

APPENDIX C - Driving While Impaired Action Plan

Introduction

Driving While Impaired (DWI) is one of nine critical safety emphasis areas identified for the update of the North Carolina Strategic Highway Safety Plan. This emphasis area focuses on collisions on North Carolina's roadways that involve one or more drivers of whom alcohol or drug impairment is suspected or detected. In this case, drugs mean both illicit and prescription/medicinal substances.

Alcohol has long been a chief concern in terms of highway safety because of its well-documented ability to impair drivers. In recent years, prescription drug use appears to be on the rise and is getting more attention than it has in the past. So-called "medicinal" drugs (e.g., antihistamines, benzodiazepines, marijuana) have been shown to increase crash risk among drivers.

While all forms of impaired driving pose a significant threat to safety along North Carolina's roadways, alcohol-impaired driving is considered to be the linchpin of the issue for several reasons.

- The presence of alcohol in a person's system is both detectable (through proven technology such as alcohol screening devices) and quantifiable (through measures of breath or blood alcohol concentration [BAC]), whereas the accurate determination of drug impairment among drivers is arduous, at best.
- Drug use is known to often coincide with alcohol use, so targeting alcohol-impaired driving brings the opportunity to also reduce drug-impaired driving without focusing directly on drug use.

- Years of focus and research on alcohol-impaired driving have cast light on successful and unsuccessful approaches to address the issue, and there are past achievements on which future efforts can be based. Conversely, the drug issue itself is ever-changing, as new combinations and production methods continue to manifest themselves, and is, therefore, considered more difficult to combat directly.

For these reasons, the greatest opportunity to reduce instances of DWI in North Carolina is in reducing alcohol-impaired driving; hence, alcohol is the primary focus of this Action Plan.

State of the Problem

Table C-1 offers a basic summary of alcohol-involved crashes and the resultant fatalities and injuries on North Carolina's highways from 2009 – 2013. For the purposes of this effort, serious injuries refer to those coded as A Type Injuries.

Nationally, 67 percent of drivers arrested for DWI have never previously been charged with DWI, and 80 percent of drivers in an alcohol-related crash have never been previously charged with DWI. An impaired driver's first time being caught by law enforcement rarely coincides with the first time driving in an impaired state. Therefore, if the focus is only on efforts addressing persons arrested for DWI, then most of the impaired driving problem will be missed and, with it, the opportunity to have a large effect on the issue.

In North Carolina, drivers are considered to be impaired when their mental or physical faculties are noticeably affected by any impairing

Table C-1: Alcohol-Involved Crashes in North Carolina (2009 – 2013).

	2009	2010	2011	2012	2013	Annual Avg.
Crashes	11,414	10,704	10,708	11,273	10,802	10,973
Fatalities	397	436	392	426	353	401
Serious Injuries (A)	558	514	561	565	457	531
All Injuries (A, B, C)	8,844	7,983	8,172	8,496	7,719	8,243

Fatal Injury – Any injury that results in death within 12 months after the crash occurred.

A Type Injury (disabling) – An injury obviously serious enough to prevent the injured person from performing his or her normal activities for at least one day beyond the day of the crash. Massive loss of blood, broken bone, unconsciousness of more than momentary duration are examples.

B Type Injury (evident) – An obvious injury, other than a fatality or A Type injury, which is evident at the scene. Bruises, swelling, limping, soreness, are examples. This injury would not necessarily prevent the person from carrying on his or her normal activities.

C Type Injury (possible) – No visible injury, but person complains of pain, or has been momentarily unconscious.

substance. Like other States, North Carolina has adopted a per se DWI offense of driving with a BAC of 0.08 or higher. The per se offense treats a driver as being legally impaired without the necessity of proving actual impairment. Based on national data, a driver with a BAC of 0.08 is 2.7 times as likely to get in a crash as a driver with a zero BAC. The median BAC of those arrested for impaired driving or killed in an alcohol-related crash is 0.16, which has been consistent for a number of years.¹ Drivers with a BAC of 0.16 are approximately 29 times as likely to be involved in a crash as those with a zero BAC.^{2,3}

The process by which a DWI occurs and is then dealt with is shown in figure C-2. Traditionally, the focus of efforts to reduce impaired driving tends to be toward the bottom of this list—on adjudication and sanctions. However, the greatest opportunity for a large effect on impaired driving is by intervening earlier in the process to keep impaired individuals from driving in the first

place. This direct control of undesired behavior holds more promise than threats of punishment after the fact for improving safety. Although punishment of detected offenders is essential, it is the certainty of punishment—not its severity—that ultimately provides the motivation for compliance with desired driver behaviors.



Figure C-2: DWI General Process.

