmful Moving Convictions	7,968	16.2	1,487	24.6	9,455	17.2
Drivers with No Previous Convictions	29,033	59.2	2,624	43.5	31,657	57.5

Source: 1998 Motor Vehicle Crash Data from Fatality Analysis Reporting System (FARS) and the General Estimates System (GES).

Furthermore, research has shown that many license-deprived drivers (more often than not chronic traffic offenders) continue to drive. A series of California studies found that approximately 75% of suspended drivers continued driving, at least occasionally, while their licenses were suspended.<sup>8</sup> (Hagen, McConnell & Williams, 1980; van

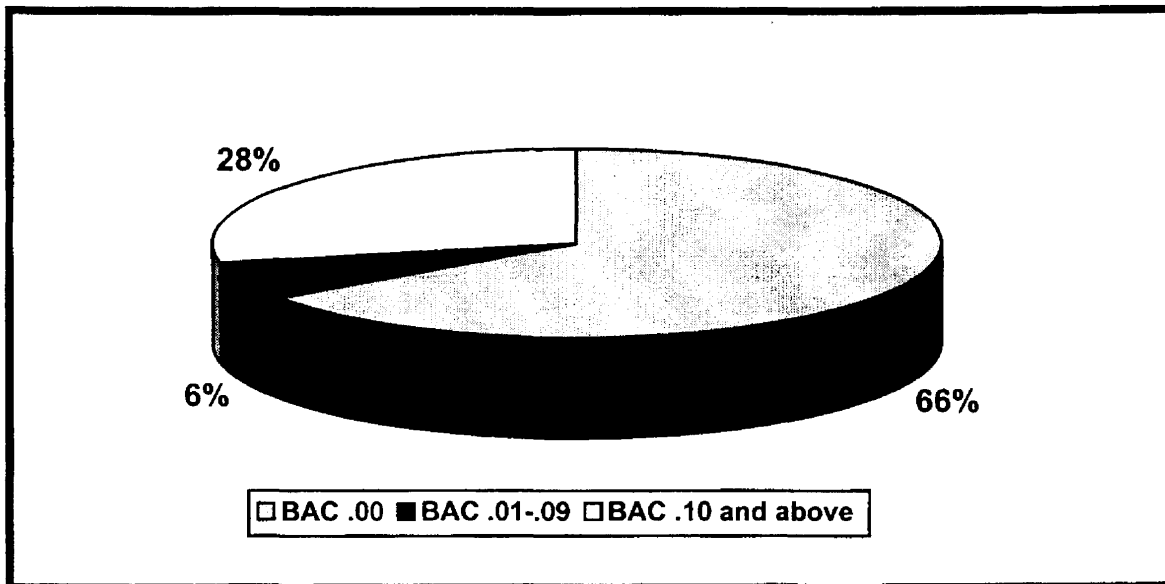
<sup>8</sup>Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997.)

Oldenbeek & Coppin, 1965). While research has shown that suspended/revoked drivers drive less frequently and more carefully during their period of license disqualification (Hagen et al., 1980; Ross & Gonzales, 1988), it has also been shown that they still pose an elevated traffic risk.

### ***Chronic Drunk Driving***

Drunk driving remains one of the most lethal traffic violations in the United States. As noted earlier, over one third of all traffic offense related crashes in Virginia during 1998 was alcohol related. Moreover, according to national statistics, 34% of drivers killed in automobile crashes in 1998 had a blood alcohol level or .01 or higher (see figure 4 below.) Additionally, according to the same national statistics, 15% of those drivers driving with an invalid license who were involved in a fatal crash during 1998 were previously convicted for a DWI.

**Figure 4: Drivers Killed in Crashes by Blood Alcohol Level (BAC)**



Source: 1998 Motor Vehicle Crash Data from Fatality Analysis Reporting System (FARS) and the General Estimates System (GES).

Chronic drunk drivers are even more dangerous to the general public. Overall, chronic drunk driving often goes undiscovered by the legal system, with approximately one in every 2000 drunk driving incidents leading to an arrest.<sup>9</sup> An estimated 80% of chronic drinking drivers continue to drink and drive after their license is suspended.<sup>10</sup> Coupled with the low rate of being caught and/or arrested, this type of behavior remains a serious threat.

<sup>9</sup> "What the Research Says About Chronic Drunk Drivers," National Commission Against Drunk Driving, 1997.

<sup>10</sup> "What the Research Says About Chronic Drunk Drivers," National Commission Against Drunk Driving, 1997.

