

A COMPARISON OF VIRGINIA STATUTES FOR A FIRST  
OFFENSE OF DRIVING WHILE INTOXICATED  
WITH THOSE OF THE OTHER 49 STATES  
AND THE DISTRICT OF COLUMBIA

by

W. Allen Ames  
Graduate Legal Assistant

(A Research Project by the Virginia Highway Research Council  
Under the Sponsorship of the Highway Safety Division of Virginia)

Virginia Highway Research Council  
(A Cooperative Organization Sponsored Jointly by the Virginia  
Department of Highways and the University of Virginia)

Charlottesville, Virginia

November 1971  
VHRC 71-R3



## TABLE OF CONTENTS

	Page
SUMMARY AND RECOMMENDATIONS .....	v
PURPOSE OF THE STUDY .....	1
FINES .....	2
IMPRISONMENT .....	3
LICENSE REVOCATION .....	4
PRESUMPTIVE LEVELS .....	7
ADMISSIBLE CHEMICAL EVIDENCE .....	9

## APPENDIX

## FIGURES

(1) Minimum Fine Limit .....	A-1
(2) Maximum Fine Limit .....	A-1
(3) Minimum Jail Sentence .....	A-2
(4) Maximum Jail Sentence .....	A-2
(5) Mandatory Fixed Revocation Period .....	A-3
(6) Completely Discretionary Revocation Period .....	A-3
(7) Minimum Revocation Period .....	A-4
(8) Maximum Revocation Period .....	A-4
TABLE I (STATE-BY-STATE DATA) .....	A-5



## SUMMARY AND RECOMMENDATIONS

With respect to those statutory factors bearing on the severity of the sentence (the fine, jail sentence, and license revocation), one concludes that the Virginia Code authorizes sanctions that, if consistently imposed, would make the penalty for driving while intoxicated one of the more severe in the nation. The fine and jail sentence are structured in terms of minimum and maximum limits. Only two jurisdictions specify a higher minimum fine than does Virginia, while no jurisdiction authorizes a higher maximum fine for a first offense conviction of driving while intoxicated than the state's \$1,000 limit. As regards the jail sentence, only one state specifies a longer minimum confinement period than does Virginia, although 20 jurisdictions allow longer maximum periods of confinement. Finally the mandatory nature of the license revocation coupled with the 12 month period of revocation rate Virginia as relatively harsh in comparison with nationwide data.

On the other hand, the state appears to be extremely facile with respect to those statutory factors affecting the rate of detection, apprehension, and conviction. The 0.15% presumptive level for definition of intoxication is the highest blood-alcohol level in use in the nation. Only a minority of 11 states and the District of Columbia continue to use the 0.15% level, while the remainder have adopted lower presumptive levels.

As regards chemical tests constituting admissible evidence in a prosecution for driving while intoxicated, the state is noticeably lax. Virginia is the only state in the nation to allow only the chemical test results of blood analysis into evidence and is one of only four states to authorize only one chemical test for evidential purposes.

While no firm recommendations can be made on the basis of the statutory comparison alone, the comparison strongly suggests that future revisions in this area of the law be along two lines:

- (1) Consider lessening the severity of the present penalties for DWI if it should be determined that the harshness of present sanctions is causing a reluctance in police to arrest and courts to convict for DWI. The trade-off between increased likelihood of punishment and a more moderate penalty for first offenders might be worthwhile in terms of highway safety.
- (2) Strongly consider changing those factors which presently contribute to a low rate of detection, apprehension, and conviction. Recent suggestions in this area include statutory authorization of quantitative breath analysis (results to be admissible in evidence) and lowering the presumptive level to 0.10%.

It should be remembered that neither line of revision is necessarily exclusive, and the legislature might consider a combination of the two.



A COMPARISON OF VIRGINIA STATUTES FOR A FIRST  
OFFENSE OF DRIVING WHILE INTOXICATED  
WITH THOSE OF THE OTHER 49 STATES  
AND THE DISTRICT OF COLUMBIA

by

W. Allen Ames  
Graduate Legal Assistant

PURPOSE OF THE STUDY

It has been said that, apart from such general variables as personality, motivation, etc., the effectiveness of any sanction depends upon two primary factors: (1) The perceived risk of detection, apprehension and conviction, and (2) the severity of the penalty.<sup>1</sup>

Although the factors are interrelated, this comparison of Virginia's driving while intoxicated (DWI) laws with those of the 49 other states and the District of Columbia can be delineated along similar lines. Under the first factor (likelihood of punishment) fall the following statutory bases of comparison:

- (1) Presumptive levels for definition of intoxication, and
- (2) allowable chemical tests constituting admissible evidence of intoxication.

Under the second factor (severity of the sentence), the following bases apply:

- (1) The fine,
- (2) the jail sentence, and
- (3) the license revocation or suspension.

The purpose of this comparison is to determine those areas of Virginia law where revisions might result in a greater deterrent effect.

---

<sup>1</sup>Roger C. Cramton, "Driver Behavior and Legal Sanctions," Driver Behavior: Cause and Effect (Washington D. C.: Insurance Institute for Highway Safety, 1968) p. 186.

Several caveats need be noted. First, the simple fact that certain areas of Virginia law are not in substantial conformity with national practice does not, in itself, establish the desirability of revisions. However, it is submitted that a degree of uniformity in traffic laws is desirable in light of the interstate and international character of motor vehicle travel. At the least, substantial deviation between Virginia's DWI laws and the laws of the majority of states would suggest those areas of the statutes deserving of further inquiry.

Secondly, the statutory bases listed do not exhaust the conceivable bases of statutory comparison. Further inquiry could have consisted of a consideration of the penalty for refusal to take an authorized chemical test, the extent to which the prosecution can at a subsequent trial for DWI comment on a refusal to take a chemical test, penalties for second and subsequent offenses, whether the statute is of the "implied consent" variety, etc. Nevertheless, the criteria of comparison were narrowed for simplicity's sake, and because it was thought that the factors chosen represented the more important elements of the DWI statutes.

Finally, and more importantly, statutes alone do not reveal the extent to which DWI laws are enforced. Often, solutions to the DWI deterrence problem may lie with more vigorous enforcement of existing statutes, as opposed to statutory revisions. However, information of this nature is not presently available on a national basis, and is outside the scope of this comparison. Consequently, this report will focus solely on statutes.

## FINES

Va. Code Ann. § 18.1-58 provides that the offense of driving while under the influence of intoxicants is a misdemeanor, a first offense conviction of which carries (among other penalties) a fine of not less than \$200 nor more than \$1,000.

With the exception of two states,<sup>2</sup> all jurisdictions<sup>3</sup> state their fines in terms of a minimum and a maximum limit. The average statutory minimum limit is \$65, and the average statutory maximum limit is \$540 (averages rounded to nearest \$5). See Figure 1 of the Appendix.

---

<sup>2</sup>The two states are Missouri and Nebraska. Missouri specifies only a minimum limit of not less than \$100 although, in practice, the maximum fine reportedly never exceeds this level. Nebraska does not specify a fine interval, but rather the single figure of \$100.

<sup>3</sup>The term jurisdiction is defined as one of the 50 states or the District of Columbia.

Note that 46 jurisdictions specify a lower minimum fine than Virginia's \$200. Two states (Delaware and New Jersey) specify the same minimum fine as Virginia's, and only two (California and Iowa) specify a higher minimum. Peaks occur for those jurisdictions specifying the \$0 minimum limit (17 jurisdictions) and those specifying a \$100 minimum limit (15 jurisdictions).

From Figure 2 of the Appendix it can be noted that 37 jurisdictions have a maximum limit on fines lower than Virginia's maximum limit of \$1,000, and 12 jurisdictions have the same maximum as Virginia. No jurisdictions have a fine higher than \$1,000 for a first offense conviction of DWI.

