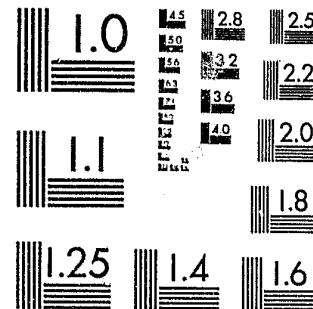


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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

10/2/85

Message to the 106th South Carolina General Assembly

Providing for the Public Safety—
Our Challenge for the Future

U.S. Department of Justice
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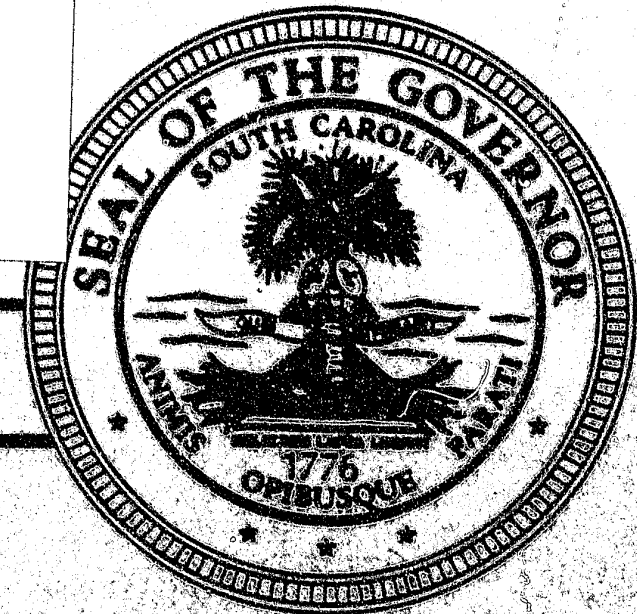
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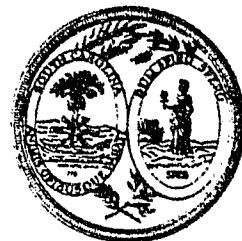
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97843



Richard W. Riley, Governor



97843

State of South Carolina

Office of the Governor

RICHARD W. RILEY
GOVERNOR

POST OFFICE BOX 11450
COLUMBIA 29211

January 31, 1985

Dear Mr. President and Members of the Senate:
Dear Speaker Schwartz and Members of the House of Representatives:

The protection of its citizens is the first duty of government. To carry out this grave responsibility, we must confront several major and difficult issues and deal with them in an accountable way.

Because they are of such critical importance and must be considered from an economic as well as a systems perspective, I will address prison overcrowding, sentencing reform and corrections alternatives in a separate message, referring to you within the near future specific major legislative recommendations dealing with these very difficult issues.

There are other public safety issues, however, which daily touch our lives and which are equally deserving of our concern. We must insure that we are sensitive to those who need our help most desperately -- victims of crime, of disasters, of the drinking driver. Our missing children and other citizens must be found and returned to their homes and families. Our abused children must be given protection and help, easing their trauma to the fullest extent that we are able when they are required to give court testimony concerning their abuse. Because I know the social, human, and economic impact of traffic accidents and fatalities, we must adopt measures which would raise the drinking age to 21 and require the use of safety belts in vehicles on South Carolina's streets and highways. I am convinced that safety belts save lives, and I urge the passage of mandatory safety belt legislation.

I know that you are as concerned as I am about these and other issues in this message and that you will view my recommendations with the same degree of commitment. We are all accountable to the public and our actions in dealing with these problems in a positive way will mold public respect for the system. That, in the end, must be our guidepost.

Respectfully,

Richard W. Riley
Richard W. Riley

RWR:bj

Attachments

1985 PUBLIC SAFETY LEGISLATIVE PROPOSALS

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MAY 8 1985

ACQUISITIONS

1985 PUBLIC SAFETY LEGISLATIVE PROPOSALS

VICTIMS ISSUES

Victim Assistance Funding

In many states, legislators have recognized the need to supplement funding of local programs that provide services to crime victims. Twenty-one states have created a new source of funding through the enactment of a statutory surcharge on marriage licenses. Such a surcharge would create a permanent source of state funds for victims of domestic violence, sexual assault and other victims' programs without drawing on existing state revenues, and would establish a funding base for the development of new local programs. This action would indicate the state's willingness to share the responsibility of financing services to victims and the money generated could also be used to match federal funds. This concept was studied and recommended by the Governor's Committee on Criminal Justice, Crime and Delinquency.