North Carolina has long been a leader in innovative approaches to address DWI. The

notion of high-visibility enforcement for DWI on a statewide level was first implemented here beginning in 1994 with the launch of the initial Booze It & Lose It program that is still active today. Ignition interlock devices are considered to be among the more cutting edge approaches to tackling alcohol-impaired driving. While these devices have been employed in North Carolina, their utilization here lags behind that in the leading States nationwide. A general estimate of 300,000 such devices are in use across the US, with approximately 10,000 or so of those in North Carolina. Varying levels of success have been observed in implementing ignition interlock programs across the US, and the experiences of other States can serve as a valuable resource for North Carolina if it looks to expand the program here. A possible indicator of progress is the recently-passed legislation (SB 744) that provides more than \$600,000 of recurring funds and more than \$45,000 of non-recurring funds to the North Carolina Division of Motor Vehicles (NCDMV) to establish an ignition interlock unit.

Looking to the future, collaboration is a central theme to successfully addressing the problem of impaired driving. Collaboration among various governmental agencies is essential to establishing the universal deterrence that is critical to controlling impaired driving (and other driver misbehavior). As Federal, State, and local tax dollars continue to be stretched further and further, collaboration is also key to allow agencies to share resources and data and streamline their collective efforts—actions that will help them maximize their reach and effectiveness. Attention

should be given to the many, and not just the few, habitual offenders. The attempt to curb DWI has traditionally centered upon arrests, but crash-based metrics (e.g., decreased fatalities, serious injuries, and crashes) should be established as an additional means to track progress.

Between October 1, 2013 and October 1, 2014, there were 30,000 DWI convictions and 6,500 limited privilege licenses issued. Additionally, of the 5,400 refusals to submit to an alcohol screening test, 118 limited privilege licenses were issued. And of the 38,500 30-day civil revocations, 4,000 limited privilege licenses were issued. Based on the analysis of this data, it is recommended that eight positions be added. Furthermore, it was determined that limited privilege licenses would be processed in an average time of 30 minutes.

The DWI strategies presented below provide strong deterrents for individuals who chose to drive after drinking by limiting or removing driving privileges. These strategies also provide an opportunity to support North Carolina's broadest initiatives related to public health and safety by making the connection between an impaired driving arrest and actual substance abuse. A DWI arrest may be an indication of an alcohol problem and presents the opportunity to intervene during the period immediately following that arrest—when individuals may be most open to recognizing and addressing the consequences of their drinking behavior. A DWI arrest is a chance for intervention to better connect a person with effective alcohol screening and treatment. The Screening, Brief Intervention,

Referral and Treatment (SBIRT) is one such approach that has been identified as effective and available in North Carolina.

Emphasis Area Goal

In 2013, there were 353 fatalities and 457 serious injuries due to alcohol-involved crashes in North Carolina. The goal for this Emphasis Area Action Plan is to reduce alcohol-involved fatalities and serious injuries.

Strategies and Supporting Actions

The following section outlines strategies needed to achieve the desired goals of improved safety with regard to DWI. They are not proposed as isolated, standalone measures. Rather, to effectively address DWI on North Carolina's road network, coordinated and concerted efforts statewide across agencies and partners are required. Listed below each strategy are several recommended actions to support it, as well as one or more North Carolina agencies identified as having a potentially significant role in its implementation and the current status of the action.

Strategy 1

Increase the visibility of DWI enforcement efforts.

Research indicates that individuals who drive after drinking believe they have a low risk of being apprehended. Numerous studies have documented that the key to changing this belief is to extensively publicize that enforcement is (1) ever-present, (2) unpredictable in when and where it takes place, and, as a result, (3) inescapable.

Accordingly, the following messages in various media and other venues are critical:

- Law enforcement officials are continuously looking for drivers who have been drinking.
- DWI enforcement efforts are unpredictable, so they cannot be avoided.
- The only way to avoid being caught is to avoid driving after drinking.

Supporting Actions

1. Increase the visibility of DWI checkpoints by deploying them often, at most times of day, on all days of the week, during all months of the year, in a wide variety of locations, and in a manner that the driving public will notice them even if they do not drive through them.

Potential Implementing Agencies: NCSHP, county sheriff's offices, local police departments

Status: Ongoing

2. Use a wide range of media—including both earned media coverage and paid media—to alert the driving public to the ubiquitous, ever-present nature of DWI enforcement efforts.

Potential Implementing Agencies: GHSP, NCSHP, local police, County Sheriff's Offices, MADD, Media, HSRC

Status: Ongoing

3. Identify funding sources to ensure adequate publicity of enforcement.

Potential Implementing Agencies: GHSP, MADD

Status: Ongoing

Strategy 2

Collaboratively redefine the roles and responsibilities of various State government offices in processing license revocations for DWI.

