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Driving Under the Influence (DUI)

Currently, drunk driving is a major issue in the United States. According to The Centers for Disease Control Prevention 10,839 people were killed in alcohol impaired driving crashes in 2009 alone.¹ Each state is responsible for writing its own DUI laws, which consequently differ in severity by their specific legalities, which include license suspension, jail time, fines, and numerous other stipulations such as community service. Some states have extremely strict laws for DUI convictions, whereas others are more lenient. Vermont falls in the latter category and seems to focus more on rehabilitation than simple incarceration, with a consistent leniency in regards to fines for such offenses.

DUI Law Comparisons

Most states have a tiered system for DUI convictions that encompass first, second, third and subsequent violations of the law. Provisions typically include prison sentence, fines, and license suspension or revocation. As evidenced in the chart in Appendix I, Vermont and New Hampshire have relatively low fines compared to Massachusetts, Maine, and Connecticut. Where Massachusetts and Connecticut require a mandatory one year license suspension, Vermont law only requires a license suspension of 90 days. Finally, Vermont is on par with other New England States in regard to prison sentencing as there is no specific minimum jail sentence.

Compared to other New England states, Vermont's second DUI conviction is much more lenient. Vermont has no minimum prison sentence for a second conviction; however Massachusetts, Connecticut, Maine and New Hampshire all have minimum prison sentences. Vermont also does not have a minimum fine for a second conviction. Even though fines can reach up to \$1,500, Connecticut and Maine have minimum fines of \$1,000 and \$1,100 respectively. Vermont is also not as strict as other states with license suspension. In Vermont, an offender's license is suspended for 18 months with the option to install an ignition interlock device after 90 days, however in Massachusetts and New Hampshire the license will be suspended for 3 years, and in Maine it will be suspended for 2 years.

¹ Centers for Disease Control and Prevention, "Injury Prevention & Control: Motor Vehicle Safety ." accessed March 17, 2011 http://www.cdc.gov/Motorvehiclesafety/Impaired_Driving/data.html

For a third DUI, Vermont does not have a mandatory minimum time in jail whereas Maine, Massachusetts, New Hampshire and Connecticut require at the very least 30 days in jail. Also in regard to fines, Vermont once again does not have a minimum amount and specifies a maximum of \$2,500 while Connecticut has a minimum of \$2,000 and Massachusetts has a maximum of \$15,000. Vermont does stand tough on license suspension however, in that a third time conviction results in a lifetime suspension. Connecticut also permanently revokes offenders' licenses whereas Massachusetts revokes it for 8 years, Maine for 6, and New Hampshire for 5.

Vermont requires all DUI offenders to complete an alcohol education course for each DUI, and a suspended license will not be reinstated until the person has completed the course. Vermont also provides ignition interlock options for those whose licenses have been suspended.

Vermont also does not have a blood alcohol content (BAC) stipulation on its laws. Some states, like Washington and Rhode Island, have different penalties depending on the specific BAC of the driver. In Washington, the penalties for drunk driving are based on a BAC between 0.08 and 0.15, and 0.15 and higher. For example, a first time offender with a BAC of between 0.08 and 0.15 will have his or her license suspended for 90 days, whereas a person with a BAC over 0.15 will have his or her license suspended for 1 year.

The tables in Appendix II exhibit the DUI penalties in Rhode Island. Like Washington, Rhode Island bases its penalties on BAC, though it breaks the penalties into more BAC levels. For example, a first time DUI conviction will result in up to a 45 day license suspension for a BAC of 0.08 to 0.10, a 3 to 12 month license suspension for a BAC of 0.10 to 0.15, and a 3 to 18 month license suspension for a BAC of 0.15 and higher.

While Vermont has particularly lax DUI laws in comparison to other New England states, there are other states that are not nearly as strict about DUI. As evidenced in Appendix I, the state of Montana only seizes licenses on second and third convictions for one year, and the fines are relatively low.