I, therefore, recommend that the statutory marriage license fee be increased from one dollar to six dollars, with the additional five dollar revenue going directly into a special fund which would supplement the new federal victims' assistance monies to be administered by the Division of Public Safety Programs in my office. Based on 1983 statistics, this surcharge would produce approximately \$270,000 annually to fund local victim assistance programs.

Missing Children/Missing Persons

According to SLED, there were 1,447 missing persons reported to the authorities in South Carolina in 1983, as well as 2,836 runaway juveniles, 74 stranger kidnappings, and 71 intra-family abductions. The number of persons who disappear each year is a growing concern to the public and law enforcement officials. During his address before the legislature last year, many of you heard John Walsh tell us of the frustration and emotional anguish which he and his wife suffered over the kidnapping and murder of his six-year-old son. Although the disappearance of any family member is an extremely traumatic experience, it is especially heartrending when the victim is a child. The criminal justice system frequently fails our citizens, as it failed the Walsh family, in the investigation of missing persons. One of the primary hindrances is the lack of resources to share information among law enforcement agencies, and the low priority often given most follow-up investigations of missing persons.

As a means of improving communications and consequently increasing the number of found persons, I am supporting legislation to establish a statewide Missing Persons Information Center. The Center will serve as the central repository for information on missing persons. It will utilize the FBI's National Crime Information Center's computerized files on missing persons through the use of

SLED's communications network. It will prepare and distribute monthly bulletins on missing persons, both within South Carolina and to law enforcement agencies outside the state, and it will provide timely information to the news media to help locate missing persons. The activities of the Center will include the coordination of information between law enforcement agencies, other agencies, courts, and solicitors. In addition, it will operate a 24-hour public "hot line" to report the disappearance or sighting of a missing person.

In a related matter, I am recommending that the Department of Highways and Public Transportation be authorized to record children's fingerprints on their identification cards at the request of their parents. The Highway Department already has the authority to issue an identification card with a color picture. The addition of fingerprints could help provide critical identification, if and when necessary.

LAW ENFORCEMENT ISSUES

In order to more effectively combat crime in South Carolina, it is essential that each of the major components of the system -- law enforcement, courts, corrections, and parole -- are as strong as we can make them. One of government's fundamental roles must be to provide a criminal justice system that protects the public safety without bankrupting the public purse. I intend to submit a separate message in the near future which will address needed reforms in sentencing and corrections policy in a broad and comprehensive manner.

But we must also deal with the front-end of the criminal justice system -- enforcement. We must equip our law enforcement agencies with modern facilities to insure prompt detection and sure conviction. Tough talk about crime is hollow unless we have law enforcement that can fight crime on even terms.

Below are several recommendations I believe will greatly assist law enforcement officers as they fight crime in our communities.

Coroners

In order to more effectively support law enforcement, our coroner system needs support for critical improvements in the system. No laws require training and no guidelines exist on when to investigate a death, or on how to conduct autopsies and hold inquests. Presently, all but 7 of the state's 46 coroners hold other jobs. For the most part being medically untrained themselves, coroners need access to consulting services of medically trained professionals, but, in many cases, they lack the funds to pay for such services. Because of these deficiencies, homicides in South Carolina may go

undetected. The Governor's Committee on Criminal Justice, Crime and Delinquency reviewed this issue, and a special subcommittee was appointed to hear testimony from several of the state's coroners, medical examiners and others. They cited several examples of "subtle homicides" which slipped through the fingers of untrained coroners. In one South Carolina county, the then-coroner ruled that a man died of a heart attack. Several years later, an autopsy found that the man had been poisoned. I support legislation developed by the Governor's Committee to comprehensively reform the coroner system.

The establishment of a forensic death investigation center in the State Law Enforcement Division, with guidance from an advisory committee composed of medical personnel, constitutionally-elected coroners and others, is the primary component of the bill. The center's purpose would be to support and assist in the death investigations requested by the coroners and to serve as a central repository for collection, coordination, reconciliation and dissemination of death-related data. I ask that the General Assembly consider funding for this proposal as a priority in the General Appropriations Bill.

