

108TH CONGRESS
2D SESSION

H. R. 4159

To amend title 23, United States Code, to research and prevent drug impaired driving.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2004

Mr. PORTMAN (for himself, Mr. LEVIN, Mr. PORTER, Mr. SOUDER, Mr. COSTELLO, Mr. LATOURETTE, Mr. RAMSTAD, and Mr. HOBSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 23, United States Code, to research and prevent drug impaired driving.

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 “Drug Impaired Driving
5 Research and Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) driving under the influence of, or after hav-
2 ing used, illegal drugs has become a significant
3 problem worldwide;

4 (2) in 2002, over 35,000,000 persons in the
5 United States aged 12 or older had used illegal
6 drugs in the past year and almost 11,000,000 of
7 these persons (5 percent of the total population of
8 the United States aged 12 or older and 31 percent
9 of past year illicit drug users) had driven under the
10 influence of, or after having used, illegal drugs in
11 the past year;

12 (3) research has established that abuse of a
13 number of drugs can impair driving performance;

14 (4) according to the National Highway Traffic
15 Safety Administration, illegal drugs (often in com-
16 bination with alcohol) are used by approximately 10
17 to 22 percent of drivers involved in all motor vehicles
18 crashes;

19 (5) drug impaired drivers are less frequently
20 detected, prosecuted, or referred to treatment than
21 drunk drivers;

22 (6) there is a lack of uniformity or consistency
23 in the way the 50 States approach drug impaired
24 drivers;

1 (7) too few police officers have been trained to
2 detect drug impaired drivers, and too few prosecu-
3 tors have been trained to prove drug impaired driv-
4 ing cases beyond a reasonable doubt;

5 (8) per se drug impaired driving laws, like those
6 used for driving under the influence of alcohol, are
7 feasible and represent a sound strategy for dealing
8 with drug impaired drivers and can assist in the
9 prosecution of drug impaired driving offenders; and

10 (9) while it is illegal in all States to drive a
11 motor vehicle while under the influence of alcohol,
12 drugs other than alcohol, or a combination of alcohol
13 and other drugs, there is no consistent method
14 across States for identifying drug impairment and
15 the presence of drugs in the body.

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are—

18 (1) to provide a model for States to implement
19 and enforce a drug impaired driving statute;

20 (2) to ensure drivers in need of drug education
21 or treatment are identified and provided with the ap-
22 propriate assistance;

23 (3) to advance research and development of
24 testing mechanisms and knowledge about drugged
25 driving and its impact on traffic safety; and

1 (4) to enhance the training of traffic safety offi-
2 cers and prosecutors to detect, enforce, and pros-
3 ecute drug impaired driving laws.

4 **SEC. 4. DEFINITIONS.**

5 In this Act, the following definitions apply:

6 (1) **CONTROLLED SUBSTANCE.**—The term
7 “controlled substance” includes substances listed in
8 schedules I through V of section 112(e) of the Con-
9 trolled Substances Act (21 U.S.C. 812(e)).

10 (2) **INHALANT.**—The term “inhalant” means a
11 household or commercial product that can be used
12 by inhaling for intoxicating effect.

13 (3) **DRUG RECOGNITION EXPERT.**—The term
14 “drug recognition expert” means an individual
15 trained in a specific evaluation procedure that en-
16 ables the person to determine whether an individual
17 is under the influence of drugs and then to deter-
18 mine the type of drug causing the observable impair-
19 ment.

20 **SEC. 5. MODEL STATUTE.**

21 (a) **IN GENERAL.**—Not later than one year after the
22 date of enactment of this Act, the Secretary shall develop
23 and provide to the States a model statute relating to drug
24 impaired driving which incorporates the provisions de-
25 scribed in this Act.

1 (b) MANDATORY PROVISIONS.—Provisions of the
2 model statute developed by the Secretary for recommenda-
3 tion to the States under this section shall include, at a
4 minimum, a provision that the crime of drug impaired
5 driving is committed when a person operates a motor vehi-
6 cle—

7 (1) while any detectable amount of a controlled
8 substance is present in the person’s body, as meas-
9 ured in the person’s blood, urine, saliva, or other
10 bodily substance; or

11 (2) due to the presence of a controlled sub-
12 stance or a controlled substance in combination with
13 alcohol or an inhalant, or both, in the person’s body,
14 the person’s mental or physical faculties are affected
15 to a noticeable or perceptible degree.

16 (c) DISCRETIONARY PROVISIONS.—Provisions of the
17 model statute developed by the Secretary for recommenda-
18 tion to the States under this section may include the fol-
19 lowing:

20 (1) Sanctions for refusing to submit to a test
21 for the presence of a controlled substance in a per-
22 son’s body which are equivalent to sanctions for a
23 positive test result.

