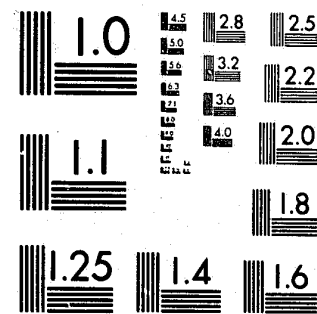


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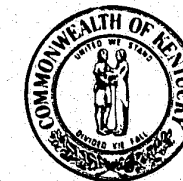
4/4/84

Final Report Of the



91721

John Y. Brown, Jr.
GOVERNOR



June, 1983

Gen. Billy G. Wellman
CHAIRMAN



91721

COMMONWEALTH OF KENTUCKY
JUSTICE CABINET
FRANKFORT

BILLY G. WELLMAN
SECRETARY

JOHN Y. BROWN, JR.
GOVERNOR

June 1, 1983

The Honorable John Y. Brown, Jr.
Governor
State Capitol
Frankfort, Kentucky 40601

NCJRS

OCT 28 1983

ACQUISITIONS

Dear Governor Brown:

The attached report is being submitted on behalf of the Task Force you appointed by Executive Order #83-40 to study the drunk driving issue.

Chairing this Task Force was certainly a challenge and a very rewarding experience. The members represented diverse interests which confront, either professionally or through personal involvement, this serious problem. The Task Force members were dedicated and reflected a genuine concern in developing a realistic plan that would address the adverse impact of the drunk driver upon the citizens of the Commonwealth.

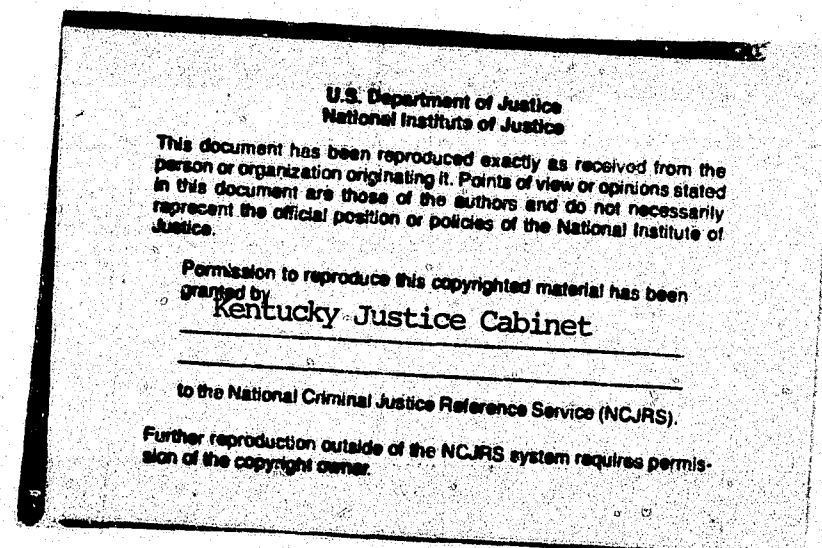
Realizing the difficulty in changing the attitude of a society that has tolerated the drunk driver, the Task Force recommendations, submitted for your consideration, involve a wide range of proposals requiring legislative, administrative, educational and philosophical changes. We are confident, that if adopted, it will have a positive impact on alleviating this problem; thus, making our highways safer for the majority of the drivers who comply with our traffic safety laws.

Furthermore, the Task Force felt obligated to consider the potential fiscal impact of their plan. In response to this obligation, it was the consensus of the Task Force that those who choose to violate the law should bear the financial burden for the administration of the proposed reforms.

Again, I want to express my appreciation to you for this assignment. Through the support and active participation of the Task Force members, it was possible to develop a realistic and workable solution to Kentucky's drunk driver problem.

Sincerely,

Billy G. Wellman
Chairman



This report has been endorsed by the following members of the Governor's Task Force on Drunk Driving:

John R. Adams
JOHN R. ADAMS

Rick Crawford
RICK CRAWFORD

Fred Creasey
FRED CREASEY

Frank M. Dailey
FRANK DAILEY

Thomas U. Denning
THOMAS DENNING

James L. Dickinson
JAMES L. DICKINSON

Joseph L. Famularo
JOSEPH L. FAMULARO

Jack E. Farley
JACK E. FARLEY

William Froehlich
WILLIAM FROEHLICH

Robert Hicks
ROBERT HICKS

Taylor Hollin
TAYLOR HOLLIN

Paris E. Hopkins
PARIS HOPKINS

Bill Klapheke
WILLIAM T. KLAPHEKE, II

Henry G. Lackey
HENRY G. LACKEY

Joe Ann O'Hara
JOE ANN O'HARA

Robert C. Owen
ROBERT OWEN

Sandra G. Pullen
SANDRA G. PULLEN

Raymond Sabbatine
RAYMOND SABBATINE

Billy G. Wellman
BILLY G. WELLMAN

*Lois Windhorst
*LOIS WINDHORST

*Lois Windhorst endorsed the report with the proviso that it be noted she felt the report was a beginning and a step in the right direction to solving the problem of drunk driving.

EXECUTIVE SUMMARY

The Governor's Task Force on Drunk Driving set one clear goal: to develop recommendations which would dramatically reduce the incidence and consequences of drunk driving in Kentucky. The following are the major recommendations of the Task Force which they believe will set in place the process to reach their goal.

- * Establish and support an on-going public information and education campaign against drunk driving
- * Increase the emphasis on alcohol and drug education in the schools
- * Increase the driving under the influence training for judges, prosecutors and law enforcement
- * Allow police officers to use Preliminary Breath Test devices and request more than one test to determine intoxication
- * Allow police officers to make warrantless arrests for accidents suspected to be caused by driving under the influence
- * Establish driving with a blood alcohol concentration (BAC) of .10% or more as an offense
- * Allow pre-conviction license suspension for driving under the influence cases
- * Require review of a person's driving history record prior to sentencing in driving under the influence cases
- * Require the court record to show the reason for dismissal or amendment of a driving under the influence charge
- * Increase penalties for driving under the influence and tighten the conditions for probation
- * Stiffen the license revocation for persons under 18 found guilty of driving under the influence
- * Increase the penalties for driving on a license revoked for driving under the influence
- * Require the offender to bear the cost of programs
- * Require screening of all first time driving under the influence offenders
- * Continue and expand the Drunk Driving Task Force

ACKNOWLEDGEMENTS

This report could not have been possible without the support of many individuals and organizations. The members of the Task Force wish to acknowledge and thank these individuals and organizations for their contributions and participation.

Administrative Office of the Courts
Bluegrass Comprehensive Care Center
Division of Driver Licensing of the Justice
Cabinet
Franklin County BETA Program
Kentucky Alcoholism Council
Kentucky Chapter of MADD
Kentucky Circuit Judges Association
Kentucky Commonwealth Attorneys Association
Kentucky County Attorneys Association
Kentucky District Judges Association
Kentucky Educational Television
Office of Community Services of the Corrections
Cabinet
Presidential Commission on Drunk Driving
Region IV Office of the National Highway Traffic
Safety Administration
Research and Development Section of the Kentucky
State Police
Seven Counties Comprehensive Care Center
Sgt. Larry Ball of the Metro Police Department
Substance Abuse Branch of the Cabinet for Human
Resources
Trooper Terry Clancy of Kentucky State Police
Post #12

The Task Force wishes to give special thanks to Ed Moriarty, Public Affairs Section of the Kentucky State Police, for the cover design of the report and to the Office of Correctional Industries of the Corrections Cabinet for printing this document.

The following staff from the Justice Cabinet that assisted the Governor's Task Force on Drunk Driving in its work deserve recognition for organizing the Task Force meetings and producing this report.

Terry Andrews, Task Force Coordinator
Charlie Caldwell
Major Larry Fentress
Trooper Paul Gilbert
Paul F. Isaacs
Gordon Nichols
Gene Peter
David Salyers
Cathy C. Snell

And finally, the Task Force wishes to extend special thanks to Terry Andrews who was primarily responsible for drafting the report and to Teresa Taylor who made arrangements for the Task Force committee meetings, recorded all the meeting accounts and who typed the report.

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**THE
TASK FORCE**



JOHN Y. BROWN, JR.
GOVERNOR

EXECUTIVE ORDER

83-40

January 11, 1983

Secretary of State
Frankfort
Kentucky

GOVERNOR'S TASK FORCE ON DRUNK DRIVING

WHEREAS, drunk driving is a national tragedy which in 1982 resulted in nearly 26,000 people being either killed or injured; and

WHEREAS, the 97th Congress recently enacted H.R. 6170, Public Law 97-6364, which amends Title 23 of the United States Code and provides for the awarding of federal grants to states that enact drunk driving provisions in conformity with the provisions of the Resolution; and

WHEREAS, many citizens of this Commonwealth have advocated that the laws of this Commonwealth be reformed and the penalty provisions be enhanced in order to discourage drunk driving; and

WHEREAS, the General Assembly of Kentucky has conducted a series of hearings to obtain information from the citizens of this Commonwealth as to their views concerning changes that should be made to the laws of Kentucky; and

WHEREAS, there is presently an urgent need to establish an advisory committee to study the newly enacted federal legislation, to make suggestions for possible reform of the state provisions pertaining to the offense of driving while intoxicated, and to assess the impact that such reforms would have on county and city governments:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 12.025(2), do hereby order and direct the following:

1. There is hereby established an advisory committee to be known as the Governor's Task Force on Drunk Driving, hereinafter referred to as the Task Force, which shall be responsible for reviewing the provisions of Public Law 97-6364, for reporting to the Governor recommendations for reforming the laws of this state which either directly or indirectly pertain to driving while intoxicated, and for assessing the impact of such reforms on county and city governments.



JOHN Y. BROWN, JR.
GOVERNOR

EXECUTIVE ORDER

83-40

January 11, 1983

Secretary of State
Frankfort
Kentucky

2. The Task Force shall be supported by and shall report to the Governor by way of the Secretary of the Justice Cabinet.

3. The Task Force shall be composed of at least 21 members and shall consist of the Secretary of the Justice Cabinet or his designee, the Commissioner of the Department of State Police or his designee, the Secretary of the Human Resources Cabinet or his designee, the Secretary of the Corrections Cabinet or his designee, a representative of the Office of the Governor, the Director of the Division of Driver Licensing, the Attorney General or his designee, the Public Advocate or his designee, the President Pro Tempore of the Senate or his designee, the Speaker of the House of Representatives or his designee, the Superintendent of Public Instruction or his designee, and representatives from city and county government, the liquor industry and the citizenry at large.

4. With respect to representation of county and city governments on this Task Force, the Kentucky Municipal League, the Kentucky Association of Counties, the Kentucky County Judges/Executive Association, the Kentucky Jailers Association and the Kentucky Magistrates Association shall each designate a representative to serve on the Task Force.

5. The chairman shall be appointed by the Governor. One half of the appointed members shall constitute a quorum for the purpose of conducting business.

6. The Task Force shall conduct meetings as may be called by the chairman or by the Secretary of the Justice Cabinet. Notice of meetings may be either in writing or by telephone.

7. Members of the Task Force shall serve at the pleasure of the Governor or until the expiration of their term of office and until their successors are appointed.

8. The Justice Cabinet shall promptly provide any staff assistance requested by the Task Force. Members of the Task Force shall receive no compensation but any private citizens appointed to the Task Force by the



JOHN Y. BROWN, JR.
GOVERNOR

EXECUTIVE ORDER

83-40

January 11, 1983

Secretary of State
Frankfort
Kentucky

Governor shall receive reimbursement for actual expenses. Funding for the expenses of the Task Force shall be provided by the Justice Cabinet.

9. The Task Force shall submit its findings in writing on or before June 1, 1983, unless extended by an appropriate Executive Order.

10. The Secretary of the Finance and Administration Cabinet and the Secretary of the Justice Cabinet shall take all steps needed to implement this Order.

11. I hereby appoint the following individuals as members of the Governor's Task Force on Drunk Driving for a term expiring June 1, 1983:

Buddy H. Adams, Secretary, Cabinet for Human Resources

John R. Adams, District Judge, 22nd Judicial District, Fayette Co.

Raymond Barber, Superintendent of Public Instruction

Steven L. Beshear, Attorney General

Frank Dailey, President, Kentucky Distillers Association

James L. Dickinson, Deputy General Counsel, Governor's Office

Jack E. Farley, Public Advocate

Robert Owens, Executive Director, American Automobile Assoc.

Joseph W. Prather, President Pro Tempore of the Senate

Edward F. Prichard, Jr., Frankfort, Kentucky

Sandra G. Pullen, Director, Division of Driver Licensing

Bobby H. Richardson, Speaker of House of Representatives

General Billy G. Wellman, Secretary, Justice Cabinet
Acting Commissioner, Dept. of State Police (Chairman)

George W. Wilson, Secretary, Corrections Cabinet

Lois Windhorst, Louisville, Kentucky

Please issue commissions to the newly appointed members.

JOHN Y. BROWN, JR., Governor
Commonwealth of Kentucky

FRANCES J. MILLS

MEMBERS OF THE GOVERNOR'S TASK FORCE ON
DRUNK DRIVING AND THE COMMITTEES ON WHICH THEY SERVED

Task Force Chairman

- * Billy G. Wellman
Secretary, Justice Cabinet
Representing Justice system and law enforcement

Education and Prevention Committee

- * Lois Windhorst, Chair
President, Kentucky Chapter of MADD
Representing the citizens against drunk driving
- * Frank Dailey
President, Kentucky Distillers Association
Representing the liquor industry
- * Taylor Hollin
Executive Assistant, Department of Education
Representing education
- * Paris Hopkins
Deputy Secretary, Human Resources Cabinet
Representing mental health services
- * Robert Owen
Director, Bluegrass AAA
Representing automobile owners

Adjudication and Alternative Remedies Committee

- * John Adams, Chair
District Judge, 22nd Judicial District, 2nd Division
Representing court system
- * Jack Emory Farley
Public Advocate for the Commonwealth
Representing defense attorneys
- * Joe Ann O'Hara
Director, Division of Highway Standards
Justice Cabinet
Representing law enforcement
- * Sandra Pullen
Director, Division of Driver Licensing
Justice Cabinet
Representing driver licensing system

Fiscal Impact Committee

- * Fred Creasey, Chair
Executive Director, Kentucky Association of Counties
Representing county government
- * Thomas Denning
Louisville Alderman
Representing city government
- * William Froehlich
Daviess County Judge Executive
Representing county government
- * Robert Hicks
Frankfort Magistrate
Representing local government
- * Rick Crawford
Deputy Secretary, Corrections Cabinet
Representing correctional system

Legislation Committee

- * Joseph Famularo, Chair
Deputy Attorney General
Representing prosecuting attorneys
- * Jim Dickinson
Deputy General Counsel
Representing Governor's Office
- * William Klapheke, II
Barren County Attorney
Representing Representative House Speaker
Bobby Richardson and county attorneys
- * Henry Lackey
Senator
Representing Senate President Pro Tem
Joseph Prather and the media
- * Edward Prichard
Attorney at Law
Representing citizens
- * Ray Sabbatine
Deputy Jailer, Lexington-Fayette Urban County
Detention Center
Representing jailers

THE DRUNK DRIVING PROBLEM

Drunk Driving - THE Problem

In October 1982 in western Kentucky, a driver made a left hand turn onto an adjoining street, hit a utility pole and a pedestrian breaking both her legs. The driver was charged with driving under the influence of alcohol and having no operator's license. Five months earlier, that same driver had struck a motorcyclist and left the scene of the accident. He was charged with driving under the influence of alcohol for that offense too. A later review of court records revealed that in the past 20 years, he had committed 32 various traffic offenses, ten of the charges were for driving under the influence. He had also been involved in a fatal accident in 1964, prior to which he had at least two convictions for driving under the influence of alcohol. No charges were filed as a result of the fatal accident. For the recent two incidents of driving under the influence, he was sentenced to one year in jail and given a suspended \$200 fine on the condition of good behavior.¹

The recent victims of this drunk driver were luckier than some - they survived.

