



Effective Traffic Safety Solutions to Stop Drunk Driving

-An ABL Toolbox-

American Beverage Licensees (ABL) is the preeminent national trade association for retail alcohol beverage license holders across the United States. Its members, who number nearly 20,000, are comprised of on-premise (bars, taverns, restaurants hotels, caterers and casinos) and off-premise (liquor and package stores) retailers who annually infuse billions of dollars into the American economy. ABL represents the interests of American small business owners and a historical part of the American way of life. Many members are independent, family owned operators who assure that beverage alcohol is sold and consumed responsibly by adults. ABL serves as a way for beverage alcohol retailers nationwide to bring their combined wisdom and strength to bear on the challenges each face daily.

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Effective Traffic Safety Solutions to Stop Drunk Driving - A Toolbox-

Introduction

ABL and its members are committed to supporting the responsible sale, service and consumption of alcohol beverages. Despite the efforts of alcohol beverage retailers and others in states throughout the country, drunk driving remains a serious problem that affects all Americans. Though there have been significant reductions in the number of drunk driving accidents, injuries and fatalities over the past 20 years, more needs to be done.

While cognizant that there is not one solution to this problem, ABL has adopted provisions in support of various techniques, strategies and the effective application of technology to stop drunk driving. Specifically, the ABL Board of Directors adopted a reasonable and responsible policy in favor of the use of ignition interlock devices for first time drunk driving offenders with excessively high blood alcohol content (BAC) and those offenders who have multiple DUI convictions. ABL also strongly supports the use of judicial discretion by courts in the various jurisdictions across the country when it comes to DUI adjudication. ABL has developed a "Toolbox" of effective means for its affiliate members to take action on this issue at the state level, including options such as model legislation and legislative language for amendments that reflect ABL's position.

It is important to understand that comprehensive countermeasures to target the hardcore drunk driver population are critical and that ignition interlock devices alone will not result in behavior change. They should be used in tandem with alcohol evaluation, education and treatment, and other sanctions. Studies recommend that ignition interlocks be used as part of an integrated DUI program aimed with the ultimate goal of offender rehabilitation.

ABL is concerned about the apparent push by some well-meaning but misguided interests calling for increased implementation of ignition interlock technology as part of a larger campaign leading to the universal implementation of ignition interlocks in all vehicles. If such a campaign was to meet with success, it would essentially mean the end of legal and responsible consumption of alcohol beverages prior to driving, regardless of whether that consumption takes place in on-premise establishments, sporting or catered events or private residences.

ABL opposes the implementation of universal ignition interlock devices and opposes proposals in favor of their use beyond multiple offenders and those with excessively high BAC. ABL has contacted and is working with its industry colleagues, drunk driving technology companies and other safety advocates to promote reasonable and responsible legislation calling for the proper implementation of ignition interlocks as part of a comprehensive approach to fighting drunk driving and to oppose a march toward their universal application.

ABL's "**Effective Traffic Safety Solutions to Stop Drunk Driving – An ABL Toolbox**" is available to all ABL affiliates (and non-affiliates) for their use. This "toolbox" is multi-faceted and should be used to:

- Educate all retailers, their families, friends, customers, elected officials and other interested parties about drunk driving, ignition interlocks and their proper use - that being for repeat DUI offender and those with an excessively high BAC
- Oppose the creeping threat of universal ignition interlocks installed on all vehicles, thus making .08 BAC laws moot, abolishing responsible and legal beverage consumption prior to driving and creating the 21st Century Prohibition
- Work in unison with local law enforcement agencies, the judicial community, elected representatives, civic and community leaders, local media outlets and others to target the real problems and reasonable solutions to drunk driving
- Encourage new technologies, innovative techniques and ideas to address these challenges.

It is gratifying to note that several other groups have already joined in this effort. Alcohol beverage retailers oppose drunk driving without exception and stand at the ready to find practical solutions to stop it. The answer, however, is not to cut off the patient's arm simply because it is broken. Universal ignition interlock proposals are a reckless approach to fighting the drunk driving situation. Innovative strategies, use of current technologies and yet to be developed tools combined with education and responsibility will further reduce and eventually solve this terrible problem.

1. Understanding Today's Drunk Driving Problem

1.1 Drunk Driving

Traffic Fatalities in the United States

Americans are driving more today than ever before and much more safely. According to the National Highway Traffic Safety Administration (NHTSA), in 2005 there were 1.45 fatalities for every 100 million vehicle miles traveled (VMT). This is down from 2.76 fatalities per 100 million VMT in 1982.ⁱ

Consider that since 1982, total drunk driving fatalities are down 36 percent despiteⁱⁱ:

- An 88 percent increase in vehicle miles traveled;
- A 67 percent increase in registered motor vehicles;
- An 34 percent increase in Licensed Drivers;
- A 29 percent increase in total U.S. population

Despite these advances, traffic safety deaths remain a cause for serious concern in society today. In 2005, according to NHTSA, there were 43,443 total traffic fatalities. There are many factors that contribute to those figures, including alcohol, speed, seat belt use, distracted or negligent driving and other troublesome driver behavior.

Alcohol Related Traffic Fatalities Are in Decline

One subset of traffic fatalities is that of alcohol related crashes. Federal, state and local governments as well as the alcohol beverage industry have addressed the issue with increasing urgency in the past twenty-five years. During that time the number of alcohol-related fatalities in traffic crashes has decreased significantly, from 26,173 in 1982, to 16,885 in 2005, according to NHTSA.ⁱⁱⁱ

Mothers Against Drunk Driving (MADD) notes on its website that alcohol-related fatalities were “down .2% from 16,919 in 2004, to 16,885 in 2005 and, as it relates specifically to what is commonly defined as drunk driving, “fatalities involving a driver at or above a .08 were down 1.2% from 13,099 to 12,945.”^{iv}

Reasons for Decline

The reasons for such a notable and welcome decline in alcohol-related fatalities are difficult to isolate. One easily identifiable explanation for the drop has been the change in public attitudes about this issue and the increased focus on it by law enforcement and everyday Americans. In addition to increased publicity on the issue of drunk driving, other new procedures and laws introduced to quash drunk driving have come into effect. These include zero tolerance laws for drivers under 21, making driving with a BAC higher than .01 or .02 percent a crime; automatic drivers license suspensions for those offenders with a BAC higher than .08 percent or refusal to submit to a BAC test; and the creation of offense categories defined by varying BAC levels of impaired drivers.

1.2 Hardcore Drunk Driving

Identifying the Problem

There is no denying that the nation still has a drunk driving problem. As with any problem, success in solving it is predicated on the ability to properly identify it. In doing so, it is clear that high-BAC and multiple DUI offenders are the cause for the majority of the drunk driving problems in the United States. By targeting this sub-set of drunk drivers- truly the worst of the worst- we may quickly and significantly decrease alcohol related traffic fatalities. Here's what people are saying about the root cause of the problem.

- “Alcohol-related occupant fatalities [are] up a total of 3%, and it’s all coming out of the high-BAC data source. In fact, it’s high BAC despite the reduction of low BACs.”^v
Jeffrey Michael, Director of Impaired Driving & Occupant Protection Division, National Highway Traffic Safety Administration
- “About one-third of all drivers arrested or convicted of driving while intoxicated or driving under the influence of alcohol (DWI) have a previous DWI conviction.”^{vi}
“Repeat Intoxicated Driver Laws,” *Traffic Safety Facts*, National Highway Traffic Safety Administration
- “The average driver involved in a fatal crash is at .16 (BAC), about double the legal limit.”^{vii}
Jeffrey Michael, Director of Impaired Driving & Occupant Protection Division, National Highway Traffic Safety Administration
- “There has been a growing realization during recent years that a major portion of the DWI problem is attributable to the hard core drinking driver.”^{viii}
National Highway Traffic Safety Administration
- “We must reach the core of the problem—abusive drinkers and repeat offenders. My suggestion is to seek out the truly dangerous drunk drivers. Saving lives on the highway means prosecuting the most dangerous drivers...”^{ix}
Candy Lightner, founder and former president of MADD

Targeting the True Problem Makes Sense

With clear and compelling evidence that today’s drunk driving problem is overwhelmingly caused by alcohol abusers and those that choose to brazenly flaunt the law, it is irresponsible to

spend energy, financial resources and political capital on ineffective programs that do not effectively target those the problem area.

