

108TH CONGRESS  
2D SESSION

# S. 2480

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

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## IN THE SENATE OF THE UNITED STATES

MAY 21, 2004

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## 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—

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

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

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

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

16          (5) drug impaired drivers are less frequently  
17      detected, prosecuted, or referred to treatment than  
18      drunk drivers;

19          (6) there is a lack of uniformity or consistency  
20      in the way the 50 States approach drug impaired  
21      drivers;

22          (7) too few police officers have been trained to  
23      detect drug impaired drivers, and too few prosecu-  
24      tors have been trained to prove drug impaired driv-  
25      ing cases beyond a reasonable doubt;

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

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

12 **SEC. 3. PURPOSES.**

13          The purposes of this Act are—

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

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

19               (3) to advance research and development of  
20               testing mechanisms and knowledge about drugged  
21               driving and its impact on traffic safety; and

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

1 **SEC. 4. DEFINITIONS.**

2 In this Act, the following definitions apply:

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

7 (2) INHALANT.—The term “inhalant” means a  
8 household or commercial product that can be used  
9 by inhaling for intoxicating effect.

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

17 **SEC. 5. MODEL STATUTE.**

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

23 (b) MANDATORY PROVISIONS.—Provisions of the  
24 model statute developed by the Secretary for recommenda-  
25 tion to the States under this section shall include, at a  
26 minimum, a provision that the crime of drug impaired

1 driving is committed when a person operates a motor vehi-  
2 cle—

3 (1) while any detectable amount of a controlled  
4 substance is present in the person's body, as meas-  
5 ured in the person's blood, urine, saliva, or other  
6 bodily substance; or

7 (2) due to the presence of a controlled sub-  
8 stance or a controlled substance in combination with  
9 alcohol or an inhalant, or both, in the person's body,  
10 the person's mental or physical faculties are affected  
11 to a noticeable or perceptible degree.

12 (c) DISCRETIONARY PROVISIONS.—Provisions of the  
13 model statute developed by the Secretary for recommenda-  
14 tion to the States under this section may include the fol-  
15 lowing:

16 (1) Sanctions for refusing to submit to a test  
17 for the presence of a controlled substance in a per-  
18 son's body which are equivalent to sanctions for a  
19 positive test result.

20 (2) Lawful use of any controlled substance list-  
21 ed in schedule II, III, IV, or V of section 112(c) of  
22 the Controlled Substances Act (21 U.S.C. 812(c))  
23 that was lawfully prescribed by a physician licensed  
24 under State law is an affirmative defense to a  
25 charge of drug impaired driving; except that the af-

1       firmative defense shall not be available if it is shown  
2       that the person's mental or physical faculties were  
3       impaired by such use to a noticeable or perceptible  
4       degree.

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

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

15          (5) Provisions that require a sentence of impris-  
16       onment imposed for any drug impaired driving of-  
17       fense be served consecutively, not concurrently, from  
18       a sentence imposed for any other criminal act; ex-  
19       cept that a sentence imposed for the same act of im-  
20       paired driving may be imposed concurrently if the  
21       additional conviction was based on an alternate the-  
22       ory of culpability for the same act.

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

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

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

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

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

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

17 **SEC. 7. GOALS FOR TRAINING.**

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

20 “(g) TRAINING GOALS.—For the purpose of enhanc-  
21 ing the States’ ability to detect, enforce, and prosecute  
22 drug impaired driving laws, the Secretary shall—

23 “(1) establish and carry out programs to en-  
24 hance police and prosecutor training efforts for en-  
25 forcement of laws relating to drug impaired driving

1 and for development of programs to improve en-  
2 forcement of such laws; and

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

7 **SEC. 8. DUTIES.**

8 The Administrator of the National Highway Traffic  
9 Safety Administration shall—

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

13 (2) conduct research on the prevention, detec-  
14 tion, and prosecution of driving under the influence  
15 of an illegal drug.

16 **SEC. 9. REPORTS.**

17 (a) IN GENERAL.—Not later than 18 months after  
18 the date of enactment of this Act and annually thereafter,  
19 the Secretary shall transmit to Congress a report on the  
20 progress being made in carrying out this Act, including  
21 the amendments made by this Act.

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



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

3           (2) a description of the extent of the problem  
4           of driving under the influence of an illegal drug in  
5           each State and any available information relating  
6           thereto, including a description of any laws relating  
7           to the problem of driving under the influence of an  
8           illegal drug; and

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

11 **SEC. 10. FUNDING.**

12          Out of amounts appropriated to carry out section 403  
13 of title 23, United States Code, for fiscal years 2004  
14 through 2009, the Secretary shall use, at a minimum,  
15 \$1,200,000 per fiscal year to carry out drug impaired driv-  
16 ing traffic safety programs, including the provisions of this  
17 section and the amendments made by this section.

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