

BENEFITS OF VEHICLE SANCTION PROGRAMS

Prepared by: Jim Langford, Monash University Accident Research Centre
and Nicky Pronk, Monash University Accident Research Centre
Prepared: 30 June 2002.

Revised version

Updated by: Jim Langford, Monash University Accident Research Centre
Prepared: 30 June 2005.

1.1 A brief statement of the issue

Licensing restrictions are widely recognised as the most effective means to curb illegal driving behaviours, particularly in conjunction with enforcement methods that threaten a high probability of detection and punishment. However, additional sanctions are often deemed necessary for that sizeable proportion of motorists who continue to drive when suspended or disqualified.

1.2 An assessment of the road safety issue

1.2.1 A case for vehicle sanction programs

A review of traditional road safety options (Eilers 1994) concluded that, in terms of both general deterrence and specific impact upon recidivist drink drivers, licence removal was the most effective means of reducing drink driving. However, effectiveness was a long way short of complete. Perhaps up to 75% of those with suspended licences choose, at least under some circumstances, to continue to drive and in some cases, to drink drive, (Morse and Elliott 1992). This is supported by the finding that 9% of drivers involved in fatal crashes in the USA in a particular year were disqualified at the time of crash (Eilers 1994).

A less severe situation exists in Australia. Five per cent of all drivers in fatal crashes in 1992 and 1994 were unlicensed – and one-third of these unlicensed drivers were disqualified at the time of the crash (Federal Office of Road Safety 1997).

1.2.2 What do vehicle sanction programs involve?

The exact nature of vehicle sanction programs varies across countries and jurisdictions. As an example, vehicle sanction options as implemented in New Zealand consist of the following:

- impoundment, resulting in the vehicle being temporarily seized for a specified period before being returned to the driver
- confiscation, entailing the permanent seizure of the vehicle following conviction and a court order. The vehicle is usually sold, with the proceeds going to the former owner once seizure costs, outstanding fines etc. have been deducted
- forfeiture, resulting in the vehicle being seized at the time of the offence and, following conviction, becoming the property of the Crown. The vehicle may then be disposed of as deemed appropriate, with the proceeds kept by the Crown.

1.2.3 Examples of vehicle sanction programs

Vehicle sanction programs are widespread throughout the United States, thanks in particular to the 1998 *Transportation Equity Act for the 21st Century* which provided funding inducements for those states prepared to introduce either vehicle impoundment or alcohol interlock programs. A recent review of vehicle sanction programs (Voas et al. 2004) documents the following situation:

- 14 states had impoundment programs, generally allowing for a period of one to six months
- 13 of those states also allowed for vehicle immobilisation as an alternative to impoundment, with the vehicle being stored on the offender's property
- 32 states had provisions for vehicle forfeiture, generally for multiple offenders
- 24 states allow the confiscation of vehicle licence plates, as a form of administrative immobilisation
- at least four States allowed for offenders' vehicles to be specially marked (for example, with 'drunk driver' plates). These special markings constitute sufficient cause for the police to stop the vehicle and check the driver's sobriety.

Vehicle sanction laws in the United States are usually invoked for recidivist drink-drivers, for first-time drink-drivers with high alcohol readings and for those apprehended driving whilst their licences have been either suspended or cancelled.

Vehicle sanctions are also used in four provinces and in the territory of the Yukon in Canada (Voas et al. 2004). In Manitoba, for example, vehicle impoundment is used as an administrative measure to back up licence suspensions (Beirness et al. 1997). Any person apprehended driving whilst suspended or disqualified can immediately have the vehicle impounded for 30 days (first offence) or 60 days (any repeat offence).

Legislation allowing vehicle sanction programs also exists in a number of European countries but is rarely used (Voas et al. 2004).