Administrative procedures have proven to be the most effective way to reduce alcohol-impaired driving, and their use is essential if further progress is to be made.⁴

The vast majority of official licenses in North Carolina are administered by a licensure board or committee. While the NCDMV is responsible for issuing driver licenses in North Carolina, NCDMV cannot revoke the license of an impaired driver without a final conviction from a court. As such, in the case of a crash involving DWI, the offending driver will continue to have their license until the case is addressed in the court system. Even after a conviction, courts determine when, where, and under what restrictions the convicted impaired driver may operate a vehicle by the issuance of limited driving privileges. NCDMV has no authority to reject a limited driving privilege, even if NCDMV determines the court lacked the authority to issue the limited driving privilege. Revising State legislation such that the licenses of DWI offenders are revoked and limited driving privileges are issued through an administrative mechanism instead of by judicial action has the potential to offer the following benefits:

- Expedited imposition of sanctions against offenders
- Reduced burden on the court system
- Establishment of a consistent, statewide response to impaired driving events

Additionally, as discussed in detail in the next strategy, ignition interlock devices have great potential to reduce impaired driving, and requiring the use of an interlock could also be incorporated into the administrative response to an impaired driving event.

Supporting Actions

1. Investigate the feasibility and potential benefits of placing the administration of driver licensure—including both issuance and revocation of licenses and issuance of limited driving privileges—under the purview of the NCDMV.

Potential Implementing Agencies: NCDMV

Status: Legislation needed

2. Investigate the feasibility and potential benefits of placing the administration of the ignition interlock program under the purview of the NCDMV.

Potential Implementing Agencies: NCDMV

Status: Legislation needed

Strategy 3

Expand the use of ignition interlock devices.

According to NHTSA's Model Guideline for State Ignition Interlock Programs (November 2013), "the purpose of an alcohol ignition interlock device is to prevent drivers who have consumed alcohol from operating a motor vehicle if their breath alcohol concentration (BrAC) exceeds a set point. Drivers must provide a breath sample by blowing into the ignition interlock device and, if the driver's BrAC is over the set point, the vehicle will not start." (Note that BrAC is essentially

synonymous with the commonly used terms BAC and alcohol concentration.)

In a February 2010 press release entitled, Ignition Interlocks Reduce Alcohol-Impaired Driving, the Center for Disease Control (CDC) reported that “after these devices were installed, re-arrest rates for alcohol-impaired driving decreased by a median of 67 percent relative to drivers with suspended licenses.” The CDC recommended “(1) more widespread use of interlocks and (2) ignition interlocks for everyone convicted of DWI, even for first convictions.”

The following identifies actions in support of this initiative. Note that the Potential Implementing Agencies listed below were identified assuming the second strategy (oversight of licensure revocation is reassigned to NCDMV) is achieved.

Supporting Actions

1. Identify successful ignition interlock programs in other jurisdictions.

Potential Implementing Agencies: MADD, NCDMV, HSRC, GHSP

Status: Underway

2. Work to revise legislation to require interlocks for all drivers determined to have been involved in an impaired driving event, giving serious consideration to the following components.

- Allow removal of ignition interlock device only on the basis of clear evidence it is no longer needed (e.g., information in the interlock record indicating excellent compliance, combined with information from treatment professional that any existing alcohol problem has been resolved).

- Consider using the ignition interlock device as part of a reward system in which a driver whose license has been revoked could be relicensed sooner if a device is installed on his vehicle.

Potential Implementing Agencies:

Various advocacy groups

Status: Legislation needed

3. Assign management and administration of this program to the NCDMV instead of the judicial arm of the government.

Potential Implementing Agencies: NCDMV (assuming it is assigned responsibility for administering driver license revocation and issuing limited driving privileges)

Status: Legislation needed

Strategy 4

Improve the efficiency and consistency with which DWI cases are adjudicated and sanctions are levied against offenders.

In North Carolina, if drivers charged with DWI following a breath test exercise their right to a court trial, then it takes approximately 12 – 14 months for the case to be adjudicated by the judicial system, in large part due to the sheer volume of cases that must be processed by the courts. Additionally, the penalties imposed by the courts can be inconsistent from one county to another. One potential strategy to address both issues is to assign complete control of driver licensing in North Carolina—issuance, revocation, and imposition of license restrictions—to a single entity.

The following list identifies actions in support of this strategy, which is closely related to the second and third initiatives.

Supporting Actions

1. Explore the potential reassignment of licensing determination from the courtroom to NCDMV, including issuing of limited driving privileges and imposition of driving restrictions (e.g., ignition interlock devices).

