

## **DEVELOPING A NATIONAL APPROACH TO MANAGING DRINK DRIVING OFFENDERS**

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### **Biography**

Gavan Palk has an extensive history in developing and coordinating offender rehabilitation programs as well as qualifications in law and psychology. He has completed his M. Phil. in forensic psychology and is currently undertaking a PhD in the field of policing alcohol and drug related violence.

### **Abstract**

Although the need for uniform national laws in a number of areas has been well recognized (e.g. commercial transactions, consumer credit and gun control), drink driving penalties, police enforcement and drink driver rehabilitation/education programs vary across Australian states and territories. Given the national success of breath analysis concentration limits (BAC) and random breath analysis (RBT) in reducing crash fatalities it may be possible to further reduce alcohol-related driving deaths by developing a uniform national approach based on best practice to manage drink driving offenders. The current drink driving legislation, penalties and rehabilitation programs across Australia will be discussed in this paper as a preliminary step towards examining the most effective drink driving prevention model.

### **1. INTRODUCTION**

In Australia scant attention has been given to developing a uniform national approach based on best practice to reduce alcohol-related driving offences. This is somewhat surprising given the national toll road (some 1800 people killed annually, ATSB, 2004) that costs approximately 15 billion dollars annually (BTE, 2000) and the fact that alcohol intoxication while driving is a major contributing factor to crashes involving fatalities (see Single & Rohl, 1997).

It is notable that policy changes on a national basis have been undertaken in such areas as coalmine safety, automotive safety and earthquake preparedness following significant loss of human life (Spitzer, 1995). The introduction of national firearms laws has also resulted in an observed decline in firearm-related deaths (Mouzos, 1999). However, the loss of human life from firearms and in other areas where uniform agreements have been reached has been far less than those caused by alcohol-related crashes.

There are numerous examples of uniform legislation across the state and territories. Most of these relate to trade among the states, corporations and competition law as well as environmental law, road transport, and some aspects of industrial relations and road rules. (see Gordon, 1995; Kinley, 1995; Penning, 1995; VRSC, 2004).

Advantages of uniformity can include cooperation among the various jurisdictions resulting in greater efficiencies, convenience, cost savings, improved performance as

well as equity and certainty in law for all citizens no matter where they are in Australia (Gordon, 1995). However, critics argue that uniformity can result in disadvantages such as diminution of state sovereignty, laws and policies that adopt the lowest common legal standard as well as inflexible national standards that do not take into account local conditions (Goldring, 1995; Rose, 1995).

Nonetheless where states and territories have agreed to similar practices such as 0.05g/100ml breath analysis concentration (BAC) limits and random breath testing (RBT) in relation to drink driving, a significant reduction in drinking and driving and the associated crashes, injuries and deaths have been observed (Henstridge, Homel & Mackay, 1997; Watson, Fraine & Mitchell, 1995). For example the adoption of 0.05g/100ml BAC limit reduced fatal accidents by 8% in New South Wales and by 18% in Queensland (Henstridge et al., 1997). RBT has also been very effective at reducing the road toll, and five years after its introduction in Queensland, crash fatalities fell by 29% (Watson et al., 1995). RBT is now regarded as the most successful countermeasure in Australia (Henstridge et al., 1997).

The disadvantages of developing uniform national alcohol-related driving legislation are therefore outweighed by the advantages and should not stand in the way of adopting national and international best practice. The first phase towards developing a uniform national approach to managing alcohol-related driving offences is to thoroughly document the penalties and rehabilitation/prevention programs currently available throughout the various jurisdictions in Australia.

## **2. ALCOHOL-RELATED DRIVING PENALTIES AND REHABILITATION/PREVENTION PROGRAMS IN AUSTRALIA**

### **2.1 Jurisdiction disparities**

There are nine jurisdictions in Australia including six states, two territories and one federal government. Each of these jurisdictions is empowered legislatively under the constitution to develop their own alcohol-related driving laws. There are many disparities across each of the jurisdictions in respect of these laws. Some of these disparities include the terminology and categories of drink driving offences and penalties. Generally penalties are applied in accordance with the licence type and BAC level of the driver/rider. There a number of licence types which include learner, provisional/probationary, professional drivers and open or full licences.