Addressing such an issue can be an expensive prospect, in terms of both time and money. Government on local and state levels should invest in strategies that are going to make the greatest impact on the problem they wish to address. In this case, by targeting excessive BAC and repeat offenders with sensible strategies, the number of drunk drivers will come down. Finding ways to get this subset of DUI offenders off the road, and keeping them off the road, is critical in making the country's highways safe for everyone. It is safe to say that a much greater threat is posed to the public by the person who abuses alcohol to the point of having an excessively high BAC than the person that mistakenly drives with a .08 or .09 BAC. The latter case is not excusable by any means and is still a crime, but the damage that person is likely to do is far less than in the former case.

State and local government resources are often scarce or limited and must be applied effectively. Recognizing, accepting and targeting the root cause are the first steps to effectively address today's drunk driving problem. This means focusing the majority of anti-drunk driving efforts on excessive BAC and repeat DUI offenders.

2. Universal Ignition Interlocks are a Real Threat

2.1 Background: Ignition Interlocks

What Are Ignition Interlocks and How Do They Work?

The purpose of an ignition interlock device is to prevent a person who has consumed an excessive amount of alcohol from driving a vehicle. Most ignition interlock devices on the market today test a person's breath for the presence of alcohol. The driver must blow into the device before the car will start. If the driver's BAC is above a predetermined level, presently .02 BAC in many cases, the vehicle cannot be started. Once the vehicle has been started, the interlock system requires periodic running retests- the driver must blow while driving the vehicle- to ensure the driver's BAC does not rise above the predetermined level. A data recorder captures the results of all breath tests for later review.

Where Are Ignition Interlocks Being Used?

State-based ignition interlock programs began about 20 years ago. Today there are 45 states, as well as the District of Columbia, that have either discretionary or mandatory interlock laws. A list of states and basic information about their interlock programs is included in this toolbox.

Also, state specific information is available at http://www.tirf.ca/interlock/interlock_programs.cfm

At What BAC Level Are Ignition Interlocks Set?

The level at which an ignition interlock should be preset is at the heart of the discussion. In order to prevent false positives, most ignition interlocks have a preset level of .02 - .04 percent BAC. This setting is far below the generally recognized .08 percent BAC that is the drunk driving threshold in most states but it does provide a margin of error for the machine. Setting the level so low also limits the liability of ignition interlock companies and those states that require their implementation.

Who Must Install an Ignition Interlock on His or Her Vehicle?

Hardcore drunk drivers remain the single largest cause of alcohol-related fatalities and crashes. The Century Council defines hardcore drunk drivers as "those who drive with a high blood alcohol concentration (.15 or above); who do so repeatedly, as demonstrated by having more than one drunk driving arrest; and who are highly resistant to changing their behavior despite previous sanctions, treatment, or education."^x It is this subset of drunk drivers that were initially targeted by the judicial community with ignition interlock sentences. However, that original intent appears to be changing.

2.2 Universal Ignition Interlock Mandates

An Ignition Interlock in Every Car

Though ignition interlocks have proven to be effective mechanisms for convicted hardcore drunk drivers when used in tandem with other sanctions, it is clear to many, including ABL, that the ultimate goal of some is the acceptance and application of universal ignition interlocks, which is to say an interlock device in every car. This fact is central to ABL's concern about the proper application of these devices and is often disputed. Just as a football is moved down the field a few yards at a time, a public policy debate is moved in small increments so as to garner growing momentum until the desired policy is seemingly backed by unstoppable support. Such is the case for universal alcohol ignition interlocks.

Those supporting the eventual universal application of ignition interlocks currently tend to avoid admitting so as it would seem untoward, overly aggressive and invasive on the privacy of law-abiding citizens. Yet with the increased normalization of ignition interlocks, starting with any type of mandate for them on the vehicles of first time DUI offenders, the slippery slope toward universal application of the devices and their acceptance by an unsuspecting & misled public, is already being traversed.

MADD Support for Universal Ignition Interlocks

One of the most outspoken groups on the subject of drunk driving is Mothers Against Drunk Driving (MADD). As an established anti-drunk driving advocacy organization, they launched their *Campaign to Eliminate Drunk Driving* in November 2006. Among the four key strategies identified by MADD in their campaign push are "Maximum implementation of current alcohol ignition interlock technologies" and "exploration of advanced vehicle technologies". According to campaign materials, "MADD believes that anyone who violates the public trust by driving at or above .08 deserves and needs an alcohol ignition interlock."

MADD President Chuck Hurley and other ignition interlock proponents claim that the goal of their ignition interlock campaign is to secure laws that would mandate the use of ignition interlocks by every person convicted of drunk driving. Naturally, MADD and other ignition interlock proponents take this stance because it is much more politically feasible position to hold when attempting to generate public support for eventual universal ignition interlock mandates. However, the evidence demonstrates that such a mandate is exactly what they are seeking.

- When asked in February 2006 if MADD supports laws to mandate universal ignition interlock usage, MADD President Hurley said: "The answer to that is yes."
- "She said she would support the bill [for universal ignition interlocks] if the level was .02 -- which is a quarter of the legal limit. ... Unless the level for the machines is at .02, 'you're giving people a false sense of security,' she added."^{xi}

Terry Huertaz, executive director of New Mexico's Mothers Against Drunk Driving, in the *Santa Fe New Mexican*

- “As technology improves we may indeed reach the day when ignition interlocks are standard equipment on every car.”^{xii}

Peter P. Youngers, legislation and public policy adviser
Mothers Against Drunk Driving Washington state

- “MADD is pushing for the use of interlocks for all convicted first-time offenders. ...Through such expanded legislation, MADD hopes to get a vastly increased number of devices fitted to the cars of convicted drunk drivers within the next five years, [MADD Pres. Chuck] Hurley says.
- “In turn, the increased use of interlocks is expected to pave the way for devices that would be installed in all new cars.”

Los Angeles Times, Dec. 18, 2006

State Legislature Support for Universal Ignition Interlock Mandates

The push for greater application of ignition interlocks is now being considered by many state legislatures. Business lobbyists often drive the debates in these legislative bodies as interlock proponents and manufacturers stand to make a great financial windfall should universal ignition interlocks become a reality. To date, five states have enacted legislation mandating that ignition interlocks be set at or below .02 percent BAC for first time DUI offenders.

- **ARIZONA**
Arizona passed a law in the spring of 2007, which officially took effect September 19, requiring interlocks for first time DUI offenders, regardless of the degree of their intoxication. Arizona already required interlocks for people convicted of extreme drunk driving — that is, those with a blood alcohol level of 0.15 or above, which is nearly twice the legal limit of 0.08 — and on repeat offenders.
- **ILLINOIS**
Illinois passed an interlock bill in 2007 that requires interlock devices for first time offenders as a requirement for a restricted license, unless the offender chooses to opt out of the restricted license and continue with a hard license suspension. The legislation becomes effective in 2009.
- **LOUISIANA**
Louisiana passed a new interlock law that went into effect August 15. The law mandates that for first time offenders to qualify for a hardship license, they must install an ignition interlock device in their vehicles.
- **NEW MEXICO**
In 2005, New Mexico passed legislation requiring ignition interlocks for all DUI convictions. New Mexico’s drunk driving laws are generally viewed as the toughest in the country and has been referenced as a very important laboratory when it comes to drunk driving initiatives.

- **OREGON**
Oregon requires a person convicted of DUI to install an ignition interlock device in order to receive a hardship permit during the DUI suspension; or to fully reinstate driving privileges after the DUI suspension. The requirement starts on the last day of the DUI suspension and continues for six months.

Many states and legislators have remained outspoken about introducing legislation mandating universal ignition interlocks set at or below .02% BAC for first time DUI offenders.

