

# Traffic Safety Facts

## Laws

March 2005

## Administrative License Revocation

### Background

The National Highway Traffic Safety Administration (NHTSA) encourages States to require prompt, mandatory revocation or suspension of driver's licenses for alcohol and/or other drug test failure and/or test refusal. Motor vehicle crashes are the number one cause of death for persons age 3 through 33 in the United States. Forty percent of these fatalities are alcohol related. Suspending or revoking driver's licenses for those driving while under the influence of alcohol or other drugs has proven to be a successful deterrent, if implemented by the state.

Administrative license revocation (ALR) laws are based on objective chemical tests (usually breath, sometimes blood or urine) and are similar to «illegal per se» criminal laws against impaired driving. ALR allows law enforcement and driver licensing authorities to revoke or suspend a driver's license swiftly,

without long delays, while awaiting a criminal trial. The offender retains the right of due process through an administrative appeal system.

### Key Facts

- In 2003, 40 percent of the 42,643 motor vehicle crash deaths nationwide were alcohol-related. This percentage equates to 17,013 alcohol-related deaths in that year.
- Research has found that States with ALR laws reduced fatal crashes by approximately 9 percent during high-risk (late night) periods of alcohol involvement.
- Research in Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah showed significant reductions in alcohol-related fatal crashes after enacting ALR laws
- Publicizing a State's ALR law increases its effectiveness. For example, one research study conducted in Nevada found a 12 percent reduction in alcohol-related crashes following implementation of a publicity campaign designed to inform the public about the ALR procedure.
- ALR does not have a major impact on an offender's job or income. A 1996 study compared three ALR States with one non-ALR State that used other sanctions for impaired driving, and found that there was no difference between the States in offender

employment or income. In both ALR and non-ALR States, 94 percent of the offenders who were working at the time of their arrest were still working one month later; 4 percent were unemployed; and the remaining 2 percent were in school. License revocations as long as 90 days did not lead to a loss of job or income.

- Administrative license revocation is constitutional and does not constitute double jeopardy. All cases in which the highest State appellate courts have considered these issues have held that a separate criminal trial for an impaired driving offense following an ALR action does not constitute double jeopardy under either Federal or State constitutional law.
- The U.S. Supreme Court has found that the right of due process is not violated if a driver's license is suspended prior to an administrative hearing, as long as provisions are made for a swift post-suspension hearing. [*Mackey v. Montrym*, 443 U.S. 1 (1979)].

### How ALR Laws Work?

#### **What Provisions Should Be Included In An ALR Law?**

- The language of these laws should be consistent with the provisions of the State's Administrative Procedure Act.

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- The arresting officer should, at the time of arrest, serve the notice of revocation (suspension), take the offender's license, and issue a temporary permit.
- The driver should have the opportunity to request an administrative hearing. This request, however, should not be allowed to delay the revocation (suspension).
- There should be an initial license revocation (suspension) period for test failure with some period of full revocation followed by restricted driving during any remainder. Restricted driving privileges should be permitted only in very limited circumstances, and only after an initial "hard" revocation (suspension) period has been served. The initial license revocation (suspension) period for a test refusal should be longer than the period for test failure, with no restricted driving privileges. For a repeat DWI offense within five years, the revocation (suspension) period should be considerably longer with no restricted driving privileges. In addition, licensing actions should take effect within 30 days of notice.
- The administrative sanction should be handled separately from the criminal proceeding. Due to differing procedural aspects, the findings and outcome of an ALR action should not normally affect a criminal proceeding, and vice versa.

### **How Much Does An ALR Program Cost?**

A 1991 study analyzed the costs and benefits associated with ALR laws in Illinois, Mississippi,

and Nevada. The study revealed that start-up and operating costs were adequately covered with the assessment of license reinstatement fees. In addition, the annual savings in costs for night-time crashes that were reduced as a result of ALR laws ranged from \$37 million in Nevada to \$104 million in Mississippi.

### **How Can ALR Be Financed?**

The offenders, rather than taxpayers, should pay for these programs. Some States have significantly increased the reinstatement fee for drivers whose licenses are revoked for driving while intoxicated (DWI); some States have raised all reinstatement fees; and other States have increased all license application and renewal fees. Other fines or fees also can provide funding, such as an alcoholic beverage tax that can be earmarked for alcohol program expenses, including ALR.

### **Incentive Grant Program**

In 1998, Congress passed H.R. 2400, the Transportation Equity Act for the 21st Century (TEA-21). TEA-21 made substantial changes to the then existing Section 410 alcohol incentive grant program. Pursuant to the Section 410 program, as amended by TEA-21, States may qualify for a "Programmatic Basic Grant" if they demonstrate that they meet five out of seven basic grant criteria to combat impaired driving, including an administrative license revocation system.

To meet this criterion of the Section 410 grant program, a State must have an administrative license revocation system that requires:

- ▼ First offenders be subject to a 90-day license suspension

- ▼ First offenders who fail a chemical test be subject to a 30-day license suspension with an additional 60 days of a restricted license
- ▼ Repeat offenders be subject to a one-year suspension or revocation
- ▼ Suspensions or revocations take effect within 30 days after the offender refuses to submit to a chemical test or receives notice of having failed the test.

The program also requires that license suspension and revocation periods be "hard" and not subject to exceptions. A State may demonstrate compliance with this criterion as either a "Law State" or a "Data State" by submitting copies of its administrative revocation laws or data relating to the sanctions imposed under its program.

### **Which States have ALR?**

As of December 2004, 40 States and the District of Columbia had adopted some form of administrative license revocation.

Alabama	Mississippi
Alaska	Missouri
Arizona	Nebraska
Arkansas	Nevada
California	New Hampshire
Colorado	New Mexico
Connecticut	North Carolina
Delaware	North Dakota
Florida	Ohio
Georgia	Oklahoma
Hawaii	Oregon
Idaho	South Carolina
Illinois	Texas
Indiana	Utah
Iowa	Vermont
Kansas	Virginia
Louisiana	Washington
Maine	West Virginia
Maryland	Wisconsin
Massachusetts	Wyoming
Minnesota	

## Information Sources

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