***Traditional Sanctions:  
License Suspension/Revocation***

***License Suspension/Revocation***

Traditionally, law enforcement has relied on driver based sanctions, such as license suspensions or revocations to discourage chronic traffic offenders. License deprivation, either in the form of licenses suspension or revocation, a sanction for punishing chronic traffic offenders, as well as drunk drivers, works as both a specific deterrent to individual offenders and an overall deterrent to the general driving populace.<sup>11</sup> License suspension remains the most common method used to punish DUI offenders.<sup>12</sup> The vast majority of states (including Virginia), maintain an even more severe form of license suspension, entitled automatic license suspensions (ALS), allowing police officers to revoke the licenses of drunk drivers on the spot.<sup>13</sup> Research has shown that license deprivation does impact the rate of alcohol related crashes. For example, according to a NHTSA study Illinois, New Mexico, Maine, North Carolina, Colorado and Utah have seen significant reductions (between 6 to 9 percent) in alcohol-related fatal crashes following the implementation of administrative license revocation procedures.<sup>14</sup>

*Research has shown that license deprivation does impact the rate of alcohol related crashes. According to a NHTSA study Illinois, New Mexico, Maine, North Carolina, Colorado and Utah have seen significant reductions (between 6 to 9 percent) in alcohol-related fatal crashes following the implementation of administrative license revocation procedures.*

In addition to license suspension and revocation, the majority of states also issue a form of hard licenses suspension known as conditional licensing, which is often a short 60 or 90 day hard suspension period, followed by a restricted period in which the driver is allowed to drive but only under certain conditions. Conditional licensing is often granted to offenders to allow limited driving privileges, usually to and from work, school, or treatment and rehabilitation programs.

---

<sup>11</sup> "License Deprivation as a Drunk-Driver Sanction," The National Commission Against Drunk Driving, 1997.

<sup>12</sup> Nationally, the public has shown overwhelming support for lengthy drivers license suspensions for repeat offenders. In a recent survey, lengthy drivers' suspensions were supported by 92.5 percent of respondents.

<sup>13</sup> "What Research Says About Legal Sanctions and Ways to Apply This Research," The National Commission Against Drunk Driving, 1997.

<sup>14</sup> "Repeat Intoxicated Driver Law," State Legislative Fact Sheets, March 1999, National Highway Traffic Safety Administration, US Department of Transportation.

### ***Monetary Sanctions.***

Fines or other financial sanctions are often issued in combination with licensing sanctions. Currently, there are mandatory fines associated with DWI restrictions in 28 states.<sup>15</sup> While little research has been done pertaining to the effectiveness of financial sanctions at reducing traffic offenses or drunk driving, evidence suggests that fines are often not successful at deterring such behavior, primarily because they are often not substantial in nature or are not collected.<sup>16</sup>

While license deprivation remains a quick and cost-efficient method of sanctioning chronic traffic offenders generally, and chronic drunk drivers, specifically, there are certain drawbacks associated with license deprivation. As noted earlier, research has shown that the majority of license deprived drivers continue to drive. Moreover, it is estimated that drivers driving on revoked or suspended licenses have 3.7 times the fatal crash rate as the average driver.<sup>17</sup> In addition, many drivers chose not to reinstate their licenses even when they are permitted to do so. In one study involving first-time DUI offenders who had their licenses suspended for 90 days, 50% had not reinstated their licenses three years after they were eligible to be re-licensed.<sup>18</sup> Additionally, many of these offenders drive without auto insurance and do not attend treatment programs where such programs are a prerequisite for reinstatement.<sup>19</sup>

Turning to Virginia, the most common punishment applied to serious traffic offenses is license suspension or revocation accompanied by financial sanctions and/or jail time. Currently, the following sanctions are applied for driving in violation of a suspended license: First Offense, Class 2 misdemeanor (6 months in jail and/or \$1000 fine); Second or Subsequent Offense, Class 1 misdemeanor (12 months in jail and/or \$2500 fine.)<sup>1</sup> For the serious traffic offense of driving while intoxicated (DWI), applied at a blood alcohol level of .08, the Commonwealth employs the following penalties:

- First Offense: Class 1 misdemeanor (12 months in jail and/or \$2500 fine.) One year license suspension.
- Second Offense (less than five years after the first offense): Class 1 misdemeanor with a 48-hour mandatory minimum jail sentence. Three year license suspension.
- Second Offense (five to ten years after the first offense): Class 1 misdemeanor.

---

<sup>15</sup> "Repeat Intoxicated Driver Law," State Legislative Fact Sheets, March 1999, National Highway Traffic Safety Administration, US Department of Transportation.

<sup>16</sup> "What the Research Says About Chronic Drunk Drivers," National Commission Against Drunk Driving, 1997.

<sup>17</sup> DeYoung, David J., *An Evaluation of the Specific Deterrent Effect of Vehicle Impoundment on Suspended, Revoked and Unlicensed Drivers in California*, California Department of Motor Vehicles: California: November 1997.

<sup>18</sup> Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997.)

<sup>19</sup> Ibid.

- Third or Subsequent Offense (committed within ten years of prior offense): Class 6 felony (mandatory, minimum jail term of one year, none of which may be suspended in whole or in part.)<sup>20</sup> Indefinite license revocation.

However, despite these sanctions, drivers with suspended and revoked licenses continue to drive in the Commonwealth. From 1995-1998 approximately 60,000 persons were cited for driving on a suspended or revoked license, with the vast majority simultaneously being convicted of additional traffic offenses. Given the elevated risk that these drivers pose to the safety of others, the offense of driving on a suspended or revoked license remains a serious problem within the Commonwealth.

