

**DUI: THREE STRIKES
AND YOU'RE ON THE WAGON
HOUSE BILL 669, P.N. 737**

**PUBLIC HEARING OF THE HOUSE
JUDICIARY TASK FORCE ON DUI**

**FEDERAL COURTHOUSE
PHILADELPHIA
AUGUST 18, 1998**

**TESTIMONY OF STATE
REPRESENTATIVE
DENNIS O'BRIEN**

Problem statement. The overwhelming majority of drunk driving offenders convicted three or more times of DUI are chronic alcoholics. Although such offenders serve mandatory minimum sentences and are not supposed to get their driver's license back until they successfully complete alcoholism treatment, chronic alcoholics are out of control and will not let the mere lack of a driver's license keep them from driving; more likely than not, they will be picked up for more DUIs and will keep driving drunk until they are dead or in recovery.¹ These "three+-timers" are the most dangerous drunk drivers of all, as well as the most likely group to be committing domestic violence and disrupting their workplaces (through absenteeism, accidents, theft, and disciplinary problems).

As a result of this problem, over two years ago I discussed this issue with the District Attorney's Office in my city, and we have collaborated in developing a strong legislative response to this problem, a response which has been endorsed by the Pennsylvania District Attorneys Association, Mothers Against Drunk Driving, and the drug and alcohol treatment community. That legislative response was introduced this session on March 4, 1997 as House Bill 669.

General Proposal. House Bill 669 would have a real impact on the DUI problem as well as other serious alcohol-rooted violent crime. The heart of the proposal is that a person convicted of a third or subsequent DUI would, after serving the current mandatory minimum, be facing a full four year term of total confinement (including the time served under the mandatory minimum) unless they succeed in treatment and maintain sobriety.

The mechanism for this would be as follows:

1. The DUI law has recently been amended to upgrade a third or subsequent DUI conviction to an M-1 (under old law, DUI was always an M-2).
2. House Bill 669 would further amend the DUI statute to require a mandatory maximum of four years imprisonment for third or subsequent DUI convictions.
3. The DUI statute would be further amended to state that successful involvement in and completion of the appropriate level of treatment, followed by maintenance of sobriety (as determined by random urine tests and periodic assessments by drug and alcohol clinicians), would be strict conditions of parole. House Bill 669 is carefully crafted so that the

¹ Incarceration is another option, but that protects the public only until they are released.

county (or state) parole board and the drug and alcohol treatment clinicians can aggressively use the four year maximum sentence as leverage to motivate the recalcitrant alcoholic to comply. If the alcoholic absolutely persists in failing to cooperate with treatment, then society receives the benefit of having a very dangerous chronically drunk driver off the streets and in prison for four years.

Clinical efficacy. Treatment experts have confirmed that this "DUI: Three Strikes and You're on the Wagon" is a very sound plan from a clinical perspective. The treatment providers' perspective reflects common sense; the bigger the hammer, the better their chances of success.

Funding. For the majority of three-timers, their treatment should be covered by their health insurers or HMOs. These include most of those who are employed (they will have insurance or HMO coverage through their employers) and all of those who are on Medicaid (who will have a Medicaid insurance or HMO). State law requires private health insurance to cover a minimum of 30 days of residential rehab and 30 outpatient visits per year, and requires Medicaid HMOs to cover up to 180 days of residential rehab.

Summary. It is important that we hold drunk drivers accountable. House Bill 669 does that by keeping intact the mandatory minimums in the current statute. However, with repeat DUI offenders this bill will go much further by addressing the heart of the problem: their obvious drinking problem.

I am convinced that House Bill 669 will result in a significant drop in drunk-driving in Pennsylvania. Because it will use the full force of the criminal justice system to compel chronic alcoholics to tackle the drinking problem, I am also convinced it will also result in a reduction of those other types of crime commonly committed by drunken alcoholics, including third degree murders, aggravated assaults, and domestic violence.

Thank you for allowing me to present this important proposal for your consideration.