

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

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For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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Drunk Driving Prevention Act

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

Summary

This bill requires mandatory alcohol education for new drivers; prohibition of open containers of beverage alcohol products in motor vehicles; administrative license revocation penalties for violation of the State's driving under the influence laws, administrative license revocation penalties for persons under 21 years of age for driving with a measurable and detectable alcohol concentration; administrative license revocation for the illegal purchase or possession of alcoholic beverage products by persons under 21 years of age; and mandatory alcohol and drug testing of drivers involved in fatal motor vehicle accidents. This bill also increased penalties for those drivers who are operating a motor vehicle with high breath/blood alcohol concentrations; commit repeated violations of a states DUI laws; and provides for the use of ignition interlock devices.

Model Legislation

Section 1. {Short title} This Act may be cited as the Drunk Driving Prevention Act.

Section 2. {Legislative Declaration}

The purpose of this act is to reduce the incidence of death, injury and property damage in this State caused by persons who drive while under the influence of alcohol or drugs.

Section 3 {Findings} The *{Insert Appropriate Legislative Body}* of this State makes the following findings:

(A) The reduced incidence of drunk driving is due to a comprehensive system approach; the elements of which are sound laws, strict enforcement, even-handed adjudication, education and treatment. This comprehensive systems approach is a proven, solid, effective approach to combat alcohol or drug abuse generally, and drunk driving specifically.

(B) Strict and consistent law enforcement for those who break the law and education for all of society concerning the responsible consumption of beverage alcohol products are the two primary solutions to the question concerning driving under the influence of alcohol or drugs.

Section 4. {Driver Education}

(A) Traffic Safety Education -- Every first time applicant for a driver's license shall complete a course of instruction that provides information on driver and safety matters, including how drinking relates to personal breath/blood alcohol levels and the use of illegal drugs, prescription drugs, and non-prescription drugs on the ability of a person to operate a motor vehicle; the hazards of driving under the influence; and the penalties for driving while under the influence; and the composition of state breath/blood alcohol laws. This course shall consist of no fewer than *{Insert number of hours}* of instruction.

(B) Drivers License Test -- The Drivers License Test shall include written questions concerning the effects of consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and non-prescription drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violations of the state's laws prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs.

Section 5. {Open Containers}

(A) Except as otherwise provided, no driver shall transport, carry, possess, or have any beverage alcohol product within the passenger area of any motor vehicle upon any way in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of beverage shall be transported in the trunk of the motor vehicle. If the motor vehicle does not have a trunk, containers shall be stored in that compartment or area which is least accessible to the driver.

(B) Except as provided, no passenger shall carry possess or have any beverage alcohol product within any passenger area of any motor vehicle upon any way or in any area principally used for public parking in this state except in the original container with the seal unbroken. Securely capped partially filled containers of beverage shall be stored in that compartment or area which is least accessible to the driver.

(C) A person who violates this section shall be fined {Suggested amount: \$200} for the first offense and informed of the penalties for a second or subsequent violation of this

section. {For each subsequent violation, we suggest a doubling of the prescribed fine.}

(D) This section shall not apply to persons transporting, carrying, possessing or having any beverage alcohol product in a chartered bus, in a taxi, in a limousine for hire, or in a motor vehicle in which the driver is operating the motor vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid commercial driver's license issued in accordance with the requirements of the state governing such licensing; provided, however, that the driver of any said vehicles is prohibited from having any beverage alcohol product in or about the driver's area.

(E) For the purposes of this Section only:

(1) Passenger area of any motor vehicle shall not include any section of a motor vehicle that has been designed or modified for the overnight accommodation of persons or as living quarters.

(2) "Way shall mean the entire width between the boundary lines of any public highway, street, road, alley, park, or parkway or any private way laid out under the authority of statute or any such way provided and maintained by a public institution to which state funds are appropriated for public use or any such way which has been used for public travel for 20 years.