Ignition Interlock Devices

An ignition interlock is a device that is installed into a motor vehicles dashboard. This mechanism works like a breathalyzer and it prevents a motor vehicle from starting if the driver's BAC is above the limit. The use of the Ignition Interlock device is growing in the United States as a means to prevent drunk driving.

Alabama and South Dakota are the only two states in the U.S. that do not have any ignition interlock law. The ignition interlock device laws in the remaining 48 states vary in severity. Those convicted of DUI in Washington are required to install an interlock device after a first offense. In Massachusetts and Montana repeat offenders must install an ignition interlock device in their car. In Vermont, a first-time offender may be eligible for the device after 30 days

of a 90- day suspension. In Connecticut, a driver whose license has been suspended may have an interlock system installed in their car after the driver has served one year of suspension.²

The U.S. Center for Disease Control and Prevention notes that ignition interlock devices reduce the rate of recidivism by a median of 67%. Drivers who previously had their licenses revoked because of a DWI conviction had more alcohol-impaired crashes than drivers with interlocks. The CDC also suggests expanding the use of sobriety checkpoints, as their research has shown that checkpoints yield a median decrease in impaired driving crashes and deaths by 20%.³

Effectiveness of DUI Laws

In October of 2005, Massachusetts implemented Melanie's Law, which states that if a driver receives a second OUI (operating under the influence), the offender will be required to install an ignition interlock device when his or her license is reinstated or if he or she is granted a hardship license. The ignition interlock device must remain in the vehicle the driver owns for up to two years after the driver's license is reinstated.⁴

Melanie's law has proved to be effective; it has led to an increase in arresting suspected repeated offenders. There has also been a decrease in accused drivers who refuse to take a chemical breath test. Between October 28th, 2004 and October 28th, 2005, before Melanie's law was enacted there were 13,335 arrests for drivers operating under the influence. In the second year of Melanie's law, this increased to 15,591 arrests for drivers operating under the influence.⁵

Colorado has also seen success in decreasing its number of drunk drivers. As a result of the "The Heat is On!" campaign, the number of drivers over the .08 BAC level has decreased 28% from 228 in 2001 to 164 in 2006. The program has been running for 10 years and relies on a strict regulation for summer driving checkpoints sponsored by the states' traffic law enforcement program.⁶

Connecticut's 2003 Impaired-Driving High-Visibility Enforcement Campaign (DOT HS 810 689) also proved to be effective. This followed the National Highway Transportation and Safety

² National Conference of State Legislatures, "State Ignition Interlock Laws," 2011, accessed March 15, 2011, <http://www.ncsl.org/default.aspx?tabid=13558>.

³ U.S. Centers for Disease Control and Prevention, "Injury Prevention & Control: Motor Vehicle Safety," 2011, accessed March 15, 2011, <http://www.cdc.gov/motorvehiclesafety/alcoholbrief/>.

⁴ Massachusetts Department of Transportation Registry of Motor Vehicles, "Suspensions & Hearings: Operating Under the Influence (OUI) of Alcohol or Drugs," 2009, accessed February 15, 2011, <http://www.mass.gov/rmv/suspend/oui.htm>.

⁵ Massachusetts Department of Transportation Registry of Motor Vehicles, "Melanie's Law Enters Third Year of Targeting Repeat OUI Offenders," 2009, accessed March 3, 2011, <http://www.mass.gov/rmv/melanie/index.htm>.

⁶ U.S. Department of Transportation: National Highway Traffic Safety Administration, "The 2006 National Labor Day Impaired Driving Enforcement Crackdown: Drunk Driving. 'Over The Limit. Under Arrest,'" accessed March 3, 2011, <http://www.nhtsa.gov/DOT/NHTSA/TrafficInjuryControl/Articles/Associated>.

