# National Sleep Foundation State of the States Report on Drowsy Driving

November 2007 [Updated August 2008]

# **Executive Summary**

The problem of drowsy driving is significant. Statistics show that 100,000 police-reported crashes, 71,000 injuries, and 1,550 deaths occur due to drowsy driving each year in the United States. However, it is believed that these statistics significantly underestimate the problem due to, among other things, the lack of data collection codes within police crash report forms and the lack of training of police officers. This report found all states now address fatigue and/or sleep in some manner within their crash report forms. However, the report shows that these codes are inconsistent. It also found that police officers are not being trained on how fatigue affects driving performance.

One significant problem with the issue of drowsy driving is the lack of enforcement mechanisms for the worst offenders. This report found that for the vast majority of states responding (40 out of 44), individuals could be charged under existing statutes for causing a fatality in a sleep-related crash (2 states responded that it would be at the discretion of the law enforcement officer or the prosecutor).

Education about drowsy driving has generally not been considered a priority in most jurisdictions. This report found that the vast majority of states include information about fatigue or drowsy driving within their driver licensing manuals. However, in many cases this information was misleading or minimal.

Graduated driver licensing systems have increasingly been used as a means to address the nationwide epidemic of young people dying in automobile crashes. One component of these systems is curfews for newly licensed drivers. This report found that the vast majority of states include such curfews. However, in most cases, these curfews do not start until midnight or later.

This report found that every state includes regulations that limit a person's right to drive due to certain medical conditions, with nearly 30% of states directly considering sleep disorders.

# **Context / Objective**

The National Sleep Foundation (NSF) is an independent nonprofit organization dedicated to improving public health and safety by achieving understanding of sleep and sleep disorders, and by supporting education, sleep-related research, and advocacy. NSF has been raising awareness about drowsy driving and fall-asleep motor vehicle crashes since 1993.

According to the National Sleep Foundation's 2005 *Sleep in America* poll, 60% of adult drivers – about 168 million people – say they have driven a vehicle while feeling drowsy in the past year, and more than one-third, (37% or 103 million people), have actually fallen asleep at the wheel! In fact, of those who have nodded off, 13% say they have done so at least once a month. Four percent – approximately eleven million drivers – admit they have had an accident or near accident because they dozed off or were too tired to drive.

The National Highway Traffic Safety Administration conservatively estimates that 100,000 police-reported crashes are the direct result of driver fatigue each year. This results in an estimated 1,550 deaths, 71,000 injuries, and \$12.5 billion in monetary losses. These figures may be the tip of the iceberg, since currently it is difficult to attribute crashes to sleepiness.

- There is no test to determine sleepiness as there is for intoxication, i.e., a "Breathalyzer."
- State reporting practices are inconsistent.
- There is little or no police training in identifying drowsiness as a crash factor.
- Self-reporting is unreliable.
- Drowsiness/fatigue may play a role in crashes attributed to other causes such as alcohol. About one million such crashes annually are thought to be produced by driver inattention/lapses.
- According to data from Australia, England, Finland, and other European nations, all
  of whom have more consistent crash reporting procedures than the U.S., drowsy
  driving represents 10 to 30 percent of all crashes.

Like drugs and alcohol, fatigue needs to be addressed as a public health issue by dealing with the underlying causes of sleep deprivation such as lifestyles, work hours, shift work, or untreated sleep disorders, and as a public safety issue by employing traditional methods of traffic safety: education, enforcement, engineering, and evaluation.

Considering the enforcement aspect, one must recognize that changes in law, whether through changes in prosecution or litigation, often take a great deal of time to establish. Typically, public opinion has to precede the change—there has to be sentiment in the public that something is wrong. As has been seen in the case of drunk driving, and will probably happen with drowsy driving, advocacy groups often need to bring the issue to the forefront of public consciousness. The passage of "Maggie's Law" in the state of New Jersey in 2003 raises hope that this change is starting to take place.

While Maggie's Law is by no means perfect, it narrowly defines "fatigue" as being without sleep for a period in excess of 24 consecutive hours, the law did address the issue of education and awareness about the issue. The law gained national and international media attention and led to the introduction of The National Drowsy Driving Act of 2003. The legislation called for comprehensive education and training for drivers and police and other measures. While this bill did not pass, it influenced the inclusion of fatigue-related language in a mammoth federal transportation spending bill that mandates traffic safety priorities through 2010. The bill also served as a model for subsequent drowsy driving bills on the state level. Currently there are 12 bills introduced in 8 states addressing drowsy driving in various ways. The bills are listed and summarized on www.DrowsyDriving.org.

Examining how drowsy driving cases are prosecuted or not prosecuted shows that there is a severe lack of uniformity in how laws are interpreted or enforced from state to state, or even from county to county, when addressing driver fatigue. There remains a lack of awareness and education among law-enforcement officials, prosecutors, juries, and the judiciary in many states regarding the consequences of sleep deprivation and the dangers of drowsy driving when defendants are charged for things (e.g., reckless driving) other than their impairment from sleep deprivation. Enforceable laws need to be part of the equation in combating drowsy driving. In a similar survey conducted by NSF in 1998, all states except Alabama stated that people could be charged under existing laws for causing a crash or fatality after falling asleep at the wheel.