However, in Kentucky, many other drunk driving victims are not as lucky, they have lost their lives as a result of someone's lack of responsibility. Such was the case of a northern Kentucky family, the victims of a drunk driving crash in which their only child, a two year old daughter, became a drunk driving fatality. The driver of the other car had a bottle of 37% ethyl alcohol between his legs at the time of the accident; and, his blood alcohol level was recorded at .23 percent, more than twice the legal limit in Kentucky. A review of his driving record showed three prior drunk driving convictions. He was charged with murder, driving under the influence, assault and reckless driving. He was sentenced to five years in prison and a \$500 fine. Yet, in a year or less, he will be eligible for parole, which is less time than it took for his case to go to trial.²

The tragedies suffered as a result of drunk driving are deplorable and, therefore, cannot be ignored. The "accidents" caused by drunk drivers cause the loss of millions of dollars, thousands of lives and incalculable grief to the victims and their families. According to the National Highway Traffic Safety Administration there were over 25,000 persons killed from alcohol related crashes and another 500,000 maimed in 1981.³ Studies have indicated alcohol to be a factor in at least 50% of all fatal motor vehicle accidents.⁴ And as many states do not require blood alcohol concentration tests to be conducted in fatality cases, the figures could be much higher.⁵

The financial loss resulting from the problem of drunk driving is staggering. According to a recent Allstate Insurance Company study, the national losses range from \$21-\$24 billion dollars per year. To put these figures in perspective, that amount is over four times that needed to operate the Commonwealth of Kentucky for a year.

The problem of drunk driving is of such proportion that the question arises, why do we let it continue? We certainly would not tolerate other problems of this magnitude. If an airplane crash killed 60 persons, it would make the national headlines for days and be followed by extensive study. And yet, approximately 68 persons are killed each day from alcohol related crashes with hardly a notice.⁶

The root of the problem lies in the American people and their basic belief that it is acceptable to drink and drive, that they can handle it. Yet, study after study indicates that people cannot handle excess alcohol consumption and drive.⁷ While the general effects of alcohol may vary from person to person, driving skills are significantly diminished after the blood concentration level reaches .10.⁸ Robert Pandina at the Center of Alcohol Studies at Rutgers University argues that impairment can occur at much lower levels but "the .10 standard is a kind of compromise that recognizes that this is a drinking society."

However, the problem is more complex than the fact that America is a drinking society and drinking has become the great American past time. If six persons were asked to define the problem, you would probably get six different answers - the availability of alcohol, weak enforcement of laws by the police, leniency by the courts, insufficient treatment programs for alcoholism, problem plagued highways, or the public's attitude.

The fact is the problem of drunk driving includes all of these factors and more and the problem of drunk driving is not a new problem. The problem of drunk driving was identified as early as 1906 and according to a report in the Journal of The American Medical Association, it was seen as a growing serious problem after the repeal of prohibition.⁹ While the drunk driving statistics of the past clearly delineated the problem, little was done to address it as there was no real constituency for the drunk driving victims. Rather, in the past, the contrary was true - people tended to identify with the drunk driver and not the victim. The public, the judges, the juries, the prosecutors, and the legislators were hesitant to face the issue and rationalized the situation in order to not have to address the problem. Afterall, the majority could probably be construed as social drinkers and at some time or other had possibly "been there before" themselves.

However, all that has changed in the past two years. The mother of a drunk driving fatality became angered at the inattention; and was mad enough to launch a national campaign of conscious raising on the problem of drunk driving. She succeeded. And, in the past two years, hundreds of local anti-drunk driving organizations have been founded, such as MADD (Mothers Against Drunk Driving), RID (Remove Intoxicated Drivers), SADD (Students Against Drunk Driving). Furthermore, 34 states have enacted improved legislation and 33 states have established task forces or commissions to examine the problem as well as the establishment of a Presidential Commission on Drunk Driving. 10

The public has become aware of the enormous scope of the problem and the broad effect it can have on us all. And thus, in this growing climate of public awareness, the deep seated social acceptance of drunk driving has begun to erode. The citizens of the Commonwealth of Kentucky have also come to realize that they too must take on the challenge of addressing THE problem of drunk driving.

KENTUCKY AND THE DRUNK DRIVER

Who is the Drunk Driver in Kentucky?

The following is a composite of the "average" drunk driver in Kentucky based upon a variety of socio-economic factors, such as age, sex and income. The intent of this description is not to limit the focus of the problem of drunk driving on a singular group of persons, rather it is to focus the attention on the types of persons who have a greater probability of being a drunk driver.

Drunk drivers in Kentucky can be found anywhere along the socio-economic strata. They can be young or old, rich or poor, educated or illiterate. They can be anyone - anyone who drinks and then sits behind the wheel of an automobile and drives. Therefore, keep in mind that the following is presented solely to raise the reader's awareness of the "typical drunk driver" in Kentucky.

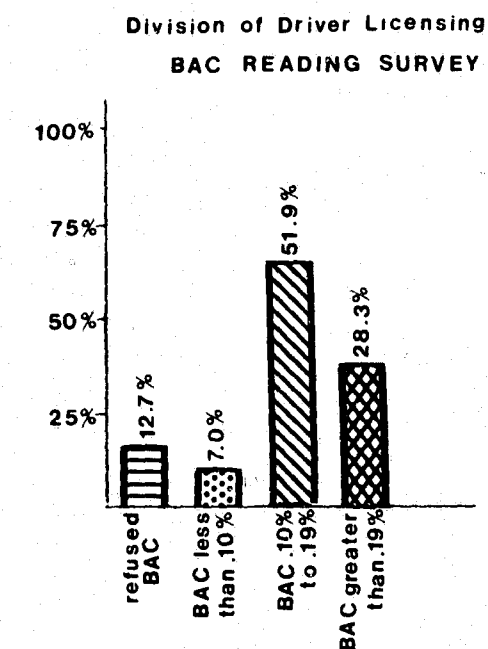
According to the 1981 Uniform Crime Report,¹¹ there were 32,980 drunk drivers in Kentucky. Who are these people? Over 5,000 (15%) of those arrested in Kentucky were young people under the Commonwealth's legal drinking age and another 19% were between 21-24 years old. Thus 34% of those arrested for driving under the influence were under 24 years. The National Safety Council has reported that the leading cause of death for persons between 16 and 24 years old was alcohol related crashes.¹² Nearly 75% of the persons arrested for drunk driving were under the age of 40. A further review of the statistics shows that 95.5% of those arrested were male, while only 4.5% were female. Likewise, 95% of the drunk drivers were white, and 4.8% were black and .2% listed as other. Therefore, your "average" drunk driver is a young, 25-29, white male.

A review of the demographic information collected for the 1981-82 Alcohol Driver Education Statistical Report¹³ provides further details on the drunk driver. The drunk driver is more than likely to be in either an unskilled (37%) or semi-skilled (39%) occupation. The average income of a convicted drunk driver will be in \$10,000-\$14,999 range, with only 30% earning more than \$15,000. The average drunk driver may be single (38%) or married (39%).

Information collected on the drinking history of the alcohol related traffic offender indicated that 26% of those convicted began drinking at a very early age, when they were 10-15 years old. Nearly 45% of the drunk drivers drink 2-3 times a week, with 39% drinking 3-4 drinks per occasion and another 45% drinking over five drinks per occasion. The fact that nearly 84% of the drunk drivers had at least three drinks per occasion is reflective of national figures which cite that the average blood alcohol concentration (BAC) of

drivers arrested for drunk driving is approximately .20 percent. It should be noted that .20 is considered a high level, as a coma usually occurs at .40 and death at around .50.¹⁴

A recent four day study by the Division of Driver Licensing of blood alcohol concentration readings for driving under the influence convictions revealed the following:



Evidence such as this serves proof that the average drunk driver is not just an alcohol user, but rather an alcohol abuser. This fact is further confirmed by the 1982 results of the Michigan Alcohol Screening Test (MAST) administered to all persons attending the Alcohol Driver Education Program. The MAST results revealed that 47% of the attendees were alcoholic; 34.5% were probable alcoholic; and only 18.5% could be considered non-alcoholic.

And so, who is the drunk driver in Kentucky? He is a young, white male with limited occupational skills and a limited earning power. Furthermore, he is a drinker, drinking frequently during the week and in fairly large amounts and is, more than likely an alcoholic or on the road to becoming one. It is this person and the problem he creates when he drives after consuming too much alcohol that the task force addresses.

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KENTUCKY'S CRIMINAL JUSTICE SYSTEM
AND THE DRUNK DRIVER

In order to understand why and how the current system should be improved, it is important to understand how the system operates. Figure 1 illustrates the criminal justice system and the procedures used in a drunk driving case.

Basically, the current system can be divided into three phases: detection and apprehension; adjudication of guilt; and, imposition of sanctions.

In the detection and apprehension phase, a law enforcement officer notices a person whose driving behavior gives him cause to believe he may be driving under the influence. The officer stops the driver, questions him and completes a basic check of his license registration and insurance. The officer may then request the driver to do the field sobriety tests. If the tests provide further evidence of potential intoxication, he arrests the driver and may take him to jail where he will be requested to take a test by breath, blood, urine or saliva to determine the level of intoxication. The driver has the right to request an additional test from the one selected by the officer.

If the driver's BAC is over .05%, he may be jailed or released on bond pending his trial. If the BAC is less than .05% he is released with no further action on the driving under the influence charge.

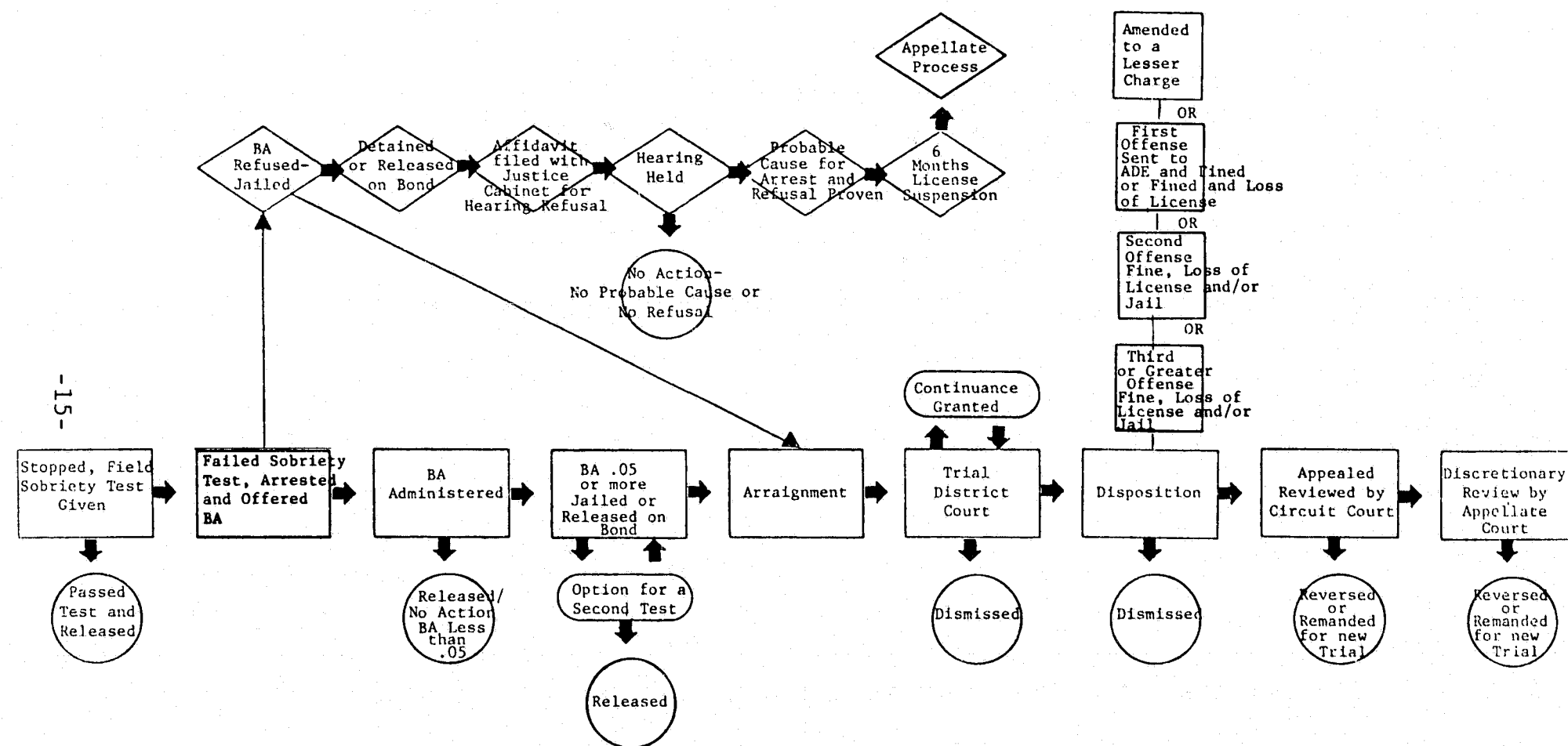
In some instances, the driver refuses to submit to the officer's selected test. If this occurs, the driver is jailed and later released on bond. A hearing officer in the Justice Cabinet will hear the case of his refusal at a hearing held separate from the trial. The refusal hearing focuses on whether or not there was probable cause for the arrest and that the test was refused. If these two facts are proven, then the driver loses his driving privilege for six months.

The second phase is the court process. The driver is arraigned and his case set for trial. There is approximately a 30-45 day time lapse before the trial occurs. During the trial the prosecutor must prove that the driver was intoxicated and the BAC level of the driver. Based on the evidence presented, a determination is made of innocence or guilt or the charge is amended, i.e. reckless driving or public intoxication.

If the driver is found guilty, then the third phase occurs. A sentence is imposed by the judge based on the offense and whether or not there have been previous driving under the influence offenses.