- **NEW YORK**
“We are targeting responsible adults. ... Drinking and driving should not be a choice.”
NY Assemblyman Felix Ortiz, sponsor of the bill
- **NEW MEXICO**
“We’re leaving a huge segment of DWI drivers out when we wait until after they’re convicted.”
Ken Martinez, author of New Mexico universal interlock bill
- **PENNSYLVANIA**
A bill (HB 875 introduced last week in the Pennsylvania House of Representatives would mandate that every car sold in the state be equipped with a breath-testing device. State Representative Paul I. Clymer (R-Bucks County) insists that every motorist must prove that he is not drunk before starting a vehicle.

Clymer's proposal would require that, by 2009, all new cars sold in Pennsylvania have a device installed to estimate the amount of alcohol on the breath of a driver. If the machine believes the driver's BAC is greater than .025 percent -- significantly less than the legal limit of .08 percent -- the car will not start. By 2010, all motorists would be forced to install the devices on existing cars before being able to sell them as used vehicles.

The Newspaper.com, March 27, 2007

Federal Government Support for Increased Use of Ignition Interlocks

The National Highway Transportation Safety Administration (NHTSA), part of the U.S. Department of Transportation, has been working hard to promote the increased use of ignition interlocks. On August 22, 2007 NHTSA hosted a meeting titled “Use of Alcohol Ignition Interlocks For Reducing Impaired Driving Recidivism”. The meeting was attended by a variety of law enforcement, judicial, advocacy and technology representatives and was intended to focus on how ignition interlocks could be applied in the fight against drunk driving. NHTSA’s leaders have strong relationships with MADD, the Insurance Institute for Highway Safety and most ominously, ignition interlock companies that are projected to be the biggest winners should interlocks become mandatory.

- In order to combat drunk driving, (NHTSA Administrator Nicole) Nason said she also supports "ignition interlock" systems on vehicles, which would include a breathalyzer wired into a vehicle's ignition system requiring drivers to pass the test to start the car.

TheAutoChannel.com, June 30, 2006

Not to be overlooked for its role in the ignition interlock debate is the U.S. Congress and the anti-drunk driving advocates that populate its ranks. While Congress' place in the debate over ignition interlocks has not fully been fleshed out, momentum is being built by various highway and traffic safety groups in anticipation for the next highway funding bill, which will be debated in 2009. Through federal mandates with harsh federal funding penalties for non-compliance, Congress has, in the past, successfully broken the will of state governments when passing highway safety laws. Whether adopting mandatory seatbelt, BAC or open container laws, the federal government has exerted its power of the purse over states. The potential insertion of mandatory ignition interlock language in legislation, not even necessarily a highway bill, is a real possibility and one that should be monitored constantly.

Ignition Interlock Company Support for Universal Ignition Interlocks

It's no surprise that those most in favor of the widespread and mandated use of ignition interlocks are those who produce and sell them. After all, if a law mandates that everyone must own an ignition interlock device, most people will buy or pay to have one in their car. Auto companies will simply build the cost of the device into the vehicle just as they have the cost of a radio, power windows or airbags. In Arizona, for example, one interlock provider is planning on a 30 percent increase in business, thanks to that state's new law, mandating that first time DUI offenders install interlocks.^{xiii} Other interlock providers in the state are licking their chops at the potential for an increase in business by scouting new locations for distribution/calibration centers in "underserved" areas.

While these businessmen claim that saving lives is their number one priority, their assertions ring hollow when they detail their business plans and the potential profits they stand to make. Surely they are not planning on going into business in order to go out of business, which raises the following questions:

- If ignition interlocks are only to be used for those who break the law, won't interlock providers see a decline in business if laws are successful, or are they banking on the reality that ignition interlocks are not the vaccine they have been portrayed to be and people will continue to break the law and thus require interlocks?
- Are ignition interlock providers banking on universally mandated interlocks on all vehicles?
- Shouldn't there be legislative requirements pertaining to the accuracy or precision for these companies devices?

The palpable anticipation of profit by the interlock industry, which is destined to make hundreds of millions of dollars, is behind efforts promoting universal ignition interlocks. Said one Arizona

interlock provider, “It’s the only thing out there that stops somebody from drinking and driving.”^{xiv} While that oversimplification is not quite bankable, the profits he will see for promoting that type of mindset certainly are.

2.3 Emerging Technologies

International Support for Universal Ignition Interlocks

As has been the case for other automotive technologies, Europe is a proving ground for some of the most invasive interlock technology. It is followed closely by Japan and a number of its successful automakers. While many of the overly aggressive technologies are not yet functional due to problems with reliability, the march of scientific advancement will eventually overcome these challenges. The following are some comments as to what is going on in these countries, which are acting as ignition interlock test labs. (It should be noted that Swedish car maker Saab is owned by General Motors.)

SWEDEN

- “In some countries, such as Sweden, where alcohol last year played a role in 29 percent of highway fatalities, Alcokey could become a mandatory device. That means Alcokey, or something like it, could be mandated in the United States as well.”

The Washington Post, October 3, 2004

- “It’s going to take time, of course, before all cars have Alcokeys, but we have to start the process somewhere.”

Saab Spokesperson

- “The Swedish government thinks interlocks are so effective that it's pushing for all vehicles to have them by 2012.”

Seattle Post Intelligencer, September 19, 2007

JAPAN

- “The Construction and Transport Ministry will encourage automakers to install [ignition interlocks] in their products and has plans to establish criteria for this equipment.”

The Daily Tokyo Yomiuri, (Sept. 22, 2006)

- “Officials say the next step will be a program to develop devices to unobtrusively test every driver for alcohol and disable the vehicle.”

The New York Times, Nov. 20, 2006

- “Toyota is developing a fail-safe system for cars that detects drunk drivers and automatically shuts the vehicle down if sensors pick up signs of excessive alcohol consumption. The world’s number-two automaker hopes to fit cars with the system by the end of 2009, according to the report.”

Associated Press, January 9, 2007

- “A hi-sensitivity alcohol odor sensor is built into the transmission shift knob, which is able to detect the presence of alcohol in the perspiration of the driver's palm as he or she attempts to start driving. When the alcohol-level detected is above the pre-determined threshold, the system automatically locks the transmission, immobilizing the car. Additional alcohol odor sensors are also incorporated into the driver’s and passenger seats to detect the presence of alcohol in the air inside the vehicle cabin.”

Nissan Motors News Release, August 2007

Other Emerging Technologies

Some of the more advanced alcohol sensor technologies sound like something directly from an Orwellian vision of the future, but are in fact very real and in development. These include:

- Tissue Spectroscopy – This technology would use an infrared light to measure alcohol levels in the tissue just beneath the skin. Potentially, sensors would be placed on the steering wheel of a vehicle for constant monitoring of the driver.
- Transdermal Technology – A device attached to the body would measure alcohol through perspiration. Technology such as this is already being used in the form of (Secure Continuous Alcohol Monitor (SCRAM) bracelets and has proven effective in places such as South Dakota when dealing with repeat offenders. Perspiration sensors could potentially be placed in a steering wheel though there are still some drawbacks to this technology due to the body’s processing of alcohol into perspiration.
- Ocular Measurement Technology – The technology would track a driver’s eye movements in order to determine whether alcohol or drugs have impaired the vehicle operator. This technology could include in-car cameras and be used in concert with other technologies.

The groundwork continues to be laid for universal ignition interlocks. The federal government, state legislatures, anti-alcohol organizations and the interlock industry are spending millions of dollars in order to eventually require every driver in the United States to have one in every vehicle. This assault on personal privacy and attack on the personal freedoms of innocent, law-abiding adults needs to be stopped.

3. Why Universal Ignition Interlocks Are a Bad Idea

3.1 ABL Opposes Universal Ignition Interlocks

What is ABL's position on Ignition Interlock Devices?

ABL opposes any legislation or campaign that mandates that ignition interlocks be installed universally, in every vehicle. ABL supports state-based legislation that recommends sentencing options for multiple DUI offenders and offenders with high, excessive BAC. While ABL endorses technological solutions to the drunk driving problem, ABL does not support the application of these devices for first-time, non-extreme offenders.