There are also a number of rehabilitation/education programs available throughout Australia on a user pays basis, and they vary in regards to their content and duration as well as the type of drink driving offenders they focus on, and how the programs are offered. The following discussion will focus on the penalties and rehabilitation programs available for drivers/riders in each jurisdiction who hold open or full licences and who have exceeded the prescribed blood alcohol concentration.

### **2.2 Northern Territory (NT)**

There are three main category of offences for full licence drivers/riders under sections 19 and 20 of the Traffic Act 1986 (NT) and Regulation 86 and 90 of the Traffic Regulations 1995. The first category (0.05g/100ml and under 0.08g/100ml)

provides for a fine of between \$100 and \$500 for the first offence and up to a \$750 fine for second and subsequent offences. The second category (0.08g/100ml and under 0.15g/100ml) provides for a maximum fine of \$750 and a maximum fine of \$2000 for second and subsequent offences. The third category (0.15g/100ml or above) provides for a maximum fine of \$1000 for first offences and a maximum fine of \$2000 for second and subsequent offences. The penalties for each of these categories are described in tables 1, 2 and 3 (the information in these tables for NT drink driving penalties and programs was derived from the Traffic Act 1986 (NT) and Dwyer & Bolton, 1998).

The Northern Territory has also been offering a Drink Driver Education Program since 1995 and Drink Driving offenders who have been disqualified from driving must complete this program as a legislative requirement before they are eligible to be re-licensed. An outcome evaluation (Dwyer & Bolton, 1998) suggests that drivers who complete the program have a re-offending rate of 12.8% within 2 years following re-licensing.

### **2.3 New South Wales (NSW)**

The legislative provisions relating to driving with or above the prescribed concentration of alcohol are contained in section 9 of the Road Transport (Safety & Traffic Management) Act 1999. The Act provides for three main categories of offences for full licence drivers/riders including low range offences (0.05g/100ml or more but less than 0.08g/100ml), middle range offences (0.08g/100ml or more but less than 0.15g/100ml) and high range offences (0.15g/100ml or above). Low range offences attract a fine up to \$1100 for the first offence and up to \$2200 for second and subsequent offences. Middle range offences attract up to a \$2200 fine for the first offence, and up to a \$3300 fine for second and subsequent offences. High range offences attract up to a \$3300 fine for the first offence and up to a \$5500 fine for second or subsequent offences. Specific details of fines, imprisonment and licence disqualification periods are contained in tables 1, 2 and 3 below (the information in these tables for NSW drink driving penalties and programs was derived from the NSW Road Transport, Safety & Traffic Management Act 1999; Armstrong Legal, 2004; RTA, 2004; Saffron, Wallington & Chevalier, 1999)

New South Wales (NSW) also offers generalized Traffic Offender Programs (TOP), a Sober Driver Program that is one aspect of a wider Safe Driver Program (see Newman, Di Pietro, Catchpole, Stephenson & Taylor, 2002) focusing on the recidivist drink driver and an option of participating in the Interlock Program. Information about these programs described below was obtained from Mr. Andrew Hawkins of the NSW Road Safety Authority (RTA) and Saffron, Wallington & Chevalier (1999).

TOPs are educational courses designed for general traffic offenders. Offenders can be offered a Traffic Offender Program under the Criminal Justice Intervention legislation enacted in 2002 as part of a pre-sentence diversionary scheme. Participation is voluntary and/or at the Magistrates discretion. The program of 8 by 2 hour sessions is offered by a variety of private and government agencies and differs among providers. An evaluation of the Mt Penang and Blacktown TOPs by the NSW Road Traffic Authority (RTA) in 1999 suggested that participation in a TOP could reduce the probability of re-offending by 25% (Saffron, Wallington & Chevalier,

1999). A specific Sober Driver Program (8 by 2 hour sessions) designed for repeat offenders and conducted by Probation and Parole Officers is available at the discretion of the magistrate.