Figure 1

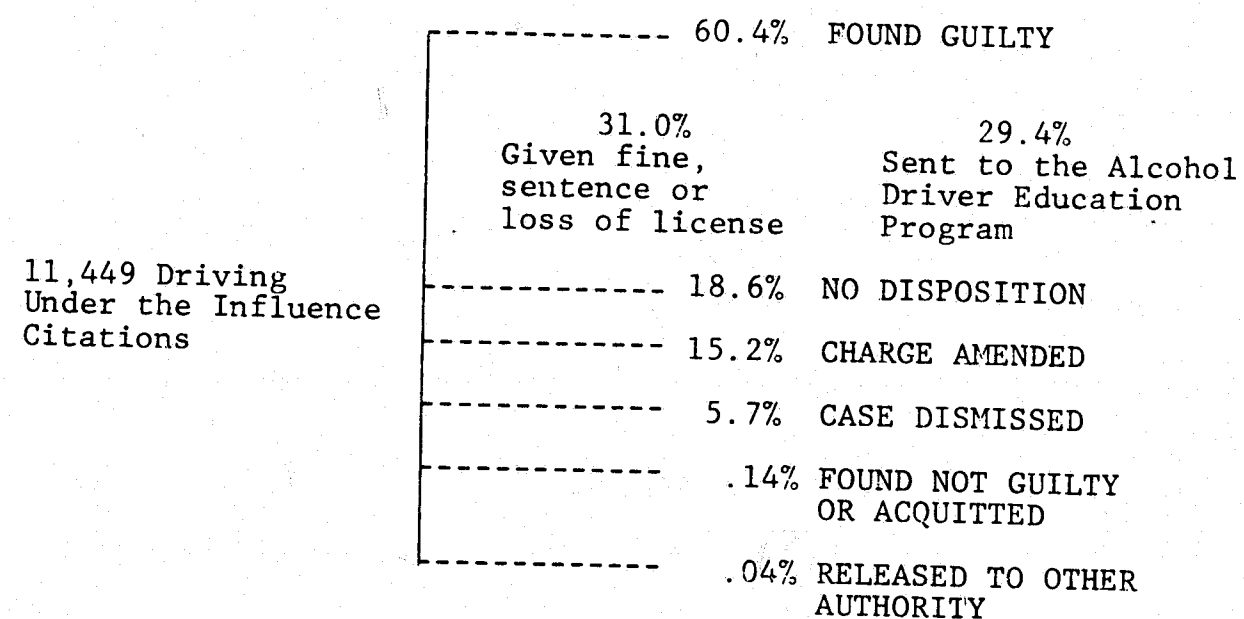
Flow Chart of the Processing of a
Driving Under the Influence Case
Under Current Kentucky Law



The following information is presented in order that an understanding can be gained on the final results of driving under the influence cases in Kentucky.

During 1982, the Kentucky State Police issued 11,449 citations for driving under the influence. Not all of the persons arrested for driving under the influence were found guilty. The following chart illustrates the various outcomes of the 11,449 citations by percent.

SUMMARY OF THE FINAL CASE DISPOSITIONS FOR THE
1982 DRIVING UNDER THE INFLUENCE CITATIONS USED
BY THE KENTUCKY STATE POLICE



As the chart indicates, only 60.4% of the sample driving under the influence citations ended in a guilty verdict. If Kentucky is to send the message that Kentuckians cannot drink and drive, changes in the system must occur.

THE
TASK FORCE
PROCESS

SUMMARY OF THE TASK FORCE PROCESS

On February 8, 1983, the twenty-one members of the Governor's Task Force on Drunk Driving began the task of addressing the problem of drunk driving. In order to address the broad scope of the drunk driving problem, the Task Force developed four committees to study the drunk driving problem. The committees developed were: Education and Prevention; Adjudication and Alternative Remedies; Fiscal Impact; and, Legislation.

During the next four months the Task Force studied the new federal alcohol traffic safety incentive grant program regulations, heard testimony from a member of the Presidential Commission on Drunk Driving and reviewed a film on an actual drinking and driving demonstration.

Each of the four committees held interim meetings between the monthly Task Force meetings. In the committee meetings, the members reviewed current research data and federal and state statistics, studied the work and findings of other states' task forces on drunk driving as well as received testimony from professions that deal with the drunk driving problem on a day-to-day basis.

In the end, the Task Force reviewed the findings and recommendations of each of the committees and developed by consensus the final Task Force recommendations. The following thirty-one recommendations are the result of a broad range of opinions, experience and attitudes as well as the culmination of many hours of study by the Task Force members.

THE RECOMMENDATIONS

PUBLIC EDUCATION AND AWARENESS RECOMMENDATIONS

RECOMMENDATION 1: Extend and Expand the Governor's Task Force on Drunk Driving

Commentary: Solving the problem of drunk driving is a complex and difficult task. The work of addressing the problem does not end with the development and issuance of recommendations by the Task Force. Rather, this marks the beginning of the real work - assuring that the recommendations are implemented. Even then, the task is not complete. There must be further study of the effects of the new strategies, as well as continued refinement and revisions of the strategies to assure the desired effect, a decrease in the problem of drunk driving. Therefore, it is essential to create and maintain a body with the responsibility of seeing that the recommendations become reality.

Furthermore, as the recommendations of this Task Force are put into place, it will be necessary to draw upon a broad range of agencies and organizations. For successful implementation, it is essential that there be full cooperation among the various organizations. Therefore, it is recommended that the membership of the Task Force be revised and expanded to include representatives from the affected organizations and from supporting systems.

Representatives should be included from industry, law enforcement, associations which address the problems of alcoholism, civic organizations, the media and the medical and legal professions. Additionally, it is important that the representation include not only the policy makers, but also the professionals who deal directly with the problem of drunk driving.

Action: The Governor should extend the Drunk Driving Task Force by means of an Executive Order.

RECOMMENDATION 2: Establish and Support an On-going Public Information and Education Campaign on Drunk Driving

Commentary: One of the major findings of the Task Force is that the problem of drunk driving is due in part to our society's attitude on drinking and driving. Thus, in order to achieve any long term changes in the drunk driving problem, there must be a change in societal attitudes which will result in a change in individual behavior.

One approach to changing attitudes is through the use of an organized, comprehensive campaign. The Task Force believes that the use of the media, radio, television and newspapers, is one of the best approaches in gaining public awareness of the problem. There are several reasons for developing a uniform media campaign on drunk driving. First, and foremost, it will assure that the information disseminated is accurate and consistent. Second, a central theme can be adopted which will espouse the message that drinking while driving is not socially acceptable behavior. Third, it can provide the necessary mechanism to raise the public's consciousness about the legal penalties and hazards of drunk driving. And finally, it can serve as the basis for development of a statewide constituency which supports driving under the influence countermeasures.

In order to implement a statewide media campaign, it will be necessary to designate a single agency to serve as the campaign coordinator. Additionally, this agency should have the responsibility of collecting pertinent information as well as disseminating the information. The agency should also serve as the liaison with local organizations in developing their own programs.

Action: The Highway Safety Section of the Kentucky State Police should be established as the coordinating agency for the anti-driving under the influence media campaign. The Highway Safety Section should coordinate all the public information efforts related to drunk driving on both the state and local efforts. A campaign logo should be developed and a speaker's bureau established and all applicants for federal and/or state alcohol or traffic grant monies should be required to submit a public information and education plan.

Furthermore, the Highway Safety Section should consult with ancillary organizations such as MADD (Mothers Against Drunk Driving), SADD (Students Against Drunk Driving) and BACCHUS (Boost Alcohol Consciousness Concerning the Health of University Students) in campaign efforts. Efforts should also be made to encourage development of local task forces to address the problem in each Kentucky community.

The Highway Safety Section should also promote practices which will lessen injuries and fatalities when drunk driving crashes do occur such as seat belt usage, child restraint devices and passive restraints.

RECOMMENDATION 3: Provide Established Citizen Groups with Financial Support and Public Relations Materials to Aid in Their Anti-Driving Under the Influence Efforts

Commentary: The current nationwide momentum to address the problem of drunk driving is primarily the result of the activities of citizen groups, which demonstrates the positive and very powerful effect such organizations can have. Because of the effectiveness of these organizations, they should be provided with the basic necessary resources to continue their "grassroots" efforts to fight the problem of drunk driving.

Action: The Governor should direct any agency which administers federal funds for alcohol and/or traffic safety programs to solicit proposals from established citizen groups which are addressing the problem of drunk driving. Funds should only be given to those groups which provide a comprehensive project plan, meet the federal program criteria and would be limited to public education activities, such as printing, pamphlets and brochures and conducting conferences.

RECOMMENDATION 4: Expand and Increase Reviews of Alcohol and Drug Educational Materials Used by the State Educational System to Maintain Inclusion of Current Information

Commentary: The availability of alcohol and drug information is constantly growing. With increased public awareness of the problems of alcoholism, drug usage and impaired driving has come an increase in the availability of contemporary alcohol information. Such current alcohol and drug information should be incorporated into Kentucky's educational system. Text books should be selected which contain appropriate alcohol and drug educational information for all grade levels, K-12. Furthermore, curriculum reviews should focus on the incorporation of new ideas, concepts and discoveries made relating to alcohol and drug use and abuse.

Action: The Governor should request that the Superintendent of Public Instruction require Textbook and Curriculum Review Committees to review available materials and/or information in a manner which supports the use of enhanced alcohol and drug information.

Additionally, the Superintendent of Public Instruction should encourage school boards, school administrators, teachers and other appropriate school personnel to present information on alcohol and drug usage and highway safety in

appropriate classes and other settings to increase young people's awareness of problems related to and associated with alcohol and drug use. Furthermore, school systems should provide school personnel with appropriate guidance, inservice training and curricular materials for presentation of contemporary alcohol and drug information.

RECOMMENDATION 5: Expand and Increase Training for Judges, Prosecutors and Enforcement Personnel

Commentary: The Task Force believes that in order to effectuate a comprehensive, tough drunk driving program, that there must be an increase in specific training for the persons who will implement the program. Currently, judges and prosecutors are given insufficient training related to the problems and issues of drunk driving.

Training for law enforcement officers should focus on the law, detection of drunk drivers, arrest procedures, use of testing equipment and the preparation of cases for court. Law enforcement personnel should also receive specific training on detection of persons under the influence of chemical substances. Increased training for law enforcement personnel will yield better driving under the influence arrests and thus get more drunk drivers off our highways.

Likewise, increased training for prosecutors is essential to insure proper prosecution of drunk drivers which will lead to application of the new harsher penalties. Therefore, prosecutors should be trained in the law itself, the basic elements of driving under the influence case prosecution as well as common and reoccurring legal issues related to obtaining driving under the influence convictions.

Judges also need to be provided with training in driving under the influence laws and related court decisions. They also need to have a clear understanding of the law and its application in order to properly apply justice in driving under the influence cases.

The training provided should be specific and provided annually so as to incorporate state of the art information. All personnel should be required to attend when feasible.

Action: The Chief Justice of the Supreme Court should direct the Administrative Office of the Courts to implement an annual driving under the influence training course for all district judges. The Attorney General should direct the Prosecutor's Advisory Council to implement an annual driving under the influence training course. The Secretary of Justice should direct both the Department of State Police and Department of Training to implement expanded driving under the influence training courses for all law enforcement personnel.

ENFORCEMENT RECOMMENDATIONS

RECOMMENDATION 6: Permit Use of the Preliminary Breath Test Device by Police Officers to Assist in Determination of Probable Cause for a Driving Under the Influence Arrest

Commentary: In order to enhance the number and quality of driving under the influence arrests, law enforcement personnel must be provided with a variety of tools to determine intoxication. One such tool is the preliminary breath test device (PBT). Use of the PBT facilitates the officer's ability to determine if reasonable grounds exist to believe the driver was intoxicated while driving. Furthermore, use of the PBT provides the officer with information that would assist in the selection of the appropriate test to determine intoxication, i.e., where an intoxicant other than alcohol is suspected.

The Task Force recommends use of a PBT device which registers "Pass or Fail." Under the current system, a person with a BAC of .10% might pass the field sobriety test which would not reflect his actual state of intoxication. However, with the use of the PBT device, this same person would register "fail," indicating the actual state of intoxication. Thus, the PBT would enable the law enforcement officer to remove more impaired drivers off the road and would allow the innocent driver to proceed without an arrest.

Action: The General Assembly should enact legislation to permit use of the preliminary breath test device to screen drivers and to establish probable cause in driving under the influence arrests. (Section 16(7) of the proposed legislation.)

RECOMMENDATION 7: Enact Legislation to Permit Police Officers to Request more than One Test to Determine Intoxication

Commentary: Under existing law, a police officer may only request a person to take one test to determine intoxication. However, because a person may be intoxicated from chemical substances or a combination of chemical substances and alcohol, it is often necessary to perform more than one test by means of blood, breath, urine or saliva sample to determine intoxication. The Task Force recommends expansion of the current provision to allow a police officer to request multiple tests when necessary to determine intoxication and the cause of intoxication.

Action: The General Assembly should enact legislation to permit police officers to request multiple tests to determine whether or not a person is intoxicated. (Section 16(1) of the proposed legislation)

RECOMMENDATION 8: Enact Legislation to Provide Law Enforcement Personnel with the Power to make a Warrantless Arrest at the Scene of an Accident if the Officer has Probable Cause to Believe the Person was Driving Under the Influence

Commentary: Under current law, if an officer arrives at the scene of an automobile accident and suspected intoxication appears to be the causal factor, the officer must obtain a warrant before making a driving under the influence arrest. Often, by the time the warrant is obtained, the issue of driving under the influence is clouded by the delay. The Task Force recommends that the law be changed to provide law enforcement personnel with the ability to make arrests for driving under the influence in accident cases not witnessed by the arresting officer.

Action: The General Assembly should enact legislation to allow warrantless arrests for driving under the influence accident cases not committed in the presence of a law enforcement officer. (Section 28(1)(e) of the proposed legislation)

LICENSING RECOMMENDATIONS

RECOMMENDATION 9: Oppose Efforts to Allow Use of
a Restricted License for Driving
Under the Influence Cases

Commentary: The restricted driver license, sometimes called occupational license, is based on compassion for the drunk driver's family. The philosophy of a restricted license is to allow the drunk driver to use his automobile to continue his ability to make a living. What we tend to forget is that driving is a privilege and that those who abuse the privilege should lose their license.

Furthermore, testimony given to the Task Force clearly indicated that the restricted license program is difficult to administer. Law enforcement personnel have no way of knowing a person is violating their restrictions unless they are stopped for a new traffic violation.

Action: The General Assembly should resist any efforts to enact legislation to permit the use of restricted licenses.

RECOMMENDATION 10: Include Information on Alcohol
and Drug Use and Driving in the
Driver License Handbook and
Questions Relating to Intoxication
and Driving in the Driver License
Examination

Commentary: Currently, the driver license handbook does not contain any information related to the use of alcohol and/or drugs and driving. Likewise, the driver license examination does not include any questions for testing a person's knowledge on the effects of intoxication on driving. Inclusion of such information in both the booklet and the examination would ensure at least a minimum knowledge on impairment from and effects of alcohol and/or drugs as related to driving.

Action: The Secretary of the Justice Cabinet should direct the Department of Kentucky State Police to revise both the Driver License Handbook and Examination to include information and questions related to alcohol and drug use and driving in the next reprinting of these materials.

RECOMMENDATION 11: Enact Legislation to Change
the Process for Revocation of
the Driver License of the
Habitual Traffic Violator from
a Court Proceeding to an
Administrative Due Process
Hearing

Commentary: Under the current statute, the county attorney must initiate the process to revoke the driver license of a person deemed to be a habitual traffic violator. This process allows for prosecutorial discretion in the application of this procedure. The Task Force recommends removing this duty from the county attorney and placing it with the Justice Cabinet. This changes the license revocation process for the habitual traffic violator from a court proceeding to an administrative due process proceeding. This change provides several advantages. First, it would be quicker, thus removing the habitual traffic violator from the highway sooner. Second, the new procedure would be less cumbersome because the Division of Driver Licensing maintains the information and records needed to process these violators. Finally, the new procedure would provide for uniform application of the habitual traffic violator statute statewide and would be applied to all such violators, eliminating the present discretionary application.

