

# Traffic Safety Facts

## Laws

DOT HS 810 878

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## Administrative License Revocation

### Background

The National Highway Traffic Safety Administration encourages States to require prompt, mandatory revocation or suspension of driver's licenses for alcohol and other drug test failure or refusal. Motor vehicle crashes are the leading cause of death for people 2 through 34 years old in the United States. Forty-one percent of motor vehicle crash 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 when implemented by a 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

- To date, 41 States and the District of Columbia have enacted ALR laws that result in immediate license suspension or revocation based on a blood alcohol concentration of .08 grams per deciliter or a breath test refusal.
- Inpatient rehabilitation costs for motor vehicle injuries average \$11,265 per patient.
- In 2006, 41 percent of the fatal motor vehicle crashes nationwide were alcohol-related. This percentage equates to 17,602 alcohol-related deaths.
- Research has found that 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 these States enacted ALR laws.
- For ALR laws to be effective, publicity is an important factor because drivers must know and understand the consequences of their actions. 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 State that used other sanctions for impaired driving; there was no difference between ALR and non-ALR 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

### Inside This Issue

- Background
- Key Facts
- How Do ALR Laws Work? What Provisions Should Be Included in an ALR Law?
- How Much Does an ALR Program Cost?
- How Can ALR Be Financed?
- Incentive Grant Program
- Which States Have ALR?
- References

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90 days did not lead to a loss of job or income.

- ALR is constitutional. 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]).
- All cases in which the highest State appellate courts have considered ALR 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.

## How Do 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 procedures act.
- The arresting officer should, at the time of arrest, serve the notice of revocation (or suspension), take the offender's license and issue a temporary permit.
- The driver must have the opportunity to request an administrative hearing. However, the hearing request should not be allowed to delay the revocation (or suspension).
- There should be an initial license revocation (or suspension) period for test *failure* with some period of full revocation followed by restricted driving for the remainder. Restricted driving privileges should be

permitted only in very limited circumstances, and only after an initial "hard" revocation (or suspension) period has been served. The initial license revocation (or suspension) period for a test *refusal* should be at least as long as the period for test failure, with no restricted driving privileges, to discourage offenders from refusing. For a repeat DWI offense within five years, the revocation (or 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 normally should not affect a criminal proceeding, and vice versa.
- For example, a 2000 study examined Utah's law allowing telephonic testimony at ALR hearings. After the availability of telephonic hearings, Utah experienced a statistically significant 20-percent reduction in cases where the driver's license was returned to the offender due to the absence of the arresting officer at a hearing, as a percentage of all cases where the license was returned.

### ***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 nighttime 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 increased significantly the reinstatement fee for drivers whose licenses are revoked for driving while intoxicated; some States have raised all reinstatement fees; other States have increased all license application and renewal fees. Other fines, fees, or taxes can also provide funding, such as an alcoholic beverage tax that can be earmarked for alcohol program expenses, including ALR.

## Incentive Grant Program

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Section 2007 of SAFETEA-LU continues the alcohol-impaired driving countermeasures incentive grant program (under Section 410 of chapter 4 of Title 23), awarding grants to States that adopt and implement effective programs, including ALR laws, to reduce traffic safety problems resulting from individuals driving while impaired by alcohol. A qualifying State may use these grant funds to implement impaired driving prevention programs.

To meet the ALR criterion of the Section 410 grant program, SAFETEA-LU provides that a State must adopt an ALR system for offenders who, within a 5-year

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period, have been determined, based on the basis of a chemical test, to have been operating a motor vehicle while under the influence of alcohol, or have been determined to have refused to submit to such a test. In addition, to meet the ALR criterion, these offenders must be subject to the following sanctions:

- ▲ First offenders are subject to at least a 90-day license suspension, except that after 15 days a provisional license may be issued so the offender may drive to and from employment, school, an alcohol treatment program, or an interlock service facility only in a vehicle equipped with an ignition interlock.
- ▲ Repeat offenders as determined by the second or subsequent offenses committed within a five-year period are subject to at least a 1-year license suspension or revocation, except that after 45 days a provisional license may be issued so the offender may drive to and from employment, school, an alcohol treatment program, or an interlock service facility

only in a vehicle equipped with an ignition interlock; and

- ▲ Suspensions or revocations must take effect within 30 days after offenders refuse to submit to a chemical test or receive notice of having failed a breath test.

The implementing regulations for the Section 410 program are located in 23 CFR Part 1313.

### Which States Have ALR?

To date, 41 States and the District of Columbia have adopted some form of administrative license revocation, although none of the State laws have been determined to comply with the new Section 410 ALR requirements. The States that currently do not have any form of ALR are Kentucky, Michigan, Montana, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, and Tennessee.

### References

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Reports and additional information are available from your State Highway Safety Office; the NHTSA Regional Office serving your State; NHTSA Headquarters, Impaired Driving and Occupant Protection Office, ATTN: NTI-111, 1200 New Jersey Avenue SE., Washington, DC 20590; 202-366-2683, or NHTSA's Web site at [www.nhtsa.gov](http://www.nhtsa.gov).