

APPENDIX A

Chapter 428 of the Acts of 2006

Chapter 428 of the Acts of 2006

AN ACT FURTHER REGULATING DRIVER EDUCATION AND JUNIOR OPERATOR'S LICENSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith driver education and junior operator's licenses, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The first paragraph of section 13D of chapter 71 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- The content of driver education courses shall be established by the registrar of motor vehicles. No school committee and no high school, public or private, shall employ a person to conduct a driver education course unless the person is certified by the registrar as a driving instructor.

SECTION 2. The second paragraph of section 8 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:-

(c) successfully completed a driver education and training course approved by the registrar and presented, in such form as the registrar may require, a certified statement from a parent or guardian, or designee 21 years of age or older if the applicant is an emancipated minor, that in addition to the requirements of the driver education and training course the applicant has completed not less than 40 hours of supervised driving, or 30 hours of supervised driving if the applicant has successfully completed a driver skills development program in a closed, off-road course, as licensed by the registrar pursuant to section 32G 1/2. The registrar shall determine the appropriate method to enforce compliance with the supervised driving requirements provided in this clause. The driver education and training course shall consist of not less than 30 hours of classroom instruction. The driver education and training course shall also consist of not less than 18 hours of on-road instruction conducted by a certified driver education instructor in a motor vehicle. A student shall have not less than 6 hours of observing another student driver and not less than 12 hours of operating a motor vehicle, but no student shall have more than 1 on-road session per day and no session shall be for more than 2 hours in length. The applicant's parent or guardian, or designee where applicable, shall participate in not less than 2 hours of instruction on the content of driver education curriculum. The registrar shall promulgate regulations to establish the appropriate method of providing the instruction and to enforce compliance. The regulations shall exempt a parent or guardian, or designee where appropriate, from receiving the instruction if he has participated within the preceding 5 years.

SECTION 3. Said section 8 of said chapter 90, as so appearing, is hereby further amended by striking out the third and fourth paragraphs and inserting in place thereof the following 2

paragraphs:-

No person holding a junior operator's license shall operate a motor vehicle during the first 6 months of licensure while a person under 18 years of age, other than the operator or an immediate family member of the operator, is present in the vehicle unless also accompanied by another person, duly licensed by his state of residence, who is at least 21 years of age with at least 1 year of driving experience and who is occupying a seat beside the driver. A junior operator who violates this paragraph shall have his license suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense. The suspension shall be imposed in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation. A junior operator whose license is suspended for a second or subsequent violation of this paragraph shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws. The passenger restriction provided in this paragraph shall be tolled during any suspension or revocation of a person's junior operator's license. The registrar may exempt a junior operator from the passenger restriction if the junior operator is an emancipated minor.

No person holding a junior operator's license shall operate a motor vehicle between the hours of 12:30 a.m. and 5:00 a.m. unless accompanied by a parent or legal guardian. The holder of a junior operator's license shall have the license in his possession at all times when operating a motor vehicle. A junior operator who violates the time restriction provided in this paragraph shall be deemed to be operating a motor vehicle without being duly licensed under this chapter. In addition to the penalty provided in section 10, the license of a junior operator deemed to be operating a motor vehicle without being duly licensed shall be suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense; provided, however, that for such operation between the hours of 12:30 a.m. and 1:00 a.m. and between 4:00 a.m. and 5:00 a.m., this paragraph shall be enforced by law enforcement agencies only when a junior operator has been lawfully stopped for a violation of the motor vehicles laws or for some other offense. A junior operator whose license is suspended for a second or subsequent violation of this paragraph shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws. The registrar may exempt a junior operator from the time restriction if the junior operator is an emancipated minor.

SECTION 4. Said section 8 of said chapter 90, as so appearing, is hereby further amended by inserting after the sixth paragraph the following paragraph:-

The registrar shall send notice of a suspension of a junior operator's license for a violation of this chapter to the junior operator, and to the junior operator's parent or guardian if the junior operator is not an emancipated minor. The registrar shall include in the notice of suspension of a junior operator's license for a first offense violation under section 17 or section 17A, or under a special regulation under section 18, information on the penalties for a second offense violation of said section 17, 17A or 18.

SECTION 5. Said section 8 of said chapter 90 is hereby further amended by inserting after the word "licensee", in line 125, as so appearing, the following words:- without eyeglasses and.

SECTION 6. The first paragraph of section 8B of said chapter 90, as so appearing, is hereby amended by adding the following sentence:- The holder of a learner's permit who operates a motor vehicle without a duly licensed driver, who is 21 years of age or older, who has at least 1 year of driving experience and who is occupying a seat beside the driver shall be deemed to be operating a motor vehicle without being duly licensed and, in addition to any fine or penalty, shall have his learner's permit suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense and shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8. Upon a second offense violation, a holder of a learner's permit shall also be required to complete a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws.

SECTION 7. Said section 8B of said chapter 90, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following 2 paragraphs:-

If the applicant is under 18 years of age, the learner's permit shall not entitle him to operate a motor vehicle between the hours of 12 a.m. and 5 a.m., unless accompanied by a parent or legal guardian who holds a valid license and has at least 1 year of driving experience or, in the case of an emancipated minor, unless accompanied by a person who is 21 years of age or older who holds a valid license and has at least 1 year of driving experience, and who occupies the seat beside the driver. The holder of a learner's permit who violates this paragraph shall be deemed to be operating a motor vehicle without being duly licensed and, in addition to any fine or penalty, shall have his learner's permit suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense and shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8. Upon a second offense violation, a holder of a learner's permit shall also be required to complete a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws.

The registrar shall send notice of suspension of a junior operator's learner's permit for a violation of this chapter to the junior operator and to the junior operator's parent or guardian if the junior operator is not an emancipated minor.

SECTION 8. Section 17B of said chapter 90, as so appearing, is hereby amended by adding the following 2 paragraphs:-

Notwithstanding the penalties provided in the first paragraph, a holder of a junior operator's license or learner's permit who commits a violation of this section shall be punished by a fine of not less than \$250 for a first offense and the registrar shall suspend the junior operator's license or learner's permit for 1 year. A subsequent violation shall be punished by a fine of not less than \$500 and the registrar shall suspend the junior operator's license or learner's permit for 3 years. A holder of a junior operator's license or learner's permit who commits a violation under this section shall also be required to complete the state courts against road rage program sponsored by the trial court and the department of state police.

The registrar shall impose a \$500 reinstatement fee upon a junior operator who seeks to have his license or learner's permit reinstated following suspension for a first offense under this section and a \$1,000 reinstatement fee shall be imposed upon a junior operator who seeks to have his license or learner's permit reinstated following suspension for a subsequent violation under this section. A junior operator whose license is suspended under this section shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws and until he successfully completes a driving test as required by the registrar. A junior operator whose learner's permit is suspended under this section shall be required to complete a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws and shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8.

SECTION 9. Section 20 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "one hundred nor more than two hundred dollars" and inserting in place thereof the following words:- \$100 nor more than \$1000.

SECTION 10. Said section 20 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "however", in line 79, the following words:- that a holder of a learner's permit who is convicted of a violation under section 17 or section 17A, or under a special regulation under section 18, shall, in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation, have his learner's permit suspended for 90 days for a first offense and for 1 year for a subsequent offense and the person shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8; and provided further.

SECTION 11. Said section 20 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 81, the words "or 17B".

SECTION 12. Said section 20 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 84 and 85, the words "a period of 180 days for a second offense and for a period of one year for a third or subsequent offense" and inserting in place thereof the following words:- 90 days for a first offense and 1 year for a subsequent offense and the junior operator shall also be required to complete the state courts against road rage program sponsored by the trial court and the department of the state police. The registrar shall impose a \$500 reinstatement fee upon a junior operator who seeks to have his license reinstated following a suspension under this paragraph. A junior operator whose license is suspended pursuant to this paragraph shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws and until he successfully completes a driving test as required by the registrar.

SECTION 13. Paragraph (c) of subdivision (2) of section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the second sentence the following sentence:-
Notwithstanding the forgoing, a person holding a junior operator's license who is convicted of operating a motor vehicle recklessly or negligently under paragraph (a) shall not be eligible for license reinstatement until 180 days after the date of his original conviction for a first offense or

1 year after the date of revocation following a subsequent conviction within a period of 3 years.

SECTION 14. The first paragraph of section 32G of said chapter 90, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person, and no public high school, vocational school, municipal or regional school committee or private high school teaching driver education to students enrolled in its academic school program or in a school under its authority or as a continuing education program, shall engage in the business of giving instruction for hire in the operation of motor vehicles without being licensed for that purpose and designated by the registrar as a licensed private driver school, which shall include any form of instruction for compensation, for each class of driver's license recognized under law.

SECTION 15. Said section 32 of said chapter 90, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

A public high school, vocational school or municipal or regional school committee that previously provided a driver education instruction program pursuant to section 13D of chapter 71 or that wishes to establish a driver education program pursuant to this section shall be licensed and only driving instructors certified by the registrar may provide driver education instruction. A public high school teacher or a vocational school teacher, so certified, shall be exempt from the initial certification fee and each renewal fee, as long as the teacher remains employed by the public high school, vocational school or municipal or regional school committee and provided that the instructor only provides driver education pursuant to his employment as a high school teacher. For the purposes of this section, a private high school that provides driver education instruction to its own students through the school's own academic teachers shall be subject to the same requirements as if the driver education instruction were provided by a public high school, vocational school or municipal or regional school committee, and a private academic teacher providing driver education instruction for a private high school shall be subject to the same requirements as a high school teacher providing driver education instruction on behalf of a public high school, vocational school or municipal or regional school committee, but a driver education instructor in a private high school shall not be exempt from the initial certification fee or any renewal fee for the certificate.

SECTION 16. Said section 32G of said chapter 90, as so appearing, is hereby further amended by inserting after the word "thereof", in line 65, the following words:- or impose a civil administrative penalty.