Action: The General Assembly should enact legislation which would transfer the responsibility for revocation of the habitual traffic violator's driver license from the county attorney to the Division of Driver Licensing in the Justice Cabinet. (Section 19 of the proposed legislation)

PROSECUTORIAL AND JUDICIAL RECOMMENDATIONS

RECOMMENDATION 12: Enact Legislation to Revise the Current Definition for Driving Under the Influence to Use the Term "Other Chemical Substance" Rather than "Any Drug"

Commentary: The Task Force recommends this change in language in order that any intoxicating substance would be included under the driving under the influence statute rather than limiting it to alcohol and drugs.

Action: The General Assembly should enact legislation to revise the driving under the influence definition to include the term "Other Chemical Substances" (Section 1(1) of the proposed legislation)

RECOMMENDATION 13: Enact "per se" Legislation Establishing Driving with a .10% Blood Alcohol Concentration (BAC) or more as an Offense

Commentary: Present Kentucky law stipulates that a reading of .10% blood alcohol concentration (BAC) from either a breath or chemical test is presumptive evidence of legal intoxication. However, under our law, the burden of proof remains on the prosecution to prove that the person was indeed intoxicated.

The Task Force believes that there is sufficient scientific documentation to indicate that a person with a BAC reading of at least .10% is intoxicated regardless of body size or alcohol tolerance. This is particularly true when many persons exhibit signs of heavy intoxication at far lower levels.

Two random sample studies conducted by the Department of Kentucky State Police and the Division of Driver Licensing on the BAC readings of persons arrested for driving under the influence found the vast majority of those arrested were above the .10% level. The Department of Kentucky State Police study found that 90.7% of the BAC readings were above .10% with the average BAC reading being .18%. The Division of Driver Licensing study reported slightly higher results with 92% of the BAC readings falling above the .10% level. These findings further support the position that persons with a BAC reading greater than .10% are indeed intoxicated.

The establishment of driving with a .10% BAC or more as an offense is similar to the establishment that driving over the 55 m.p.h. is speeding. If you register .10% BAC or above you have committed the offense.

The Task Force believes that it is imperative to convey to the public that Kentucky is taking a strong stand against drunk driving. This is one measure that can convey the message - you cannot drink and drive.

Action: The General Assembly should enact legislation to establish driving with a .10% BAC or more as an offense. (Section 1(3) of the proposed legislation)

RECOMMENDATION 14: Enact Legislation to Permit the Suspension of a Person's Driver License Prior to Conviction when Aggravated Circumstances Exist

Commentary: This recommendation provides for the suspension of the driver license of a person arrested for driving under the influence if aggravated circumstances would include any of the following: prior traffic violations including driving under the influence convictions and reckless driving convictions; an accident with either personal injury or property damage resulted from this driving under the influence incidence; the presence of impairing chemical substances or a BAC above .10%; or, the person refused to take the requested tests. This provision allows the court to remove drunk drivers off the road pending trial.

Action: The General Assembly should enact legislation which would allow the court to suspend the driver license of a person arrested for driving under the influence. (Section 2 of the proposed legislation)

RECOMMENDATION 15: Enact Legislation to Require the Review and Consideration of a Person's Driving History Record Prior to Imposition of the Sentence

Commentary: Existing court rules provide judges with the authority to request a person's driving history record and to consider the person's record when determining the sentence to be imposed. Not all judges request or use the driving history record in determining the sentence. The Task Force believes that it is important for judges to review and consider the record prior to sentencing. Based upon the evidence presented in the driving history record, a judge could formulate the sentence to be imposed, based upon past actions of both the driver and the judicial system. Furthermore, a judge may use the record information to determine if he will withdraw the person's driving privilege pending trial.

Action: The General Assembly should enact legislation to require the court to review and consider a person's driving history record prior to sentencing for all driving under the influence cases. (Section 3 of the proposed legislation)

RECOMMENDATION 16: Enact Legislation Which Would Require the Court to Specify in the Court Record Why a Driving Under the Influence Charge was Amended or Dismissed

Commentary: In 1982, according to Kentucky State Police statistics, one out of every four driving under the influence arrests ended up either dismissed or amended. The statistics revealed that 6.97% of the driving under the influence cases were dismissed, while 18.62% of the driving under the influence cases were amended to another charge. Thus, for over 25% of the persons arrested for a driving under the influence offense, when a subsequent arrest occurs, it will appear to be their first offense since the prior offense never became a matter of record.

In an effort to address this problem, the Task Force recommends that the court be required to specify in the court record why a driving under the influence charge was either amended or dismissed. While it is realized that this measure in itself will not necessarily decrease the number of dismissals or amended charges, it will increase the public's knowledge and awareness of how driving under the influence cases are handled within their jurisdiction's judicial system. It is hoped that increased public awareness will lead to increased public pressure to enforce the driving under the influence laws in those areas where leniency is practiced.

Action: The General Assembly should enact legislation to require the court to specify in the court record why a driving under the influence charge was amended or dismissed. (Section 10 of the proposed legislation)

RECOMMENDATION 17: Enact Legislation to Increase the Penalties for Driving Under the Influence Offenses and to Limit the Conditions for Probation for Driving Under the Influence Offenses

Commentary: One of the most basic means of dealing with drunk drivers is in the development of punishments for those found guilty of driving under the influence. The Task Force tried to balance the interests of the public and the problems of the drunk drivers in developing their recommendations for revisions in the sanctions imposed for driving under the

influence. However, the Task Force feels strongly that the sanctions should clearly reflect the message that it does not pay to be a drunk driver in Kentucky.

In addition to increasing the sanctions for each driving under the influence offense, the Task Force recommends tightening the conditions of probation for driving under the influence offenses. In doing this, the Task Force believes there is a greater likelihood that the drunk driver will receive at least the minimum punishment deserved for the offense.

In developing the proposed punishment scheme the following concepts are incorporated. First, the fine structure is increased to reflect both inflation and the severity of the offense. Second, a service fee is established and will be assessed to all found guilty of driving under the influence. This is based on the philosophy that the offender should bear the costs of the driving under the influence program. Third, a mandatory minimum of jail time is established for the second and third offenses. Mandatory minimum jail time is also established for the first offense if the offender has a BAC reading over .20% or if the incident involved an accident with physical injury or property damage to another. Fourth, community service is required for second and third offenses. Fifth, a first time driving under the influence offender will lose his license for at least 60 days. Sixth, when probation is given for the second or greater driving under the influence offense, minimum conditions will be required for the fine, jail time and community service in addition to required attendance and completion of an alcohol treatment program.

Action: The General Assembly should enact legislation to establish the following sanctions for driving under the influence offenses:

FIRST OFFENSE

<u>Sanction</u>	<u>Proposed Penalty</u>
Fine	\$200-\$500 (\$200 non-suspendable)
Service Fee	\$150 (non-suspendable)
Jail Time	48 Hours - 10 days, if BAC .20% or more or if accident resulted with physical injury or property damage to another
Community Service	None

RECOMMENDATION 19: Enact Legislation to Allow Persons Convicted of Driving Under the Influence to Serve Jail Sentences on Non-Working Days

Commentary: While the Task Force wants to convey the message that the punishment for drunk driving should be strict, they also feel that certain factors should be taken into consideration and incorporated into the legislation. Therefore, the Task Force recommends a provision which allows a judge the option of sentencing a convicted drunk driver to jail on that person's non-working days in order that they could remain gainfully employed.

Action: The General Assembly should enact legislation to allow the court to sentence drunk drivers on non-working days if so desired. (Section 7 of the proposed legislation)

RECOMMENDATION 20: Enact Legislation to Increase the Penalties for Driving on a License Revoked for Driving Under the Influence

Commentary: The current Kentucky law does not differentiate between the first offense for driving on a license revoked for driving under the influence and any such subsequent offenses. The Task Force believes that there should be some distinction between the penalties for the one time offender and the repeat offender. Additionally, the Task Force believed that the lower limit for the fine amount should be increased from \$12 to \$250 for a first offense and from \$12 to \$350 for a subsequent offense.

Action: The General Assembly should enact legislation which would revise the penalties for driving on a license revoked for drunk driving to the following:

FIRST OFFENSE

<u>Sanction</u>	<u>Proposed Penalty</u>
Fine	\$250-\$500
Jail Time	AND 3 - 60 Days

SECOND OR GREATER OFFENSE

<u>Sanction</u>	<u>Proposed Penalty</u>
Fine	\$350-\$500 (\$350 Not Probable)
Jail Time	AND 10 Days - 1 Year (10 Days, Not Probable)

(Section 12 of the proposed legislation)

RECOMMENDATION 21: Enact Legislation to Require the Court Clerk to Report the Driving Under the Influence Case Disposition Within 15 Days of the Disposition

Commentary: The current law requires the clerk to report pleas and bond forfeiture for driving under the influence cases, but it does not specify an exact time frame for reporting the information, including the disposition. The Task Force makes this recommendation to clean up the vagueness of the existing language and to assure expedient processing of dispositional information. Furthermore, the statutory change would require the Justice Cabinet to include the driving under the influence dispositional information on the person's driving history record.

Action: The General Assembly should enact legislation to require the court clerk to report all driving under the influence case dispositions within 15 days of the disposition. (Section 14(3) of the proposed legislation)

RECOMMENDATION 22: Enact Legislation which Assesses a \$150 Service Fee to All Persons Convicted of Driving Under the Influence to Reflect the Philosophy that the Offender Will Pay for the Program Costs

Commentary: The Task Force feels strongly that all drunk driving program costs should be born by the offender and not the general taxpayer. In an effort to put this philosophy into action, the Task Force recommends establishing a \$150 service fee to be assessed to all persons found guilty of driving under the influence. Under this proposal, the funds generated by the service fee are earmarked for use in covering the cost of education and screening, administration and operation of treatment programs, enforcement, usage of jails for drunk drivers and furnishing driver history records for all driving under the influence cases.

Action: The General Assembly should enact legislation which establishes a \$150 service fee to be assessed to all persons found guilty of driving under the influence and should be distributed as follows:

\$50 to Justice Cabinet for screening and alcohol driving education program

\$40 to Cabinet for Human Resources to cover costs of the administration and operation of alcohol and drug treatment programs

\$30 to Justice Cabinet to be used for enforcement of driving under the influence laws

\$25 to County which has housed the driving under the influence offender to offset jail costs

\$5 to Justice Cabinet to cover the cost of furnishing a copy of the driver history record to the court for driving under the influence cases.

(Section 9 of the proposed legislation)

REHABILITATION AND TREATMENT RECOMMENDATIONS

RECOMMENDATION 23: Enact Legislation to Require Alcohol Screening for All First Time Driving Under the Influence Offenders After Disposition of Their Case

Commentary: The present alcohol driver education program administered by the Division of Driver Licensing within the Justice Cabinet administers the Michigan Alcohol Screening Test (MAST) to all persons attending the program. Based upon the results of the screening tests given in 1982, it appeared that 47% of the persons attending the alcohol driver education tested as alcoholic, 34.5% tested as probable alcoholic and only 18.5% tested as non-alcoholic. What these screening results indicate is that the majority of the persons found guilty of driving under the influence have a drinking problem.

Based upon these findings, the Task Force felt that it was critical to incorporate alcohol screening of all first time offenders in any program proposal. By utilizing a screening/testing mechanism, the court can obtain the necessary information to determine if the driving under the influence offender needs additional treatment.

Action: The General Assembly should enact legislation which would require the screening of all first time driving under the influence offenders to determine the extent of their alcohol problem and their need for further treatment. (Section 4(1) of the proposed legislation)

RECOMMENDATION 24: Enact Legislation to Provide Participation and Completion of an Alcohol Education Program as a Dispositional Option for First Time Driving Under the Influence Offenders

Commentary: The Task Force recommends providing participation in an alcohol education program as a sentencing alternative for the first time driving under the influence offender only. Participation in and successful completion of the alcohol education program would reduce the period of license revocation for the offender from 6 months to 60 days.

The Task Force feels that all first time driving under the influence offenders should be exposed to the problems and effects of mixing alcohol and driving and be forced to

examine his own problem of drinking and driving. However, the Task Force does not wish to utilize this same option for the repeat offender. The Task Force believes that by the time a person repeated the offense of driving under the influence, any education offered to the repeat offender should be coupled with treatment.

Action: The General Assembly should enact legislation which limits participation in an alcohol education program to only first time driving under the influence offenders. (Section 15 (4) of the proposed legislation)

RECOMMENDATION 25: Enact Legislation Which Would Require Participation In and Successful Completion of Alcohol and/or Drug Treatment for All Repeat Driving Under the Influence Offenders Placed on Probation

Commentary: With the likelihood of apprehension for drunk driving being one chance in 2,000, the Task Force feels that the person who is apprehended more than once is truly a repeat offender and in need of treatment for his alcohol and/or drug problem. Therefore, the Task Force recommends that any repeat offender given probation be required to attend and successfully complete a treatment program as a condition of his probation.

The Task Force realizes that many persons with an alcohol and drug problem will not readily accept treatment. They see themselves as the victim of circumstances, as the unfortunate one who got caught. In order to entice the drunk driver into a needed treatment program, the Task Force recommends including treatment as a condition of probation. Then the drunk driver may have the option of choosing between an extended jail sentence or participation in a treatment program. However, to assure that the drunk driver does not merely attend the treatment program and "bide his time" until his probation period has ended, the Task Force also recommends that the person must successfully complete the treatment program. By including this provision, the Task Force believes that there will be a greater likelihood that the person will be compelled to complete the needed treatment rather than face the punitive alternative.

Action: The General Assembly should enact legislation which would require attendance in and successful completion of an alcohol and/or drug treatment program for all repeat driving under the influence offenders placed on probation. (Section 5 (2) and Section 6(2) of the proposed legislation)

OTHER RECOMMENDATIONS

RECOMMENDATION 26: Establish a Central State Repository for All Blood Alcohol Concentration Readings Taken in Conjunction with Driving Under the Influence

Commentary: There is no specific agency currently vested with the authority for collecting and maintaining blood alcohol concentration (BAC) reading data. The Task Force recommends the establishment of a central repository for blood alcohol concentration data for several reasons. First, the collection of BAC data could be used to analyze the trends in the drunk driving problem. Second, the data could be used in conjunction with court information to monitor judicial implementation of the new driving under the influence law. And third, the data collected will assist the state in complying with federal reporting requirements on fatalities resulting from driving under the influence.

Action: The Secretary of the Justice Cabinet should direct the Department of Kentucky State Police to establish and maintain a repository for BAC data obtained throughout the state.

RECOMMENDATION 27: Enact Legislation to Require that a Blood Alcohol Concentration Testing be Conducted for All Traffic Fatalities

Commentary: It is currently impossible to establish the magnitude of the drunk driving problem in Kentucky, particularly as related to fatalities resulting from drunk driving. In order to fully comprehend the extent of the problem, it is essential that BAC testing be required for all fatalities occurring in a vehicular accident. Development of this data base will assist in further development of solutions to the problem.