Section 6. {Revocation/ Suspension of License for Violating the State Law Prohibiting Driving Under the Influence}

(A) The Appropriate {Insert State Department or agency} shall forthwith revoke/suspend the driver's license and/or driving privileges of any person who has violated the State's law prohibiting driving while under the influence as follows: 1. For a period of {suggested period 12 months} for a person with no previous violation of the state's driving while under the influence law or similar statute of any state or the District of Columbia or local government. 2. For a period of {suggested period 18 months} for a person who has had a previous violation within five (5) years of the date of the charge in question. 3. For a period of {suggested period 24 months} for a person who has had two or more previous violations within five (5) years of the date of the charge in question.

(B) Upon certification by the police officer that there existed probable cause to believe that the person had been acting in violation of the State's law prohibiting driving while under the influence and that the person refused to submit to the State's implied consent chemical test after being informed of the penalty of revocation/suspension for such refusal, the {Insert Appropriate State Department or Agency} shall revoke/suspend the person's driver's license and/or driving privileges as follows: 1. For a period of {suggested period 18 months} for a person with no previous violation of the state's driving while under the influence law or similar statute of any state or the District of Columbia or local government. 2. For a period of {suggested period 24 months} for a person who has had a previous violation within five (5) years of the date of the charge in question. 4. For a period of {suggested period 30 months} for a person who has had two or more previous violations within five (5) years of the date of the charge in question.

(C) The {insert appropriate state department or agency} may after a sufficient period of time {suggested period at least 15 days for a first offense up to 90 days for multiple offenses} allow the person whose license and/or driving privileges have been revoked/suspended to resume operating their vehicle if it is equipped with a state certified ignition interlock device. 1. A person's whose operating privileges have been restricted under this section shall be liable for the reasonable cost of equipping and maintaining any ignition interlock device installed in his or her motor vehicle. 2. A person whose operating privileges have been restricted under this section violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device; or if he or she removes, disconnects, tampers with or otherwise circumvents the operation of the ignition interlock device installed in his or her motor vehicle. 3. A person who commits a violation as defined in subsection 2, shall have their driver's license and/or driving privileges revoked/suspended for the remainder of the period prescribed in paragraph A or B.

(D) No revocation or suspension under subsection A, B or C of this section is effective until the {insert appropriate State Department or Agency} or a police officer or other person acting on his or her behalf notifies the person of revocation and allows the person a fifteen (15) day period to request the {insert appropriate State Department or Agency} in writing for a hearing as herein provided. If no request is filed in writing with the {insert appropriate State Department or Agency} within the fifteen (15) day period, the order of revocation/suspension becomes effective. If a request for a hearing is filed, a revocation or suspension is not effective until the final decision of the hearing officer results in a decision adverse to the person.

(E) On behalf of the {insert appropriate State Department or Agency}, the police officer offering a chemical test or directing the administration of a chemical test shall serve immediate notice of revocation/suspension on a person who refuses to permit chemical testing after being informed of the penalty of revocation/suspension for such a refusal, or on a person who is arrested on that occasion for a violation of the State's driving while under the influence law. The officer shall take the State license or permit of the driver in such a case and issue a temporary license effective for only fifteen (15) days with a provision for an additional period if a written request for a hearing is received by the {insert appropriate State Department or Agency} along with the certificate required by subsection A, B or C of this section.

(F) The hearing under this section shall be before the {insert appropriate State Department or Agency}. The scope of the hearing shall cover the issues of:

(1) With respect to subsections A, B and C of this section, whether the police officer had probable cause to believe the person was in violation of the State's driving while under the influence law.

(2) With respect to subsection D of this section, whether by preponderance of the evidence it appears that the person was in violation of the State's driving while under the influence law. For purposes of this subsection, a breath/blood alcohol concentration above the State's legal limit pursuant to the testing referred to above, or a positive indication of drugs, shall be conclusive evidence of said violation.

(3) With respect to subsection B of this section, whether the person refused to permit the test after being informed of the penalty of revocation/suspension for such refusal.

(G) The hearing specified in this section shall be scheduled within thirty (30) days following the filing of the request for a hearing, and shall be subject to judicial review.

(H) After the expiration of the period of revocation/suspension, the person whose license has been revoked/suspended shall be permitted to apply for a driver's license upon full payment of all applicable fees, including but not limited to fees associated with the driver's license revocation/suspension and the application for a new driver's license.