This report is an update and expansion upon that 1998 survey. It is meant to educate the above-mentioned stakeholders about drowsy driving. It is also an evaluation of various changes that have taken place since 1998, including: 1) how states prosecute different types of drowsy driving crashes; 2) how states regulate the licensure of individuals with sleep disorders; 3) how states track drowsy driving crashes; 4) whether states train their police officers about drowsy driving; 5) whether states impose curfews on young drivers; and 6) how states educate drivers about sleep and drowsy driving.

NSF is releasing its *State of the States Report on Drowsy Driving* as part of what is perhaps the most significant drowsy driving educational effort to date: NSF's first ever Drowsy Driving Prevention Week<sup>TM</sup> campaign (November 5 - 11, 2007). This national public awareness campaign seeks to reduce the number of fatigue-related crashes among the most inexperienced drivers, teen and college-aged people. NSF will work to educate this high-risk group as well as their parents about the tragic consequences of driving while drowsy. This report will be updated annually as part of each future Drowsy Driving Prevention Week. For more information about drowsy driving and the Drowsy Driving Prevention Week campaign, visit <a href="https://www.drowsydriving.org">www.drowsydriving.org</a>.

## **Methods**

The National Sleep Foundation (NSF) conducted two surveys of the 50 states and Washington, D.C., to assess how the issue of drowsy driving is being addressed in America. The first survey was conducted in 1998 and included responses from the 50 states and Washington, D.C. The second was conducted in 2007 and includes responses from 29 states.

## **2007 Survey:**

The survey instrument was sent to the governor's highway safety office or representative in each of the 50 states and Washington, DC. The 29 responses were received through October 2007. After initial publication, NSF contacted offices of attorneys general, state police agencies/training academies, and motor vehicle departments to gather additional responses.

Further information was garnered from searches of individual state DMV Web sites, relevant statutes, and the National Highway Traffic Safety Administration Traffic Records Team Website of police accident report forms (<a href="http://www.nhtsa-tsis.net/crashforms/">http://www.nhtsa-tsis.net/crashforms/</a>). In cases where there were discrepancies between survey responses and the NHTSA crash report forms or the DMV Web sites, the information from the NHTSA site or DMV sites was included.

One secondary source filled the remaining gaps: the American Association of Motor Vehicle Administrators June 2003 report "Summary of Medical Advisory Board Practices in the United States" (<a href="www.aamva.org">www.aamva.org</a>). In cases where there were discrepancies between survey responses to the questions about medical requirements the AAMVA report, the AAMVA information was used.

## **2007 Survey Instrument:**

- 1. What infraction or law would a driver likely be charged with for causing a sleep-related motor vehicle crash (e.g., reckless driving, careless driving)?
- 2. What charge would a driver likely face for causing a fatality during a sleep-related motor vehicle crash (e.g., manslaughter, vehicular homicide)?
- 3. Does your state have any provisions that limit a person's right to drive with certain medical conditions? Does it specifically mention sleep disorders (e.g., sleep apnea or narcolepsy)? If so, please provide language.
- 4. Does your state have guidelines or regulations that require physicians to report patients who have medical conditions that might affect their driving performance? <u>If so, please provide language.</u>
- 5. Does your state have a code related to fatigue or sleepiness on its police report form? Please provide a copy of the form.

- 6. Does your state currently provide training on the impact of fatigue on driving performance for police officers or other law enforcement personnel?
- 7. Does your state currently have a law mandating a Graduated Driver Licensing system? If so, does your system have a curfew provision for new drivers?
- 8. Does your state mandate that sleep or drowsy driving information be included in driver education curricula?
- 9. Does your state currently have information related to drowsy driving or driver fatigue in your driver license manual? If so, please provide a copy.

## **1998 Survey:**

The 1998 survey included responses from all 50 states and Washington, D.C. These came from various offices in each state, including departments of public safety, state police, governor's highway safety bureaus, and others.

### 1998 Survey Instrument:

- 1. Does your state have any provisions that specifically address driver fatigue? Driving with medical conditions? If so, what are they?
- 2. What infraction or law would a drowsy driver be charged with for causing an automobile crash?
- 3. What charge would a drowsy driver likely be given for causing a death during an automobile crash? (e.g., manslaughter, vehicular homicide, reckless driving).
- 4. Does your state have a code on its police accident report form to identify when fatigue has been a factor in a crash? If so, please provide a copy of the report.
- 5. Do you currently collect crash and injury data related to driver fatigue?
- 6. Does your state currently have training for police officers to detect fatigued drivers while on the road or fatigue as a principal cause in an automobile crash during accident reconstruction?