Administration (NHTSA) with increases in road checkpoints. Over 109 total checkpoints were conducted during the 2003-2004 Impaired-Driving High-Visibility Enforcement Campaign. The campaign was funded by Sec. 154 and Sec. 164 funds from the Federal Highway Administration (FHA) due to Connecticut's lack of enforcement of open container and repeat impaired driving offender laws that satisfied Federal requirements. Statistics showed that fatalities decreased by an estimated 47 people within the first 18 months of the campaign's July 2003 launch date; half of these drivers were in the targeted cohort of males between the ages 21 to 34. Connecticut did not continue the campaign because transfer funds under Sec. 164 ended after fiscal year 2003. Instead of continuing a high-visibility enforcement campaign, Connecticut chose to adopt repeat impaired driving offender laws. This resulted in 110 fatal crashes in 2006 with drivers exceeding the legal BAC limit of .08, more than the 105 reported in 2002 even before the high-visibility enforcement campaign began. Drivers with BACs over .08 also experienced more fatal accidents, from 3.36 per billion vehicle miles of travel in 2002 (pre-campaign) to an elevated 3.48 in 2006.⁷

Other states have also taken substantial steps in reducing fatalities from alcohol related incidents by implementing impaired-driving high-visibility campaigns. In the first eight months of 2007, the state of Nevada experienced a 27% decrease in drivers with a BAC of .08 or higher compared to the same period of time in 2006. Simultaneously in West Virginia, the number of drivers over the .08 BAC limit dropped by 30% along with an 18% decrease in alcohol related fatalities from 2002 through 2005.⁸ These three states were included in the eight observed during the National Highway Traffic Safety Administration's 2006 "Drunk Driving 'Over the Limit. Under Arrest.' Labor Day Holiday Campaign," which helped to combat driving impaired through checkpoints, decreasing fatalities and overall BAC measures in offenders.⁹

Conclusion

Compared to other states, Vermont is more lenient with DUI offenses. Vermont's fines and jail time are lower than many other states, though the third offense in Vermont is slightly stricter than other states. Vermont requires offenders to complete an alcohol education program as well as community service, something that many other states do not do. By comparison however, Vermont does not suspend offender's licenses for as long as other states, it does not require drivers to install an ignition interlock device, and it does not require jail time for a first offense.

Prepared in response to a request by Representative Dave Potter of Claredon by Allyson Perleoni, Alexander Rosenblatt, and Max McNamara under the supervision of graduate student Kate Fournier and Professor Anthony Gierzynski on March 22, 2011.

⁷ U.S. Department of Transportation: National Highway Traffic Safety Administration.

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Disclaimer: This report has been prepared by undergraduate students at the University of Vermont under the supervision of Professor Anthony Gierzynski. The material contained in the reports does not reflect official policy of the University of Vermont.

Appendix I

		Vermont	Connecticut	Maine	Massachusetts	New Hampshire	Montana	Washington
First Offense	Prison Sentence	No more than 2 years	Either: 6 months with a mandatory 2 days; or six months suspended sentence with probation and 100 hours of community service	Dependent on BAC, speed, attempts to allude the officer, passengers in the car, and compliance with the officer.	No more than 2.5 years		Up to 10 days	Between 1 day and 1 year; if BAC is 0.15+ between 2 days and 1 year
	Fine	Up to \$750	\$500-\$1,000	\$500 minimum; \$600 minimum if refused sobriety test	\$500-\$2,500	No less than \$500	\$300-\$1,000	\$250-\$5,000; if BAC is 0.15+ \$500-\$5,000
	License Suspension	90 Day Suspension, option to use an ignition interlock device after the first 30 days	One year	90 Days	1 Year	9 months to 2 years	6 months	90 days; if BAC is 0.15+ 1 year
Second Offense	Prison Sentence	No more than 2 years; 200 hours of community service or 60 continuous hours in jail	Up to two years with a mandatory minimum of 120 consecutive days and probation with 100 hours of community service	No less than 7 days unless; if refusal occurred no less than 12 days	60 days to 2.5 years	At least 37 days in prison, last 7 of which must be in a driver intervention program	5 to 30 days	Between 30 days and 1 year plus 60 days of home monitoring; if BAC is 0.15+ between 45 days and 1 year plus 60 days of home monitoring
	Fine	Up to \$1,500	\$1,000 to \$4,000	\$1,100 minimum, \$1,400 if refusal of sobriety test	\$500-\$2,500	No less than \$750	\$600-\$1,000	\$500-\$5,000; if BAC is 0.15+ \$750-\$5,000
	License Suspension	18 months; option to use an ignition interlock device after the first 90 days	One year, plus two years ignition interlock, three years if the arrest is in another state	3 years	2 years	At least 3 years	1 year, possible vehicle forfeiture	2 years; if BAC is 0.15+ 900 days