ABL believes that current laws should be more strictly enforced against high BAC and recidivist offenders and believes that this would significantly reduce drunk driving. ABL opposes federal mandates that interfere with states and their ability to legislate impaired driving solutions that best fit their communities.

Ignition interlocks remain fallible, expensive, intrusive and arguably dangerous, since they require the driver to perform "rolling tests" while driving. Knowing what we do about the dangers of talking on a cell phone while driving, legislators should think long and hard before mandating that people perform distracting tasks while driving.

All of this may explain why judges are reluctant to impose them on anyone but the most egregious drunk driving offenders.

Would ABL still oppose universal ignition interlock devices if they were set at .08% BAC?

Universal ignition interlocks would not be set at .08% BAC. Currently, there is a presumption of intoxication at .05% BAC in 22 states. In those states, these devices will most certainly be set at .05% BAC or below.

In addition, current ignition interlock technology is not very accurate. It has a .02% BAC "swing." This means that to keep drivers below .08% BAC, the devices need to be set at .06%. In the .05% state, the threshold would be .03%.

Even if interlocks could be held at .08%, the punishment simply does not fit the crime. We can't ignore the fact that these devices were designed with the flagrant offender in mind. Historically, most judges wouldn't even consider ignition interlocks for non-extreme first offenders. The current push for expanded ignition interlock use to first time offenders is simply a self-admitted attempt to reach the goal of universal ignition interlocks nationwide.

Does ABL just oppose ignition interlocks for financial self-interest?

ABL is fighting for the right of responsible adults to drink legally and safely before driving home. More importantly, ABL is fighting for responsible government and highway safety. ABL members and their families drive on the same roads as everyone else. When elected officials

choose to enact demonstrably ineffective laws at the expense of the safety of their elected constituency, ABL feels bound to get involved and fight back.

What does ABL favor?

ABL is in favor of laws that remove hardcore drunk drivers from the road and, if necessary, move them into treatment programs.

ABL supports graduated penalties that fit the crime – everything from monetary fines for first-time offenders with low-BAC to jail time, ankle bracelets, mandatory alcoholism screening and treatment for repeat and excessive-BAC offenders.

3.2 Challenges For Ignition Interlock Programs

Costs of Ignition Interlock Programs Are High

The cost of an ignition interlock includes approximately \$75 in installation costs and an additional \$60 a month service fee. DUI offenders pay for these costs. However, interlock program implementation has costs associated with it that need to be considered when considering legislation. These costs include: education for criminal justice professionals, the development of program policies and procedures, staffing support and delivery, compliance monitoring, and costs for indigent offenders.

Noncompliance and Legal Loopholes

It is estimated that about 100,000 people in the United States have an ignition interlock installed in their vehicle. Hardcore drunk drivers often don't suffer serious consequences for their noncompliance. According to the Traffic Injury Research Foundation, this is largely due to revolving door loopholes in the judicial system.

Complexity of the judicial system

The judicial system consists of many agencies that all have their own goals and responsibilities. The effectiveness of ignition interlock programs is dictated by enforcement and regulation. Criminal justice professionals need more education on the use of interlocks and how to maximize their effectiveness.

Lack of compliance monitoring:

Research shows more than 40% of convicted offenders fail to complete the terms and conditions of sentencing. Interlocks are only effective if installed and many offenders avoid installation. When sentences are ignored and there are no repercussions, conviction becomes meaningless. One of the primary reasons given for noncompliance is a lack of monitoring and lack of follow up after sentencing.

Lack of System Coordination

Different agencies within the judicial system are involved in the delivery of ignition interlocks, yet these agencies do not often communicate and cooperate. This piecemeal approach results in a fragmented delivery of interlock programs.

Lack of Focus on Treatment

Treatment is often given short shrift in the judicial system despite the fact that alcohol education and treatment have a significant positive influence on reducing drunk driving, resulting in a 7-9 percent reduction in DUI recidivism and alcohol-related crashes. When treatment is used in tandem with other sanctions, research suggests the impact of treatment can be larger, with a reduction in recidivism of 20 percent or more. Given the fact that interlock removal is accompanied by a return to pre-interlock recidivism rates, it is essential that treatment be incorporated into ignition interlock laws and programs.

Lack of Extended and Highly Supervised Probation

Extended and intensive probation can be one of a judge's greatest tools in combating recidivism because it allows the judge to hold the offender accountable for completing the sentence imposed and for demonstrating responsible, law-abiding behavior.

4. Effective Solutions to Stop Drunk Driving

4.1 A Comprehensive Plan Is the Best Solution

One Approach Alone Will Not Work

ABL endorses and advocates for legislative solutions, effective enforcement strategies and judicial options that get to the heart of the drunk driving problem. ABL opposes universal ignition interlock and anti-alcohol legislation, enforcement efforts that punish responsible and innocent adults and mandates that hamstring judges whose sentencing discretion is critical to solving the drunk driving problem. Such proposals divert our nation's focus away from the critical fight against drunk driving.

Fortunately, the debate over the application of ignition interlock devices allows us to consider all options to stop drunk drivers. This includes technology, enforcement efforts, punishments and rehabilitation.

Ignition Interlocks Are Only One Part of the Solution

Ignition Interlocks can reduce DUI recidivism, but research varies widely as to what degree. This research has consistently found reductions of 45-90 percent with the use of interlocks, which sounds encouraging. However, studies that show 45 percent variances as evidence are hardly rock-solid. Additionally, when interlocks are removed from the vehicle, recidivism rates generally return to pre-interlock rates.

As has been stated in this toolbox, hardcore drunk drivers cause the majority of alcohol-related traffic fatalities in the United States. This group, representing the core of America's drunk driving problem, are highly resistant to changing their behavior despite previous sanctions, treatment or education efforts. ABL believes that strong laws enabling swift identification, certain punishment and effective treatment are critical fundamental elements necessary to reduce the incidence of hardcore drunk driving and that these elements must be coordinated into a statewide system to be effective.

Comprehensive countermeasures to target the hardcore drunk driver population are critical and have been cited by the National Highway Traffic Safety Administration as an immediate need on which the nation should focus.

Ignition Interlocks alone will not result in behavior change and should be part of a comprehensive approach to drunk driving. They should be used selectively for repeat and excessive BAC offenders, in tandem with alcohol evaluation, education and treatment and other sanctions. Studies recommend interlocks be part of an integrated program aimed at offender rehabilitation and not thought of as merely a device installed in an offender's vehicle.

4.2 Effective Anti-Drunk Driving Strategies We Support

One reason people mistakenly gravitate toward universal ignition interlock devices is because they think that there are no alternatives that work, and that the drunk driving problem is getting worse. This mindset ignores advances made in the fight against drunk driving and is a symptom of public relations messages that are intended to mislead. These people also fail to focus on the problem at hand, preferring to penalize responsible adults and legal businesses. A better plan is to attack the problem from multiple angles and aim to achieve lasting results and declines in drunk driving. This toolbox seeks to demystify the appeal of universal ignition interlock devices and provide a simple-to-understand assessment of available options in order to advocate for coherent drunk driving policy.

Support the Stronger Enforcement of Existing DUI Laws

This is an overarching theme that touches on all of the strategies to fight drunk driving mentioned below and it bears repeating. There are a lot of very good and effective laws in states throughout the country. It is not redundant or condescending to suggest that these laws be more stringently enforced. Calling for their greater enforcement will encourage funding for those that enforce the laws, which seems to be a sticking point in many places.

There is no need to create a new law, often an onerous task as any lawmaker in any legislative body in the country will attest, when potentially effective existing laws are not being applied. Most people likely do not know that there are already ignition interlock laws on the books in 45 states throughout the country. There are also harsh, creative and rehabilitative penalty options available to the judicial community for DUI offenders.

The reality is that overstretched state and local budgets restrict those who can stop drunk driving by utilizing effective strategies. Until legislators and budget makers put funding towards these strategies, they will need advocates. Otherwise...