Offenders who have had their licence disqualified through a serious alcohol related offence (i.e middle to high range BAC or repeat offender) may at the Magistrates discretion be offered an opportunity to participate in the Interlock Program. The interlock device is fitted to their vehicle at their expense and prevents driving when a positive breath test for alcohol is detected.

## **2.4 Victoria (VIC)**

The legislative provisions for driving a motor vehicle with or more than the prescribed concentration of alcohol are contained in sections 49 and 50 of the Road Safety Act 1986 (VIC). There are three main categories of offences for full licence drivers/riders including 0.05g/100ml or above but less than 0.07g/100ml, 0.07g/100ml or above but less than 0.15g/100ml and 0.15g/100ml or above. First offence penalties can be up to a maximum of \$1200 fine and second or subsequent offences can be up to a maximum of \$2500. Specific penalties and programs are described in tables 1, 2 and 3 (the information in these tables for VIC drink driving penalties and programs was derived from the Department of Human Services, 2002; Road Safety Act 1986 VIC).

In Victoria certain categories of Drink Drivers are legislatively required to complete an approved Drink Driver Education Program of 8 hours duration with an accredited agency as well as being assessed for alcohol dependency (see Department of Human Services, 2002). Compulsory participation in this program, for most offenders, has been available since 1990. All first offenders under the age of 25 exceeding the prescribed BAC must attend the program however, first offenders aged over 25 with a BAC less than 0.1g/100ml do not have to attend. First offenders aged over 25 with a BAC between 0.1g/100ml and 0.15g/100ml as well as repeat offenders can be required to attend, subject to the magistrate's discretion.

A process evaluation of the program focussing on procedures and impact on participants and stakeholders rather than outcome measures was undertaken by Hennessy (1998) and rated the program as "good to very good". The Centre for Accident Research and Road Safety, Queensland University of Technology (CARRS-Q) is currently evaluating the Victoria program. Victoria also offers an Alcohol Interlock program for certain categories of drink drivers that can be made part of the licence condition for offenders who have had their licence restored after the set period of disqualification.

## **2.5 South Australia (SA)**

The legislative provisions for driving a motor vehicle exceeding the prescribed concentration of alcohol are contained in section 47B of the Road Traffic Act 1961 (SA). There are three main categories of offences for full licence drivers/riders. The first category includes drivers/riders with 0.05g/100ml or above but below 0.08g/100ml, the second category includes driver/riders with 0.08g/100ml or above but below 0.15g/100ml and the third category includes drivers/riders with 0.15g/100ml or above. The first category of offence attracts a fine of up to \$700 and

the second category attracts a fine of between \$500 and \$900. A second offence will attract a fine of between \$700 and \$1200 and any subsequent offences will attract a fine of between \$1100 and \$1800. The third category of offence generally attracts a fine of between \$1200 and \$2500. Further details of penalties and programs are described in tables 1, 2 and 3 (the information in these tables for SA drink driving penalties and programs was derived from Road Traffic Act 1961 SA).

In South Australia (SA) there are no specific Drink Driver rehabilitation/education programs. However, the Court may make an order enabling the drink driver to participate in the "Alcohol Interlock Scheme" following an application made to the Registrar of Motor Vehicles (Road Traffic Act 1961 (SA) ss. 50, 51). Offenders may apply to the Registrar of Motor Vehicles after completing half of their disqualification period to have their licence re-instated if they are prepared to participate in the "Alcohol Interlock Scheme" for a period twice the number of days remaining on their disqualification.

The "Alcohol Interlock Scheme" has been in operation for two years and approximately 130 offenders have participated to date (personal communication Mr. Anthony Potts, Senior Project Officer Transport Services SA, 2003). Financial assistance to participate in this program is offered to low income earners and counselling is also an important aspect of the program to address alcohol dependence where it is identified.

