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Drug and Alcohol Testing Association (DATIA) Public Policy Statement Regarding Drugged Drivers

Background

DATIA recognizes that drugged driving now poses a danger that is potentially eclipsing the better known problem of drunk driving. This is a significant public safety problem that needs to be addressed by promoting drug testing for drivers followed by sanctions defined by state law and appropriate follow-up treatment similar to that of drunk driving.

Consider the following; in a recent study of seriously injured drivers at the Maryland Shock Trauma Center, 51% of the sample tested positive for illegal drugs, compared to 34% who tested positive for alcohol.ⁱ A SAMHSA report states that nearly 11 million people drove under the influence of drugs during the preceding year.ⁱⁱ

In addition, NHTSA conducted a national roadside study in 2008 in an effort to determine both the extent of driving under the influence of drugs, as well as comparing blood and saliva samples taken from participants. Data is currently being analyzed, but preliminary reports indicate that 16.3% of nighttime weekend drivers were drug positive. The study included both prescription and illicit drugs.

In a roadside study of drivers in British Columbia, over 10% tested positive for drug use compared to only 8% who tested positive for alcohol.ⁱⁱⁱ While alcohol-impaired drivers tended to be younger in age, with more positive test results occurring during weekends and later nighttime hours, drug-impaired drivers were more evenly distributed across all age groups and survey times.

U.S. data from NIDA's longitudinal study *Monitoring the Future* showed that 30% of teens had driven impaired or had been a passenger of an impaired driver in the two weeks prior to being surveyed.^{iv} Data analysis showed that 13% of seniors said they drove after using marijuana while 10% said they drove after having five or more drinks in the prior two weeks.

Any detectable amount of a controlled substance in a driver's body fluids constitutes *per se* evidence of a violation or "drugged driving" unless the driver is under the care of a physician and has a current prescription. A medical professional should determine if the medication is being used at dosages prescribed and all precautions associated with prescription are being observed.

This has been the standard for commercial drivers in the U.S. since 1988. It is the standard widely used in the developed world outside the U.S., including western European nations, Canada, Australia and New Zealand.

The benefit of a *per se* standard is that prosecutors do not have to meet more complex standards of guilt or impairment. In addition, with the *per se* standard drivers know that they must abstain from drug abuse before getting behind the wheel of a car or face the risk of a Driving While Intoxicated (DWI) conviction.

More effective standardized legal measures to identify and sanction drugged driving will not only increase safety on the nation's roads and highways, but they will also demonstrate the need to provide treatment designed specifically for individuals with substance use disorders, just as drunk driving arrests now provide alcoholics with a route into treatment.

Recommendations

All states should enact *per se* drugged driving legislation, as almost one-third of states have already done. States should accept scientifically proven drug tests from all samples focusing on, but not limited to, oral fluids, urine and blood.

Driver drug testing should become as widely used and commonplace as breath alcohol content (BAC) testing is today. The following are appropriate opportunities for conducting drug tests on drivers:

- Drivers should be drug tested side by side with BAC testing when there is reasonable suspicion of impairment.
- Drivers involved with fatal car accidents, accidents resulting in serious injuries or serious vehicular damage should be required to submit to drug testing and BAC testing
- Drug testing should be done along with BAC testing at all sobriety checkpoints.

Drivers found guilty of drugged driving should be evaluated for a substance abuse disorder and referred to treatment similar to those who have been identified with an alcohol abuse disorder.

DATIA's membership strongly advocates driver drug testing nationwide along with treatment and education as to the dangers of driving while under the influence of any drug of abuse or prescription medication.

DATIA's promotes the use of new and existing technologies and will work to encourage best practices for the protection of the privacy of those tested and to insure the safety of our nation's highways.

ⁱ J. Michael Walsh, Ron Flegel, Randolph Atkins, Leo A. Cangianelli, Carnell Cooper, Christopher Welsh and Timothy J. Kerns, Drug and Alcohol Use Among Drivers Admitted to a Level-1 Trauma Center, Accident Analysis and Prevention, Volume 37, Issue 5, Pages 894-901 (September 2005)

ⁱⁱ Substance Abuse and Mental Health Services Administration. (2007). Results from the 2006 National Survey on Drug Use and Health: National Findings (Office of Applied Studies, NSDUH Series H-32, DHHS Publication No. SMA 07-4293). Rockville, MD.

ⁱⁱⁱ Beirness, D.J., & Beasley, E.E. (2009). *Alcohol & Drug Use Among Drivers: British Columbia Roadside Survey 2008*. Ottawa, ON: Canadian Centre on Substance Abuse.

^{iv} O'Malley, P.M. and Johnston, L. D. Drugs and Driving by American High School Seniors, 2001-2006, Journal of Studies on Alcohol and Drugs 68(6):834-842.