Action: The General Assembly should enact legislation which would require BAC testing by coroners for all accidents that result in a fatality. (Section 25(1) of the proposed legislation)

RECOMMENDATION 28: Enact Legislation Which Would Prohibit the Jailing of Juveniles Accused of a Motor Vehicle Violation in an Adult Jail

Commentary: Under existing Kentucky law, when a juvenile, age 16 or older, is accused of a motor vehicle violation, the juvenile is treated like an adult offender. This treatment includes incarceration in the county jail.

The Task Force feels that an exception to the "treated like an adult offender" should be made in regards to where a juvenile is lodged if a jail sentence is imposed. Therefore, the Task Force recommends that all juveniles incarcerated for a motor vehicle violation be held in a designated facility as is the case for any other juvenile committing a non-traffic offense.

Action: The General Assembly should enact legislation which would prohibit the jailing of juvenile traffic violators in adult facilities. (Section 32(1)(a) of the proposed legislation)

RECOMMENDATION 29: Enact Legislation to Revise the Victim's Compensation Fund Statute to Allow Driving Under the Influence Victims to Apply for Victim Compensation Funds

Commentary: The current victim's compensation fund statute does not allow victims of automobile accidents to apply for funds unless the injury or death was "intentionally inflicted." Injury or death resulting from a driving under the influence accident are not considered to be intentionally inflicted.

The Task Force feels very strongly that driving under the influence victims are victims of injurious conduct and should be eligible to apply for victim compensation funds.

Action: The General Assembly should enact legislation to expand the victim compensation statute to include victims of driving under the influence accidents. (Section 27(3) of the proposed legislation)

RECOMMENDATION 30: Reactivate the Traffic Records Steering Committee and Establish a Citation Tracking System for Moving Hazardous Violations

Commentary: The Task Force believes that without proper and compatible record keeping systems, it is virtually impossible to compare data or identify specific countermeasure progress.

It is imperative that the data associated with the roadway, drivers, enforcement, accidents, adjudication, vehicles, and emergency medical service activities be coordinated. If agencies are allowed to begin development of programs, with no consideration of other users, any potential for development of a statewide traffic record system will be lost.

The development of both the steering committee and citation system will also assist in the monitoring and evaluation of the effectiveness of driving under the influence countermeasures.

Action: The Secretary of the Justice Cabinet should reactivate the Traffic Records Steering Committee. The Secretary of the Justice Cabinet and the Chief Justice of the Supreme Court should initiate efforts to develop a citation tracking system capable of tracking moving hazardous violations from issuance, through conviction or other disposition, including sanctions taken by law enforcement, prosecutors, judicial, and licensing authorities.

RECOMMENDATION 31: Establish a Working Group of Representatives from Law Enforcement, Corrections Courts, Prosecution and Defense State Agencies to Develop a Plan for Establishing a Statewide Criminal Justice Information System

Commentary: The functioning of the criminal justice system will be enhanced if there is the ability to track an individual through the various stages of the criminal justice system, as well as the maintenance of a uniform file on all law violating information, including traffic violations. Such a system should enable a judge, for example, to know that a person may have had earlier driving under the influence charges amended to public intoxication. In addition to the tracking capacity, there should be a data retrieval capacity available for the purpose of planning, resource allocation and assessment of future needs.

Action: The Governor should request the Secretary of the Justice Cabinet, Secretary of the Corrections Cabinet, the Chief Justice of the Supreme Court, the Attorney General and the Public Advocate to develop a working group to develop a state criminal justice information system.

**THE
PROPOSED
LEGISLATION**

SECTION INDEX TO PROPOSED DRUNK DRIVING BILL

- Section 1, Page 46-Prohibits driving under the influence of chemical substances or alcohol. Establishes presumptions up to .10% and makes driving with .10% illegal per se and contains implied consent to blood alcohol tests. Similar to KRS 189.520.
- Section 2, Page 48-Allows the Court to suspend drivers license pending trial if the court finds aggravated circumstances.
- Section 3, Page 49-Court required to consider entire driving history before final sentencing.
- Section 4, Page 49-Penalties for first offense. Fine of \$200 to \$500 plus \$150 service fee. If blood/alcohol level is .20% or more or there is property damage or physical injury to another, then 48 hours to 10 days in jail, not probatable.
- Section 5, Page 50-Penalties for second offense. 10 to 90 days confinement. Fine of \$350 to \$500. License revoked. 8 days not probatable. 10 days community service. If probation is given court must require: ten days of community service; report for treatment for 6 months and successfully complete program; pay cost of program; and pay minimum fine of \$350 plus \$150 service fee.
- Section 6, Page 51-Penalties for third or multiple offenses. 30 days to one year confinement. 15 days community service. Fine of \$500, 30 days not probatable. License revoked. If probated, the Court shall require: 20 days imprisonment; 15 days community service; treatment program for 1 year and successfully complete program; pay cost of program; and pay a minimum fine of \$500 plus \$150 service fee.
- Section 7, Page 52-Imprisonment on days other than days of regular employment.

Section 8, Page 52-Penalties for violation of terms of probation or community service. Court may order service of remaining days of confinement and/or revoke operator's license for six months.

Section 9, Page 53-Funding of programs by Human Resources, and Justice Cabinet from fines.

Section 10, Page 54--Court must specify on the record reasons for amendment or dismissal of DUI charges.

Section 11, Page 55--Penalty provision for police officer. Same as KRS 189.990.

Section 12, Page 55--Penalty for driving with revoked license. KRS 186.620. First offense 3 to 60 days confinement, \$250 to \$500 fine. Second or more offense-10 days to one year confinement, \$350 to \$500 fine, 10 days \$350 fine not probatable.

Section 13, Page 56--Technical nonsubstantive amendment to KRS 186.010.

Section 14, Page 58--Clerk of court must report within 15 days after conviction of disposition of charge.

Section 15, Page 59--Technical amendment to KRS 186.560 and requires revocation of minor's license until age 18.

Section 16, Page 62--Removes restriction to chemical tests for alcohol content and expands implied consent law to drugs, and permits preliminary breath tests.

Section 17, Page 67--Technical amendment to KRS 186.642.

Section 18, Page 68--Amendment of KRS 186.642. "Habitual Violator" to conform to Act.

Section 19, Page 70--Amendment to KRS 186.644 to permit the Justice Cabinet to revoke license of habitual violators.

Section 20, Page 71--Amendment of KRS 186.645 to conform to Section 20.

Section 21, Page 71--Amendment of KRS 186.646 to conform to Section 20.

SECTION INDEX TO PROPOSED DRUNK DRIVING BILL

Section 1, Page 46-Prohibits driving under the influence of chemical substances or alcohol. Establishes presumptions up to .10% and makes driving with .10% illegal per se and contains implied consent to blood alcohol tests. Similar to KRS 189.520.

Section 2, Page 48-Allows the Court to suspend drivers license pending trial if the court finds aggravated circumstances.

Section 3, Page 49-Court required to consider entire driving history before final sentencing.

Section 4, Page 49-Penalties for first offense. Fine of \$200 to \$500 plus \$150 service fee. If blood/alcohol level is .20% or more or there is property damage or physical injury to another, then 48 hours to 10 days in jail, not probatable.

Section 5, Page 50-Penalties for second offense. 10 to 90 days confinement. Fine of \$350 to \$500. License revoked. 8 days not probatable. 10 days community service. If probation is given court must require: ten days of community service; report for treatment for 6 months and successfully complete program; pay cost of program; and pay minimum fine of \$350 plus \$150 service fee.

Section 6, Page 51-Penalties for third or multiple offenses. 30 days to one year confinement. 15 days community service. Fine of \$500, 30 days not probatable. License revoked. If probated, the Court shall require: 20 days imprisonment; 15 days community service; treatment program for 1 year and successfully complete program; pay cost of program; and pay a minimum fine of \$500 plus \$150 service fee.

Section 7, Page 52-Imprisonment on days other than days of regular employment.

Section 8, Page 52--Penalties for violation of terms of probation or community service. Court may order service of remaining days of confinement and/or revoke operator's license for six months.

Section 9, Page 53--Funding of programs by Human Resources, and Justice Cabinet from fines.

Section 10, Page 54--Court must specify on the record reasons for amendment or dismissal of DUI charges.

Section 11, Page 55--Penalty provision for police officer. Same as KRS 189.990.

Section 12, Page 55--Penalty for driving with revoked license. KRS 186.620. First offense 3 to 60 days confinement, \$250 to \$500 fine. Second or more offense-10 days to one year confinement, \$350 to \$500 fine, 10 days \$350 fine not probatable.

Section 13, Page 56--Technical nonsubstantive amendment to KRS 186.010.

Section 14, Page 58--Clerk of court must report within 15 days after conviction of disposition of charge.

Section 15, Page 59--Technical amendment to KRS 186.560 and requires revocation of minor's license until age 18.

Section 16, Page 62--Removes restriction to chemical tests for alcohol content and expands implied consent law to drugs, and permits preliminary breath tests.

Section 17, Page 67--Technical amendment to KRS 186.642.

Section 18, Page 68--Amendment of KRS 186.642. "Habitual Violator" to conform to Act.

Section 19, Page 70--Amendment to KRS 186.644 to permit the Justice Cabinet to revoke license of habitual violators.

Section 20, Page 71--Amendment of KRS 186.645 to conform to Section 20.

Section 21, Page 71--Amendment of KRS 186.646 to conform to Section 20.

Section 22, Page 72--Amendment of KRS 186.647 to conform to Section 20.

Section 23, Page 72--Amendment of KRS 186.648 to conform to Section 20.

Section 24, Page 73--Amendment of KRS 186.992 to conform to Section 20.

Section 25, Page 73--Requires coroner's examination of blood in accident cases.

Section 26, Page 74--Technical amendment to KRS 189.990.

Section 27, Page 78--Victims of drunk driving offense eligible for compensation by crime compensation fund.

Section 28, Page 79--Permits arrest not in officer's presence without a warrant for DUI and an accident occurs.

Section 29, Page 81--Amends KRS 431.015 to conform to Section 30.

Section 30, Page 81--Repeals KRS 186.643.

Section 31, Page 82--Repeals KRS 189.520.

Section 32, Page 82--Prevents jailing minors for traffic violations.

Section 33, Page 85--Severability Clause.

AN ACT relating to Traffic Offenses

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 189A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) No person under the influence of an intoxicating beverage or other chemical substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No person shall operate a motor vehicle anywhere in this state while under the influence of an intoxicating beverage or other chemical substance which may impair one's driving ability.

(3) No person shall operate a motor vehicle anywhere in this state while having 0.10 per cent (1/10%) or more by weight of alcohol in his blood.

(4) No peace officer or state police officer shall fail to enforce rigidly this section.

(5) In any criminal prosecution for a violation of subsections (1) and (2) of this section, wherein the defendant is charged with having operated a vehicle while under the influence of an intoxicating beverage, the amount of alcohol in the defendant's blood as determined at the time of making a chemical analysis of his blood, urine, breath or other bodily substance, shall give rise to the following presumptions:

(a) If there was 0.05 percent (5/100%) or less by weight of alcohol in such blood, it shall be presumed that the defendant was not under the influence of intoxicating beverages;

(b) If there was more than 0.05 percent (5/100%), but less than 0.10 (1/10%) percent by weight of alcohol in such blood, such fact shall not constitute a presumption that the defendant either was or was not under the influence of intoxicating beverages, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

(6) The provisions of subsection (4) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

(7) No person may be compelled to submit to any test specified in subsection (4) of this section, but his refusal to submit to such test shall result in a license revocation hearing as provided in KRS 186.565(3) and may be introduced as evidence in the criminal prosecution for a violation of subsections (1), (2) and (3) of this section.

(8) Only a physician, registered nurse or qualified medical technician, duly licensed in Kentucky, acting at the request of the arresting officer can withdraw any blood of any person submitting to a chemical test under this section of KRS 186.565.

(9) The person tested shall be permitted within a reasonable time to have a duly licensed physician of his own choosing and at his own expense administer chemical tests in addition to the tests administered at the direction of the police officer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

Upon arrest of a person for violation of subsection (1), (2) or (3) of section 1 of this Act, and on motion of the attorney representing the Commonwealth, the court may suspend the arrested person's driving license until final disposition of the case if the court finds that there is probable cause to believe that the person arrested violated subsection (1), (2) or (3) of section 1 of this Act and any of the following aggravated circumstances:

1. The prior driving history of the arrested person indicates prior traffic violations including but not limited to driving under the influence of intoxicating beverages or impairing chemicals or other traffic offenses demonstrating a lack of regard for the safety of others; or

2. The violation of subsection (1), (2) or (3) of section 1 of this Act resulted in an accident involving physical injury or property damage;

3. The blood alcohol content of the arrested person's blood is 0.10 percent (1/10%) or more by weight of alcohol in such blood; or the presence of other impairing chemical in the blood of the arrested person are such as to establish probable cause that the person violated subsection (1) or (2) of section 1 of this Act; or

4. The arrested person refused the arresting officer's request to take tests of his blood, breath, urine, or saliva for the purpose of determining the alcoholic content of his blood or the presence of any chemical substance which may impair driving ability.

SECTION 3. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) No court shall impose sentence for conviction of an offense under subsections (1), (2), or (3) of section 1 of this Act without first reviewing and considering the complete driving history record of the offender.

(2) The complete driving history record shall be prepared by the justice cabinet, division of driver licensing, and presented to the sentencing court upon its written request. The report shall include a listing of the defendant's history of motor vehicular violation or any other information ordered by the court provided it is available to the justice cabinet, division of driver licensing.

(3) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of his driving history record and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them.

(4) Nothing in this section shall be interpreted as preventing the attorney representing the Commonwealth of Kentucky from obtaining from the justice cabinet an oral verification of the driving history record of a person arrested under this act prior to trial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted for the first violation of subsection (1), (2) or (3) of section 1 of this Act shall be punished by a fine of not less than two hundred dollars (\$200) nor more than five hundred (\$500) dollars, two hundred of which is not subject to suspension by the court; ordered

to submit to testing and observation in order to determine if the defendant has an alcohol and/or drug problem which needs further treatment; ordered to enroll in and successfully complete such driver's education program as the justice cabinet shall establish or approve; and payment of a non-suspendable fee of one hundred and fifty (\$150) dollars;

(2) Any person convicted for the first violation of subsection (1), (2) or (3) of this Act who is found to have a .20 percent (2/10%) or more by weight of alcohol in his blood or is involved in an accident which results in either physical injury or property damage to another shall be punished by imprisonment in the county jail for not less than forty-eight (48) hours nor more than ten (10) days, which is not subject to suspension or probation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) If any person is convicted of a violation of subsections (1), (2) or (3) of section 1 of this Act and the offense occurred within five (5) years of a prior offense which resulted in conviction of a violation of subsection (1), (2) or (3) of section 1 of this Act or of a law of any other state, territory or possession of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico, substantially conforming to subsection (1) or (2) of section 1 of this Act that person shall be punished by imprisonment in the county jail for not less than ten (10) days nor more than ninety (90) days, ten days of community service, by a fine of not less than three hundred and fifty (\$350) dollars nor more than five hundred (\$500) dollars, and a non-suspendable fee of one hundred and fifty (\$150) dollars.

