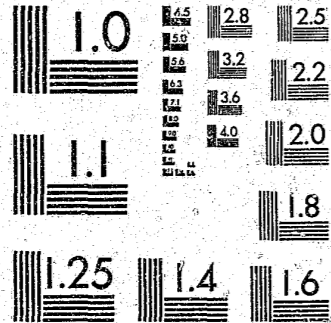


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PENALTIES FOR TRAFFIC OFFENSES

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The Commentary series covers, on a selective basis, the development and status of state motor vehicle and traffic laws, particularly as they relate to provisions in the Uniform Vehicle Code.

PENALTIES FOR TRAFFIC OFFENSES

by

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National Committee on Uniform Traffic Laws and Ordinances

NCJRS

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INTRODUCTION

This Commentary reviews the various traffic law penalties defined by the Uniform Vehicle Code and the laws of the 50 states and the District of Columbia. It will cover only those penalties which may be assessed for violating traffic laws -- those rules of the road for drivers and pedestrians which are comparable to the provisions of Chapter 11 of the Uniform Vehicle Code. Penalties for violating other vehicle code provisions are not included.

Within this scope, the Commentary will closely examine the penalties, comparing them from one state to another and from one offense to another. It will examine some of the basic approaches to penalization, and the specific penalty options such as fine, imprisonment, and some of the more novel post-conviction remedies.

The Commentary will compare provisions of the Uniform Vehicle Code as last amended in 1975 with the relevant state law provisions in effect as of January 1, 1977. Amendments made after that date are not reflected.

Throughout the commentary, for comparison purposes, analysis will focus on ten selected offenses. These offenses have been chosen to cover a broad range, including very serious and relatively minor offenses, and offenses which involve differing kinds of misconduct. These ten offenses have also been selected because, in most cases, they are defined and penalized by the laws of most of the states and in the Uniform Vehicle Code.

Three of these ten offenses are generally considered to be of relatively serious nature. These serious offenses often have their own separate penalty clause to specify how the offense may be punished. The three serious offenses which have been selected for review are as follows:

1. Reckless driving. UVC § 11-901 (1968, Supp. 1976) defines this offense and specifies the penalty. All jurisdictions have a comparable law.

2. Driving while under the influence. UVC § 11-902 (Supp. 1976) defines this offense; the penalty is specified in that section and in UVC § 11-902.2 (Supp. 1976). All jurisdictions have a comparable law. Some states also define a lesser offense such as driving while impaired. The penalties discussed herein relate to driving while under the influence rather than driving while impaired. Where the substance (alcohol or drugs) affects the penalty, that will be noted in text or footnotes.

3. Homicide by vehicle. UVC § 11-903 (1968) defines this offense and specifies the penalty. Only 17 jurisdictions have a comparable vehicle code offense; other states apparently prosecute such homicides under homicide laws which are not part of their vehicle codes. Some of the 17 jurisdictions define a somewhat different offense of reckless homicide; these are noted in the text or footnotes. This is the only offense selected which has not been adopted by most of the states.

The other seven of the ten offenses selected for review are of less serious nature. These offenses are usually punishable under the provisions of a general penalty clause which defines the penalty for all offenses which have no specific penalty clause. Hence the penalty for these offenses is generally the same within a particular state. In the Commentary, these offenses are generally discussed together under the title, Composite of selected offenses. Where one of these offenses has a separate penalty clause, that will be noted in the text. The seven offenses which make up the composite and which complete the list of ten selected offenses are as follows:

4. Failure to obey an officer directing traffic. UVC § 11-103 (Supp. 1976) defines this offense. The general misdemeanor penalty clause applies. UVC § 17-101 (1968, Supp. 1976). Forty-nine jurisdictions define a comparable offense.

5. Following too closely. UVC § 11-310(a) (Supp. 1976) defines this offense. The general penalty clause applies. UVC § 17-101 (1968, Supp. 1976). All jurisdictions define a comparable offense.

6. Stop sign violation. UVC § 11-403(b) (Supp. 1976) defines this offense which is covered by the general penalty clause. UVC § 17-101 (1968, Supp. 1976). All jurisdictions have a comparable offense.

7. Failure of pedestrian outside crosswalk to yield. UVC § 11-503(a) (1968) defines the offense, and it is covered by the general penalty clause. UVC § 17-101 (1968, Supp. 1976). Forty-seven jurisdictions have comparable laws.

8. Failure to stop for a school bus. UVC § 11-706(a) (Supp. 1976) defines the offense. The penalty is provided by the general clause. UVC § 17-101 (1968, Supp. 1976). All jurisdictions define a comparable offense.

9. Violation of the basic speed rule. UVC § 11-801 (1968) defines the offense which is punishable under the general penalty clause. UVC § 17-101 (1968, Supp. 1976). Fifty jurisdictions have a basic speed law.

10. Stopping, standing or parking where prohibited. UVC § 11-1003 defines the offense which is punishable under the general penalty clause. UVC § 17-101 (1968, Supp. 1976). Forty-eight jurisdictions have comparable laws.

These are the ten selected offenses which will be used throughout this Commentary for the purpose of making state-by-state comparisons of penalties for the same or similar offenses.

APPROACHES TO PENALIZATION

The Nature of Traffic Offenses

Under the Uniform Vehicle Code a violation of a traffic law is a criminal offense. The Code specifies that all offenses are misdemeanors unless a particular offense is specifically declared by law to constitute a felony.^{1/}

Most states follow the same approach; almost all traffic offenses are misdemeanors with a few of the more serious offenses classified as felonies. A growing number of states, however, classify many traffic law violations as something less than misdemeanors. Many of these states use the term "infraction" to describe these offenses. In a few states infractions are not even crimes, but are civil offenses instead.

This portion of the Commentary will review the nature of traffic offenses, examining first those offenses which are classified as felonies or for which a felony-type penalty may be imposed, and then examining those traffic offenses which are classified as something less than a misdemeanor. The general assumption is that a traffic violation constitutes a misdemeanor. Any offense which is not specifically discussed below as being a felony or an infraction should be considered a misdemeanor.

Traffic Offenses as Felonies

Criminal acts are generally divided into two classifications, that of felony and misdemeanor. A felony is a crime of a more serious nature, generally involving a maximum possible term of imprisonment of greater than one year.

The violation of a particular offense may be specifically declared to be a felony, as is the case with several homicide by vehicle provisions. Or, under some state codes, an offense may constitute a felony just by the fact that it involves a maximum possible jail sentence of greater than one year and that incarceration is to take place in the state penitentiary rather than in the county jail or other correctional institution.^{2/} This was the general rule at common law which, either explicitly or by implication, has been adopted by a number of state codes.

The Uniform Vehicle Code, as noted above, specifies that all violations are misdemeanors unless a particular violation is specifically declared to be a felony.^{3/} None of the traffic

offenses relevant to this Commentary is specifically so declared. The offense of homicide by vehicle, however, has a felony-type penalty, since it is punishable by imprisonment in the state penitentiary for up to five years.^{4/} Thus, the Code's homicide by vehicle offense might constitute a felony in some states but not in others, depending on the laws of the particular state as to what is required for a penalty to fall within the felony classification.

In this portion of the Commentary, we will review those traffic offenses which are either specifically declared in their particular state vehicle codes to be felonies or, while not so specifically declared, are punishable by a felony-type penalty. For this purpose, any offense punishable by imprisonment for more than one year is considered to have a felony-type penalty.

Seven states have provisions in their vehicle codes that specifically define as felonies certain of the more serious traffic offenses. These states and the offenses so defined, are as follows:

Georgia -- Homicide by vehicle resulting from reckless driving.

Michigan -- Any third or subsequent violation for driving while under the influence.

Missouri -- Any third or subsequent conviction for driving while under the influence of alcohol, or any conviction of driving while under the influence of a narcotic drug.

New York -- A second conviction within a ten year period for driving while under the influence.

Oklahoma -- Any second or subsequent conviction for driving while under the influence.

Texas -- A second or subsequent conviction of driving while under the influence.

West Virginia -- Any third or subsequent conviction for driving while under the influence.

Seventeen other states, while not specifically defining certain major offenses as felonies, do specify periods of confinement for convictions of these offenses of greater than one year.

These seventeen states and the offenses for which confinement of more than one year is specified are as follows:

Delaware -- Second or subsequent conviction of drinking while under the influence.

Idaho -- Second or subsequent conviction of drinking while under the influence.

Indiana -- Reckless homicide.

Iowa -- Third or subsequent conviction of driving while under the influence.

Maryland -- Second or subsequent conviction of driving while under the influence.

Massachusetts -- Driving while under the influence or reckless driving.

Nebraska -- Third and subsequent conviction of driving while under the influence.

Nevada -- Driving while under the influence when death or substantial bodily injury results.

New Hampshire -- Death resulting from reckless operation.

New Mexico -- Homicide by vehicle.

North Carolina -- Homicide by vehicle or a third conviction for driving while under the influence.

Pennsylvania -- Homicide by vehicle (but this offense, which provides for a maximum imprisonment of five years, is defined by the law to be a "misdemeanor of the first degree").

Rhode Island -- Driving so as to endanger with death resulting.

South Carolina -- Reckless homicide, or a third or subsequent conviction of driving while under the influence.

South Dakota -- Third or subsequent conviction of driving while under the influence.

Vermont -- Second or subsequent conviction of reckless driving, or any conviction for homicide by vehicle.

Washington -- Negligent homicide.

Twenty-seven jurisdictions have no provisions in their vehicle codes that either specifically define certain traffic offenses as felonies or provide punishment for such offenses of greater than one year. These jurisdictions are:

Alabama	Florida	Minnesota	Tennessee
Alaska	Hawaii	Mississippi	Utah
Arizona	Illinois	Montana	Virginia
Arkansas	Kansas	New Jersey	Wisconsin
California	Kentucky	North Dakota	Wyoming
Colorado	Louisiana	Ohio	District of Columbia
Connecticut	Maine	Oregon	

Traffic Offenses as Infractions

As noted above, a growing number of states have begun to classify many of their less serious traffic offenses as something less than misdemeanors. Most of these states use the term "infraction" to describe this new category of traffic offenses, although a few use other terms such as "petty offense," "petty misdemeanor," or some other similar term. We will use the term "infraction" in this Commentary to describe all such traffic offenses which have been given less-than-misdemeanor status.

The Uniform Vehicle Code does not classify any traffic offenses as infractions. A recent amendment to the Code does move somewhat in that direction, however, by eliminating the imprisonment option from the general penalty clause upon a first or second misdemeanor conviction. Only upon a third misdemeanor conviction within a single year can the punishment include a term of imprisonment under the amended Code provisions.^{5/}

In this portion of the Commentary we will review those traffic offenses which are classified as infractions, and those offenses which, although still classified as misdemeanors, cannot be penalized by imprisonment.

Seventeen states classify some of their traffic offenses as infractions:

Alaska	Maine	New York	Pennsylvania
California	Minnesota	North Dakota	Rhode Island ^{6/}
Connecticut	Nebraska	Ohio	South Dakota
Florida	New Hampshire	Oregon	Vermont
			Virginia

While most of these 17 states continue to classify infractions as criminal offenses, albeit very minor ones, seven of the states have specifically decriminalized infractions. These seven states are:

Florida	Nebraska	Rhode Island ^{7/}
Maine	New Hampshire	South Dakota
	New York	

Three of these seven (Maine, Nebraska and South Dakota) specifically provide that traffic offenses are civil rather than criminal in nature. Three others (Florida, New Hampshire and New York), while not specifically declaring that traffic offenses are civil, do specify that such offenses are not crimes. Rhode Island does not specify the nature of the offenses but establishes an administrative rather than judicial adjudication procedure for some offenses.^{8/}

The other ten states do not specifically decriminalize traffic offenses although they all move somewhat in that direction by reducing the severity of penalties and, in many cases, by limiting the rights of the defendant or otherwise revising procedures.

The laws of all 17 of these states specify only a fine as punishment upon conviction of an infraction; no confinement is authorized.

Ten of the 17 specify that there is no right to a jury trial upon adjudication of an infraction:

Alaska	Maine	New York	Oregon
California	Minnesota	North Dakota	Rhode Island ^{9/}
Florida			South Dakota

Four of these ten (Alaska, California, Florida and Oregon) also specify that there is no right to court-appointed counsel.

Four of the 17 states (Connecticut, New Hampshire, New York and Oregon) also specify that conviction of an infraction does not cause any disability or disadvantage (such as loss of credibility as a witness) based upon conviction of a crime.

Two of the 17 states (New York, and Rhode Island) provide for adjudication of some traffic offenses before an administrative hearing officer rather than before a court. Generally, both states specify that in administrative adjudications the burden of proof

is on the state and no charge may be established except by clear and convincing evidence; no penalty may include imprisonment and no monetary penalty may exceed the amount of fine which could have been imposed by a court for the same offense; and any order must be civil in nature. More specifically the laws provide as follows:

New York -- In cities having a population in excess of 275,000, and in those parts of Suffolk County for which a district court has been established, administrative tribunals may be established to hear and determine traffic infraction charges. The courts in such areas retain concurrent jurisdiction over traffic infractions, however. Any fine imposed by an administrative tribunal is a civil penalty. In other areas of the state, courts continue to hear and determine traffic infraction cases, and for this purpose only infractions are deemed to be misdemeanors, but no jury trial is allowed.^{10/}

The above procedures apply to most of the nonserious traffic offenses, except parking, standing, stopping or pedestrian offenses. Parking, standing, and stopping violations are handled through another administrative procedure.^{11/}

Rhode Island -- The law sets up a division for administrative adjudication within the state department of transportation. All traffic law violations except for some specified serious offenses are heard and determined by hearing officers of the division of administrative adjudication.^{12/}

Three of the 17 states specifically retain certain rights of the defendant in the adjudication of infractions. Two (Connecticut and North Dakota) provide that rules of criminal procedure are to be used, and one other (Florida) specifically requires proof beyond a reasonable doubt.

The 17 states which classify some traffic offenses as infractions, and a description of some of the effects of that classification, are as follows:

Alaska -- Punishment for an infraction may not include imprisonment, and the person cited for an infraction does not have the right to trial by jury or counsel appointed by the court. Also, the commission and conviction of a single infraction may not result in loss of the privilege to drive or the registration of vehicles.^{13/}

California -- An infraction is not punishable by imprisonment and a person so charged is not entitled to a jury trial.^{14/} In addition, a person charged with an infraction is not entitled to have public defender or other counsel appointed at public expense to represent him unless he is arrested and not released on his written promise to appear, his own recognizance, or a deposit of bail.^{15/}

Connecticut -- Infractions are punishable by fine only and do not give rise to any disability or legal disadvantage based on the conviction of a criminal offense.^{16/} The judges of the court of common pleas are charged with the responsibility of establishing a schedule of fines for infractions, the maximum fine for which is \$90.^{17/} Also, in any trial for the alleged commission of an infraction, the rules of evidence and burden of proof applicable in criminal procedures apply.^{18/}

Florida -- An infraction is defined as "a noncriminal violation which is not punishable by incarceration and for which there is no right to a trial by jury or court appointed counsel."^{19/} The commission of a charged infraction must be proved beyond a reasonable doubt.^{20/}

Maine -- A traffic infraction is not a crime but a civil violation, and the penalty therefore is not for any purpose a penal or criminal punishment. There is no right to trial by jury.^{21/}

Minnesota -- The term "petty misdemeanor" is used to apply to relatively minor traffic offenses. A person charged with a petty misdemeanor is not entitled to a trial by jury.^{22/}

Nebraska -- The term "Traffic infraction" is specifically defined as a civil offense.^{23/}

New Hampshire -- Traffic offenses of a less serious nature are classified as "violations."^{24/} A violation does not constitute a crime and a conviction of a violation does not give rise to any disability or legal disadvantage based on the conviction of a criminal offense.^{25/}

New York -- A traffic infraction is not a crime, no jury trial is available, and punishment is not to be deemed criminal punishment and is not to affect the credibility of any person so convicted.^{26/}

North Dakota -- A person charged with a traffic infraction has no right to a trial by jury, though the rules relating to criminal procedure apply.^{27/}

Ohio -- The less serious traffic violations are termed "minor misdemeanors" and involve a fine only.^{28/}

Oregon -- The trial of a traffic infraction is to be without a jury.^{29/} The person who commits a traffic infraction is not to suffer any disability based on the conviction of a crime.^{30/} Guilt must be proved by a preponderance of the evidence.^{31/} Defense counsel are not to be provided at public expense.^{32/}

Under the Oregon vehicle code, the first conviction of driving while under the influence is an infraction and involves only a fine.^{33/} Subsequent convictions constitute misdemeanors and are punishable by a fine and/or imprisonment.^{34/} A recent decision by the Oregon Supreme Court, however, held that the legislature had not effectively "decriminalized" the first offense, and that in spite of provisions of the Oregon law to the contrary, the constitutional guarantees of trial by jury, appointment of counsel, and proof beyond a reasonable doubt apply to such first conviction.^{35/} The court emphasized that the legislature has the power to decriminalize a major traffic offense such as driving while under the influence, but in this particular case it had not fully carried out such an intention.