SECTION 17. Said section 32G of said chapter 90, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the renewal of a license, the registrar may revoke or suspend a license for causes and violations, as prescribed by this section. The registrar shall establish by regulation the terms and conditions under which a driver education program may operate. The registrar shall require each program to post a bond to ensure that enrolled students shall have their tuition reimbursed if the program is closed for a license suspension or revocation or any other reason prior to the students' completion of a paid course of study. The registrar may, after an opportunity for a hearing, impose civil administrative penalties not to exceed \$5,000 for the

failure of a program to comply with the law or regulations governing driver education programs.

SECTION 18. Said section 32G of said chapter 90, as so appearing, is hereby further amended by inserting after the word “licensee”, in line 107, the words:- or by a public high school, vocational school or municipal or regional school committee, or by a private high school.

SECTION 19. Said section 32G of said chapter 90, as so appearing, is hereby further amended by inserting after the eleventh paragraph the following 2 paragraphs:-

The registrar may deny the application of a person for a certificate as a driving instructor if, in his discretion, he determines that the applicant:

- (a) has made a material false statement or concealed a material fact in connection with his application;
- (b) is the former holder of driver school instructor certificate which was revoked or suspended by the registrar;
- (c) has been convicted of a felony or of a crime involving violence, dishonesty, deceit, indecency or moral turpitude; or
- (d) has failed to furnish satisfactory evidence of good character, reputation and fitness.

No public high school, vocational school, municipal or regional school committee or private high school shall continue to employ a driver school or a driving instructor in a driver education program, if the license of the driver education program or the certificate of the instructor has been suspended, revoked or not renewed by the registrar.

SECTION 20. The twelfth paragraph of said section 32G of said chapter 90, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Except where a refusal to issue or renew the certificate of a driving instructor or a revocation or suspension of the certificate is based solely on a court conviction, a driving instructor or applicant shall be entitled to a hearing upon his written request. The hearing shall be held at such time and place as the registrar shall prescribe and due notice of the hearing shall be sent to the driving instructor or applicant at his last known address at least 10 days before the hearing date.

SECTION 21. Said section 32G of said chapter 90, as so appearing, is hereby further amended by striking out the fourteenth paragraph and inserting in place thereof the following paragraph:-

A licensee, a public high school, vocational school, municipal or regional school committee and private high school shall only use a vehicle for road instruction that is equipped with a functional safety belt for each occupant and an air bag for the driver. The student driver and each occupant of the vehicle shall wear the safety belt in a properly secured manner whenever the vehicle is in motion.

SECTION 22. Said section 32G of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

The registrar shall establish, by regulation, a driver education curriculum to be used by all persons and entities licensed under this section and shall have exclusive authority over the licensing and disciplining of those persons and entities required to be licensed under this section. The registrar shall establish and administer a standardized written test to students in licensed driver education programs. The test shall be administered at registry branch offices or as directed by the registrar after the completion of the classroom portion of the driver education course. The registrar may use the results of the tests to measure the degree of compliance with the curriculum in driver education instruction. The registrar may utilize the results of the tests to issue driver education certificates and to evaluate the quality of instruction received in the various licensed programs. The curriculum shall include a requirement that schools licensed under this section have the ability to communicate with the registry of motor vehicles by electronic mail to send and receive official records and other communications as the registrar may require. The registrar shall suspend, revoke or otherwise discipline a school or an instructor licensed or certified under this section who fails to comply with the rules and regulations promulgated by the registrar. The registrar shall inspect the programs for compliance and require licensed schools and certified instructors to provide such information, documents and records as the registrar deems necessary to enforce the regulations. The registrar may make such rules and regulations as he deems necessary to ensure compliance with this section.

SECTION 23. Section 32G ½ of said chapter 90, inserted by section 36 of chapter 122 of the acts of 2006, is hereby amended by adding the following paragraph:-

A person who holds a valid learner's permit or a valid driver's license issued by the registrar may be enrolled in the programs. A licensed driver or qualified student driver of any age who is a resident of another state may be enrolled in the program if the person has a valid driver's license or learner's permit issued by another state. A program licensed under this section may accept, at its discretion, a driver who is a resident of a state that does not issue a learner's permit document if the program's administrator is satisfied that the student is legally qualified to operate as a student driver on the roadways of his state of residency. Instruction in a driver skills development program shall not be provided to a person under 18 years of age, whether the person holds a junior operator's license or learner's permit unless the person's parent or guardian has provided written consent to the program's administrator, except that an emancipated minor shall not be required to provide such written consent. No person shall be credited with the completion of a driver skills development program unless the program is licensed and a certificate of successful completion of the program has been submitted to the registrar. Motor vehicles used by such programs shall be equipped with safety belts for both the driver and instructor and no student may operate or ride in a vehicle unless the safety belt system is in place and each person is secured. The registrar shall provide for the periodic renewal of licenses issued under this section and for the revocation of those licenses and disciplining of licensees for good cause. The registrar shall assess the same fees for driver skills development programs and for instructors as established for licensed driving schools and instructors certified under section 32G. Licensees under this section shall issue certificates of completion to successful students so that the students may be eligible for insurance discounts that may be authorized by the commissioner of insurance. The parent or guardian of the student, or the student himself if he is an emancipated minor, may provide the registrar with evidence that the student has completed the program and the registrar shall waive 10 hours of the required 40 hours of parent or adult-

supervised driving pursuant to section 8. The registrar may suspend, revoke or otherwise discipline a program or instructor licensed under this section who fails to comply with the rules and regulations promulgated by the registrar. The registrar may inspect the programs for compliance and shall require licensed programs and instructors to provide such information, documents and records as the registrar deems necessary to enforce this section and the regulations promulgated hereunder.

SECTION 24. The registrar, in cooperation with the governor's highway safety bureau, shall develop and implement a public awareness campaign for student drivers and parents which shall include, but not be limited to, information on the requirements to obtain a learner's permit or a license to operate a motor vehicle under section 8 or section 8B of chapter 90 of the General Laws, information on the fines and punishments which may be imposed for violations of said chapter 90 and information on the major causes of accidents among new drivers, including sleep deprivation, illegal use of alcohol or other substances, excessive speed, weather and road conditions and inexperience.

SECTION 25. There shall be a special commission on the identification of vehicles operated by young drivers which shall study the potential benefits and drawbacks of a decal program to be operated by the registry and which is intended to identify vehicles driven by holders of junior operator's licenses and learner's permits.

The commission shall have 13 members, including the following: the registrar of motor vehicles or his designee, who shall serve as chairperson of the commission; the secretary of public safety or his designee; the secretary of transportation or his designee; the secretary of administration and finance or his designee; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 3 members of the senate, 1 of whom shall be appointed by the minority leader; and 3 members to be appointed by the governor, 1 of whom shall represent AAA southern New England, 1 of whom shall be a representative of a municipal police department and 1 of whom shall be an expert in the matter of the safety of young drivers.

The commission shall convene not later than September 1, 2007 and shall file its final report with the governor and the clerks of the senate and house of representatives not later than June 1, 2008. The report shall be limited to the commission's findings on potential cost and the impact on public safety of a decal identification program. If the commission finds that the decal identification program is feasible, it shall include recommendations regarding the transferability of the decal.

SECTION 26. There shall be a special commission to study the impact of drowsy driving on highway safety and the effects of sleep deprivation on drivers while operating on the highways, adjacent parking areas and other areas. The commission shall consist of the following: 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 3 members of the senate, 1 of whom shall be appointed by the minority leader; the secretary of transportation or his designee; the registrar of motor vehicles or his designee; the commissioner of state police or his designee; the president of the Massachusetts District Attorneys Association or his designee; the president of the Massachusetts Association of Chiefs of Police or his designee; and 3 persons to be appointed by the governor, 1 of whom shall be a member of the

medical or academic community with expertise in sleep deprivation research, 1 of whom shall be a representative of the Massachusetts Trial Lawyers Association and 1 of whom shall represent victims who have been injured or killed by drowsy drivers. The commission shall study the impact of drowsy driving on highway safety with respect to determining scientific and legal standards or other evidence that could be used by police officers and the courts in determining the effects of sleep deprivation on drivers, the appropriate sanctions for operating while sleep-deprived and the training requirements to be followed by licensed driver education programs and police training programs with respect to recognition of the symptoms and effects of sleep deprivation on drivers. The commission shall submit its final report, including legislative and administrative recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on health care financing, the joint committee on the judiciary, the joint committee on transportation and the house and senate committees on ways and means, the governor's highway safety bureau and the registrar of motor vehicles not later than December 1, 2007.

SECTION 27. Section 2 shall apply to persons who apply for junior operators' licenses on or after September 1, 2007. Sections 3 and 4, and sections 7 to 14, inclusive, shall apply to violations committed on or after March 31, 2007.

Approved January 3, 2007.

APPENDIX B

An Act Relative to Drowsy Driving

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Drowsy Driving.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	Worcester and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO DROWSY DRIVING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This act shall be known as the “Drowsy Driving Act of 2009,” and may also
2 be referred to as “Rob’s Law,” in memory of Major Robert Raneri, United States Army Reserve,
3 who was killed on June 26, 2002 by an admitted drowsy driver on his way to work at Fort
4 Devens where he served as Provost Marshal of the 655th Area Support Group’s Military Police.

5 SECTION 2. Section 8 of chapter 90 of the General Laws, as appearing in the 2006 Official
6 Edition, is hereby amended by inserting after the word, “require”, in line 11, the following
7 words:- ; provided, however, that said examination shall include questions relative to the
8 importance of obtaining adequate sleep and how to recognize the signs of driver impairment
9 associated with drowsiness and sleep disorders and any appropriate countermeasures to
10 drowsiness.

11 SECTION 3. Section 8A of said chapter 90, as so appearing, is hereby amended by inserting
12 after the word “energy”, in line 47, the following words:- ; provided, however, that said course
13 shall include education about obtaining adequate sleep and how to recognize the signs of driver

14 impairment associated with drowsiness and sleep disorders and any appropriate countermeasures
15 to drowsiness.

16 SECTION 4. Section 8C of said chapter 90, as so appearing, is hereby amended by inserting
17 after the word "optometrist", in line 8, the following words:- ; provided, further, that at least 1 of
18 the physicians shall have expertise in sleep disorders and the effects of sleep deprivation.