SLED Laboratory Improvements

While judicial reform has resulted in many improvements for the judicial system, the increased case load and, specifically, the 180-day rule has resulted in an unmanageable burden for SLED in performing the requisite technical work for evidence. SLED performs 95% of the technical work in the state in a lab that is seriously inadequate in terms of equipment and manpower. SLED estimates that it is currently 200-300 days behind in their lab work. Much of the lab equipment is outmoded and needs replacing and additional criminalists are needed to do the lab work and provide court testimony. I support the allocation of additional funds to upgrade SLED's criminalistic capacity so they can possess the necessary tools to fight modern-day criminals with the most current technology.

Handgun Waiting Period

Citizens in South Carolina are becoming less and less tolerant of crime committed with handguns and many have recognized the danger immediate access to pistols poses to us all. I support legislation to require a seven-day waiting period between the purchase and delivery of a handgun. This "cooling-off" period will provide time for reflection and an opportunity for hot tempers to abate.

This legislation can also do much to keep handguns sold by legitimate dealers out of the hands of convicted criminals. An important provision of this legislative amendment requires the prompt notification of the State Law Enforcement Division of a person's intent to purchase a weapon. During this seven-day period, SLED can check for a criminal record and, if appropriate, the transaction can be halted before the individual takes possession of the weapon.

Nothing in this legislation interferes with a citizen's ability to purchase or own handguns. It simply requires a seven-day waiting period between the date of purchase and date of delivery. Surely it is good public policy to require a brief "cooling-off" period and to allow law enforcement authorities to weed out dangerous persons from among the purchasers.

Drug Forfeiture Amendments

Last year, the General Assembly passed legislation expanding existing laws covering the confiscation of vehicles and equipment used to transport large amounts of drugs, so that anything of value connected with or traceable to a drug deal is subject to seizure. Law enforcement authorities are now able to seize not only cars, boats and aircraft but real and personal property of drug traffickers, as well as cash and bank accounts. In addition, drug financiers may be attacked through the forfeiture of any monies or negotiable instruments that were intended to be used in a drug transaction.

In order to clarify the division of proceeds realized through the disruption of drug trafficking operations, and to ensure fair distribution among state and local agencies, the Governor's Committee on Criminal Justice, Crime and Delinquency recommends amending the legislation to assure that the seizing law enforcement agency receive one quarter of all proceeds from each operation for use in furthering drug law enforcement. Additionally, I recommend that the Department of Corrections receive a full 25% of the proceeds for drug rehabilitation programs. The remaining funds can be applied for by other state agencies for drug-related programs.

These amendments will further enhance our efforts to cripple drug traffickers. Through the fair distribution of these forfeited proceeds, we can turn the drug traffickers' own resources against them and help undo some of the damage they have done.

Reduction on Homeowner's Insurance Premium

Community crime prevention programs throughout South Carolina have been highly effective in the reduction of crime. To encourage continuing citizen participation in such efforts, I recommend that a homeowner be entitled to an insurance premium reduction when certain home security measures are employed. A trained crime prevention officer or volunteer, through inspection, would verify the homeowner's compliance with certain specifications regarding dead bolt locks, window pins and other home security measures, and would certify qualification for the premium reduction. This proposition will encourage competition among insurance companies, which will hopefully lead to lower insurance premiums for qualified South Carolina homeowners.

JUDICIAL ISSUES

Uniform Magistrates Pay

In 1981, our Supreme Court held that the statutes governing the compensation of magistrates were unconstitutional and invalid. The Court indicated that the General Assembly should remedy the problem by establishing a uniform salary system. Since then, legislation addressing this judicial mandate has failed to pass, but this year a carefully constructed bill will be filed and should attract wide support. The bill should satisfy the Courts' objections to the present system and, at the same time, strengthen our magistrate courts by creating a fair and uniform compensation system.

The Governor's Committee on Criminal Justice, Crime and Delinquency has studied, and with certain minor amendments, endorsed the legislation put forth by the S. C. Magistrates' Association. It will sensibly structure magistrate's salaries and eventually fund part of the operating costs of magistrate's courts, but will leave magistrate qualification and appointment practices unchanged. I believe that it will treat both large and small counties fairly, while reducing some of the costs to county budgets. New funds for the operations of the courts will come from cost-of-court fees assessed to violators, not to the law-abiding public. This assessment will total \$12 per conviction and will be put in a special state fund. Full implementation of the funding system will occur gradually, to allow for a build-up of fees. This will assure there will be continued funding for magistrates operations from fees and not general revenues.

