

108TH CONGRESS
1ST SESSION

S. 1141

To amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2003

Mr. LAUTENBERG (for himself and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Higher-Risk Impaired
5 Driver Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Of the total 42,850 people who died in
9 motor vehicle traffic crashes in the United States

1 during 2002, alcohol-related traffic deaths accounted
2 for 42 percent—preliminary data shows that 17,970
3 people died in these crashes.

4 (2) Alcohol-related traffic fatalities in the
5 United States have been rising since 1999.

6 (3) About one-third of all drivers arrested or
7 convicted of driving under the influence are repeat
8 offenders.

9 (4) A report released by the alcohol industry
10 showed that 58 percent of alcohol-related traffic fa-
11 talities in 2001 involved drivers with a blood alcohol
12 concentration level of .15 percent and above.

13 (5) Research funded by the alcohol industry has
14 concluded that repeat offenders of alcohol-impaired
15 driving laws and first offenders with high blood alco-
16 hol concentration (BAC) levels are at greatest risk
17 of committing a subsequent drunk driving offense.

18 (6) It should be the policy of the federal gov-
19 ernment, among other aims, to target these repeat
20 offenders and high BAC level offenders to help re-
21 duce the risk of fatality due to alcohol-impaired driv-
22 ing.

1 **SEC. 3. INCREASED PENALTIES.**

2 (a) IN GENERAL.—Chapter I of title 23, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 165. Increased penalties for higher risk drivers for**
6 **driving while intoxicated or driving**
7 **under the influence**

8 “(a) DEFINITIONS.—In this section, the following
9 definitions apply:

10 “(1) BLOOD ALCOHOL CONCENTRATION.—The
11 term ‘blood alcohol concentration’ means grams of
12 alcohol per 100 milliliters of blood or the equivalent
13 grams of alcohol per 210 liters of breath.

14 “(2) DRIVING WHILE INTOXICATED; DRIVING
15 UNDER THE INFLUENCE.—The terms ‘driving while
16 intoxicated’ and ‘driving under the influence’ mean
17 driving or being in actual physical control of a motor
18 vehicle while having a blood alcohol concentration
19 above the permitted limit as established by each
20 State.

21 “(3) LICENSE SUSPENSION.—The term ‘license
22 suspension’ means the suspension of all driving
23 privileges.

24 “(4) MOTOR VEHICLE.—The term ‘motor vehi-
25 cle’ means a vehicle driven or drawn by mechanical
26 power and manufactured primarily for use on public

1 highways but does not include a vehicle operated
2 solely on a rail line or a commercial vehicle.

3 “(5) HIGHER-RISK IMPAIRED DRIVER LAW.—

4 “(A) The term ‘higher-risk impaired driver
5 law’ means a State law that provides, as a min-
6 imum penalty, that an individual described in
7 subparagraph (B) shall—

8 “(i) receive a driver’s license suspen-
9 sion for not less than 1 year, including a
10 complete ban on driving for not less than
11 90 days and for the remainder of the li-
12 cense suspension period and prior to the
13 issuance of a probational hardship or work
14 permit license, be required to install a cer-
15 tified alcohol ignition interlock device;

16 “(ii) have the motor vehicle driven at
17 the time of arrest impounded or immo-
18 bilized for not less than 90 days and for
19 the remainder of the license suspension pe-
20 riod require the installation of a certified
21 alcohol ignition interlock device on the ve-
22 hicle;

23 “(iii) be subject to an assessment by
24 a certified substance abuse official of the
25 State that assesses the individual’s degree

1 of abuse of alcohol and assigned to a treat-
2 ment program or impaired driving edu-
3 cation program as determined by the as-
4 sessment;

5 “(iv) be imprisoned for not less than
6 10 days, have an electronic monitoring de-
7 vice for not less than 100 days, or be as-
8 signed to a DUI/DWI specialty facility for
9 not less than 30 days;

10 “(v) be fined a minimum of \$1,000,
11 with the proceeds of such funds to be used
12 by the State or local jurisdiction for im-
13 paired driving related prevention, enforce-
14 ment, and prosecution programs, or for the
15 development or maintenance of a tracking
16 system of offenders driving while impaired;

17 “(vi) if the arrest resulted from in-
18 volvement in a crash, pay court-mandated
19 restitution to the victims of the crash;

20 “(vii) be placed on probation by the
21 court for a period of not less than 2 years;

22 “(viii) if diagnosed with a substance
23 abuse problem, during the first year of the
24 probation period referred to in clause (vii),
25 attend a treatment program for a period

1 of 12 consecutive months sponsored by a
2 State certified substance abuse treatment
3 agency and meet with a case manager at
4 least once each month; and

5 “(ix) be required by the court to at-
6 tend a victim impact panel, if such a panel
7 is available.

8 “(B) An individual referred to in subpara-
9 graph (A) is an individual who—

10 “(i) is convicted of a second or subse-
11 quent offense for driving while intoxicated
12 or driving under the influence within a
13 minimum of 5 consecutive years;

14 “(ii) is convicted of a driving while in-
15 toxicated or driving under the influence
16 with a blood alcohol concentration of 0.15
17 percent or greater;

18 “(iii) is convicted of a driving-while-
19 suspended offense if the suspension was
20 the result of a conviction for driving under
21 the influence; or

22 “(iv) refuses a blood alcohol con-
23 centration test while under arrest or inves-
24 tigation for involvement in a fatal or seri-
25 ous injury crash.

1 “(6) SPECIAL DUI/DWI FACILITY.—The term
2 ‘special DUI/DWI facility’ means a facility that
3 houses and treats offenders arrested for driving
4 while impaired and allows such offenders to work
5 and/or attend school.

6 “(7) VICTIM IMPACT PANEL.—The term ‘victim
7 impact panel’ means a group of impaired driving vic-
8 tims who speak to offenders about impaired driving.
9 The purpose of the panel is to change attitudes and
10 behaviors in order to deter impaired driving recidi-
11 vism.

12 “(b) WITHHOLDING OF FUNDS.—

13 “(1) FISCAL YEAR 2008.—On October 1, 2007,
14 if a State has not enacted or is not enforcing a high-
15 er-risk impaired driver law, the Secretary shall with-
16 hold 2 percent of the amount required to be appor-
17 tioned for Federal-aid highways to the State on that
18 date under each of paragraphs (1), (3), and (4) of
19 section 104(b).

20 “(2) FISCAL YEAR 2009.—On October 1, 2008,
21 if a State has not enacted or is not enforcing a high-
22 er-risk impaired driver law, the Secretary shall with-
23 hold 4 percent of the amount required to be appor-
24 tioned for Federal-aid highways to the State on that

1 date under each of paragraphs (1), (3), and (4) of
2 section 104(b).

3 “(3) FISCAL YEAR 2010.—On October 1, 2009,
4 if a State has not enacted or is not enforcing a high-
5 er-risk impaired driver law, the Secretary shall with-
6 hold 6 percent of the amount required to be appor-
7 tioned for Federal-aid highways to the State on that
8 date under each of paragraphs (1), (3), and (4) of
9 section 104(b).

10 “(4) FISCAL YEAR 2011.—On October 1, 2010,
11 and on October 1 of each year thereafter, if a State
12 has not enacted or is not enforcing a higher-risk im-
13 paired driving law, the Secretary shall withhold 8
14 percent of the amount required to be apportioned for
15 Federal-aid highways to the State on that date
16 under each of paragraphs (1), (3), and (4) of section
17 104(b).”.

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