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Issue Brief

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DRUNK DRIVING AND THE NATIONAL DRIVER REGISTER

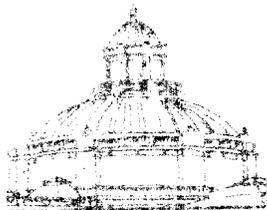
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ISSUE DEFINITION

Drunk driving is one of the most significant causes of automobile accidents; government estimates are that more than half of all fatal traffic accidents are alcohol-related. The Reagan Administration has pursued a vigorous anti-drunk driving program. State governments, which bear the primary responsibility for enforcing drunk driving laws, have been upgrading their efforts, aided by Federal legislation passed in 1982 and in 1984 which offers grants to state programs. The governmental effort has been further strengthened in recent years by the growth of a strong citizens' lobby, including such groups as Mothers Against Drunk Driving.

One important effort currently underway in this area is the upgrading of the National Driver Register (NDR). The National Driver Register is a nationwide clearinghouse through which a State can identify driver's license applicants who have established unsafe driving records in other States. The Register has existed since 1960, but has been considered ineffective because it has lacked the ability to exchange information electronically between the States (relying instead on the postal service). Legislation enacted in 1982 is intended to modernize the NDR. The Reagan Administration at first favored abolition of the NDR for fiscal reasons, but later changed its position and endorsed the legislation passed by the Congress.

A Presidential Commission on Drunk Driving was appointed in April 1982. The Commission highlighted public awareness of the drunk driving problem. Its final report, published in November 1983, contained numerous recommendations, including the establishment of a nationwide minimum legal drinking age of 21. Its work is now being continued by the National Commission Against Drunk Driving, a non-government group.

Legislation intended to establish a national drinking age of 21 by withholding Federal funds from States not having such a law was passed by the 98th Congress, and signed into law on July 17, 1984 as P.L. 98-363.

BACKGROUND AND POLICY ANALYSIS

Overview

According to NHTSA's report entitled "Alcohol in Fatal Accidents National Estimates -- U.S.A.," published in January 1983, 46% of all fatal accidents involve an intoxicated driver -- that is, a driver with a blood alcohol concentration of 0.10% or above. An additional 11% involve drivers with blood alcohol levels below 0.10%, but greater than zero. Thus, 57% of fatal traffic accidents are considered to be alcohol related. Since more than 52,600 fatalities (in 45,000 accidents) occurred during the year 1980 (from which these statistics are derived), approximately 30,000 lives were lost that year in alcohol-related traffic accidents.

While drunk driving has been of concern to automotive safety experts for many years, governmental action on this problem until recently had been spotty. Perhaps the most significant Federal program until this Administration was the Alcohol Safety Action Program (ASAP), an effort undertaken by the Nixon Administration in 1970-1971. Under this program, the Federal Government funded \$78 million in grants to 35 localities around the

country. These grants were intended to explore a "systems approach" to drunk driving, concerned with all aspects of the program -- the police, the courts, rehabilitation programs, and so forth. The Federal grants were for 3-year periods; after they expired, some of the programs were taken over by State and local governments, while others were dropped.

An anti-drunk driving campaign falls within the overall approach of the Reagan Administration to auto safety; the focus is on the driver rather than on the automobile. The Administration has pursued a vigorous anti-drunk driving program. Its resolve to do so has been further strengthened by the growth of a strong citizens' lobby, including such groups as Mothers Against Drunk Driving (MADD), and similar groups made up of students, truckers, and others.

Federal Government Activities

The Presidential Commission on Drunk Driving

On Apr. 14, 1982, President Reagan established a Presidential Commission on Drunk Driving. The Commission had a 1-year charter (later extended to the end of 1983) with the purpose of highlighting public awareness of the drunk driving problem and developing national policies to deal with the situation. It was created after more than 300 Members of Congress, from both political parties and all regions of the Nation, wrote to the President and suggested that it be formed.