This legislation must be addressed this year, not only because the Supreme Court has mandated that the compensation system be changed, but because it can serve to upgrade the system as a whole. With more equitable pay scales, the magistrate system will attract and retain highly qualified people. The end result will be a marked improvement in the quality of justice in the lower courts.

Indigent Defense Fees

As a means of increasing revenues for the public defender corporations, I am supporting the revision of the law to allow fees assessed by the court for the defense of indigent defendants to go to the local public defender's office. At the present time, when an indigent client is ordered to pay some portion of his legal fees, the money is deposited in the state general fund, a requirement that discourages courts from assessing the payment of some portion of the legal fees. During 1983-84, the court-ordered payment of legal fees by indigent defendants amounted to only \$70,695. The proposed legislation, as studied and approved by the Governor's Committee on Criminal Justice, Crime and Delinquency, would amend current law so that the court-ordered fees for legal services would go to the local public defender corporation, or in the absence of such a corporation, to the State Judicial Department.

Jury Pools

Presently, voter registration lists are the sole source of names used for the selection of prospective jurors, as required by both the South Carolina Code of Laws and our State Constitution. Historically, this source of selecting a jury pool has been favored as providing an adequate cross-section of the population, composed of persons who have demonstrated a measure of civic responsibility by participating in the election process. However, only about 70% of the state's citizens choose to register; many of those who do not are avoiding jury duty.

I support legislation to draw jury lists from licensed drivers rather than from voter registration rolls. This action will significantly increase the number of citizens who can be called for jury duty and thereby spread the burden of this civic responsibility among a larger group. Not only will citizens be called less frequently for jury duty, but unregistered voters no longer will have any deterrent to participating in the democratic process.

The use of drivers' license lists will also result in juries that better reflect the communities from which they were drawn. Ultimately, jury pools will be more representative of the population at large.

This legislation also provides for the participation of persons who do not hold South Carolina drivers' licenses, but who are otherwise qualified. Handicapped persons unable to drive and people who have temporarily lost their license through minor driving infractions would not be denied the opportunity to be participants in our judicial system.

ISSUES AFFECTING CHILDREN

Videotaped Testimony in Child Abuse Cases

Because appearing in court as a witness has a further deleterious and, frequently, a traumatic effect on children who have been physically or sexually abused, I endorse legislation to require that videotaped testimony be provided for such children under the age of twelve. Current legislation allows such testimony at the discretion of the judge. Legislation will be proposed that will require videotaped testimony of such children instead of in-court testimony, with the provision that the requirement can be waived by the judge if adequate justification is presented after consulting with the parents and/or the guardian ad litem, as appropriate. This issue has been endorsed by the Children's Coordinating Cabinet.

Criminal Sexual Conduct with Minors

The elimination last year of specific age differences between the victim and the offender in cases of criminal sexual conduct with minors has created some unanticipated problems. The original intent of the law, which was to protect children from sexual exploitation from older juveniles, has been lost and the current law seems to make normal, consensual prepubertal sexual exploration a serious law violation. I endorse amendments that would clarify the intent of the law; establish as a prerequisite for a criminal sexual conduct violation specific age differences between minors based on the age of the victim; and increase the penalty if the offender is in a supervisory or custodial role. These amendments were all recommended by the Governor's Committee on Criminal Justice, Crime and Delinquency.

HIGHWAY SAFETY ISSUES

Mopeds

While mopeds offer an attractive and economical means of transportation, they provide their riders with little protection from serious injury in the event of an accident.

Reported moped accidents in South Carolina in 1983 totaled 206, with seven moped fatalities. Our 1982 moped accident and fatality rate was one of the highest in the nation, with 255 accidents and 10 fatalities. A breakdown of accidents by age for 1982, 1983 and 1984 indicates that moped riders age 15 and under account for almost double the number of accidents of moped riders age 16-21 for the same time period. Riders age 15 and under account for more accidents than riders age 22 and over. At present, the minimum age to operate a moped in South Carolina is 12 years of age. Based on the seriousness of the problem, I am recommending that legislation be considered to address various moped safety issues and to increase the minimum operator age for mopeds from 12 to 14. I am recommending the increased minimum age to enhance the probability that moped operators will have the necessary maturity to safely operate a moped in traffic. Recommended safety standards include requiring use of lights while the vehicle is in operation; setting a maximum speed for mopeds at 25 mph; requiring that vehicles have 1½ horsepower and/or not more than a 50 cubic centimeter engine; requiring that the vehicle be equipped with operable pedals, at least one rearview mirror, and operable running lights; and requiring that brake lights be operable when either brake is deployed. In addition, I support establishing a minimum fine for dealers/salesmen who do not follow age and safety guidelines and a fine for manufacturers who misinform dealers concerning a vehicle's specifications. Such fines would serve as deterrents to insure that guidelines and requirements are observed.