**2007 Summary of Findings** 

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
AL	#	#	Yes. Sleep disorders, no.	No.	1) Apparently Asleep 2) Fatigued	#	Yes, 12am - 6am.	#	Yes.
AK	Reckless endangerment or reckless driving.	Manslaughter or criminally negligent homicide.	Yes. Sleep disorders, no.	No.	Driver inattention     Fell asleep     Loss of consciousness     A)Taking prescription meds	#	Yes, 1am - 5am.	No.	Yes.
AZ	Arizona revised statute 28-701A, reasonable and prudent speed.	Possibly vehicular homicide.	Yes. Sleep disorders, no.	No.	1) Fell Asleep 2) Prescription drugs	Yes.	No. No.  Note: as of July 2008 curfew will be 12am - 5am.	No.	Yes.
AR	Careless driving.	Manslaughter or negligent homicide.	Yes. Sleep disorders, no.	No.	1) Fatigue 2) Fell Asleep 3) Seizure/Blackout	#	Yes. No.	#	Yes.
CA	No specific violation for fall asleep while driving. If involved in a sleep-related collision, the driver could be cited for the moving violation that was the cause of the collision.	Vehicular manslaughter	Yes. Sleep disorders, yes.*	Yes.	1) Sleepy / Fatigued	No.	Yes, 11pm - 5am.	Yes.	Yes.
СО	Careless driving.	Careless driving involving death.	Yes. Sleep disorders, no.	No.	1) Asleep at the Wheel 2) Driver Fatigue	No.	Yes, 12am - 5am.	No.	Yes.
СТ	No specific violation on sleep or fatigue.  CT has a statute that says "no person shall engage in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such vehicle"	Misconduct with a Motor Vehicle or Negligent Homicide.	Yes.  Sleep disorders, yes. (Sleep apnea and narcolepsy.)*	Yes.	1) Fell Asleep	No.	Yes, 11pm - 5am.  [New law went into effect Aug. 1, 2008 changing curfew from 12am to 11pm.]	No.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
DE	Inattentive driving.	Vehicular Homicide (if negligent).  Inattentive driving (if not negligent).	Yes. Sleep disorders, no.	Yes.	1) Inattention 2) Fatigued/asleep 3) Under the influence of medications/drugs/alc ohol	No.	Yes, 10pm - 6am.	No.	Yes.
DC	Failure to pay full time and attention.	Manslaughter, or murder 2.	Yes. Sleep disorders, no.	No.	1) Fatigued 2) Apparently Asleep	Yes.	Yes. Permissible driving: Sep-Jun: Mon-Thu 6:01am - 10:59pm, Fri 6:01am - 11:59pm. Jul- Aug: 6:01am - 11:59pm.	#	No.
FL	Careless driving or violation of right of way.	#	Yes. Sleep disorders, yes. (Sleep disorders.)	No.	Yes.  1) Fatigue / Asleep 2) Seizure, Epilepsy, Blackout	#	Yes, 11pm-6am (age 16) 1am- 5am (age 17).	#	Yes.
GA	In the event of a driver being charged with causing a sleep-related motor vehicle crash, (e.g., reckless driving), the charge would include that of distracted driving and whatever other violation that may have resulted from the occurrence.	2 <sup>nd</sup> Degree Vehicular Homicide	Yes. Sleep disorders, no.	Yes.	1) Apparently Fell Asleep 2) Inattentive	No.	Yes, 12am - 6am.	No.	Yes.
HI	#	#	Yes. * Sleep disorders, no.*	No.*	1) Inattention 2) Fatigue.	#	Yes, 11pm-5am.	#	No.
ID	Inattentive driving.	Manslaughter.	Yes. Sleep disorders, no.	No.	1) Inattention 2) Asleep/Drowsy 3) Fatigued	Yes.	Yes. Sunset- sunrise.	No.	Yes.