Pennsylvania -- Traffic violations of a less serious nature constitute "summary offenses" and are punishable by a fine of twenty-five dollars.^{36/}

Rhode Island -- Traffic offenses of less serious nature are subject to administrative adjudication. The order entered upon such an adjudication is civil in nature, but constitutes an adjudication that a violation has been committed.^{37/}

South Dakota -- The term "petty offense" applies to traffic violations of a less serious nature. A petty offense involves a fine only. Also, such offenses are civil proceedings and are to be governed by the laws of a civil procedure. No trial by jury is allowed.^{38/}

Vermont -- Less serious rules of the road violations are called "traffic violations" and carry a fine only.^{39/}

Virginia -- Less serious offenses are "traffic infractions, punishable by a maximum fine of \$100."^{40/}

In addition to the 17 states discussed above, seven states have deleted imprisonment as a penalty option for most of the less serious traffic offenses. Like the Code, these states continue to classify traffic offenses as misdemeanors, but they no longer authorize confinement upon conviction. These seven states are:

Colorado^{41/}
Kentucky^{42/}
Maryland^{43/}

Massachusetts^{44/}
Texas^{45/}

Washington^{46/}
Wisconsin^{47/}

The remaining 27 jurisdictions continue to classify most traffic offenses as misdemeanors, and imprisonment is a penalty option on either first and/or subsequent convictions. These jurisdictions are:

Alabama
Arizona
Arkansas
Delaware
Georgia
Hawaii
Idaho

Illinois
Indiana
Iowa
Kansas
Louisiana
Michigan
Mississippi

Missouri
Montana
Nevada
New Jersey
New Mexico
North Carolina
Oklahoma

South Carolina
Tennessee
Utah
West Virginia
Wyoming
District of
Columbia

Review of the Nature of Specific Offenses

Reckless driving. Under the Uniform Vehicle Code, reckless driving is a misdemeanor, and imprisonment is an option on first and subsequent convictions.^{48/} This is the situation that prevails under most state vehicle codes. There are, however, a few exceptions.

Four states (Kentucky, Maryland, Ohio and Pennsylvania) treat the offense of reckless driving like an infraction, that is, a fine applies to convictions thereof, but there is no jail option, on first or subsequent convictions.

Of these four states, only Maryland has a reckless driving provision that is based on "wilful or wanton disregard for the safety of persons or property," the language used to define reckless driving in the Uniform Vehicle Code and most state vehicle codes. The other three states -- Kentucky, Ohio and Pennsylvania -- are actually dealing more with "careless" driving than reckless driving.

Two states (Massachusetts and Vermont) have felony-type penalties for reckless driving, that is, jail sentences which may exceed one year.^{49/}

Driving while under the influence. Like the offense of reckless driving, driving while under the influence is classified under the Code as a misdemeanor, and imprisonment is an option on the first and subsequent convictions.^{50/}

Most state vehicle codes treat the offense of driving while under the influence in a similar fashion. Fifteen states, however, classify first or subsequent convictions of driving while under the influence as a felony or impose a felony-type penalty. These states are:

Delaware
Idaho
Iowa
Maryland

Massachusetts
Michigan
Missouri
Nebraska

New York
North Carolina
Oklahoma
South Carolina

South Dakota
Texas
West Virginia

One state (Oregon) classifies the first violation of driving while under the influence as an infraction, and second and subsequent violations as misdemeanors.

Several states have variations in regard to the offense of driving while under the influence that should be noted. These states and a summary of their provisions are as follows:

California -- In addition to a provision dealing with driving under the influence, which is classified as a misdemeanor, California has three related provisions.^{51/} One deals with death or body injury resulting from a violation of the above offense;^{52/} another with driving under the influence of a drug or addiction;^{53/} and the third with causing bodily injury to another while driving under the influence of drugs.^{54/} These latter three provisions involve greater fine and jail penalties than the first, but still fall within the misdemeanor classification.

Indiana -- Anyone who, while driving under the influence, causes the death of another is guilty of a felony.^{55/}

Missouri -- While driving under the influence of an intoxicating liquor does not reach the felony level until the third or subsequent conviction,^{56/} a first conviction of driving under the influence of a narcotic drug constitutes a felony.^{57/}

Nevada -- When death or bodily injury results from driving under the influence, the penalty is a felony.^{58/}

Washington -- The felony penalty for homicide by vehicle also applies to driving under the influence if death is a proximate result of injury received thereof.^{59/}

Homicide by vehicle. Under the Uniform Vehicle Code, homicide by vehicle is punishable by a fine of between \$500 and \$2000, and/or by imprisonment in the county jail for between three months and one year; or by imprisonment in the state penitentiary for between one and five years.^{60/} This last option, since it involves confinement for greater than one year, is a felony-type penalty, the only one in the Code's rules of the road.^{61/}

Seventeen jurisdictions have homicide by vehicle provisions in their vehicle codes (the remainder generally treat the offense under their manslaughter statutes or under other homicide statutes which are codified in their criminal code rather than in the vehicle code). These 17 jurisdictions are:

Arkansas	New Mexico	Rhode Island	Washington
Georgia	North Carolina	South Carolina	West Virginia
Indiana	Oklahoma	Utah	Wyoming
Nebraska	Pennsylvania	Vermont	District of Columbia
New Hampshire			

Seven of these jurisdictions classify homicide by vehicle as a misdemeanor. These are:

Arkansas	Oklahoma	West Virginia	District of Columbia
Nebraska	Utah	Wyoming	

Ten states either specifically classify the offense as a felony or provide for a maximum jail sentence for such violation of greater than one year. These ten states are:

Georgia	New Mexico	Pennsylvania	South Carolina
Indiana	North Carolina	Rhode Island	Vermont
New Hampshire			Washington

In Pennsylvania, the offense of homicide by vehicle constitutes a misdemeanor of the first degree; the penalty for such violation, however, involves confinement up to five years.^{62/}

Composite of selected offenses. These seven offenses are of a less serious nature.^{63/} Under the Uniform Vehicle Code they are punishable under the general misdemeanor penalty clause.^{64/}

Twenty-seven jurisdictions classify these seven offenses as misdemeanors, punishable by either fine or imprisonment.

Alabama	Illinois	Missouri	South Carolina
Arizona	Indiana	Montana	Tennessee
Arkansas	Iowa	Nevada	Utah
Delaware	Kansas	New Jersey	West Virginia
Georgia	Louisiana	New Mexico	Wyoming
Hawaii	Michigan	North Carolina	District of Columbia
Idaho	Mississippi	Oklahoma	

Another seven states continue to classify these composite offenses as misdemeanors, but they are punishable only by fine. These seven states are similar to the Code in this respect, but they differ in that they have completely removed the imprisonment option while the Code still provides for imprisonment on a third conviction within one year.^{65/} The seven states are:

Colorado	Maryland	Texas	Wisconsin
Kentucky	Massachusetts	Washington	

The remaining 17 states classify the composite offenses as infractions, or as something less than misdemeanors:

Alaska	Minnesota	North Dakota	Rhode Island
California	Nebraska	Ohio	South Dakota
Connecticut	New Hampshire	Oregon	Vermont
Florida	New York	Pennsylvania	Virginia
Maine			

Seven of these laws have unique features as follows:

California -- Any offense that would otherwise be an infraction is a misdemeanor if a defendant has been convicted of three or more traffic violations within a twelve-month period.^{66/}

This provision has no application to pedestrian-related traffic violations.^{67/}

Connecticut -- Most traffic offenses are either misdemeanors, violations or infractions.^{68/} The classifications of "violation" and "infraction" involve a fine only. The penalties relating to "violations," are given in the vehicle code; the penalties for infractions, which apply to certain other traffic offenses, are established by the judges of the court of common pleas. The offenses of speeding and obedience to traffic officers are "violations." The offenses of "following too closely" and "stopping where prohibited" are infractions, and the offenses of "overtaking a school bus" and "stop sign violations" are misdemeanors.

Minnesota -- The term "petty misdemeanor" is used to define those offenses of a generally less serious nature. A conviction that would otherwise be classified as a petty misdemeanor is a misdemeanor when preceded by two or more convictions within a 12-month period.^{69/} The offense of "failing to obey a traffic officer" is a misdemeanor; the other composite offenses are petty misdemeanors.

Oregon -- Any offense that would otherwise be punishable as a class A traffic infraction (for example, driving under the influence), constitutes a class A misdemeanor if the defendant has been convicted of any class A traffic infraction within a five-year period.^{70/}

South Dakota -- The term "petty offense" is used to apply to the generally less serious traffic offenses. A conviction that would otherwise be classified as a petty offense is a class 2 misdemeanor if preceded by two or more convictions within a one-year period.^{71/}

Relation of Penalties to Offenses

For every provision in a state's vehicle code describing a duty on the part of the motorist, a penalty of one form or another applies. The specific method by which a state identifies a particular penalty with a particular offense may vary, however.

Most states follow the general procedure used by the Uniform Vehicle Code. Under the Code, the more serious offenses of reckless driving, driving while under the influence, and homicide by vehicle all have specific penalty clauses.

For all offenses for which there is no specific penalty in the Code, including the seven offenses in the composite of selected offenses, the general penalty clause applies.

Most states relate penalties to offenses in this same way. They have specific penalties in the sections which define the more serious offenses, and a general penalty clause which covers the more minor offenses for which there is no specific penalty. Eleven states vary this pattern as follows, however:

Alabama -- A general penalty applies to some of the less serious traffic offenses; a specific penalty to others.

Colorado -- Misdemeanor traffic offenses are divided into four classes. Classes #1 and #2 apply to the more serious offenses; classes #3 and #4 to the less serious. Each class has a specific penalty.

Illinois -- Misdemeanor offenses are divided into four classes: Class A, Class B, Class C, and petty misdemeanor. Each has a specific penalty.

Kentucky -- A comprehensive general penalty provision delineates specific penalties for a number of less serious offenses. For others of the less serious offenses, the section defining the offense itself contains the specific penalty that applies.

Massachusetts -- A specific penalty applies to some of the less serious offenses; a general penalty applies to others.

North Dakota -- Traffic offenses are divided into three classes -- Class A, Class B, and Infractions, with a specific penalty for each class.

Ohio -- Misdemeanor offenses are divided into five classes -- classes one through four and a class called "minor misdemeanor." Each class has a specific penalty.

Oregon -- Traffic offenses are divided into two classes of misdemeanors and four classes of infractions. The first conviction of driving while under the influence, for example, is an infraction; subsequent convictions are classified as Class A misdemeanors. Each class has a specific penalty.

Pennsylvania -- Traffic offenses are divided into four categories -- Misdemeanor of the first degree; Misdemeanor of the second

degree; Misdemeanor of the third degree; and Summary offenses. Each has a specific penalty.

South Dakota -- Three classes apply -- Class 1 misdemeanor, Class 2 misdemeanor, and Petty offenses. Each class has a specific penalty. An offense that would otherwise be a petty misdemeanor is a Class 2 misdemeanor if preceded by two or more petty offenses within a one-year period.

Wisconsin -- The Wisconsin traffic code defines a series of offenses -- for example, offenses relating to driving, meeting, overtaking and passing -- which is followed by a penalty provision that relates to those offenses only. The procedure then repeats itself for other offenses. In effect, Wisconsin has a series of general penalty provisions.

Minimum and Mandatory Penalties

Use of Minimum Penalties

Criminal laws generally specify a range of penalties from which the court may select a specific penalty upon sentencing. The Uniform Vehicle Code's general misdemeanor penalty provision is typical. It specifies that on the first violation, a person convicted must be punished by a fine of not more than \$200.^{72/} Under such a provision, the court can impose a fine of \$200, or it could impose a fine of \$50, or one dollar, or no fine at all. There is no minimum fine specified, although there is a maximum.

Some state laws, on the other hand, do specify minimum penalties. These laws give the court a range within which a penalty must be selected, but the range includes a minimum penalty as well as a maximum. The Code's penalty for driving while under the influence is typical. It specifies that upon a first conviction for that offense, the person must be punished by imprisonment for not less than ten days nor more than one year, or by a fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment.^{73/} If a penalty is imposed, it must be at least ten days in jail or a fine of \$100. This is what constitutes a minimum penalty.

The Uniform Vehicle Code includes minimum penalties only for reckless driving, driving while under the influence, homicide by vehicle, including a police officer, and any violation which constitutes a felony. The Code's general misdemeanor penalty clause does not specify any minimum penalties, even for repeat offenders.

Most states use some minimum fine and jail penalties, particularly for the more serious offenses. Our review of penalties for ten selected offenses reveals that 40 states use some minimum penalties. Sixteen of these 40 (those marked with an asterisk in the list below) specify some minimum penalties even for the offenses which are generally considered less serious and which are frequently covered by a general penalty clause. The 40 states are as follows:

Alabama*	Idaho	Mississippi	Oklahoma*
Alaska*	Indiana	Missouri*	South Carolina*
Arizona	Iowa	Montana*	Tennessee*
Arkansas	Kansas	Nebraska	Texas*
California	Kentucky*	Nevada	Utah*
Colorado*	Louisiana	New Hampshire	Vermont
Connecticut	Maine*	New Jersey	Virginia
Delaware*	Massachusetts*	New Mexico	Washington
Florida	Michigan	North Carolina	West Virginia
Georgia	Minnesota	North Dakota*	Wisconsin*

The other 11 jurisdictions do not specify any minimum penalties for the ten offenses reviewed in this Commentary. These jurisdictions are:

Hawaii	New York	Pennsylvania	Wyoming
Illinois	Ohio	Rhode Island	District of Columbia
Maryland	Oregon	South Dakota	

Review of Minimum Penalties for Specific Offenses

An analysis of minimum penalties on an offense-by-offense basis is as follows:

Reckless driving. The Uniform Vehicle Code specifies minimum fine or jail sentences on both the first and subsequent convictions of reckless driving. Twenty-nine states have minimum penalties for reckless driving. Ten of these states (those marked with an asterisk in the list below) specify a minimum fine only. One (Louisiana) specifies a minimum jail penalty only. The other 18, like the Code, specify both a minimum fine and minimum jail, and the court may impose either or both.

Alabama	Idaho	Mississippi*	Oklahoma
Arizona	Indiana	Missouri*	South Carolina*
Arkansas	Iowa*	Montana	Tennessee*
California	Kansas	Nebraska	Utah
Colorado	Kentucky*	New Hampshire*	Virginia
Delaware	Louisiana	New Mexico	West Virginia
Florida*	Massachusetts	North Dakota*	Wisconsin*
Georgia			

The Louisiana, Montana and Virginia minimum penalties indicated above apply only on a second or subsequent conviction. Louisiana and Virginia do not specify a minimum penalty for a first conviction; Montana specifies only minimum jail on a first conviction. All the other states utilize minimum penalties as indicated whether a first or subsequent conviction is involved.

Driving while under the influence. The Uniform Vehicle Code specifies minimum penalties for a first and any subsequent conviction of driving while under the influence. The Code specifies both a minimum fine and minimum jail sentence, and the court may impose either or both. Thirty-seven states specify minimum penalties upon conviction for driving while under the influence. Table One lists the 37 states and summarizes their use of minimum penalties. The following symbols are used in the Table:

- J -- A minimum jail sentence is specified.
- F -- A minimum fine is specified.
- F/J -- Both a minimum fine and a minimum jail sentence are specified; the court may impose either or both.
- F&J -- Both a minimum fine and a minimum jail sentence are specified, and both must be imposed.

TABLE ONE
USE OF MINIMUM PENALTIES FOR THE OFFENSE OF
DRIVING WHILE UNDER THE INFLUENCE

Uniform Vehicle Code	First Conviction	Second Conviction	Subsequent Conviction
Alabama	F/J	F/J	F/J
Alaska	F	F	--
Arizona	J	J	J
Arkansas	F/J	F/J	--
California	F&J	F/J	--
Colorado	F/J	F&J	--
Connecticut	F/J	F/J	--
Delaware	F	J	J
Florida	F/J	J	--
Georgia	F	F/J	J
Indiana	F/J	F/J	--
Iowa	F/J	F&J	--
Kansas	F	F	J
Kentucky	F	J	--
Louisiana	F	F&J	F&J
Massachusetts	J	J	--
Michigan	F/J	--	--
Minnesota	F	--	F/J
Mississippi	F/J	J	J
Missouri	F	F/J	--
Montana	--	J	J
Nebraska	F	F/J	F/J
Nevada	F	F/J	J
New Jersey	--	J	--
New Mexico	F/J	J	--
North Carolina	F/J	J	--
North Dakota	F/J	F/J	F
Oklahoma	F/J	F/J	--
South Carolina	J	J	--
Tennessee	F/J	F/J	F/J
Texas	F/J	F/J	F/J
Utah	F&J	F/J	--
Vermont	F/J	--	--
Virginia	F	--	--
Washington	--	F/J	--
West Virginia	F/J	F/J	--
Wisconsin	F/J	J	J
	--	J	--

Homicide by vehicle. Of the 17 states with homicide by vehicle provisions in their vehicle codes, nine have minimum penalties for this offense. All apply on a first conviction. Five of the nine (Arkansas, Oklahoma, South Carolina, Utah and West Virginia) have minimum fines only. Three states (Georgia, New Hampshire, and New Mexico) have minimum jail only. One state (Indiana) specifies a minimum fine and a minimum jail sentence, and the court must impose one or the other, or both.