## **2.6 Australian Capital Territory (ACT)**

The Road Transport (Alcohol and Drugs) Act 1977 ACT sections 19 and 26 provides for the offence as well as the fines and imprisonment available for exceeding the prescribed blood alcohol concentration. There are three main categories of offences for full licence holders and these are similar to those in SA but are referred to as levels rather than categories. Drink driving offences for full licence holders commence at the second level of offences. Offences committed at the second level (0.05g/100ml or more but less than 0.08g/100ml) incur a fine up to a maximum of \$500 for a first offence and up to a maximum of \$1000 for second and subsequent offences. Offences committed at the third level (0.08g/100ml but less than 0.15g/100ml) incur a fine up to a maximum of \$1000. Offences committed at the fourth level (above 0.15g/100ml) incur a fine up to a maximum of \$1500 for the first offence and up to a maximum of \$2000 for second and subsequent offences.

Details of the available penalties, including fines, imprisonment, licence disqualification periods and educational programs are outlined in tables 1, 2 and 3 below (the information for these tables for ACT drink driving penalties and programs was derived from The Road Transport (Alcohol and Drugs) Act 1977 ACT; Road Transport, 2004).

The court may also provide offenders with the option of attending a drink-driving rehabilitation program at their own expense. The court when assessing the penalties will take into consideration the fees paid by the offender to complete the program. The "Drink Driver Program" (based on the "Under the Limit" drink driving rehabilitation program developed by CARRS-Q) is available through the Alcohol and Drugs Foundation of the ACT and is conducted over three months on a weekly basis

for 90 minutes. The court may also refer offenders to other rehabilitation programs offered by the Alcohol and Drugs Foundation. The ACT is currently planning to adopt the NSW Sober Driver Program and is also developing a shorter drink driver educational program (personal communication C Wheeler, Dept. Urban Services Road Safety).

## **2.7 Western Australia (WA)**

The legislative provisions for driving a motor vehicle with, or more than the prescribed concentration of alcohol are contained in sections 64 and 64AA of the Road Traffic Act 1974 (WA). The Act provides specific penalties and licence disqualification periods for each BAC exceeding 0.05g/100ml. The Act does not categorise the various offences but penalties increase as the BAC of the driver/rider increases. However it is possible to view the range of offences for full licence holders in terms of three main categories. The first category (0.05g/100ml but less than 0.08g/100ml) incurs fines of between \$100 and \$500. The second category (0.08g/100ml but less than 0.15g/100ml) incurs fines of between \$400 and \$1500. The third category (0.15g/100ml or above) incurs fines of between \$800 and \$5000. Further penalties are described in tables 1, 2 and 3 (the information in these tables for WA penalties was derived from the WA Road Traffic Act 1974).

There are currently no rehabilitation/education or Alcohol Interlock programs offered in Western Australia. The Western Australia Road Safety Council has formed a task force to review the possibility of legislating for suitable remedial, educational and alcohol interlock programs for convicted drink drivers (personal communication with Senior Sgt Allan Eason, WA Police, 2003; Melany Hands, Private Road Safety Consultant).

## **2.7 Tasmania (TAS)**

The legislative provisions for driving a motor vehicle with or more than the prescribed concentration of alcohol are contained in section 17 of the Road Safety (Alcohol & Drugs) Act 1970 (TAS). The offences and penalties are defined in terms of three main categories. The first category (0.05g/100ml or more but less than 0.1g/100ml) provides for a penalty of between \$200 and \$1000. The second category (0.1g/100ml or more but less than 0.15g/100ml) provides for a penalty of between \$400 and \$2000. The third category (0.15g/100ml or more) provides for a penalty of between \$500 and \$3000. Further penalties are described in tables 1, 2 and 3 (the information in these tables for drink drive penalties in Tasmania was derived from the Tasmania Road Safety (Alcohol & Drugs) Act 1970).