### ***Incarceration***

Incarceration is applied as a mandatory sentence for first-time DWI offenders in 13 states; in 47 states it is a mandatory sentence for repeat offenders. While evidence suggests that incarceration has mild success at reducing recidivism rates, overall it appears to be no more effective than other sanctions at reducing repeat offenses for drunk driving. Moreover, no definitive research has been conducted that shows that extended jail terms do result in decreased recidivism.<sup>21</sup>

### ***Non-Traditional Sanctions***

Because of the likelihood of drivers to drive illegally with a restricted, suspended or revoked license, recent trends for deterring chronic traffic offenders, and chronic drunk drivers from driving have emphasized physically preventing the offender from operating his or her vehicle (see Appendix B for cost/benefit overview.) Included among non-traditional driver sanctions are:

- **Breath Alcohol Ignition Interlock Devices (BAIID)**: BAIIDs allow convicted offenders to operate their vehicles legally, by measuring the blood alcohol concentration levels in the drivers' breath. For a driver to operate the vehicle, he or she must first blow into a sensor attached to the car's ignition system. If the sensor registers above the predetermined limit, then the car will not start. Relatively inexpensive to install, BAIIDs have shown success at reducing DUI recidivism rates.<sup>22</sup> However, despite their success, BAIIDs are relatively easy to circumvent and

<sup>20</sup> Section 18.2-27 of the *Code of Virginia*

<sup>21</sup> Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997. Note that this same Commission did conclude that when accompanied with counseling and/or treatment, incarceration has been shown to have a greater effect on offenders; additionally, some research indicates that incarceration can act as a short term deterrent for DWI offenders, but only when accompanied by public awareness programs.

<sup>22</sup> The national average cost to rent BAIID equipment is \$60 a month. In many states, including Virginia, the offender is expected to pay the costs of installing the device (source: Combating Hardcore Drunk

do not prevent an offender from operating a different vehicle. Presently, at least thirty-seven states, including Virginia, have either mandatory or discretionary interlock laws.

- **License Plate Seizure:** Seizure laws allow license plates or vehicle registrations of offenders to be confiscated by law enforcement officials upon arrest for an alcohol related offense or after a criminal conviction. The cost for implementing these sanctions is extremely low.<sup>23</sup> Vehicle registration cancellation and license plate seizure are currently applied in twenty states.<sup>24</sup>
- **License Plate Modification:** License plate modification sanctions consist of special stickers, license plates, or license plate numbers that serve as probable cause for stopping a vehicle. While such programs are cost effective, one particular drawback associated with this type of sanction is the ability of offenders to steal unmarked plates or simply borrow another vehicle.
- **Vehicle Immobilization:** Vehicle immobilization consists of attaching a locking device to either the steering wheel or one of the wheels of the offender's car. Cost effective in nature, preliminary research suggests that immobilizing a vehicle for one to six months reduces recidivism rates, even after the device is removed.<sup>25</sup> However, in cases where the vehicle is confined to on street parking, such immobilization might serve as an inconvenience or eye-soar to city officials and/or members of the community.
- **Vehicle Impoundment:** Vehicle impoundment consists of the state or locality physically seizing the operating vehicle of the offender, either at arrest or after conviction, and storing it in a compound. Generally, impoundment is a sanction for chronic drunk drivers, but may also be applied for Driving While Suspended (DWS) offenses. While some research has suggested that impoundment can be successful at reducing recidivism rates, there are inherent drawbacks. Primarily, the costs associated with this particular sanction are relatively high, given that many offenders opt to abandon vehicles rather than pay the costs associated with releasing them from impoundment.

---

Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997) According to results of an analyses performed on the Canadian interlock program, drivers required to use such devices were 50% less likely to incur another DUI, 4.4 times less likely to record a new serious driving violation and 3.9 times less likely to be involved in an injury-causing crash (source: Weinrath, Michael, "the Ignition Interlock Program for Drunk Drivers: A Multivariate Test," Crime and Delinquency. Volume 43, pp. 42-59, January 1997.)

<sup>23</sup> Results based on a study conducted in Franklin County, Ohio. (Source: Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997.)

<sup>24</sup> Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997 pp.39.

<sup>25</sup> Costs for such devices range from \$60 for a steering wheel lock to \$200 for a wheel boot-lock.