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IL	Improper Lane Usage or Failure to Reduce Speed to Avoid a Accident	Improper Lane Usage or Failure to Reduce Speed to Avoid a Accident	Yes. Sleep disorders, no.	No.	1) Asleep/fainted 2) Medicated 3) Fatigued	No.	Yes. 11pm - 6am Sun-Thur, 12:01am - 6am Fri and Sat night. Effective 2008, curfews begin one hour earlier (local curfews may differ).	No.	Yes.
IN	Reckless driving.	Reckless driving or involuntary manslaughter.	Yes. Sleep disorders, no.	No.	1) Prescription Drugs 2) Driver Asleep or Fatigued	#	Yes. 11pm - 5am Sun-Thu; 1am - 5am Fri & Sat nights.	No.	Yes.
IA	None.	Nothing.	No. Sleep disorders, yes.*	No.	1) Asleep, fainted, fatigued, etc. 2) Under the influence of alcohol, drugs, medications	No.	Yes, 12:30am - 5am.	No.	Yes.
KS	Failure to maintain a single lane or reckless driving.	Anything up to vehicular manslaughter.	Yes.* Sleep disorders, no.*	No.*	1) Fell Asleep 2) Inattention 3) Medication Present 4) Medication Contributed	#	Yes. No curfew.	#	Yes.
KY	No specific law. Charge could be anything from reckless driving to manslaughter depending upon the severity of the crash and other factors.	No specific law. Charge could be anything from reckless driving to manslaughter depending upon the severity of the crash and other factors.	Yes. Sleep disorders, no.	No.	1) Fatigue 2) Fell Asleep 3) Inattention 4) Lost Consciousness / Fainted 5) Medication	Yes. (Minimal)	Yes, 12am - 6am.	No.	Yes.
LA	Careless Operation.	Negligent Homicide.	Yes.* Sleep disorders, no.	No	1) Inattentive 2) Fatigued 3) Apparently Asleep/Blackout	Yes.	Yes, 11pm – 5am.	No.	Yes.
ME	Nothing.	Nothing.	Yes.  Sleep disorders, yes. (Sleep apnea, cataplexy and narcolepsy.)	Yes.	1) Driver Inattention - Distraction 2) Asleep 3) Fatigued.	No.	Yes, 12am - 5am.	Yes.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
MD	Negligent Driving.	Manslaughter.	Yes.  Sleep disorders, yes. (Narcolepsy and mentions sleep studies.)*	No.*	Condition: 1) Fatigued 2) Apparently Asleep.  Contrib Circumstance: 1) Under infl. of medication 2) Fell asleep, fainted, etc. 3) Failed to give full time and attention	Yes.	Yes, 12am - 5am.	Yes.	No.
MA	Negligent Operation (Operating to endanger).	Motor Vehicle Homicide / Negligent Operation.	Yes. Sleep disorders, no.	No.	1) Inattention 2) Fatigued/asleep	Yes.	Yes. Curfew: Learners permit for drivers under 18, 12am - 5am. Junior Operator, ages 16.5 - 18, 12:30am to 5am.	No.	Yes.
MI	Reckless Driving; Careless Driving or Felonious Driving.	Negligent Homicide or Manslaughter	Yes. Sleep disorders, no.	No.	1) Fatigue 2) Asleep 3) Medication	Yes. (Limited and sporadic)	Yes, 12am - 5am.	Yes.	Yes.
MN	#	#	Yes. Sleep disorders, no.	No.	Physcl – Apparent Physical condition: 1) fatigued/asleep  Apparent Contributing Factors: 1) Driver inattention / distraction 2) Chemical impairment 3) Other human contributing factor		Yes. 12am - 5am. [Effective Aug. 1, 2008]	#	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
MS	Reckless driving or Careless driving.	1) Homicide; all other killings. 2) Homicide; excusable homicide. 3) Penalties for intoxicated driving resulting in death 4) Grounds and procedure for revocation of licenses; suspension of license for non compliance with order for support.	Yes. Sleep disorders, no.	No.	Condition: 1) Fell Asleep / Fainted / Fatigue  Contributing Circumstances: 1)Fatigued/Asleep	Yes.	Yes, 10pm - 6am.	#	Yes.
MO	Careless and Imprudent	Involuntary manslaughter in the second degree	Yes. Sleep disorders, yes.	No.	No.  Probable Contributing Circumstances: 1) Physical Impairment (explain) 2) Inattention (explain)  Instructions for using form indicate that Physical Impairment includes "fatigue" and "asleep"	No. (No specific training.)	Yes, 1am - 5am.	No.	Yes
MT	Careless driving, Reckless Driving, or Negligent Homicide	Negligent Homicide	Yes.  Sleep disorders, yes. (Narcolepsy.)*	No.	1) Fell Asleep, Fainted, etc. 2) Inattentive Driving	Yes.	Yes, 11pm - 5am.	Yes.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
NE	Careless Driving.	Motor Vehicle Homicide.	Yes.  Survey response: Drivers with any medical condition (e.g. sleep apnea or narcolepsy) that may result in black outs, seizures, or fainting spells or anything that results in losing consciousness are required to have a medical evaluation.	No.	Contributing Circumstances, Driver 1) Inattention 2) Fatigued/asleep  Driver's Condition: 1) Fell asleep, fainted, fatigued, etc. 2) Under the influence of medications / drugs / alcohol.	Yes.	Yes, 12am – 6am.	No.	No.
NV	Most likely: failure to maintain lane, failure to obey a traffic control device, failure to use due caution, careless driving, etc. (no specific charge identified)	Nevada's vehicular manslaughter law is in effect if "an act or omission that constitutes simple negligence" cause the crash. (running a red light/stop sign for example)	Yes. Sleep disorders, no.	No.	1) Apparently	No.	Yes, 10pm - 6am.	No.	No.
NH	Negligent Driving or Reckless Operation	Negligent Homicide	No.	No.	1) Taking Medication 2) Fatigue 3) Asleep	No.	Yes, 1am - 5am.	No.	No.
NJ	Reckless driving or careless driving.	Death by auto or vessel. (Criminal homicide constitutes vehicular homicide when it is caused by driving a vehicle recklessly (This is Maggie's Law: Lack of sleep for 24 consecutive hours may give rise to recklessness))	Yes. Sleep disorders, no.	Yes.	Apparent Contrib. Circumstances: 1) Driver Inattention Apparent Physical Status: 1) Medication 2) Fatigue 3) Fell Asleep.	No.	Yes, 12am-5am.	No.	No.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
NM	#	#	Yes. Sleep disorders, no.	No.	Apparent Contrib. Factors: 1) Driver inattention  Driver or Ped Sobriety: 1) Consumed a Controlled Substance 2) Consumed Medication  Driver or Ped. Physical Condition: 1) Fatigue-Asleep	#	Yes, 12am-5am.	#	Yes.
NY	Reckless Driving (misdemeanor criminal offense). Special fatigue law for bus drivers.	Same as for non- fatality: Reckless Driving (misdemeanor criminal offense); special fatigue law for bus drivers.	Yes.*  Sleep disorders, yes. (Sleep apnea, narcolepsy and cataplexy.)*	No.	1) Driver Inattention/ Distraction 2) Fatigued/Drowsy 3) Fell Asleep 4) Lost Consciousness 5) Prescription Medication	No.	Yes. Curfew: 9pm-5am in majority of the state.	No.	Yes.
NC	Careless/reckless driving.	Misdemeanor death in motor vehicle.	Yes.  Sleep disorders, yes.* (Narcolepsy and cataplexy.)	No.	Contrib. Circumstances, Driver: 1) Inattention  Physical condition: 1) Fatigue 2) Fell asleep, fainted, loss of consciousness 3) Impairment due to medications, drugs, alcohol.	Yes.	Yes, 9pm - 5am.	#	Yes.
ND	#	#	Yes.* Sleep disorders, yes.* (Narcolepsy.)	No.*	Driver Condition: 1) Fatigue 2) Asleep 3) Medication  Contrib. Factors: 1) Attention Distracted	#	Yes. No.	#	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
ОН	Failure to maintain control of automobile.	Vehicular manslaughter or aggravated vehicular assault.	Yes. Sleep disorders, no.	No.	Contrib. Circumstances: 1) Driver inattention 2) Fatigue/Asleep  Condition: 1) Fell Asleep, Fainted, Fatigued, etc. 2) Under the influence of medications / drugs / alcohol	Yes.	Yes. Curfew: 12am - 6am for 16-yr-olds; 1am – 5am for 17-yr- olds.	#	Yes.
OK	Failure to devote time and attention, probably failure to operate vehicle properly	Negligent homicide and manslaughter.	Yes. Sleep disorders, no.	No.	Driver/Pedestrian Condition: 1) Under the influence of Medications 2) Very Tired 3) Sleepy Unsafe/Unlawful Contrib. Factors: 1) Apparently sleepy	No.	Yes, 11pm – 5am.	#	Yes.
OR	Negligence or Recklessness. Possible criminal charges.	Negligence or Recklessness. Possible criminal charges. 30	Yes. Sleep disorders, no.	Yes.	Driver Factors:  1) Fatigue/Drowsy 2) Ill / Blackout  Impairment: 1) Under Infl - Meds 2) Unknown.	#	Yes, 12am – 5am.	#	Yes.
PA	Charges would be at the discretion of the law enforcement officer.	Charges would be at the discretion of law enforcement or a prosecutor.	Yes. Sleep disorders, no.	Yes.	Alcohol/Drugs Suspected: 1) Medication  Driver or Ped. Physical Condition: 1) Fatigue 2) Asleep 3) Medication  Driver Action: 1) Affected by Physical Condition	No.	Yes, 11pm - 5am.	Yes.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
RI	Unknown. Defer to prosecution/enforcem ent.  Rhode Island does not have a distracted driving law.	Unknown. Defer to prosecution/enforce ment.	Yes. Sleep disorders, no.	No.	Driver Distracted: 1) Unknown  Physical Condition of Driver: 1) Fell Asleep, Fainted, Fatigued, etc. 2) Under the Influence of Medications/ Drugs/ Alcohol 3) Other	No.	Yes, 1am - 5am.	#	No.
SC	Driving too fast for conditions.	Possibly reckless homicide (depending on the circumstances)	No.	No.	Distracted / inattention     Fatigued/Asleep     Medical Related	No	Yes, 6pm - 6am EST; 8pm - 6pm EDT.	No.	No.
SD	Careless or reckless driving.	Manslaughter.	Yes. Sleep disorders, no.	No.	1) Fatigued/asleep 2) Drugs-medication	No.	Yes, 10pm - 6am.	No.	Yes.
TN	Possibly Careless or Reckless Driving.	Vehicular homicide impaired, DUI	Yes.* Sleep disorders, no.*	No.*	1) Apparently Fatigued 2) Apparently Asleep 3) Reaction to Drugs/Medication 4) Failure to take Drugs/Medication 5) Inattentive (Eating, Reading, Talking, etc.)	No.	Yes, 11pm - 6am.	#	No.
TX	#	#	Yes. Sleep disorders, yes. (Narcolepsy and sleep apnea.)	No.	1) Driver Inattention 2) Fatigued or Asleep 3) Taking Medication (exp. in narrative)	#	Yes, 12am -5am.	#	Yes.
UT	Improper lane travel, failure to maintain control of vehicle and possibly reckless driving. It depends. No specific law for fall-asleep crashes.	Negligent homicide (with intended criminal violation based on circumstances)	Yes.  Sleep disorders, yes. (Sleep apnea and narcolepsy.)*	No.	1) Fatigue/Asleep 2) Under the influence of alcohol / drugs / medication	No.	Yes, 12am - 5am.	No.	Yes.