There are currently no rehabilitation/education or Alcohol Interlock programs available for open or full licence holders (personal communication with Elise Gavlik, Road Safety Consultant, Road Safety Division, Department of Infrastructure, Energy and Resources, 2003). However, Ms Gavlik advises that a brief, 1 session 2 hour educational program is available for provisional licence holders who have lost their licence through drink driving. Offenders can be referred to this program through the magistrate court and if ordered to undertake the program must complete it before re-licensing. This program is conducted by private Road Safety consultants and focuses on the consequences of, and alternatives to drink driving.

## 2.8 Queensland (QLD)

The legislative provisions for driving a motor vehicle with, or more than the prescribed concentration of alcohol are contained in section 79 of the Transport Operations (Road Use Management) Act 1986(QLD). In respect of full licence holders the Act provides only two categories of offences. The first category (0.05g/100ml or more but less than 0.15g/100ml) provides for a fine of between \$100 and \$1050 for first offenders and a maximum fine of \$2250 for a second offence and for a third offence a maximum fine of \$4500. The second category (0.15g/100ml or more) provides for a maximum fine of \$2100 and a fine of between \$2250 and \$4500 for second and subsequent offenders. Further details of penalties are described in tables 1, 2 and 3 (the information in these tables for Queensland drink drivers was derived from the Transport Operations (Road Use Management) Act 1986(QLD) & personal communication with the Acting Registrar C. Talty Cleveland Magistrates Court).

In Queensland drink drivers can also be given the option of choosing between the prescribed fine and licence suspension or paying the course cost of \$500, licence suspension, and being placed on probation with a condition to attend the prescribed drink driving rehabilitation program of 11 by 1½ hour sessions. An outcome evaluation of the UTL program demonstrated, overall, the re-offending rates of drink drive offenders who completed the program was 15% lower compared to a matched sample, and for repeat offenders with BAC's above 0.15g/100ml it was 55% lower (Siskind, Sheehan, Schonfeld & Ferguson, 2000). The "UTL" program has therefore demonstrated that it can influence markedly the subsequent driving behaviour of repeat offenders with high blood alcohol concentrations. An alcohol interlock program is also being currently trialled.

Table 1: Alcohol-related driving penalties for low range blood alcohol content.

State	1st Offence	2 <sup>nd</sup> and Subsequent Offences
<sup>1,3,5</sup> Queensland (Qld)	Maximum \$1050 fine (average \$800) and between 1-9 mths licence disqualification. Infringement notice available. Option of "Under the Limit" drink driving rehabilitation program with reduction of fine.	2 <sup>nd</sup> offence - \$1500 - \$2250 fine or 6 mths jail and between 6-18 mths licence disqualification. 3 <sup>rd</sup> offence - \$2100 - \$4500 or 9 mths jail and 6 mths -3yrs licence disqualification. Option of "Under the Limit" drink driving rehabilitation program with reduction of fine.
<sup>4,6,7</sup> New South Wales (NSW)	Maximum \$1100 fine and 3-6 mths licence disqualification.	Up to \$2200 fine and 6-12 mths licence disqualification. Voluntary pre-sentence diversionary "Traffic Offender Program" and discretionary post sentence "Sober Driver Program" and probation supervision available.
<sup>1,5</sup> Victoria (VIC)	\$300 fine and 10 demerit points. Can be via infringement notice or on the spot fine. "Drink Driver Education Program" available and compulsory in some instances depending on age and BAC level.	Court appearance required. Minimum fine \$420. Magistrates can vary fine up to \$2500 and/or up to 3 mths jail and 12-14 mths licence disqualification. Interlock condition for at least 6 mths. "Drink Driver Education Program" available and compulsory in some instances depending on age and BAC level.
<sup>1,5</sup> South Australia (SA)	\$700 fine.	2 <sup>nd</sup> offence-\$700 fine and licence disqualification for a minimum of three mths. 3 <sup>rd</sup> offence- \$700 fine and minimum licence disqualification for 6 mths and if a 4 <sup>th</sup> offence disqualification is for 12 mths. Alcohol Interlock condition available on application if disqualification period > 6 mths.
<sup>4,5</sup> Northern Territory (NT)	\$100-\$500 fine can be via infringement notice, and/or up to 3 mths jail and licence disqualification may be imposed.	Up to \$750 fine and/or up to 6 mths jail and may impose licence disqualification. "Drink Driver Education Program" or treatment prior to re licensing.
<sup>4,5,6</sup> Western Australia (WA)	\$100 - \$200 fine. An infringement notice of \$100 maybe issued.	\$250-\$500 fine and disqualification for a minimum of 3 mths.
<sup>4,5,6</sup> Australian Capital Territory (ACT)	Maximum \$500 fine and 2-6 mths disqualification. Optional "Drink Driver Program" available at offender's expense that will reduce penalty.	Maximum \$1000 fine and 3-12 mths disqualification. Optional "Drink Driver Program" available at offender's expense that will reduce penalty.
<sup>1,4</sup> Tasmania (TAS)	\$200-\$1000 fine and/or 3 mths jail and 3-12 mths licence disqualification.	\$400-\$2000 fine and/or 6 mths jail and 6-24 mths licence disqualification.