The Commission was made up of 32 members and chaired by former DOT Secretary Volpe. Its membership included four Members of Congress -- Senators Claiborne Pell (D-R.I.) and Robert Dole (R-Kan.) and Representatives Michael D. Barnes (D-Md.) and James V. Hansen (R-Utah). The remainder of the membership, appointed by the President, included political figures, safety experts, and concerned citizens.

The Commission issued its final report in November 1983. Its principal recommendations were:

1. Establishing 21 as the minimum legal age for purchasing all alcoholic beverages.
2. Elimination of plea-bargaining in DUI cases.
3. Enforcement of mandatory sanctions for first offenders with more severe penalties for subsequent convictions.
4. Expansion and encouragement of citizen action groups at the grassroots level, citing the effectiveness of their work in nearly every State.
5. Urging States to enact law pertaining to the use of safety belts and child restraints as well as compliance with the 55 mph speed limit.
6. Education and rehabilitation services for convicted offenders based on their needs as determined by a pre-sentence investigation. Health insurance providers should be required to include coverage for the treatment

and rehabilitation of alcohol- and drug- dependent persons in all health insurance policies.

7. Victim impact statements and victim assistance programs recognizing, for the first time, the extent of suffering of drunk driver victims.

The work of the Commission is being continued by a new organization, entitled the "National Commission Against Drunk Driving." The new commission, unlike its predecessor, is not affiliated with the government; it is a nonprofit affiliate of the National Safety Council. The chairman of the new commission is V. J. Adduci, president of the Motor Vehicle Manufacturers Association.

Raising the Drinking Age to 21

Of those killed in alcohol-related accidents, about 35% were between 16 and 24 years old, a higher proportion than the 22 percent of the total licensed population in that age group. The legal drinking age varies from State to State, but it is as low as 18 in some States. During 1982 the National Transportation Safety Board, the Presidential Commission on Drunk Driving, and the Congress all went on record as favoring a legal drinking age of 21. The NTSB made its recommendation in August 1982. The Commission made a similar recommendation in December 1982 in its interim report, released at that time in order to allow the State legislatures to consider it in their early 1983 sessions. It reconfirmed this recommendation in its final report. The Congress acted as part of its consideration of the Surface Transportation Assistance Act of 1982, (P.L. 97-424) enacted in December 1982. The bill included a section as follows:

The Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age.

NHTSA included a drinking age of 21 as one of the 21 criteria of which eight must be satisfied in order for a State to qualify for supplemental grants under P.L. 97-364.

During the 98th Congress, legislation was introduced and passed that is intended to promote a nationwide minimum drinking age of 21. Bills introduced on this subject included H.R. 3870 (Florino), H.R. 4892 (Barnes), and H.R. 5383 (Howard).

On June 7, 1984, the House of Representatives approved the substance of H.R. 5383 as an amendment to H.R. 5504, the Surface Transportation and Uniform Relocation Assistance Act of 1984. This legislation would reduce Federal highway funds by 5% in FY87 and 10% in FY88 for States not enacting a minimum drinking age of 21. Subsequently, the Reagan Administration announced its support for this legislation; the Administration's previous position had been to favor State action to establish a drinking age limit of 21, but to oppose Federal legislation.

Because H.R. 5504 contained controversial sections (unrelated to the drinking age provisions) that might have delayed final action, the Senate sponsors of drinking age legislation elected to attach this legislation instead to H.R. 4616, a relatively noncontroversial bill dealing with child restraint programs. The relevant provisions of H.R. 4616, as passed by the

Senate, encouraged a minimum national drinking age of 21 via the same schedule for reduction of Federal highway funds as reported in H.R. 5383, i.e., 5% in 1987 and 10% in 1988. The Senate version also provided incentive grants to encourage States to adopt mandatory drunk driving sentencing laws and to improve automated accident recordkeeping. The Senate rejected, 62 to 35, an alternative amendment to H.R. 4616 that would have kept the incentive grants but deleted the penalties. It then passed the bill, by a vote of 81 to 16, on June 26, 1984. On June 27, 1984, the House cleared the Senate version of H.R. 4616 for the President's signature. It became P.L. 98-363 on July 17, 1984.