Composite of selected offenses. Thirteen states have minimum penalties in regard to all, or at least the majority of the offenses that fall within the seven-offense composite. These 13 states are:

Alabama	Maine	Montana	Texas
Colorado	Massachusetts	Oklahoma	Utah
Delaware	Missouri	Tennessee	Wisconsin
Kentucky			

All of these minimums are minimum fines, except for Delaware which specifies both a minimum fine and a minimum jail sentence with the court to apply either or both. Also, in all but two of the states the minimum fines apply to first and subsequent offenses. In Massachusetts, the minimum fine does not apply until a second or subsequent offense; in Oklahoma, the first and second convictions involve a minimum fine while third and subsequent convictions do not (though the maximum possible fine is higher).

Use of Mandatory Penalties

The minimum penalties discussed above and as set forth in state vehicle codes may have been intended by the legislatures that adopted them to be mandatory. But in practice persons convicted do not always suffer the minimum penalty specified. Most courts have discretionary authority to probate or suspend sentences. To the extent that courts use this authority, they can avoid execution of minimum penalties that may be specified in their codes.

In response to this situation, some legislatures have attempted to impose truly mandatory penalties for certain offenses. These penalty provisions generally specify that imposition of a specified penalty is mandatory upon conviction, and that the penalty may not be suspended, probated or otherwise avoided. The Uniform Vehicle Code does not contain any mandatory penalty provisions. The laws of seven states do have such provisions. These states are:

Alaska -- Upon a second conviction of driving while under the influence within five years after a first such conviction, the court must impose a minimum sentence of imprisonment of not less than three days. Upon a subsequent conviction within five years after a second conviction, the court must impose a minimum sentence of imprisonment of not less than ten days. The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment prescribed by law has been served, nor may imposition of sentence be suspended, except upon the condition that the defendant be imprisoned for no less than the minimum period.^{74/}

Arizona -- Upon first conviction of driving while under the influence or upon any subsequent convictions of reckless driving and racing, the court may not probate the minimum jail sentence.^{75/}

California -- Except in unusual cases where the interest of justice demands, a person shall not be absolved upon a second or subsequent conviction of driving while under the influence from spending at least 48 hours in jail and paying a fine of at least \$250.^{76/}

Colorado -- A minimum prison sentence is mandatory for a second and any subsequent conviction of driving while under the influence, and the court has no discretion to grant probation.^{77/}

Nevada -- Upon conviction of driving while under the influence, the court may not suspend sentence or any part thereof. Nevada law specifies a minimum penalty only on a second conviction of driving while under the influence, however.^{78/}

Washington -- Upon any second and subsequent conviction of driving while under the influence, neither the jail sentence nor fine may be suspended.^{79/}

West Virginia -- Second and subsequent convictions of driving while under the influence are not subject to probation.^{80/}

Penalization of Repeat Offenders

Repeat Offender Increments

Most state vehicle codes deal with the repeat traffic offender more severely than one convicted of a first offense. The Uniform Vehicle Code also has provisions to this effect.

Under the Uniform Vehicle Code, the first conviction of reckless driving involves imprisonment for a period of between five and 90 days and/or a fine of between \$25 and \$500. A second or subsequent conviction of reckless driving involves imprisonment of between ten days and six months and/or a fine of between \$50 and \$500.^{81/} Note that no time span is specified within which the second or subsequent offense must occur in order to subject the motorist to the greater penalty.

The Code's driving while under the influence provision, likewise, contains one level of penalties for the first offender, and a second, more severe level for the repeat offender.^{82/} As with reckless driving, no time span is specified within which the second or subsequent offense must occur in order for the more stringent penalties to apply.

The Code provides three levels of penalties for those offenses which are covered by the general misdemeanor penalty clause. A first conviction of a general penalty offense is subject to a fine of up to \$300. No jail sentence is provided for the first or second conviction of a general penalty offense. For the third or subsequent conviction of a general penalty offense within one year of the first offense the penalty involves a fine of up to \$500 and/or a jail sentence of up to six months.^{83/}

Note that the Code's incremental penalties under the general penalty clause differ in two respects from the incremental penalties specified for reckless driving and driving while under the influence respectively. The general penalty increments apply only to a second or subsequent offense which is committed within a specified time from the first offense, while the increments for the more serious offenses of reckless driving or driving while under the influence apply to any second or subsequent offense regardless of time elapsed since the first offense. Also, under the general penalty clause the incremental penalty applies to any offense covered by the clause. Thus a first offense might be for failure to stop at a stop sign, and a second offense might be for speeding. The incremental penalty would apply to the speeding offense even though it is not the same offense as the first. Identity of offenses is not required for the incremental penalty under the general penalty clause. In the case of the more serious offenses of reckless driving and driving while under the influence, however, the incremental penalty applies only on a second conviction for the same offense as the first. The offenses need not be absolutely identical, however. Thus the Code's incremental penalty would apply upon conviction for driving while under the influence of drugs, if the person had a prior conviction for driving while under the influence of alcohol.

Most state laws follow the Uniform Vehicle Code pattern described above regarding the use of incremental penalties, except as noted below.

Review of Incremental Penalties for Specific Offenses

Reckless driving. Under the Uniform Vehicle Code, the offense of reckless driving involves two levels of penalties and no specified time span within which the second conviction must occur for the more severe penalties to apply. Twenty states follow this practice. These states are:

Alabama	Kansas	Nebraska	Tennessee
Arkansas	Louisiana	New Hampshire	Texas
Connecticut	Maine	New Jersey	Vermont
Florida	Mississippi	New Mexico	Virginia
Idaho	Montana	Oklahoma	West Virginia

Three states (Colorado, Ohio and Wyoming) require that the subsequent offenses of reckless driving be within one year of the first, if the second level of penalties are to apply. New York requires a subsequent offense to be within 18 months of the first. Three jurisdictions (Arizona, Delaware, and the District of Columbia) require that the second offense of reckless driving be within two years of the first; two states (Georgia and Utah) within three years of the first; and one state (Wisconsin) within four years of the first.

Twenty-one states, unlike the Code, do not specify incremental penalties for subsequent offenses of reckless driving. These states are:

Alaska	Kentucky	Missouri	Pennsylvania
California	Maryland	Nevada	Rhode Island
Hawaii	Massachusetts	North Carolina	South Carolina
Illinois	Michigan	North Dakota	South Dakota
Indiana	Minnesota	Oregon	Washington
Iowa			

It should be noted that only three states (New York, Ohio, and Wyoming) have a third level of penalties for the offense of reckless driving. Also, Arizona is unique among the states in providing that a person convicted of reckless driving is subject to the incremental penalty for that offense if the prior offense (within the two-year time span) was either reckless driving, racing or driving while under the influence.^{84/}

Driving while under the influence. Twelve jurisdictions follow the Code in having two levels of penalties and no time span within which the second offense must occur. These jurisdictions are:

Alabama	Maryland	New Mexico	Wyoming
Idaho	Michigan	Oklahoma	District of
Kansas	New Jersey	Texas	Columbia
Louisiana			

Eighteen states have two levels of penalties for the offense of driving while under the influence and specify a time span within which the second offense must occur for the more severe penalties to apply as follows: One state (Arkansas) provides that the second offense must occur within one year of the first; one state (North Dakota) within one and a half years of the first; three states (Arizona, Mississippi, and Nevada) within two years of the first; four states (Georgia, Indiana, Minnesota, and Missouri) within three years of the first. Six more of the 18 states (California, Colorado, Delaware, Oregon, Washington and Wisconsin) provide that the second or subsequent offense of driving while under the influence must be within five years of the first for the incremental penalty to apply.

The remaining three states (Maine, New York and Virginia) specify that the second or subsequent offense must be within ten years of the first.

Nine states have three levels of penalties for driving while under the influence and specify no time spans between convictions:

Connecticut	Montana	North Carolina	South Dakota
Iowa	Nebraska	South Carolina ^{85/}	Tennessee
Kentucky			

Three states have three levels of penalties for driving while under the influence, and specify a time span as follows:

Alaska -- The second offense must occur within five years of the first, and the third must occur within five years of the second.^{86/}

Florida -- The second offense must be within three years of the first, and the third offense must have been within five years of the first offense.^{87/}

West Virginia -- The second or third offense must occur within five years of the first.

Nine states have only one level of penalties for the offense of driving while under the influence:

Hawaii	New Hampshire	Pennsylvania	Utah
Illinois	Ohio	Rhode Island	Vermont
Massachusetts			

Homicide by vehicle. Of the 17 states with homicide by vehicle provisions in their vehicle codes, all have only one level of penalties for this offense. Repeat offenders are subject to the same penalties as first offenders.

Composite of selected offenses. Concerning the seven-offense composite, offenses which are covered by the general penalty provision of most state vehicle codes, 17 states follow the Uniform Vehicle Code's general penalty provision in having three levels of penalties and a one-year time span. These states are:

Alabama	Idaho	Mississippi	Oklahoma
Arizona	Indiana	Montana	South Dakota
Arkansas	Kansas	Nebraska	West Virginia
California	Massachusetts	Ohio	Wyoming
Hawaii			

One state (New York) has three levels of penalties with a one and a half year time span.

Three states (Delaware, North Dakota and Wisconsin) have two levels of penalties and a one-year time span for most of the offenses that fall within the seven-offense composite.

One state (Louisiana) has two levels of penalties and no time spans.

Twenty-nine jurisdictions have only one level of penalties for the seven-offense composite:

Alaska	Maine	New Jersey	Tennessee
Colorado	Maryland	New Mexico	Texas
Connecticut	Michigan	North Carolina	Utah
Florida	Minnesota	Oregon	Vermont
Georgia	Missouri	Pennsylvania	Virginia
Illinois	Nevada	Rhode Island	Washington
Iowa	New Hampshire	South Carolina	District of Columbia
Kentucky			

TRADITIONAL PENALTIES

The penalties which have traditionally been specified for traffic law offenses are the fine and imprisonment. This portion of the Commentary discusses the use of these two kinds of penalties.

Imprisonment as a Penalty

Availability of the Imprisonment Option

Although imprisonment appears to be seldom used as a penalty for most traffic offenses, it is sometimes imposed for very serious offenses, and it remains an option for the court in penalizing traffic offenses in many states.

The Uniform Vehicle Code was amended in 1975 to delete the imprisonment option from the general misdemeanor penalty clause for first and second convictions, although it was retained as a penalty option upon a third conviction within one year.^{88/} Prior to that amendment, imprisonment was an option available to the court in punishing any traffic offense, even on a first conviction, under the Uniform Vehicle Code.^{89/}

For serious offenses which are not covered by the Code's general misdemeanor clause, imprisonment continues to be a penalty option. Thus upon any conviction under the Uniform Vehicle Code for reckless driving, driving while under the influence, homicide by vehicle, or fleeing or attempting to elude a police officer, the court can impose some period of imprisonment, as described in detail below.

Most states are like the Code in making imprisonment a penalty option upon conviction for serious offenses. Most states are like the Code prior to its 1975 amendment in also making imprisonment a penalty option on conviction for the less serious offenses. A large minority of the states, however, are like the current Code in that they delete the imprisonment options for most convictions which do not involve serious offenses.

Review of Imprisonment for Specific Offenses

Reckless driving. Under the Uniform Vehicle Code, a person convicted of reckless driving may be imprisoned for not less than five nor more than 90 days on a first conviction, and for not less than ten days nor more than six months on any subsequent conviction.^{90/}

Table Two reviews the imprisonment option at various conviction levels for the offense of reckless driving under state laws. In comparing the maximum period of imprisonment which may be imposed on a reckless driving conviction, 22 states are like the Code in authorizing a maximum confinement of six months:

Alabama	Idaho	Montana	Oklahoma
Arizona	Illinois	Nevada	Oregon
Arkansas	Indiana	New Mexico	Tennessee
Colorado	Kansas	New York	Utah
Florida	Louisiana	North Carolina	West Virginia
Georgia			Wyoming

Thirteen states have a maximum period of confinement for reckless driving of less than six months:

California	Minnesota	New Jersey	South Carolina
Delaware	Mississippi	North Dakota	South Dakota
Iowa	Nebraska	Ohio	Texas
Michigan			

One state (Maine) has a maximum period of confinement of 11 months for reckless driving. Nine states specify a maximum of one year.

Alaska	Missouri	Virginia	Wisconsin
Connecticut	Rhode Island	Washington	District of Columbia
Hawaii			

Two states (Massachusetts and Vermont) have a maximum period of confinement of greater than one year. In Massachusetts, the jail sentence involves a maximum of two years; in Vermont a maximum of three years.

Four states do not have jail sentences for reckless driving offenses. These states are

Kentucky	New Hampshire	Pennsylvania
Maryland		

TABLE TWO
IMPRISONMENT FOR THE OFFENSE OF
RECKLESS DRIVING

	First Conviction	Second Conviction	Subsequent Conviction
Uniform Vehicle Code	5-90 days	10 days-6 mos.	---
Alabama	5-90 days	10 days-6 mos.	---
Alaska	0-1 year	---	---
Arizona	10-90 days	20 days-6 mos.	---
Arkansas	5-90 days	10 days-6 mos.	---
California ^{91/}	5-90 days	---	---
Colorado	10-90 days	10 days-6 mos.	---
Connecticut ^{92/}	0-30 days	0-1 year	---
Delaware	10-30 days	15-60 days	---
Florida	0-90 days	0-6 mos.	---
Georgia	5-90 days	10 days-6 mos.	---
Hawaii ^{93/}	0-1 year	---	---
Idaho	5-90 days	10 days-6 mos.	---
Illinois	0-6 mos.	---	---
Indiana	5 days-6 mos.	---	---
Iowa	0-30 days	---	---
Kansas	5-90 days	10 days-6 mos.	---
Kentucky	---	---	---
Louisiana	0-90 days	10 days-6 mos.	---
Maine	0-3 mos.	0-11 mos.	---
Maryland	---	---	---
Massachusetts	14 days-2 yrs.	---	---
Michigan ^{94/}	0-90 days	---	---
Minnesota	0-90 days	---	---
Mississippi	---	0-10 days	---
Missouri	0-1 year	---	---
Montana	0-90 days	10 days-6 mos.	---
Nebraska	5-30 days	---	---
Nevada	0-6 mos.	---	---
New Hampshire	---	---	---
New Jersey	0-60 days	0-3 mos.	---
New Mexico	5-90 days	10 days-6 mos.	---
New York	0-30 days	0-90 days	0-180 days
North Carolina	0-6 mos.	---	---
North Dakota ^{95/}	0-30 days	---	0-60 days
Ohio	---	0-30 days	---
Oklahoma	5-90 days	10 days-6 mos.	---
Oregon	0-6 mos.	---	---
Pennsylvania	---	---	---
Rhode Island	0-1 year	---	---
South Carolina	0-30 days	---	---
South Dakota	0-30 days	---	---
Tennessee	0-90 days	0-6 mos.	---
Texas	0-30 days	---	---
Utah	5 days-6 mos.	10 days-6 mos.	---
Vermont	0-1 year	0-3 years	---
Virginia ^{96/}	0-12 mos.	10 days-12 mos.	---
Washington	0-1 year	---	---
West Virginia	5-90 days	10 days-6 mos.	---
Wisconsin ^{97/}	---	0-1 year	---
Wyoming	0-10 days	0-20 days	0-6 mos.
District of Columbia	0-3 mos.	0-1 year	---

Driving while under the influence. Under the Uniform Vehicle Code, a person convicted of this offense may be imprisoned for not less than ten days nor more than one year on a first conviction, and for not less than 90 days nor more than one year on any subsequent conviction.^{98/}

Table Three reviews the imprisonment option at various conviction levels for this offense under state law. In terms of the maximum period of imprisonment which may be imposed for driving while under the influence, 25 states follow the Uniform Vehicle Code in authorizing a maximum one-year confinement. These states are:

Alabama	Georgia	Missouri	Tennessee
Alaska	Hawaii	New Hampshire	Vermont
Arkansas	Illinois	New Mexico	Virginia
California	Kansas	Oregon	Washington
Colorado	Kentucky	Pennsylvania	Wisconsin
Connecticut	Mississippi	Rhode Island	District of Columbia
Florida			

Twelve states have a maximum period of confinement for driving while under the influence of less than one year:

Arizona	Maine	Nevada	Ohio
Indiana	Minnesota	New Jersey	Utah
Louisiana	Montana	North Dakota	Wyoming

Fourteen states have a maximum period of confinement for driving while under the influence of greater than one year. One of these 14 (Delaware) has a maximum of up to 18 months; five of the 14 (Maryland, Massachusetts, North Carolina, South Dakota, and Texas) have maximums of up to two years; two (Nebraska and West Virginia) have maximums of up to three years; two (New York and South Carolina) have maximums of up to four years; and four (Idaho, Iowa, Michigan, and Oklahoma) have maximums of up to five years.