<sup>1</sup>In Qld, SA, TAS and VIC a further drink driving offence is regarded as a second or subsequent offence if it has occurred within five years, three years, ten years and ten years respectively of the previous drink driving conviction.

<sup>2</sup>In WA, NT, ACT, NSW there appears to be no time span applicable between the most current conviction and a previous conviction for it to be considered a subsequent conviction.

<sup>3</sup>Alcohol-related driving penalties in Qld for low range BAC is  $\geq 0.05\text{g}/100\text{ml}$  to  $< 0.15\text{g}/100\text{ml}$ .

<sup>4</sup>Alcohol related driving penalties in Tasmania for low range BAC is  $\geq 0.05\text{g}/100\text{ml}$  to  $< 0.1\text{g}/100\text{ml}$ .

<sup>5</sup>Alcohol-related driving penalties in Victoria for low range BAC is  $\geq 0.05\text{g}/100\text{ml}$  to  $< 0.07\text{g}/100\text{ml}$ . Specific penalties for each BAC level above 0.07g/100ml also apply.

<sup>6</sup>Alcohol-related driving penalties for low range BAC in all other states and Territories are between  $\geq 0.05\text{g}/100\text{ml}$  to  $< 0.08\text{g}/100\text{ml}$ .

<sup>7</sup>Drivers and riders in NSW who accumulate 3 convictions for certain serious offences within 5 years will be subjected to heavier penalties when declared an habitual offender by the court.

<sup>8</sup>An Alcohol Interlock program is available in Queensland on a trial basis in Brisbane courts only for recidivists drivers who agree to participate.

