

# DWI: Historical Perspective and Legislative Update

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# Substance Abuse is an issue in

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1. My immediate family, including me
2. My extended family, but not my immediate family
3. My circle of friends, but not my family
4. None of the above

# I believe that DWI is primarily a

1. Public health issue
2. Criminal issue  
caused by poor  
choices
3. Criminal issue  
caused by a disease

# I believe DWI punishment is

1. Too harsh
2. Not harsh enough
3. Just right

I believe that the most effective sanction for DWI offenders is

1. Jail
2. License revocation
3. Financial penalty
4. Treatment and education

# Most of the people I work with

1. Don't have a substance abuse problem
2. Are social consumers only
3. Abuse substances, but are not addicted
4. Are addicted

Illegal drug use contributes to more deaths each year  
than tobacco use

1. Yes
2. No

In fatal crashes in 2009, the age group with the highest percentage of drivers above .08 was.

1. 21-24
2. 25-34
3. 35-44



What percent of drivers with 0.15 or higher BAC who cause a fatal accident had a prior DWI conviction?

1. 9%
2. 23%
3. 47%
4. 62%

What percent of drivers with 0.08 or higher BAC who cause a fatal accident had a prior DWI conviction?

1. 2%
2. 8%
3. 27%
4. 43%

# Substances and Cars

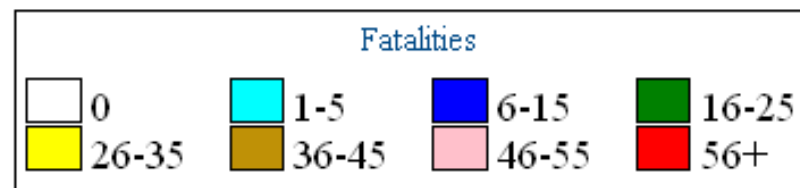
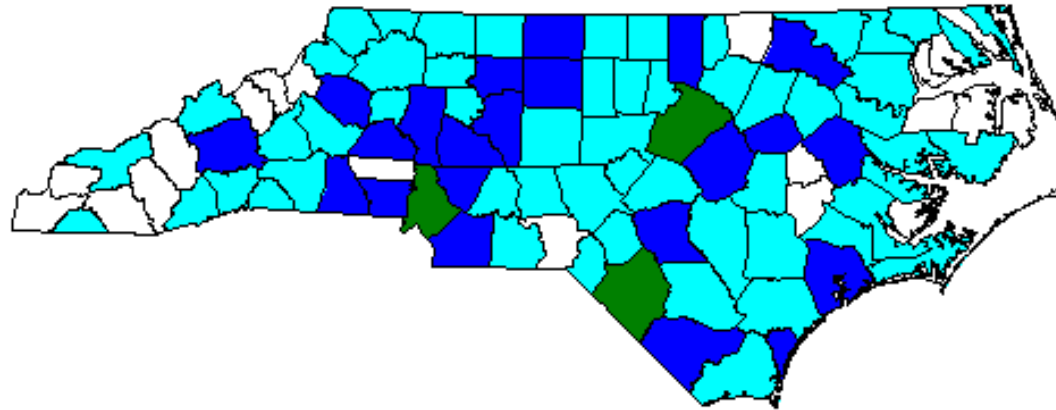
Alcohol-related motor vehicle crashes kill someone every **31** minutes and injure someone every **2** minutes.

**12% of all adults drive under the influence at least once a year**



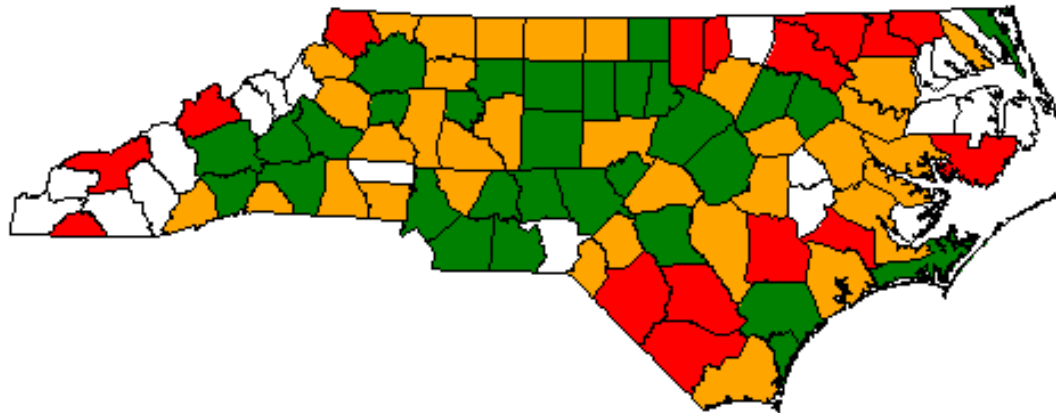
# Alcohol related crash fatalities, 2009