19 SECTION 5. Section 22C of said chapter 90, as so appearing, is hereby amended by striking out,
20 in line 4, the words "seventy-two" and inserting in place thereof the following figure:- "4".

21 SECTION 6. Section 22F of said chapter 90, as so appearing, is hereby amended by inserting in
22 the first paragraph after the words "endangered", in line 13, the following words:- , including
23 falling asleep while operating a motor vehicle or impairment by drowsiness or sleep deprivation

24 SECTION 7. Said section 22F of said chapter 90, as so appearing, is hereby further amended by
25 inserting after the words "vehicle", in line 15, the following words:- or fails to provide truthful
26 information on an accident report.

27 SECTION 8. Section 24 of said chapter 90, as so appearing, of the General Laws is hereby
28 amended by striking out subparagraph (1) of paragraph (a) of subsection (1) and inserting in
29 place thereof the following subparagraph:-

30 (1) (a) (1) Whoever, upon any way or in any place to which the public has a right of access, or
31 upon any way or in any place to which members of the public have access as invitees or
32 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08
33 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs,
34 depressants or stimulant substances, all as defined in section 1 of chapter 94C, or the vapors of

35 glue or who has fallen asleep while operating a motor vehicle, or who was impaired by
36 drowsiness of which the person was aware or could reasonably be expected to be aware shall be
37 punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not more
38 than 2 1/2 years, or both such fine and imprisonment. Evidence that the operator of a motor
39 vehicle was awake for at least 22 of the 24 hours prior to said operation of a motor vehicle or at
40 least 140 hours of the 168 hours prior to said operation of a motor vehicle that is involved in a
41 crash that results in death, debilitating injury, or property damage in excess of \$50,000, shall
42 constitute sufficient evidence to conclude that said motor vehicle operator was impaired by
43 drowsiness.

44 SECTION 9. Section 6 of Chapter 9F of the General Laws, as so appearing, is hereby amended
45 by inserting at the end thereof the following:

46 “Drivers wishing to renew or obtain a commercial drivers license in the Commonwealth who
47 have a body mass index (BMI) above 33 kg/m² are required to undergo an objective diagnostic
48 screening test for obstructive sleep apnea at health care facility that is licensed by the
49 Commonwealth of Massachusetts to perform such testing. The Registry of Motor Vehicle’s
50 Medical Advisory Board will develop criteria for drivers wishing to renew or obtain a
51 commercial drivers license and who test positive for obstructive sleep apnea that make continued
52 certification for commercial driving dependent on documentation of the efficacy of and
53 compliance with therapy for obstructive sleep apnea and associated excessive sleepiness.”

54 SECTION 10. Section 24G of chapter 90 of the General Laws, as so appearing, is hereby
55 amended by striking out the first paragraph of paragraph (a) and inserting in place thereof the
56 following paragraph:-

57 (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any
58 way or in any place to which members of the public have access as invitees or licensees, operates
59 a motor vehicle with a percentage, by weight, of alcohol in their blood of .08 or greater, or while
60 under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants, or
61 stimulant substances, all as defined in section 1 of chapter 94 C, or the vapors of glue or who
62 was impaired by drowsiness or sleep deprivation, or has fallen asleep while operating a motor
63 vehicle and so operates a motor vehicle recklessly or negligently so that the lives or safety of the
64 public might be endangered, and by any such operation so described causes the death of another
65 person, shall be guilty of homicide by a motor vehicle while under the influence of an
66 intoxicating substance, and shall be punished by imprisonment in the state prison for not less
67 than 2 1/2 years or more than 15 years and a fine of not more than \$5000, or by imprisonment in
68 a jail or house of correction for not less than 1 year nor more than 2 1/2 years and a fine of not
69 more than \$5,000. Evidence that the operator of a motor vehicle was awake for at least 22 of the
70 24 hours prior to the operation of a motor vehicle or at least 140 hours of the 168 hours prior to
71 said operation of a motor vehicle shall constitute sufficient evidence to conclude that said motor
72 vehicle operator was impaired by drowsiness. The sentence imposed upon such person shall not
73 be reduced to less than 1 year, nor suspended, nor shall any person convicted under this
74 subsection be eligible for probation, parole, or furlough or receive any deduction from his
75 sentence until such person has served at least one year of such sentence; provided, however, that
76 the commissioner of correction may, on the recommendation of the warden, superintendent, or
77 other person in charge of a correctional institution, or the administrator of a county correctional
78 institution, grant to an offender committed under this subsection a temporary release in the
79 custody of an officer of such institution for the following purposes only: to attend the funeral of a

80 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
81 unavailable at said institution; or to engage in employment pursuant to a work release program.
82 Prosecutions commenced under this section shall neither be continued without a finding nor
83 placed on file.

84 SECTION 11. Section 24M of said chapter 90, as so appearing, is hereby amended by inserting
85 after the words "education", in line 7, the first time it appears, the following words:- , education
86 to recognize signs of reduced alertness from drowsiness, sleep deprivation or sleep disorders.

87 SECTION 12. Said section 24M of said chapter 90, as so appearing, is hereby further amended
88 by inserting after the word "education", in line 10, the first time it appears, the following words:-
89 , education to recognize signs of reduced alertness from drowsiness, sleep deprivation or sleep
90 disorders.

91 SECTION 13. Said section 24M of said chapter 90, as so appearing, is hereby further amended
92 by inserting after the word "sensitive", in line 18, the words:- and sleep deprivation sensitive.

93 SECTION 14. Section 26 of said chapter 90, as so appearing, is hereby amended by inserting
94 after the word "him", in line 5, the following words:- including provisions for the collection of
95 information relative to whether drowsiness or sleep caused or contributed to said accident;
96 provided, that, this shall include collection of information regarding the amount and timing of
97 sleep that the operator of the motor vehicle obtained in the 168 hours prior to the accident.

98 SECTION 15. Said chapter 90 is hereby amended by inserting after section 29 the following
99 section:-

100 Section 29 ½. Proof that an operator of a motor vehicle has been awake for at least 22 of
101 the 24 hours prior to said operation of the motor vehicle or at least 140 hours of the 168 hours
102 prior to said operation of a motor vehicle shall constitute sufficient evidence to conclude that
103 said motor vehicle operator was impaired by drowsiness.

104 SECTION 16. Notwithstanding any general or special law to the contrary, there shall be a
105 special commission to study the impact drowsy driving on the safety of the highways of the
106 Commonwealth and the effects of sleep deprivation on drivers operating on said highways,
107 adjacent parking areas, or any other places. The commission shall consist of: 5 members of the
108 house of representatives, including the house chair of the joint committee on public health, the
109 house chair of the joint committee on the judiciary and the house chair of the joint committee on
110 public safety; 5 members of the senate, including the senate chair of the joint committee on
111 public health, the senate chair of the joint committee on the judiciary and the senate chair of the
112 joint committee on public safety; the secretary of the executive office of public safety or his
113 designee; the registrar of motor vehicles or his designee; the commissioner of public health or his
114 designee; the president of the Massachusetts District Attorney's Association or his designee; the
115 president of the Massachusetts Association of Chiefs of Police or his designee; and 5 persons to
116 be appointed by the governor, 3 of whom shall be members of the medical or academic
117 community with specialty experience in sleep deprivation research, 1 of whom shall be a
118 representative of the Massachusetts trial lawyers association, and 1 of whom shall represent
119 victims who have been injured or killed by a drowsy driver . The commission shall study the
120 impact of drowsy driving on the safety of the highways of the commonwealth with respect to
121 determining scientific or other evidence that should be used by police officers in determining the
122 effects of sleep deprivation on drivers, the appropriate sanctions for operating under the

123 influence of sleep deprivation, the training requirements that shall be followed by driver
124 education programs licensed in the commonwealth and police training programs with respect to
125 recognition of the causes, symptoms and effects of drowsiness on drivers and with respect to
126 countermeasures to reduce the safety hazards associated with sleep deprivation and sleep
127 disorders, and an evaluation of the adequacy and safety of highway rest areas and the possible
128 need for improvements to rest area policies, planning, and operations, and shall submit a report,
129 including legislative recommendations, if any, to the clerks of the senate and house of
130 representatives who shall forward the same to the joint committee on health care, the joint
131 committee on criminal justice, the joint committee on public safety, and the house and senate
132 committee on ways and means and to the registrar of motor vehicles, including administrative
133 recommendations, if any, by December 1, 2010.

134 SECTION 17. Sections 8 and 9 of this act shall take effect on January 1, 2010.

APPENDIX C

**An Act Relative to Sleep Deprivation Avoidance and
Promotion of Good Sleeping Practices**

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Sleep Deprivation Avoidance and Promotion of Good Sleeping Practices

PETITION OF:

NAME:

Moore, Richard (SEN)

DISTRICT/ADDRESS:

Worcester and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO SLEEP DEPRIVATION AVOIDANCE AND PROMOTION OF GOOD SLEEPING PRACTICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by inserting at the end thereof, the following new sections:

3 Section 15 DDDDD. The governor shall annually issue a proclamation setting apart the second
4 week of March as Massachusetts Sleep Awareness Week; and the first Sunday in March as
5 Massachusetts Sleep Awareness Day and recommending that such week be properly observed as
6 a period of special attention to the problems of sleep deprivation and fatigue such as: impaired
7 reaction time, judgment and vision; problems with information processing and short-term
8 memory; decreased performance, vigilance and motivation; increased moodiness and aggressive
9 behaviors; and, especially, the dangers of driving under the influence of sleep deprivation or
10 fatigue. To this end, the agencies of the Commonwealth as well as private organizations,
11 especially those interested in education, transportation, public health, and public safety, shall
12 adopt policies and programs consistent with the goals of: (1) increasing public awareness about
13 sleep, sleep disorders, and consequences of sleep deprivation; (2) promoting science-based
14 public policies that improve the sleep health of the nation; (3) advancing basic, clinical, applied,

15 and population-based research; and promoting recognition of and access to care for all
16 individuals with sleep disorders.