The lack of uniformity among States is cited as a primary reason for Federal action concerning a minimum drinking age. Varying drinking ages are believed to encourage young people to drive long distances to States where alcohol can be consumed legally. This has resulted in a rise in nighttime crashes in the vicinity of State borders with different minimum drinking ages. Proponents of a uniform drinking age have popularized the term "blood borders" in discussing this tragic phenomenon.

Since the passage of P.L. 98-363, many States have revised their minimum drinking age upward to 21 in order to comply with the provisions of that law. As of August 1985, thirteen States and the District of Columbia do not have a minimum drinking age of 21 under all conditions. These are as follows:

- Minimum drinking age of 19 -- Idaho, Iowa, Minnesota, Montana, Wisconsin, Wyoming. (6 States)
- Minimum drinking age of 18 -- Hawaii, Louisiana, Vermont. (3 States)
- Special provisions -- Colorado, District of Columbia, South Dakota, Ohio, West Virginia. (4 States plus D.C.)

Note: Of the jurisdiction marked "Special Provisions", in Colorado and D.C. the drinking age is 18 for the "softer" alcohol beverages and 21 for "hard" liquor. In South Dakota and Ohio the limit is 19 for the "softer" drinks and 21 for "hard" liquor. In West Virginia the limit is 19 for residents and 21 for non-residents.

The effort to raise the legal drinking age has been criticized as unfair, since the legal age for voting is 18, and since many young people serve in the Nation's military forces. The political connection between these issues is shown by the events of the years 1970-73. During that time 35 States reduced the minimum legal drinking age for some or all alcoholic beverages. This coincided with the ratification of the 26th Amendment to the Constitution, effective in July 1971, which lowered the voting age from 21 to 18 years; it also coincided with the last years of the Vietnam War and the peak of the public controversy over U.S. involvement.

The argument that citizens who are eligible to vote and to serve in the armed forces should therefore be eligible to consume alcoholic beverages seems valid to many citizens. However, it is also argued that the society has an overriding need to restrict drinking among young people aged 18 through 20, in view of the adverse data regarding drunk driving accidents involving young people. New Jersey, for example, raised its drinking age to 21 in 1983 and experienced a 26% reduction in nighttime fatal accidents among 19-20 year-olds that year. Statistics such as these are the major argument for raising the drinking age to 21.

Other critics, however, claim that preoccupation with the 18-21 age group is not justified by statistics. For example, they claim that the 21-24 age group is just as much a drunk driving risk as the 18-21 group. Consequently, they argue that continued emphasis on public awareness programs and more stringent drunk driving laws, applied across all ages, would be more effective policy.

Another criticism of this approach is that it neglects the high incidence of driving fatalities in the 16-18 age bracket -- some of which are alcohol-related even though no State has a drinking age under 18. Consequently, some critics believe that nighttime driving curfews should be imposed for those under 18, since most drinking occurs after dark. In New York and Pennsylvania, where curfew hours do exist, the Insurance Institute for Highway Safety (IIHS) has reported greater than 60% reductions in crash involvement of 16-year-old drivers during curfew hours. Curiously, IIHS also reported that teenagers, for the most part, do not oppose laws that would restrict their driving.

Public Law 97-364

In 1982 the Congress passed H.R. 6170, a bill to promote alcohol traffic safety and to update the National Driver Register. The bill had been known as the "Howard-Barnes bill" after its two principal sponsors, Representatives James J. Howard (D-N.J.) and Michael D. Barnes (D-Md.). It cleared both Houses of Congress by voice vote, and was signed into law by the President on Oct. 25, 1982, as P.L. 97-364.