Uniform Vehicle Code: § 11-902.2 provides a fine interval of \$100-\$1,000.

### Conclusions

With respect to the fine allowable for conviction on a first offense of driving while intoxicated, Virginia must be regarded as having one of the most severe sanctions in the nation.

### IMPRISONMENT

According to § 18.1-58, the jury, or the court trying a case without a jury, may impose either the aforementioned fine or a jail sentence of not less than 1 month nor more than 6 months, or both. Both sanctions are discretionary.

In total, 41 jurisdictions specify imposition of either the fine or the jail sentence, or both. Seven jurisdictions, (Arkansas, Ohio, Oklahoma, Tennessee, Texas, Washington, and West Virginia) state their penalties in terms of the fine and the jail sentence. Two states (Minnesota and South Carolina) impose either the fine or the jail sentence, and one state, Kentucky, imposes no jail sentence for a first offense conviction of DWI.

Nationwide, the jail sentences possible for a first offense conviction of driving while intoxicated range from a minimum of 0 days (26 jurisdictions) to a statutory maximum of 36 months (Pennsylvania). The average statutory minimum period of confinement is 7.3 days, while the average statutory maximum is 8 months 23.4 days.

From Figure 3 of the Appendix, it can be noted that 42 jurisdictions specify a lower minimum confinement than does Virginia, 6 states specify the same minimum limit (1 month), and only one state (Delaware, 60 days) has a longer minimum confinement period than does Virginia.

From Figure 4 of the Appendix, it can be noted that 11 jurisdictions have lower maximum jail sentences than does Virginia. Eighteen jurisdictions have the same maximum jail sentence as Virginia (6 months), and 20 jurisdictions have higher maximum jail sentences than Virginia.

Uniform Vehicle Code: § 11-902.2 provides a period of confinement ranging from 10 days to 1 year.

### Conclusions

With respect to the period of confinement, Virginia must be regarded as being relatively severe in comparison with the nationwide average; although not as harsh as with respect to the fine. The comparisons must be tempered by the fact that both are discretionary. Thus, in reality, the practice may differ considerably from what is statutorily possible.

### LICENSE REVOCATION

Va. Code Ann. §18.1-59 provides for a mandatory, self-executing 12 month license revocation upon a first offense conviction of DWI.

The comparison of the license revocation provisions of the various jurisdictions is divided into three categories:

- (1) Those jurisdictions specifying a completely discretionary revocation period, where the revocation period may range from 0 days to some stated maximum limit.
- (2) Those jurisdictions specifying a completely mandatory fixed revocation period with no latitude in setting the revocation period.
- (3) Those jurisdictions specifying minimum and maximum limits on the revocation period, but allowing judicial and/or administrative discretion in setting the exact revocation period between the limits.

Certain value judgements were made by the author as to which categories certain states belonged. Such judgements were necessitated by variations in statutory terminology, dual responsibility for license revocation, seemingly conflicting statutory provisions, etc. Typical examples are the states of Georgia and Oklahoma, who specify an original revocation of 12 months but allow the defendant to petition

for reinstatement after a specified minimum period. Since minimum and maximum revocation limits are stated, these jurisdictions are placed in the category with those jurisdictions who allow discretion between certain minimum and maximum limits.

More frequent are the cases in which a mandatory revocation period is stated with the qualification that the license may not necessarily be returned after revocation. This qualification is usually framed in terms of the court or other appropriate administrative agency being satisfied of the safety of allowing the defendant to drive again. Since this qualification is applied on an individual basis, and since no other maximum limit than the initial revocation is stated, the jurisdictions with such statutes are placed in the category of those specifying completely mandatory revocations.

In some states, provisions are made for the issuance of a "limited" operator's license to those whose licenses have been revoked. It is the general feeling in these states that the intent of license revocation is not to further punish the accused by denying him the privilege of driving, but to make the roads safe for others to drive. In those cases where a license revocation imposes undue hardship on the ability of the person convicted to earn a livelihood, a "limited" operator's license may be issued.

Despite the fact that these "limited" or "hardship" licenses have the effect, in reality, of moderating the revocation period, it was decided that a provision for issuance of a "hardship" license should not affect the category of license revocation into which a jurisdiction would normally be placed. Hardship licenses are issued on an individual basis and it is impossible to generalize on the extent to which they do or do not alter the intent of the original statute.

Category (1) - Completely Mandatory

There are 28 jurisdictions (including Virginia) who specify a mandatory fixed revocation period:

- |                      |                |                |
|----------------------|----------------|----------------|
| Colorado             | Massachusetts  | Oregon         |
| Connecticut          | Mississippi    | Pennsylvania   |
| Delaware             | Missouri       | Rhode Island   |
| District of Columbia | Montana        | South Carolina |
| Idaho                | Nebraska       | Texas          |
| Illinois             | New Jersey     | Utah           |
| Kentucky             | New Mexico     | Vermont        |
| Louisiana            | New York       | Virginia       |
| Maine                | North Carolina | West Virginia  |
|                      |                | Wyoming        |

The average license revocation is 8.89 months (8 months 26.7 days).

From Figure 5 of the Appendix it can be noted that 13 jurisdictions specify license revocations of shorter duration than that for Virginia; 14 jurisdictions specify mandatory revocations of 12 months (including Virginia), and only 1 jurisdiction (New Jersey, 2 years) specifies a mandatory revocation of greater duration than Virginia's.

Uniform Vehicle Code: § 11-902. 2 makes license revocation mandatory upon conviction of DWI and § 6-208 specifies 1 year as the appropriate time period.

### Category (2) — Completely Discretionary

There are eight jurisdictions who specify a completely discretionary license revocation where the duration varies from 0 to x, where x is some stated maximum limit. The jurisdictions are:

Alabama	California
Alaska <sup>4</sup>	Hawaii
Arizona	Kansas
Arkansas	Tennessee

The minimum limit is 0 days by definition of the category. The average maximum limit is 9.87 months (9 months 26.1 days). The modal interval is 0-12 months (6 jurisdictions). See Figure 6 of the Appendix.

### Category (3) — Fixed Minimum and Maximum Limits With Judicial and/or Administrative Discretion Within These Limits As To Actual Duration of Revocation

There are 15 states in this category:

Florida	Michigan	Ohio
Georgia	Minnesota	Oklahoma
Indiana	Nevada	South Dakota
Iowa	New Hampshire	Washington
Maryland	North Dakota	Wisconsin

---

<sup>4</sup> Alaska is somewhat unusual in that the statute indicates that license revocation is discretionary, but if it is suspended, the revocation is to be for 30 days.

The average minimum limit is 2.33 months (2 months 10 days). The average maximum limit is 14.80 months (14 months 24 days). See Figures 7 and 8 of the Appendix.

### Conclusions

While Virginia's provisions regarding license revocation are in conformity with the recommendations of the Uniform Vehicle Code, both the UVC and the Va. Code must be regarded as relatively harsh in comparison with nationwide data. This is due primarily to the mandatory nature of the revocation, although the comparatively lengthy 12 month time period is also a factor.

The author wishes to reiterate that there may be differences between these findings and those contained in other publications due to the value judgements that must be made in categorizing the various jurisdictions. Where questions arise, the reader is invited to examine the comments portion of Table I (Appendix) and draw his own conclusions. In addition, it should be pointed out that this study encompassed only the legislative sanctions as found in the codes of the various states. No efforts were made to examine the actual practices, e. g. , administrative rules, enforcement practices, conviction rates, etc. , that may exist.