17 Section 15 EEEEE. The governor shall annually issue a proclamation setting apart the second
18 week of November as Massachusetts Drowsy Driving Prevention Week and recommending that
19 such week be properly observed as a period of special attention to the need for public awareness
20 and action relative to the problems of drowsy driving and driver fatigue. For purposes of this
21 section “drowsy driving” or “driver fatigue” shall mean driving while being “sleepy,” “tired,”
22 “drowsy,” or “exhausted.”

APPENDIX D

**An Act Relative to Safe Work Hours for Physicians in
Training and Protection of Patients**

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Safe Work Hours for Physicians in Training and Protection of Patients

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Susan C. Tucker	Second Essex and Middlesex
Christine E. Canavan	10th Plymouth
Jennifer M. Callahan	18th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02666 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO SAFE WORK HOURS FOR PHYSICIANS IN TRAINING AND PROTECTION OF PATIENTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter 11 of the general laws, as appearing in the 2006 Official Edition, is
2 hereby amended by inserting after section 4L, the following new section:

3 Section 4M. Advisory Council on Physician Work Hours

4 (a) there is hereby established with the department, the advisory council for resident-physicians.

5 The advisory council shall be comprised of 13 members to be appointed by the commissioner of
6 public health, 1 of whom shall be a representative from the Massachusetts Medical Society, 1 of

7 whom shall be the dean of the University of Massachusetts Medical School, 1 of whom shall be

8 the executive director of the board of registration in medicine or her designee, 2 of whom shall

9 be representatives of the Massachusetts Hospital Association at least one from a teaching hospital,

10 1 of whom shall be a representative of the committee of interns and residents/SEIU, 1 of whom

11 shall be a resident-physician from an academic medical institution that does not have

12 representation by the committee of interns and residents/SEIU, 1 of whom shall be a resident-

13 physician from a community hospital, 1 of whom shall be the director of a graduate medical
14 education office at a hospital located in the Commonwealth, 1 of whom shall be a consumer, two
15 shall be experts in sleep deprivation who are members of the Sleep Research Society; and 1 of
16 whom shall be the executive director of the Betsy Lehman Center for Patient Safety and Medical
17 Error Reduction who shall serve as the chairperson of the council. The members of the council
18 shall serve without compensation.

19 (b) The advisory council shall make an investigation and study into the duty hours and working
20 conditions of resident-physicians in the commonwealth. Based on the study, the department shall
21 adopt rules and regulations for the purpose of establishing an evidence-based standard duty hour
22 schedule that promotes quality of care and patient and resident-physician safety. The study shall
23 consider, but not be limited to implementing recommendations from the Sleep Research Society
24 (2005) and the Institute of Medicine Report (Resident Duty Hours: Enhancing Sleep,
25 Supervision and Safety, 12/2/08), specifically: limiting the work hours of resident physicians and
26 other trainees in clinical training programs to an optimal limit of 60 hours per week, but not more
27 than a maximum limit of 80 hours per week; limiting the consecutive work hours of to an
28 optimal limit of 12 hours per shift, but not more than a maximum of 16 scheduled hours per shift,
29 including time for the transition of patient care information, with an additional two hours of work
30 allowed when deemed necessary for patient safety by a supervisor; limiting the work hours of
31 residents who are assigned to patient care responsibilities in an emergency department to not
32 more than 12 consecutive hours; limiting the number of consecutive night shifts worked to no
33 more than 4, with a minimum of 48 hours off duty after 3 or 4 consecutive night shifts; requiring
34 a nonworking period of not less than 16 consecutive hours following a 16 hour shift; requiring a
35 nonworking period of optimally 12 or more hours, but not less than 10 hours, between other

36 scheduled shifts; requiring that resident physicians and other trainees in clinical training
37 programs optimally have 48 consecutive hours free of work once every seven days, but at a
38 minimum, 36 consecutive hours free of work including two consecutive nights once every seven
39 days; and requiring optimally 60 consecutive hours free of work once every two weeks, but at a
40 minimum, 60 consecutive hours free of work once every four weeks; requiring that the optimal,
41 rather than the minimal, work hour recommendations be met by resident physicians and other
42 trainees in clinical training programs in any setting designated a high-intensity setting by the
43 advisory council (a setting where the probability and/or potential consequence of a medical error
44 is high, such as an intensive care unit); limiting overnight, on-call work shifts that exceed 12
45 consecutive hours to a frequency of no more than one night every three days; accommodations
46 that can be made in any recommended time limitations for a state of emergency declared by the
47 commonwealth that applies with respect to that hospital or for an emergency situation when a
48 resident-physician is providing critical physician-care to an individual patient and cannot be
49 replaced; requirements for each hospital to inform resident-physicians of their rights under any
50 rules and regulations promulgated by the department; enforcement of such rules and regulations
51 including, but not limited to, the posting of maximum hours limitations in all departmental
52 offices, informing all resident-physicians of their rights to report any violations of the
53 regulations, whistleblower protections and the use of surveys of resident-physicians and
54 reporting by hospitals to determine compliance with rules and regulations promulgated under this
55 section; and requiring that resident-physicians and hospital supervisors be informed of the effects
56 of acute and chronic sleep deprivation both on the resident-physicians and on the quality of
57 patient care. The study shall also consider mechanisms for meaningful enforcement of any
58 standards proposed and for effective sanctions for violations.

59 (c) The council shall make an investigation and study into appropriate penalties for violations of
60 any rules and regulations promulgated pursuant to subsection (b). Based on the study, the
61 department shall adopt rules and regulations to establish a model work environment that
62 promotes quality of care and patient and resident-physician safety and shall establish an
63 enforcement mechanism and penalties for violations of the rules and regulations promulgated
64 under subsection (b). Any rules or regulations established under this subsection shall include
65 penalties for any hospital or other institution hosting resident-physicians, an attending physician
66 supervising resident-physicians, and resident-physicians who habitually violate the rules and
67 regulations promulgated under subsection (b). The study shall consider, but shall not be limited
68 to: identifying a position within the department responsible for investigating all complaints of
69 violations of any rules and regulations promulgated by the department pursuant to subsection (b)
70 and the use of monetary and non-monetary penalties to maximize improvement of patient safety.

71 (d) The investigation and study shall be conducted and recommendations shall be presented to
72 the department not later than one year after the effective date of this act.

73 (e) For the purposes of this section, the term 'resident-physician' shall include a medical intern,
74 resident or fellow enrolled in an ACGME or ADA accredited graduate medical or dental
75 education program.

76 SECTION 2: Effective dates.

77 (a) The provision of subsection (a) and subsection (b) of Section 1 shall take effect upon passage.

78 (b) The provisions of subsection (c) of Section 1 shall take effect one year after the
79 implementation of the rules and regulations promulgated under subsection (b) of Section 1.

APPENDIX E

An Act Relative to Health Care Provider Transportation

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Health Care Provider Transportation.

PETITION OF:

NAME:

Richard T. Moore

DISTRICT/ADDRESS:

Worcester and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO HEALTH CARE PROVIDER TRANSPORTATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 51 of Chapter 111 of the General Laws is hereby amended by
2 adding the following paragraph:

3 Any health care facility licensed pursuant to this section shall provide transportation via taxi, car
4 or bus service or other form of private or public transportation for the return commute from the
5 institution for all resident physicians, medical students and other health care providers who have
6 worked for more than 16 consecutive hours, and for any health care provider who judges herself
7 or himself to be too fatigued to safely operate a motor vehicle.

APPENDIX F

National Sleep Foundation: State of the States Report

National Sleep Foundation
State of the States Report on Drowsy Driving

November 2007
[Updated August 2008]

Executive Summary

The problem of drowsy driving is significant. Statistics show that 100,000 police-reported crashes, 71,000 injuries, and 1,550 deaths occur due to drowsy driving each year in the United States. However, it is believed that these statistics significantly underestimate the problem due to, among other things, the lack of data collection codes within police crash report forms and the lack of training of police officers. This report found all states now address fatigue and/or sleep in some manner within their crash report forms. However, the report shows that these codes are inconsistent. It also found that police officers are not being trained on how fatigue affects driving performance.

One significant problem with the issue of drowsy driving is the lack of enforcement mechanisms for the worst offenders. This report found that for the vast majority of states responding (40 out of 44), individuals could be charged under existing statutes for causing a fatality in a sleep-related crash (2 states responded that it would be at the discretion of the law enforcement officer or the prosecutor).

Education about drowsy driving has generally not been considered a priority in most jurisdictions. This report found that the vast majority of states include information about fatigue or drowsy driving within their driver licensing manuals. However, in many cases this information was misleading or minimal.

Graduated driver licensing systems have increasingly been used as a means to address the nationwide epidemic of young people dying in automobile crashes. One component of these systems is curfews for newly licensed drivers. This report found that the vast majority of states include such curfews. However, in most cases, these curfews do not start until midnight or later.

This report found that every state includes regulations that limit a person's right to drive due to certain medical conditions, with nearly 30% of states directly considering sleep disorders.

Context / Objective

The National Sleep Foundation (NSF) is an independent nonprofit organization dedicated to improving public health and safety by achieving understanding of sleep and sleep disorders, and by supporting education, sleep-related research, and advocacy. NSF has been raising awareness about drowsy driving and fall-asleep motor vehicle crashes since 1993.

According to the National Sleep Foundation's 2005 *Sleep in America* poll, 60% of adult drivers – about 168 million people – say they have driven a vehicle while feeling drowsy in the past year, and more than one-third, (37% or 103 million people), have actually fallen asleep at the wheel! In fact, of those who have nodded off, 13% say they have done so at least once a month. Four percent – approximately eleven million drivers – admit they have had an accident or near accident because they dozed off or were too tired to drive.

The National Highway Traffic Safety Administration conservatively estimates that 100,000 police-reported crashes are the direct result of driver fatigue each year. This results in an estimated 1,550 deaths, 71,000 injuries, and \$12.5 billion in monetary losses. These figures may be the tip of the iceberg, since currently it is difficult to attribute crashes to sleepiness.

- There is no test to determine sleepiness as there is for intoxication, i.e., a “Breathalyzer.”
- State reporting practices are inconsistent.
- There is little or no police training in identifying drowsiness as a crash factor.
- Self-reporting is unreliable.
- Drowsiness/fatigue may play a role in crashes attributed to other causes such as alcohol. About one million such crashes annually are thought to be produced by driver inattention/lapses.
- According to data from Australia, England, Finland, and other European nations, all of whom have more consistent crash reporting procedures than the U.S., drowsy driving represents 10 to 30 percent of all crashes.