TABLE THREE
IMPRISONMENT FOR THE OFFENSE OF
DRIVING WHILE UNDER THE INFLUENCE

	First Conviction	Second Conviction	Subsequent Convictions
Uniform Vehicle Code	10 days-1 yr.	90 days-1 yr.	--
Alabama	0-1 year	0-1 year	--
Alaska	0-1 year	3 days-1 year	10 days-1 year
Arizona	1 day-6 mos.	60 days-6 mos.	--
Arkansas	1-30 days	0-1 year	--
California	2 days-6 mos.	2 days-1 year	--
Colorado	10 days-1 year	90 days-1 year	--
Connecticut	0-6 mos.	60 days-1 year	6 mos.-1 year
Delaware	60 days-6 mos.	60 days-18 mos.	--
Florida	0-6 mos.	10 days-6 mos.	30 days-1 year
Georgia	10 days-1 yr.	90 days-1 year	--
Hawaii	0-1 year	--	--
Idaho	0-6 mos.	0-5 years	--
Illinois	0-1 year	--	--
Indiana ^{99/}	5 days-6 mos.	--	--
Iowa	0-1 year	0-1 year	1-5 years
Kansas	0-1 year	90 days-1 year	--
Kentucky	--	3 days-6 mos.	30 days-1 year
Louisiana	30 days-6 mos.	125 days-6 mos.	--
Maine	0-90 days	0-6 mos.	--
Maryland	0-1 year	0-2 years	--
Massachusetts	14 days-2 yrs.	--	--
Michigan	0-90 days	0-1 year	1-5 years
Minnesota ^{100/}	10-90 days	10-90 days	--
Mississippi	0-6 mos.	10 days-1 year	--
Missouri ^{101/}	0-6 mos.	15 days-1 year	90 days-1 year
Montana	0-6 mos.	10 days-6 mos.	30 days-6 mos.
Nebraska	0-3 mos.	5 days-3 mos.	1-3 years
Nevada	0-6 mos.	10 days-6 mos.	--
New Hampshire	0-1 year	--	--
New Jersey ^{102/}	30 days-3 mos.	3 mos.	--
New Mexico	30-90 days	90 days-1 year	--
New York	0-1 year	0-4 years	--
North Carolina	30 days-6 mos.	2-6 mos.	0-2 years
North Dakota	3-30 days	3-30 days	--
Ohio	0-6 mos.	--	--
Oklahoma	10 days-1 yr.	1-5 years	--
Oregon	--	0-1 year	--
Pennsylvania	0-1 year	--	--
Rhode Island	0-1 year	--	--
South Carolina ^{103/}	10-30 days	1 year	3 years
South Dakota	0-30 days	0-30 days	0-2 years
Tennessee	2 days-1 year	5 days-1 year	60 days-1 year
Texas	3 days-2 years	10 days-2 years	--
Utah ^{104/}	30 days-6 mos.	--	--
Vermont	0-1 year	--	--
Virginia	0-6 mos.	1 mo.-1 year	--
Washington	5 days-1 yr.	30 days-1 year	--
West Virginia	2 days-6 mos.	6 mos.-1 year	1-3 years
Wisconsin	--	5 days-1 year	--
Wyoming	0-30 days	0-60 days	--
District of Columbia	0-6 mos.	0-1 year	--

Homicide by vehicle. Under the Uniform Vehicle Code, a person convicted of this offense may be imprisoned in the county jail for not less than three months nor more than one year, or he may be imprisoned in the penitentiary for not less than one year nor more than five years.^{105/}

Table Four reviews imprisonment for this offense in the state laws of the 17 jurisdictions with homicide by vehicle provisions in their vehicle codes. Five are like the Code in specifying a maximum imprisonment of five years:

Georgia	Pennsylvania	Vermont
New Mexico	South Carolina	

Two states (Indiana and Nebraska) specify a maximum of six months. Another six jurisdictions specify a one-year maximum term:

Arkansas	Utah	Wyoming
Oklahoma	West Virginia	District of Columbia

The other four states specify a maximum in excess of one year:

New Hampshire	Rhode Island	Washington
North Carolina		

TABLE FOUR
IMPRISONMENT FOR THE OFFENSE OF
HOMICIDE BY VEHICLE

UVC	3 mos.-5 years
Arkansas	0-1 year
Georgia ^{106/}	1-5 years
Indiana ^{107/}	60 days-6 mos.
Nebraska	0-6 mos.
New Hampshire	1-7 years
New Mexico	1-5 years
North Carolina	0-2 years
Oklahoma	0-1 year
Pennsylvania	0-5 years
Rhode Island	0-3 years
South Carolina	0-5 years
Utah	0-1 year
Vermont	0-5 years
Washington	0-10 years
West Virginia	0-1 year
Wyoming	0-1 year
District of Columbia	0-1 year

Composite of selected offenses. Under the Uniform Vehicle Code, all these offenses are punishable under the general misdemeanor penalty clause. It provides for imprisonment for up to six months, but only for a third or subsequent offense within one year of the first.^{108/}

Table Five reviews the imprisonment option at various conviction levels for the offenses covered by the seven-offense composite. Thirty-four jurisdictions authorize imprisonment at some conviction level for these offenses:

Alabama	Illinois	Nevada	South Carolina
Arizona	Indiana	New Jersey	South Dakota
Arkansas	Iowa	New Mexico	Tennessee
California	Kansas	New York	Utah
Colorado	Louisiana	North Carolina	Washington
Delaware	Michigan	North Dakota	West Virginia
Georgia	Mississippi	Ohio	Wyoming
Hawaii	Missouri	Oklahoma	District of Columbia
Idaho	Montana		

It should be noted that ten of the states do not cover all seven of the selected offenses under the same penalty clause. In some cases, the penalty for one or more of the selected offenses may differ from that which is shown in Table Five. The Table reflects the imprisonment option available under the penalty clause which covers most of the seven offenses. Variations in the imprisonment penalty for these ten states are described in detail in the footnotes to the Table.

TABLE FIVE
IMPRISONMENT FOR THE OFFENSE OF
COMPOSITE OF SELECTED OFFENSES

Uniform Vehicle Code	First Conviction	Second Conviction	Subsequent Conviction
Alabama ^{109/}	0-10 days	0-20 days	0-6 mos.
Alaska	--	--	--
Arizona	0-10 days	0-20 days	0-6 mos.
Arkansas	0-10 days	0-20 days	0-6 mos.
California ^{110/}	--	--	0-6 mos.
Colorado ^{111/}	10-90 days	--	--
Connecticut	--	--	--
Delaware	10-30 days	15-30 days	--
Florida ^{112/}	--	--	--
Georgia	0-1 year	--	--
Hawaii	0-10 days	0-20 days	0-6 mos.
Idaho	--	--	0-30 days
Illinois	0-1 year	--	--
Indiana	0-10 days	0-20 days	0-30 days
Iowa	0-30 days	--	--
Kansas	0-1 mo.	0-6 mos.	0-1 year
Kentucky ^{113/}	--	--	--
Louisiana	0-30 days	0-90 days	--
Maine	--	--	--
Maryland	--	--	--
Massachusetts	--	--	--
Michigan	0-90 days	--	--
Minnesota ^{114/}	--	--	--
Mississippi	0-10 days	0-20 days	0-6 mos.
Missouri	0-1 year	--	--
Montana	0-10 days	0-20 days	0-6 mos.
Nebraska	--	--	--
Nevada	0-6 mos.	--	--
New Hampshire	--	--	--
New Jersey	0-15 days	--	--
New Mexico ^{115/}	0-90 days	--	--
New York ^{116/}	0-15 days	0-45 days	0-90 days
North Carolina	0-60 days	--	--
North Dakota ^{117/}	--	0-30 days	--
Ohio	--	0-30 days	0-60 days
Oklahoma	0-10 days	0-20 days	0-6 mos.
Oregon	--	--	--
Pennsylvania	--	--	--
Rhode Island	--	--	--
South Carolina	0-30 days	--	--
South Dakota	--	--	0-30 days
Tennessee	0-30 days	--	--
Texas	--	--	--
Utah	0-6 mos.	--	--
Vermont	--	--	--
Virginia	--	--	--
Washington	0-1 year	--	--
West Virginia	0-10 days	0-20 days	0-6 mos.
Wisconsin ^{118/}	--	--	--
Wyoming	0-10 days	0-20 days	0-6 mos.
District of Columbia	0-90 days	--	--

Place of Confinement

The Uniform Vehicle Code specifies that upon conviction for homicide by vehicle the person must be imprisoned in the county jail for three months to one year, or in the penitentiary for a term of one to five years.^{119/} Except in this one instance, the Code does not specify the place of confinement for a person who is punished by confinement upon conviction for a traffic law offense. No other Code penalty clause makes any reference to the place of confinement.

Most state vehicle codes do not specify the place of confinement. Fourteen states, however, do make some specification as to the place of confinement upon conviction of the offense of driving while under the influence:

Alabama -- Confinement upon a first conviction of driving while under the influence is to be in the county or municipal jail; confinement for a second conviction is to be at hard labor.^{120/}

California -- For "felony drunk driving," confinement is either in the state prison for one to five years or in the county jail for 90 days to one year; for "misdemeanor drunk driving," confinement is in the county jail.^{121/}

Iowa -- Confinement for the first conviction of driving while under the influence is to be in the county jail; confinement for a second or subsequent conviction is to be in the penitentiary.^{122/}

Missouri -- A third or subsequent conviction of driving while under the influence is defined as a felony, punishable by imprisonment in the county jail for 90 days to one year, or by imprisonment by the department of correction for a period of two to five years.^{123/}

Montana -- Confinement for the first two convictions of driving while under the influence is to be in the county or city jail; confinement for third and subsequent convictions is termed "imprisonment" and is not further defined.^{124/}

Nebraska -- Confinement for the first and second convictions of driving while under the influence is to be in the county jail; confinement for third and subsequent convictions is to be served in the Nebraska Penal & Correctional Complex for a period of one to three years.^{125/}

Nevada -- First and subsequent convictions of driving while under the influence are to be served in the county or municipal jail.^{126/}

New York -- A first conviction of driving while under the influence is defined as a misdemeanor and entails confinement either in the county jail or the penitentiary; subsequent convictions are felonies.^{127/}

Oklahoma -- The first conviction of driving while under the influence is defined as a misdemeanor and involves confinement in the county jail; second and subsequent convictions are felonies and involve confinement in the penitentiary.^{128/}

Tennessee -- Terms of confinement for first and subsequent convictions of driving while under the influence are to be served in the county jail or workhouse.^{129/}

Texas -- Any confinement for a first conviction of driving while under the influence is to be served in county jail; confinements for second and subsequent convictions are to be served either in county jail (10 days or two years) or the penitentiary (for a period not to exceed five years).^{130/}

Utah -- When driving while under the influence is accompanied by driving in a reckless manner and bodily injury results, then confinement is to be in county jail; otherwise, the place of confinement is not specified.^{131/}

West Virginia -- The first two convictions of driving while under the influence are defined as misdemeanors and involve confinement in the county jail; third or subsequent conviction constitutes a felony and involves confinement in the penitentiary for a period not to exceed three years.^{132/}

Wisconsin -- Imprisonment for first and subsequent convictions of driving while under the influence is to be in county jail.^{133/}

Installment Imprisonment

The Uniform Vehicle Code allows the court to order confinement at specified times or places or to order release from imprisonment under such conditions as the court may specify.^{134/} Similarly, six states have in their vehicle codes provisions relating to court authority in regard to imprisonment on an installment basis. These six are:

Arizona -- The court may allow the defendant to continue employment for not more than twelve hours per day nor more than six days per week.^{135/}

California -- The court may order imprisonment for driving while under the influence to be served on days other than regular days of employment.^{136/}

Georgia -- When a six-month sentence or less is imposed under the general penalty provision, the sentencing judge may allow such sentence to be served on weekends or during nonworking hours of the defendant.^{137/}

Indiana -- Whenever a conviction involves more than thirty days in jail, the court may require sentence to be served on weekend.^{138/}

Nevada -- Any term of confinement imposed for driving while under the influence may be served intermittently at the discretion of the judge or justice of the peace, taking into account all of the circumstances surrounding the offense, and the family and employment situation of the person convicted.^{139/}

New Hampshire -- Where imprisonment for driving while under the influence is imposed, it may be served intermittently or on weekends, at the discretion of the court.^{140/}

Fine as a Penalty

Availability of the Option

The most common penalty option for traffic law offenses is the fine. Except in Georgia, New Mexico and Rhode Island, where only a jail sentence is specified as a penalty for homicide by vehicle, all jurisdictions specify a fine or range of possible fines which may be imposed upon conviction for the offenses covered by this Commentary.

The Uniform Vehicle Code specifies a fine as one penalty option for each of the offenses covered by this Commentary.

Review of Fines for Specific Offenses

Reckless driving. Under the Uniform Vehicle Code, a person convicted of reckless driving may be fined, or imprisoned, or both. If a fine is imposed, it must be not less than \$25 nor more than \$500 on a first conviction, and not less than \$50 nor more than \$500 on any subsequent conviction.^{141/}

Table Six reviews fines for the offense of reckless driving. The maximum fine which may be imposed on any conviction for reckless driving is \$500, just as under the Uniform Vehicle Code, in the laws of 19 states:

Hawaii	Maryland	New Hampshire	Oregon
Illinois	Mississippi	New York	Rhode Island
Indiana	Missouri	North Carolina	Washington
Kansas	Montana	North Dakota	Wisconsin
Louisiana	Nevada	Ohio	

In another 16 jurisdictions, the maximum fine exceeds \$500. In Vermont, the maximum is \$3000; in the other 15 jurisdictions it is \$1000.

Alabama	Florida	New Mexico	Virginia
Alaska	Georgia	Oklahoma	West Virginia
Arkansas	Maine	Tennessee	District of Columbia
Colorado	Michigan	Utah	

In the remaining 16 states, the maximum fine for any conviction of reckless driving is less than \$500:

Arizona	Idaho	Minnesota	South Carolina
California	Iowa	Nebraska	South Dakota
Connecticut	Kentucky	New Jersey	Texas
Delaware	Massachusetts	Pennsylvania	Wyoming

TABLE SIX
FINE FOR THE OFFENSE OF
RECKLESS DRIVING

Uniform Vehicle Code	First Conviction	Second Conviction	Subsequent Conviction
	\$25-500	\$50-1000	\$ ---
Alabama	25-500	50-1000	---
Alaska	0-1000	---	---
Arizona	100-300	150-300	---
Arkansas	25-500	50-1000	---
California	25-250	---	---
Colorado	10-300	50-1000	---
Connecticut	0-100	0-200	---
Delaware	25-200	25-200	---
Florida	25-500	50-1000	---
Georgia	25-500	50-1000	---
Hawaii	0-500	---	---
Idaho	25-300	50-300	---
Illinois	0-500	---	---
Indiana	10-500	---	---
Iowa	25-100	---	---
Kansas	25-500	50-500	---
Kentucky	10-100	---	---
Louisiana	0-200	0-500	---
Maine	0-500	0-1000	---
Maryland	0-500	---	---
Massachusetts	20-200	---	---
Michigan	0-1000	---	---
Minnesota	0-30	---	---
Mississippi	5-100	0-500	---
Missouri	5-500	---	---
Montana	25-300	50-500	---
Nebraska	25-100	---	---
Nevada	0-500	---	---
New Hampshire	100-500	---	---
New Jersey	0-200	---	---
New Mexico	25-100	50-1000	---
New York	0-100	0-200	0-500
North Carolina	0-500	---	---
North Dakota	0-500	---	---
Ohio	0-100	0-250	0-500
Oklahoma	25-500	50-1000	---
Oregon	0-500	---	---
Pennsylvania	0-25	---	---
Rhode Island	0-500	---	---
South Carolina	25-100	---	---
South Dakota	0-100	---	---
Tennessee	25-500	50-1000	---
Texas	0-200	---	---
Utah	25-299	50-1000	---
Vermont	0-1000	0-3000	---
Virginia	0-1000	100-1000	---
Washington	0-500	---	---
West Virginia	25-500	50-1000	---
Wisconsin	25-200	50-500	---
Wyoming	0-100	0-100	---
District of Columbia	0-250	0-1000	---

Driving while under the influence. Under the Uniform Vehicle Code, a person convicted for a first offense may be fined not less than \$100 nor more than \$1000. On a subsequent offense, the maximum fine is still \$1000, but no minimum fine is specified; a minimum term of imprisonment is specified on subsequent convictions, however. 142/

Table Seven reviews fines for the offense of driving while under the influence. Like the Uniform Vehicle Code, 25 jurisdictions specify a maximum fine of \$1000.

Alabama	Hawaii	Mississippi	Oklahoma
Alaska	Illinois	Montana	Oregon
Arkansas	Indiana	New Hampshire	Tennessee
California	Iowa	New Jersey	Virginia
Colorado	Maryland	New Mexico	Washington
Florida	Massachusetts	Ohio	District of Columbia
Georgia			

Five states specify maximum fines greater than \$1000:

Delaware	Michigan	Pennsylvania
Maine		South Dakota

Two states, North Carolina and South Carolina, specify only minimum fines on a third conviction; there is no maximum.