The experience in Virginia is that even mandatory sanctions are not uniformly enforced within the court system.<sup>5</sup>

### PRESUMPTIVE LEVELS

Va. Code Ann. § 18.1-57 details the following presumptions, expressed in the percent by weight of alcohol in the accused's blood:

0.05% or less — presumed that the accused was not under the influence of alcoholic intoxicants

greater than 0.05% but less than 0.10% — no presumption

0.10% to less than 0.15% — "impaired" driving within the meaning of § 18.1-56.1

0.15% or greater — presumed that the accused was under the influence of alcoholic intoxicants

---

<sup>5</sup> David I. Greenberg, The Enforcement of Mandatory Sanctions in Virginia Traffic Courts, Virginia Highway Research Council (1969) 170 pp.

Currently, all 51 jurisdictions utilize presumptive levels in defining the offense of driving under the influence of alcohol.<sup>6</sup> Virginia, with its lesser included offense of impaired driving at 0.10%, is one of seven states utilizing two presumptive levels and assigning different sanctions to each.<sup>7</sup> Three blood-alcohol concentrations are used in defining the offense: 0.15%, 0.10% and 0.08%. The District of Columbia and Maryland use a somewhat higher level when urine is analyzed, but this does not represent a higher intoxication state because the alcohol concentration of urine is approximately one-third higher than that of blood.

Prior to the 1971 legislative sessions, the split between those states utilizing 0.15% for definition of driving under the influence and those using 0.10% was roughly equal. Recent legislative sessions have been unusually active in this area, with the result that a number of states have lowered their presumptive levels. At last count, 11 states and the District of Columbia used 0.15%, one state used 0.12%, 36 states used 0.10%, and two states used 0.08%.<sup>8</sup>

Uniform Vehicle Code: § 11-902 (b) names 0.10% as the appropriate level for definition of the offense of driving under the influence of intoxicating liquor.

### Conclusions

Virginia is one of a steadily decreasing number of states still retaining the 0.15% level. Additionally, it must be remembered that the 0.15% level is the most liberal level to be used in the nation. A growing body of scientific evidence indicating that the 0.15% level is far too liberal has led to the many downward revisions that were recently enacted. The liberality of Virginia's 0.15% level is moderated somewhat by the provision for impaired driving at 0.10%. However, according to § 18.1-56.1, the offense is a lesser included offense of driving under the influence, and no person is to be initially charged with the offense of impaired driving. Thus, in terms of detection and apprehension, the 0.15% level is more applicable.

---

<sup>6</sup> Five states make driving while with the specified blood-alcohol concentration illegal per se, as opposed to a presumption or prima facie evidence of being under the influence. These states are: Oregon (0.15%); New York (0.12%); Delaware, Nebraska, and Minnesota (0.10%).

<sup>7</sup> The following states, while using 0.15% for definition of driving under the influence, use the lesser 0.10% level for definition of impaired driving: Maryland, Michigan, New Jersey, and Virginia. The state of Mississippi defines driving while intoxicated at 0.15%, while driving under the influence is at 0.10%. Driving with a blood-alcohol level of 0.12 is illegal per se in New York, with impaired driving at 0.08%. While 0.10% defines driving under the influence in Colorado, impaired driving is at 0.05%.

<sup>8</sup> See Table I for state-by-state statutory data.

## ADMISSIBLE CHEMICAL EVIDENCE

Virginia Code Annotated § 18.1-55.1 provides that any person who operates a motor vehicle upon a public highway of the state "shall be deemed thereby, as a condition of such operation to have consented to have a sample of his blood taken for a chemical test to determine the alcoholic content thereof." Note that the statute is of the "implied consent" variety, a concept which has been adopted by the majority of states. Section 18.1-55 (f) further provides that the statement of the Chief Medical Examiner as to the alcoholic content of the sample shall be admissible in evidence.

Virginia law also provides for a breath test under Section 18.1-54.1. However, this test is only a semiquantitative analysis, is wholly voluntary on the motorist's part, and the results are not admissible into evidence. Consequently, in terms of the basis of comparison (statutorily-authorized, admissible chemical evidence), Virginia provides only one test — the blood test.

Of the 51 jurisdictions authorizing chemical tests, Virginia is one of four states who authorize only one chemical test. The other three (Alaska, Indiana, and South Carolina) specify the breath test, making Virginia the only state in the nation to authorize only the blood test.

There are 9 jurisdictions<sup>9</sup> that authorize two chemical tests. These jurisdictions all utilize the blood test and the breath test. The remaining 38 jurisdictions authorize the analysis of 3, 4, or more bodily substances. The most often utilized substances are blood, breath, urine, and saliva — in that order of frequency. Remaining possibilities are usually classified under the general heading of "other bodily substances." More detailed information may be found in Table I of the Appendix, which contains state-by-state statutory data.

#### Conclusions

The state of Virginia must be regarded as being extremely lax with respect to this aspect of detection, apprehension, and conviction. Not only is the state in a distinct minority with respect to the number of chemical tests it authorizes, but the fact that it is the blood test that is used increases the deficiency since there are aspects of blood-alcohol analysis that make administration of the test particularly burdensome.