1.3 Current policies and practices in Australasian jurisdictions

Table 0.1: Vehicle sanction programs in Australia

Jurisdiction	Key aspects of program
New South Wales	The police may impound a vehicle driven by a person charged with a drink driving offence. Vehicles may also be impounded for offences such as menacing driving, racing, speed trials and burnouts.
Victoria	Police may immediately impound a vehicle for 48 hours, and courts may either impound or confiscate a vehicle driven by a person who participates in a race or speed trial without authorisation, or exceeds the speed limit by 45 km/h or more, or causes the vehicle to make excessive noise or smoke, or commits an offence of dangerous driving, careless driving or loss of control of the vehicle where loss of traction is involved, or for a second or more offence of driving while disqualified.
Queensland	Limited seizure powers for drivers of light vehicles for 'prescribed offences' (e.g. racing, speed trials and burnouts).
Western Australia	A program targeting anti-social or nuisance driving.
South Australia	A program targeting anti-social or nuisance driving.
Tasmania	A program targeting anti-social or nuisance driving – with an extension to repeat offenders (drink-driving, speeding) and to those driving while suspended, being considered.
Australian Capital Territory	The police may impound a vehicle driven by a person charged with a drink driving offence. Vehicles may also be impounded for offences such as menacing driving, racing, speed trials and burnouts.
Northern Territory	No program.
New Zealand	Vehicle impoundment and confiscation programs are detailed below.

At present, two Australian jurisdictions (NSW and the ACT) have vehicle sanction programs in place that allow either impounding vehicles or confiscating and selling the vehicles of serious recidivist (drink) drivers. All other jurisdictions with the exception of the Northern Territory have programs targeting various forms of nuisance driving. The extent of program use and program effectiveness could not be determined due to the absence of formal evaluations.

Of all the Australasian jurisdictions, New Zealand has the longest and most comprehensive involvement in vehicle sanction programs. Details are as follows:

- police may immediately impound vehicles for varying periods for the following offences:
 - if the driver is disqualified from holding or obtaining a licence, or if the licence is suspended or revoked (28 days)
 - if the driver is unlicensed, or has an expired licence and has already been forbidden to drive until a valid licence has been obtained (28 days)
 - if the vehicle is suspected of being involved in a serious crash or 'hit and run' offence, for the purposes of preserving evidence (up to seven days)
 - if the impoundment is 'in the interest of public safety' (12-24 hours)
- vehicles may be confiscated if any of the following offences are committed by the offender, involving the vehicle:
 - offences punishable by imprisonment for 12 or more months and the vehicle has been used by the offender to assist in the offender's flight or attempted avoidance of detection or arrest
 - dangerous or reckless driving
 - careless or inconsiderate use of a vehicle resulting in injury or death
 - aggravated careless use of a vehicle resulting in injury or death
 - drink or drugged driving offences.

The above offences *may* result in vehicle confiscation. Under other circumstances, the Courts *must* confiscate the vehicle unless very specific exclusion criteria apply. These circumstances entail the owner of the vehicle having committed a serious traffic offence, and then within a 4-year period, committing a further serious traffic offence. The qualifying offences are:

- drink or drugged driving
- drink or drugged driving causing injury or death
- failing or refusing to supply a blood specimen; driving while disqualified, suspended or the licence is revoked, or contrary to the terms of a restricted licence
- dangerous or reckless driving
- dangerous or reckless driving causing injury or death
- failure to perform the duties of a driver in an accident in which another person is injured or killed.

The vehicle to be confiscated must have been used in the commission of the re-offence and the offender must own or have a financial interest in the vehicle. Hardship provisions apply. In addition to vehicle confiscation, the courts may also issue an order preventing the offender from owning another vehicle for 12 months.

Once confiscated (following conviction and a court order), the vehicle is then sold at public auction. Seizure costs, any monies owed on the vehicle to third parties and any outstanding fines are then paid from the sale money, with the balance of funds being returned to the vehicle's owner.

Table 3.2 shows that since strengthened legislation was introduced in New Zealand in 1996, there has been a steady increase in the number of court-imposed confiscation orders until 2000, with a slight decline in 2001. It is likely that this decline was due primarily to a reduction in the overall incidence of driving while disqualified (Land Transport Safety Authority 2002).

Table 0.2: Numbers of court orders for vehicle confiscation, NZ 1996-2001

Most serious offence	1996	1997	1998	1999	2000	2001
Driving with excess alcohol	34	93	252	462	614	642
Driving while disqualified	33	173	377	480	558	480
Reckless/dangerous driving	2	4	18	28	20	25
Other traffic offence	1	2	6	9	5	13
Non-traffic offence*	9	9	17	19	16	19
Total	79	281	670	998	1213	1179

Source: Land Transport Safety Authority 2002).

* includes aggravated robbery, burglary and dealing in cannabis.

In 2003 New Zealand's vehicle sanction provisions were extended by the so-called 'Boy Racer' Act. Possible penalties for participating in illegal street races, performing wheel spins or 'donuts' or otherwise driving a car in a way to cause loss of traction, included vehicle impoundment for 28 days.