Like drugs and alcohol, fatigue needs to be addressed as a public health issue by dealing with the underlying causes of sleep deprivation such as lifestyles, work hours, shift work, or untreated sleep disorders, and as a public safety issue by employing traditional methods of traffic safety: education, enforcement, engineering, and evaluation.

Considering the enforcement aspect, one must recognize that changes in law, whether through changes in prosecution or litigation, often take a great deal of time to establish. Typically, public opinion has to precede the change—there has to be sentiment in the public that something is wrong. As has been seen in the case of drunk driving, and will probably happen with drowsy driving, advocacy groups often need to bring the issue to the forefront of public consciousness. The passage of “Maggie’s Law” in the state of New Jersey in 2003 raises hope that this change is starting to take place.

While Maggie's Law is by no means perfect, it narrowly defines "fatigue" as being without sleep for a period in excess of 24 consecutive hours, the law did address the issue of education and awareness about the issue. The law gained national and international media attention and led to the introduction of The National Drowsy Driving Act of 2003. The legislation called for comprehensive education and training for drivers and police and other measures. While this bill did not pass, it influenced the inclusion of fatigue-related language in a mammoth federal transportation spending bill that mandates traffic safety priorities through 2010. The bill also served as a model for subsequent drowsy driving bills on the state level. Currently there are 12 bills introduced in 8 states addressing drowsy driving in various ways. The bills are listed and summarized on www.DrowsyDriving.org.

Examining how drowsy driving cases are prosecuted or not prosecuted shows that there is a severe lack of uniformity in how laws are interpreted or enforced from state to state, or even from county to county, when addressing driver fatigue. There remains a lack of awareness and education among law-enforcement officials, prosecutors, juries, and the judiciary in many states regarding the consequences of sleep deprivation and the dangers of drowsy driving when defendants are charged for things (e.g., reckless driving) other than their impairment from sleep deprivation. Enforceable laws need to be part of the equation in combating drowsy driving. In a similar survey conducted by NSF in 1998, all states except Alabama stated that people could be charged under existing laws for causing a crash or fatality after falling asleep at the wheel.

This report is an update and expansion upon that 1998 survey. It is meant to educate the above-mentioned stakeholders about drowsy driving. It is also an evaluation of various changes that have taken place since 1998, including: 1) how states prosecute different types of drowsy driving crashes; 2) how states regulate the licensure of individuals with sleep disorders; 3) how states track drowsy driving crashes; 4) whether states train their police officers about drowsy driving; 5) whether states impose curfews on young drivers; and 6) how states educate drivers about sleep and drowsy driving.

NSF is releasing its *State of the States Report on Drowsy Driving* as part of what is perhaps the most significant drowsy driving educational effort to date: NSF's first ever Drowsy Driving Prevention Week™ campaign (November 5 – 11, 2007). This national public awareness campaign seeks to reduce the number of fatigue-related crashes among the most inexperienced drivers, teen and college-aged people. NSF will work to educate this high-risk group as well as their parents about the tragic consequences of driving while drowsy. This report will be updated annually as part of each future Drowsy Driving Prevention Week. For more information about drowsy driving and the Drowsy Driving Prevention Week campaign, visit www.drowsydriving.org.

Methods

The National Sleep Foundation (NSF) conducted two surveys of the 50 states and Washington, D.C., to assess how the issue of drowsy driving is being addressed in America. The first survey was conducted in 1998 and included responses from the 50 states and Washington, D.C. The second was conducted in 2007 and includes responses from 29 states.

2007 Survey:

The survey instrument was sent to the governor's highway safety office or representative in each of the 50 states and Washington, DC. The 29 responses were received through October 2007. After initial publication, NSF contacted offices of attorneys general, state police agencies/training academies, and motor vehicle departments to gather additional responses.

Further information was garnered from searches of individual state DMV Web sites, relevant statutes, and the National Highway Traffic Safety Administration Traffic Records Team Website of police accident report forms (<http://www.nhtsa-tsis.net/crashforms/>). In cases where there were discrepancies between survey responses and the NHTSA crash report forms or the DMV Web sites, the information from the NHTSA site or DMV sites was included.

One secondary source filled the remaining gaps: the American Association of Motor Vehicle Administrators June 2003 report "Summary of Medical Advisory Board Practices in the United States" (www.aamva.org). In cases where there were discrepancies between survey responses to the questions about medical requirements the AAMVA report, the AAMVA information was used.

2007 Survey Instrument:

1. What infraction or law would a driver likely be charged with for causing a sleep-related motor vehicle crash (e.g., reckless driving, careless driving)?
2. What charge would a driver likely face for causing a fatality during a sleep-related motor vehicle crash (e.g., manslaughter, vehicular homicide)?
3. Does your state have any provisions that limit a person's right to drive with certain medical conditions? Does it specifically mention sleep disorders (e.g., sleep apnea or narcolepsy)? If so, please provide language.
4. Does your state have guidelines or regulations that require physicians to report patients who have medical conditions that might affect their driving performance? If so, please provide language.
5. Does your state have a code related to fatigue or sleepiness on its police report form? Please provide a copy of the form.

6. Does your state currently provide training on the impact of fatigue on driving performance for police officers or other law enforcement personnel?
7. Does your state currently have a law mandating a Graduated Driver Licensing system? If so, does your system have a curfew provision for new drivers?
8. Does your state mandate that sleep or drowsy driving information be included in driver education curricula?
9. Does your state currently have information related to drowsy driving or driver fatigue in your driver license manual? If so, please provide a copy.

1998 Survey:

The 1998 survey included responses from all 50 states and Washington, D.C. These came from various offices in each state, including departments of public safety, state police, governor's highway safety bureaus, and others.

1998 Survey Instrument:

1. Does your state have any provisions that specifically address driver fatigue? Driving with medical conditions? If so, what are they?
2. What infraction or law would a drowsy driver be charged with for causing an automobile crash?
3. What charge would a drowsy driver likely be given for causing a death during an automobile crash? (e.g., manslaughter, vehicular homicide, reckless driving).
4. Does your state have a code on its police accident report form to identify when fatigue has been a factor in a crash? If so, please provide a copy of the report.
5. Do you currently collect crash and injury data related to driver fatigue?
6. Does your state currently have training for police officers to detect fatigued drivers while on the road or fatigue as a principal cause in an automobile crash during accident reconstruction?