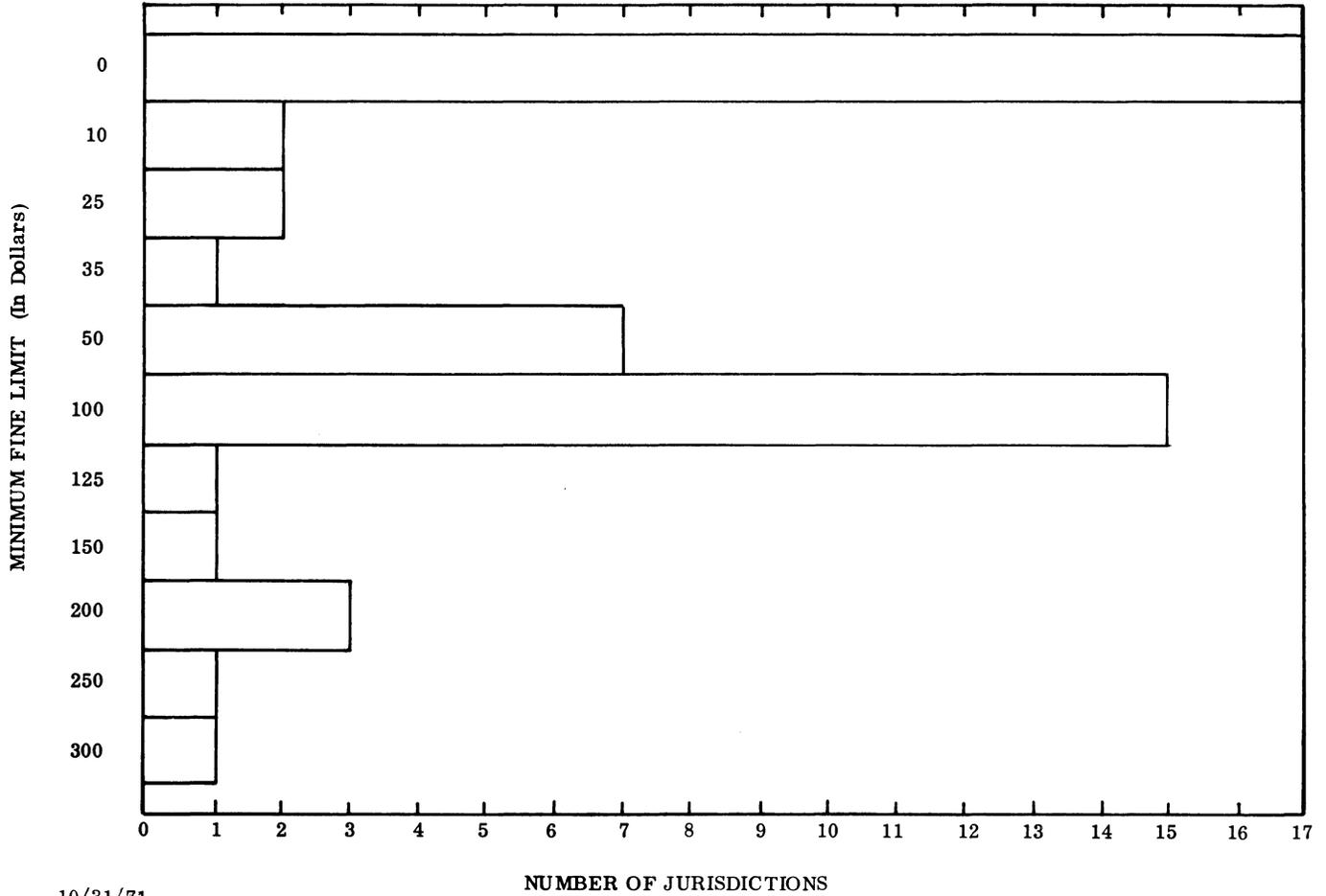
---

<sup>9</sup> Connecticut, Florida, Georgia, Maine, Massachusetts, New Mexico, North Carolina, Oklahoma, and Utah.



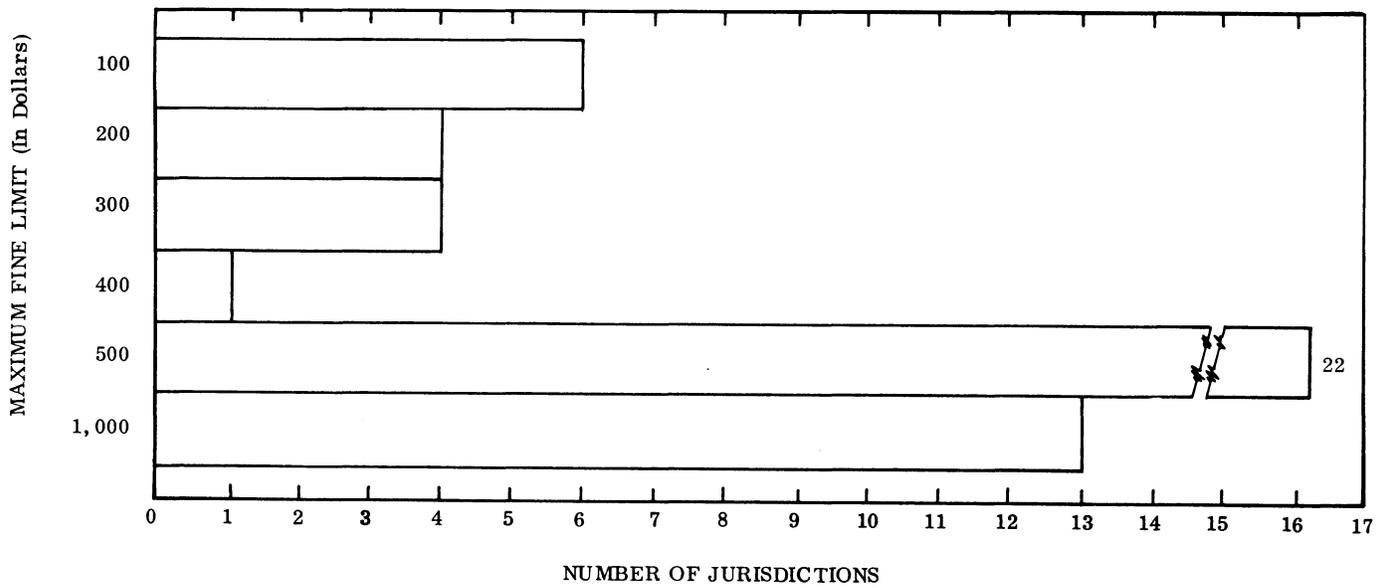
APPENDIX





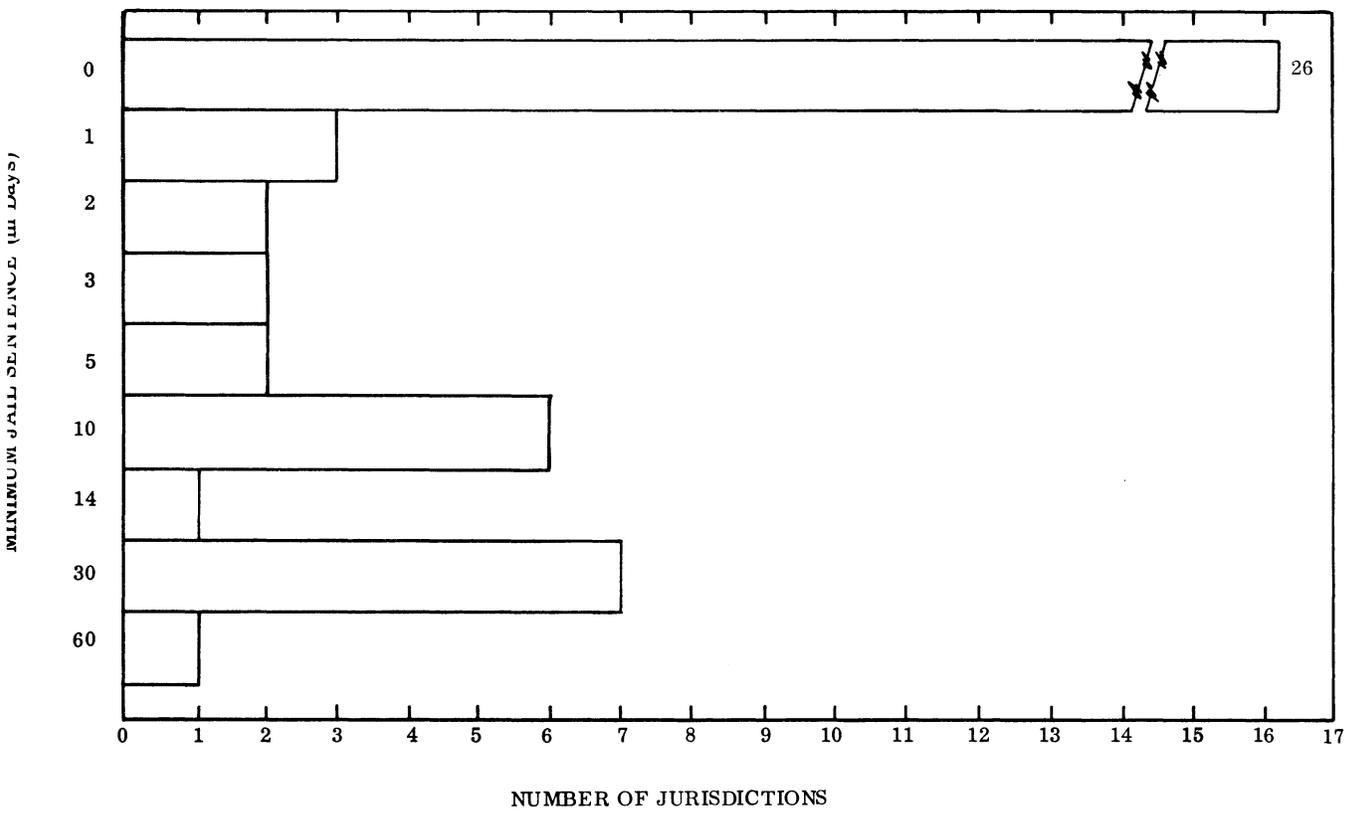
10/31/71

Figure 1. Frequency distribution of minimum fine limits.