(I) Any person whose driving privileges have been revoked/suspended and who drives any motor vehicle of this State during the period of revocation/suspension for the first offense shall be fined not less than *{suggested amount of \$500}* and no more than *{suggested duration of six (6) months}*. [For each subsequent like offense, suggest a doubling of the prescribed fines and imprisonment and, in addition, that the revocation/suspension period assessed for such person also be doubled.]

(J) A person may not knowingly permits a motor vehicle owned by him/her to be driven on any highway in this State by any person if that person is not authorized to drive or otherwise is in violation of any State law, such as driving with a revoked/suspended driver's license *{insert appropriate fine and/or penalty}*.

Section 7. {Penalties for Violating the State Law Prohibiting Driving Under the Influence}

(A) Upon conviction for a violation of the state law prohibiting driving under the influence, a person shall be fined as follows:

1. Not less than *{existing state law - with a suggested fine of \$250 to \$1,000 and imprisonment for not less than five (5) days nor more than six (6) months}* for a person with no previous violation of the state's law prohibiting driving under the influence or similar statute of any state or the District of Columbia or local government.

2. Not less than *{insert increase penalty}* for a person who has had a previous violation within *{insert number of years - suggested at least five (5)}* years of the date of the charge in question.

3. Not less than *{insert increased penalty}* for a person who has had two previous violations within *{insert number of years - suggested at least five (5)}* years of the date of the charge in question.

4. Not less than *{insert increased penalty}* for a person who has had three or more previous violation within *{insert number of years - suggested at least five (5)}* years of the date of the charge in question.(B) The court may at its discretion suspend such fines and imprisonment as defined in paragraph A for person convicted of a first violation of the state law prohibiting driving under the influence completes the following:

1. A court approved alcohol or drug rehabilitation program; and

2. *{insert appropriate number}* hours of community service

Section 8. {Enhanced Penalties for Violating the State Law Prohibiting Driving Under the Influence While Driving with a High Breath/Blood Alcohol Content}

(A) Upon conviction for a violation of the state law prohibiting driving under the influence, if a person had a breath/blood alcohol concentration of 0.15 to 0.199, in addition to the applicable minimum and maximum fines under Section 7 the court shall order a state certified ignition interlock device installed as described in Section 9 for a minimum of at least one (1) year.

(B) Upon conviction for a violation of the state law prohibiting driving under the influence, if a person had a breath/blood alcohol concentration of 0.20 to 0.249, in addition to the applicable minimum and maximum fines under Section 7 the court shall order a state certified ignition interlock device installed as described in Section 9 for a minimum of at least two (2) years.

(C) Upon conviction for a violation of the state law prohibiting driving under the influence, if a person had a breath/blood alcohol concentration of 0.25 or above, in addition to the applicable minimum and maximum fines under Section 7 the court shall order a state certified ignition interlock device installed as described in Section 9 for a minimum of at least three (3) years.

Section 9. {Installation of Ignition Interlock Devices}

(A) If a person is convicted of violating the state's driving under the influence law, the court may, in addition to the revocation/suspension of drivers license provisions contained in Section 6, order that a person's operating privilege for the operation of *{enter appropriate class of vehicle}* vehicles be restricted to operating *{enter appropriate class of vehicle}* vehicles that are equipped with a state certified ignition interlock device.

(B) The court may restrict the operating privilege restriction under paragraph A for a period of not less than *{suggested period one (1) year}* nor more than the maximum operating privilege revocation period permitted for the violation.

(C) If the court restricts a person's operating privilege under paragraph A, the person shall be liable for the reasonable cost of equipping and maintaining any ignition interlock device installed in his or her motor vehicle.

(D) A person whose operating privileges have been restricted under paragraph A, violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device; or if he or she removes, disconnects, tampers with or otherwise circumvents the operation of the ignition interlock device installed in his or her motor vehicle.

(E) A person who commits a violation as defined in paragraph D, shall have their driver's license and/or driving privileges revoked/suspended for the remainder of the period prescribed in paragraph B.

Section 10. {Driving Privileges for Persons Under Twenty-One (21) Years of Age}

(A) Any driver under twenty-one (21) years of age with a measurable and detectable alcohol concentration when driving a motor vehicle shall be deemed to be driving under the influence for the purpose of administrative or judicial sanctions and all other laws and regulations pertaining to driving while under the influence.