2007 Summary of Findings

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
AL	#	#	Yes. Sleep disorders, no.	No.	1) Apparently Asleep 2) Fatigued	#	Yes, 12am - 6am.	#	Yes.
AK	Reckless endangerment or reckless driving.	Manslaughter or criminally negligent homicide.	Yes. Sleep disorders, no.	No.	1) Driver inattention 2) Fell asleep 3) Loss of consciousness 4) Taking prescription meds	#	Yes, 1am - 5am.	No.	Yes.
AZ	Arizona revised statute 28-701A, reasonable and prudent speed.	Possibly vehicular homicide.	Yes. Sleep disorders, no.	No.	1) Fell Asleep 2) Prescription drugs	Yes.	No. No. Note: as of July 2008 curfew will be 12am - 5am.	No.	Yes.
AR	Careless driving.	Manslaughter or negligent homicide.	Yes. Sleep disorders, no.	No.	1) Fatigue 2) Fell Asleep 3) Seizure/Blackout	#	Yes. No.	#	Yes.
CA	No specific violation for fall asleep while driving. If involved in a sleep-related collision, the driver could be cited for the moving violation that was the cause of the collision. Careless driving.	Vehicular manslaughter	Yes. Sleep disorders, yes.*	Yes.	1) Sleepy / Fatigued	No.	Yes, 11pm - 5am.	Yes.	Yes.
CO	Careless driving.	Careless driving involving death.	Yes. Sleep disorders, no.	No.	1) Asleep at the Wheel 2) Driver Fatigue	No.	Yes, 12am - 5am.	No.	Yes.
CT	No specific violation on sleep or fatigue. CT has a statute that says "...no person shall engage in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such vehicle..."	Misconduct with a Motor Vehicle or Negligent Homicide.	Yes. Sleep disorders, yes. (Sleep apnea and narcolepsy.)*	Yes.	1) Fell Asleep	No.	Yes, 11pm - 5am. [New law went into effect Aug. 1, 2008 changing curfew from 12am to 11pm.]	No.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
DE	Inattentive driving.	Vehicular Homicide (if negligent). Inattentive driving (if not negligent).	Yes. Sleep disorders, no.	Yes.	1) Inattention 2) Fatigued/asleep 3) Under the influence of medications/drugs/alc ohol	No.	Yes, 10pm - 6am.	No.	Yes.
DC	Failure to pay full time and attention.	Manslaughter, or murder 2.	Yes. Sleep disorders, no.	No.	1) Fatigued 2) Apparently Asleep	Yes.	Yes. Permissible driving: Sep-Jun: Mon-Thu 6:01am - 10:59pm, Fri 6:01am - 11:59pm. Jul-Aug: 6:01am - 11:59pm.	#	No.
FL	Careless driving or violation of right of way.	#	Yes. Sleep disorders, yes. (Sleep disorders.)	No.	Yes. 1) Fatigue / Asleep 2) Seizure, Epilepsy, Blackout	#	Yes, 11pm-6am (age 16) 1am-5am (age 17).	#	Yes.
GA	In the event of a driver being charged with causing a sleep-related motor vehicle crash, (e.g., reckless driving), the charge would include that of distracted driving and whatever other violation that may have resulted from the occurrence.	2 nd Degree Vehicular Homicide	Yes. Sleep disorders, no.	Yes.	1) Apparently Fell Asleep 2) Inattentive	No.	Yes, 12am - 6am.	No.	Yes.
HI	#	#	Yes. * Sleep disorders, no. *	No. *	1) Inattention 2) Fatigue.	#	Yes, 11pm-5am.	#	No.
ID	Inattentive driving.	Manslaughter.	Yes. Sleep disorders, no.	No.	1) Inattention 2) Asleep/Drowsy 3) Fatigued	Yes.	Yes. Sunset-sunrise.	No.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
IL	Improper Lane Usage or Failure to Reduce Speed to Avoid a Accident	Improper Lane Usage or Failure to Reduce Speed to Avoid a Accident	Yes. Sleep disorders, no.	No.	1) Asleep/fainted 2) Medicated 3) Fatigued	No.	Yes. 11pm - 6am Sun-Thur, 12:01am - 6am Fri and Sat night. Effective 2008, curfews begin one hour earlier (local curfews may differ).	No.	Yes.
IN	Reckless driving.	Reckless driving or involuntary manslaughter.	Yes. Sleep disorders, no.	No.	1) Prescription Drugs 2) Driver Asleep or Fatigued	#	Yes. 11pm - 5am Sun-Thu; 1am - 5am Fri & Sat nights.	No.	Yes.
IA	None.	Nothing.	No. Sleep disorders, yes.*	No.	1) Asleep, fainted, fatigued, etc. 2) Under the influence of alcohol, drugs, medications	No.	Yes, 12:30am - 5am.	No.	Yes.
KS	Failure to maintain a single lane or reckless driving.	Anything up to vehicular manslaughter.	Yes.* Sleep disorders, no.*	No.*	1) Fell Asleep 2) Inattention 3) Medication Present 4) Medication Contributed	#	Yes. No curfew.	#	Yes.
KY	No specific law. Charge could be anything from reckless driving to manslaughter depending upon the severity of the crash and other factors.	No specific law. Charge could be anything from reckless driving to manslaughter depending upon the severity of the crash and other factors.	Yes. Sleep disorders, no.	No.	1) Fatigue 2) Fell Asleep 3) Inattention 4) Lost Consciousness / Fainted 5) Medication	Yes. (Minimal)	Yes, 12am - 6am.	No.	Yes.
LA	Careless Operation.	Negligent Homicide.	Yes.* Sleep disorders, no.	No	1) Inattentive 2) Fatigued 3) Apparently Asleep/Blackout	Yes.	Yes, 11pm - 5am.	No.	Yes.
ME	Nothing.	Nothing.	Yes. Sleep disorders, yes. (Sleep apnea, cataplexy and narcolepsy.)	Yes.	1) Driver Inattention - Distraction 2) Asleep 3) Fatigued.	No.	Yes, 12am - 5am.	Yes.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness/fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
MD	Negligent Driving.	Manslaughter.	Yes. Sleep disorders, yes. (Narcolepsy and mentions sleep studies.)*	No.*	Condition: 1) Fatigued 2) Apparently Asleep. Contrib Circumstance: 1) Under infl. of medication 2) Fell asleep, fainted, etc. 3) Failed to give full time and attention	Yes.	Yes, 12am - 5am.	Yes.	No.
MA	Negligent Operation (Operating to endanger).	Motor Vehicle Homicide / Negligent Operation.	Yes. Sleep disorders, no.	No.	1) Inattention 2) Fatigued/asleep	Yes.	Yes. Curfew: Learners permit for drivers under 18, 12am - 5am. Junior Operator, ages 16.5 - 18, 12:30am to 5am.	No.	Yes.
MI	Reckless Driving; Careless Driving or Felonious Driving.	Negligent Homicide or Manslaughter	Yes. Sleep disorders, no.	No.	1) Fatigue 2) Asleep 3) Medication Physical - Apparent 1) fatigued/asleep	Yes. (Limited and sporadic)	Yes, 12am - 5am.	Yes.	Yes.
MN	#	#	Yes. Sleep disorders, no.	No.	Apparent Contributing Factors: 1) Driver inattention / distraction 2) Chemical impairment 3) Other human contributing factor		Yes. 12am - 5am. [Effective Aug. 1, 2008]	#	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
MS	Reckless driving or Careless driving.	1) Homicide; all other killings. 2) Homicide; excusable homicide. 3) Penalties for intoxicated driving resulting in death 4) Grounds and procedure for revocation of licenses; suspension of license for non compliance with order for support.	Yes. Sleep disorders, no.	No.	Condition: 1) Fell Asleep / Fainted / Fatigue Contributing Circumstances: 1) Fatigued/Asleep	Yes.	Yes, 10pm - 6am.	#	Yes.
MO	Careless and Imprudent	Involuntary manslaughter in the second degree	Yes. Sleep disorders, yes.	No.	No. Probable Contributing Circumstances: 1) Physical Impairment (explain) 2) Inattention (explain) Instructions for using form indicate that Physical Impairment includes "fatigue" and "asleep"	No. (No specific training.)	Yes, 1am - 5am.	No.	Yes
MT	Careless driving, Reckless Driving, or Negligent Homicide	Negligent Homicide	Yes. Sleep disorders, yes. (Narcolepsy)*	No.	1) Fell Asleep, Fainted, etc. 2) Inattentive Driving	Yes.	Yes, 11pm - 5am.	Yes.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
NE	Careless Driving.	Motor Vehicle Homicide.	Yes. Survey response: Drivers with any medical condition (e.g. sleep apnea or narcolepsy) that may result in black outs, seizures, or fainting spells or anything that results in losing consciousness are required to have a medical evaluation.	No.	Contributing Circumstances, Driver 1) Inattention 2) Fatigued/asleep Driver's Condition: 1) Fell asleep, fainted, fatigued, etc. 2) Under the influence of medications / drugs / alcohol.	Yes.	Yes, 12am - 6am.	No.	No.
NV	Most likely: failure to maintain lane, failure to obey a traffic control device, failure to use due caution, careless driving, etc. (no specific charge identified)	Nevada's vehicular manslaughter law is in effect if "an act or omission that constitutes simple negligence" cause the crash. (running a red light/stop sign for example)	Yes. Sleep disorders, no.	No.	1) Apparently Fatigued / Asleep 2) Driver Inattention / Distracted <u>code</u> (codes for Inattention include "other" and "unknown")	No.	Yes, 10pm - 6am.	No.	No.
NH	Negligent Driving or Reckless Operation	Negligent Homicide	No.	No.	1) Taking Medication 2) Fatigue 3) Asleep	No.	Yes, 1am - 5am.	No.	No.
NJ	Reckless driving or careless driving.	Death by auto or vessel. (Criminal homicide constitutes vehicular homicide when it is caused by driving a vehicle recklessly (This is Maggie's Law: Lack of sleep for 24 consecutive hours may give rise to recklessness))	Yes. Sleep disorders, no.	Yes.	Apparent Contrib. Circumstances: 1) Driver Inattention Apparent Physical Status: 1) Medication 2) Fatigue 3) Fell Asleep.	No.	Yes, 12am-5am.	No.	No.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same) #	Q2: Charges against drowsy driver causing fatality? (Same) #	Q3: Licensing limits due to medical conditions? Sleep disorders? (new) Yes. Sleep disorders, no.	Q4: Require doctors report medical conditions? (New) No.	Q5: Sleepiness / fatigue on crash form? (Same) Apparent Contrib. Factors: 1) Driver inattention Driver or Ped Sobriety: 1) Consumed a Controlled Substance 2) Consumed Medication Driver or Ped. Physical Condition: 1) Fatigue-Asleep	Q6: Training for police on fatigue? (New) #	Q7: Graduated Driver Licensing system? Curfew? Yes, 12am-5am.	Q8: Drowsy driving info mandated in driver education? #	Q9: Info on drowsy driving in manual? Yes.
NM									
NY	Reckless Driving (misdemeanor criminal offense). Special fatigue law for bus drivers.	Same as for non-fatality: Reckless Driving (misdemeanor criminal offense); special fatigue law for bus drivers.	Yes.* Sleep disorders, yes. (Sleep apnea, narcolepsy and cataplexy.)*	No.	1) Driver Inattention/ Distraction 2) Fatigued/Drowsy 3) Fell Asleep 4) Lost Consciousness 5) Prescription Medication	No.	Yes. Curfew: 9pm-5am in majority of the state.	No.	Yes.
NC	Careless/reckless driving.	Misdemeanor death in motor vehicle.	Yes. Sleep disorders, yes.* (Narcolepsy and cataplexy.)	No.	Contrib. Circumstances, Driver: 1) Inattention Physical condition: 1) Fatigue 2) Fell asleep, fainted, loss of consciousness 3) Impairment due to medications, drugs, alcohol.	Yes.	Yes, 9pm - 5am.	#	Yes.
ND	#	#	Yes.* Sleep disorders, yes.* (Narcolepsy.)	No.*	Driver Condition: 1) Fatigue 2) Asleep 3) Medication Contrib. Factors: 1) Attention Distracted	#	Yes. No.	#	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
OH	Failure to maintain control of automobile.	Vehicular manslaughter or aggravated vehicular assault.	Yes. Sleep disorders, no.	No.	Contrib. Circumstances: 1) Driver inattention 2) Fatigue/Asleep Condition: 1) Fell Asleep, Fainted, Fatigued, etc. 2) Under the influence of medications / drugs / alcohol	Yes.	Yes. Curfew: 12am - 6am for 16-yr-olds; 1am - 5am for 17-yr-olds.	#	Yes.
OK	Failure to devote time and attention, probably failure to operate vehicle properly	Negligent homicide and manslaughter.	Yes. Sleep disorders, no.	No.	Driver/Pedestrian Condition: 1) Under the influence of Medications 2) Very Tired 3) Sleepy Unsafe/Unlawful Contrib. Factors: 1) Apparently sleepy	No.	Yes, 11pm - 5am.	#	Yes.
OR	Negligence or Recklessness. Possible criminal charges.	Negligence or Recklessness. Possible criminal charges. 30	Yes. Sleep disorders, no.	Yes.	Driver Factors: 1) Fatigue/Drowsy 2) III / Blackout Impairment: 1) Under Infl - Meds 2) Unknown.	#	Yes, 12am - 5am.	#	Yes.
PA	Charges would be at the discretion of the law enforcement officer.	Charges would be at the discretion of law enforcement or a prosecutor.	Yes. Sleep disorders, no.	Yes.	Alcohol/Drugs Suspected: 1) Medication Driver or Ped. Physical Condition: 1) Fatigue 2) Asleep 3) Medication Driver Action: 1) Affected by Physical Condition	No.	Yes, 11pm - 5am.	Yes.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education? #	Q9: Info on drowsy driving in manual? No.
RI	Unknown. Defer to prosecution/enforcement. Rhode Island does not have a distracted driving law.	Unknown. Defer to prosecution/enforcement.	Yes. Sleep disorders, no.	No.	Driver Distracted: 1) Unknown Physical Condition of Driver: 1) Fell Asleep, Fainted, etc. 2) Under the Influence of Medications/ Drugs/ Alcohol 3) Other	No.	Yes, 1am - 5am.	#	No.
SC	Driving too fast for conditions.	Possibly reckless homicide (depending on the circumstances)	No.	No.	1) Distracted / inattention 2) Fatigued/Asleep 3) Medical Related	No	Yes, 6pm - 6am EST; 8pm - 6pm EDT.	No.	No.
SD	Careless or reckless driving.	Manslaughter.	Yes. Sleep disorders, no.	No.	1) Fatigued/asleep 2) Drugs-medication	No.	Yes, 10pm - 6am.	No.	Yes.
TN	Possibly Careless or Reckless Driving.	Vehicular homicide impaired, DUI	Yes.* Sleep disorders, no.*	No.*	1) Apparently Fatigued 2) Apparently Asleep 3) Reaction to Drugs/Medication 4) Failure to take Drugs/Medication 5) Inattentive (Eating, Reading, Talking, etc.)	No.	Yes, 11pm - 6am.	#	No.
TX	#	#	Yes. Sleep disorders, yes. (Narcolepsy and sleep apnea.)	No.	1) Driver Inattention 2) Fatigued or Asleep 3) Taking Medication (exp. in narrative)	#	Yes, 12am - 5am.	#	Yes.
UT	Improper lane travel, failure to maintain control of vehicle and possibly reckless driving. It depends. No specific law for fall-asleep crashes.	Negligent homicide (with intended criminal violation based on circumstances)	Yes. Sleep disorders, yes. (Sleep apnea and narcolepsy.)*	No.	1) Fatigue/Asleep 2) Under the influence of alcohol / drugs / medication	No.	Yes, 12am - 5am.	No.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
VT	Negligent operation or grossly negligent operation.	Negligent operation or grossly negligent operation with fatality resulting.	Yes. Sleep disorders, no.	No.	1) Under the Influence of Medication / Drugs / Alcohol 2) Inattention 3) Fatigued, Asleep.	#	Yes. No curfew.	#	Yes.
VA	Reckless driving.	Manslaughter.	Yes, limits based on function. Sleep disorders, no.	No.	Driver distractions: 1) Driver fatigue 2) Daydreaming Condition of driver/ped. Contrib. to crash: 1) Fatigued 2) Apparently... asleep	No.	Yes, 12am - 4am.	Yes.	No.
WA	Negligent or Reckless Driving (Criminal traffic citation)	Vehicular Homicide	Yes. Sleep disorders, no.	No.	1) Apparently Asleep 2) Inattention 3) Apparently Fatigued	Yes.	Yes. 1am - 5am.	Yes.	Yes.
WV	Failure to maintain control.	Negligent homicide.	Yes. Sleep disorders, no.	No.	1) Fatigued 2) Asleep 3) Medication	No.	Yes, 11pm - 5am.	#	Yes.
WI	Reckless Driving or Failing to Maintain Control.	Homicide by Negligent Operation of Vehicle.	Yes. Sleep disorders, Yes.*	No.	No. Driver Condition: 1) Reduced Alertness Driver Factors: 1) Inattentive Driving	No.	Yes, 12am - 5am.	No.	Yes.
WY	Failure to maintain a single lane.	Vehicular manslaughter.	Yes. Sleep disorders, no	No.	1) Fell Asleep, Fainted 2) Fatigued 3) Under Influence of Medication	Yes.	Yes, 11pm - 5am.	#	Yes.