- **Vehicle Forfeiture and Sale:** Vehicle forfeiture and sale programs allow the state to permanently confiscate offenders vehicles, permitting them to place the vehicles up for auction. While an Oregon study indicated that vehicle forfeiture decreases recidivism by 50%, there are costs associated with such programs. Many of these programs operated at a cost to the state because the revenue generated from the sale of these vehicles often does not cover towing and storage costs.<sup>26</sup>

In Virginia the following non-traditional sanctions are in effect:

- **Administrative impoundment:** Administrative impoundment of a motor vehicle for driving while licenses suspended; of which the Commonwealth pays all reasonable costs of impoundment and immobilization, including storage and removal expenses.<sup>27</sup>
- **Ignition Interlock System:** Ignition Interlock System consists of a device that prevents vehicle ignition from starting if the drivers' blood alcohol content exceeds .025; applicable to first offense DWI, or for 2<sup>nd</sup> offense or subsequent offense, as a condition of a restricted license. The offender pays the cost of leasing or buying and monitoring and maintaining the interlock system.<sup>28</sup>

**Highlighting Alternative Sanctions: Case Study, Washington State and Oregon Zebra Sticker Laws**

Both the states of Washington and Oregon administered license plate modification programs in recent years. While the programs were very similar in nature they differed slightly on the level at which the punishment was applied. In Washington State, the Zebra Sticker program applied to drivers whose licenses were suspended and who were driving cars of which they were the registered owner. Oregon's Zebra Sticker Program applied to any driver whose license was suspended, regardless of vehicle ownership.<sup>29</sup> Through both programs, the license plates of offenders convicted of repeated drunk driving were seized, after which they were affixed with a zebra-striped sticker.<sup>30</sup> In both programs, once the registration certificate was confiscated and a Zebra sticker applied by the investigating officer, the registered owner had 60 days to clear the vehicle registration by providing a valid driver's license and paying a nominal fee to restore the registration and acquire a

<sup>26</sup>Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997.)

<sup>27</sup> Section 46.2-301.1 of the *Code of Virginia*

<sup>28</sup> Section 18.2-270.1 of the *Code of Virginia*

<sup>29</sup> "Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DUI, Phase II Report: Evaluation of Oregon and Washington Vehicle Plate Zebra Sticker Laws," The National Commission Against Drunk Driving.

<sup>30</sup> Zebra tags are stickers (2.5 – 3 square inches) that are placed over the vehicle license and registration tag, to seize the vehicle's registration and temporarily issue a registration to these drivers arrested for DUI.

new plate sticker. Registrations not cleared at the end of the time period were fully revoked.<sup>31</sup>

In Washington State, officials found that the Zebra sticker law had little impact on reducing either the number of DUI or Driving While Restricted (DWS) violations; as a result, the law expired upon review.<sup>32</sup> Creators of the program felt that limited application (only the vehicle driven by their owners were eligible) of the law, coupled with lax enforcement (only 7,000 drivers per year were administered Zebra stickers) substantially decreased the effectiveness of the program. State record-keeping methods also did not indicate which drivers were given Zebra stickers, adding to the inability to both enforce the program, as well as monitor its success.<sup>33</sup>

The results in Oregon however indicated that the Zebra Sticker Program was effective in decreasing the rates of accidents, moving violations, and DWS and DUI offenses by both drivers who had received stickers and those at risk of receiving a ticket due to a suspended license. The Zebra Sticker Program acted as a specific deterrent for drivers of tagged vehicles and a general deterrent for at-risk drivers. The authors of the law attribute the positive effect primarily to changes in driving behavior (e.g., driving more cautiously, driving less frequently, etc.) rather than a decrease in the actual number of drivers operating their vehicles without a valid license.<sup>34</sup> The success of the Oregon program may be attributed to its broad applicability and stricter enforcement; illustrating, Oregon enforced its laws at twice the rate of Washington State (on average Oregon seized 32,500 vehicles a year, of which 55 percent were owner operated.)<sup>35</sup> However, despite the success of the Oregon program, like the Washington Zebra-Sticker Program, it was discontinued upon review.

While the Oregon program seemed to show moderate success at reducing the number of accidents, moving violations, and DWS and DWI violations, like the Washington program, it too appeared to be hindered by lack of law enforcement familiarity with the Zebra-sticker sanction; the end result being a general failure to enforce the program overall. Coupled with the inability of the program to sufficiently reduce the number of drivers driving with an invalid license, the continuation of the Oregon Zebra Sticker Program could not likely be justified by Oregon government officials.

---

<sup>31</sup>“Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DUI, Phase II Report: Evaluation of Oregon and Washington Vehicle Plate Zebra Sticker Laws,” The National Commission Against Drunk Driving.

<sup>32</sup>Ibid.

<sup>33</sup>“Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DUI, Phase II Report: Evaluation of Oregon and Washington Vehicle Plate Zebra Sticker Laws,” The National Commission Against Drunk Driving.

<sup>34</sup>Ibid.

<sup>35</sup>Ibid.



