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**TESTIMONY BY PAUL SNODGRASS
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
BEFORE THE NEVADA ASSEMBLY JUDICIARY COMMITTEE
ON THE MERITS OF A .08 BAC
PER SE LAW FOR ADULT DRIVERS**

March 7, 2003

Thank you for inviting me to testify today. My name is Paul Snodgrass and I am Impaired Driving Coordinator with the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, Region 9 Office in San Francisco. Our goal at NHTSA is to reduce the annual toll of some 41,000 deaths, 3,000,000 injuries and \$ 230 billion in societal costs due to motor vehicle crashes, an annual cost of \$820 for every person living in the United States. Impaired driving plays a substantial role in these crashes. NHTSA's position on the relationship between blood alcohol concentration and driving is that driving performance degrades with the first drink. A comprehensive NHTSA study provides what is perhaps the clearest laboratory evidence to date of the significant impairment that occurs in driving-related skills of all drivers with .08 BAC, regardless of age, gender, or drinking history.

However, the solutions to impaired driving are mainly at the State and community level. We conduct research and demonstration projects at NHTSA and evaluate programs to see what is working. We do know that certain measures reduce impaired driving: *a combination of effective laws, highly publicized and visible enforcement, and persuasive public information and education.* There is specific legislation that has proven effective in the impaired driving area. I am testifying today at the invitation of Assemblyman Manendo. I am testifying in support of AB-7 to lower the illegal blood alcohol concentration (BAC) limit from .10 to .08.

NHTSA believes that lowering the **illegal per se BAC limit to .08** will not only save lives and reduce injuries in Nevada, but will also save your citizens substantial amounts of money in associated health care costs.

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ASSEMBLY JUDICIARY
DATE: 3/7/03 ROOM: 3128 EXHIBIT F
SUBMITTED BY: Paul Snodgrass

NHTSA produced two reports to the U.S. Congress in the early 1990s on the subject of blood alcohol concentration (BAC) limits for drivers. In both reports, we recommended that all States and the District of Columbia establish .08 BAC as the illegal limit *per se* for drivers aged 21 and older.

In 1998, the U.S. Congress passed legislation providing incentive grant funds to States that adopt a .08 *per se* BAC law (\$500 million over six years). In previous years NHTSA has estimated this potential grant amount for impaired driving programs in Nevada at \$900,000. This year, FY2003, is the last year for these incentive grants. If a .08 BAC *Per Se* law was in effect prior to September 30, 2003, Nevada could still qualify for an incentive grant this year. The amount is hard to estimate this year, because it is based on an apportionment of \$110 Million divided, based on population, among the qualifying States with .08 laws. If all 50 States divide the amount, because Nevada and 15 other States enact .08 laws this year, then the grant amount could be less than \$900,000, this year.

In October 2000, the Department of Transportation's Appropriation Bill (HR 4475) included a provision that States must pass a .08 *per se* BAC law by FY 2004 or certain Federal aid highway construction funds will be withheld. Each year the penalty increases by 2 percent, until it reaches 8 percent by FY 2007 and thereafter. The Federal Highway Administration (FHWA) has estimated these funds for Nevada as \$2.8 Million in FY2004; \$5.6 Million in FY2005, \$8.5 Million in 2006, and \$11.3 Million in FY2007.

There are several good reasons for passing a .08 BAC law:

(1) *Virtually all drivers are significantly impaired at .08 BAC.* Laboratory and test track research shows that the vast majority of drivers, even experienced drinkers, are impaired at .08 with regard to many critical driving tasks. There are significant decrements in

performance in areas such as braking, steering, lane changing, judgment and divided attention at .08 BAC. Performance decrements in some of these tasks are as high as 60 percent to 70 percent at .08 BAC. Regardless of age, gender, or experience with drinking, everyone is impaired to some extent at .08 BAC.

(2) *The risk of being involved in a crash increases substantially by .08 BAC.* The risk of being in a crash gradually increases as a driver's BAC increases, but rises more rapidly once a driver reaches or exceeds .08 BAC, compared to drivers with no alcohol in their blood systems. Recent research indicates that the relative risk of being killed in a single vehicle crash for drivers at BACs between .08 and .099 is anywhere from 11 to 52 times that of drivers at .00 BAC (no alcohol), depending upon age and gender.

(3) *Lowering the per se limit is a proven effective countermeasure which will reduce alcohol-related traffic fatalities.* Our first evidence came in California where significant reductions in alcohol-related fatalities occurred in 1990 (**a 12 percent reduction**), the year .08 BAC and an administrative license revocation law went into effect. A study by Boston University compared five States that lowered their illegal limit from .10 to .08 with five States that did not do so. They found a **16 percent reduction** in the proportion of fatal crashes involving fatally injured drivers whose BACs were **.08 or higher** in the five .08 States. That same study showed an **18 percent reduction** in the proportion of fatal crashes involving fatally injured drivers at very high BACs (**.15 or higher**) in those .08 States. A NHTSA study, published in 1995, found **significant decreases in four out of five States** that adopted .08 on ten measures of alcohol-related fatalities.