Fatalities in Crashes Involving an Alcohol-Impaired Driver (BAC = .08+)



# Fatality Rate, 2009

Fatalities in Crashes Involving an Alcohol-Impaired Driver (BAC = .08+) per 100,000 Population



Compare Individual County Rate to the Rates of all US Counties



0



Lower Third [Under 4.25]

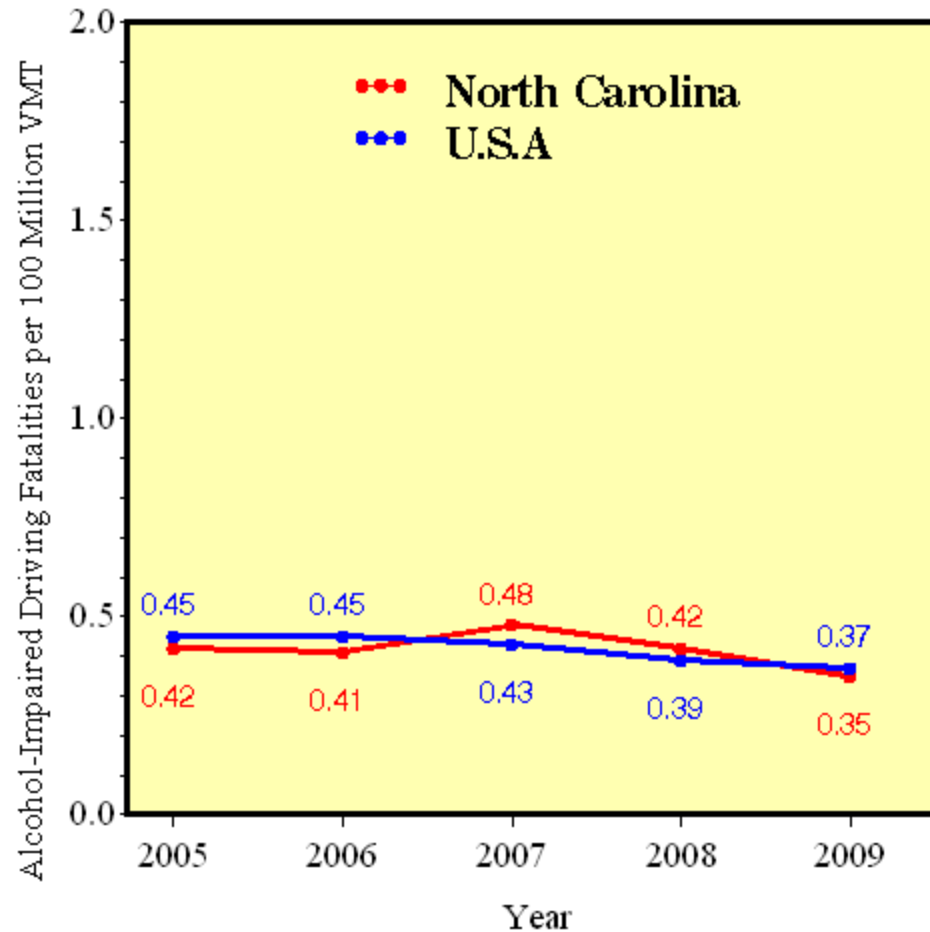


Middle Third [4.25-9.12]



Upper Third [9.12+]