(B) Subsection A may not be construed or applied to limit the application of any other provision of law that prohibits the possession, purchase, and/or consumption of beverage alcohol products by a person under twenty-one (21) years of age.

(C) For those drivers under twenty-one (21) years of age who are convicted of driving under the influence, the courts may require the installation of state certified ignition interlock devices as described in Section 9 until the time that the driver reaches the age of twenty-one (21) years of age.

Section 11. {Possession and Purchase of Alcohol by Persons Under Twenty-One (21) Years of Age}

(A) It shall be unlawful for:

(1) Any person who has not reached his or her twenty-first (21st) birthday to enter any premises licensed for the retail sale of beverage alcohol products for the purpose of purchasing or having served or delivered to him or her any beverage alcohol product; or

(2) Any person who has not reached his or her twenty-first (21st) birthday to consume any beverage alcohol on premises licensed for the retail sale of beverage alcohol products to purchase, attempt to purchase, or have another purchase for him or her any beverage alcohol product; or

(3) Any person to misrepresent or misstate his or her age, or the age of any other person, or to misrepresent his or her age for the purpose of purchasing or having served or delivered to him or her any beverage alcohol product, through the presentation of any of the following documents:

(a) An armed service identification card, an identification card license or any other documentation used for identification purposes that may belong to any other person who is of the age of twenty-one (21) years or older;

(b) A driver's license which bears the date of birth of the licensee, and which is issued by the State of _____ or of any other state;

(B) Any person who shall violate any of the provisions of this section shall be punished for the first offense by a mandatory fine of not less than [suggested amount of one hundred dollars (\$100)] nor more than [suggested amount of two hundred fifty dollars (\$250)] and shall be punished by revocation of his or her driver's license and/or driving privileges for a period of [suggested period of six (6) months]; for the second offense, by a mandatory fine of not less than [suggested amount of two hundred fifty dollars (\$250)] and shall be further punished by revocation of his or her driver's license and/or driving privileges for a period of [suggested period of one (1) year]; and for the third or subsequent offenses, by a mandatory fine for each offense of not less than [suggested amount of five hundred dollars (\$500)] or not more than [suggested amount of one thousand dollars (\$1000)] and shall be further punished by revocation of his or her driver's license and/or driving privileges for a period of [suggested period of eighteen (18) months].

Section 12. {Mandatory Alcohol and Drug Testing of Drivers Involved in Fatal Motor Vehicle Accidents}

(A) When the driver of a motor vehicle is involved in an accident resulting in loss of human life, or where there is reason to believe death may result, and there exists probable cause to believe that the driver is guilty of a violation of the state's law prohibiting driving while under the influence, in addition to penalties established elsewhere under State law, a test or tests of the driver's blood, breath, or urine, must be administered to the driver, including those fatally injured, to determine the presence and percentage concentration of alcohol or drugs in such person's body. The police officer who responds to such collision, the physician in attendance, or any other person designated by State law who was present when the death occurred, or believed death may result, shall order the test or tests as soon as practicable.

(B) The medical personnel who conducted the foregoing test or tests of the driver's blood, breath, or urine shall be immune from liability and shall forward the results of such test or tests to the [appropriate State Department or Agency], which shall establish and maintain the results of the analysis required by subsection A in the database. The information in the database shall reflect the number of fatal motor vehicle accidents (1)

in which alcohol was found to be a factor, with the percentage alcohol concentration involved; (2) in which drugs were found to be a factor, listing the class of drugs so found and their amounts; and (3) in which both alcohol and drugs were found to be factor, with the percentage alcohol concentration involved and listing the class of drugs so found and their amounts.

(C) The results of the analysis required by this section shall be reported to the [appropriate State Department or Agency] and may be used by State and local officials only for statistical purposes that do not reveal the identity of the deceased person.

Section 13. {Severability Clause}

Section 14. {Repealer Clause}

Section 15. {Effective Date}

ALEC's Sourcebook of American State Legislation 1995; adopted by the Criminal Justice Task Force by fax vote, December 22, 2000. Approved by full Board of Directors January, 2001.

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