- Enforcement agencies will struggle to get enough roving patrols on the road and instead turn to ineffective roadblocks and dragnets that do more to harass innocent drivers than catch drunk drivers.
- Local municipalities will be unable to place offenders in DUI courts where they can receive supervision by judges experienced with DUI offenders and proper sentencing. The public will be ill served by chronic drunk drivers being placed in already overburdened courts.
- Attorneys General, lawmakers and the public will not have the opportunity to examine and apply other effective and often less expensive drunk driving technologies and instead be intimidated by universal ignition interlock proponents who either seek to turn a profit in the ignition interlock business or realize a world of de facto zero tolerance.

Reviewing what DUI laws already exist and how they can be better enforced is an important first step toward stopping drunk driving and identifying what new solutions are needed close loopholes and target chronic and excessive BAC offenders.

Support for Roving Patrols to Target Extreme Offenders

NHTSA's 2005 alcohol-related fatalities data reveal that the most significant strides in reducing drunk driving fatalities occurred in the 11 states that do not permit roadblocks: Alaska, Idaho, Iowa, Michigan, Minnesota, Oregon, Rhode Island, Texas, Washington, Wisconsin, and Wyoming. Specifically, the data show that these eleven states experienced a collective decline of 91 alcohol-related fatalities from 2004 to 2005. Conversely, the government data showed that the 39 roadblock states (including the District of Columbia), saw a collective increase in alcohol-related deaths.

The most important piece of information to come out of this data is that without the non-roadblock states, there would have been a net increase in alcohol-related fatalities in 2005. It is important to look at what works. Texas, a non-roadblock state, saw a decline of 134 fatalities among accidents with Blood Alcohol Concentration (BAC) levels at or over 0.15%. This is good news for Texas and an indicator that roadblocks are not the answer to getting drunk drivers off the road.

What else are people saying about the ineffectiveness of roadblocks?

- “I do not believe that DUI roadblocks act as a deterrent to drunk driving. In my view, to effectively deter drunk drivers, the obvious remedy is to catch more drunk drivers by utilizing routine police patrols and roving DUI patrols, rather than using one pre-determined and pre-announced location.”

PA State Supreme Court Justice Nigro, 2005

- “(NHTSA found) ‘the number of DWI [driving while intoxicated] arrests made by the roving patrol program was nearly three times the average number of DWIs made by the checkpoint programs.’ In Virginia, Fairfax County’s roving patrols arrested nearly 3,000 drunk drivers last year, 16 times more than their paltry return on roadblocks.”

The Hill, February 16, 2005

- “There has been a growing realization in recent years that a major portion of the DWI problem is attributable to the ‘hard core drinking driver’ ... Thus, specific deterrence strategies like roving patrols that ‘hunt down’ DWIs, may be the optimum means for targeting the hard core drinking driver.”

“Experimental Evaluation of Sobriety Checkpoints,”
National Highway Traffic Safety Administration

Instead of spending millions of dollars promoting roadblock campaigns that let drunk drivers know what roads and highways to avoid, funds should be allocated to roving police patrols on EVERY road, searching for drunk drivers and letting them know that there is no safe harbor when they get behind the wheel.

Support for DUI Courts

Data shows that drivers with a BAC of .15 or above are 385 times more likely to be involved in a fatal crash than the average non-drinker. 58 percent of alcohol-related traffic fatalities in 2004 involved drivers with a blood alcohol concentration of .15 or above. These figures further demonstrate the need for a long-term solution to get these blatant offenders off the road.

One approach that seems to be working and expanding as positive results continue to come in is the DUI Court model, which is rapidly gaining broader support. Until just recently, traditional courts and the criminal justice system have been left to deal with DUI cases. However, it has become clear that the traditional process is not working for repeat offenders. Studies, as well as anecdotal evidence from the judicial community, have shown that punishment, without the accompaniment of treatment and even more importantly, accountability, is not an effective deterrent for high BAC and repeat DUI offenders.

DUI courts incorporate all of the criminal justice stakeholders (judge, prosecutors, defense attorneys, probation, law enforcement, and others) involved in the process, and most critically, include alcohol or drug treatment professionals. This team of professionals can then use a multi-pronged approach to clinically and systematically address offender behavior. Techniques such as this are similar to those used in successful drug court intervention and treatment, though there are two important distinctions between traditional drug courts and DUI courts:

- DUI courts only target the hardcore drunk drivers.
- DUI courts advocate judicial discretion when it comes to ignition interlocks.

The National Association of Drug Court Professionals (NADCP), the National Center for DWI Courts and Beam Global Spirits and Wine have partnered together to create a program targeting hard-core drunk drivers. ABL supports their work as it represents the alcohol industry and the legal community working together. ABL recognizes it as a model for coming together to stop drunk driving, a cause everyone can get behind. ABL also supports the underlying goals of DUI court programs, combining inclusive and long-term adjudication, treatment and rehabilitation.

Support Judicial Discretion

Coinciding with a decrease in alcohol-related fatalities is the evolution of judicial sentencing philosophy. More in depth statistics on drunk driving and recidivism are becoming available and offenders are being tracked in greater detail, thus giving judges, especially DUI Court judges, the ability to identify the type of offenders with which they were dealing. After all, it is only natural that with drunk driving laws changing to reflect varying degrees of offenses, drunk driving sentencing will also change to reflect the ability to differentiate between first time offenders and habitual or extreme drunk drivers. The discretion of the judicial community plays a large role in reducing drunk driving and that community uses a wide array of tactics to deal with drunk drivers.

- *Proportionality & Graduated Penalties*
As with any crime, one-size-fits-all punishment has been found to be an ineffective solution to the problem. Yes, people who break the law need to be punished. But just as we don't execute people who have been found guilty of voluntary manslaughter, we shouldn't be applying excessive and expensive punishments on people who have been convicted of barely crossing the legal DUI limit. Their crimes are less severe than those of people with high BAC and their relative risk to society is lower. More severe sanctions are called for when dealing with habitual drunk drivers, which is why ABL supports the use of ignition interlocks for these repeat offenders. The punishment must fit the crime and result in a reduction in recidivism to be effective.
- *Creative Sentencing*
Creative sentencing has also been found to be an effective way to stop drunk driving and appropriately punish and/or help rehabilitate those convicted of drunk driving. Such sentencing options range from alcohol assessment programs, victim impact panels and education classes about drinking and driving, to harsher penalties including administrative license revocation (ALR), home confinement and electronic monitoring, and jail time. Judges, given their legal experience and discretion, can apply the sentences that work the best as long as they are not hampered by mandatory sentencing laws.
- *Judicial and Probationary Coordination*
One area in which there is room for improvement is better coordination between the judicial and probationary services that are often charged with monitoring chronic DUI offenders and report their findings back to the court. The allocation of funds to things such as interlock programs, for example, can often hinder probationary officers' ability to help in the rehabilitation of offenders. The issue has been recognized and is being addressed by the judicial community.
- *Treatment and Rehabilitation*
Alcoholism screening and treatment are another important part of sentencing and options that should always be exercised when dealing with repeat and excessive BAC offenders. Studies have shown that very often these hardcore offenders have alcohol abuse problems that surpass just drunk driving.

Support for the Development of Alternative Drunk Driving Technology

Emerging alternative technologies are a major focus of anti-drunk driving advocates. A wide variety of products are in development but one that has already met with proven success is the Secure Continuous Remote Alcohol Monitor or SCRAM Bracelet. The SCRAM ankle bracelet was developed to address the problem of alcohol addiction by targeting chronic DUI/DWI offenders and those who have alcohol abuse problems that go beyond drunk driving.

By demanding complete abstinence from alcohol, SCRAM bracelets focus on the drunk driver rather than his or her vehicle, which may also be the vehicle for the his or her spouse or family. In addition to being cost effective, The SCRAM Bracelet puts a premium on offenders' rehabilitation, by requiring that they abstain completely from alcohol, rather than just avoid

driving while drunk. The SCRAM System collects, stores, and transmits a DUI offender's alcohol level information without any active participation by the subject—or the monitoring agency.