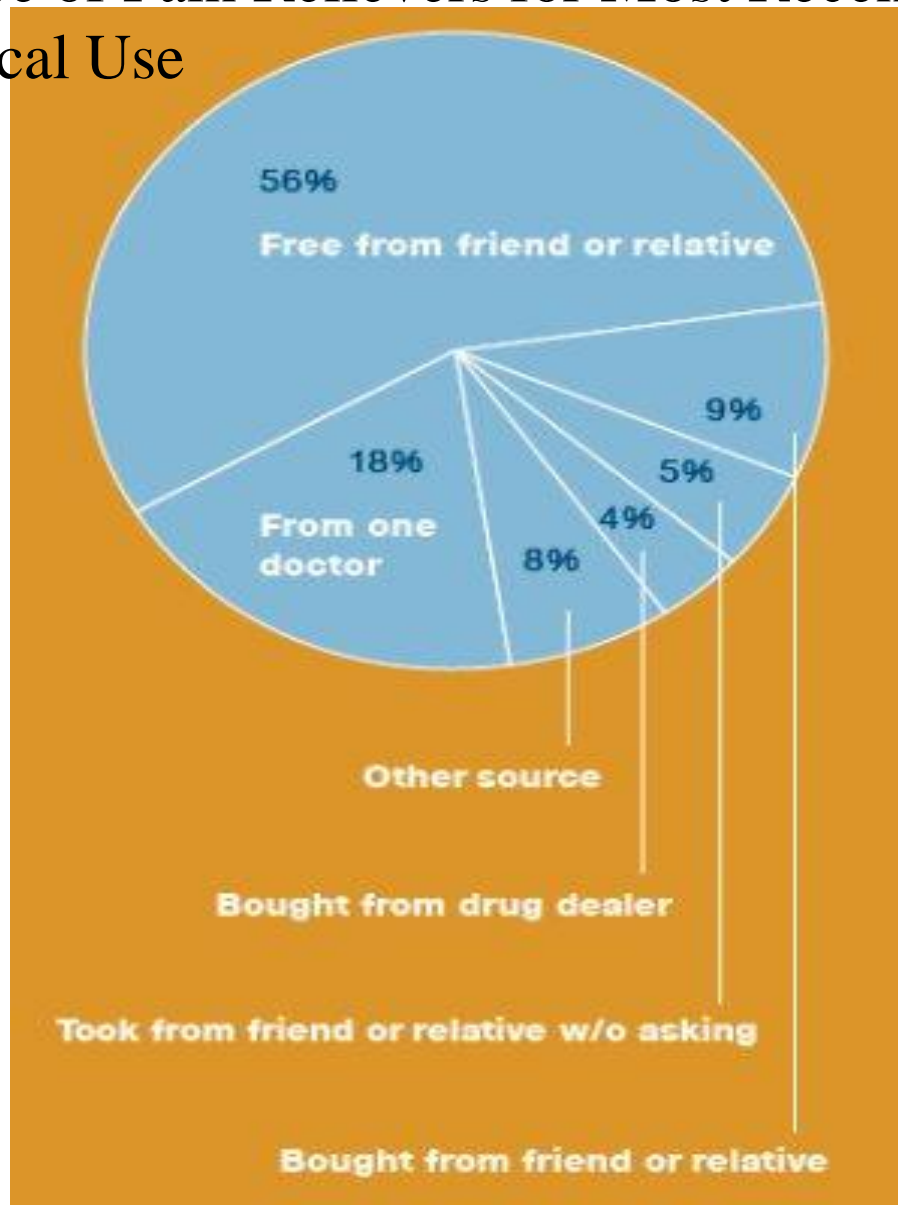
# Alcohol-Impaired Driving Fatalities per 100 Million VMT



# Alcohol-Impaired Driving Fatalities

Year		Total Fatalities in all Crashes	Alcohol-Impaired Driving Fatalities (BAC = .08+)		
			Number	Percent	Per 100 Million VMT
2005	North Carolina	1,547	429	28	0.42
	US	43,510	13,582	31	0.45
	Best State*			12	0.13
2006	North Carolina	1,554	421	27	0.41
	US	42,708	13,491	32	0.45
	Best State*			18	0.20
2007	North Carolina	1,676	497	30	0.48
	US	41,259	13,041	32	0.43
	Best State*			19	0.21
2008	North Carolina	1,428	423	30	0.42
	US	37,423	11,711	31	0.39
	Best State*			16	0.16
2009	North Carolina	1,314	363	28	0.35
	US	33,808	10,839	32	0.37
	Best State*			16	0.15