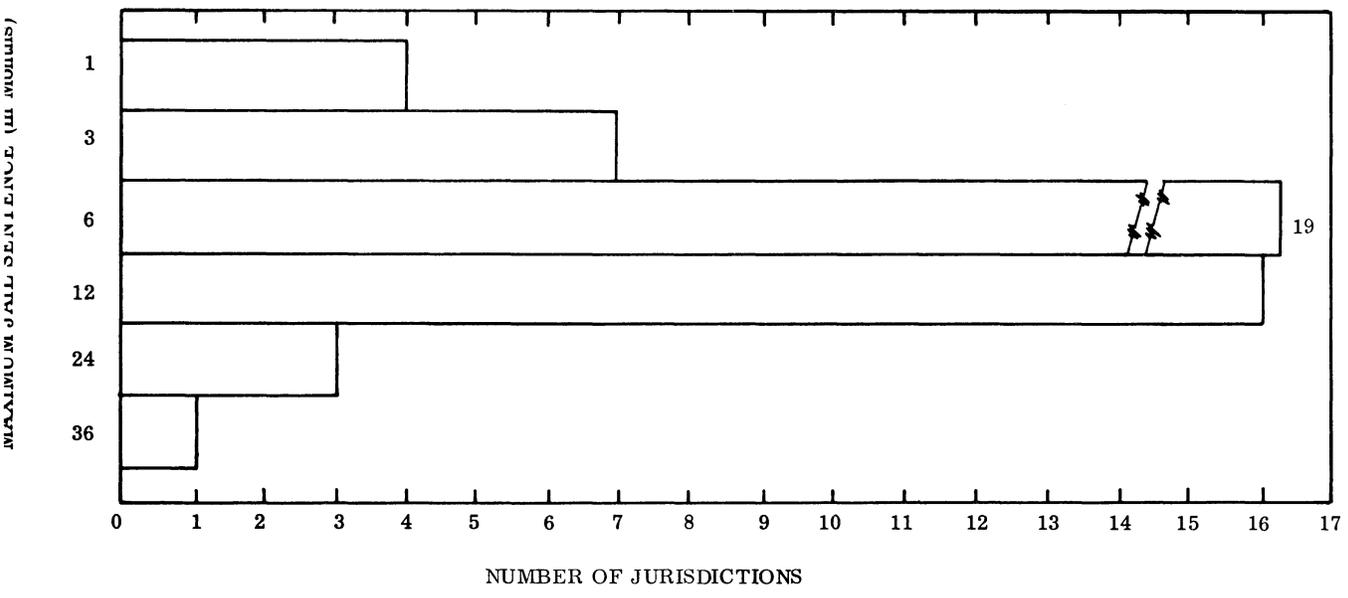
10/31/71

Figure 2. Frequency distribution of maximum fine limits.



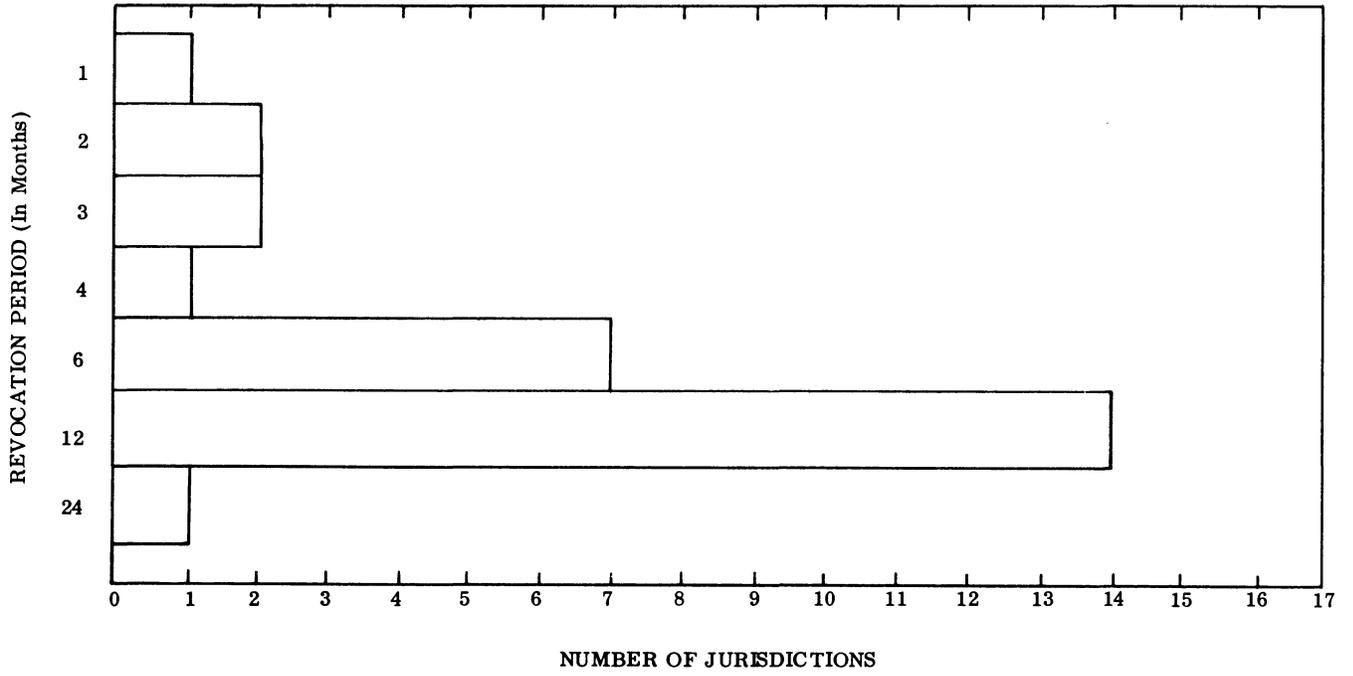
Rev. 10/31/71

Figure 3. Frequency distribution of minimum jail sentences.



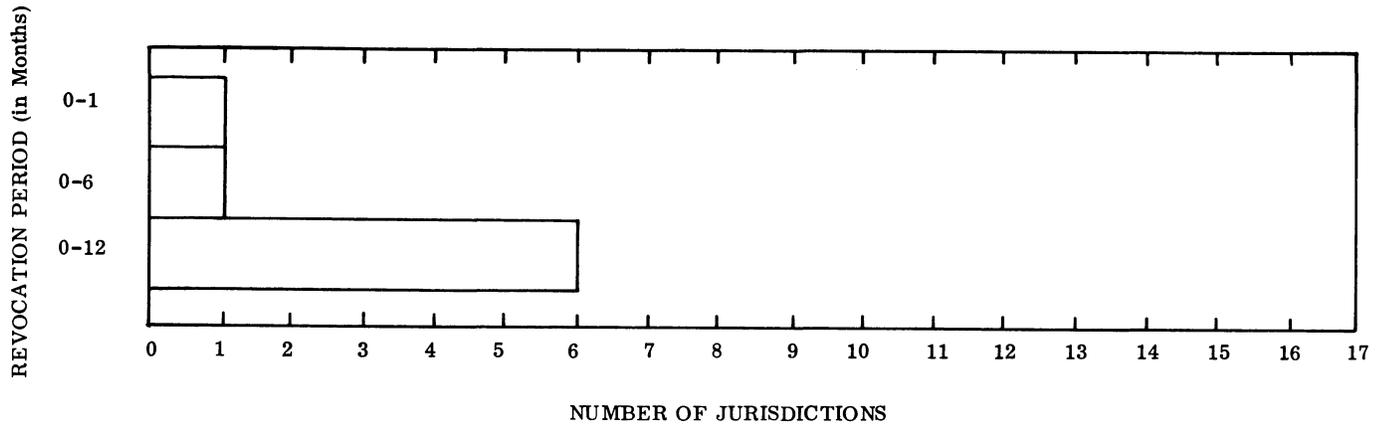
Rev. 10/31/71

Figure 4. Frequency distribution of maximum jail sentences.