Awaiting response

* American Association of Motor Vehicle Administrators June 2003 report "Summary of Medical Advisory Board Practices in the United States" (www.aamva.org).

1998 Summary of Findings

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
AL	No	No	None	None	None	No	No
AK	No	Yes- physician's note req'd for certain med conditions	Reckless or negligent driving	Manslaughter or criminally negligent homicide	1) Driver inattention 2) Fell asleep 3) Lost consciousness	No	No
AZ	No	No	Traffic violation, with fatigue noted as contributing factor	Manslaughter	Physical condition: Sleepy-fatigued; Contributing cause: 1) Fatigue 2) Inattention	Yes	Yes
AR	No	Yes- may be denied license or given restricted license	Careless driving	Negligent homicide, reckless driving, or manslaughter	None	Yes- for accident reconstructionists	No
CA	Yes- for commercial vehicles only	Yes- DMV may refuse to issue license	Traffic violation, reckless driving, or unsafe for conditions (fatigue)	Vehicular manslaughter	1) Fell asleep 2) Sleepy/fatigued	Yes	Yes
CO	No	No	Reckless driving, careless driving, or careless driving resulting in serious bodily injury	Vehicular homicide, vehicular assault, or careless driving resulting in death	Driving while asleep	No	Yes
CT	No	No	Traffic violation	Negligent homicide with a motor vehicle	Fell asleep	No	Yes
DE	Yes- inattentive driving addressed	No	Inattentive driving	Inattentive driving	None	Yes- for accident reconstructionists	No
DC	No	No	Inadequate time and attention and traffic violation or assault with dangerous weapon if bodily injury occurs	Negligent homicide	1) Fatigued 2) Apparently asleep	No	
FL	No	Yes- by referral from physician or agency	Reckless driving or careless driving	Reckless driving or careless driving	Fatigue/Asleep	No	Yes
GA	No	No	Traffic violation	Traffic violation	1) Apparently fell asleep 2) Driver condition	Yes	No
HI	No	Yes- after eval by med specialist or sleep clinic	No specific charge	Negligent homicide in the 3rd degree	1) Inattention 2) Fatigue	No	Yes
ID	No	Yes- license may be revoked	Inattentive driving	Misdemeanor manslaughter	1) Inattention 2) Asleep/drowsy 3) Fatigued	No	Yes
IL	Yes- for commercial vehicles only	Yes- for commercial drivers only	Traffic violation	Reckless homicide or involuntary manslaughter	1) Asleep/fainted 2) Fatigued	Yes	Yes
IN	No	Yes- at the time of licensing	Traffic violation	Recklessness or reckless homicide	Apparent physical status: 1) Fatigued 2) Asleep Contributing circumstance: 1) Driver apparently asleep 2) Driver inattention	No	Yes

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
IA	No	No	Failure to maintain control	Reckless driving, homicide, or serious injury by vehicle	1) Fatigued 2) Apparently asleep	Yes	
KS	No	No	Traffic violation, inattention, or ultimately reckless driving	Vehicle/ar homicide	1) Fell asleep 2) Failed to give full time and attention	Yes- for accident reconstructionists	Yes
KY	No	No	Assault and related offenses or vehicle not under proper control	Criminal homicide offenses	1) Fell asleep 2) Driver inattention	Yes	Yes
LA	Yes- for commercial vehicles only	Yes- must self-report physical/mental disability on application	Careless operation or traffic violation	Negligent homicide	1) Apparently asleep 2) Inattentive or distracted 3) Fatigued	Yes- for accident reconstructionists	Yes
ME	No	Yes- all licensees with med conditions reviewed	No specific charge	Driving to endanger or reckless conduct with a dangerous weapon (motor vehicle)	1) Asleep 2) Fatigued	Yes- for accident reconstructionists	Yes
MD	No	Yes- medical conditions treated as DWI/DUI incidents	Negligence	Reckless and negligent driving	1) Fatigued 2) Apparently asleep	Yes	Yes
MA	No	Yes- license may be revoked if threat to public	Operating to endanger	Motor vehicle homicide	None	No	No
MI	No	Yes- noted on driver's license and driving status	Traffic violation	Negligent homicide	None; revision in 1999 to include: 1) Fatigue 2) Asleep	Yes	No
MN	No	Yes- may cause cancellation or restriction of driving privileges	Careless driving or reckless driving	Criminal vehicular homicide	1) Asleep 2) Fatigued	Yes	
MS	No	Yes- must be seizure-free for one year	None	No specific charge	Sleepy/fatigued	No	Yes
MO	No	No	No specific charge	No specific charge	None	No	No
MT	Yes- for commercial vehicles only	Yes- license may be revoked	Careless driving	Manslaughter	Fell asleep, fainted, etc; For commercial veh. 1) Fatigue 2) Asleep	No	Yes
NE	No	Yes- may result in recall and retest	Careless driving	Reckless driving, willful recklessness, or motor vehicle homicide	Fatigue/asleep	No	
NV	No	Yes- may restrict or deny driving privileges	Traffic violation	Traffic violation	1) Apparently asleep 2) Fatigued	Yes	Yes
NH	No	Yes- license may be suspended or revoked	Reckless driving or traffic violation	Manslaughter, negligent homicide, or reckless endangerment (also administrative action)	1) Fatigue 2) Asleep	Yes-but limited	Yes
NJ	No	Yes- for epilepsy and by physician referral	Careless driving	Vehicular homicide or vehicular manslaughter	1) Apparently asleep 2) Driver inattention 3) Fatigued	No	Yes
NM	No	No	Careless driving	Vehicular homicide-negligence	1) Fatigue/asleep 2) Driver inattention	Yes- for accident reconstructionists	Yes
NY	No- except after incident of sleepiness/fatigue	Yes- after incident, driving privileges may be revoked	Reckless driving or 3rd degree assault	Criminally negligent homicide or manslaughter	1) Fell asleep 2) Fatigued/drowsy	Yes	Yes