1.4 A review of the research

Some examples of vehicle sanction program evaluations from the United States and Canada, are summarised in Table 3.3.

Table 0.3: Summary of North American studies evaluating vehicle sanction programs

Location	Program	Results
Ohio (Voas, Tippetts and Taylor 1997)	The first driving-while-suspended offence can lead to 30 days immobilisation, the second to 60 days and the third offence to vehicle forfeiture. The second driving-while-intoxicated offence can lead to 90 days immobilisation, the third to 180 days and the fourth to loss of vehicle.	Offenders who received vehicle sanctions had lower drink driving recidivism rates both during the period of sanction and for at least two years afterwards, compared to offenders without sanctions.
Ohio (Voas 1998)	As above, except that vehicles were impounded rather than immobilised.	Offenders whose vehicles had been impounded had lower drink driving recidivism rates both during the period of sanction and for approximately one year afterwards, compared to offenders without sanctions.
Manitoba (Beirness et al. 1997)	Any person apprehended driving whilst prohibited from driving, can immediately have his or her vehicle impounded for 30 days (first offence) or 60 days (any repeat offence).	Vehicle impoundment plus administrative licence suspension were associated with both general deterrence benefits (net decrease in drinking driver fatalities and in single vehicle night-time crashes) and specific deterrence benefits (reduced drink driving recidivism and reduced driving whilst suspended).
California (DeYoung 1999)	Vehicles driven by suspended/revoked or unlicensed drivers impounded for 30 days. Vehicles driven by suspended/revoked or unlicensed drivers who have a prior conviction for this type of offence, forfeited.	Drivers whose vehicles had been impounded and forfeited had significantly reduced crashes and traffic convictions during the first year of subsequent driving. A later study however failed to demonstrate that impoundment had any general deterrence (DeYoung 2000).
Minnesota (Rodgers 1994)	Impoundment of licence plates for drivers who are on their third drink driving charge, even if the vehicle belongs to someone else.	Offenders with impoundment sanctions had one-half the recidivism rate compared to offenders without sanctions during the subsequent two years.
Oregon and Washington (Voas, Tippetts and Lange 1997)	Both States enacted a 'zebra tag' law, whereby a striped ('zebra') sticker was placed over the vehicle registration plate if found to be driven by an unlicensed driver.	In Oregon, 'stickered' offenders had significantly reduced violations in a number of driving-related areas and had an indicatively lower crash rate, relative to 'non-stickered' offenders. The program also showed a general deterrence effect in Oregon (an overall fall in violations and crashes) but not in Washington (where the program was generally implemented on a reduced scale).

A recent summary of the range of evaluation studies in the United States concluded that:

overall, the large sample sizes (allowing sufficient statistical power) and the replication among the stronger studies add credibility to the collective findings that vehicle impoundment/immobilization are associated with declines in crashes and moving violations that are both statistically and practically significant (Voas and DeYoung, 2002, p.263).

The same authors also recognised that the evidence attesting to the benefits of vehicle licence plate impoundment, vehicle licence plate marking and vehicle forfeiture was less compelling, due particularly to the small number of evaluation studies.

Legislation was introduced in New Zealand in 1999 allowing for roadside impoundment as part of a new photo driver licensing system. Results (Land Transport Safety Authority 2001) include:

- the roadside impoundment of more than 25 000 vehicles driven by disqualified or otherwise unlicensed drivers during the period May 1999 to May 2001
- a fall in the proportion of fatalities attributed to unlicensed drivers from 10% of all fatalities (1998) to 6.9% (2000) and an equivalent fall of one-third in all casualties attributed to unlicensed drivers

- a fall in the number of driving while disqualified offences by around one third.

1.5 Political, social and other factors associated with vehicle sanction programs

While legislation allowing impoundment and other sanctions is common in the United States, it has been suggested that in many jurisdictions the application of these laws is relatively rare (National Highway Traffic Safety Administration 2001). The reasons suggested include:

- Vehicle sanction laws are reserved for more serious (and less frequent) offences, such as drink driving.
- There is concern that vehicle immobilisation and confiscation are considered overly punitive and there are difficulties dealing with non-offender vehicle owners.
- It is expensive to store vehicles, and when they are not reclaimed by owners, it is difficult to recoup expenses.
- The courts are reluctant to punish innocent family members. This reluctance has bedevilled most vehicle sanction programs to the point that some jurisdictions are now applying the programs as administrative rather than/as well as judicial measures.