Potential Implementing Agencies: NCDMV

Status: Legislation needed

2. Allow administrative licensing sanctions to be imposed based upon results of a BAC test and not just test refusal. (There is a 30-day revocation based upon BAC and a one-year revocation based upon refusal. Allowing NCDMV to impose a one-year revocation based upon a BAC will allow swift, sure sanctions.)

Determine the impacts of NCGS 20-16 on these actions.

Confirm how NCGS 20-16.2 (refusal) will be addressed with limited driving privileges associated with a BAC test.

Potential Implementing Agencies: NCDMV

Status: Legislation needed

3. Identify the actions necessary to make all of the DWI information obtained by the arresting officer available to the courts. Investigate (1) what revisions to the alcohol screening device regulations would be necessary to make the numeric results of the device available, (2) the feasibility of revising those regulations, and (3) their potential impacts on current law enforcement procedures.

Potential Implementing Agencies: District Attorneys, Law enforcement

Status: Legislation needed

4. If a license is revoked, access to the vehicle should be prohibited by revoking the vehicle's registration (i.e., seizing the registration plate), booting the vehicle, or seizing the vehicle.

Potential Implementing Agencies: NCDMV

Status: Legislation needed

5. Expand the use of technology for continuous alcohol monitoring. (North Carolina law currently restricts around-the-clock monitoring to transdermal devices. There is other technology available—including ignition interlock devices—that can report breath tests even when not starting a car. This system should be allowed for use by the court and/or probation officers.)

Potential Implementing Agencies:

NCDPS, Law enforcement

Status: Legislation needed

Strategy 5

Expand how “success” or “progress” in addressing DWI is measured.

Federal grants from NHTSA have been and continue to be a major source of funding for efforts to address DWI in North Carolina. NHTSA requires that the enforcement activities it sponsors be tracked and measured, and arrests are at the heart of the monitoring process. However, the focus statewide should be expanded to include alcohol-related crashes, fatalities, and serious injuries to measure progress. Expanding the focus statewide to include these crash

measures could provide a more holistic approach to measuring progress in reducing impaired driving in North Carolina.

The following identifies actions in support of this initiative.

Supporting Actions

1. Develop education programs for law enforcement officers and political leaders across the State related to the expanded metrics.

Potential Implementing Agencies:

Law enforcement, GHSP, MADD

Status: Needed

2. Work with sponsoring agencies to define new metrics, as grants and funding applications will need to reflect any changes.

Potential Implementing Agencies: MADD, GHSP,

law enforcement, HSRC

Status: Underway

Working Group Members

The working group for this emphasis area includes the following representatives from seven agencies committed to achieving the goals of this Action Plan:

- Ike Avery, North Carolina Conference of District Attorneys
- Lt. Aaron Back, North Carolina State Highway Patrol
- Robert Foss, UNC Highway Safety Research Center
- Terry Hopkins, North Carolina Department of Transportation
- Don Nail, Governor's Highway Safety Program

- Chris Oliver, North Carolina Department of Transportation
- LaRonda Scott, Mothers Against Drunk Driving
- Harriett Southerland, Students Against Destructive Decisions

Supporting Material

The following are considered valuable resources to the implementation of Driving While Impaired Emphasis Area Action Plan:

- North Carolina Governor's Highway Safety Program FY2014 Highway Safety Plan. <http://1.usa.gov/1lr9GZF>
- Governor's Statewide Impaired Driving Task Force Impaired Driving Plan, submitted to NHTSA August 29, 2014
- NHTSA's Countermeasures that Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices. <http://bit.ly/1AbynCV>
- NCHRP Report 500, Vol. 16: A Guide for Reducing Alcohol-Related Collisions. <http://bit.ly/1AM2l3n>
- MADD information on ignition interlock devices. <http://bit.ly/1lr9REq>
- British Columbia Ignition Interlock Program Fact Sheet. <http://bit.ly/1y7N3lb>

References

- 1:** National Highway Traffic Safety Administration. Traffic Safety Facts 2012 Data: Alcohol-Impaired Driving. DOT HS 811 870. Washington, DC: U.S. Department of Transportation (December), 2013.
- 2:** Blomberg, R., R. Peck, H. Moskowitz, M. Burns, and D. Fiorentino. Crash risk of alcohol impaired driving: A case-control study. Stamford CT: Dunlap and Associates, Inc., September 2005.

3: Peck, R. C., M.A. Gebers, R.B. Voas, and E. Romano. The relationship between blood alcohol concentration (BAC), age, and crash risk. *Journal of Safety Research*, 39(3), 311-319, 2008.

4: Goodwin, A.H., R.D. Foss, J. Hedlund, and J. Sohn. A guide for reducing alcohol-related collisions. Guidance for implementation of the AASHTO Strategic Highway Safety Plan. Vol. 16. NCHRP Report 500. Washington, DC: Transportation Research Board, 2005.