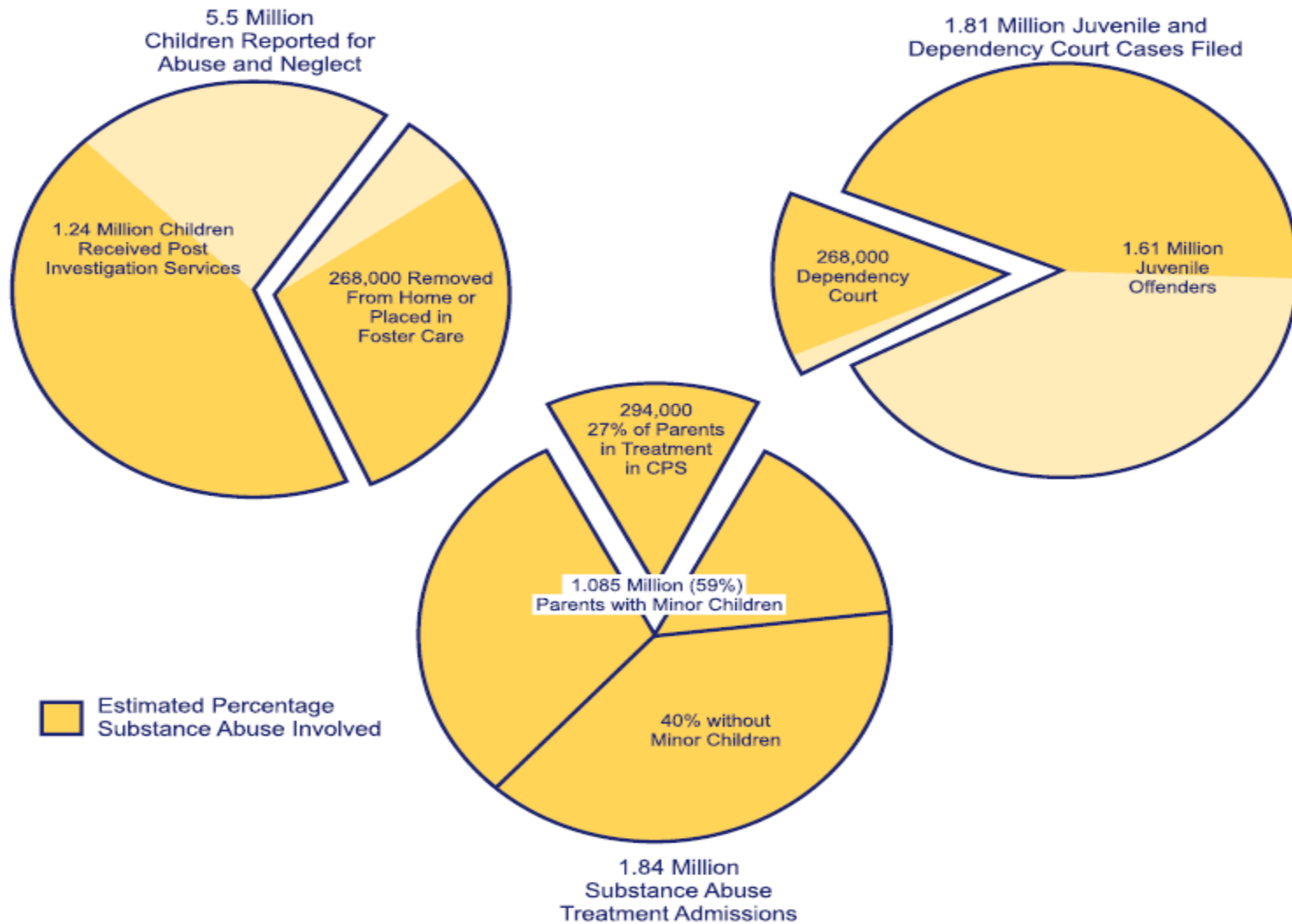
# Source of Pain Relievers for Most Recent Non Medical Use