As alcohol is eliminated from the body by excretion, unchanged, wherever water is removed from the body—breath, urine, perspiration, and saliva, the SCRAM Bracelet utilizes the science of Transdermal Alcohol Testing in order to monitor for alcohol consumption. Insensible perspiration is the constant, unnoticeable excretion of sweat through the skin, and the average person will emit approximately one liter of insensible perspiration each day. SCRAM measures the ethanol in this Insensible Perspiration - a byproduct of alcohol consumption—in order to determine compliance with required sobriety.

SCRAM's tamper detection features secure and easy data storage and retrieval, and the customizable testing and reporting schedules all make this alcohol testing system the most cost-effective solution to the problem of long-term monitoring of DUI offenders and those with alcohol abuse problems.

5. Taking Action

5.1 Legislative History of Ignition Interlocks

Historically, ignition interlocks were options that judges could draw on when sentencing drunk drivers or criminals convicted of other crimes- often domestic- whose alcohol abuse problems were determined to be part of their larger problems. Judicial discretion as to when to demand ignition interlocks in DUI sentencing has been the preferred method of application of ignition interlocks, provided that state statutes offer them as a sentencing option. According to MADD, 45 states have some form of ignition interlock laws on the books.^{xv}

Yet over the past three years, there has been a noticeable up-tick in legislative advocacy surrounding ignition interlock technology. The majority of it called for new laws that make ignition interlocks mandatory for repeat DUI offenders, which is to say those with 2 or more DUI offenses, and for those drunk drivers, be it their first offense or a repeat offense, with Blood Alcohol Content (BAC) characterized as extreme. This was often defined as a BAC that .15 percent or above. This trend in state legislatures has gained momentum as “get tough on crime” legislation frequently does.

The next domino on the legislative march to universal ignition interlock normalization fell in 2005 when New Mexico became the first state to mandate ignition interlock sentences for all DUI offenders. Such was the epitome of one-size-fits-all legislation as first offenders with a BAC as low as .09 percent would be treated essentially the same way as alcohol abusers on their 7th DUI or those with more than twice legal limit.

During the spring of 2007, there was interlock legislation pending in 29 state legislatures. When the legislative session dust had settled in 2007, five states had some type of mandatory ignition interlock law for first time offenders, be they extreme or otherwise. The trend of legislatures mandating ignition interlock for all first-time offenders can be expected to expand as MADD continues to promote legislation of that nature as part of its “Campaign to Eliminate Drunk Driving”.

The only logical conclusion that can be drawn from this legislative trend is that those that see universal ignition interlocks as a panacea for drunk driving will eventually attempt to mandate that they be installed on every vehicle as a standard safety feature akin to seatbelts and airbags. Some have argued that this would lead to a chaotic progressive reduction of the legal BAC limit that, in the end, will still have not solved the drunk driving problem.

5.2 Legislative Strategy to Oppose Universal Ignition Interlocks

Currently, no one is actively fighting to stop ignition interlock mandate momentum for first-time offenders. No industry trade association is offering alternative plans when universal ignition interlock proponents introduce their increasingly all-encompassing plans. As a result, state legislators who oppose these bills are left defenseless and without the tools to properly argue why universal ignition interlocks are a threat to everyone.

ABL intends to fill this void.

It is eminently possible to be both strongly anti-drunk driving (and even pro-ignition interlocks in certain situations) while opposing ignition interlocks for first-time offenders below .15% BAC. Properly done, a legislative assault that is simultaneously anti-drunk driving while against draconian ignition interlock measures can act on its own as a blueprint for addressing the drunk driving problem.

The fight to stop universal ignition interlocks begins now and it begins in the state legislatures. Universal ignition interlock proponents have targeted them as fertile ground for first-time offender mandatory interlock bills during their 2008 sessions and have already begun to sow their seeds with sympathetic legislators for introduction of draconian language, shepherding it through committees, and its eventual floor passage.

Working with its industry allies, ABL has taken the lead in organizing grassroots legislative campaigns in states that it believes to be primary targets for first-time offender interlock bills in 2008. ABL hopes to work with its affiliates in these states to oppose such legislation and where possible, introduce competing and more reasonable and effective legislation emphasizing judicial discretion and rejecting mandatory ignition interlock sentences for DUI offenders that are not repeat or excessive BAC offenders.

ABL believes that by putting information and tools in the hands of its affiliates and their leaders, they will be able to fight against irresponsible ignition interlock laws and advocate for model legislation that addresses the true drunk driving problem.

5.3 Creating Effective Ignition Interlock Legislation

5.3.1 Legislative Guidelines

Drunk driving statutes and the legislative language of bills that are written to modify drunk driving statutes vary widely from state to state, thus making it difficult to advocate for a single piece of model drunk driving legislation. ABL is working along with its industry allies to identify the best piece of legislation to modify. In the meantime and for the purposes of ABL affiliates, ABL has come up with some legislative guidelines that can be referenced and hopefully submitted to legislators for incorporation into legislation.

At a minimum, ignition interlock legislation should include the following four priority provisions:

- Mandatory ignition interlock sanctions should apply only to repeat offenders and first-time excessive BAC drivers.
- Judicial discretion should be maintained for all first-time, non-excessive drunk driving offenders. This means no mandatory interlocks for first-time offenders.
- Ignition interlock installation and usage should be offender-funded.

- The interlock sanction must be part of a comprehensive system to fight drunk driving that includes other sanctions.

In addition to the priority provisions listed above, ABL suggests including the following concepts in legislative language to improve ignition interlock program effectiveness:

- States should be required to implement monthly compliance monitoring to ensure that offenders who are ordered to participate in the program are in fact doing so. This can be done during regular service/maintenance of the interlock device.
- Funding should be appropriated to absorb the costs for indigent offenders who are sentenced to ignition interlock programs.
- Judicial discretion should be used to determine the amount of time an offender is required to use an interlock device. Judges will be able to review such case details as the number of breath tests resulting in an interlock “warn” and “fail” reading or completion of a rehabilitation program to ensure the interlock is no longer needed by an offender.
- Mandatory alcohol evaluation should be done prior to sentencing. Based on that evaluation, the judge can sentence the offender to either alcohol education or treatment to be done in tandem with ignition interlock sanctions.
- All state agencies with a role in the implementation of ignition interlock programs should be required to communicate and cooperate with each other.
- The state should initiate or expand judicial education efforts to prevent chronic drunk driving.
- The administrative authority (Criminal courts/DMV) for the program and eligibility criteria for participation in the program should be clearly defined.
- The following actions should be considered violations of the ignition interlock sanction that will result in longer ignition interlock requirements: someone other than the driver providing a breath sample in an attempt to start the vehicle; and, driving a vehicle not equipped with an ignition interlock devices (Some states provide exceptions for commercial drivers).
- The authority responsible for dealing with program violations and the sanctions for violations must be clearly outlined.

Before proposing legislation on ignition interlocks, ABL believes communication with the criminal justice system can be helpful in order to fully understand the ignition interlock programs and requirements in legislators’ states and how best to work with the judicial system to implement effective legislation.

6. Appendix

6.1 ABL Drunk Driving Policy

ABL is concerned about highway safety and addressing all causes of traffic fatalities, including but limited to impairment (drugs, distracted driving, drowsy drivers, and alcohol), excessive speed, seat belt use and other troublesome driver behavior.

ABL shares the understanding that the majority of alcohol-related fatalities are caused by multiple DUI offenders and those offenders with high, excessive BAC.

ABL also applauds the successes and accomplishments that have led to saved lives, reduced injuries and preservation of property.

ABL supports and advocates the **“Drink Responsibly. Drive Responsibly.”** program.

ABL recognizes the Blood Alcohol Content (BAC) for driving and opposes any effort, be it at a state or federal level, to lower it.

ABL supports responsible adults who choose to enjoy an alcohol beverage before safely and legally driving.

ABL acknowledges that in matters of beverage alcohol the 21st amendment to the US constitution is paramount and it preserves the rights of States to legislate, regulate and enforce all alcohol issues.

ABL opposes federal mandates that interfere with states and their ability to legislate impaired driving solutions that best fit their communities.

ABL supports state-based legislation that recommends sentencing options to multiple DUI offenders and offender with high, excessive BAC.

ABL opposes any legislation or campaign that mandates that ignition interlocks be installed universally, in every vehicle.