State	Q1: Charges against drowsy driver in motor vehicle crash? (Same)	Q2: Charges against drowsy driver causing fatality? (Same)	Q3: Licensing limits due to medical conditions? Sleep disorders? (new)	Q4: Require doctors report medical conditions? (New)	Q5: Sleepiness / fatigue on crash form? (Same)	Q6: Training for police on fatigue? (New)	Q7: Graduated Driver Licensing system? Curfew?	Q8: Drowsy driving info mandated in driver education?	Q9: Info on drowsy driving in manual?
VT	Negligent operation or grossly negligent operation.	Negligent operation or grossly negligent operation with fatality resulting.	Yes. Sleep disorders, no.	No.	1) Under the Influence of Medication / Drugs / Alcohol 2) Inattention 3) Fatigued, Asleep.	#	Yes. No curfew.	#	Yes.
VA	Reckless driving.	Manslaughter.	Yes, limits based on function.  Sleep disorders, no.	No.	Driver distractions:  1) Driver fatigue 2) Daydreaming  Condition of driver/ped. Contrib. to crash:  1) Fatigued 2) Apparently asleep	No.	Yes, 12am - 4am.	Yes.	No.
WA	Negligent or Reckless Driving (Criminal traffic citation)	Vehicular Homicide	Yes. Sleep disorders, no.	No.	1) Apparently Asleep 2) Inattention 3) Apparently Fatigued	Yes.	Yes. 1am - 5am.	Yes.	Yes.
WV	Failure to maintain control.	Negligent homicide.	Yes. Sleep disorders, no.	No.	1) Fatigued 2) Asleep 3) Medication	No.	Yes, 11pm – 5am.	#	Yes.
WI	Reckless Driving or Failing to Maintain Control.	Homicide by Negligent Operation of Vehicle.	Yes. Sleep disorders, Yes.*	No.	No.  Driver Condition: 1) Reduced Alertness  Driver Factors: 1) Inattentive Driving	No.	Yes, 12am - 5am.	No.	Yes.
WY	Failure to maintain a single lane.	Vehicular manslaughter.	Yes. Sleep disorders, no	No.	1) Fell Asleep, Fainted 2) Fatigued 3) Under Influence of Medication	Yes.	Yes, 11pm - 5am.	#	Yes.