24 (2) Lawful use of any controlled substance list-
25 ed in schedule II, III, IV, or V of section 112(c) of

1 the Controlled Substances Act (21 U.S.C. 812(e))
2 that was lawfully prescribed by a physician licensed
3 under State law is an affirmative defense to a
4 charge of drug impaired driving; except that the af-
5 firmative defense shall not be available if it is shown
6 that the person's mental or physical faculties were
7 impaired by such use to a noticeable or perceptible
8 degree.

9 (3) A graduated system of penalties for repeat
10 offenses of drug impaired driving, including, at a
11 minimum, that a third or subsequent offense within
12 a 10-year period shall be a felony punishable by im-
13 prisonment for more than a year.

14 (4) Authorization for States to suspend or re-
15 voke the license of any driver upon receiving a
16 record of the driver's conviction of driving a motor
17 vehicle while under the influence of a controlled sub-
18 stance.

19 (5) Provisions that require a sentence of impris-
20 onment imposed for any drug impaired driving of-
21 fense be served consecutively, not concurrently, from
22 a sentence imposed for any other criminal act; ex-
23 cept that a sentence imposed for the same act of im-
24 paired driving may be imposed concurrently if the

1 additional conviction was based on an alternate the-
2 ory of culpability for the same act.

3 (6) An appropriate system of evaluation, coun-
4 seling, treatment (if required), and supervision for
5 persons convicted of drug impaired driving.

6 **SEC. 6. RESEARCH AND DEVELOPMENT.**

7 Section 403(b) of title 23, United States Code, is
8 amended by adding at the end the following:

9 “(5) New technology to detect drug use.

10 “(6) Research and development to improve test-
11 ing technology, including toxicology lab resources
12 and field test mechanisms to enable States to proc-
13 ess toxicology evidence in a more timely manner.

14 “(7) Determining per se impairment levels for
15 controlled substances and the compound effects of
16 alcohol and controlled substances on impairment to
17 facilitate enforcement of per se drug impaired driv-
18 ing laws. Research under this paragraph shall be
19 carried out in collaboration with the National Insti-
20 tute on Drug Abuse of the National Institutes of
21 Health.”.

22 **SEC. 7. GOALS FOR TRAINING.**

23 Section 403 of title 23, United States Code, is
24 amended by adding at the end the following:

1 “(g) TRAINING GOALS.—For the purpose of enhance-
2 ing the States’ ability to detect, enforce, and prosecute
3 drug impaired driving laws, the Secretary shall—

4 “(1) establish and carry out programs to en-
5 hance police and prosecutor training efforts for en-
6 forcement of laws relating to drug impaired driving
7 and for development of programs to improve en-
8 forcement of such laws; and

9 “(2) ensure that drug impaired driving enforce-
10 ment training or drug recognition expert programs,
11 or both, exist in all 50 States and the District of Co-
12 lumbia by December 31, 2006.”.

13 **SEC. 8. DUTIES.**

14 The Administrator of the National Highway Traffic
15 Safety Administration shall—

16 (1) advise and coordinate with other Federal
17 agencies on how to address the problem of driving
18 under the influence of an illegal drug; and

19 (2) conduct research on the prevention, detec-
20 tion, and prosecution of driving under the influence
21 of an illegal drug.

22 **SEC. 9. REPORTS.**

23 (a) IN GENERAL.—Not later than 18 months after
24 the date of enactment of this Act and annually thereafter,
25 the Secretary shall transmit to Congress a report on the

1 progress being made in carrying out this Act, including
2 the amendments made by this Act.

3 (b) CONTENTS.—The Secretary shall include in the
4 report an assessment of the status of drug impaired driv-
5 ing laws in the United States—

6 (1) new research and technologies in the area
7 of drug impaired driving enforcement;

8 (2) a description of the extent of the problem
9 of driving under the influence of an illegal drug in
10 each State and any available information relating
11 thereto, including a description of any laws relating
12 to the problem of driving under the influence of an
13 illegal drug; and

14 (3) recommendations for addressing the prob-
15 lem of driving under the influence of an illegal drug.

16 **SEC. 10. FUNDING.**

17 Out of amounts appropriated to carry out section 403
18 of title 23, United States Code, for fiscal years 2004
19 through 2009, the Secretary shall use, at a minimum,
20 \$1,200,000 per fiscal year to carry out drug impaired driv-
21 ing traffic safety programs, including the provisions of this
22 section and the amendments made by this section.

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