(2) If the court probates a sentence of imprisonment or fine under subsection (1) of this section, in addition to any other condition of probation, the court shall require the offender to do all of the following: serve a term of imprisonment of at least eight (8) days; perform the ten days of community service; report to a facility designated by the secretary of the cabinet for human resources for participation in an alcohol and/or drug treatment program approved by the cabinet for human resources for a period of not more than six (6) months; successfully participate and successfully complete, including paying the costs of the treatment and/or education program; and pay a fine of not less than three hundred and fifty (\$350) dollars.

SECTION 6. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Any person who is convicted of a violation of subsection (1), (2) or (3) of section 1 of this Act and has been convicted of two (2) or more prior convictions of subsections (1), (2) or (3) of section 1 of this Act or of a law of any other state, territory or possession of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico, substantially conforming to subsection (1) or (2) of section 1 of this Act within the last five (5) years preceding the last conviction, shall be punished by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year, fifteen (15) days of community service, and by a fine of not less than five hundred (\$500) dollars, and a non-suspendable fee of one hundred and fifty (\$150) dollars.

(2) If the court probates a sentence of imprisonment or fine under subsection (1) of this section, in addition to any other condition of probation, the court shall require the offender to do all of the following: serve a term of imprisonment of at least twenty (20) days; perform the fifteen (15) days of community service; report to a facility designated by the secretary of the cabinet for human resources for participation in an alcohol and/or drug treatment program approved by the cabinet for human resources for a period of not more than one (1) year; successfully participate and successfully complete, including paying the costs of the treatment and/or education program; and pay a fine of not less than five hundred (\$500) dollars.

SECTION 7. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

The court may order any person punished by imprisonment pursuant to a violation under this Act to be imprisoned on days other than days of regular employment of the person, as determined by the court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet for human resources or its designated agent notifies the court that any person, granted probation, has failed at any time to participate successfully in the treatment program required in this Act and the court determines that the offender has violated this condition of probation or any other condition of probation, the court may revoke or terminate the probation and shall proceed under either of the following provisions:

- (a) impose the original sentence;
- (b) or grant a new term of probation on new conditions imposed by the court; and
- (c) inform the justice cabinet and the cabinet for human resources that his probation has been revoked or that probation is continued and any new terms imposed.

(2) If the agency to whom an offender has been assigned to provide community service notifies the court that such person has failed at any time to participate successfully in the community service program as required by the court and the court determines that the offender has violated this condition of probation or any other condition of probation, the court may revoke or terminate the probation and shall proceed under either of the following provisions:

- (a) impose the original sentence;
- (b) or grant a new term of probation on new conditions imposed by the court; and

SECTION 9. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) From the fee imposed for the conviction of any offense pursuant to this Act, forty (\$40) dollars shall be credited to a special account within the general fund and shall be used exclusively by the cabinet for human resources for the purpose of administering the treatment and/or education program described above.

(2) From the fee imposed for the conviction of any offense pursuant to this Act, five (\$5) dollars shall be credited to a special account within the general fund and shall be used by the justice cabinet for maintaining for and providing to the courts a complete driving history record on each licensed individual.

(3) From the fee imposed for the conviction of any offense pursuant to this Act, fifty (\$50) dollars shall be credited to a special account within the general fund to be administered by the justice cabinet and shall be used exclusively for the driver's education program and screening of all individuals arrested for violations of subsection (1), (2) or (3) of section 1 of this Act in order to determine if the person has a need for alcohol and/or drug treatment or education.

(4) From the fee imposed for the conviction of any offense pursuant to this Act, twenty-five (\$25) dollars shall be returned to the county where the offense occurred to be used exclusively for county detention facilities.

(5) From the fee imposed for the conviction of any offense pursuant to this Act, thirty (\$30) dollars shall be credited to a special account within the general fund to be administered by the justice cabinet for programs at all levels of government designed to increase enforcement of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) When an allegation of a violation of subsection (1), (2) or (3) of section 1 is dismissed by the court, an

allegation of a different or lesser offense is substituted for an allegation of a violation of subsection (1), (2) or (3) of section 1, or an allegation of a prior conviction is dismissed or stricken, the court shall specify on the record its reason or reasons for the order. The court shall also specify on the record whether the dismissal, substitution, or striking was requested by the prosecution and whether the prosecution concurred in or opposed the dismissal, substitution, or striking.

(2) When the prosecution makes a motion for a dismissal or substitution, or for the striking of a prior conviction, the prosecution shall submit a written statement which shall become part of the court record and which gives the reasons for the motion. The reasons shall include, but need not be limited to, problems of proof, the interests of justice, why another offense is more properly charged, if applicable, and any other pertinent reasons. If the reasons include the "interests of justice", the written statement shall specify all of the factors which contributed to this conclusion.

SECTION 11. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

Any peace officer who violates subsection (3) of section 1 of this Act shall be fined not less than forty dollars (\$40.00) nor more than one hundred dollars (\$100.00).

SECTION 12. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any person convicted for violation of KRS 186.620 shall be punished as follows:

(a) Upon a first conviction, by imprisonment in the county jail for not less than three days nor more than 60 days and by fine of not less than two hundred and fifty dollars (\$250) nor more than five hundred dollars (\$500).

(b) Upon a second or any subsequent conviction within five years of a prior conviction, by imprisonment in the county jail for not less than 10 days nor more than one year and by fine of not less than three hundred and fifty dollars (\$350) nor more than five hundred dollars (\$500).

(c) If any person is convicted of a second or subsequent offense under this section within five years of a prior conviction and is granted probation, it shall be a condition of probation that the person be confined in the county jail for at least 10 days and be fined three hundred and fifty dollars (\$350).

Section 13. KRS 186.010 is amended to read as follows:

(1) "Department" as used in KRS 186.400 to 186.64[0]9 means the department of transportation; except as specifically designated. "Department" as used in KRS 186.020 to 186.270 means the department of transportation only with respect to motor vehicles, other than commercial vehicles, "department" as used in KRS 186.020 to 186.270 means the bureau of vehicle regulation when used with respect to commercial vehicles.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor

(4) "Motor vehicles," means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. Motor vehicle shall not include a moped as defined in this section.

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(6) "Operator" means any person in actual control of a motor vehicle upon a highway.

(7) "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(8) (a) "Vehicle", as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth

and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

(9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, side car attachments and motor vehicles registered under KRS 186.060.

Section 14. KRS 186.550 is amended to read as follows:

(1) The clerk of any court having jurisdiction over offenses committed under motor vehicle laws shall report

upon a form furnished by the department the conviction, pleas or forfeiture of bond arising under motor vehicle laws, to the department within fifteen (15) days.

(2) The court shall take up the motor vehicle operator's license certificate of a person convicted of any of the offenses for which mandatory revocation is provided by KRS 186.560 and have it immediately forwarded to the department with the report covering the conviction.

(3) Within fifteen (15) days of final disposition of every arrest for violation of section 1 of this Act, the clerk of any court having jurisdiction over offenses committed under motor vehicle laws shall report to the justice cabinet said final disposition. The justice cabinet shall include such charges with the disposition of each case, excluding dismissals, on the individual's driving history record noting that the original charge was a violation of section 1 of this Act.

Section 15. KRS 186.560 is amended to read as follows:

(1) The justice cabinet ~~[department]~~ shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Violation of subsection (1), (2) and (3) of section 1 of this Act ~~[Driving a vehicle while under the influence of intoxicating liquor or narcotic drugs]~~.

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways.

(d) Any felony in the commission of which a motor vehicle is used.

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months.

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident.

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years.

(h) Conviction of violations of subsection (1), (2) or (3) of section 1 of this Act by a person under the age of 18 and said revocation of the license shall be until the person convicted obtains the age of 18 years or until the period of suspension has run.

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the justice cabinet ~~[department]~~ shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the justice cabinet ~~[department]~~ shall forthwith cancel it.

(3) The justice cabinet ~~[department]~~ upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be not less than two (2) years. Provided, however, the justice cabinet ~~[department]~~, upon receipt of the written notice ~~[recommendation]~~ of the court in which any person has been convicted of violating section 1 of this Act ~~[KRS-189-520(2)]~~, that the person ~~[who]~~ has had no previous conviction of said offense, that the court has probated the sentence ~~[said-person's-operator's-license shall-not-be-revoked;-restricts-said-person's-operator's license-according-to-such-terms-and-conditions-as-the-secretary-in-his-discretion-may-require]~~, shall revoke the person's operator's license for 60 days provided said person has enrolled in such alcohol and/or drug driver's education program as the justice cabinet ~~[department]~~ shall require. In the event said person fails to satisfactorily complete said alcohol and/or drug driver's education

program [~~or-violates-the-restrictions-on-his-operator's~~
~~license~~], the justice cabinet [~~department~~] shall forthwith
revoke said operator's license for a period of six (6) months.
Any person whose driver's license has been suspended by the
court pursuant to section 2 of this Act shall be given
credit toward their suspension for the time period prior to
final disposition for which their license was suspended.

Section 16. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this
state is deemed to have given his consent to [~~a-chemical~~]
tests of his blood, breath, urine or saliva for the purpose
of determining the alcoholic content of his blood, or the
presence of any chemical substance which may impair his
driving ability, if arrested for any offense arising out of
acts alleged to have been committed while the person was
driving or in actual physical control of a motor vehicle in
this state while under the influence of intoxicating beverages
or impairing chemical substances. The tests shall be administered
at the direction of a law enforcement officer having reasonable
grounds to believe the person to have been driving or in
actual physical control of a motor vehicle in this state
while under the influence of intoxicating beverages or
impairing chemical substances. The law enforcement agency
by which the officer is employed shall designate which of
the aforesaid tests shall be administered, and provide
necessary equipment. The state shall provide one (1) breathalyzer
and simulating unit for each county, paid for by state
funds.

(2) Any person who is dead, unconscious or who is
otherwise in a condition rendering him incapable of refusal
is deemed not to have withdrawn the consent provided in
subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request
of a law enforcement officer to submit to [~~a-chemical~~] tests
designated by the law enforcement agency as provided in
subsection (1) of this section, the requesting officer shall
warn the person of the effect of his refusal to submit to
the tests. If the person again refuses, none shall be
given, but the justice cabinet [~~department of transportation~~],
upon the receipt of a sworn report of the law enforcement
officer that he had reasonable grounds to believe the arrested
person had been driving or was in actual physical control of
a motor vehicle in this state while under the influence of
intoxicating beverages or impairing chemical substances,
that the person refused to submit to the tests upon the
request of the law enforcement officer, and that the person
again refused to submit to the tests after the law enforcement
officer warned him of the effect of his refusal. The justice
cabinet [~~department~~] shall immediately serve notice upon
said person in writing by mailing the notice to the person
by certified mail to the last known residence address of the
person or if the address is unknown, to the last known
business address of the person to appear before the secretary
or his duly authorized agent and show cause why his license
to operate a motor vehicle, or if said person is a nonresident
his privilege to operate a motor vehicle within this state
should not be revoked; or if the person is a resident without

a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical but not sooner than ten (10) days after the issuance of the notice and at a time and place designated by the secretary.

(4) For the purpose of the hearing, held in accordance with the order to show cause, the secretary may appoint an examiner who shall have the power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages or impairing chemical substance, whether the person was placed under arrest, and whether he refused to submit to the tests upon request of the officer. All testimony at the hearing shall be recorded. The secretary's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The secretary within ten days after the completion of the hearing shall order either: that the person's license to operate a motor vehicle, or, if the person is a nonresident, his privilege to operate a motor vehicle within this state be revoked for a period of not more than six (6) months or if the person is a resident without such license that there should be a denial of issuance of a license for a period of

not more than (6) months; or that no action be taken regarding said person's privilege to operate a motor vehicle. The secretary shall immediately notify the person of his ruling in writing by certified mail. If the person shall fail to attend the show cause hearing without good cause shown the secretary shall forthwith revoke the person's license or privilege to operate a motor vehicle or deny issuance of a permit or operator's license.

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued. The perfected appeal suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected. The justice cabinet [~~department of transportation~~] shall file with its answer a copy of the secretary's ruling and a transcript of evidence. The court's review is limited to whether the secretary's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals suspends the order of

revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected.

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the justice cabinet [~~department~~] shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. [~~The provisions of this section shall not apply to a person who refuses to submit to a chemical test of his blood, breath, urine or saliva if that person has enrolled in a driver's education program under the terms and conditions of KRS-186.560(4) and rules and regulations adopted thereunder.~~]

(7) Nothing in this Act shall be construed as preventing a peace officer from requesting the operator of a motor vehicle to take a preliminary breath test on equipment approved by the justice cabinet which only indicates a pass/fail standard of intoxication by alcohol blood content of 0.10 percent (1/10%) or more but does not indicate a percentage. The use of this preliminary breath test shall be limited to determining whether the officer has probable cause to believe that the operator of a motor vehicle was under the influence of intoxicating beverages.

[~~(7) Any person who has had no previous conviction for violation of KRS-189.520 and who has refused to submit to a chemical test of his blood, breath, urine, or saliva may~~

~~apply to a district court of competent jurisdiction for permission to enter a driver's education program as provided pursuant to KRS-186.560. If he is permitted by the court to enter the program he shall be subject to the same terms and conditions as any other person entering the program. The department shall suspend the license for six (6) months of any person participating in such program if he fails to satisfactorily complete such driver's education program.]~~

Section 17. KRS 186.641 is amended to read as follows:

On or after July 1, 1984 [~~June 21, 1974~~] and when the records of the justice cabinet [~~department of transportation~~] disclose that any person has been convicted under the traffic laws of this state, or a valid municipal or county ordinance paralleling and substantially conforming to a like state law, of an offense occurring on or after July 1, 1982 [~~June 21, 1974~~], which record of conviction, when taken with, and added to the previous convictions of such person of offenses occurring within five (5) years prior to the date of such offense, as contained in the files of the justice cabinet [~~department of transportation~~], shall reveal that said person is an habitual violator, as hereinafter defined [~~the secretary of the department of transportation shall forthwith certify to the county attorney of the county in which such person resides according to the records of the department, a full and complete abstract of the person's driving record as shown in the files of the department. The provisions of this section shall apply only to offenses and records of offenses committed after June 21, 1974. These provisions shall have no retroactive effect before June 21, 1974].~~

Section 18. KRS 186.642 is amended to read as follows:

"Habitual violator" defined. - An habitual violator shall be construed to mean any person, resident or nonresident, who has been convicted in this state or elsewhere:

(1) Three (3) or more times of voluntary or involuntary manslaughter occurring on separate dates and resulting from the operation of a motor vehicle, or

(2) Three (3) or more times of violating the provisions of section 1 of this Act [~~KRS-chapter-189A-relating-to-the operation-of-vehicles-while-under-the-influence-of-a-controlled substance-or-intoxicating-liquors,-or-violating-the-law-of any-other-state~~], or a valid municipal or county ordinance, substantially conforming to or paralleling said section; or

(3) Three (3) or more times of operating a vehicle, after forfeiture of his operator's or chauffeur's license, and during the time for which he is deprived of his right so to do, under the provisions of any law of this state, or of any other state, or a valid municipal or county ordinance, substantially conforming to or paralleling the laws of Kentucky; or

(4) Three (3) or more times of perjury or the making of three (3) or more false affidavits or any combination of three (3) of these offenses to the department of transportation or under any other law of the state requiring the registration of motor vehicles or regulating their operation on highways, or the making of a false statement to the justice cabinet [department] on any application for an operator's or chauffeur's license; or

(5) Three (3) or more times of any crime punishable as a felony under the motor vehicles and traffic laws of Kentucky

or any other felony in the commission of which a motor vehicle is used; or

(6) Three (3) or more times of failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in damage to property of another in excess of two hundred dollars (\$200); or

(7) Three (3) or more times of failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in the death of, or injury to, another person; or in an accident resulting in the death of, or injury to, another person; or

(8) Three (3) or more times, singularly or in combination, of any of the offenses hereinabove described in subsections (1) through (7) of this section; or

(9) Fifteen (15) or more times of moving traffic offenses, excluding speeding in other states and excluding offenses wherein the defendant or violator has been convicted of operating his vehicle more than ten (10) miles per hour in excess of the applicable speed limit, which offenses have been committed during separate and unrelated incidents, including those covered in subsections (1) through (8) of this section, or in the law of any other state, or in a valid municipal or county ordinance, substantially conforming to or paralleling a similar law of Kentucky, which offenses are required to be reported to the justice cabinet [department of-transportation], and the commission of which offenses, singularly or in combination with any other offense or offenses, statutorily requires the suspension or revocation

of the license or privilege to operate motor vehicles by the justice cabinet [~~department~~], or the commission of which offenses singly or in combination with any other offense or offenses, authorized a court to impose such suspension or revocation for a period of more than, or less than, one (1) year.