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
NC	No	Yes- examination by medical board	No specific charge	Misdemeanor death by vehicle	1) Fatigued 2) Asleep 3) Impaired due to medication	No	
ND	No	Yes- may prohibit licensing	Care required in operating a vehicle	Reckless driving, aggravated reckless driving, negligent homicide, or manslaughter	1) Fatigue 2) Asleep	No	Yes
OH	Yes- for commercial vehicles only	Yes- may prohibit driving privileges	For commercial vehicles- driving with impaired alertness; traffic violation for others	For commercial vehicles- driving with impaired alertness; vehicular homicide or manslaughter possible for all vehicles	1) Fatigued 2) Apparently asleep	No	Yes
OK	No	Yes- physical or mental conditions may affect licensing	Reckless driving	Negligent homicide	1) Very Tired 2) Sleepy	No	Yes
OR	No	Yes- may result in denial of driving privileges	Careless driving or reckless driving	Criminally negligent homicide, manslaughter 1st degree, or manslaughter 2nd degree	Fatigue/Drowsy	No	Yes
PA	No	Yes- certain conditions prevent driving	Reckless driving	Homicide by vehicle	1) Fatigue 2) Asleep	Yes	
PR	No	No	Imprudence and criminal negligence	Manslaughter	Fatigued	No	No
RI	Yes- for commercial vehicles only	No	Driving to endanger death	Driving to endanger death	1) Sleepy/tired 2) Fell asleep	Yes	
SC	No	No	Traffic violation or too fast for condition	Manslaughter or reckless homicide	1) Fell asleep, fainted, etc. 2) Inattention	No	No
SD	No	Yes- may affect licensing	Careless driving	Reckless driving, manslaughter, or vehicular homicide	Fell asleep	Yes	
TN	Yes- for commercial vehicles only	Yes- for commercial vehicles only	No specific charge	No specific charge	Apparently asleep; Truck/bus supplement: 1) Fatigue 2) Asleep	No	Yes
TX	Yes- for commercial vehicles only	Yes- license may be revoked	Traffic violation	Manslaughter or criminally negligent homicide	1) Driver inattention 2) Fatigued or asleep	Yes	Yes
UT	No	Yes- drivers' self-report required	Driving when fatigued, failure to discontinue operating a vehicle after onset of physical or mental disability, falling asleep at the wheel (ACD codes)	Reckless driving, automobile homicide, vehicular homicide	1) Asleep 2) Fatigued	Yes	Yes
VT	No	Yes- may cause suspension	Traffic violation or negligent operation	Negligent operation, grossly negligent operation, or manslaughter	Fatigue or ill	No	No

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
VA	Yes- prohibits driving more than 13 hrs in 24 hr pd No	No	Reckless driving	Involuntary manslaughter	1) Fatigued 2) Apparently asleep		
WA	No	Yes- license may be restricted or suspended Yes- subject to re-evaluation or revocation	Reckless driving	Reckless driving or vehicular homicide	1) Apparently asleep 2) Apparently fatigued	Yes	Yes
WV	No	Yes- for school bus drivers only	Reckless driving	Negligent homicide	1) Fatigued 2) Asleep	No	No
WI	No		Inattentive driving	Negligent homicide or great bodily harm	No code for asleep/fatigue, codes for: 1) Reduced alertness 2) Inattentive driving 2) Driver condition	No	No
WY	Yes- for commercial vehicles only	No	Traffic violation	Vehicular homicide	1) Fell asleep 2) Driver fatigue 3) Driver inattention	Yes	Yes

Analysis of 2007 Survey Results:

1. Fatigue codes on police accident report forms (questions 5 and 6):

- a. All states address fatigue or reduced alertness in some way on their crash report forms. However, Missouri's form has code for "physical impairment" and includes instructions that fatigue and falling asleep be covered by this code. Wisconsin includes codes for "Reduced Alertness" and "Inattentive Driving." This is a significant change from the 1998 survey when six states lacked codes.
- b. About half (23/51) of all states have separate codes for sleep and fatigue.
- c. There is very little uniformity among terminology for codes related to fatigue and sleepiness.
- d. Only nine out of the 27 states responded that their police officers receive training on the impact of fatigue on driving performance. In several cases, this training was described as minimal.

2. Charges against drowsy driving (questions 1 and 2):

- a. Of those states responding, only Iowa and Maine said that they would not charge a person for causing a fatality during a sleep-related motor vehicle crash. In 1998, Iowa responded that the charge would likely be reckless driving, homicide or serious injury by vehicle. Maine had previously stated that the charge would be one of the following: Driving to Endanger or Reckless Conduct with a Dangerous Weapon.
- b. Alabama has yet to respond to the 2007 survey, however, in 1998 Alabama said they would not charge a drowsy driver for causing a fatality.
- c. Iowa and Maine were also the only responding states that would not charge a driver for causing a sleep-related crash.
- d. New Jersey was the only state responding that has a specific law addressing driver fatigue. A search of the Web site of the government of Virginia found that the state still has a statute limiting the number of hours a non-commercial driver can be on the road to 13 hours in any 24-hour period.
- e. The 2007 survey replicated the finding that there is wide variance in the types of charges levied against drivers causing sleep-related crashes or a sleep-related crashes involving fatalities.

3. Drowsy driving education by the states (questions 8 and 9):

- a. Nearly 80% state drivers license manuals include some information on drowsy driving or fatigue (40/51).
- b. However, in some cases that information is minimal and in many cases information provided was inaccurate. For example, many states recommend that drivers not eat or constantly change what they are looking at in order to avoid fatigue. These recommendations are not science based and do not result in a sustained level of increased alertness.
- c. Few states that responded to the survey "mandate" that information on sleep or drowsy driving be included in drivers education curricula (8/31). However, several states noted that the state-approved or state-issued curricula do include such information.

4. Graduated driver licensing (question 7):

- a. A total of 47 states currently have nighttime driving restrictions for new drivers.
- b. However, most of these curfews have exceptions and most of them do not start until midnight or later. In fact, only 8 out of the 47 states with curfews start at 10 p.m. or earlier.

5. Driving with medical conditions (questions 3 and 4):

- a. Nearly all states place limits on a person's right to drive based on various medical conditions.
- b. NSF's research found that at least 14 states include sleep disorders such as sleep apnea, narcolepsy or cataplexy within those conditions that can be considered by a licensing review body.
- c. Only eight states have mandatory reporting requirements for physicians. The other states generally have voluntary reporting systems.
- d. Only three mandatory reporting states include sleep disorders in their reporting requirements (Maine, Connecticut and California).

Analysis of 1998 Survey Results:

1. Six states did not have fatigue codes: Alabama, Arkansas, Delaware, Massachusetts, Missouri, Wisconsin.
2. Most states had separate codes for both fatigue and fell asleep.
3. Only two states (Alabama, Mississippi) said that they would not charge a drowsy driver for causing a crash.
4. Only Alabama said that they would not charge a drowsy driver for causing a fatality.
5. Only two states (Delaware and Virginia) have specific provisions that deal with fatigue in some way for non-commercial drivers. However, they both dealt with fatigue in very different ways: Delaware considering the condition of the driver and Virginia considering how many hours the driver is behind the wheel.

According to Delaware law at the time, “whoever operates a vehicle and fails to give full time and attention to the operation of the vehicle, or whoever fails to maintain a proper lookout while driving the vehicle, shall be guilty of inattentive driving.”

In 1998, Virginia was the only state known that limits the hours that a non-commercial driver can drive.

46.2-813 no person shall drive any motor vehicle on the highways of the commonwealth for more than thirteen hours in any period of twenty-four hours or for a period which, when added to the time such person may have driven in any other state, would make an aggregate of more than thirteen hours in any twenty-four-hour period. The provisions of this section, however, shall not apply to the operation of motor vehicles used in snow or ice control or removal operations or similar emergency situations. No owner of any vehicle shall cause or permit it to be driven in violation of this section.

6. Nine states had provisions dealing with fatigue for commercial drivers besides regular hours of service rules.
7. Seventeen states stated that their state police receive some type of training in detecting fatigued drivers. Only six states said that their accident reconstructionists receive training in investigating fatigue as a casual factor in a crash.
8. Twenty-nine states (with only 41 answering) said that they collect data on fatigue-related crashes within their state.

Disclaimer

This report does not constitute legal advice. NSF recommends that individuals seek professional counsel regarding questions arising out of this document.

APPENDIX G

Financial Disclosure of Commission Member Czeisler

Charles A. Czeisler, Ph.D., M.D., F.R.C.P.
Disclosures as of January 6, 2009

Dr. Czeisler has received consulting fees from or served as a paid member of scientific advisory boards for: Actelion, Ltd.; Avera Pharmaceuticals, Inc.; Axon Labs, Inc.; Cephalon, Inc.; Delta Airlines; Eli Lilly and Co.; Fedex Kinko's; Fusion Medical Education, LLC, Hypnion, Inc.; Johnson & Johnson, Koninklijke Philips Electronics, N.V.; Morgan Stanley; Sanofi-Aventis, Inc.; Sleep Multimedia, Inc.; Respironics, Inc.; Sepracor, Inc.; Somnus Therapeutics, Inc.; Takeda Pharmaceuticals; Vanda Pharmaceuticals, Inc.; and Vital Issues in Medicine. Dr. Czeisler owns an equity interest in Axon Labs, Inc.; Lifetrac, Inc.; Somnus Therapeutics, Inc.; and Vanda Pharmaceuticals, Inc.

Dr. Czeisler has received lecture fees from Alfresa; Cephalon, Inc.; Institute of Sleep Health Promotion (NPO); Sanofi-Aventis, Inc.; Takeda; Tanabe Seiyaku Co., Ltd.; Tokyo Electric Power Company (TEPCO).

Dr. Czeisler has also received clinical trial research contracts from Cephalon, Inc., Merck & Co., Inc., and Pfizer, Inc.; an investigator-initiated research grant from Cephalon, Inc.; and his research laboratory at the Brigham and Women's Hospital has received unrestricted research and education funds and/or support for research expenses from Cephalon, Inc., Koninklijke Philips Electronics, N.V. and ResMed.

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Dr. Czeisler is the incumbent of an endowed professorship provided to Harvard University by Cephalon, Inc. and holds a number of process patents in the field of sleep/circadian rhythms (e.g., photic resetting of the human circadian pacemaker). Since 1985, Dr. Czeisler has also served as an expert witness on various legal cases related to sleep and/or circadian rhythms.