## # Awaiting response

<sup>\*</sup> American Association of Motor Vehicle Administrators June 2003 report "Summary of Medical Advisory Board Practices in the United States" (www.aamva.org).

# 1998 Summary of Findings

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
AL	No	No	None	None	None	No	No
AK	No	Yes- physician's note req'd for certain med conditions	Reckless or negligent driving	Manslaughter or criminally negligent homicide	1) Driver inattention 2) Fell asleep 3) Lost consciousness	No	No
AZ	No	No	Traffic violation, with fatigue noted as contributing factor	Manslaughter	Physical condition: Sleepy-fatigued; Contributing cause: 1) Fatigue 2) Inattention	Yes	Yes
AR	No	Yes- may be denied license or given restricted license	Careless driving	Negligent homicide, reckless driving, or manslaughter	None	Yes- for accident reconstructionists	No
CA	Yes- for commercial vehicles only	Yes- DMV may refuse to issue license	Traffic violation, reckless driving, or unsafe for conditions (fatigue)	Vehicular manslaughter	1) Fell asleep 2) Sleepy/fatigued	Yes	Yes
СО	No	No	Reckless driving, careless driving, or careless driving resulting in serious bodily injury	Vehicular homicide, vehicular assault, or careless driving resulting in death	Driving while asleep	No	Yes
CT	No	No	Traffic violation	Negligent homicide with a motor vehicle	Fell asleep	No	Yes
DE	Yes- inattentive driving addressed	No	Inattentive driving	Inattentive driving	None	Yes- for accident reconstructionists	No
DC	No	No	Inadequate time and attention and traffic violation or assault with dangerous weapon if bodily injury occurs	Negligent homicide	1) Fatigued 2) Apparently asleep	No	
FL	No	Yes- by referral from physician or agency	Reckless driving or careless driving	Reckless driving or careless driving	Fatigue/Asleep	No	Yes
GA	No	No	Traffic violation	Traffic violation	Apparently fell asleep     Driver condition	Yes	No
HI	No	Yes- after eval by med specialist or sleep clinic	No specific charge	Negligent homicide in the 3rd degree	1) Inattention 2) Fatigue	No	Yes
ID	No	Yes- license may be revoked	Inattentive driving	Misdemeanor manslaughter	1) Inattention 2) Asleep/drowsy 3) Fatigued	No	Yes
IL	Yes- for commercial vehicles only	Yes- for commercial drivers only	Traffic violation	Reckless homicide or involuntary manslaughter	1) Asleep/fainted 2) Fatigued	Yes	Yes
IN	No	Yes- at the time of licensing	Traffic violation	Recklessness or reckless homicide	Apparent physical status: 1) Fatigued 2) Asleep Contributing circumstance: 1) Driver apparently asleep 2) Driver inattention	No	Yes