ABL believes that current laws should be more strictly enforced against high BAC and recidivist offenders and believes that this would significantly reduce drunk driving.

6.2 Ignition Interlock Comments

American Beverage Institute

Today the American Beverage Institute (ABI) warned all moderate social drinkers that their right to have a beer at a ballgame or a glass of wine with dinner is under attack.

At a press conference yesterday morning at the National Press Club, Mothers Against Drunk Driving announced a long-term campaign to seek wide- spread use of ignition interlocks. This is part of MADD's over-all strategy to put ignition interlocks in every car in America.

Following the press conference ABI spokeswoman Sarah Longwell said, "This interlock campaign is not about eliminating drunk driving, it is about eliminating all moderate drinking prior to driving. The 40 million Americans who drink and drive responsibly should be outraged."

While MADD claimed that all alcohol detection devices installed in cars would be set at the legal blood alcohol content (BAC) limit of .08% the ABI points out that this is unlikely.

"All in-car alcohol detection devices will invariably be set below .08%," said Longwell. "Many states have laws that set the presumptive level of intoxication at .05% and you can't adjust your interlock depending on which state you're driving in. Moreover, once you factor in liability issues and sharing vehicles with underage drivers you have pushed the preset limit down to about .02%. It will be a de facto zero tolerance policy."

"Even at .08%," Longwell continued, "that means that a 120 pound woman who has had two glasses of wine over a two hour period won't be able to start her car. Prohibitionism is returning with a vengeance."

-MADD Interlock Campaign Targets Responsible Social Drinkers, ABI Press Release, 11/21/06

The Beer Institute & National Beer Wholesalers Association

The National Beer Wholesalers Association (NBWA) and the Beer Institute (BI) are committed to continue working to eliminate drunk driving, underage drinking and the problems associated with the abuse of alcohol.

BI and NBWA believe the best approach to combat drunk driving is to support effective, state-based solutions. As such, BI and NBWA support the mandatory use of ignition interlocks for offenders with repeat DWI convictions and for drivers convicted of drunk driving with a blood alcohol content (BAC) of .15 or higher, even for a first time offense. Judicial discretion may be used when determining the suitability of interlocks for offenders with a BAC in excess of the legal limit of .08. Additionally, beer distributors, brewers and importers believe that other emerging technologies could be important tools to fight drunk driving.

BI and NBWA have a long history of working to strengthen effective state-based alcohol regulation to provide the proper regulatory environment to address the potential for the abuse of

alcohol including drunk driving. Moreover, America's beer distributors, brewers and importers are leaders in the effort to provide education, free cab rides, responsibility training, media campaigns, public service announcements and other programs to fight drunk driving across the country and within local communities. Over the past 20 years, the beer industry has dedicated substantial financial resources to address the important issues of drunk driving and alcohol abuse.

BI and NBWA support efforts such as saturation patrols together with other effective and constitutional law enforcement measures. The publicity surrounding enforcement is an effective tool to fight drunk driving and educate consumers about the importance of responsible behavior.

NBWA and BI will continue to evaluate legislation on a state-by-state basis and support other proposals that work to reduce drunk driving.

- Joint Position on MADD's Campaign to Eliminate Drunk Driving, 7/25/07

The Century Council

"But today I also thank MADD for having the vision that eliminating drunk driving is possible and to do it, it requires many different stakeholders at the table. The diversity of the organizations represented here, at times, will pursue our common goals in different ways. However, we agree that differences are not reasons to abandon this effort but opportunities to look at the issues from all sides.

For instance, we believe that judges are a critical component in eliminating drunk driving. In that regard, we are working with the National Association of State Judicial Educators and the National Judicial College, on effectively adjudicating hardcore drunk driving cases. We believe that our efforts in this important area will work in concert with the Campaign."

-Susan Molinari, Chair, The Century Council, 11/20/06

Distilled Spirits Council of the United States (DISCUS)

"We don't need drunk drivers as our customers," Cressy said. "DISCUS and its member companies believe that it's extremely important for our industry to take an active part in any legitimate effort to get rid of drunk driving on our nation's highways.

"The objective of eliminating drunk driving is what unifies us, but we have differences on how best to pursue this elimination," Cressy said. "For instance, we are very strong on (targeting) the hardcore drunk driver. We describe a hardcore drunk driver as any repeat offender. So, if you are on your second conviction at 0.08 or above, we consider you a hardcore drunk driver. We also consider anybody who is convicted the first time of 0.15 or higher as a hardcore drunk driver. That level is terribly dangerous. It demonstrates a wanton disregard for the safety of others." DISCUS disagrees with the imposition of mandatory use of interlocks in call cases in which a person is found guilty of a drinking and driving offense.

"Regarding hardcore drunk drivers, we approve of the use of interlocks," Cressy said. "We don't

support the mandatory use of interlocks for first-time offenders who are not high BAC. If someone comes in at 0.09 the first time, we do not favor the mandatory use of interlocks for such an individual.

"We certainly, under all circumstances, are in favor of judicial discretion. We think judges play a very important role in how to handle things, and a judge might decide on a first-time offense that it's better to put an interlock on someone than it is to send them to jail for three months. They want them to still be able to support their family. Sometimes judges will agree to a daytime license for the purposes of commuting to and from work. If a part of that is the use of an interlock, we think judges should have that discretion."

- *"DISCUS and Partners Launch Campaign to Eliminate Drunk Driving "*, *Night Club & Bar Magazine*

Mothers Against Drunk Driving (MADD)

MADD supports the use of ignition interlock devices as an additional penalty and sanction for drunk driving offenders. The use of such devices should be in addition to normal sanctions such as fines, license sanctions and jail sentences. MADD supports laws that would require that offenders install these devices on their vehicles during probationary periods and as a prerequisite to being issued a limited driving permit or a probationary or restricted license, where law permits such restricted permits.

- *MADD Official Position Statement*

Wine and Spirits Wholesalers of America (WSWA)

4. Ignition Interlock: Support laws requiring the installation of a device that integrates a breath-alcohol test into a vehicle and requires a zero BAC for engine start, for repeat offenders (2+ offenses).

- *"WSWA Policy Statement to Promote "Smart National Alcohol Practices"*, *WSWA Press Release, 6/5/07*

6.3 Status of Existing Ignition Interlock Laws in the United States

State	Ignition Interlock Law in Place	Conditions	Statute
Alabama	No		
Alaska	Yes*	Permissible after conviction and any license revocation imposed. Required for high BAC offenders and for limited driving privileges if offender has not completed court-ordered treatment program.	12.55.102 28.15.201 28.35.030(g), (s)
Arizona	Yes*	Required for 1st and subsequent convictions.	28-1381(I), (K) 28-1382 28-1461
Arkansas	Yes*	Permissible for 1st or 2nd conviction. Required for 3rd or subs conviction.	5-65-118
California	Yes*	Permissible for 1st conviction. Required for 2nd conviction in order to obtain restricted license. If offender's license suspended for DWI, required for subs DWS conviction.	Veh Code 13352, 23575
Colorado	Yes*	Required for 2nd or subs conviction as part of restricted license.	42-2-132 42-2-132.5
Connecticut	Yes*	Required for 2nd conviction for 2 years in order to operate a motor vehicle after 1 year license suspension.	14-227a(g)
Delaware	Yes*	Permissible for 1st conviction (at sentencing) and required for subs convictions (after 1 year hard license revocation). Also required for high BAC when enrolled in rehabilitation program pursuant to 4177D	21 § 4177B 21 § 4177C 21 § 4177F 21 § 4177G
District of Columbia	Yes	Applicable for 2nd or subs conviction.	50-2201.05a
Florida	Yes*	Permissible for 1st conviction and required for 2nd and 3rd conviction. Required for 1st conviction at 0.20 BAC.	316.193(2)(a)(3), (4) 316.1937
Georgia	Yes*	Required for 2nd or subs conviction.	42-8-111(a)
Hawaii	No	No legislation- repealed in the 90s	
Idaho	Yes*	Permissible for 1st offenders when sentence suspended. Required for 2nd or subs conviction.	18-8004C(2) 18-8005 18-8008(2)
Illinois	Yes**	Required for 2 or more DWI convictions, especially when granting restricted license.	625 § 5/6-205(c), (h) 625 § 5/6-206(c)(3) 625 § 5/11-501(i)
Indiana	Yes	Permissible after conviction when granting probationary driving privileges.	9-30-5-10 9-30-5-16