**Table 2: Alcohol-related driving penalties for middle range blood alcohol content.**

Jurisdiction	1st offence	2 <sup>nd</sup> and subsequent offences
<sup>9</sup> Queensland (Qld)	There are no middle range offences. Penalties are the same for low range offences.	There are no middle range offences Penalties are the same as low range offences.
<sup>4</sup> New South Wales (NSW)	Maximum \$2200 fine and/or 9 mths jail and 6-12m disqualification. Optional pre- sentencing diversionary "Traffic Offender Program" available at magistrate's discretion.	Maximum \$3300 fine and/or 12 mths jail and 12 mths-3yrs disqualification. Optional pre-sentence diversionary "Traffic Offender Program" and discretionary post sentencing "Sober Driver Program" and probation supervision available.
<sup>5</sup> Victoria (VIC)	\$300-\$420 fine and 6-14 mths disqualification if by way of infringement notice or on the spot fine. Maximum \$1200 fine by way of court plus 6-14 mths licence disqualification. Under 25 must attend "Drink Driver Education Program".	Must attend court. Maximum \$2500 fine or up to 3 month's imprisonment plus 16 -28 mths licence disqualification. Alcohol Interlock available on application if licence disqualified for at least 6 mths. Can be required to attend "Drink Driver Education Program".
<sup>4</sup> South Australia (SA)	\$500-\$900 fine and minimum of 6 mths licence disqualification. Alcohol Interlock condition available on application if disqualification period > 6 mths.	2 <sup>nd</sup> offence - \$700-\$1200 fine and disqualified for a minimum of 6 mths. 3 <sup>rd</sup> offence - \$1100-\$1800 fine and disqualification for a minimum of 2 yrs. Alcohol Interlock condition available on application if disqualification period > 6 mths.
<sup>4</sup> Northern Territory (NT)	Maximum of \$750 fine or maximum 6 mths jail and minimum disqualification for 6 mths. "Drink Driver Education Program" prior to re-licensing.	Maximum of \$2000 fine or maximum 12 mths jail and minimum disqualification for 12 mths. "Drink Driver Education Program" or treatment prior to re-licensing.
<sup>4</sup> Western Australia (WA)	\$400-\$1500 fine and 3-6 mths disqualification.	\$800-\$1500 fine and 6-14 mths disqualification.
<sup>4</sup> Australian Capital Territory (ACT)	Maximum \$1000 fine and/or jail for 6 mths plus licence disqualification for 3-12 mths. Optional "Drink Driver Program" available at offender's expense that will reduce penalty.	Maximum \$1000 fine and /or jail for 6 mths plus licence disqualification for 6 mths -3 years. Optional "Drink Driver Program" available at offender's expense that will reduce penalty.
<sup>3</sup> Tasmania (TAS)	\$400-\$2000 fine and/or 6 mths jail and 6-24 mths disqualification.	2 <sup>nd</sup> offence - \$400-\$2000 fine and/or 6 mths jail and 6-18 mths licence disqualification. 3 <sup>rd</sup> offence - \$800-\$4000 fine and/or 12 mths jail and 12-36 mths licence disqualification.

<sup>1</sup>In Qld, SA, TAS and VIC a further drink driving offence is regarded as a second or subsequent offence if it has occurred within five years, three years, ten years and ten years respectively of the previous drink driving conviction.

<sup>2</sup>In WA, NT, ACT, NSW there appears to be no time span applicable between the most current conviction and a previous conviction for it to be considered a subsequent conviction.

<sup>3</sup>Alcohol-related penalties for middle range BAC in Tasmania is 0.1g/100ml or more but less than 0.15g/100ml.

<sup>4</sup>Alcohol-related penalties in WA, NT, NSW ACT and SA for middle range BAC is 0.08g/100ml or more but less than 0.15g/100ml.

<sup>5</sup>Alcohol-related penalties in VIC for middle range BAC is 0.07g/100ml or more but less than 0.15g/100ml.

<sup>6</sup>An Alcohol Interlock program is available in Queensland on a trial basis in Brisbane courts only for recidivists drivers who agree to participate.