Proponents of vehicle sanctions, however, argue that the above factors should not prevent the development and implementation of sanctions. For example:

- While special provision will need to be made to protect some vehicle owners who were not the offending drivers, in other instances vehicle owners should be required to take responsibility with regard to whom they lend their vehicles.
- While there may be unmet costs in storing and disposing of unwanted vehicles, there are also costs associated with other methods of managing disqualified or recidivist drivers – especially when prison sentences are involved.

As a further point in favour of vehicle sanction programs, these programs have often resulted in numbers of vehicles being left unclaimed – usually old, un-roadworthy vehicles which were subsequently removed from the road (Sweedler et al. 2004).

1.6 Conclusions

Vehicle sanction programs represent a reasonably severe response to specified driver offences. Further, the programs hold a number of legislative, social and practical challenges. However, experiences from New Zealand and elsewhere suggest that vehicle impoundment and confiscation are effective in reducing the road safety risks posed by sub-groups of drivers who have proved otherwise difficult to influence.

REFERENCES

- Beirness DJ, Simpson HM & Mayhew DR 1997, *Evaluation of administrative licence suspension and vehicle impoundment programs in Manitoba*, Traffic Injury Research Foundation of Canada, Ottawa, Ontario.
- DeYoung DJ 1999, 'An evaluation of the specific deterrent effects of vehicle impoundment on suspended, revoked and unlicensed drivers in California', *Accident Analysis and Prevention*, vol.31, pp.45-53.
- DeYoung DJ 2000, 'An evaluation of the general deterrent effects of vehicle impoundment on suspended and revoked drivers in California', *Accident Analysis and Prevention*, vol.31, no.2, pp.51-59.
- Eilers JC 1994, *Alternatives to traditional incarceration for serious traffic offenders*, report VTRC 94-R23, Virginia Transportation Research Council, Charlottesville, Virginia.
- Federal Office of Road Safety 1997, *Profile of unlicensed motorists in fatal crashes*, monograph 20, FORS, Canberra.
- Land Transport Safety Authority 2001, 'Impoundment laws keeping disqualified drivers off the road', Press Release.
- Land Transport Safety Authority, 2002, 'Confiscation of motor vehicles in New Zealand', Personal communication.
- Morse BJ & Elliott DS 1992, 'Effects of ignition interlock devices on DUI recidivism: findings from a longitudinal study in Hamilton Court, Ohio', *Crime and Delinquency*, vol.38, no.2, pp.131-157.
- National Highway Traffic Safety Administration 2001, *State Legislative Fact Sheets: Vehicle and License Plate Sanctions*, viewed 10 April, 2006.
http://nhtsa.gov/people/outreach/safesobr/21qp/html/fact_sheets/fact_sheet_contents.html.
- Rodgers A 1994, 'Effect of Minnesota's licence plate impoundment law on recidivism of multiple DWI violators', *Alcohol, Drugs and Driving*, vol.10, pp.127-134.
- Sweedler BM, Stewart K & Voas RB 2004, 'Impaired driving: Vehicle sanctions around the world.' In *Proceedings of the 17th International Conference on Alcohol, Drugs and Traffic Safety*, Glasgow, UK, 2004.
- Voas RB 1998, 'Temporary vehicle impoundment in Ohio: a replication and confirmation', *Accident Analysis and Prevention*, vol.30, no.5, pp.651-655.
- Voas RB & DeYoung DJ 2002, 'Vehicle action: effective policy for controlling drunk and other high-risk drivers?' *Accident Analysis and Prevention*, vol.34, pp.263-270.
- Voas RB, Fell JC & McKnight SJ 2004, 'Controlling impaired drivers through vehicle programs: an overview', *Traffic Injury Prevention*, vol.5, pp.292-298.
- Voas RB, Tippetts AS & Lange JE 1997, 'Evaluation of a method for reducing unlicensed driving: the Washington and Oregon licensing laws', *Accident Analysis and Prevention*, vol.25, no.5, pp.627-634.
- Voas RB, Tippetts AS & Taylor E 1997, 'Temporary vehicle immobilization: evaluation of a program in Ohio', *Accident Analysis and Prevention*, vol.29, no.5, pp.635-642.