With regard to drunk driving, the new law offers grants totaling \$125 million to State governments over three years beginning with FY83. The funds will be appropriated from the Highway Trust Fund and are divided into basic and supplemental grants. NHTSA's Office of Alcohol Countermeasures has the responsibility for reviewing State applications and allocating funds under this program.

Basic grants are available to States that meet the following criteria:

1. license suspension of at least 90 days for a first offender and at least one year for a repeat offender;
2. mandatory sentences of either 48 hours in jail or ten days community service for offenders convicted twice within five years;
3. establishment of 0.1% or more as the blood alcohol level constituting legal drunkenness; and
4. increased enforcement of drunk driving laws, including public information programs.

The basic grants available to a State would equal 30% of that State's 1983 Section 402 highway safety funding. Supplemental grants, for up to 20% of the Section 402 level, are available to States which agree to suspend the licenses of drunk drivers within an average of 45 days from arrest, and agree to implement a minimum of eight additional criteria from a list of 21 such criteria established by NHTSA.

As of February 1985, sixteen States have qualified to receive grants under this program.

National Driver Register

Public Law 97-364 provides for a substantial improvement of the National Driver Register (NDR). This is a nationwide clearinghouse through which a State can identify driver's license applicants who have established unsafe driving records in other States. This record can then be taken into account in deciding upon the license application. Before the NDR came into existence, a State licensing bureau wishing to check on an applicant had to send inquiries to every other State. This was done very rarely because of the cost and effort involved; thus it was easy for a dangerous driver, whose license had been revoked or suspended in one State, to obtain a new license in another State. The purpose of the NDR is to prevent this from happening.

The NDR was the subject of one of the earliest congressional enactments dealing with motor vehicle safety. It was established by Public Law 86-660, enacted on July 14, 1960, and commenced operations in July 1961. The 1960 legislation was narrowly drawn and permitted only records of severe violations to be distributed through the NDR. As part of the National Traffic and Motor Vehicle Safety Act of 1966, the authority of the NDR was broadened to include virtually any kind of State action denying or suspending a driver's license. The structure of the NDR has remained the same since 1966. The major drawback to its method of operation has been that the medium of communication used between the State licensing bureaus and the NDR is the postal service. This means that many days may elapse between the time the State makes its inquiry and the time it receives a response from the NDR. Often the individual in question obtains his or her new license before this response is received; at that point it may be impossible to locate the individual again in order to revoke the license.

In 1977, Representative Oberstar (D-Minn.) introduced legislation intended to upgrade the NDR by automating it, so that the exchange of information would be made electronically. Some of the States were concerned about costs and operational problems which might accompany an automated NDR, so the proposed legislation was amended to provide instead for a 1-year study of the NDR. DOT performed the study and reported to the Congress in June 1980. The study recommended that the NDR be upgraded and automated.

The question of the National Driver Register led to a public reversal of position by the Reagan Administration. In June 1981, the Administration proposed that the NDR be abolished. The primary reason for this recommendation was cost, although questions of privacy law and inaccurate data were also raised. After meeting with citizens interested in continuing and upgrading the NDR, DOT reversed its position and declared itself in favor of an improved NDR. The Administration subsequently backed the legislation upgrading the NDR, which was enacted in 1982.

The NDR provisions of P.L. 97-364 are eventually intended to convert the Register to a high-speed electronic system. Within two years after enactment, the Secretary of Transportation is to select four States to participate in a 1-year pilot program testing an electronic NDR system. The Secretary will then determine when the remaining States could join the system, based on the results of the pilot program. The bill also establishes a 15-member advisory committee on the NDR. It authorizes \$9.1 million for expenses associated with the National Driver Register during fiscal years

1983 through 1987.

NHTSA is now engaged in the design of the proposed electronic NDR system. The four States that will participate in the pilot program have not yet been chosen. The advisory committee authorized by the legislation has now been established.