Section 19. KRS 186.644 is amended to read as follows:
The justice cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of his driving privilege under provisions of this section a hearing [~~The court in which such information is filed shall enter an order directed to the person accused of being "an habitual violator" of the motor vehicle laws~~] to show cause why he should not be barred from operating a motor vehicle in the state of Kentucky. If the justice cabinet [~~court~~] cannot, on the evidence available, make a determination as to the existence of any record or prior conviction, or if the justice cabinet [~~court~~] is not satisfied that the accused is the same person named in the records, or both, the justice cabinet [~~court~~] may certify such question for hearing and determination to the court in which such conviction was had. A court in this state to whom such certification is made shall forthwith conduct a hearing and make a finding of fact and determination of the existence of any record of prior conviction and the identity of the person, and send a certified copy of its order to the justice cabinet [~~court before whom the information alleging the person to be "an habitual violator" is pending~~]. The provisions of this section shall not be binding upon an out-of-state court; however, the justice cabinet [~~any court~~

~~in this state~~] may request any out-of-state court to voluntarily provide the information sought pursuant to this section.

Section 20. KRS 186.645 is amended to read as follows:

If the justice cabinet [~~court~~] finds that such accused person is not the same person as the accused named in such records, or that his convictions are not such as to constitute him "an habitual violator" under KRS 186.641 to 186.649 the information shall be dismissed; but if the justice cabinet [~~court~~] finds that the accused is the same person named in the records the justice cabinet [~~certified by the secretary, the court~~] shall, except for good cause shown, find such person guilty of being "an habitual violator" of the motor vehicle and traffic laws of Kentucky as set forth herein, and shall, by appropriate order, direct such person not to operate a motor vehicle on the public highways of the state of Kentucky. A copy of the order [~~The clerk of the court shall file with the department of transportation a copy of the order of the court which~~] shall become a part of the [~~permanent~~] records of the justice cabinet [~~department~~].

Section 21. KRS 186.646 is amended to read as follows:

No license to operate motor vehicles in Kentucky shall be issued to a convicted habitual violator:

(1) For a period of five (5) years from the date of the order of the justice cabinet [~~court~~] finding such person to be "an habitual violator," wherein the convictions relate to the offenses listed in KRS 186.642(1) and (2), and

(2) For a period of two (2) years from the date of the order of the justice cabinet [~~court~~] finding such person to be "an habitual violator," for any offense other than those for which a penalty is provided in subsection (1) of this section, and

(3) Until the privilege of such person to operate a motor vehicle has been restored by the justice cabinet [~~an order-of-a-court-of-record-entered-in-a-proceeding-hereinafter provided~~].

Section 22. KRS 186.647 is amended to read as follows:

(1) At the expiration of two (2) or five (5) years, as the case may be, from the date of any final order of the justice cabinet [~~court~~] finding a person to be "an habitual violator" and directing him not to operate a motor vehicle in this state, such person may petition the justice cabinet [~~court-in-which-he-was-convicted-of-being-"an-habitual violator"-or-any-court-of-record-in-Kentucky-having-criminal jurisdiction-in-the-political-subdivision-in-which-such person-then-resides~~] to have his privilege to operate a motor vehicle restored. And upon such petition, and for good cause shown, the justice cabinet [~~court~~] may, in its discretion, restore the privilege of such person to operate a motor vehicle upon such terms and condition as the justice cabinet [~~court~~] may prescribe, subject to other provision of law relating to the issuance of operator's or chauffeur's licenses.

(2) At the expiration of two (2) or five (5) years, as the case may be, from the date of any final order of a court finding a person to be "an habitual violator," and directing him not to operate a motor vehicle in this state, such person may petition the justice cabinet to have his privilege to operate a motor vehicle restored.

Section 23. KRS 186.648 is amended to read as follows:

An appeal may be had from any final action or order of the justice cabinet [~~a-court-of-record~~] entered under the

provisions of KRS 186.641 to 186.649 in the same manner and form as such an appeal would be noted, perfected and tried in an appropriate civil [~~criminal~~] case before a district [~~such~~] court of record, except that all appeals shall be to the Frankfort Circuit Court.

Section 24. KRS 186.992 is amended to read as follows:

It shall be unlawful for any person to operate any motor vehicle in this state while the order of the court or justice cabinet prohibiting such operation remains in effect. Any person found to be "an habitual violator" under the provisions of KRS 186.641 to 186.649 who is thereafter convicted of operating a motor vehicle in this state while the order of the court or justice cabinet prohibiting such operating is in effect, shall, upon such conviction, be punished by confinement not to exceed twelve (12) months.

Section 25. KRS 189.590 is amended to read as follows:

(1) In all cases where there is a death resulting from a motor vehicular accident, the coroner shall conduct an examination in order to determine if there are any substances in the victim's body which would impair his ability to operate a motor vehicle and the amount of any substance if found and shall submit any findings to the Justice Cabinet.

(2) Every coroner or other official performing a coroner's functions shall, on or before the tenth (10th) day of each month, report in writing to the state police the death of any person occurring within his county during the preceding calendar month as the result of an accident involving a motor vehicle, and the circumstances of the accident.

Section 26. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, [189.290,] 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480 [subsection (1) of KRS 189.520] KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345 and 189.960, shall be fined not less than \$25.00 nor more than \$100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than \$25.00 nor more than \$2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than \$16.00 nor more than \$35.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000

pounds and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than \$65.00 nor more than \$500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$15.00 nor more than \$500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or driver's or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than \$20.00 nor more than \$50.00 for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than \$20.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than \$40.00 nor more than \$200.

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than \$30.00 nor more than \$100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than \$30.00 nor more than \$100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not less than \$15.00 nor more than \$500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than \$20.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than \$25.00 nor more than \$50.00.

[~~(9)-(a)-Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than \$100 nor more than \$500, for the second offense, a fine of not less than \$100 nor more than \$500 and imprisoned for not less than three (3) days nor more than six (6) months, for each subsequent offense he shall be fined not less than \$100 nor more than \$500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.~~]

[~~(b)-Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than \$40.00 nor more than \$100.~~]

(9) [(10)] Any person who violates KRS 189.530 shall be fined not less than \$40.00 nor more than \$100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) [(11)] Any person who violates any of the provisions

of KRS 189.550 shall be fined not less than \$25.00 nor more than \$100 for each offense.

(11) [(12)] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than \$35.00 nor more than \$100 for each offense.

(12) [(13)] The fines imposed by paragraph (a) of subsection (4) and subsection (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) [(14)] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than \$25.00 nor more than \$100 for each offense.

(14) [(15)] Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than \$15.00 nor more than \$25.00.

(15) [(16)] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than \$25.00 nor more than \$100 for each offense.

(16) [(17)] (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than \$25.00 nor more than \$200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than \$100 nor more than \$500. Each violation shall constitute a separate offense.

(17) [~~18~~] Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than forty (\$40.00) dollars nor more than one hundred (\$100) dollars or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(18) [~~19~~] Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than \$40.00 nor more than \$500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than

Section 27. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the crime victims compensation board.

(2) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them.

(3) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious

conduct unless the injury or death was intentionally inflicted or involved a violation of subsections (1), (2) or (3) of section 1 of this Act.

(4) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person.

(5) "Victim" means a resident of this state or the resident of a reciprocal state, who suffers personal injury or death from a criminal act in Kentucky as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Section 28. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has reasonable grounds to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, [~~189-520~~], 189.580, 511.080, or 525.070 has been

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committed in his presence, except that a violation of subsections (1), (2), and (3) of section 1 of this Act need not be committed in his presence in order to make an arrest without a warrant at the scene of an accident if the officer has reasonable and probable grounds to believe that the person has violated any of the provisions of this Act.

(2) Any peace officer may arrest without warrant when he has reasonable grounds to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, parent, grandparent, child, or stepchild. Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has reasonable grounds to believe that the person being arrested has committed it.

Section 29. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.290, 189.393, [189.520,] 189.580, 511.080, or 525.070 committed in his presence or a violation of any of the provisions of this Act, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 30. KRS 186.643 Information to be filed by county attorney is hereby repealed.

Section 31. KRS 189.520 - Operating Vehicle While Under Influence of Intoxicants or Drugs Prohibited - Presumptions Concerning Intoxication is hereby repealed.

Section 32. KRS Chapter 208.020 is amended to read as follows:

(1) The juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offense shall be treated as any adult offender except that a juvenile offender accused of a motor vehicle violation shall be subject to the provisions of KRS Chapter 208 in relation to detention of juveniles; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle not operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, or abused.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) No person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years. The juvenile session of district court shall have exclusive jurisdiction of persons who violate this subsection.

(5) No person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such

child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling, or in any wandering occupation;

(c) In any indecent or immoral occupation or practice;

(d) In the exhibition of any such child when insane, or idiotic; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child. The juvenile session of district court shall have exclusive jurisdiction of persons who violate this subsection.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile session of district court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be

entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile session of district court in conflict therewith shall be deemed canceled.

SECTION 33. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

COMPARISON OF THE EXISTING AND PROPOSED SYSTEMS

IF YOU ARE DRIVING UNDER THE INFLUENCE AND ARE STOPPED....

EXISTING

- * A POLICE OFFICER CAN ONLY USE HIS JUDGEMENT AND THE RESULTS OF A FIELD SOBRIETY TEST TO DETERMINE WHETHER OR NOT YOU ARE INTOXICATED AND SHOULD BE ASKED TO TAKE A CHEMICAL TEST.
- * A POLICE OFFICER CAN ONLY REQUEST THAT YOU TAKE ONE CHEMICAL TEST USING A BLOOD, BREATH, URINE OR SALIVA SAMPLE TO DETERMINE YOUR LEVEL OF INTOXICATION.
- * REFUSAL TO TAKE THE CHEMICAL TEST SELECTED BY THE POLICE OFFICER CAN RESULT IN THE LOSS OF YOUR LICENSE FOR UP TO 6 MONTHS.

PROPOSED

- * A POLICE OFFICER CAN USE THE FIELD SOBRIETY TEST AND A PRELIMINARY BREATH TEST DEVICE TO DETERMINE WHETHER OR NOT YOU ARE INTOXICATED AND SHOULD TAKE FURTHER TESTS TO DETERMINE IF YOU ARE INTOXICATED.
- * A POLICE OFFICER MAY REQUEST THAT YOU TAKE ANY NUMBER OF TESTS, USING BLOOD, BREATH, URINE OR SALIVA SAMPLES TO DETERMINE YOUR LEVEL OF INTOXICATION. THIS WILL ASSIST POLICE OFFICERS IN DETECTING ANY INTOXICATION CAUSED BY DRUGS.
- * REFUSAL TO TAKE ANY OF THE TESTS SELECTED BY THE POLICE CAN RESULT IN THE LOSS OF YOUR LICENSE FOR UP TO 6 MONTHS AND COULD RESULT IN THE LOSS OF YOUR LICENSE PRIOR TO YOUR TRIAL.

IF YOU ARE CHARGED WITH DRIVING UNDER THE INFLUENCE....

EXISTING

- * YOU RETAIN YOUR LICENSE PENDING TRIAL.

PROPOSED

- * THE COURT MAY ORDER THE SUSPENSION OF YOUR DRIVER LICENSE PENDING TRIAL IF:
 1. YOU HAVE PRIOR TRAFFIC OFFENSES SUCH AS DRIVING UNDER THE INFLUENCE OR RECKLESS DRIVING; OR
 2. YOUR DRIVING UNDER THE INFLUENCE VIOLATION RESULTED IN AN ACCIDENT WITH PHYSICAL INJURY OR PROPERTY DAMAGE; OR
 3. YOUR BAC WAS ABOVE .10% OR THERE WAS EVIDENCE OF USE OF ANOTHER IMPAIRING CHEMICAL; OR
 4. YOU REFUSED TO TAKE THE REQUESTED TEST(S).

IF YOU GO TO TRIAL FOR DRIVING UNDER THE INFLUENCE....

EXISTING

- * A BLOOD ALCOHOL CONTENT OF .10% OR MORE CREATES THE PRESUMPTION THAT YOU WERE DRIVING UNDER THE INFLUENCE. YOU MAY PRESENT EVIDENCE IN COURT THAT YOU WERE NOT INTOXICATED.
- * A BLOOD ALCOHOL CONTENT OF MORE THAN .05% BUT LESS THAN .10% DOES NOT CREATE THE PRESUMPTION THAT YOU WERE OR WERE NOT DRIVING UNDER THE INFLUENCE, BUT CAN BE USED WITH OTHER FACTS TO MAKE SUCH A DETERMINATION.
- * A BLOOD ALCOHOL CONTENT OF LESS THAN .05% CREATES THE PRESUMPTION THAT YOU WERE NOT DRIVING UNDER THE INFLUENCE.
- * THE COURT MAY REQUEST A COPY OF YOUR DRIVING HISTORY RECORD TO REVIEW PRIOR TO IMPOSING YOUR SENTENCE.

PROPOSED

- * A BLOOD ALCOHOL CONTENT OF .10% OR MORE MEANS THAT YOU ARE GUILTY OF DRIVING UNDER INFLUENCE. NO OTHER EVIDENCE IS NECESSARY.
- * A BLOOD ALCOHOL CONTENT OF MORE THAN .05% BUT LESS THAN .10% DOES NOT CREATE THE PRESUMPTION THAT YOU WERE OR WERE NOT DRIVING UNDER THE INFLUENCE, BUT CAN BE USED WITH OTHER FACTS TO MAKE SUCH A DETERMINATION.
- * A BLOOD ALCOHOL CONTENT OF LESS THAN .05% CREATES THE PRESUMPTION THAT YOU WERE NOT DRIVING UNDER THE INFLUENCE.
- * THE COURT MUST REVIEW AND AND CONSIDER YOUR DRIVING HISTORY RECORD PRIOR TO IMPOSING YOUR SENTENCE. YOUR DRIVING HISTORY RECORD WOULD INCLUDE A LIST OF ALL YOUR MOTOR VEHICULAR VIOLATIONS AND ANY REFUSALS TO TAKE REQUESTED TESTS.