## ***Federal Initiatives: TEA-21***

Signed into law on June 9, 1998, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) dedicates \$1.2 billion in incentive grants over the next six years as part of an effort to improve safety on the nation's highways. According to TEA-21, states must institute the following penalties for repeat drunk driving offenders (defined by TEA-21 as a second or subsequent offense) by October 1, 2000 in order to avoid having certain Federal-aid highway funds transferred to their State and Community Highway Safety grant program:

- Suspend the repeat offender's license for no less than one year;
- Either impound or immobilize the repeat offender's car or have an ignition interlock device installed on the vehicle;
- Assess the individual's degree of alcohol abuse and provide treatment as appropriate; and
- Impose either no less than 30 days community service or no less than five days of imprisonment for a second offense;
- Impose either no less than 60 days community service or no less than 10 days of imprisonment for a third and subsequent offense.<sup>36</sup>

However, there are also incentives for states to comply with TEA-21; specifically, \$219.5 million is available in additional incentive grants to states that adopt specific drunk driving countermeasures and/or measurably reduce drunk driving fatalities. Additionally, states that meet either of the requirements mentioned above (as specifically outlined in TEA-21) are also eligible to qualify for up to six types of supplemental grants through 2003 (see Appendix C for specific requirements.)<sup>37</sup>

Moreover, Representative Blumenauer (Oregon) is intending to introduce legislation in the next year that would incorporate into TEA-21 a state requirement to adopt a vehicle seizure program as an additional qualification for receiving Federal highway funds. With the impending loss of critical highway funds, many States will need to adapt their chronic traffic offender and/or drunk driving sanctions to comply with TEA-21. As a result, alternative sanctions as prescribed under TEA-21 will most likely become more prevalent in attempting to deter chronic offenders and drunk driving.

---

<sup>36</sup> Mejeur, Jeanne, "There's More to TEA-21 than .08," State Legislatures Magazine, October/November 1999.

<sup>37</sup> Mejeur, Jeanne, "There's More to TEA-21 than .08," State Legislatures Magazine, October/November 1999.

## *Findings and Recommendations*

---

### *Data Repositories*

Working from statistics compiled by the NHSTA, chronic traffic offenders present a serious threat to the safety and well-being of the citizens of the Commonwealth. Unfortunately, those Virginia agencies charged with compiling information related to the activities of chronic traffic offenders do not currently acquire and store this information in a manner that allows for the assembling of Virginia-specific statistics. Lacking this information, the exact nature of the threat posed by chronic traffic offenders will remain unclear, and the real effect of laws passed by the Virginia General Assembly will remain unknown. The following recommendation recognizes the role that complete and accurate data can play in the Commonwealth's continuing efforts to deter the activities of chronic traffic offenders.

**Recommendation 1: The Virginia General Assembly may wish to consider directing the Department of Virginia State Police, the Virginia Department of Transportation and the Virginia Department of Motor Vehicles to form a task force in an effort to determine how best to collect and store required data, and to then discern to what degree each traffic offense in Virginia results in property damage, injury, and death.**

### *License Suspension: Chronic Traffic Offenses and Failure to Pay Fines*

Working again from national statistics, evidence suggests that the majority of license-deprived individuals continue to drive. Note that 41% of drivers involved in fatal crashes in 1998 were previously convicted for other traffic offenses or involved in previous accidents and that 11% of these drivers were driving with an invalid license when involved in the fatal crash. Nationally, 50% of first-time DUI offenders who had their license suspended for 90 days opted not to reinstate their licenses for up to three years after eligibility.<sup>38</sup> In Virginia, 26,000 drivers whose suspended licenses and are currently eligible for reinstatement have opted not to reinstate their licenses. Working from these numbers, we can conclude that a healthy percentage of Virginia drivers currently operate a motor vehicle without a valid driver's license. The following recommendation is geared towards deterring individuals from driving without a valid driver's license.

**Recommendation 2: The Virginia General Assembly may wish to consider enacting legislation to enhance punishments for persons convicted of driving with a suspended license. The General Assembly may wish to consider the following: First**

---

<sup>38</sup>Combating Hardcore Drunk Driving: A Sourcebook of Promising Strategies, Laws and Programs, National Hardcore Drunk Driving Project. The Century Council: Washington DC: 1997.)

**Offense, Class 1 misdemeanor; Second Offense, Class 1 misdemeanor; Third or subsequent offense, Class 1 misdemeanor with a 10 day mandatory minimum; However, no mandatory minimums shall apply if the person was required to drive because of an apparent extreme emergency requiring such operation to save life or limb.**

Note there needs to be a mechanism in place to address those drivers who are not convicted of habitual traffic offenses, but are license-deprived due to their failure to pay fines associated with a traffic offense. The following recommendation seeks to allow those whose license remains suspended solely because of failure to pay a fine to legally operate their vehicle under certain circumstances.

**Recommendation 3: The Virginia General Assembly may wish to consider enacting legislation to ensure drivers who have lost their driver's licenses for failure to pay cost and fines are able to drive to and from school, to and from work, and during work hours, and for travel necessary for medical attention and for the care of a minor child.**

### ***Chronic Drunk Drivers***

In 1998, chronic drunk drivers were involved in more than one-third of all crashes reported in the Commonwealth. According to national statistics, 34% of drivers killed in automobile crashes in 1998 had a blood alcohol level or .01 or higher, 15% of those drivers involved in a fatal crash in 1998 were driving with an invalid license and had a previous DWI conviction. The following recommendation proposes that chronic drunk drivers be subjected to stiffer penalties when they choose to continue their practice of drinking and driving.