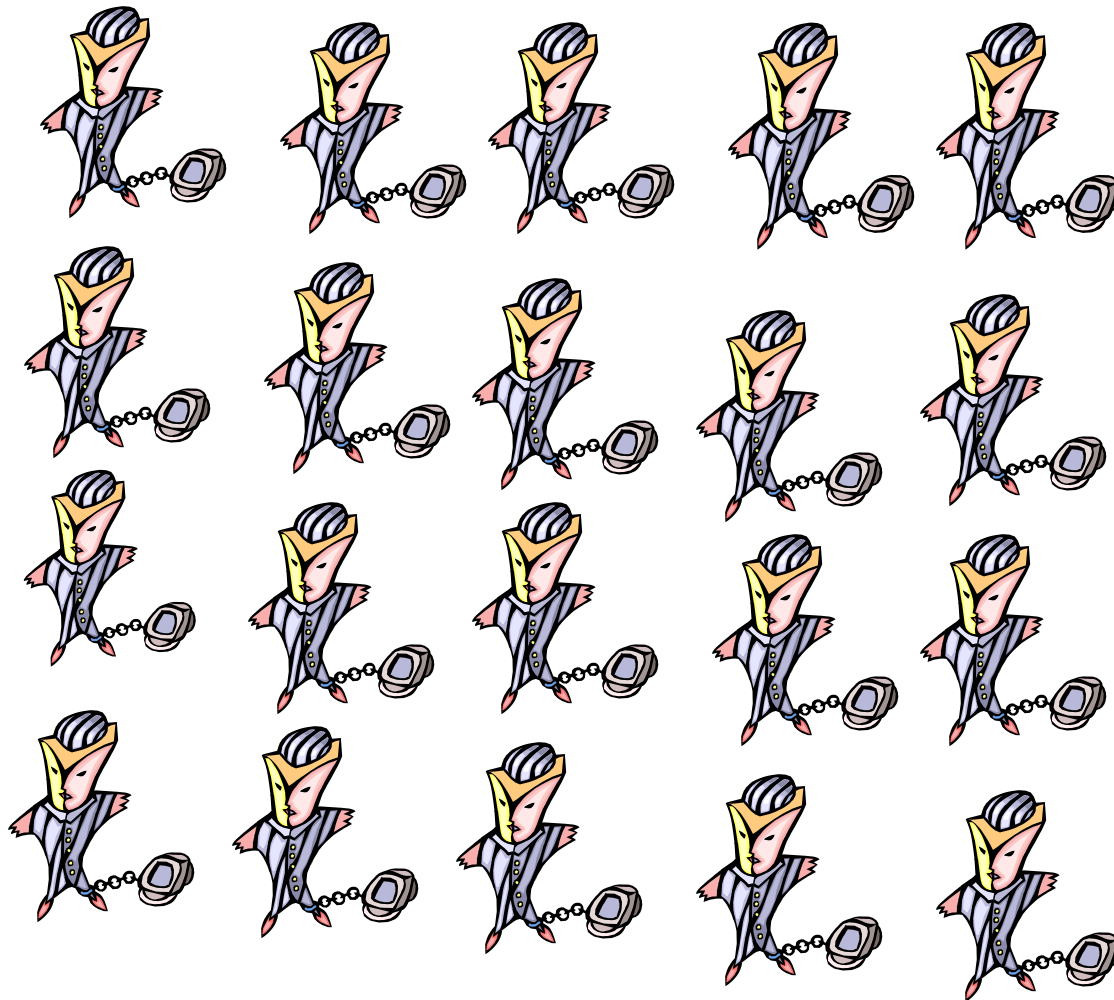
Source: SAMHSA, 2008 National Survey on Drug Use and Health (September 2009).



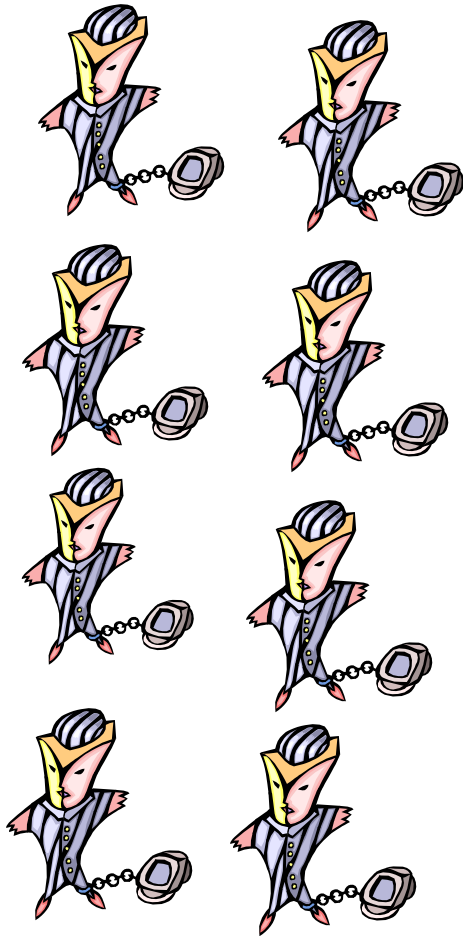
# Children and Parents in Three Systems



# If There Were No Substance Abuse



# We'd have this many prisoners



# Injury reduction

- Impaired driving efforts have to focus on several groups
  - Young people
  - Addicted drivers
  - Adult, non addicted drivers who drink or drug