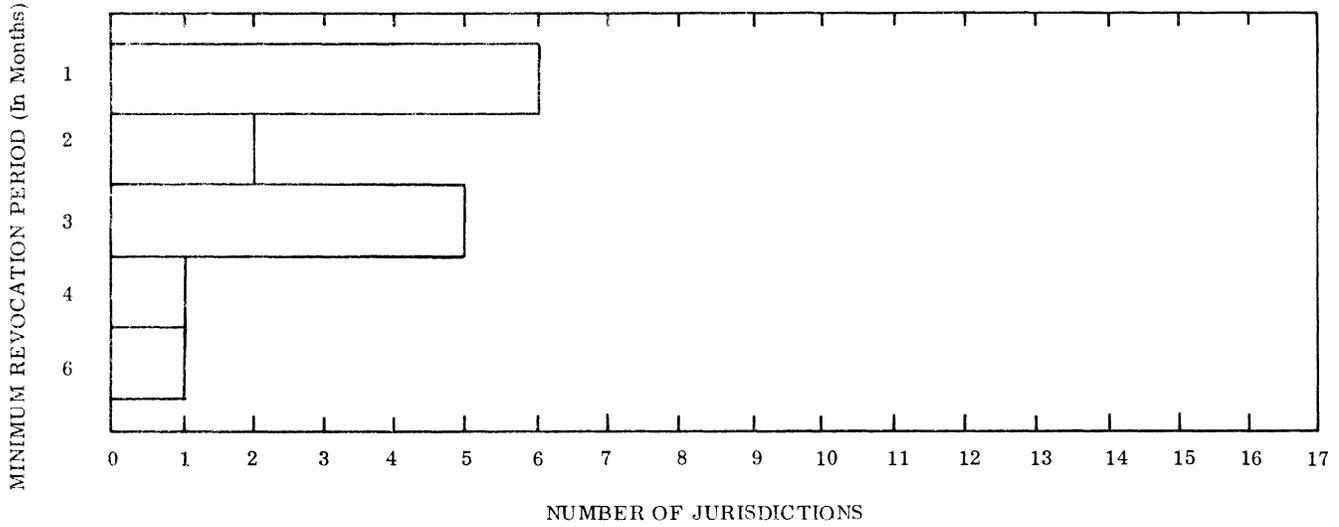
Rev. 10/31/71

Figure 5. Frequency distribution of mandatory fixed revocation periods.



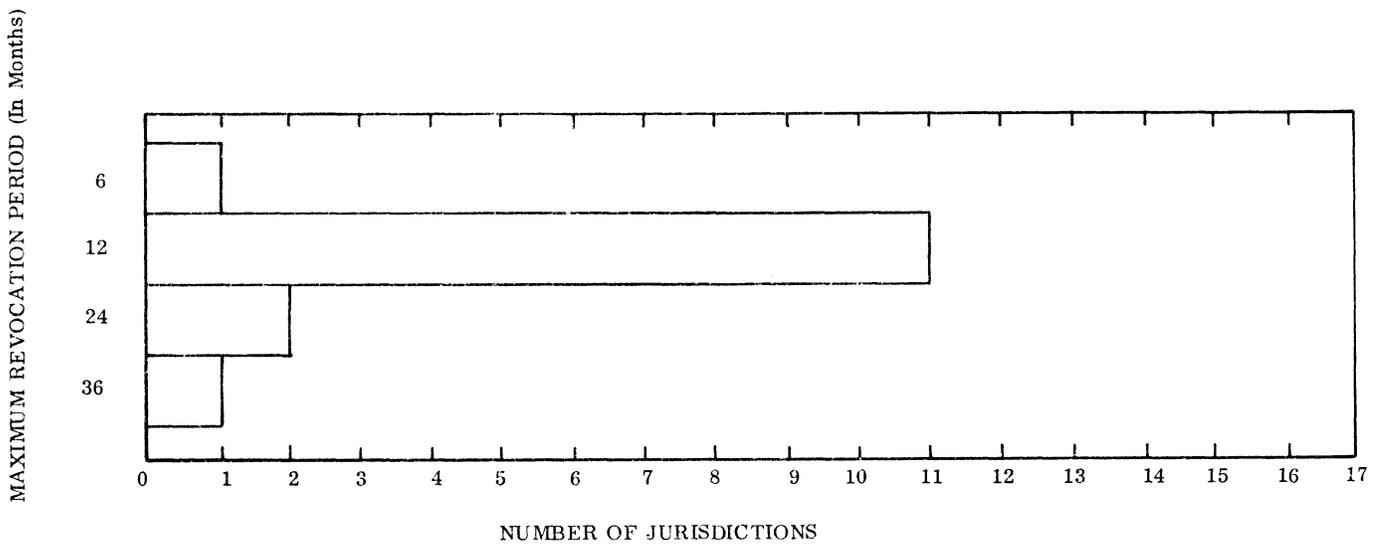
Rev. 10/31/71

Figure 6. Frequency distribution of completely discretionary revocation periods.



Rev. 10/31/71

Figure 7. Frequency distribution of minimum revocation periods.



Rev. 10/31/71

Figure 8. Frequency distribution of maximum revocation periods.

Symbols: X : or, or both  
 NLT : not less than

TABLE I  
 STATE-BY-STATE STATUTORY DATA

State (Source)	Fine (1st Offense)	Imprisonment (1st Offense)	Period of License Revocation/Suspension (1st Offense)	Presumptive Level	Admissible Chemical Evidence	Comments
Alabama (Code of Alabama)	\$100-\$1,000 Title 6, § 2	X 0-1 year Title 6, § 2	0-1 year Title 6, § 2	0.10% Title 36, § 155	blood, breath urine Title 36, §154 (a)	
Alaska (Alaska Statutes)	0-\$1000 §28.35.030	X 0-1 year §28.35.030	Discretionary § 28.15.220 (a) (1) 30 days (if revoked) § 28.15.260	0.10% §28.35.033(3)	breath §28.35.031	
Arizona (Arizona Revised Statutes)	\$100-\$300 §28-692.01 (A)	X 10 da. -6 mo. §28-692.01(A)	0-90 da. (discretion of court) §28-692.01 0-12 months (discretion of department) §28-445 (A) (8), 448 (A)	0.15% §28-692(B) (3)	blood, breath urine §28-691(A)	
Arkansas (Arkansas Statutes Annotated)	\$50-\$500 §75-1029	and 24 hrs. -30 da. §75-1029	0-12 mo. (discretionary)* §75-1029, §75-333, §75-335	0.10% §75-1031.1	blood, breath urine other bodily substance §75-1031.1	*Circuit Court has authority to set aside an order revoking the defendant's license and restore it.
California (Annotated California Codes)	\$250-\$500 Veh. §23102	X 30 da. -6 mo. Veh. §23102	0-6 months Veh. §13201 (a)	0.10% Veh. §23126 (a) (3)	blood, breath urine Veh. §13353	
Colorado (Colorado Revised Statutes)	\$100-\$1,000 §13-5-30 (4)(a)	X 1 day-1 year §13-5-30(4)(a)	1 year (mandatory*) §13-4-23(5)(b)	0.05%(impaired) 0.10%(intox.)	blood, breath urine §13-5-30(2)(a)	*Point System
Connecticut (Connecticut General Statutes Annotated)	\$150-\$500 §14-227 a(e) (Jan. sess. 1971)	X 0-6 months §14-227 a(e)	1 year (mandatory) §14-111 (b)	0.10% §14-227 a (c) (Jan. sess. 1971)	blood, breath §14-227 a (b)	