The remaining 19 states have maximum fines of less than \$1000:

Arizona	Louisiana	New York	Vermont
Connecticut	Minnesota	North Dakota	West Virginia
Idaho	Missouri	Rhode Island	Wisconsin
Kansas	Nebraska	Texas	Wyoming
Kentucky	Nevada	Utah	

TABLE SEVEN
FINE FOR THE OFFENSE OF
DRIVING WHILE UNDER THE INFLUENCE

Uniform Vehicle Code	First Conviction	Second Conviction	Subsequent Conviction
	\$100-1000	\$ 0-1000	\$ ---
Alabama	100-1000	100-1000	---
Alaska	0-1000	---	---
Arizona	100-300	300	---
Arkansas	50-500	250-1000	---
California	250-500	250-1000	---
Colorado	100-1000	100-1000	---
Connecticut	150-500	---	---
Delaware	200-1000	500-2000	---
Florida	25-500	0-500	0-1000
Georgia	100-1000	0-1000	---
Hawaii	0-1000	---	---
Idaho	0-300	---	---
Illinois	0-1000	---	---
Indiana	25-500	250-1000	---
Iowa	300-1000	500-1000	---
Kansas	100-500	0-500	---
Kentucky	100-500	100-500	100-500
Louisiana	125-400	125-500	---
Maine	0-1000	0-2000	---
Maryland	0-1000	0-1000	---
Massachusetts	35-1000	---	---
Michigan	50-100	0-1000	500-5000
Minnesota	10-300	0-300	---
Mississippi	50-500	100-1000	---
Missouri	0-100	---	---
Montana	100-500	300-500	500-1000
Nebraska	100	300	---
Nevada	0-500	0-500	---
New Hampshire	0-1000	---	---
New Jersey	200-500	300-1000	---
New Mexico	100-200	0-1000	---
New York	0-500	---	---
North Carolina	100-500	200-500	at least 500
North Dakota	100	100-500	---
Ohio	0-1000	---	---
Oklahoma	0-500	0-1000	---
Oregon	0-1000	0-1000	---
Pennsylvania	0-2500	---	---
Rhode Island	0-500	---	---
South Carolina	50-100	at least 1000	at least 2000
South Dakota	0-100	0-100	0-2000
Tennessee	10-500	25-750	50-1000
Texas	50-500	---	---
Utah	100-299	---	---
Vermont	125	---	---
Virginia	0-500	200-1000	---
Washington	50-500	100-1000	---
West Virginia	50-100	---	---
Wisconsin	0-200	0-500	---
Wyoming	0-100	0-200	---
District of Columbia	0-500	0-1000	---

Homicide by vehicle. Under the Uniform Vehicle Code, a person convicted of homicide by vehicle may be fined not less than \$500 nor more than \$2000.^{143/}

Table Eight reviews fines for homicide by vehicle in the 17 jurisdictions which have such laws.

TABLE EIGHT
FINE FOR THE OFFENSE OF
HOMICIDE BY VEHICLE

Uniform Vehicle Code	\$ 500-2000
Arkansas	100-1000
Georgia	---
Indiana	100-1000
Nebraska	0-500
New Hampshire	0-2000
New Mexico	---
North Carolina	0-500
Oklahoma	100-1000
Pennsylvania	0-10,000
Rhode Island	---
South Carolina	1000-5000
Utah	100-1000
Vermont	0-2000
Washington	0-1000
West Virginia	100-1000
Wyoming	0-1000
District of Columbia	0-1000

Composite of selected offenses. Under the Uniform Vehicle Code, all these offenses are punishable under the general misdemeanor penalty clause. It authorizes a fine of up to \$200 on a first conviction, up to \$300 on a second conviction within one year, and up to \$500 on a third or subsequent conviction within one year.^{144/}

Table Nine reviews fines for the seven offenses covered by the composite. The Table reflects the fine applicable to most of the seven offenses. In 13 states, some of these seven offenses are covered by separate penalty clauses. These variations are discussed in detail in the footnotes to the Table.

Like the Uniform Vehicle Code, the laws of 18 states specify a maximum fine of \$500 for any conviction of the composite offenses:

Alabama	Louisiana	Montana	Ohio
Arkansas	Maryland	Nevada	Oklahoma
Florida	Mississippi	New York	Rhode Island
Hawaii	Missouri	North Dakota	Washington
Indiana			West Virginia

Thirty jurisdictions specify maximum fines of less than \$500:

Alaska	Kentucky	New Mexico	Utah
Arizona	Maine	North Carolina	Vermont
California	Massachusetts	Oregon	Virginia
Colorado	Michigan	Pennsylvania	Wisconsin
Connecticut	Minnesota	South Carolina	Wyoming
Delaware	Nebraska	South Dakota	District of Columbia
Idaho	New Hampshire	Tennessee	
Iowa	New Jersey	Texas	

The remaining three states specify maximum fines in excess of \$500:

Georgia	Illinois	Kansas
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TABLE NINE
FINE FOR THE OFFENSE OF
COMPOSITE OF SELECTED OFFENSES

	First Conviction	Second Conviction	Subsequent Conviction
Uniform Vehicle Code	\$ 0-200	\$ 0-300	\$ 0-500
Alabama ^{145/}	0-100	100-200	250-500
Alaska	0-300	--	--
Arizona	0-100	0-200	0-300
Arkansas	0-100	0-200	0-500
California ^{146/}	0-50	0-100	0-250
Colorado ^{147/}	10-300	--	--
Connecticut ^{148/}	0-50	--	--
Delaware	10-100	50-200	--
Florida ^{149/}	0-500	--	--
Georgia	0-1000	--	--
Hawaii	0-100	0-200	0-500
Idaho	0-100	0-200	0-300
Illinois	0-1000	--	--
Indiana	0-100	0-200	0-500
Iowa	0-100	--	--
Kansas	0-500	0-1000	0-2500
Kentucky ^{150/}	10-100	--	--
Louisiana	0-100	0-500	--
Maine	25-250	--	--
Maryland	0-500	--	--
Massachusetts ^{151/}	0-25	25-50	50-100
Michigan	0-100	--	--
Minnesota ^{152/}	0-100	--	--
Mississippi	0-100	0-200	0-500
Missouri	5-500	--	--
Montana	10-100	25-200	50-500
Nebraska	0-100	0-200	0-300
Nevada	0-500	--	--
New Hampshire	0-100	--	--
New Jersey	0-50	--	--
New Mexico ^{153/}	0-100	--	--
New York ^{154/}	0-50	0-100	0-250
North Carolina	0-100	--	--
North Dakota ^{155/}	0-500	0-500	--
Ohio	0-100	0-250	0-500
Oklahoma	10-100	20-200	0-500
Oregon ^{156/}	0-250	--	--
Pennsylvania	25	--	--
Rhode Island	0-500	--	--
South Carolina	0-100	--	--
South Dakota	0-20	0-20	0-100
Tennessee	2-50	--	--
Texas	1-200	--	--
Utah	75-299	--	--
Vermont	0-100	--	--
Virginia	0-100	--	--
Washington	0-500	--	--
West Virginia	0-100	0-200	0-500
Wisconsin ^{157/}	20-40	50-100	--
Wyoming	0-100	0-100	0-100
District of Columbia	0-300	--	--

Installment Payment of Fines

The Uniform Vehicle Code authorizes payment of a fine on an installment basis where it is shown that the person is unable to otherwise pay the fine. The Code provides as follows:

(a) Upon plea and proof that a person is unable to pay any fine imposed under this act, a court may order its payment in installments and shall fix the amounts, times and manner thereof.

(b) Any person who does not comply with an order entered under this section may be imprisoned for a number of days equal to one day for each \$10 of the unpaid balance of the fine.

(c) Any order entered under this section shall constitute a judgment enforceable as though it were a civil judgment under the laws of this state.^{158/}

This section was added to the Code in 1971 in response to a U.S. Supreme Court decision which greatly restricted the imprisonment of persons who are too poor to pay a fine.^{159/} Installment fines make it easier for an indigent person to pay his fine, and thus avoid going to jail. If a person does not pay a fine, or an installment of a fine, when he is able to do so, he can still be imprisoned.

While a number of states may authorize installment payment of fines in laws outside their vehicle codes, only two states have added such provisions to their vehicle codes:

California -- The law provides as follows:

(a) A judgment that a person convicted of an infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due he shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(b) A judgment that a person convicted of any other violation of this code be punished by a fine may also order, adjudge and decree that the person be imprisoned until the fine is satisfied.

In every such case, the judgment shall specify the extent of the imprisonment which shall not exceed one day for every thirty dollars (\$30) of the fine, nor extend in any such case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he was convicted.^{160/}

Pennsylvania -- The law provides as follows:

(a) Order for installment payments. -- Upon plea and proof that a person is unable to pay any fine and costs imposed under this title, a court may, in accordance with the Pennsylvania Rules of Criminal Procedure, order payment of the fine and costs in installments and shall fix the amounts, times and manner of payment.

(b) Imprisonment for nonpayment. -- Any person who does not comply with an order entered under this section may be imprisoned for a number of days equal to one day for each \$10 of the unpaid balance of the fine and costs.^{161/}

Disposition of Fines

The Uniform Vehicle Code specifies as follows regarding the disposition of fines:

All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of any of the provisions of this act constituting a misdemeanor shall be deposited in the treasury of the State or in the treasury of the county, city or town maintaining the court wherein such conviction or forfeiture was had in a special fund to be known as the "highway transportation fund," which is hereby created, and which shall be used exclusively in the construction, maintenance and repair of public highways, bridges and highway structures or for the installation and maintenance of traffic-control devices thereon or for highway safety and administration within such respective jurisdictions; provided that such fund shall not be used to pay the compensation of police officers or magistrates or any other person who adjudicates traffic violations.^{162/}

Nineteen states have provisions in their vehicle codes that deal in one form or another with the disposition of fines and forfeitures. These states are:

Alabama	Florida	New York	Texas
Arizona	Mississippi	Pennsylvania	Virginia
Arkansas	Nebraska	Rhode Island	Washington
California	New Jersey	South Carolina	Wisconsin
Delaware	New Mexico	Tennessee	

A detailed state-by-state breakdown of these provisions is given below. The general situation in regard to the nineteen states is as follows: Nine states provide that all, or at least part, of the funds so collected are to be retained for general expenditure by the city or county that collects them. These states are:

Alabama	Florida	New York	South Carolina
Arizona	Mississippi	Pennsylvania	Tennessee
Delaware			

Two state vehicle codes (New Mexico and Rhode Island) provide that fine and forfeiture funds are to go into state general funds.

Four states (California, New Jersey, Texas and Washington) provide that such funds are to go to highway-related uses.

One state (Arkansas) provides that fine and forfeiture collections are to be deposited in the free school funds; one state (Nebraska), into a county school fund; and one state (Virginia), into a literary fund.

One state (Wisconsin) does not have a provision in its vehicle code that specifies where the funds are to be deposited but it does provide that a traffic officer is not to solicit or receive any remuneration upon the basis of number arrests made, convictions obtained, or fines collected. Of the other states mentioned above, only two (California and New Mexico) have provisions similar to the Wisconsin law in their vehicle codes. California provides that the fines shall not be used to pay the compensation of police officers, though they may be used to pay the compensation of school crossing guards who are not regular full-time members of the police department of the city. New Mexico specifies that no municipality shall employ any person whose compensation in any way depends on the apprehension or conviction of any person for a traffic violation.

Following is a state-by-state breakdown of disposition of fines and forfeitures:

Alabama -- Where arrests are by county or municipal officers, fines and forfeitures shall be paid into the general fund of all counties that do not have a fine and forfeiture fund, and into the fine and forfeiture fund of the counties that have such a fund, and shall be controlled and disbursed as other general funds and fine and forfeiture funds in the respective counties.^{163/}

Arizona -- All fees, fines and forfeitures collected by the police courts in the exercise of their concurrent jurisdiction shall be retained and inure to the benefit of the city or town in which the police court is located.^{164/}

Arkansas -- All officers whose duty it is to collect fines for rules of the road violations shall credit such monies collected to the free school fund.^{165/}

California -- Fines and forfeitures received by a city shall be paid to the treasury of the city and deposited in a special "Traffic Safety Fund," and shall be used exclusively for official traffic control devices and maintenance; equipment and supplies for traffic law enforcement and traffic accident prevention; and for the maintenance or construction of public streets and other highway-related facilities. The fund shall not be used to pay the compensation of traffic officers, though it may be used to pay the compensation of school crossing guards who are not regular full-time members of the police department of the city.^{166/}

Delaware -- Fines collected by incorporated cities and towns shall inure to the benefit of such cities or towns. Fines, penalties and forfeitures collected in any county where the arrests are procured by the Department of Public Safety shall inure and be paid to the State Treasurer for the General Fund.^{167/}

Florida -- All fines and forfeitures received by any county court from violations of any ordinances adopting matter covered by this chapter committed within a municipality shall be paid monthly to that municipality.^{168/}

Mississippi -- All fines and forfeitures shall be deposited in the treasury of the county maintaining the court wherein such conviction or forfeiture was had.^{169/}

Nebraska -- All fines and forfeitures collected upon conviction shall be paid to the county school fund.^{170/}

New Jersey -- In relevant part, the law provides as follows:

All fines, penalties and forfeitures imposed and collected under authority of the law for any violation of the provisions of this Title, other than those violations in which the complainant is the commissioner, a member of his staff, a member of the State Police, an inspector of the Public Utility Commission, or a law enforcement officer of any other State agency, shall be forwarded by the magistrate to whom the same have been paid to the proper financial officer of the county wherein they were collected, to be used by the county as a fund for the construction, reconstruction, maintenance and repair of roads and bridges, snow removal, the acquisition and purchase of right-of-way, and the purchase, replacement and repair of equipment for use on said roads and bridges therein.^{171/}

New Mexico -- The administrative office of the courts must remit all penalty assessment receipts to the state treasurer for credit to the state general fund.^{172/} No political subdivision may employ any municipal judge, officer, agent or other person whose compensation in any way depends upon the apprehension, arrest or conviction of any person for violating the motor vehicle code or other state or local law, ordinance or regulations.^{173/}

New York -- Most fines and forfeitures shall be credited to the city in which collected. Fines for speeding violations are, with some exceptions, paid to the state comptroller. When these fines aggregate in excess of two dollars for each inhabitant of the village or suburban town, such excess shall be the property of the state and paid into the general fund of the state treasury. Fines collected for speed contests, reckless driving, and driving while under the influence shall be used for the construction and maintenance of highways and bridges.^{174/}

Pennsylvania -- The law provides as follows:

(a) State Police enforcement. -- When prosecution under the provisions of this title is the

result of State Police action, all fines and penalties and all bail forfeited shall be paid to the Department of Revenue, transmitted to the State Treasury and credited to the Motor License Fund. One half of the revenue shall be paid to municipalities in the same ratio provided in section 4 of the act . . . relating to partial allocation of liquid fuels and fuel use tax proceeds.

(b) Local police enforcement in general. -- When prosecution under the provisions of this title, except for parking, is the result of local police action, one-half of all fines and penalties and all bail forfeited shall be paid to the political subdivision under which the local police are organized and one-half to the Department of Revenue, transmitted to the State Treasury and credited to the Motor License Fund.

(c) Local police enforcement of parking. -- When prosecution under the provisions of this title for parking is the result of local police action, all fines and penalties and all bail forfeited shall be paid to the political subdivision under which the local police are organized.^{175/}

Rhode Island -- All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a rule of the road violation shall be deposited in the treasury of the state.^{176/}

South Carolina -- The law provides as follows:

All fines collected as penalties for violation of this chapter and bond or bail forfeitures shall be paid over by the magistrate or person collecting them to the county treasurer of the county in which such fines and bond or bail forfeitures are collected except that when such fines or bond or bail forfeitures are collected by municipal police officers and municipal courts the amounts so collected shall be paid over to the city treasurer of the municipality.^{177/}

Tennessee -- Fines and forfeitures for traffic violations other than driving while under the influence shall be paid over to the commissioner of safety. Fines collected for driving while under the influence shall be deposited in the general funds of the county where tried.^{178/}

Texas -- Fines collected for violation of any highway law may be used by the municipality or the counties in which the same are assessed in the construction and maintenance of roads, bridges, and culverts therein, and for the enforcement of the traffic laws regulating the use of the public highways by motor vehicles and motorcycles, and to help defray the expense of county traffic officers.

When a person is convicted in a municipal court of the offense of operating a vehicle on an interstate highway at a speed greater than is reasonable and prudent under the circumstances, the municipal court must remit to the state treasurer, for deposit in the general revenue fund, any portion of the fine assessed and collected which exceeds two dollars times the number of miles per hour by which the offender exceeded the posted speed limit.^{179/}

Virginia -- All fines or forfeitures collected upon conviction or upon a forfeiture of bail must be paid into the state treasury to be credited to the Literary Fund unless a different form of payment is specifically required by law.^{180/}

Washington -- One half of all fines and forfeitures collected for traffic law violations goes to the state highway safety fund, which is used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, and costs relating to driver record keeping. The other half of the fines and forfeitures goes to either the county road fund, if the violation occurred outside an incorporated city or town, or to the city street fund if the violation occurred in a city. Disposition of any fines and forfeitures collected by a justice court for violation of state law, however, is subject to another law.^{181/}

A second law provides for a special penalty assessment upon conviction for driving while under the influence. The assessment goes to the state highway safety fund for use for a state-wide alcohol safety action program.^{182/}

Wisconsin -- Although the law does not specify the disposition of fines, it does prohibit compensating officers on the basis of the fines obtained from their enforcement activity.

(1) No traffic officer shall demand, solicit, receive or be paid any remuneration upon the basis of number of arrests made, convictions obtained or amount of fines collected.