Iowa	Yes*	Permissible after conviction or deferral. Required for restricted license or after second or subs conviction if offender has not previously received restricted license.	321J.4 321J.17(1)
Kansas	Yes*	Required for 2nd, 3rd, and 4th offense after license suspension. Required for high BAC and first test refusal after license suspension.	8-1014(a), (b)
Kentucky	Yes	Permissible for 2nd or subs conviction, in lieu of license plate impoundment after license suspension. Permissible for hardship license.	189A.340 189A.410
Louisiana	Yes*	Required to obtain restricted license. Required for 2nd conviction for not less than 6 months and during DUI related license suspension.	14:98(K) 14:415.1 15:306 32:667B
Maine	No		29-A § 2507
Maryland	Yes*	Required to administratively modify a suspension or revocation for high BAC offenders. Required administratively for 2nd or subs conviction w/in 5 years after license suspension. May be ordered by the Court.	Trans 16-205(e)(5) Trans 16-404.1 Trans 27-107
Massachusetts	Yes*	Required for hardship license granted for second or subs convictions. Required to regain license after second or subs conviction.	90 § 24(1)(c)(2) 90 § 24 1/2
Michigan	Yes	Permissible as a condition of probation, after conviction. Required for a restricted license.	257.625(24) 257.322(6)
Minnesota	Yes	Required for limited license after license canceled and denied after alcohol-related incident and when Commissioner has good cause to believe person poses a risk to public safety. Passed legislation in 2007 for pilot program regarding interlocks for repeat offenders.	171.305
Mississippi	Yes*	Permissible during license suspension period for DWI committed while DWS. Required for 2nd or subs conviction after license suspension.	63-11-30(2)(f) 63-11-31(2)
Missouri	Yes*	Permissible for 1st conviction and required for subs convictions, after license suspension. Required for subs convictions when seeking limited driving privileges.	577.600(1)
Montana	Yes*	Permissible for 1st high BAC DWI conviction when granting probationary license. Required for subs DWI conviction after license suspension, unless vehicle forfeited under 61-8-421.	61-8-442

Nebraska	Yes*	Permissible for 1st offenders when granting restricted license after ALR and for 1st conviction when granting probation. Required for 2nd or subs conviction, after at least 1 year of license suspension.	60-498.02(2) 60-6,197.01(2) 60-6,211.05(1)
Nevada	Yes*	Permissible for 1st or 2nd conviction and required for 3rd or subs conviction as condition for restricted license. Permissible for 1st conviction as condition for reinstatement of driving privileges.	484.3943(1), (2)
New Hampshire	Yes	Permissible for high BAC DWI offenders or subs DWI offenders, after license suspension.	265:93-a(I)
New Jersey	Yes	Permissible for DWI conviction after license suspension.	39:4-50.17
New Mexico	Yes*	Required for all DUI convictions (time varies based on number of prior convictions).	66-8-102(N)
New York	Yes	Permissible in certain counties as a condition of probation, generally after license suspension. Required as a condition of probation for high BAC offenders. Required for 2nd or subs DWI conviction during and after license suspension.	Veh & Traf § 1193(1-a), (b), (c) Veh & Traf § 1198
North Carolina	Yes*	Required for high BAC and 2nd or subs DWI convictions when license restored.	20-17.8(b) 20-179.3(g3)
North Dakota	Yes	Permissible for temporary restricted license (available only for 1st DWI suspension). Permissible for 2nd or subs DWI conviction.	39-06.1-11(2)39-08-01.3
Ohio	Yes	Permissible as a condition of limited driving privileges. Permissible as a condition of probation.	2951.02(G) 4510.021(C) 4510.43
Oklahoma	Yes*	Required to obtain modification to license suspension. Required for high BAC and 2nd or subs DWI conviction.	22 § 991a(A)(7)(d) 47 § 11-902(D), (I) 47 § 754.1
Oregon	Yes*	Required after DWI conviction both as condition for hardship permit and/or after license suspension.	813.602(1)
Pennsylvania	Yes*	Required for 2nd or subs DWI conviction when seeking restricted license.	75 § 3805(a)
Rhode Island	Yes	Permissible for 2nd or subs DWI conviction, after license suspension.	31-27-2(d)(2) 31-27-2.8
South Carolina	Yes*	Required for 2nd or subs conviction.	56-5-2941
South Dakota	No		
Tennessee	Yes*	Permissible for DWI conviction. Required when restricted license granted for 2nd or subs conviction occurring w/in 5 years of previous conviction.	55-10-403(d)(4) 55-10-412(d)(l)
Texas	Yes*	Permissible for 1st conviction. Required for high BAC or 2nd or subs conviction w/in 5 years.	Crim. Pro 42.12(Sec 13) Penal 49.09(g) Trans 521.246

Utah	Yes*	Permissible for 1st conviction if granted probation. Required for high BAC or subs conviction.	41-6a-518 GR's Office
Vermont	No		
Virginia	Yes*	Permissible for 1st conviction and required for high BAC or 2nd conviction as condition for restricted license or license restoration. DMV Commissioner has administrative enforcement capacities if the Court fails to order interlocks when mandated by statute.	18.2-270.1(B) 46.2-391.01
Washington	Yes	Permissible for 1st conviction. Requires for subs conviction and high BAC conviction.	10.05.140 46.20.720
West Virginia	Yes	Permissible for license suspension, whether administrative or after conviction, if minimum suspension period has been served.	17C-5A-3a
Wisconsin	Yes*	Permissible for 2nd conviction. Required for 3rd or subs conviction w/in 5 years.	343.301(1) 346.65(6)
Wyoming	Yes	Permissible after serving 45 days of license suspension for the remaining balance of the suspension period or 1 year, whichever is greater.	31-7-402
Total number with ignition interlock laws- 45 and the District of Columbia			

** IL passed an interlock bill in 2007 that requires interlock devices for first time offenders as part of a restricted license, unless the offender chooses to opt out of the restricted license and continue with the hard license suspension. The legislation becomes effective in 2009.

ⁱ <http://www.niaaa.nih.gov/Resources/DatabaseResources/QuickFacts/TrafficCrashes/crash02.htm>

ⁱⁱ Source: U.S. Department of Transportation, National Highway Traffic Safety Administration; Census Bureau estimates, release date December 22, 2006

ⁱⁱⁱ National Highway Traffic Safety Administration FARS data

^{iv} <http://www.madd.org/stats/1112>

^v Jeffrey Michael, Director of Impaired Driving & Occupant Protection Division, National Highway Traffic Safety Administration, National DUI Enforcement Symposium, May 14, 2003.

^{vi} "Repeat Intoxicated Driver Laws," *Traffic Safety Facts*, National Highway Traffic Safety Administration, April 2004.

^{vii} Michael, *National DUI Enforcement Symposium*, May 14, 2003.

^{viii} Jack W. Stuster & Paul A. Blowers. "Experimental Evaluation of Sobriety Checkpoint Programs," National Highway Traffic Safety Administration, June, 1995, p. 48.

^{ix} Minnesota Licensed Beverage Association, "Minnesota Licensed Beverage Association Enforce DWI Laws -- Don't Reduce The BAC" *PR Newswire*, February 20, 1997.

^x <http://www.centurycouncil.org/main/judicialguide.html>

^{xi} Steve Terrell. "Key to Stopping DWI?" *Santa Fe New Mexican*, February 17, 2004.

^{xii} Peter Youngers. "Changes in DUI laws keep us safer," *Seattle Post-Intelligencer*, June 10, 2004.

^{xiii} Luige del Puerto. "Profit or public safety?" *Arizona Capitol Times*, September 21, 2007

^{xiv} *Ibid*

^{xv} <http://www.madd.org/Laws/law/?LawID=ILCK>