I strongly believe that the above provisions will help to eliminate confusion among dealers, consumers, and law enforcement officers regarding moped

operation in South Carolina, as well as to reduce the number of accidents and fatalities involving our children.

Safety Belts

In 1983, 845 South Carolinians were killed in traffic accidents. Although safety belt usage was not reported for each of these accidents, data from a majority indicated that 29 victims were wearing their seat belts at the time of the accidents; however, 510 persons were unrestrained. These numbers speak for themselves, graphically illustrating the risks one takes when not wearing a safety belt.

While the toll in personal tragedy is high, traffic accidents also have a negative economic impact on us all. Highway accidents cost our state more than \$440 million in 1983. This figure does not begin to cover such indirect costs as increased life insurance premiums, higher medical costs, and the tremendous financial and emotional burdens that families experience. The potential cost savings to South Carolina from the use of safety belts is approximately \$84 million annually, a savings which cannot be ignored.

In the midst of these gloomy accident statistics, there is some good news. The good news is that safety belts can save lives. Projections indicate fatalities could be reduced up to 75%, and injuries by over 50% if safety belts were used consistently. However, national surveys show that only 14% of Americans use safety belts. As Governor, I am particularly concerned that in South Carolina, the average usage is even lower, with the South Carolina Department of Motor Vehicles reporting 7% usage in 1982 and 11.88% usage in 1983.

Because of the tremendous lifesaving potential of seat belt usage and to reduce the negative economic impact of accidents on the state and its citizens, I am asking the General Assembly to pass mandatory safety belt legislation during the 1985 session. I strongly support mandatory belt usage and believe that South Carolina should assume a leadership role on the issue of required belt use. I would recommend that such legislation include the following provisions:

- That the driver and all passengers (front and rear seats) of a motor vehicle operated on the streets, roads, and highways in this state be required to wear a properly adjusted and fastened safety belt, except that a child less than 4 years of age shall be protected as required in Section 56-6-6410, Article 47, of the S. C. Code of Laws.

Exemptions: That exemptions from this ruling shall include:

- passengers of public transportation vehicles;
- school bus passengers;

- . motorcycle operators;
- . occupants of vehicles manufactured prior to model year 1968;
- . a driver or passenger who possesses written verification from a physician that such person is unable for medical or physical reasons, to wear a safety belt; and
- . a driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour.

Penalties: A violator of this requirement shall be guilty of a misdemeanor, and shall be punished by a fine of \$25. Each violation shall constitute a separate offense. Enforcement of this Act by state or local police shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for suspected violation of another offense. No custodial arrests shall be made for the violation of this requirement.

Other Key Points:

- . That failure to comply with this Act shall be admissible to mitigate damages with respect to any person who is involved in a motor vehicle accident while violating the requirements of any of these sections and who seeks in any subsequent litigation to recover damages for injuries resulting from the accident.
- . That the law shall become effective July 1, 1985, allowing for a six-month grace period for education and information for the general public, with citations for violation being issued beginning January 1, 1986.

The Governor's Office of Highway Safety shall initiate an educational program designed to encourage compliance with safety belt and safety seat usage laws. This program will focus on the effectiveness of restraint devices, the monetary savings and other benefits to the public, and the requirements and penalties specified in this law.

Nationally, the importance of safety belt usage has been recognized. New York, New Jersey, and Illinois have adopted safety belt usage laws. The Department of Transportation issued a ruling on July 11, 1984, requiring automobile manufacturers to install automatic restraints in all automobiles by 1989. A caveat to this ruling eliminates the requirement if states totalling two-thirds of the nation's population pass safety belt legislation by this deadline. As public servants, we cannot overlook an issue which can have such

tremendous impact on the quality of life of the people of South Carolina, which can mean the difference in life or death for our own loved ones, friends, and others. Study of such an issue will serve to illustrate our sincere concern for the citizens of this state.