"National Drunk and Drugged Driving Awareness Week"

For the past three years Congress has passed joint resolutions designating a week in December as "National Drunk and Drugged Driving Awareness Week" (P.L. 97-343 for 1982; P.L. 98-103 for 1983; P.L. 98-338 for 1984). The purpose of these resolutions is to increase the level of national awareness of the problem through appropriate activities during the designated week. The December dates are chosen because of the particular drinking problems associated with the Christmas and New Year holiday period.

"Student Awareness of Drunk Driving Month"

In 1984, the Congress passed a Joint Resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month." The resolution, H.J.Res. 443, was signed into law on Apr. 6, 1984 (P.L. 98-252).

NTSB Activities

The primary Federal responsibility for automobile safety rests with the Department of Transportation and its National Highway Traffic Safety Administration. Recently the National Transportation Safety Board (NTSB) has become a secondary focus for automobile safety activities. The NTSB is an independent agency with broad authority to investigate transportation accidents and make recommendations; it is perhaps best known for its investigations of air crashes.

With regard to auto safety, the NTSB has worked with State governments, encouraging the legislatures to pass child restraint laws and to increase the minimum drinking age to 21. The Board has an alcohol program coordinator, who is to combat alcohol and drug abuse in three transportation modes: highway safety, general aviation, and recreational boating. In the highway area, the Board is studying drivers with multiple convictions, in order to identify the "legal and administrative loopholes" that permit these repeat offenders to continue driving.

Citizens Groups

Groups of concerned citizens have played an important role in changing the public attitude toward drunk driving. The best known of these groups is Mothers Against Drunk Driving (MADD). This organization was founded by a California woman, Candy Lightner, after her daughter was killed in an accident by a drunk driver who previously had been convicted. MADD now has over 100 chapters in nearly all States, with thousands of volunteer workers. Another leading organization is Remove Intoxicated Drivers (RID). Groups have also been formed made up of students, truckers, and others.

These organizations work in several ways to alleviate the drunk driving problem. They lobby for tougher drunk driving laws at all levels of government, monitor the courts to focus attention on sentences they consider too light, disseminate information through the media, and assist the families

and victims of drunk drivers.

Police Roadblocks

In many areas of the country, police roadblocks have become a part of the anti-drunk driving campaign. The police will stop traffic, typically on a road with a history of numerous drunk driving violations and at a time when such violations usually occur (such as a weekend evening). The purpose is to detect drunk drivers and to arrest those so identified.

This activity has been the subject of controversy. Civil liberties groups have taken the position that these police roadblocks are inconsistent with the Fourth Amendment prohibition against "unreasonable searches and seizures." Motorists are stopped without the "probable cause" that is normally required for a legal police search. This argument is countered by the belief that the public interest in apprehending drunk drivers outweighs the intrusion on privacy caused by the search. In this view the search is not an "unreasonable" action on the part of the police.

Deterrent Devices

Mechanical devices intended to deter drunk driving are now being tested. One such test is being conducted under an NHTSA contract by Systems Technology Inc., of Hawthorne, California. The test device consists of a display, similar to that of computer games popular today, in which the driver must keep a displayed needle centered on the screen for a given period of time (perhaps 30 seconds) before starting the automobile. If the driver cannot keep the needle centered, ten minutes must elapse before he or she may try again. After four such failures, the test cannot be performed again for several hours. The device is not "interlocked" with the ignition; in an emergency, the driver may override the device and start the car. If this is done, the lights will flash and the horn will sound continuously until the ignition is shut off. This feature would allow the car to be driven in a real emergency but would deter its use in all other situations. The device is currently being tested on cars owned by motorists with drunk driving convictions in the Los Angeles area. If it wins acceptance, presumably efforts would be made to have such devices installed by court order on cars owned by those with previous convictions.

LEGISLATION

N/A

HEARINGS

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