**Recommendation 4: The Virginia General Assembly may wish to consider enacting legislation that revokes for a period of three years the driver's license of offenders who drive drunk at the same time that their license is suspended pursuant to §46.2-391.**

### ***Non-Traditional Sanctions***

While there are numerous non-traditional sanctions available to law enforcement agencies for addressing chronic traffic offenders and drunk drivers, many have not been in place long enough to determine the true scope of their effectiveness at reducing recidivism. However, initial analysis of the various non-traditional sanctions points towards vehicle immobilization as the most effective trend. Given the likelihood of license-deprived drivers to continue to drive, an apparent emphasis needs to be placed on physically preventing offenders from operating their vehicles. Currently, Virginia has two

such programs in place (ignition interlock and administrative impoundment.) However, because of the recent Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and the emphasis that it places on vehicle immobilization and impoundment sanctions, modifications and/or additions to Virginia's programs at this time are not warranted, given that the exact stipulations of TEA-21 are still being adapted. As such, the Commonwealth may wish to delay enacting any new vehicle seizure program until the federal legislation currently being considered is acted upon.

**Appendix A: Drivers Who Had an Offense Date the Same as a Crash Date  
(1996, 1997 and 1998)**

VA Code	Conviction Type	Property Damage	Injuries in Crashes	Fatalities in Crashes	Total
46.2-869	Improper Driving	22336	19181	57	41574
46.2-816	Following Too Closely	14542	9147	0	23689
46.2-820	Failure to Yield Right of Way	9960	6621	7	16588
46.2-852	RD-Generally	4834	6550	96	11480
46.2-1094	Safety Belt Violation	806	3935	26	4767
A18.2-266	Driving While Intox, 1 <sup>st</sup>	4168	3787	24	7979
46.2-853	RD- Faulty Brakes/Imp. Control	3108	3418	19	6545
46.2-833	Fail to Obey Traffic Signal	3711	3407	8	7126
46.2-821	Fail Stop/ Yield Entering Hwy	4384	3280	11	7675
A46.2-707	Operate or Prmt Operation Unins Mtr Veh	3524	3221	8	6753
46.2-825	Fail Yield Turning Left	3693	3083	7	6783
46.2-300	No Drivers License	3195	2752	15	5962
46.2-301	Driving Under Revocation or Suspension	2024	2079	7	4110
46.2-826	Fail Stop and Yield Right-of- Way Priv Rd	1990	1067	2	3059
46.2-804	Fail to Obey Highway Lane Markings	3542	1153	1	4696
46.2-830	Fail to Obey Highway Sign	1281	1089	2	2372
18.2-000	Non-Motor Vehicle Related	928	917	40	1885
B46.2-301	Driving Under Revocation or Suspension	635	574	7	1216
B46.2-894	Fail Stp Scene Acc Misd (Prop Damage)	1259	741	4	2004
46.2-894	Fail Stp Scene Acc Misd (Prop Damage)	109	77	0	186
46.2-1095	Child Restraint Violation	176	659	6	841
46.2-802	Fail to Drive on Right Half of Hwy	880	668	4	1552
46.2-863	RD- Fail Stop Entering Hwy	590	433	1	1024
46.2-846	Improper Turn	1117	373	0	1490
B46.2-853	Operate Improper Control	319	287	1	607
A46.2-357	Operating After Declared HO- Misd	243	257	2	502
A46.2-301	Drive on Suspended License/ Fine & Cost	125	100	0	225

<b>46.2-862</b>	RD - SP 20 or More Above Sp Limit	176	228	3	407
<b>46.2-1157</b>	Operate Uninspected Vehicle	220	215	1	436
<b>A46.2-894</b>	Fail Stop Scene Acc Felony (Inj/Death)	103	203	11	317
<b>46.2-848</b>	Improper Backing, Stopping or Turning	1001	206	0	1207
<b>A46.2-613</b>	Off. Relating to Reg/Licensing/Titling	176	202	1	379
<b>46.2-861</b>	RD- Dr Too Fast For Conditions	249	209	0	458
<b>A46.2-817</b>	Elluding Police - Misdemeanor	317	209	0	526
<b>46.2-104</b>	Fail Carry/ Exhibit Regis Card/ License	272	195	0	467
<b>B18.2-266</b>	Driving While Intoxicated, 2 <sup>nd</sup>	667	615	4	1286
<b>C18.2-266</b>	Driving While Intox 3 <sup>rd</sup> , or subsequent	140	171	1	312
<b>C46.2-707</b>	Knowingly Operate Uninsured Motor Veh	199	152	1	352
<b>46.2-838</b>	Improper Passing	427	146	0	573
<b>46.2-896</b>	Fail Stop Scene Acc Unattended Property	399	88	0	487
<b>B46.2-896</b>	Fail Stop Scene Acc Unattended Property	282	70	1	353
<b>A46.2-896</b>	Fail to Rept Acc/Unatt Prop/Less \$250	157	54	1	212
<b>46.2-845</b>	Improper U Turn	272	125	1	398
<b>46.2-824</b>	Fail Yield Right-of-Way at "T" Inter	209	147	0	356
<b>46.2-302</b>	Drive Suspended Before Giving Proof Fr	138	118	0	256
<b>B46.2-870</b>	Speeding 10-19 MPH Above Speed Limit	157	114	1	272
<b>46.2-1003</b>	Improper Equipment	154	136	0	290
<b>18.2-266.1</b>	Drive After Illegally Consuming Alcohol	118	116	1	235
<b>18.2-250</b>	Offense Desc in VA Code Sec 46.2-390.1	130	140	3	273
<b>G46.2-613</b>	Improper Registration or License Plates	139	135	1	275
<b>46.2-646</b>	Expired Registration	117	117	0	234
<b>46.2-1043</b>	Insufficient Tread on Tires	90	125	1	216
<b>B46.2-357</b>	Operating After Declared HO-Felony	86	93	2	181