**Table 3: Alcohol-related driving penalties for high range blood alcohol content.**

Jurisdiction	1st offence	2 <sup>nd</sup> and subsequent offences
<sup>1,2</sup> Queensland (Qld)	Maximum \$2100 fine or 9 mths jail and 6-16 mths licence disqualification. Option of "Under the Limit" drink drive rehabilitation program with reduction of fine.	\$2250 - \$4500 or up to 18 mths jail plus licence disqualification for maximum of 5 yrs. Penalty depends on whether previous offence is a major or minor. Option of "Under the Limit" drink driving rehabilitation program with reduction of fine. 2 previous high range BAC results in automatic jail which can be partially suspended.
<sup>4</sup> New South Wales (NSW)	Maximum \$3300 fine and/or 18 mths jail and 12m-3yrs -unlimited disqualification.	Maximum \$5500 fine and/or 2 yrs jail and 5 yrs - unlimited disqualification.
<sup>5</sup> Victoria (VIC)	Maximum \$1200 fine plus 14-24 mths licence disqualification. Under 25 must attend "Drink Driver Education Program". Assessments prior to re-licensing required.	Maximum \$2500 fine or 3 mths jail plus 30-48mths licence disqualification. Alcohol Interlock available on application if licence disqualified for at least 6 mths. Can be required to attend "Drink Driver Education Program". Assessments prior to re-licensing required.
<sup>4</sup> South Australia (SA)	\$700-\$1200 fine and minimum 12 mths licence disqualification. Alcohol Interlock condition available on application if disqualification period > 6 mths.	2 <sup>nd</sup> offence- \$1200-\$2000 36 mths plus minimum 36 mths licence disqualification. 3 <sup>rd</sup> offence - \$1500-\$2500 plus minimum 36 mths licence disqualification. Alcohol Interlock condition available on application if disqualification period > 6 mths.
<sup>4</sup> Northern Territory (NT)	Maximum \$1000 fine and/or up to 12 mths jail and disqualification for 12 mths. "Drink Driver Education program" or treatment prior to re-licensing.	Maximum \$2000 fine and/or up to 12 mths jail and 18 mths - 5yrs disqualification.
<sup>4</sup> Western Australia (WA)	\$800-\$2500 fine and up to 6 mths disqualification.	2 <sup>nd</sup> offence - \$1500-\$3500 fine and/or 6 mths jail and up to 2 yrs licence disqualification. 3 <sup>rd</sup> offence - \$2000-\$5000 fine and maximum 18 mths jail plus permanent licence disqualification.
<sup>2</sup> Australian Capital Territory (ACT)	Maximum \$1500 fine and or jail up to 9 mths.	Maximum \$2000 fine and/or jail up to 12 mths.
<sup>3</sup> Tasmania (TAS)	\$500-\$3000 fine and/or 12 mths jail and 12 - 36 mths disqualification.	\$1000-\$6000 fine and/or 24 mths jail and 24-72 mths disqualification.

<sup>1</sup>In Qld, SA, TAS and VIC a further drink driving offence is regarded as a second or subsequent offence if it has occurred within five years, three years, ten years and ten years respectively of the previous drink driving conviction.

<sup>2</sup>In WA, NT, ACT, NSW there appears to be no time span applicable between the most current conviction and a previous conviction for it to be considered a subsequent conviction.

<sup>3</sup>An Alcohol Interlock program is available in Queensland on a trial basis in Brisbane courts only for recidivists drivers who agree to participate.



## Discussion

All states and territories have adopted the 0.05g/100ml BAC limit. However for low range first offences fines vary across Australia from \$100 to \$1050 and for second offences, they vary from \$700 to \$2250. There are also substantial differences in licence disqualification periods and terms of imprisonment. Fines and penalties do increase for middle range and high range offences but there are jurisdictional variations. Queensland does not have middle range offences as do other jurisdictions. Only half of the jurisdictions offer comprehensive rehabilitation/education programs and these vary in cost, content and length. There have been some attempts to evaluate these but only Queensland has attempted to evaluate outcomes using a quasi experimental design incorporating a control group. Three of the states also offer alcohol interlock devices but participation rates have been largely low.

It is time therefore that serious consideration is given to adopting punitive and educational standards that are based on best practice. Rehabilitation/education programs that are currently being offered require outcome evaluation preferably based on randomized designs. The yearly national death toll from alcohol-related crashes is evidence of the need for collaboration on a national basis to identify and implement best practice penalties and rehabilitation/education programs.

At the very least it seems desirable that all jurisdictions should adopt similar penalties that send a national message that drink driving offenders are not to be tolerated. Based on the available evidence (Siskind, Sheehan, Schonfeld, & Ferguson, 2000; Wells-Parker, Bangert-Drowns, McMiullen & McWilliams, 1995) a national approach to managing drink driving offenders should incorporate countermeasures that include a combination of punishment and rehabilitation/education. High range first offenders should not only be fined and disqualified from driving but they should also be mandated to complete a brief educational program prior to re-licensing. It should also be mandatory for high range repeat offenders to complete a comprehensive rehabilitation/education program and be subject to treatment if an alcohol problem is identified prior to re-licensing. Educational programs could be made available on an optional basis for low and middle range drink driving offenders.

Further research is required to identify the processes and impediments to implementing a uniform national approach to managing drink driving offenders.

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### **Keywords**

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