IF YOU ARE CONVICTED OF DRIVING UNDER THE INFLUENCE AND IT IS YOUR FIRST OFFENSE....

EXISTING

- * YOU WILL BE FINED \$100-\$500, WHICH MAY BE PROBATED.
- * YOU WILL NOT BE GIVEN ANY JAIL TIME.
- * THE COURT MAY ALLOW YOU TO ATTEND AND COMPLETE AN ALCOHOL EDUCATION PROGRAM RATHER THAN REVOKING YOUR LICENSE. OTHERWISE, YOUR LICENSE IS REVOKED FOR 6 MONTHS.

PROPOSED

- * YOU WILL BE FINED \$200-\$500, OF WHICH \$200 CANNOT BE PROBATED, PLUS YOU WILL BE ASSESSED A \$150 SERVICE FEE.
- * YOU WILL BE REQUIRED TO SERVE 48 HOURS TO 10 DAYS IN JAIL IF YOUR BAC IS .20% OR MORE OR IF THERE WAS A RESULTING ACCIDENT WITH PROPERTY DAMAGE OR PERSONAL INJURY TO ANOTHER.
- * THE COURT MAY PROBATE YOUR SENTENCE, THUS REDUCING YOUR LICENSE REVOCATION PERIOD TO 60 DAYS IF YOU ATTEND AND COMPLETE AN ALCOHOL EDUCATION PROGRAM OR A TREATMENT PROGRAM. OTHERWISE, YOUR LICENSE IS REVOKED FOR 6 MONTHS.

IF YOU ARE CONVICTED FOR DRIVING UNDER THE INFLUENCE AND IT IS YOUR SECOND OFFENSE....

EXISTING

- * YOU WILL BE FINED \$100-\$500, WHICH MAY BE PROBATED.
- * YOU WILL SERVE 3 DAYS TO 6 MONTHS IN JAIL, WHICH MAY BE PROBATED.
- * YOU MAY BE GIVEN COMMUNITY SERVICE AS A CONDITION OF PROBATION.
- * YOUR LICENSE WILL BE REVOKED FOR ONE YEAR.
- * IF THE COURT PROBATES YOUR SENTENCE, THE COURT ESTABLISHES ALL TERMS AND CONDITIONS OF THE PROBATION.

PROPOSED

- * YOU WILL BE FINED \$350-\$500, OF WHICH \$350 CANNOT BE PROBATED, PLUS YOU WILL BE ASSESSED A \$150 SERVICE FEE.
- * YOU WILL SERVE 10 DAYS TO 90 DAYS IN JAIL, OF WHICH 8 DAYS CANNOT BE PROBATED.
- * YOU WILL BE REQUIRED TO PARTICIPATE IN 10 DAYS OF COMMUNITY SERVICE, NONE OF WHICH CAN BE PROBATED.
- * YOUR LICENSE WILL BE REVOKED FOR ONE YEAR.
- * IF THE COURT PROBATES YOUR SENTENCE, YOU MUST PAY A \$350 FINE, PLUS THE \$150 SERVICE FEE, SERVE 8 DAYS IN JAIL, COMPLETE 10 DAYS OF COMMUNITY SERVICE AND ATTEND AN ALCOHOL TREATMENT PROGRAM FOR UP TO 6 MONTHS, AS WELL AS PAY FOR THE COST OF THE TREATMENT.

IF YOU ARE CONVICTED OF DRIVING UNDER THE INFLUENCE AND IT IS YOUR THIRD OFFENSE OR MORE....

EXISTING

- * YOU WILL BE FINED \$100-\$500, WHICH CAN BE PROBATED.
- * YOU WILL SERVE 30 DAYS TO 1 YEAR IN JAIL, WHICH CAN BE PROBATED.
- * YOU MAY BE GIVEN COMMUNITY SERVICE AS A CONDITION OF PROBATION.
- * YOUR LICENSE WILL BE REVOKED FOR AT LEAST 2 YEARS.
- * IF THE COURT PROBATES YOUR SENTENCE, THE COURT ESTABLISHES ALL TERMS AND CONDITIONS.

PROPOSED

- * YOU WILL BE FINED \$500, NONE OF WHICH CAN BE PROBATED, PLUS ASSESSED A \$150 SERVICE FEE.
- * YOU WILL SERVE 30 DAYS TO 1 YEAR IN JAIL, OF WHICH 20 DAYS CANNOT BE PROBATED.
- * YOU WILL BE REQUIRED TO PARTICIPATE IN 15 DAYS OF COMMUNITY SERVICE, NONE OF WHICH CAN BE PROBATED.
- * YOUR LICENSE WILL BE REVOKED FOR AT LEAST 2 YEARS.
- * IF THE COURT PROBATES YOUR SENTENCE, YOU MUST PAY A \$500 FINE, PLUS THE \$150 SERVICE FEE, SERVE 20 DAYS IN JAIL, COMPLETE 15 DAYS OF COMMUNITY SERVICE AND ATTEND AND COMPLETE AN ALCOHOL TREATMENT PROGRAM FOR UP TO 1 YEAR, AS WELL AS PAY FOR THE COST OF THE TREATMENT.

IF YOU ARE UNDER THE AGE OF 18 AND ARE CONVICTED OF
DRIVING UNDER THE INFLUENCE....

EXISTING

- * YOU WOULD BE TREATED THE SAME AS AN ADULT CONVICTED FOR DRIVING UNDER THE INFLUENCE.
- * YOU COULD BE LODGED IN JAIL TO SERVE YOUR SENTENCE.

PROPOSED

- * YOUR DRIVER'S LICENSE WILL BE REVOKED UNTIL YOU TURN 18 OR UNTIL THE SUSPENSION PERIOD IS COMPLETE, WHICHEVER OCCURS LATER IN ADDITION TO THE IMPOSITION OF OTHER PENALTIES.
- * YOU CANNOT BE LODGED IN JAIL, BUT RATHER MUST BE HELD IN A JUVENILE DETENTION FACILITY.

IF YOU DRIVE WHILE YOUR DRIVER'S LICENSE IS REVOKED AS THE
RESULT OF A DRIVING UNDER THE INFLUENCE CONVICTION....

EXISTING

- * IF IT IS YOUR FIRST OFFENSE, THEN YOU WILL BE FINED \$12 TO \$500, AND/OR YOU WILL BE REQUIRED TO SERVE 6 MONTHS IN JAIL. BOTH OF THESE MAY BE PROBATED.
- * IF IT IS YOUR SECOND OR GREATER OFFENSE, THEN YOU MAY BE FINED \$12 TO \$500 AND/OR YOU MAY BE REQUIRED TO SERVE 6 MONTHS IN JAIL. BOTH OF THESE MAY BE PROBATED.

PROPOSED

- * IF IT IS YOUR FIRST OFFENSE, THEN YOU WILL BE FINED \$250 TO \$500, WHICH CAN BE PROBATED AND YOU WILL BE REQUIRED TO SERVE 3-6 DAYS IN JAIL, WHICH CAN BE PROBATED.
- * IF IT IS YOUR SECOND OR GREATER OFFENSE, THEN YOU MAY BE FINED \$350 TO \$500, OF WHICH \$350 CANNOT BE PROBATED. AND YOU WILL BE REQUIRED TO SERVE 10 DAYS TO 1 YEAR IN JAIL, OF WHICH 10 DAYS CANNOT BE PROBATED.

IF YOU ARE CONVICTED OF DRIVING UNDER THE INFLUENCE IN
ANOTHER STATE....

EXISTING

- * YOUR DRIVING UNDER THE INFLUENCE CONVICTION FROM ANOTHER STATE WOULD NOT COUNT AS A PRIOR DRIVING UNDER THE INFLUENCE CONVICTION. (IMPLIED IN EXISTING STATUTE)

PROPOSED

- * YOUR DRIVING UNDER THE INFLUENCE CONVICTION FROM ANOTHER STATE WILL COUNT AS A PRIOR CONVICTION IN DETERMINING THE OFFENSE NUMBER.

CONCLUSION

CONCLUSION

The problem of drunk driving is a complex problem, but not an unsolvable problem. Through their research and study of the issue, the Task Force members became convinced that there was no single solution to the problem. Rather, any effort initiated must address all facets of the problem from education to treatment and involve broad based participation and support.

The Task Force members believe that the recommendations presented in this report will establish a comprehensive approach to drunk driving. The recommendations include involvement of the public, state agencies, law enforcement, the judicial system, the educational system and the network of treatment and rehabilitative services. The recommendations call for a variety of legislative, policy and philosophical changes.

However, the key to implementation of the entire program is public support. Never has there been a time when the tragedies caused by drunk driving been so apparent. Thus, the atmosphere for change has been set and the onus for change now rests with the citizens of the Commonwealth. Kentuckians must decide whether they will actively and strongly address the problem of drunk driving or turn their heads in hope that the problem will go away.

The Task Force members feel that the time for change is now. The loss of human lives and untold injuries resulting from persons driving under the influence must no longer be tolerated. The Task Force members endorse the proposed plan of thirty-one recommendations as a good beginning to send the message across Kentucky that drunk driving will not be tolerated.

APPENDIX

SUMMARY OF RECOMMENDATIONS AND ACTIONS

	<u>Action</u>	<u>Recommendation Number</u>	<u>Page Number</u>
Governor			
1.	Extend the Drunk Driving Task Force.	1	20
2.	Direct agencies with federal alcohol grant monies to solicit proposals from citizen groups.	3	22
3.	Request Superintendent of Public Instruction to require review of education materials for alcohol and drug information content.	4	22
4.	Request Secretaries of Justice and Corrections, the Chief Justice, the Attorney General and the Public Advocate to develop a criminal justice information system.	31	47
Secretary of Justice			
1.	Establish Highway Safety Section as coordinating agency for anti-drunk driving campaign.	2	20
2.	Require Highway Safety Section to coordinate with citizens groups in campaign efforts.	2	20
3.	Require Highway Safety Section to develop campaign theme and logo.	2	20
4.	Require Highway Safety Section to develop speaker's bureau.	2	20
5.	Require applicants for federal and state grant alcohol and traffic safety monies to have a public information plan.	2	20
6.	Require Highway Safety Section to promote seat belt usage, child restraint devices and passive restraints.	2	20
7.	Direct Kentucky State Police and Department of Training to implement driving under the influence training program for law enforcement personnel.	5	23

	<u>Action</u>	<u>Recommendation Number</u>	<u>Page Number</u>
8.	Direct Kentucky State Police to revise driver license booklet and examination to include alcohol and drug information.	10	26
9.	Establish a program to screen all first time driving under the influence offenders.	23	37
10.	Direct Kentucky State Police to establish a BAC reading central repository.	26	39
11.	Reactivate Traffic Steering Committee.	30	40
12.	Establish a citation tracking system.	30	40
Chief Justice of Supreme Court			
1.	Direct Administrative Office of the Court to implement annual driving under the influence training for judges.	5	23
2.	Direct Administrative Office of the Court to establish a citation tracking system.	30	40
Attorney General			
1.	Direct Prosecutor's Advisory Council to implement annual training for county attorneys.	5	23
Superintendent of Public Instruction			
1.	Encourage school boards, school administrators and teachers to present information on alcohol and drug usage and highway safety.	4	22
General Assembly			
1.	Enact legislation to permit use of Preliminary Breath Test.	6	24
2.	Enact legislation to permit police officers to request multiple tests.	7	24
3.	Enact legislation to allow warrantless arrests for suspected driving under the influence accidents.	8	25
4.	Oppose efforts to allow use of restricted license.	9	26

<u>Action</u>	<u>Recommendation Number</u>	<u>Page Number</u>
5. Enact legislation to change revocation process for habitual violator.	11	27
6. Enact legislation to change driving under the influence definition to include other chemical substances.	12	28
7. Enact legislation to make driving with a BAC of .10% or more an offense.	13	28
8. Enact legislation to permit preconviction license suspension for driving under the influence.	14	29
9. Enact legislation to require review of driving history record prior to sentencing.	15	29
10. Enact legislation to require court record to show reason for driving under the influence amendments or dismissals.	16	30
11. Enact legislation to increase penalties for driving under the influence and limit conditions of probation.	17	30
12. Enact legislation to stiffen license revocation for persons under 18.	18	33
13. Enact legislation to allow persons to serve jail time on non-working days.	19	34
14. Enact legislation to increase penalties for driving on revoked license.	20	34
15. Enact legislation to require circuit clerk to report driving under the influence dispositions within 15 days.	21	35
16. Enact legislation to establish a \$150 service fee.	22	35
17. Enact legislation to require screening of all first time driving under the influence offenders.	23	37
18. Enact legislation to provide participation in education program as option for first offender only.	24	37
19. Enact legislation to require persons required to attend treatment to attend and successfully complete.	25	38

<u>Action</u>	<u>Recommendation Number</u>	<u>Page Number</u>
20. Enact legislation to require coroners to do a BAC test for all traffic fatalities.	27	39
21. Enact legislation to prohibit incarceration of juveniles in adult jails for traffic offenses.	28	40
22. Enact legislation to make driving under the influence victims eligible for victim compensation funds.	29	40

Footnotes

¹ "Man without license since 1963 has long record," Messenger, November 2, 1982, p. 1.

² U.S. Congress, House, Representative Ramano L. Mazzoli speaking on the issue of drunk driving, September 21, 1982, Congressional Record, E 4302.

³ Richard J. O'Connell ed., "Experts to Convene on Drunk Driving Menace," Crime Control Digest, Vol. 16, No. 30, (July 26, 1982), p. 8.

⁴ National Safety Council, Accident Facts, 1982 edition, (Chicago, Illinois: National Safety Council, 1982) p. 52.

⁵ U.S. Department of Transportation, National Highway Traffic Safety Administration, Fatal Accident Reporting System 1980, (Washington, D.C.: Government Printing Office, October 1981) p.54.

⁶ U.S. Department of Transportation, National Highway Traffic Safety Administration, Alcohol Involvement in Traffic Accidents - Recent Estimates from the National Center for Statistics and Analysis, (Washington, D.C.: Government Printing Office, May 1982).

⁷ R. K. Jones and J. B. Joscelyn, Alcohol and Highway Safety 1978: A Review of the State Knowledge (University of Michigan, Highway Safety Institute, Ann Arbor, Michigan, January 1978).

⁸ IBID.

⁹ Utah Department of Public Safety, Recommendations of the Governor's Commission on Drinking and Driving, State of Utah, November 5, 1982, p. 5.

¹⁰ The Presidential Commission on Drunk Driving, An Interim Report to the Nation, December 13, 1982, p. 3.

¹¹ Commonwealth of Kentucky, Uniform Crime Reports, 1981, pp. 54-60.

¹² National Safety Council, p. 52.

¹³ Kentucky Justice Cabinet, Division of Driver Licensing, Alcohol Driver Education Statistical Report 1981-82, (State Traffic School Project Office, Western Kentucky University, Bowling Green, Kentucky, 1983) pp. 4-5.

¹⁴ John Tomerlin, "And one more for the road," Road & Track, (February 1983) p. 111.

END