# Systems Approach

- Have to focus on several areas
  - Deterrence
  - Detection
  - Apprehension
  - Prosecution
  - Punishment
  - Treatment/education
  - License issues

# Why Injury Prevention?

- To prevent deaths we have to reach
  - Young people coming on line as drivers
  - People who haven't been caught, but who have a problem
  - People who don't have a problem, but who take unnecessary risks
- Criminal justice system can't do it alone
- But criminal justice system can't be ignored

# What's the Answer?

- For those we catch, we have to be sure that treatment or education or license sanction or punishment is effective
- For those that we don't catch, we have to be sure that we get the message to them in a variety of ways

# DWI 1979-2008

- 1979--ADETS a condition of limited privilege in most cases; successful completion gives 6 mo. revocation reduction
- 1983--Safe Roads Act; major revision of all facets of impaired driving laws. Single offense, CVR, tighten limited privileges, mandatory assessments for some, zero per se for underage drivers, possible forfeiture of vehicle, drinking age to 19, no drinking beer while driving



# DWI 1979-2008

- 1983 Safe Roads Act
  - ADETS required unless already attended; fee shared with Comm. Service
  - Assessment/Treatment required if 0.20 or prior and over .10
  - ADETS not linked to limited privilege
  - Failure to complete--one year revocation

# DWI 1979-2008

- 1986--Drinking age raised to 21
  - Fee for ADETS raised to \$100 in all cases
- 1987--Rewrite of ADETS law to:
  - in 90 counties, lower threshold for assessment to 0.15 or refusal
  - in 10 counties, universal assessment on pilot basis
  - fee raised to \$50
  - No relicensing until complete treatment
  - Limits on length of treatment tied to AC
  - Jail Credit for inpatient treatment

# DWI 1979-2008

- 1988--DWI in Commercial Vehicle at 0.04
- 1989--extends pilot to all counties, and makes permanent
  - Amends it to allow person to appeal denial of completion certificate to court
  - Requires assessment for those on active sentence as condition of relicensing
  - Fees required to be paid before submitting completion certificate

# DWI 1979-2008

- 1990--Felony for habitual impaired driving; house arrest allowed as partial credit for mandatory jail time under regular DWI
- 1991--CVR fees raised to \$50; charging officer allowed to read rights to person taking chemical test for blood tests and automated breath tests

# DWI 1979-2008

- 1993--Per se level reduced to 0.08; other technical changes
- 1995-First report of DWI Task Force
  - Assessment required before Limited Privilege
  - Revocations do not end until education or treatment completed; not dependent on court's sentence
  - No transporting beer while or after drinking
  - Zero per se age raised to 21

# DWI 1979-2008

- 1997--Second report of Task Force
  - Vehicle Forfeiture for repeat offenders
  - Registration revocations
  - Active time for first offenders allowed; no parole till treated
  - Assessment must be included in probation (but does not affect revocation based on completion of treatment)
  - CVR up to 30 days, LDP allowed, indefinite in some cases
  - Chemical testing for drugs allowed
  - State pay for inpatient treatment for credit

# DWI 1979-2008

- 1998--Third report
  - Major revision of vehicle forfeiture laws
  - Zero tolerance for commercial vehicles, school buses and activity busses, child care vehicles
  - CVR applies to underage drinkers
  - Maximum fines for DWI doubled

# DWI—1979-2008

- 1999
  - Lower per se levels for repeat offenders; not a new DWI offense
  - Ignition interlock on LDP and as license restoration condition for repeaters and those over 0.16
  - No alcohol in commercial vehicles



# DWI 1979-2008

- 2000-Open container-beer and wine—passenger violations
- 2001-Clerks determine innocence of vehicle owners of seized vehicles
- 2003-Multiple substance abuse assessments
- 2005--ADETS fees, minimum hours, class size

# DWI 1979-2008

- 2006
  - Changes to Impaired Driving Offense
  - New and modified other offenses
  - Driver's License changes
  - Investigative, chemical analysis changes
  - Trial procedures
  - Sentencing changes
  - Record-keeping changes