DUI ISSUES

During the 1983 and 1984 session of the General Assembly, South Carolina made significant strides toward the development of a comprehensive set of sanctions, penalties, and other related measures to reduce the incidence of alcohol-related accidents and fatalities. As important as these measures were, your committed action is needed to further strengthen our DUI laws. During the brief time in which you read this message today, one person will die and 167 people will be injured in alcohol-related crashes across the nation. In 1983, 395 South Carolinians lost their lives in alcohol-related crashes. Because of the severity of the problem, I would like to discuss with you today three proposals which will reduce the economic and human losses resulting from alcohol-related traffic accidents.

Raising the Age for Purchase of Beer and Wine

In 1983, in South Carolina, drivers under the age of 21 represented 8.9% of all drivers yet they were involved in 18.4% of the alcohol related accidents and 35% of all accidents. Last year the General Assembly took action to decrease this over-involvement by raising the age for sale, purchase, or possession of beer and wine from 18 to age 19. The legal age was raised to 20 effective January 1, 1985.

Involvement of twenty (20)-year olds in alcohol-related crashes remains over-represented in comparison to the total driving population. I strongly believe that raising the age to 21 can further reduce the involvement of young drivers in alcohol-related accidents. Most studies show that such a measure can also retard the "funnel-down" effect of 15 to 17-year-olds' accident involvement. In 1983, 431 South Carolina drivers aged 17 and under were arrested for driving under the influence.

Nationally, twenty-three states have established 21 years of age for all alcoholic beverages. The need to raise the drinking age has been increasingly recognized by state legislatures and opponents of drunk driving across the nation, including such groups as the Presidential Commission on Drunk Driving, the National Transportation Safety Board, the American Medical Association, the National Council on Alcoholism and the Wine Institute. Additionally, the United States Congress has passed legislation requiring a national drinking age of 21 by October 1, 1986. States that do not comply will lose 5% of their highway construction funds (\$7,616,000 loss for South Carolina) for their first year of non-compliance and 10% for the second year (\$15,233,000); this

would represent a total loss of approximately \$22.8 million for two years for South Carolina.

While I realize that raising the drinking age to 21 will not totally eradicate the involvement of young people in alcohol-related accidents, I strongly believe, based on the existing experiences of other states, that an increase in the legal purchase age for beer and wine, along with other comprehensive programming in prevention, education, and intervention, will significantly reduce the number of alcohol-related crashes and save the lives of young people in South Carolina. We are currently in the process of evaluating the impact of our law which raised the age to 19 and 20 in South Carolina. States which have raised the age for sale or purchase of alcoholic beverages have experienced an average 28% reduction in nighttime fatal crashes in the age group affected. Because of the potential this measure has to save lives, I encourage your support of this proposal.

Establishing Unlawful Blood Alcohol Content (BAC) Level

I endorse the establishment of a blood-alcohol content (BAC) of .10% as the unlawful impairment level for the operation of a motor vehicle. A BAC of .10% is not an arbitrary level; most drivers, especially young ones, demonstrate impairment at lower levels. Scientific evidence indicates that all drivers, regardless of drinking experience or tolerance levels, show specific signs of impairment at the .10% level, and that the probability of accident/collision increases in direct proportion to the BAC level. Fifty-three (53%) percent of drivers involved in fatal accidents in South Carolina in 1983 had a blood-alcohol content of .10% or greater and 10% of the drivers had a BAC of less than .10%. Only 37% had no alcohol involvement.

A total of 42 states have already passed legislation providing for a specific level of impairment for driving under the influence of alcohol. Such legislation has both legal and scientific precedent. In addition to complementing South Carolina's existing DUI-related laws, passage of unlawful BAC legislation would enable South Carolina to apply for federal alcohol incentive funds totalling approximately \$650,000 per year over the next two years, for a total of \$1.3 million dollars. Also, by establishing an unlawful level for driver impairment, a more consistent system of sanctions and penalties for driving under the influence would be developed. Such legislation would not only provide clear penalties for offenders, but would also discourage the general driving public from driving under the influence.