		Vermont	Connecticut	Maine	Massachusetts	New Hampshire	Montana	Washington
Third Offense	Prison Sentence	No more than 5 years; 400 hours of community service or 100 continuous hours in jail	Up to three years with a mandatory minimum of 1 years, and probation and 100 hours of community service	No less than 30 days; if refusal occurred no less than 40 days (if offense occurred within 10 years of the previous offense)	2.5 to 5 years	Not less than 180 days: At least 30 consecutive days served in a correctional facility followed by at least 28 days in a treatment program, the remainder of the sentence may be deferred for up to 2 years	10 to 60 days	Between 90 days and 1 year plus 120 days of home monitoring; if BAC is 0.15+ not less than 120 days not more than 1 year plus 150 days of home monitoring
	Fine	Up to \$2,500	\$2,000 to \$8,000	\$1,100 minimum, \$1,400 if refusal of sobriety test	\$1,000 to \$15,000	No less than \$750	\$1,000 - \$5,000	\$1,000-\$5,000; if BAC is 0.15+ \$1,500-\$5,000
	License Suspension	Life; option to use an ignition interlock device after the first year	Permanent Revocation	6 years	8 years	5 years	1 year, possible vehicle forfeiture	3 years; if BAC is 0.15+ 4 years
Fourth Offense	Prison Sentence				2.5 to 5 years	Not less than 180 days: At least 30 consecutive days served in a correctional facility followed by at least 28 days in a treatment program, the remainder of the sentence may be deferred for up to 2 years		
	Fine				\$15,000 to \$25,000	No less than \$750		
	License Suspension				10 years	7 years		

		Vermont	Connecticut	Maine	Massachusetts	New Hampshire	Montana	Washington
Other Stipulations		Licenses are not reinstated until the driver has completed therapy, as well as an alcohol and driving program. If a death occurs as a result of the DUI, the fines are increased up to \$15,000 and 15 years in prison per death caused.		Suspension of the right to register a vehicle occurs on an offender's second DUI, as well as all subsequent DUIs.	Melanie's Law states that when the driver's license is reinstated, an ignition interlock device must be installed for two years after the license is reinstated.			