(2) Any person violating this section may be required to forfeit not less than \$25 nor more than \$200 for the first offense and, for the second and each subsequent conviction within one year thereafter, may be required to forfeit not less than \$50 nor more than \$500.^{183/}

INNOVATIVE REMEDIES

Remedies for Alcohol or Drug Abusers

Uniform Vehicle Code

There is a noticeable trend in traffic law toward placing more emphasis on the remedial, as opposed to the penal, aspects of traffic law violations. This is particularly so in regard to remedies for alcohol and drug abusers. The Uniform Vehicle Code provides that before sentencing any person convicted of a first offense of alcohol or drug abuse, the court may conduct or order an examination to determine whether the person would benefit from a treatment program.^{184/} On a second or subsequent conviction committed within five years of a prior offense, the Code requires that such an examination be made.^{185/} After the examination, the court may, under the Code, impose fine and/or jail penalties specified in UVC § 11-902 or, upon a hearing and determination that the person is a habitual user of alcohol or drugs, may order supervised treatment on an outpatient basis; or upon additional determination that the person constitutes a danger to himself or others and that adequate treatment facilities are available, may order him committed for treatment.^{186/}

Two key points to note in the manner in which the Code deals with alcohol and drug abusers are:

- (1) The examination to determine whether treatment is appropriate takes place after conviction but before sentencing, and
- (2) Such examination is optional on the first offense of driving while under the influence and mandatory on subsequent offenses.

State Laws

Twenty-five states have provisions in their vehicle codes that establish, in one form or another, programs for alcohol and/or drug abusers. These states are:

Arizona	Maine	New York	Utah
Arkansas	Massachusetts	Oregon	Vermont
California	Minnesota	Pennsylvania	Virginia
Colorado	Mississippi	Rhode Island	Washington
Florida	Nebraska	South Carolina	West Virginia
Iowa	New Mexico	Tennessee	Wisconsin
Kentucky			

A state-by-state summary is given at the end of this section.

While the programs established in these 25 states have in common an attempt to deal with the serious problem of drunken driving, they vary considerably in the specifics. The following discussion is geared to the two key points mentioned above.

In all but four of the states (Massachusetts, Nebraska, New Mexico and Virginia), the rehabilitative or driver improvement program applies, as in the Code, after conviction but before sentencing. In Massachusetts, the rehabilitation program is applicable to any person convicted of or charged with the offense of driving while under the influence. Nebraska provides that where the court suspends the proceedings and places the defendant on probation rather than convicting him, the court must, as one condition of probation, suspend defendant's license except where an ASAP program is in effect. New Mexico provides that a first offender may have the charges against him dismissed where he successfully completes a driver rehabilitation program. The same applies in Virginia, though there subsequent offenders may qualify for such dismissal also. In addition, the Virginia law provides that a person charged with driving while under the influence may, upon a plea of guilty or after hearing evidence which is sufficient in law to give rise to a finding of guilt, enter into a treatment program.

In seven of the 25 states, the rehabilitative program appears to apply only on the first offense of driving while under the influence. These states are:

Kentucky	Nebraska	South Carolina	Wisconsin
Mississippi	New Mexico	West Virginia	

Five states appear to limit treatment programs to subsequent offenders. These states are:

Arkansas	Pennsylvania	Tennessee
Oregon		Washington

One state (California) provides that no person may be admitted to a treatment program more than once; and another state (New York) specifies that no person may participate in the program if during the five years prior to his present conviction he participated in a similar program.

The remaining 11 states with provisions in their vehicle codes relating to treatment programs do not specifically limit such programs as to whether or not they happen to fall on first or subsequent offenses. These 11 states are:

Arizona	Iowa	Massachusetts	Utah
Colorado	Maine	Minnesota	Vermont
Florida		Rhode Island	Virginia

A state-by-state summary of the 25 jurisdictions with special remedies for alcohol/drug abusers in their vehicle codes is as follows:

Arizona -- Upon a second or subsequent conviction of driving while under the influence, the court, if in its opinion the offender has the problem of habitual abuse of alcohol or drugs, may require the person to obtain treatment under its supervision.^{187/}

Arkansas -- Upon a second conviction of driving under the influence of intoxicating liquors, the court shall suspend the defendant's driver's license but may grant defendant the option of attending a rehabilitation program. Upon a third such conviction, the license is to be revoked and not restored until completion of a rehabilitation program.^{188/}

California -- A person convicted of driving under the influence of intoxicating liquors or the combined influence of intoxicating liquors and any drug may, at his option, submit to a driver improvement program or treatment program for habitual users, or both.^{189/} A similar provision exists for driving under the influence of any drug.^{190/}

Upon conviction for driving under the influence of intoxicating liquor, or under the combined influence of liquor and drugs, the court may suspend the driving privilege for up to six months, or refrain from so suspending if the convicted person consents to participate in a treatment program for alcoholism. The court is not required, upon a first conviction, to suspend the driving privilege if the court finds that an alcohol treatment program would not be appropriate and if the

person consents to participate in a driver improvement program. No person may be admitted into a treatment program more than once.191/

Colorado -- A person whose license has been revoked or suspended for conviction of driving while under the influence is eligible for a hearing to determine whether a probationary license should be issued provided such a person has satisfactorily completed a course of alcohol treatment in an approved program. No individual is eligible for more than one such hearing in any one calendar year.192/

Florida -- At the discretion of the court, any person convicted of driving while under the influence may be required to attend a driver improvement course specified by the court in addition to any other fine that may be imposed.193/

Upon a first conviction of driving while under the influence, the court may revoke the defendant's driver's license. The court may, however, allow restricted use of the license provided that the defendant enrolls in and successfully completes a rehabilitation course for drinking drivers.194/

Iowa -- On second and subsequent convictions of driving while under the influence, the court may, in lieu of or prior to imposition of any other penalty, commit the defendant for treatment of alcoholism or drug addiction. The court may prescribe the length of time for such treatment or it may request that the hospital report to the court when the person has recovered or received maximum benefit from the program.195/

After conviction for operating a motor vehicle while under the influence of an alcoholic beverage, the court in addition to its power to commit the defendant for treatment as described above may order the defendant to enroll in and successfully complete a course for drinking drivers. On the first offense, this course may be in lieu of any other punishment.196/

Kentucky -- The department may, in lieu of license revocation, upon recommendation of the convicting court, and where the licensee has no previous conviction for driving while under the influence, issue a restricted license on such terms as the department prescribes and provided that the licensee enrolls in a driver education program prescribed by the department.197/

Maine -- A first conviction of driving under the influence of intoxicating liquors, or failure to submit to a chemical test

concerning such violation may result in license suspension. However, the Secretary of State may have authority to issue restricted licenses in such cases, provided the person has satisfactorily completed a driver improvement program.198/

The imposition of a fine or sentence for a person convicted of a second or subsequent offense of driving while under the influence shall not be suspended or probation granted, except where the offender is required to submit to an alcohol treatment program.199/

Note that the procedures that deal with a first conviction (see first paragraph above) apply only to intoxicating liquors, while those procedures that deal with second and subsequent convictions (see second paragraph above) apply to intoxicating liquor and drugs.

Massachusetts -- Any person convicted of or charged with driving under the influence of intoxicating liquor may, if he consents, be placed on probation for one year and shall as a condition of probation be assigned to a driver alcohol education program and, if deemed necessary by the court, to an alcohol treatment or rehabilitation program, or to both; such a person may be eligible for dismissal of charges if he complies with the probation program.200/

Minnesota -- A court may stay imposition of sentence upon conviction of driving while under the influence on condition that the convicted person submit to treatment.201/

A presentence investigation is required when the defendant is convicted of driving while under the influence or not convicted therefor but is convicted of an offense arising out of the circumstances of such arrest. The report shall contain an evaluation of the convicted defendant concerning his prior traffic record, characteristics and history of alcohol problems, and amenability to rehabilitation through the alcohol safety program. The report shall include a recommendation as to a treatment or rehabilitation program for the defendant.

The court before imposing sentence shall give due consideration to this report.202/

Mississippi -- Courts have the authority to stay all or part of a mandatory penalty for a first conviction of driving while

under the influence on condition that the defendant satisfactorily participates in a driver rehabilitation program consisting of ten hours of instruction within a four-week period of time.203/

Nebraska -- Upon first conviction for driving while under the influence, the court must order the defendant not to drive for six months, provided that where the court suspends the proceedings and places the defendant on probation rather than convicting him, the court must, as one condition of probation, order the defendant to not drive for a period of 30 days; but this requirement is waived in counties or municipalities where the probation program has been certified by the state probation administrator as complying with a state model probation program which is generally to comply with the ASAP program of the National Highway Traffic Safety Administration.204/

New Mexico -- A first offender of driving while under the influence may, at the discretion of the trial court after a presentence investigation, attend a driver rehabilitation program approved by the court and the department of motor vehicles. Upon successful completion of the program, the court may dismiss the driving while under the influence charge whereupon it shall not be considered a conviction.205/

New York -- After conviction of driving while under the influence, the defendant may, if he chooses, enroll in an alcohol and drug rehabilitation program. The judge or the commissioner may reject any person from participation in the program. Also no person may participate in the program if during the five years prior to his present conviction he participated in a similar program. Completion of such a program may be deemed an alternative to any other penalty that might have been imposed.206/

Oregon -- A person whose license has been suspended upon a second or subsequent conviction of driving while under the influence can get his license reinstated upon making satisfactory progress in an alcohol rehabilitation program. A "problem drinker" is a person who habitually or periodically uses alcohol to the extent that his health or that of others is substantially impaired or endangered, or his social or economic function is substantially disrupted. This law applies only to a person who, after examination by the Mental Health Division, is determined to be a "problem drinker,"

and who enrolls in an approved alcohol rehabilitation program. The license may be reinstated only if the Mental Health Division recommends such reinstatement on the basis of the person's progress in the rehabilitation program, and if the judge before whom he was convicted, with reference to the best interests of the public and the person, recommends reinstatement.207/ There is a similar program for drug abusers.

Pennsylvania -- After conviction but before sentencing a person convicted of a second or subsequent offense of driving while under the influence within five years of the first, the court shall conduct or order an appropriate examination to determine whether the person would benefit from a treatment program. After the examination, the court may order supervised treatment on an outpatient basis or may order commitment for treatment.208/

Rhode Island -- A person convicted of driving while under the influence may be required to attend a special course operated under the jurisdiction of a college or university accredited by the state, and the imposition of any further punishment is deferred until the completion of such course.209/

South Carolina -- Any person convicted of a first violation of driving while under the influence, and whose license is not presently suspended for any other reason, may receive a provisional license by enrolling in an alcohol traffic safety school. The school must be completed within 75 days of application.210/

Tennessee -- Prior to the reissuance of any license revoked because of a second or subsequent conviction of driving while under the influence, the department of safety shall require the person to submit to an examination by a private psychiatrist or a state supported mental health facility in order to ascertain whether the person is in need of treatment. If he is found to be in need of treatment, the department shall retain the license until such time as the person has demonstrated a willingness to cooperate in such treatment.211/

Utah -- Upon conviction for driving while under the influence, the trial judge where feasible shall order the defendant to attend a program dealing with the interrelationship of alcohol, narcotics, drugs and driving. The judge has discretion to determine which private or public programs will be used.212/

Vermont -- A person convicted of a first offense of driving while under the influence shall not have his license reinstated prior to one year unless he successfully completes a driver's rehabilitation program supervised or certified by the commissioner.213/

License revocation is mandatory for subsequent convictions of driving while under the influence. The period of revocation is shortened, however, if the person completes a driver's rehabilitation program. Also, if the period of revocation is for three years or more, the person may apply to the driver rehabilitation school counselor and to the commissioner for reinstatement of his driving privilege upon completion of two years of total abstinence from consumption of alcohol.214/

Virginia -- Person charged with driving while under the influence, upon a plea of guilty or after hearing evidence which is sufficient in law to give rise to a finding of guilt, may enter into an alcohol safety action program or driver rehabilitation program or other such alcohol rehabilitation program as the court may direct.215/

If the court finds that such person is not eligible, the court shall dispose of the case as if no program had been entered. If the court finds that such person has completed the program successfully, such compliance may be accepted in lieu of a conviction for driving under the influence, or the court may amend the warrant and find such person guilty of such other violations of the traffic laws as the evidence may show.216/

Washington -- On second and subsequent conviction of driving while under the influence, the court may, for the defendant who has not previously had a jail sentence suspended, suspend such sentence and/or fine on the condition that the defendant participate in and successfully complete a court approved alcohol treatment program.217/

West Virginia -- Upon a first conviction of driving while under the influence, defendant is granted the option of attending an alcohol and drug countermeasure school conducted under the jurisdiction of the division of alcoholism and drug abuse of the department of men's health.218/

Wisconsin -- Upon first conviction of driving while under the influence, the court may order the convicted person to attend a safety school.219/

Other Driver Improvement Remedies

Uniform Vehicle Code

The Uniform Vehicle Code was amended in 1971 to give the courts discretion to impose several other kinds of driver improvement remedies for traffic law violations. These remedies apply to any violation, not just driving while under the influence, and they may be imposed in addition to the fine and/or imprisonment otherwise authorized for such a violation. The additional remedies are as follows:

1. The court may order the convicted person to submit to a drivers license reexamination.220/ Under UVC § 6-207(b), the department is required to reexamine any person when requested to do so by a court. The scope of the examination is left to the department, but it may include all the elements which the department may require in an original license examination. Upon conclusion of the examination, the department may suspend or revoke the license, may impose restrictions on the license, or may allow the person to retain an unrestricted license, as it deems appropriate.
2. The court may order the convicted person to submit to a physical or mental examination by a physician selected by the court, or one selected by the person.221/
3. The court may order the convicted person to attend and satisfactorily complete a driver improvement course approved by the court or the department.222/
4. Except where a penalty specified by the Code is mandatory upon conviction for a particular offense, the court may probate or suspend all or any part of a penalty upon such terms and conditions as the court may prescribe. The conditions may include driving with no further traffic law violations during a specified time, reporting periodically to the court or a specified agency, and performing or refraining from performing such acts as may be ordered by the court.223/ A footnote to the Code section suggests that such conditions could include writing essays on safe driving, performing reasonable services in the public interest related

to highway safety, or refraining from driving for a specified period of time. The Uniform Vehicle Code does not recommend requiring restitution as a condition of probation, however.224/

State Laws

Fifteen states have laws which provide for some driver improvement remedies comparable to those described above. Most of these laws provide only that the court may require a convicted person to participate in a driver improvement course.

The laws of 12 of the states specify that in addition to or in lieu of other penalties, the court may order the person to attend a driver improvement course:

Arkansas	Florida	Indiana	New York
California	Georgia	Minnesota	Tennessee
Colorado	Idaho	Nebraska	Virginia

California specifies that failure to comply with the court order is a misdemeanor. Colorado and Nebraska specify that the driver improvement program may be required in addition to, or as a condition of probation or suspension of, any other penalty.

Two other states authorize driver improvement programs as a remedy as described below:

Oregon -- The court may order the defendant to successfully complete a driver improvement course within a specified period of time, subject to suspension of the drivers license for failure to comply.225/

Texas -- The court may defer the proceedings when a person is charged with a misdemeanor offense committed while operating a motor vehicle to allow the person 90 days to present evidence of completion of a driver improvement course subsequent to the offense.226/

Three states specifically allow the court to order a person to submit to a driver licensing examination:

Arkansas -- The court may require the person to retake the drivers test, or to furnish proof of adequate sight or hearing for safe driving or to produce proof of physical or mental capability to drive.227/

Georgia -- When the court has good cause to believe a convicted licensed driver is incompetent or otherwise not qualified to be licensed, it may require a license reexamination.228/

North Dakota -- If the court believes a licensed operator is not qualified to be licensed, it may direct the department to require the licensee to submit to a reexamination.229/

No state specifically allows the court to order a person to submit to a physical or mental examination by a physician as part of a penalty for traffic offense.

Three states have provisions which specifically allow the court to suspend or probate a penalty on certain conditions. Two of these states (Georgia^{230/} and Indiana^{231/}) conform substantially with the Uniform Vehicle Code provision. They allow the court to probate or suspend all or any part of a penalty upon such terms and conditions as the judge may prescribe; such conditions may include driving with no further violations for a specified time, reporting periodically to the court or a specified agency, and performing or refraining from such acts as ordered by the court. The third state (Arkansas^{232/}) specifically authorizes such conditional probation only as to minors. Minors may be required to write themes or essays on safe driving, or they may be placed on probation designed as a reasonable and suitable educational program to prevent future traffic violations by the minor.

SUMMARY

1. This Commentary reviews penalties for violating traffic laws. It focuses specifically on the penalties for reckless driving, driving while under the influence, homicide by vehicle, and seven other somewhat less serious traffic offenses. Apart from the fact that the fine is a universal penalty option, there is little uniformity in statutory traffic penalties.

2. Most traffic offenses are considered misdemeanors. In about half of the states, however, one or more of the most serious offenses (such as homicide by vehicle, or a second or third offense of driving while under the influence) is classified as a felony, or has a felony-type penalty. In the other states, no traffic offense is classified as a felony or punishable by imprisonment exceeding one year.

3. In 17 states, some traffic offenses have been given less than misdemeanor status. Generally they are called infractions. None of the 17 authorizes imprisonment as a penalty for an infraction. Seven of the 17 have decriminalized infractions, making them civil offenses rather than crimes. Two states provide for administrative, rather than judicial, adjudication of some of their traffic offenses.

4. The typical statute specifies a penalty range within which the court may assess the penalty. In many cases there is both a minimum and maximum specified. Eleven states, however, do not specify any minimum penalty for any of the offenses reviewed, and only 17 specify a minimum penalty applicable to the relatively minor offenses.

5. Repeat offender penalty increments are quite common. The typical penalty range specified for a second offense doubles both the minimum and maximum penalty specified for the first offense. Forty-two states use such penalty increments for the offense of driving while under the influence; 30 do so for reckless driving; and 22 generally do so for other offenses; but no state specifies an incremental penalty for homicide by vehicle.