Strengthened Implied Consent

Based on the final recommendations of my four Regional Task Forces on Drinking and Driving and the endorsement of their findings by my Committee on Highway Safety, I am recommending to you additional measures to strengthen South Carolina's Implied Consent Law. Such legislation would provide immediate and certain penalties without the disadvantage and expense of overcrowding the

correctional system. Other states have had success with driver's license sanctions in reducing alcohol-related crashes. Suspension or revocation of a driver's license is an effective deterrent to driving under the influence and one of the strongest weapons in the fight against DUI. Studies in California and Washington have shown that license suspension was more effective than assignment of violators to alcohol education and/or treatment programs. If suspensions are imposed consistently and are highly publicized, the sanction can play an important role in reducing driving under the influence. Minnesota passed strengthened Implied Consent legislation in 1976, and has since had a marked decline in traffic fatalities. Nationally and in South Carolina, traffic accident rates have increased in the last 2 years; however, Minnesota is one of the few states to show a consistent decrease in the vehicle mileage death rate. The findings in Minnesota indicate that administrative sanctions have a great potential for preventing alcohol-related accidents and fatalities.

The Strengthened Implied Consent law in South Carolina should include a provision allowing law enforcement officers with probable cause to suspect a driver of DUI to use a preliminary breath test device which provides a pre-arrest, non-evidentiary breath test as an additional tool, along with other field tests, in making the decision whether or not to arrest the driver. Such a provision would avoid unreasonable detention of drivers who are not under the influence and would improve the quality of arrests, saving the state both time and money.

There should be a provision in the law extending the definition of Implied Consent to include tests of breath and urine or blood to determine the presence of other drugs. Allowing for the administration of more than one test, including breathalyzer and urine or blood, would provide a more accurate assessment of the alcohol and other drug content in the body of the defendant. Currently, in cases where the arresting officer has probable cause to suspect impairment and the offender's breath test reveals little or no alcohol levels, the officer lacks evidence upon which to base a DUI charge. Although Section 56-5-2930 of the S. C. Code of Laws clearly spells out the offense of driving under the influence of "intoxicating liquor or drugs", the current statute does not provide a mechanism for the collection of evidence regarding drug use.

I would recommend that the breath test be offered first, and, at the discretion of the arresting officer, one other test may be offered. The defendant would be given a choice between a urine or a blood test if the officer determined that an additional test was necessary, and there should be a requirement that the second test be administered in a reasonable time period in order to preserve the evidence.

It is important that the law establish qualifications and standards for medical personnel taking additional samples; and grant immunity from civil and criminal liability for medical personnel who administer the tests unless gross

negligence exists. Refusal to consent to such tests under the recommended legislation would result in immediate surrender of the driver's license and a 120-day administrative suspension, a sanction which is independent of a license suspension resulting from a DUI conviction.

A person arrested under this law for driving under the influence who registers a blood-alcohol content of .10% or greater must immediately surrender his driver's license and would incur a sixty-day administrative license suspension, a sanction which is independent of a license suspension resulting from a DUI conviction.

Through these and other legislative initiatives to strengthen DUI-related laws, you as legislators can make the difference in life and death, in injury or harm for all South Carolinians.

EMERGENCY MANAGEMENT ISSUES

Individual and Family Grant Program

The tornadoes that swept across South Carolina last spring, destroying lives and leaving many homeless, resulted in the state's first presidentially-declared disaster. In such a situation our state must always be fully prepared to assist the victims in a timely, efficient and continuing manner.

The spontaneous outpouring of contributions of money, food, clothing and other necessities from businesses, private and church-related groups and individuals was most generous. The monies contributed allowed South Carolina to participate in the federal Individual and Family Grant Program by matching 25% of the federal contribution to the program. To date, 398 families have received \$768,981.52 in grants of up to \$5,000 per family, with an average of \$1,932.12 per individual or family. These grants were for serious disaster-caused needs unmet by any other available disaster assistance.

Private contributions were necessary for the state's participation in the Individual and Family Grant Program because of constitutional limitations of the pledging of state funds for individuals.

A constitutional amendment to overcome this impediment to our participating in the federal program after a major presidentially-declared disaster was approved by the citizens of South Carolina in the November 1984 General Election by a four-to-one margin. The General Assembly has approved and enrolled the Constitutional Amendment for ratification.

Enabling legislation is now needed to amend the emergency powers of the Governor, allowing for implementation of the Individual and Family Grant Program during a presidentially-declared disaster, and to provide for penalties for misuse of the program.

I also recommend that the General Assembly analyze the size of the current fund in light of last year's tornadoes to determine its adequacy.

END