# DWI 1979-2008

- 2007
  - Medical exception to interlock
  - High-risk (0.15) drivers
  - Sentencing loop changes
  - SCRAM
  - Fingerprints of impaired drivers
  - Miscellaneous license changes

S.L. 2011-119 (S 16)



# S.L. 2011-191 (H 49); S.L. 2011-329 (S 241)

## Effective 12/1/2011

- Aggravated Level One DWI
  - 3 or more grossly aggravating factors
  - No parole
  - Released four months before maximum period
    - Subject to post-release supervision
    - CAM for four months
  - If placed on probation
    - CAM required for at least 120 days
- Level One DWI sentence required if any of the following persons are in vehicle
  - Person under 18
  - Person with mental development of person under 18
  - Person with physical disability that prevents person from getting out of vehicle without assistant

Level	Factors	Minimum Sentence	Maximum Sentence	If Suspended, Special Probation Requiring:	Maximum F
1A	3 GAFs	12 months	36 months	Active term of at least 120 d + 120 days CAM	\$10,000
1	2 GAFs or 1 minor/disabled GAF	30 days	24 months	Active term of at least 30 d	\$4,000
2	1 GAF	7 days	12 months	Active term of at least 7 d	\$2,000
3	Agg. > Mitig.	72 hours	6 months	Active term of at least 72 hrs And/or at least 72 hrs CS	\$1,000
4	Agg= Mitig.	48 hours	120 days	48 hrs active and/or 48 hrs CS	\$500
5	Mitig. > Agg.	24 hours	60 days	24 hrs active and/or 24 hrs CS	\$200

# S.L. 2011-191 (H 49)

- CAM authorized as pretrial release condition
  - If D charged with impaired driving offense and has prior impaired driving conviction within 7 years
- \$100 court cost for convictions sentenced under G.S. 20-179

# What about Robert?

Drives while impaired on February 2, 2011

Convicted on August 2, 2011

Sentenced at Level 5

Alcohol Concentration of 0.15

## What are the consequences?

24 hours community service (or worse)

\$250 community service fee

\$190 court costs; up to \$200 fine

45 day delay before limited privilege (\$100)

Ignition interlock for limited privilege

Substance Abuse Assessment (\$100) & treatment

One year revocation

Upon restoration (\$100 fee) must have ignition interlock for a total of one year—can credit ignition interlock time from limited privilege

0.04 AC restriction for 3 years upon restoration





# What about Sue?

Drives while impaired on February 2, 2011.

Previously convicted (3/30/2005) of impaired driving.

Alcohol concentration is 0.10

## What are the consequences?

Level 2: At least 7 days in jail (\$40/day jail fee if split sentence)

\$190 court costs; fine up to \$2,000

No limited privilege

Substance abuse assessment and treatment

One year revocation

Upon restoration 0.00 AC restriction for three years

Ignition interlock for one year on all vehicles



# What about Lewis?

Drives while impaired on May 1, 2011

Two prior DWI convictions:

1. May 3, 2005--Offense date: 9/1/ 2004.
2. October 2, 2008—Offense date: 1/5/2008.

Subject to indefinite CVR

Alcohol Concentration is 0.16

## What are the consequences?

Level One; at least 30 days in jail; up to \$4,000 fine; \$190 court costs

Substance Abuse Assessment and Treatment

Permanent revocation

If license restored, ignition interlock required for 7 years

Upon restoration, 0.00 A/C restriction for 7 years



# What about Lisa?

Lisa is 18 years old.

Drives while impaired on December 2, 2011

Her boyfriend, Mark, who is 17, is in the vehicle

Alcohol Concentration of 0.08

Sentenced on March 30, 2012

## What are the consequences?

Level One: min. 30 days in jail; up to \$4,000 fine  
(if split sentence, \$1,200 in jail fees)

\$290 court costs (new \$100 fee)

Substance Abuse Assessment & ADETS

One year revocation

0.04 AC restriction for 3 years upon restoration



# What about George?

Drives while impaired on December 3, 2011

He refuses the breath test.

His ten-year-old granddaughter is in the car

He was previously convicted of impaired driving on January 2, 2005 for offense committed June 1, 2004.

He never paid the fee to end his CVR, though he obtained the assessment and completed ADETS

## **What are the consequences?**

Level A1 DWI; at least 120 days in jail and 120 days of CAM

(potential for \$4,800 in jail fees; approx. \$1,440 in CAM fees)

\$290 court costs

1 year revocation

0.04 A/C restriction