NHTSA has thoroughly studied the effects of lowering the illegal blood alcohol

concentration (BAC) limit from .10 percent to .08 percent. Three of the four most recent studies indicate that .08 BAC laws have reduced alcohol-related crash involvement, particularly in conjunction with the presence of other impaired driving laws and programs such as administrative license revocation (ALR). One study, using all 50 States, showed that **.08 laws reduced the proportion of drinking drivers in fatal crashes by 8 percent.** A second study of 11 States that adopted .08 BAC found that the law was associated with **significant reductions** in alcohol-related fatalities in **7 of the 11 States** studied, either alone or in conjunction with administrative license revocation laws. The third study looked at the effect of a .08 BAC law in a single State (North Carolina) and found no statistically significant change in a pre-existing downward trend in factors related to alcohol-related crashes. The fourth study found a **13.7 percent decline in the number of alcohol-positive drivers** involved in fatal crashes in the first 18 months following the adoption of the .08 law in Illinois. A 2001 follow-up study in Illinois showed a 12 percent reduction. An additional independent study of the effects of .08 laws in six States conducted by Boston University also found a **significant 6 percent effect of .08 laws in reducing intoxicated drivers involved in fatal crashes.** And a recent review of the evidence by the Centers for Disease Control (CDC) concluded that .08 laws are associated with a median 7 percent reduction in alcohol-related fatalities.

Three studies estimate that anywhere from **400 to 600 lives** could be saved annually if all States adopt .08 BAC laws. The evidence is clear, consistent and persuasive. A .08 law serves as a *general deterrent* to all drinking drivers, not just social or moderate drinkers, but drivers who reach high BACs too.

Our best estimate for lives saved in Nevada would be between a 6 to 9 per cent reduction in alcohol-related traffic fatalities. In 2001, our latest year of complete data from the NHTSA Fatality Analysis Reporting System (FARS) there were 313 total traffic fatalities, of which 133 were alcohol-related. A 6 to 9 per cent reduction in alcohol-related fatalities would be between 8 and 12 lives saved each year. The NHTSA study on the Economic Costs of Motor Vehicle Crashes estimates the total societal cost of traffic fatalities at about \$1 Million per fatality. So \$8 to \$12 Million in fatal crash costs would be prevented each year. There would also be a significant reduction in injuries, and property damage from a reduction in alcohol-related crashes.

(4) *.08 is a reasonable level to set the limit.* A .08 BAC is not typically reached with a couple of beers after work or a glass or two of wine with dinner. It takes quite a bit of alcohol for most people to reach .08 BAC, depending upon their age, gender, weight and metabolism rate, among other factors. No matter how many drinks it takes to reach .08 BAC, everyone is impaired with regard to driving at that level.

(5) *The public supports levels below .10 BAC.* National surveys show that most people would not drive after consuming 2 or 3 drinks in an hour and believe the limit should be no higher than that. A poll indicated that 7 out of 10 people believe the illegal BAC limit should be lowered to .08.

(6) *Most other industrialized nations have set BAC limits at .08 or lower* and have had these laws in place for many years. For example, Canada and Great Britain set their limits at .08 -- as do Austria and Switzerland. Australia, Belgium, Bulgaria, Denmark, Finland, France, Germany, Greece, Israel, Italy, the Netherlands, Portugal, South Africa, Spain, and

Turkey all have limits at .05.

There is opposition to .08 BAC laws by some in the alcohol and hospitality industries. Opponents say that .08 won't affect the real problem -- drivers who reach very high BACs and then drive. But at least three studies show that .08 does affect these high BAC drivers. Some say that .08 laws criminalize social drinking. But as stated before, it takes quite a bit of alcohol for most people to reach a .08 BAC. Regardless of the number of drinks it takes for any individual to reach .08 BAC, they are too impaired to drive at that blood alcohol level. Opponents claim that the .08 BAC level is just the first step in a movement toward zero tolerance. NHTSA and the .08 movement are not trying to limit the consumption of alcohol. Illegal BAC limits for adults are not meant to restrict individuals from drinking alcohol. Rather, they exist to prevent individuals from operating a motor vehicle while intoxicated, putting their own lives, and the lives of others at risk.

Now, you may have heard that the United States General Accounting Office (GAO) issued a report that says that .08 laws are not effective. I urge you to read that report carefully. The GAO report actually stated the following: "Overall, the evidence does not conclusively establish that .08 BAC laws by themselves, result in reductions in the number or severity of alcohol-related crashes." It says: "There are, however, strong indications that .08 BAC laws in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives." Of course, .08 BAC laws do not save lives "by themselves." They must be publicized and enforced and they must work in combination with the other laws of the State in order to be effective. The evidence shows that, in aggregate, when States adopt .08 BAC laws, they can save lives, especially in combination with administration license revocation laws, which 40 States, including Nevada, already have.

A .08 law has minimal costs. There will likely be a small increase in arrests, but certainly not enough to overburden the courts. The same rules of enforcement apply --- articulable suspicion to stop the driver; probable cause to test the driver for alcohol and make an arrest. The law sends a message to the public that the State is getting tougher on impaired driving. All potential drinking drivers get that message. The potential benefit of .08 far outweighs any costs. A .08 law, however, is not a silver bullet. It alone will not completely solve the State's impaired driving problem. But it will help and there is certainly good rationale and research to support it. The public will also support it and it will make a difference.

Currently, there is a Federal Section 163 incentive grant program that could provide Nevada with between \$250,000 and \$500,000 this year to fight impaired driving if the State adopts a .08 law. And, as mentioned previously, States without a 0.08 law by October 1, 2003, will be subject to the withholding of Federal aid highway construction funds.

In summary, 34 States, the District of Columbia and Puerto Rico already have passed .08 per se laws (includes Rhode Island whose law does not comply with the Federal criteria). It is a level at which critical driving tasks are impaired. It is a level at which the risk of a crash increases substantially. It is a level that most of the public agrees with and which most industrialized nations have adopted. It is a proven effective measure that will save lives and reduce injuries. And, it is not just a couple of beers after work. We are talking about a fairly substantial amount of alcohol when we talk about .08 BAC. I urge the Nevada Legislature to consider the merits of this legislation and pass the measure to lower the illegal BAC to .08. Again, thank you again for inviting me to testify before you today. I would be glad to answer any questions you may have.