State (Source)	Fine (1st Offense)	Imprisonment (1st Offense)	Period of License Revocation/Suspension (1st Offense)	Presumptive Level	Admissible Chemical Evidence	Comments
Delaware (Delaware Code annotated)	\$500-\$1,000 §4176 (a)	60 da.-6 mo. § 4176 (a)	1 year (mandatory) § 4176 (b)	0.10%* § 4176 (a)	blood, breath, urine § 4176	*Illegal per se
District of Columbia (District of Columbia Code Encyclopedia)	0-\$500 §40-609(b)	0-6 months §40-609(b)	*Mandatory (6 mo.) § 40-609(d)(1) § 40-302 (b)	0.15%(blood) 0.20%(urine)* § 40-609a (a) (3)	blood, breath, urine §40-609a (a)(3)	* may be longer ** the alcohol content of urine runs approximately one-third higher than for blood
Florida (Florida Statutes annotated)	\$25-\$500 §871.201	0-6 months §871.201	NLT 3 mo.-1 year §822.282(2)(a)(1)	greater than 0.10% §822.282(2)(c)	Blood, breath* §822.621(1)(a)	*Blood test to be used if breath test is impractical or impossible.
Georgia (Georgia Code annotated)	0-\$1,000 §68-9901 (b)	0-12 months §68-9901 (b)	NLT 30 da.-12 mo.* § 62A 608, 68-9927	0.10% §68-1025(3)	blood, breath § 68-1025 (b)	* Mandatory revocation for 12 months but the license may be reinstated after 30 days. DWI punishable as a misdemeanor.
Hawaii (Hawaii Revised Statutes)	0-\$1,000 § 291-4	0-1 year § 291-4	Discretionary §286-125 0-1 year §286-126	0.10% § 291-5 (1971 Leg. Sess.)	blood, breath, urine, other bodily substance §291-5	
Idaho (Idaho Code)	0-\$300 §49-1102(d)	0-6 months §49-1102(d)	90 days* (mandatory) §49-1102 (d)	0.08%** Session Laws Ch. 81, p.179	blood, breath, urine, other bodily substance §49-1102 (b)	* may be increased by Commissioner ** passed in 1971, unpublished as of July 12, 1971
Illinois (Illinois Annotated Statutes)	\$100-\$1,000 Ch. 95½ §11-501	2 days-1 year Ch. 95½ § 11-501	Mandatory Ch. 95½ § 6-205 12 months Ch. 95½ § 6-208	0.10% Ch. 95½ § 11-501	blood, breath, urine, saliva other bodily substance Ch. 95½ § 11-501	
Indiana (Indiana Statutes annotated)	\$25-\$500 §47-2001(b)(2)	5 da.-6 mo. §47-2001(b)(2)	NLT 2 mo.- 1 yr. §47-2001 (b) (2)	0.10% § 1. IC 1971 9-4-1-56 (March 4, 1971)	breath §47-2003 c	
Iowa (Iowa Code annotated)	\$300- 1,000 §321.281	0-1 year §321.281	NLT 120 days-1 yr. §§ 321.281, 321.209(2) 321.212	greater than 0.10% § 321.281	blood, breath, urine, saliva §321 B.3	
Kansas (Kansas Statutes annotated)	\$100-\$500 § 8-530	0-1 year § 8-530	0-1 year* § 8-530	0.10% §8-1005 (b)	blood, breath, urine, saliva §8-1001	* 0-1 year (if suspended); if revoked, the period is 1 year minimum and, additionally, the court must be satisfied that it will be safe to grant the privilege of driving.

Table I (cont.)

State (Source)	Fine (1st Offense)	Imprisonment (1st Offense)	Period of License Revocation/Suspension (1st Offense)	Presumptive Level	Admissible Chemical Evidence	Comments
Kentucky (Kentucky Revised Statutes)	\$100-\$500 \$189,990(10)(a)	None	6 months (mandatory) §186.560	0.10% §189.520	blood, breath urine, saliva §186.565	
Louisiana (Louisiana Statutes Annotated)	\$125-\$400 14 § 98	30 da. -6 mo. 14 § 98	60 da. (mandatory*) 32 § 414	0.10% 32 § 661	blood, breath urine, other bodily substance 32 § 661	* The judge may issue an order limiting the driving privilege of the offender for not more than 90 days.
Maine (Maine Revised Statutes Annotated)	\$0-\$200 Title 29 §1312 (June 29, 1971)	0-90 days Title 29 §1312 (June 29, 1971)	4 mo. (mandatory) Title 29 §1312 (June 29, 1971)	0.10%* Title 29 §1312 (June 29, 1971)	blood, breath Title 29 §1312 (June 29, 1971)	* Prima facie evidence
Maryland (Maryland Code of)	0-\$1,000 Art. 66½ §17-101(b)(i)	0-1 year Art. 66½ §17-101(b)(i)	NLT 3 mo. -1 year Art. 66½ §6-208 Art. 66½ §6-205.2	Impaired: blood--10% urine -.13% Intoxicated: blood-.15% urine-.20% Art. 35 §100	blood, breath urine Art. 66½ §6-205.1	
Massachusetts (Massachusetts General Laws Annotated)	\$35-\$1,000 90 § 24	2 wks.-2 years 90 § 24	1 year (mandatory) 90 § 24	0.15% 90 § 24	blood, breath 90 § 24	
Michigan (Michigan Compiled laws Annotated)	\$50-\$100 §257.625	0-90 days §257.625	NLT 90 da. -2 yrs. §257.319	0.10%(impaired) 0.15%(intox.) 257 §625 a	blood, breath urine, saliva 257 § 625 a	
Minnesota (Minnesota Statutes Annotated)	\$10-\$100 §169.121	10 days-90 days §169.121	NLT 90 da. - 1 yr. §169.121, § 171.18	0.10%* §169.121	blood, breath urine §169.123	*Illegal per se
Mississippi (Mississippi Code Annotated)	\$100-\$1,000 Ch. 515, §5 1971 Leg. Sess.	10 da. - 1 yr. Ch. 515, §5 1971 Leg. Sess.	1 year (mandatory) Ch. 515, §5 1971 Leg. Sess.	0.15% Intoxicated 0.10%: Under the Influence Ch. 515, §15 (a) Ch. 515, §15 (a)(2) (1971 Leg. Sess.) 15 (a)(3)	Blood, breath* urine §15 (a) (1971 Leg. Sess.)	*Implied Consent
Missouri (Annotated Missouri Statutes)	NLT \$100* § 564.440	0-6 months § 564.440	Mandatory ** § 302.302 1 year §302.190	0.15% §564.442	blood, breath urine, saliva §564.442	* no upper limit - in practice the \$100 figure is closely adhered to. ** Point System

Table I (cont.)