Sources: 23 V.S.A. § 1210 (b); Connecticut Office of Legislative Research, "Connecticut DUI Laws", 2011, accessed February 11, 2011, <http://www.cga.ct.gov/2010/rpt/2010-R-0415.htm>; Maine Title 29-A, Chapter 23 5 (A 2); Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); Montana Code: 61-8-722 (1); RCW 46.61.5055 (1)(a)(i); RCW 46.61.5055 (b)(i); 23 V.S.A. § 1210 (b); Maine Title 29-A, Chapter 23 1; Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (I) (a) (2); Montana Code: 61-8-722 (1); RCW 46.61.5055 (a)(ii); RCW 46.61.5055 (b) (ii); 23 V.S.A. § 1206 (a); 23 V.S.A. § 1206 (a); Maine Title 29-A, Chapter 23 5 (A 1); Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (I) (a) (4); Montana Department of Justice: Driver Services, "Driver License Sanctions," accessed February 15, 2011, <http://www.doj.mt.gov/driving/driverlicensesanctions.asp>; Washington State Department of Licensing, "Driver License Penalties Following Conviction," accessed February 15, 2011, <http://www.dol.wa.gov/forms/500015.pdf>; 23 V.S.A. § 1210 (c); Maine Title 29-A, Chapter 23 5 (B 2); Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (IV) (a) (3A); Montana Code: 61-8-722 (2); RCW 46.61.5055 (2)(a)(i); RCW 46.61.5055 (2) (b)(i); ¹ Maine Title 29-A, Chapter 23 5 (B 1); Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (IV) (a) (2); RCW 46.61.5055 (2)(a)(ii); 23 V.S.A. § 1208 (a); Maine Title 29-A, Chapter 23 5 (B 3); Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (IV) (a) (4); 23 V.S.A. § 1210 (d); Maine Title 29-A, Chapter 23 5 (C 2); New Hampshire Title XXI Chapter 265-A § 265-A:18 (IV) (b) (2); Montana Code: 61-8-722 (3); RCW 46.61.5055 (3) (a) (i); RCW 46.61.5055 (3) (b) (i); Maine Title 29-A, Chapter 23 5 (C 1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (IV) (a) (3B); Montana Code: 61-8-722 (3); RCW 46.61.5055 (3) (a) (ii); RCW 46.61.5055 (3) (b) (ii); 23 V.S.A. § 1208 (b); Maine Title 29-A, Chapter 23 5 (C 4); Massachusetts Title XIV Chapter 90 § 24. (1) (a) (1); New Hampshire Title XXI Chapter 265-A § 265-A:18 (b)(2); Maine Title 29-A, Chapter 23 5 (B 4); Massachusetts Department of Transportation Registry of Motor Vehicles, "Suspensions & Hearings: Operating Under the Influence (OUI) of Alcohol or Drugs," 2009, accessed February 15, 2011, <http://www.mass.gov/rmv/suspend/oui.htm>.

Appendix II

Rhode Island DWI First Offense:

	BAC 0.08 to 0.10	BAC 0.10 to 0.15	BAC 0.15 or higher
Fine	\$100 to \$400 Fine	\$100 to \$400 Fine	\$500 Fine
Community Service	10-60 Hours of Community Service	10-60 Hours of Community Service	20-60 Hours of Community Service
License Suspension	Up to 45 day License Suspension	3 to 12 Month license suspension	3 to 18 Month license suspension
Highway Assessment	\$500 Highway assessment	\$500 Highway assessment	\$500 Highway assessment
Driving School/Treatment	Possible "Drunk Driving School"	Mandatory "Drunk Driving School"	Mandatory "Drunk Driving School and/or treatment"

Rhode Island Second DWI Offense within Five Years (considered a misdemeanor):

	BAC 0.08 to 0.15	BAC 0.15 and higher
Fine	\$400 fine	\$1,000 fine (at least)
Prison	10 Days to 1 year in prison	6 Months to 1 year in prison
License Suspension	1-2 Year license suspension	2 Year license suspension and treatment
Ignition interlock	Possible ignition interlock 1 to 2 years	Possible ignition interlock 1-2 years
Highway Assessment	\$500 highway assessment	\$500 highway assessment

In the event of a third or subsequent offense within 5 years, the BAC is no longer taken into account and the crime is no longer considered a misdemeanor but rather, a felony.¹⁰ The penalties are a \$400 fine, 1 to 3 years in prison, and a 2 to 3 year license suspension.¹¹

¹⁰ State of Rhode Island Department of Transportation, "Drunk Driving," September 23, 2008, accessed February 11, 2011, <http://www.dot.state.ri.us/programs/safety/drunkdriving.asp>.

¹¹ State of Rhode Island Department of Transportation.