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
IA	No	No	Failure to maintain control	Reckless driving, homicide, or serious injury by vehicle	Fatigued     Apparently asleep	Yes	
KS	No	No	Traffic violation, inattention, or ultimately reckless driving	Vehicular homicide	Fell asleep     Failed to give full time and attention	Yes- for accident reconstructionists	Yes
KY	No	No	Assault and related offenses or vehicle not under proper control	Criminal homicide offenses	Fell asleep     Driver inattention	Yes	Yes
LA	Yes- for commercial vehicles only	Yes- must self-report physical/mental disability on application	Careless operation or traffic violation	Negligent homicide	Apparently asleep     Inattentive or distracted     Fatigued	Yes- for accident reconstructionists	Yes
ME	No	Yes- all licensees with med conditions reviewed	No specific charge	Driving to endanger or reckless conduct with a dangerous weapon (motor vehicle)	1) Asleep 2) Fatigued	Yes- for accident reconstructionists	Yes
MD	No	Yes- medical conditions treated as DWI/DUI incidents	Negligence	Reckless and negligent driving	Fatigued     Apparently asleep	Yes	Yes
MA	No	Yes- license may be revoked if threat to public	Operating to endanger	Motor vehicle homicide	None	No	No
MI	No	Yes- noted on driver's license and driving status	Traffic violation	Negligent homicide	None; revision in 1999 to include: 1) Fatigue 2) Asleep	Yes	No
MN	No	Yes- may cause cancellation or restriction of driving privileges	Careless driving or reckless driving	Criminal vehicular homicide	1) Asleep 2) Fatigued	Yes	
MS	No	Yes- must be seizure-free for one year	None	No specific charge	Sleepy/fatigued	No	Yes
MO	No	No	No specific charge	No specific charge	None	No	No
MT	Yes- for commercial vehicles only	Yes- license may be revoked	Careless driving	Manslaughter	Fell asleep, fainted, etc; For commercial veh: 1) Fatigue 2) Asleep	No	Yes
NE	No	Yes- may result in recall and retest	Careless driving	Reckless driving, willful recklessness, or motor vehicle homicide	Fatigue/asleep	No	
NV	No	Yes- may restrict or deny driving privileges	Traffic violation	Traffic violation	Apparently asleep     Fatigued	Yes	Yes
NH	No	Yes- license may be suspended or revoked	Reckless driving or traffic violation	Manslaughter, negligent homicide, or reckless endangerment (also administrative action)	1) Fatigue 2) Asleep	Yes- but limited	Yes
NJ	No	Yes- for epilepsy and by physician referral	Careless driving	Vehicular homicide or vehicular manslaughter	Apparently asleep     Driver inattention     Fatigued	No	Yes
NM	No	No	Careless driving	Vehicular homicide- negligence	Fatigue/asleep     Driver inattention	Yes- for accident reconstructionists	Yes
NY	No- except after incident of sleepiness/fatigue	Yes- after incident, driving privileges may be revoked	Reckless driving or 3rd degree assault	Criminally negligent homicide or manslaughter	1) Fell asleep 2) Fatigued/drowsy	Yes	Yes

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
NC	No	Yes- examination by medical board	No specific charge	Misdemeanor death by vehicle	1) Fatigued 2) Asleep 3) Impaired due to medication	No	
ND	No	Yes- may prohibit licensing	Care required in operating a vehicle	Reckless driving, aggravated reckless driving, negligent homicide, or manslaughter	1) Fatigue 2) Asleep	No	Yes
ОН	Yes- for commercial vehicles only	Yes- may prohibit driving privileges	For commercial vehicles- driving with impaired alertness; traffic violation for others	For commercial vehicles- driving with impaired alertness; vehicular homicide or manslaughter possible for all vehicles	Apparently asleep	No	Yes
OK	No	Yes- physical or mental conditions may affect licensing	Reckless driving	Negligent homicide	1) Very Tired 2) Sleepy	No	Yes
OR	No	Yes- may result in denial of driving privileges	Careless driving or reckless driving	Criminally negligent homicide, manslaughter 1st degree, or manslaughter 2nd degree	Fatigue/Drowsy	No	Yes
PA	No	Yes- certain conditions prevent driving	Reckless driving	Homicide by vehicle	1) Fatigue 2) Asleep	Yes	
PR	No	No	Imprudence and criminal negligence	Manslaughter	Fatigued	No	No
RI	Yes- for commercial vehicles only	No	Driving to endanger death	Driving to endanger death	1) Sleepy/tired 2) Fell asleep	Yes	
SC	No	No	Traffic violation or too fast for condition	Manslaughter or reckless homicide	Fell asleep, fainted, etc.     Inattention	No	No
SD	No	Yes- may affect licensing	Careless driving	Reckless driving, manslaughter, or vehicular homicide	Fell asleep	Yes	
TN	Yes- for commercial vehicles only	Yes- for commercial vehicles only	No specific charge	No specific charge	Apparently asleep; Truck/bus supplement: 1) Fatigue 2) Asleep	No	Yes
TX	Yes- for commercial vehicles only	Yes- license may be revoked	Traffic violation	Manslaughter or criminally negligent homicide	Driver inattention     Fatigued or asleep	Yes	Yes
UT	No	Yes- drivers' self-report required	Driving when fatigued, failure to discontinue operating a vehicle after onset of physical or mental disability, falling asleep at the wheel (ACD codes)	Reckless driving, automobile homicide, vehicular homicide	1) Asleep 2) Fatigued	Yes	Yes
VT	No	Yes- may cause suspension	Traffic violation or negligent operation	Negligent operation, grossly negligent operation, or manslaughter	Fatigue or ill	No	No

State	Provision addressing driver fatigue?	Provisions addressing medical conditions?	Charges against drowsy driver in auto crash?	Charges against drowsy driver causing death?	Code on police accident report form?	Training for officers to detect fatigued drivers?	Fatigue crash & injury data?
VA	Yes- prohibits driving more than 13 hrs in 24 hr pd	No	Reckless driving	Involuntary manslaughter	Fatigued     Apparently asleep		
WA	No	Yes- license may be restricted or suspended	Reckless driving	Reckless driving or vehicular homicide	Apparently asleep     Apparently fatigued	Yes	Yes
WV	No	Yes- subject to re- evaluation or revocation	Reckless driving	Negligent homicide	1) Fatigued 2) Asleep	No	No
WI	No	Yes- for school bus drivers only	Inattentive driving	Negligent homicide or great bodily harm	No code for asleep/fatigue, codes for: 1) Reduced alertness 2) Inattentive driving 2) Driver condition	No	No
WY	Yes- for commercial vehicles only	No	Traffic violation	Vehicular homicide	1) Fell asleep 2) Driver fatigue 3) Driver inattention	Yes	Yes