<b>18.2-268</b>	<b>Refused Blood/Breath Test</b>	<b>73</b>	<b>62</b>	<b>1</b>	<b>136</b>
<b>18.2-268.3</b>	<b>Refused Blood/Breath Test</b>	<b>66</b>	<b>81</b>	<b>1</b>	<b>148</b>
<b>46.2-329</b>	<b>Operate in Violation Restricted License</b>	<b>102</b>	<b>78</b>	<b>1</b>	<b>181</b>
<b>46.2-841</b>	<b>Improper Passing on Right</b>	<b>149</b>	<b>38</b>	<b>0</b>	<b>187</b>

## Appendix B: Benefits and Costs of the Ignition Interlock, License Plate Seizure, Vehicle Immobilization, Vehicle Impoundment and Vehicle Forfeiture

	BENEFITS	COSTS
Interlock Devices (BAIID)	<ul style="list-style-type: none"> <li>• BAIID can reduce recidivism rates significantly.</li> <li>• <u>But</u> only when coupled with treatment programs.</li> <li>• BAIID allows family members or the offender to use the car.</li> </ul>	<ul style="list-style-type: none"> <li>• BAIID is fairly easy to circumvent or</li> <li>• The offender can borrow, rent or steal a car that does not have the encumbrances of a BAIID device.</li> </ul>
Licence Plate Seizures	<ul style="list-style-type: none"> <li>• Studies indicate that administrative based license plate seizures can significantly reduce recidivism.</li> <li>• Oregon achieved a 50 percent reduction in DWI recidivism during the first year after implementing administrative based license plate seizure programs.</li> <li>• License plates need not actually be seized. Instead a special sticker can be affixed to the license plate.</li> <li>• Costs of administering this program are extremely low.</li> </ul>	<ul style="list-style-type: none"> <li>• <u>However</u>, Washington State, which implemented a similar program, did not achieve the results that Oregon, due to inefficient administration of the program.</li> <li>• Offenders can easily attach stolen plates.</li> <li>• If the license plates are seized, then the deprivation of the vehicle's use may cause hardship for the offender's family.</li> </ul>
Vehicle Immobilization	<ul style="list-style-type: none"> <li>• The vehicle can be easily immobilized on the offender's property by using a locking device on the steering wheel, such as "the club", or a "boot" to lock one of the wheels.</li> <li>• The devices to immobilize the car range in cost from the club at \$30 to the boot, which costs approximately \$200.</li> <li>• The government does not have to make arrangement concerning the problems of unclaimed vehicles.</li> <li>• There is a degree of stigma that will attach to a DUI offender, when his or her neighbors can actually see the booted car on his property.</li> </ul>	<ul style="list-style-type: none"> <li>• If the offenders live in areas with only on street parking, the city must find a place where these cars can be stored.</li> <li>• The deprivation of a vehicle may cause "hardships" by creating an inability for the offender to travel to and from either work or school.</li> <li>• Neighbors in the community might complain that the vehicle constitutes an "eyesore".</li> </ul>
Vehicle Impoundment	<ul style="list-style-type: none"> <li>• Two studies conducted by the Hardcore Drunk Driving Project indicate impounding vehicles for 1-6 months has a continued deterrence effect even after the vehicle is returned.</li> <li>• A study in San Francisco vehicle impoundment program found an approximately 60 percent reduction in DWI recidivism during its first year of operation.</li> <li>• Driver's who eventually reclaim their vehicle must pay all the associated costs of impoundment.</li> </ul>	<ul style="list-style-type: none"> <li>• The state must pay the costs associated with unclaimed vehicles.</li> <li>• Deprivation of the vehicle's use may cause hardship for the offender's family.</li> <li>• Some jurisdictions in Virginia have inadequate storage facilities.</li> </ul>
Vehicle Forfeiture	<ul style="list-style-type: none"> <li>• Forfeiture can be effective in conjunction with other programs.</li> <li>• Vehicle forfeiture programs have not yet been evaluated as an effective measure separately from other programs.</li> <li>• U.S. Representative Blumenauer</li> </ul>	<ul style="list-style-type: none"> <li>• Vehicle forfeiture programs are costly to administer, and in spite of proceeds derived from the sale of these cars, most programs operate at a cost to the government.</li> </ul>



(Oregon) is currently looking into introducing legislation to help state implement forfeiture programs through federal grants.