State (Source)	Fine (1st Offense)	Imprisonment (1st Offense)	Period of License Revocation/Suspension (1st Offense)	Presumptive Level	Admissible Chemical Evidence	Comments
Montana (Revised Codes of Montana)	\$100-\$500	0-6 months	60 days (mandatory)	0.10%	blood, breath urine	
Nebraska (Revised Statutes of Nebraska)	\$32-2142	\$32-2142	§§ 31-149, 32-2142	\$32-2142 (March 1, 1971)	\$32-2142.1	
	\$100	0-3 months	6 mo. (mandatory)	0.10%*	blood, breath urine	*Illegal per se
	\$39-727	\$39-727	§§ 39-727, 60-424	\$29-727.01 (May 26, 1971)	\$ 727.01	
Nevada (Nevada Revised Statutes)	0-\$500	0-6 months	NLT 30 da. - 1 yr.	0.10%	blood, breath urine, other bodily substances	
	\$193.150	\$ 193.150	\$484.279	\$484.381	\$ 484.381	
New Hampshire (New Hampshire Revised Statutes Annotated)	0-\$500	0-6 months	NLT 60 days - 2 years	0.10%*	breath, urine, ether bodily substance	* prima facie evidence
	\$262-A:62	\$262-A:62	\$262-A:62	(1971)	\$262-A:63:1 (1971)	
New Jersey (New Jersey Statutes Annotated)	\$200-\$500	30 da. - 3 mo.	2 yr. (mandatory)	0.10% (impaired) \$39.4-50.6	blood, breath urine, other bodily substances	
	\$39.4-50	\$ 39.4-50	\$ 39.4-50	0.15% (intox.) \$39.4-50.1	\$ 39.4-50.1	
New Mexico (New Mexico Statutes)	\$100-\$200	30 da. - 90 da.	Mandatory § 64-13-59 1 yr. § 64-13-62	0.10% \$64-22-2.4 (Eff. July 1, 1971)	blood, breath	
	\$64-22-2	\$ 64-22-2			\$ 64-22-2.6	
New York (Consolidated Laws of New York Annotated)	0-\$500	0-1 yr.	6 mo. (mandatory)	0.08% (impaired) V & T § 1192	blood, breath urine, saliva	* Vehicle and Traffic Code
	V & T* § 1192	V & T § 1192	V & T § 510	0.12% (illegal per se) V & T § 1192	V & T § 1192	
North Carolina (General Statutes of North Carolina)	\$100-\$500	30 da. - 6 mo.	Mandatory § 20-17 § 20-17 1 year § 20-19	0.10%	blood, breath	
	\$ 20-179	\$ 20-179		§ 20-139.1	\$ 20-139.1	
North Dakota (North Dakota Century Code)	\$100-\$200	0-30 days	NLT 30 da. - 1 yr. § 39-06-23, 39-06-31	0.10%	blood, breath urine, saliva	
	\$ 39-08-01	\$ 39-08-01		\$39-20-07	§ 39-20-01	
Ohio (Ohio Revised Code Annotated)	0-\$500	3 days* - 6 mo.	NLT 30 da. - 3 yrs.	0.10% Amending §4511.19 (Eff. Dec. 1971)	blood, breath urine, other bodily substances	* 3 days shall not be suspended
	\$ 4511.99 (c)	\$ 4511.99 (c)	\$ 4507.16		§ 4511.19	
Oklahoma (Oklahoma Statutes Annotated)	0-\$500	10 days - 1 year	NLT 6 mo. - 12 mo. 47 § 6-208, 47 § 6-205	0.15% 47 § 756	blood, breath	
	47 § 11-902	47 § 11-902			47 § 751	

Table I (cont.)

State' (Source)	Fine (1st Offense)	Imprisonment (1st Offense)	Period of License Revocation/Suspension (1st Offense)	Presumptive Level	Admissible Chemical Evidence	Comments
Oregon (Oregon Revised Statutes)	0-\$1,000 § 483.992 (2)	X 0-1 year § 483.992 (2)	90 days (mandatory) §482.430 (3) (a)	0.10%* 1971 Leg. Sess.	blood, breath urine, saliva § 483.634, 483.636	*Presumption of intoxication 0.15%: illegal per se
Pennsylvania (Pennsylvania Statutes Annotated)	\$100-\$500 75 § 1037	X 0-3 years 75 § 1037	1 year (mandatory) 75 § 616	0.10% 75 § 624.1	blood, breath urine 75 § 624.1	
Rhode Island (General laws of Rhode Island)	0-\$500 § 31-27-2	X 0-1 year § 31-27-2	1 year (mandatory) § 31-11-6	0.10% §31-27-2.1	blood, breath urine, other bodily substances § 31-27-2	DWI is punishable as a mis- demeanor
South Carolina (Code of Laws of South Carolina)	\$50-\$100 § 46-345	OR 10 da.-30 da. § 46-345	6 mo. (mandatory) § 46-348	0.10% § 46-344	breath § 46-344	
South Dakota (South Dakota Compiled Laws)	\$50-\$300 § 32-23-2	X 10 da.-90 da. § 32-23-2	NLT 30 days-1 year §§ 32-12-48, 32-12-52 (2)	0.10% § 32-23-7	blood, breath urine, other bodily substance § 32-23-7	
Tennessee (Tennessee Code Annotated)	\$10-\$500 § 59-1035	and 2 da. less than 1 yr. (1971 Leg. Sess.) § 59-1035	0-1 year* § 59-1035 § 59-713 (d)	0.10% § 59-1033 (1971 Leg. Sess.)	blood, breath urine § 59-1032	* Court shall revoke for any period of time less than 6 months. Dept. of Safety may retain for a period not exceeding 1 year.
Texas (Texas Statutes Annotated)	\$50-\$500 Penal Code Art. 802	and 3 days-2 years Penal Code Art. 802	6 mo. (mandatory) Civil Statutes § 6687b Sec. 24	0.10% Penal Code Art. 802(f) (Eff. June 7, 1971)	breath*, blood urine, other bodily substances Penal Code Art. 802 (f)	* Implied consent to the breath test. The accused may consent to any other types of chemical test.
Utah (Utah Code Annotated)	\$100-\$299 § 41-6-44	X 30 days-6 mo. § 41-6-44	Mandatory § 41-2-18 1 year § 41-2-21	0.08% § 41-6-44	blood, breath § 41-6-44.10	
Vermont (Vermont Statutes Annotated)	0-\$500 23 § 1210	X 0-2 years 23 § 1210	1 year (mandatory) 23 § 1206	0.10% 23 § 1204	blood, breath urine, saliva 23 § 1202	

Table I (cont.)

State (Source)	Fine (1st Offense)	Imprisonment (1st Offense)	Period of License Revocation/Suspension (1st Offense)	Presumptive Level	Admissible Chemical Evidence	Comments
Virginia (Code of Virginia)	\$200-\$1,000 § 18.1-58	X 1 mo. - 6 mo. § 18.1-58	1 yr. (mandatory) § 18.1-59	0.10% (impaired) § 18.1-56.1 0.15% (intox.) § 18.1-57	blood § 18.1-55	
Washington (Revised Code of Washington Annotated)	\$50-\$500 § 46.61.515	and 5 days- 1 year § 46.61.515	NLT 30 days-1 year §§ 46.61.515, 46.20.311	0.10% § 46.61.506	blood, breath other bodily substances § 46.61.515	
West Virginia (West Virginia Code)	\$50-\$100 §17 C-5-2	and 24 hours-6 mo. §17 C-5-2	6 mo. (mandatory) § 17 C-5-2	0.10% §17 C-5A-5	blood, breath urine § 17 C-5A-1	
Wisconsin (Wisconsin Statutes Annotated)	0-\$200 § 346.65 (2)	X 0-6 months § 346.65 (2)	NLT 90 da. -6 mo. * § 343.30 (1 q)	0.15%** §325.235 (1)(c)	blood, breath urine *** saliva	* 1 year mandatory if the defendant also refused a chemical test ** Need corroborative physical evidence as well *** The blood-alcohol concentration shall be $\frac{1}{2}$ the concentration of alcohol in the urine. §325.235(2)
Wyoming (Wyoming Statutes)	0-\$100 § 31-129	X 0-30 days §31-129	30 days (mandatory) § 31-129 § 31-273 (2) (b)	0.15% § 31-129	blood, breath urine, other bodily substances § 31-129	
Uniform Vehicle Code	\$100-\$1,000 § 11-902.2	X 10 da. -1 year § 11-902.2	Mandatory § 11-902.2 1 year - § 6-208	0.10% § 11-902 (b)	blood, breath urine, other bodily substance § 11-902 (b)	