# **Analysis of 2007 Survey Results:**

## 1. Fatigue codes on police accident report forms (questions 5 and 6):

- a. All states address fatigue or reduced alertness in some way on their crash report forms. However, Missouri's form has code for "physical impairment" and includes instructions that fatigue and falling asleep be covered by this code. Wisconsin includes codes for "Reduced Alertness" and "Inattentive Driving." This is a significant change from the 1998 survey when six states lacked codes.
- b. About half (23/51) of all states have separate codes for sleep and fatigue.
- c. There is very little uniformity among terminology for codes related to fatigue and sleepiness.
- d. Only nine out of the 27 states responded that their police officers receive training on the impact of fatigue on driving performance. In several cases, this training was described as minimal.

## 2. Charges against drowsy driving (questions 1 and 2):

- a. Of those states responding, only Iowa and Maine said that they would not charge a person for causing a fatality during a sleep-related motor vehicle crash. In 1998, Iowa responded that the charge would likely be reckless driving, homicide or serious injury by vehicle. Maine had previously stated that the charge would be one of the following: Driving to Endanger or Reckless Conduct with a Dangerous Weapon.
- b. Alabama has yet to respond to the 2007 survey, however, in 1998 Alabama said they would not charge a drowsy driver for causing a fatality.
- c. Iowa and Maine were also the only responding states that would not charge a driver for causing a sleep-related crash.
- d. New Jersey was the only state responding that has a specific law addressing driver fatigue. A search of the Web site of the government of Virginia found that the state still has a statute limiting the number of hours a non-commercial driver can be on the road to 13 hours in any 24-hour period.
- e. The 2007 survey replicated the finding that there is wide variance in the types of charges levied against drivers causing sleep-related crashes or a sleep-related crashes involving fatalities.

### 3. Drowsy driving education by the states (questions 8 and 9):

- a. Nearly 80% state drivers license manuals include some information on drowsy driving or fatigue (40/51).
- b. However, in some cases that information is minimal and in many cases information provided was inaccurate. For example, many states recommend that drivers not eat or constantly change what they are looking at in order to avoid fatigue. These recommendations are not science based and do not result in a sustained level of increased alertness.
- c. Few states that responded to the survey "mandate" that information on sleep or drowsy driving be included in drivers education curricula (8/31). However, several states noted that the state-approved or state-issued curricula do include such information.

## 4. Graduated driver licensing (question 7):

- a. A total of 47 states currently have nighttime driving restrictions for new drivers.
- b. However, most of these curfews have exceptions and most of them do not start until midnight or later. In fact, only 8 out of the 47 states with curfews start at 10 p.m. or earlier.

## 5. Driving with medical conditions (questions 3 and 4):

- a. Nearly all states place limits on a person's right to drive based on various medical conditions.
- b. NSF's research found that at least 14 states include sleep disorders such as sleep apnea, narcolepsy or cataplexy within those conditions that can be considered by a licensing review body.
- c. Only eight states have mandatory reporting requirements for physicians. The other states generally have voluntary reporting systems.
- d. Only three mandatory reporting states include sleep disorders in their reporting requirements (Maine, Connecticut and California).

# **Analysis of 1998 Survey Results:**

- 1. Six states did not have fatigue codes: Alabama, Arkansas, Delaware, Massachusetts, Missouri, Wisconsin.
- 2. Most states had separate codes for both fatigue and fell asleep.
- 3. Only two states (Alabama, Mississippi) said that they would not charge a drowsy driver for causing a crash.
- 4. Only Alabama said that they would not charge a drowsy driver for causing a fatality.
- 5. Only two states (Delaware and Virginia) have specific provisions that deal with fatigue in some way for non-commercial drivers. However, they both dealt with fatigue in very different ways: Delaware considering the condition of the driver and Virginia considering how many hours the driver is behind the wheel.

According to Delaware law at the time, "whoever operates a vehicle and fails to give full time and attention to the operation of the vehicle, or whoever fails to maintain a proper lookout while driving the vehicle, shall be guilty of inattentive driving."

In 1998, Virginia was the only state known that limits the hours that a non-commercial driver can drive.

- 46.2-813 no person shall drive any motor vehicle on the highways of the commonwealth for more than thirteen hours in any period of twenty-four hours or for a period which, when added to the time such person may have driven in any other state, would make an aggregate of more than thirteen hours in any twenty-four-hour period. The provisions of this section, however, shall not apply to the operation of motor vehicles used in snow or ice control or removal operations or similar emergency situations. No owner of any vehicle shall cause or permit it to be driven in violation of this section.
- 6. Nine states had provisions dealing with fatigue for commercial drivers besides regular hours of service rules.
- 7. Seventeen states stated that their state police receive some type of training in detecting fatigued drivers. Only six states said that their accident reconstructionists receive training in investigating fatigue as a casual factor in a crash.
- 8. Twenty-nine states (with only 41 answering) said that they collect data on fatigue-related crashes within their state.

## Disclaimer

This report does not constitute legal advice. NSF recommends that individuals seek professional counsel regarding questions arising out of this document.