6. Most states have retained imprisonment as a penalty option, especially for the serious offenses. All but seven states authorize imprisonment on a first conviction of reckless driving, and only four of these seven fail to authorize imprisonment for a subsequent offense. All but three states authorize imprisonment on a first offense of driving while under the influence, and all

states authorize imprisonment on a subsequent offense. All states with homicide by vehicle laws authorize imprisonment for the offense. For the less serious traffic offenses, however, 17 states do not authorize imprisonment, and six others authorize imprisonment only on a second or subsequent conviction.

7. The fine is the most prevalent penalty option. With the exception of three homicide by vehicle laws which specify only imprisonment as a penalty, all states specify the fine as a penalty option for all the offenses reviewed in this Commentary.

8. Only six states have vehicle code sections which specifically authorize installment imprisonment, that is, allowing the person to serve jail time on weekends or at other times when he is not working. Only two states have vehicle code sections specifically allowing installment payment of fines by indigent persons.

9. About half the states now have programs for alcohol/drug abusers which may be imposed in addition to or in lieu of other penalties. All but four of these are post conviction remedies; in four states the prosecution is interrupted by the treatment program prior to the point of conviction.

10. Fifteen states have laws which authorize other driver improvement remedies. Most of these provide only that the court may require the convicted person to participate in a driver improvement course. A few allow the court to order a driver re-examination, and a few specifically authorize conditional probation.

OBSERVATIONS

1. Our analysis of statutory penalties for traffic offenses suggests that such penalties are determined arbitrarily, with little apparent regard for any uniform national policy.

Penalties for the same offense vary substantially from state to state. The maximum allowable term of imprisonment on a first conviction of reckless driving, for example, is only ten days in Wyoming, but it is two years in Massachusetts. Eight states allow imprisonment of one year or more for this offense, while ten specify maximum imprisonment of 30 days or less, and seven authorize no imprisonment at all. The maximum fine also varies for first offense reckless driving. Pennsylvania specifies \$25; Minnesota, \$30; and 11 other states \$100; but four states allow a maximum fine of \$1000 for this offense.

State-to-state variations are less substantial for the less serious offenses because the penalties tend to be less severe. Still, while almost half of the states allow no imprisonment, or a maximum of ten days, four states authorize imprisonment for up to one year for the same offenses. Maximum allowable fines range from less than \$50 in nine states, to as much as \$500 in eight states, or \$1000 in two states.

2. In most states imprisonment is still authorized for traffic law offenses, especially for the serious offenses. There is generally no consistent relationship between the maximum term of imprisonment and the maximum fine which may be imposed for the same offense. Too often, the maximum imprisonment seems grossly excessive in comparison with the maximum fine for the same offense.

By comparing the maximum fine and maximum term of imprisonment, it is possible to derive a monetary value for one day in jail. For example, if the law specifies a fine up to \$500, or imprisonment for up to 90 days, the value of one day in jail is put at \$5.56 (\$500 divided by 90 days). The technique is somewhat artificial. It assumes that the maximums specified are intended to be essentially equal alternatives. Nevertheless, it is interesting to compare this jail-day valuation figure from state to state, and from offense-to-offense within a single state.

Comparing reckless driving and driving while under the influence penalties, for example, there are eight instances where jail-day valuations are under one dollar, including three under 35 cents. There are also eight instances where those values exceed ten dollars, including one at \$50. Almost half of the penalties specified for driving while under the influence use a \$2.74 jail-day valuation. Of the reckless driving penalties, one fourth use a jail-day valuation of approximately \$5.50, while one fifth use \$3.33 and another fifth use \$2.74.

Comparing penalties for the less serious offenses, higher jail-day valuations are typical. Valuations range from a high of \$50 to a low of 55 cents. About one-third of the penalties use a jail-day value of \$10, and over half use a value exceeding \$5.50. About one-fifth, on the other hand, use a valuation which is less than \$2.

Substantial variations within a particular state are not unusual. It is typical for penalties for different offenses to use different jail-day valuations. Several states, for example,

use a value of \$2.74 for the offense of driving while under the influence, \$5.50 for reckless driving and \$10.00 for less serious offenses. Such variations, although not necessarily in the same pattern or with the same values, are the general rule. One state's reckless driving penalty uses a \$50 value, while the same state's penalty for less serious offenses uses a \$2.74 jail-day valuation. Another state reverses this, with the penalty for less serious offenses using the \$50 valuation and the reckless driving penalty valued at \$2.20.

Even for the same offense, there are variations in the jail-day valuation between the first and second offense penalties. Again there is no particular pattern to these variations. Thus three states, for example, substantially reduce the jail-day valuation between the first offense penalty and the second offense penalty. The reductions are from \$16.67 to \$2.74, from \$10.00 to \$5.00, and from \$3.33 to 55 cents. Another three states raise the jail-day valuation for subsequent offenses. The increases are from \$2.74 to \$5.49, from \$3.33 to \$16.67, and from \$5.55 to \$11.11.

It appears from this analysis that the jail-day valuation used in most penalties is unreasonably low. The substantial variations in jail-day valuation suggest that statutory penalties are established with no regard for the reasonableness of the maximum jail term in relation to the maximum fine.

3. The states have been slow to move away from the traditional penalty of fine and/or jail. Only 15 states have adopted some innovative driver-improvement remedies such as those suggested in the Uniform Vehicle Code. Most of these 15 only authorize the court to require a convicted person to participate in a driver improvement course. The Uniform Vehicle Code also suggests driver reexamination by the department of motor vehicles, and a physical or mental examination by a physician, as post conviction remedies for use in appropriate cases. The Code also suggests the use of conditional probation on such terms as the court prescribes. These post conviction remedies may prove more effective than the traditional penalty in bringing about improvement in the driver's attitude and performance.

FOOTNOTES

1/ UVC § 17-101(a) (1968).

2/ 22 C.J.S. Criminal Law § 6 (1961).

3/ UVC § 17-101(a) (1968).

4/ UVC § 11-903(b) (1968).

5/ UVC § 17-101(b) (Supp. 1976).

6/ The Rhode Island law does not actually reclassify the traffic offenses. The law retains a section similar to the Uniform Vehicle Code's general penalty clause which specifies that all violations are misdemeanors unless specifically declared to be felonies. See R.I. Gen. Laws § 31-27-13 (1968). Another section specifies that notwithstanding any inconsistent provisions all traffic offenses except specified serious offenses shall be heard and determined by a process of administrative adjudication. See R.I. Gen. Laws § 31-43-1(1) (Supp. 1976). The penalty upon administrative adjudication may not include any imprisonment. R.I. Gen. Laws § 31-43-3(3) (Supp. 1976). The same section makes reference to "every hearing for the adjudication of a traffic infraction," but the term infraction is not defined.

The Rhode Island law relating to administrative adjudication does specify as follows:

An order entered after the receipt of an answer admitting the charge or where a determination is made that the charge has been established shall be civil in nature, but shall be treated as an adjudication that a violation has been committed for the purpose of this chapter. R.I. Gen. Laws § 31-43-3 (Supp. 1976).

7/ See footnote 6, supra.

8/ See footnote 6, supra.

9/ The Rhode Island law does not specifically preclude a jury trial, but does specify that certain traffic offenses are to be heard and determined by a hearing officer in the division of administrative adjudication, rather than in the courts. No jury procedure is established for such administrative adjudication. See footnote 6, supra.

10/ N.Y. Veh. & Traf. Law §§ 155, 225, 227 (Supp. 1977).

11/ Id. § 235 (Supp. 1977). Pedestrian violations are not specifically covered by administrative adjudication law. They constitute infractions but it is not clear how they are adjudicated.

12/ R.I. Gen. Laws § 31-43-1 through -7 (Supp. 1976).

13/ Alaska Stat. § 28.35.230 (Supp. 1977).

14/ Cal. Penal Code § 19C (1970).

15/ Id. See also Cal. Vehicle Code § 40901 (Supp. 1977).

16/ Conn. Gen. Stat. Ann. § 53a-24 (Supp. 1977).

17/ Id. § 51-164m (Supp. 1977).

18/ Id. § 51-164n (Supp. 1977).

19/ Fla. Stat. Ann. § 318.13(3) (1975).

20/ Id. § 318.14(6) (1975).

21/ Me. Rev. Stat. Ann. tit. 29, § 1, 17-C (Supp. 1977).

22/ Minn. Stat. Ann. § 609.02 (Supp. 1977).

23/ Neb. Rev. Stat. § 39-602(106) (Supp. 1976).

24/ N.H. Rev. Stat. Ann. § 262-A:2 (Supp. 1975).

25/ Id. § 625:9 (1974).

26/ N.Y. Veh. & Traf. Law § 155 (Supp. 1976).

27/ N.D. Cent. Code § 12.1-32-03.1 (Supp. 1976).

28/ Ohio Rev. Code Ann. § 2929.21(D) (1975).

29/ Ore. Rev. Stat. § 404.375 (1975).

30/ Id. § 484.350 (1975).

31/ Id. § 484.375 (1975).

- 32/ Id. § 484.390 (1975).
- 33/ Id. § 487.540(2) (1975).
- 34/ Id. § 484.365 (1975).
- 35/ Ore. Sup. Ct., docket no. SC-25407, Sept. 9, 1977.
- 36/ Pa. Stat. Ann. tit. 75 § 6502 (Supp. 1975).
- 37/ R.I. Gen. Laws § 31-43-1 through -7 (Supp. 1976).
- 38/ S.D. Compiled Laws Ann. § 22-6-7 (1976).
- 39/ Vt. Stat. Ann. tit. 23, § 2201 (Supp. 1976).
- 40/ Va. Code Ann. § 46.1-16.01 (Supp. 1978).
- 41/ Colo. Rev. Stat. Ann. § 42-4-1501 (Supp. 1976).
- 42/ Ky. Rev. Stat. Ann. § 189.990(9) (1975).
- 43/ Md. Ann. Code art. 66 1/2, § 17-101 (Supp. 1976).
- 44/ Mass. Ann. Laws ch. 90, § 20 (1975).
- 45/ Tex. Rev. Civ. Stat. art 670ld, § 143 (1975).
- 46/ Wash. Rev. Code Ann. § 22-6.2 (1969).
- 47/ Wis. Stat. Ann. § 346.17, -.43, -.49 (Supp. 1976).
- 48/ UVC § 11-901(b) (Supp. 1976).
- 49/ See above section entitled "Traffic Offenses as Felonies."
- 50/ UVC § 11-902 (Supp. 1976).
- 51/ Cal. Vehicle Code § 23102 (Supp. 1977).
- 52/ Id. § 23101 (Supp. 1977).
- 53/ Id. § 23105 (Supp. 1977).
- 54/ Id. § 23106 (Supp. 1977).

- 55/ Ind. Ann. Stat. § 9-4-1-54 (Supp. 1977).
- 56/ Mo. Ann. Stat. § 564.440 (Supp. 1977).
- 57/ Id. § 564.460 (Supp. 1977).
- 58/ Nev. Rev. Stat. § 484.3795 (1975).
- 59/ Wash. Rev. Code Ann. § 46.61.520 (Supp. 1977).
- 60/ UVC § 11-903 (1968).
- 61/ See above section entitled "Traffic Offenses as Felonies."
- 62/ Pa. Stat. Ann. tit. 75, § 3732 (Supp. 1977).
- 63/ For further discussion of the offenses that fall within the seven-offense composite, see "Introduction" above.
- 64/ UVC § 17-101(b) (Supp. 1976).
- 65/ Id.
- 66/ Cal. Vehicle Code § 4000.28 (Supp. 1977).
- 67/ Id.
- 68/ Conn. Gen. Stat. Ann. § 53a-26, 27 (Supp. 1977).
- 69/ Minn. Stat. Ann. § 169.89(1) (Supp. 1977).
- 70/ Ore. Rev. Stat. § 484.365 (1975).
- 71/ S.D. Comp. Laws Ann. § 169.89(1) (Supp. 1977).
- 72/ UVC § 17-101 (Supp. 1976).
- 73/ Id. § 11-902 (Supp. 1976).
- 74/ Alaska Stat. § 28.35.030 (Supp. 1976).
- 75/ Ariz. Rev. Stat. Ann. § 28-692.01 (1976).
- 76/ Cal. Vehicle Code § 23102(g) (Supp. 1977).
- 77/ Colo. Rev. Stat. Ann. § 42-4-1202 (Supp. 1976).

- 78/ Nev. Rev. Stat. § 484.379 (1975).
- 79/ Wash. Rev. Code Ann. § 46.61.515 (Supp. 1975).
- 80/ W. Va. Code Ann. § 17C-5-2 (Supp. 1976).
- 81/ UVC § 11-901(b) (Supp. 1976).
- 82/ Id. § 11-902 (Supp. 1976).
- 83/ Id. § 17-101 (Supp. 1976).
- 84/ Ariz. Rev. Stat. Ann. § 28-693 (Supp. 1976).
- 85/ See footnote 103, infra.
- 86/ Alaska Stat. § 28.35.030 (Supp. 1976).
- 87/ Fla. Stat. Ann. § 316.028 (Supp. 1976).
- 88/ UVC § 17-101(b) (1968, Supp. 1976).
- 89/ UVC § 17-101(b) (1968).
- 90/ UVC § 11-901(b) (Supp. 1976).
- 91/ Under California law, when bodily injury results from a reckless driving offense, the penalty is 30 days to six months, and/or \$100 to \$500. Cal. Vehicle Code § 1320 (Supp. 1976).
- 92/ Under Connecticut law, the speeding offense is concerned with driving at such a speed as to endanger the life of the occupant of the motor vehicle, but not any other person. Conn. Gen. Stat. Ann. § 14-219 (Supp. 1977). The reckless driving offense is concerned with driving at a rate of speed so as to endanger the life of any person other than the operator. Id. § 14-219 (Supp. 1977).
- 93/ In Hawaii there is no "reckless driving" offense as such. The penalty given in table is for the offense of "inattention to driving." Hawaii Rev. Stat. § 291-12 (Supp. 1975).
- 94/ In addition to the offense of reckless driving, Michigan has an offense of "careless or negligent driving" which carries a jail sentence of up to ten days. Mich. Stat. Ann. § 9.2326 (Supp. 1976).

95/ Under North Dakota law, if a reckless driving offense causes personal injury, the punishment for a class A misdemeanor, which carries a maximum jail sentence of one year, applies. N.D. Cent. Code § 39-08-03 (Supp. 1975).

96/ Under Virginia law, the offense of "improper driving" involves a fine only. Va. Code Ann. § 46.1-192.2 (1974).

97/ Under Wisconsin law, the offense of "negligent operation" carries jail sentence of between 30 days and one year. Wis. Stat. Ann § 346.65 (Supp. 1976).

98/ UVC § 11-902(c) (Supp. 1976).

99/ An alternative jail sentence for homicide by vehicle is one to five years imprisonment. Ind. Ann. Stat. § 9-4-1-54 (Supp. 1970). When the offense of driving while under the influence results in death, the jail sentence is one to five years. Id. § 9-4-1-54 (Supp. 1977).

100/ In Minnesota, if death or serious injury is caused by the offense of driving while under the influence, then the jail sentence is 60 to 90 days. Minn. Stat. Ann. § 169.121 (Supp. 1977).

101/ Under Missouri law, an alternate punishment for third and subsequent conviction of driving while under the influence is confinement in the county jail for 90 days to one year, or imprisonment by the Department of Corrections for a period of two to five years. Separate penalties are set forth for: (1) operation of a vehicle with ten percent or more alcohol, Mo. Ann. Stat. § 564.439 (Supp. 1977); (2) driving while under the influence, Id. § 564.440 (Supp. 1977); and (3) driving while under the influence of a narcotic drug, Id. § 564.460 (Supp. 1977). The last two may constitute a felony.

102/ In New Jersey, the offense of operating a vehicle "while ability is impaired" does not carry a jail sentence. N.J. Stat. Ann. § 39:4-50(a) (1973). The offense of "careless driving" carries a maximum jail sentence of ten days. Id. § 39:4-97 (1973).

103/ In South Carolina, any fourth or subsequent conviction of driving while under the influence carries a maximum jail sentence of four years. S.C. Code Ann. § 56-5-2940 (1976).

104/ Under Utah law, if bodily injury results from a driving while under the influence offense, then a jail sentence of up to one year applies. Utah Code Ann § 41-6-44 (1970).

105/ UVC § 11-903(b) (1968).

106/ In Georgia, the jail sentence for homicide by vehicle is for a "first degree" conviction. Homicide by vehicle of the "second degree" is a misdemeanor carrying a jail sentence of up to one year. Ga. Code Ann. § 68A-903 (1975).

107/ See footnote 99, supra.

108/ UVC § 17-101(b) (Supp. 1976).

109/ The penalties described in the Tables for Alabama apply to three of the seven offenses; following too closely, failure to stop at a stop sign, and parking where prohibited. Ala. Code § 32-5-312 (1975).

A second penalty clause, which is only slightly different, applies to the offenses of failure to obey an officer, and failure of a pedestrian to yield. The penalty is the same as shown in the Tables for a first conviction. For a second conviction the minimum fine is \$10 instead of \$100, and the maximum imprisonment is 30 days instead of 20. For a third conviction, the minimum fine is \$25 instead of \$250. In other respects the penalties are the same. Ala. Code § 32-5-311 (1975).