- Extensive discussions with Congressman's staff indicate the legislation may make such a program a requirement of TEA-21.

- Many of the cars seized are not worth the towing and storage costs the government must pay.

## **Appendix C: Specific Requirements for States to Receive Additional Incentive Grants through TEA-21<sup>1</sup>**

### **Basic Grant A (adopting specific drunk driving countermeasures)**

To qualify, a state must implement at least five of the following seven criteria:

- Administrative license revocation.
- A program to prevent drivers under age 21 from obtaining alcoholic beverages.
- A program for intensive enforcement of laws forbidding driving while impaired.
- A graduated licensing law with nighttime driving restrictions and zero tolerance.
- A program to target drivers with high BAC.
- Programs to reduce impaired driving by young adults age 21 through 34.
- An effective system for increasing the rate of testing for blood alcohol levels of drivers in fatal crashes; in FY 2001 and after, the testing rate must be above the national average.

### **Basic Grant B (performance criteria in reducing drunk driving deaths)**

To qualify, a state must demonstrate two things:

- A reduction in its percentage of fatally injured drivers with .10 percent BAC or greater in each of the last three years, and
- A lower percentage of drivers with .10 percent BAC or greater than the national average for each of the last three years.
- States that qualify for either of the basic grants may also apply for one or more “supplemental grants,” by implementing one of the following:
  - ❖ Videotaping of drunk drivers by police.
  - ❖ A self-sustaining program for preventing impaired driving.
  - ❖ Laws to reduce driving with a suspended license.
  - ❖ Use of passive alcohol sensors by police.
  - ❖ Effective system for tracking information on drunk drivers.
  - ❖ Other innovative programs.

---

<sup>1</sup> Source: Mejeur, Jeanne. “There’s More to TEA-21 than .08,” State Legislatures Magazine. October/November 1999.

**GENERAL ASSEMBLY OF VIRGINIA -- 1999 SESSION**

**HOUSE JOINT RESOLUTION NO. 551**

*Directing the Virginia State Crime Commission to continue to study alternative means of sanctioning habitual offenders of the Commonwealth's laws regarding the operation of motor vehicles and to examine the effectiveness of vehicle seizure in reducing rearrest among recalcitrant drunk drivers.*

Agreed to by the House of Delegates, February 5, 1999

Agreed to by the Senate, February 23, 1999

WHEREAS, the Virginia State Crime Commission was directed by Senate Joint Resolution No. 200 (1998) to study additional and alternative means of sanctioning habitual offenders; and

WHEREAS, the Commission determined as a result of this study that some drivers in Virginia are chronic offenders of the Commonwealth's laws regarding the operation of motor vehicles involving driving under the influence and other offenses; and

WHEREAS, these drivers often ignore judicial and administrative sanctions and are not punished or rehabilitated after their offenses; and

WHEREAS, by avoiding punishment and rehabilitation, these drivers pose an increased threat to the citizens and resources of the Commonwealth; and

WHEREAS, many people who have been convicted of drunk driving are seemingly impervious to traditional sanctions and continue to drive, despite the fact their licenses have been suspended or revoked; and

WHEREAS, there are increased public safety hazards, including innocent deaths across the Commonwealth every year, as a result of repeated violations of driving under the influence and driving on a suspended license; and

WHEREAS, currently there are campaigns in several states and in the United States Congress to promulgate laws which employ the seizure of the vehicles of recalcitrant drunk drivers in order to ensure compliance with the suspension of driving privileges; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to continue to study alternative means of sanctioning habitual offenders of the Commonwealth's laws regarding the operation of motor vehicles and to examine the effectiveness of vehicle seizure in reducing rearrest among recalcitrant drunk drivers.

In conducting the study, the Commission shall (i) determine those offenses relating to the operation of a motor vehicle that pose the greatest threat to the citizens of the Commonwealth; (ii) develop additional or alternative sanctions or methods, including increased incarceration, to restrict the access the aforementioned habitual offenders have to motor vehicles and equipment; (iii) investigate the feasibility of implementing a vehicle seizure program in the Commonwealth and the potential benefits of vehicle seizure; and (iv) determine the effectiveness of such programs in other states.

Technical assistance for this study shall be provided by the Department of State Police and the Department of Motor Vehicles. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

---

---

VIRGINIA STATE CRIME COMMISSION  
STAFF

---

Rich Savage  
Director

Lawrence L. Schack  
Principal Analyst

Herschel V. Keller  
Staff Attorney

Katherine E. Young  
Policy Analyst

Sylvia A. Reid  
Executive Assistant