The basic speed law includes its own penalty clause. The penalty maximums are the same as those shown in the Tables, but there are no minimums. Ala. Code § 32-5-91(e) (1975).

Failure to stop for a school bus is penalized by a fine up to \$300, or by imprisonment up to 90 days, or both. Ala. Code § 32-5-60 (1975).

110/ The penalties described in the Tables for California are for infractions. Cal. Veh. Code § 42001(a) (Supp. 1978). All of the offenses in the seven offense composite are infractions except the offense of failure to obey an officer, which is a misdemeanor punishable by a fine up to \$500, or by imprisonment

up to six months, or both. Cal. Veh. Code §§ 40000.7, 42002 (1972, Supp. 1978). Any offense, otherwise an infraction, is punishable as a misdemeanor if the defendant has three or more convictions in the preceding 12 months, but this does not apply to pedestrian violations. Cal. Veh. Code § 40000.28 (Supp. 1978). Any pedestrian violation is subject to a maximum fine of \$50, with no increments for subsequent offenses. Cal. Veh. Code § 42001(c) (Supp. 1978).

111/ The penalties described in the Tables for Colorado apply to "Class 2 Misdemeanors." Colo. Rev. Stat. § 42-4-15-1(2)(a) (Supp. 1976). Failure to obey an officer, following too closely, and failure to stop for a school bus are all Class 2 Misdemeanors. Colo. Rev. Stat. §§ 42-4-105, -612, -908 (1973, Supp. 1976). The other offenses are either Class 3 or Class 4 Misdemeanors. Colo. Rev. Stat. §§ 42-4-603, -703, -1001, -1104 (1973, Supp. 1976). The penalty for Class 3 or 4 Misdemeanors is a fine of \$5 to \$100, with no imprisonment option. Colo. Rev. Stat. § 42-4-15-1(2)(a) (Supp. 1976).

In addition, the statute contains a statutory penalty assessment for the Class 3 and 4 offenses. The statutory assessment applies unless the violation resulted in a serious accident or unless there were other more serious violations charged at the same time. The assessment for the pedestrian and parking violations is \$5; for the stop sign violation it is \$8; and for the speeding violation it is \$25, unless the speed was more than 19 mph in excess of the limit, in which case the assessment does not apply, and the speeding is then treated as a Class 2 Misdemeanor. Colo. Rev. Stat. § 42-4-15-1(3)(a) (Supp. 1976).

112/ All the composite offenses except failure to obey an officer are infractions under Florida law. Fla. Stat. Ann. § 316.655 (Supp. 1978). All infractions are punishable with a specified civil penalty. This penalty is \$5 for a pedestrian infraction, \$15 for a parking infraction, and \$25 for other infractions. Fla. Stat. Ann. § 318.18 (1975). If a hearing is required or demanded in any case, however, the civil penalty is up to \$500, and the person may be required to attend a driver improvement school in addition to, or in lieu of, the civil penalty. Fla. Stat. Ann. § 316.655 (Supp. 1978). A hearing is required whenever the infraction results in an accident involving death, personal injury or property damage in excess of \$250. A hearing is also required if the infraction involved speeding more than 25 mph above the limit, or if a conviction would result in loss of the driver's license. Fla. Stat. Ann. § 318.19 (1975, Supp. 1978).

Failure to obey an officer is a misdemeanor of the second degree, punishable by a fine of up to \$1000, or by imprisonment up to one year, or both. Fla. Stat. Ann. § 316.072 (Supp. 1978).

113/ The offense of failing to stop for a school bus in Kentucky is punishable by a fine of up to \$500, and/or imprisonment up to six months. Ky. Rev. Stat. Ann. § 189.990(6) (Supp. 1975).

114/ In Minnesota, the offense of failure to obey an officer is a misdemeanor, punishable by a fine up to \$30, and/or by imprisonment up to 90 days. Minn. Stat. Ann. § 169.02(2) (Supp. 1978); § 609.02 (1977).

115/ The penalty specified in the Tables is the general misdemeanor penalty. It applies to the offense of failure to obey an officer, and to any of the other composite offenses which cause or contribute to the cause of an accident resulting in death or injury, or to any offense of speeding in excess of 25 mph over the limit. In all other cases, a statutory assessment is specified for the composite offenses. The assessment is \$25 for failure to stop for a school bus, \$5 for a parking violation; \$15 for a speeding violation; and \$10 for the other composite offenses. N.M. Stat. Ann. §§ 64-10-7, 64-22-4 (1972).

116/ The Tables show the infraction penalties which apply to all the composite offenses except speeding. N.Y. Veh. & Traf. Law § 1800(b) (1970). Note, however, that in many areas of New York, administrative adjudication has been implemented. See the discussion in the text under the heading "Traffic Offenses as Infractions," *supra*. Where an infraction is subject to administrative adjudication, no imprisonment penalty may be imposed. N.Y. Veh. & Traf. Law § 227(3) (Supp. 1977). Thus Table Five applies only to infractions which are adjudicated in the courts.

New York has a special penalty for speeding. For a first conviction a fine up to \$100, or imprisonment up to 30 days, or both, may be imposed. On a second conviction within 18 months, a fine up to \$200, or imprisonment up to 90 days, or both, may be imposed. On a third or subsequent conviction within 18 months of the first, a fine up to \$500, or imprisonment up to 180 days, or both, may be imposed. N.Y. Veh. & Traf. Law § 1180(f) (Supp. 1977).

117/ North Dakota specifies a statutory fine of \$30 for violation of the basic speed rule. N.D. Cent. Code § 39-09-01 (Supp. 1977). The other composite offenses are penalized as specified in the Tables.

118/ The Tables apply to the Wisconsin offenses of failure to obey an officer, failure to stop for a stop sign, and illegal

parking. Wis. Stat. Ann. §§ 346.04(1), .46, .53 (1971); §§ 346.17(1), .49(1), .56(1) (Supp. 1977). For the offenses of following too closely and failure to stop for a school bus, the penalty is a fine of not less than \$20 nor more than \$200, or imprisonment for up to 30 days, or both. Wis. Stat. Ann. §§ 346.14(1), .48 (1971); §§ 346.17(2), .48, .49(2) (Supp. 1977). For failure of a pedestrian to yield, the penalty is a fine of not less than \$2 nor more than \$20 on a first offense, and not less than \$10 nor more than \$50 on a second offense. Wis. Stat. Ann. § 346.25 (1971); § 346.30(1) (Supp. 1977). For violating the basic speed rule, the penalty is a fine of not less than \$40 nor more than \$300, or imprisonment up to six months, or both, on a first offense, and a fine of not less than \$80 nor more than \$600, or imprisonment for up to one year, or both, on a second offense. Wis. Stat. Ann. § 346.57(2) (1971); § 346.60(3) (Supp. 1977).

119/ UVC § 11-903(b) (1968).

120/ Ala. Code tit. 36 §2 (1959).

121/ Cal. Vehicle Code § 23101 (Supp. 1976).

122/ Iowa Code Ann. § 321.281 (Supp. 1976).

123/ Mo. Ann. Stat. § 564.440 (Supp. 1977).

124/ Mont. Rev. Code Ann. §32-2142 (Supp. 1975).

125/ Neb. Rev. Stat. § 39-669.07 (1974).

126/ Nev. Rev. Stat. § 484.379 (1975).

127/ N.Y. Veh. & Traf. Law § 1192 (Supp. 1976).

128/ Okla. Stat. Ann. tit. 47, § 11-902 (Supp. 1976).

129/ Tenn. Code Ann. § 59-1035 (Supp. 1975).

130/ Tex. Rev. Civ. Stat. art. 66871-2 (Supp. 1975).

131/ Utah Code Ann. § 41-6-44 (1970).

132/ W. Va. Code Ann. § 17C-5-2 (Supp. 1976).

133/ Wisc. Stat. Ann. § 346.65 (Supp. 1976).

134/ UVC § 17-103(b) (Supp. 1976).

135/ Ariz. Rev. Stat. Ann. § 28-692.01 (1976).

136/ Cal. Vehicle Code § 23101 (Supp. 1976).

137/ Ga. Code Ann. § 27-2506 (Supp. 1976).

138/ Ind. Ann. Stat. § 9-4-1-54 (Supp. 1977).

139/ Nev. Rev. Stat. § 48.379 (1975).

140/ N.H. Rev. Stat. Ann. § 262-A: 62 (Supp. 1975).

141/ UVC § 11-901(b) (Supp. 1976).

142/ UVC § 11-902(c) (Supp. 1976).

143/ UVC § 11-903(b) (1968).

144/ UVC § 17-101(b) (Supp. 1976).

145/ See footnote 109, supra.

146/ See footnote 110, supra.

147/ See footnote 111, supra.

148/ The penalties described in the Tables, for Connecticut are for offenses which are not specifically designated as infractions, and for which no special penalty is specified. Conn. Gen. Stat. Ann. § 14-296 (Supp. 1978). Of the seven composite violations, only failure to stop for a stop sign and failure to stop for a school bus are in this category. Conn. Gen. Stat. Ann. §§ 14-279, -301 (1970, Supp. 1978). Failure to obey an officer is punishable by a fine of \$5 to \$25 for a first offense, or \$10 to \$50 for a subsequent offense. Conn. Gen. Stat. Ann. § 14-223 (1970). The other offenses in the composite are specifically designated as infractions. Conn. Gen. Stat. Ann. §§ 14-218a, -240, -251 (1970, Supp. 1978). The motor vehicle code does not specify the penalty for infractions.

149/ See footnote 112, supra.

150/ See footnote 113, supra.

151/ In Massachusetts, the offense of failure to obey an officer is punishable by a fine of not less than \$25 nor more than \$100. Mass. Ann. Laws ch. 90, § 25 (1975). Parking and pedestrian violations are subject to nominal fines under a procedure for non-

criminal disposition of these violations. See Mass. Ann. Laws ch. 90, §§ 18A, 20A, 20C (1975, Supp. 1977).

152/ See footnote 114, supra.

153/ See footnote 115, supra.

154/ See footnote 116, supra.

155/ See footnote 117, supra.

156/ Table nine shows the fine for a Class B traffic infraction, including following too closely, failing to stop at a stop sign, failing to stop for a school bus, and violating the basic speed rule. Ore. Rev. Stat. §§ 484.360, 487.225, .255, .445, .465 (1977). Failure to obey an officer, and failure of a pedestrian to yield are both Class C traffic infractions, for which the maximum fine is \$100. Ore. Rev. Stat. §§ 484.360, 487.100, .310 (1977). Illegal parking is a Class D infraction, for which the maximum fine is \$50. Ore. Rev. Stat. §§ 484.360, 487.580 (1977).

157/ See footnote 118, supra.

158/ UVC § 17-102 (Supp. 1976).

159/ Tate v. Short, 401 U.S. 395 (1971).

160/ Cal. Veh. Code § 42003 (Supp. 1978).

161/ Pa. Stat. Ann. tit. 75, § 6504 (Supp. 1977).

162/ UVC § 17-401(a) (Supp. 1976).

163/ Ala. Code tit. 36, § 53(1) (1959).

164/ Ariz. Rev. Stat. Ann. § 28-1055 (1976).

165/ Ark. Stat. Ann. § 75-663 (1957).

166/ Cal. Vehicle Code § 42200 (1972).

167/ Del. Code Ann. tit. 21, § 706.

168/ Fla. Stat. Ann. § 316.660 (Supp. 1977).

169/ Miss. Code Ann. § 63-9-13 (1972).

- 170/ Neb. Rev. Stat. § 39-6.117 (1974).
- 171/ N.J. Stat. Ann. § 39:5-41 (Supp. 1977).
- 172/ N.M. Stat. Ann. § 64-22-4.3 (1972).
- 173/ Id. § 64-22-16 (1972).
- 174/ N.Y. Veh. & Traf. Law § 1803 (Supp. 1977).
- 175/ Pa. Stat. Ann. tit. 75, § 6505 (Supp. 1977).
- 176/ R.I. Gen. Laws Ann. § 31-27-15 (1968).
- 177/ S.C. Code Ann. § 57-17-120 (1977).
- 178/ Tenn. Code Ann. § 59-1024 (1968).
- 179/ Tex. Rev. Civ. Stat. art. 670d, § 144 (1977).
- 180/ Va. Code Ann. § 46.1-18 (1974).
- 181/ Wash. Rev. Code Ann. §§ 46.68.050, 060 (1970).
- 182/ Id. § 46.61.515 (Supp. 1977).
- 183/ Wisc. Stat. Ann. § 345.55 (Supp. 1977).
- 184/ UVC § 11-902.2 (Supp. 1976) provides as follows:

(a) Before sentencing any person convicted for a first offense of violating § 11-902, the court may, and upon a second or subsequent conviction of such an offense committed within five years of a prior offense the court shall, conduct or order an appropriate examination or examinations to determine whether the person needs or would benefit from treatment for alcohol or drug abuse.

(b) After the examination, the court may impose penalties specified in this act or, upon a hearing and determination that the person is an habitual user of alcohol or drugs, the court may order supervised treatment on an outpatient basis, or upon additional determinations that the person

constitutes a danger to himself or others and that adequate treatment facilities are available, the court may order him committed for treatment at a facility or institution approved by the (State department of health).

(c) Any person subject to this section may be examined by a physician of his own choosing and the results of any such examination shall be considered by the court.

(d) No commitment or supervised treatment on an outpatient basis ordered under subsection (b) shall exceed one year. Upon motion duly made by the convicted person, an attorney, a relative or an attending physician, the court at any time after an order of commitment shall review said order. After determining the progress of treatment, the court may order its continuation or the court may order the person's release, supervised treatment on an outpatient basis, or it may impose penalties specified by this act giving credit for the time of commitment.

(e) Upon application by any person under an order of commitment or supervised treatment for a driver's license, the results of the examination referred to in subsection (a) and a report of the progress of the treatment ordered shall be forwarded by the applicant to the department for consideration by the medical advisory board (appointed under § 6-118).

(f) The department may after receiving the advice of the medical advisory board issue a license to such person with conditions and restrictions consistent with the person's rehabilitation and with protection of the public notwithstanding the provisions of § 6-208.

185/ Id.

186/ Id.

187/ Ariz. Rev. Stat. Ann. § 28-692.01(B) (1976).

188/ Ark. Stat. Ann. § 75-1029.4 (Supp. 1975).

189/ Cal. Veh. Code § 23102 (Supp. 1977).

190/ Id. § 23104 (Supp. 1977).
191/ Id. § 13201.5 (Supp. 1977).
192/ Colo. Rev. Stat. Ann. § 42-4-1202 (Supp. 1976).
193/ Fla. Stat. Ann. § 316.028 (1975).
194/ Id. § 322.28 (Supp. 1977).
195/ Iowa Code Ann. § 321.281 (Supp. 1977).
196/ Id. § 321.283 (Supp. 1977).
197/ Ky. Rev. Stat. Ann. § 189.520 (Supp. 1975).
198/ Me. Rev. Stat. Ann. tit. 29, § 1312 (Supp. 1976).
199/ Id.
200/ Mass. Ann. Laws ch. 90, § 24(D) (1975).
201/ Minn. Stat. Ann. § 169.121 (Supp. 1977).
202/ Id.
203/ Miss. Code Ann. § 63-11-32 (Supp. 1975).
204/ Neb. Rev. Stat. § 39-669-07 (1974).
205/ N.M. Stat. Ann. § 64-13-59(2) (Supp. 1975).
206/ N.Y. Veh. & Traf. Law § 521 (Supp. 1977).
207/ Ore. Rev. Stat. § 484.360 (1975).
208/ Pa. Stat. Ann. tit. 75, § 1548 (1977).
209/ R.I. Gen. Laws Ann. § 31-27-2(c) (Supp. 1977).
210/ S.C. Code Ann. § 56-11320 (1976).
211/ Tenn. Code Ann. § 59-713 (Supp. 1976).
212/ Utah Code Ann. § 41-2-18 (Supp. 1977).

213/ Vt. Stat. Ann. tit. 23, § 1207 (Supp. 1977).
214/ Id. § 1208 (Supp. 1977).
215/ Va. Code Ann. § 18.2-271.1(a) (Supp. 1977).
216/ Id. § 18.2-271.1(b) (Supp. 1977).
217/ Wash. Rev. Code Ann. § 46.61.515(1) (Supp. 1976).
218/ W. Va. Code Ann. § 17C-5-2 (Supp. 1977).
219/ Wis. Stat. Ann. § 343.30(1z) (Supp. 1977).
220/ UVC § 17-103(a)(1) (Supp. 1976).
221/ UVC § 17-103(a)(2) (Supp. 1976).
222/ UVC § 17-103(a)(3) (Supp. 1976).
223/ UVC § 17-103(c) (Supp. 1976).
224/ Footnote 1, UVC § 17-103(c) (Supp. 1976).
225/ Ore. Rev. Stat. § 484.415 (1975).
226/ Tex. Rev. Civ. Stat. art. 6701d, § 143A (Supp. 1977).
227/ Ark. Stat. Ann. § 75-1038 (Supp. 1975).
228/ Ga. Code Ann. § 27-2506 (Supp. 1976).
229/ N.D. Cent. Code § 39-08-01 (1975).
230/ Ga. Code Ann. § 27-2506 (Supp. 1976).
231/ Ind. Ann. Stat. § 9-4-1-127 (1973).
232/ Ark. Stat. Ann. § 75.1038 (Supp. 1975).

END