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NEWS

The Unintended Consumer: Protecting Teen Drivers Through Graduated Licensing Laws

Carol L. Jones*

I. Introduction

Although “mom and dad” are often the technical consumers of automobiles, the need for safety laws do not extend solely to them. As adults, we can all remember the time when we got behind the wheel of the family car to go out for our first spin. As recently as ten years ago, most jurisdictions allowed quick and easy paths to full driving privileges.¹ Turning sixteen meant a trip to the licensing facility. Pass the test and you would be on your way. But did we need more protection than the laws afforded us? Should it have been so easy to pile four friends in the car to drive an hour to a high school basketball game? With a resounding 7598 deaths in 2001 among young drivers ages sixteen to twenty,² the answer is unequivocally, “NO.”

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¹ Allen F. Williams & Daniel R. Mayhew, Insurance Institute for Highway Safety and Traffic Injury Research Found., *Graduated Licensing: A Blueprint for North America*, at 1 (Mar. 2003), available at <http://www.hwysafety.org/safety%5Ffacts/teens/blueprint.pdf>.

² Advocates for Highway and Auto Safety, *Fact Sheet: Graduated Licensing*, (Sept. 2002), at <http://www.saferoads.org/issues/fs-GDL.htm> [hereinafter *Fact Sheet*].

II. The Impetus For a New System

The most convincing arguments for the graduated licensing system lie in the astounding crash statistics surrounding teen drivers. sixteen-year-olds in the United States have ten times the crash risk of drivers ages thirty to fifty-nine and almost three times the risk of older teenagers.³ Nighttime driving among teens exacerbates the problem. Forty-one percent of fatal crashes involving teenagers occur at night, between the hours of 9:00 p.m. and 6:00 a.m.⁴

The tragedy that results from teens taking the wheel multiplies when passengers are added to the equation. According to data collected by the Fatality Analysis Reporting System ("FARS") in 2000, sixty-three percent of the deaths of thirteen to nineteen-year-old passengers occurred when other teenagers were driving.⁵ Studies have well established that crash rates increase as the number of passengers goes up.⁶

Findings from four recent North American studies indicate that the presence of passengers strongly increases crash risk for teenage drivers.⁷ The obvious distractions that seem likely to blame for the association between teen drivers and passenger deaths may include verbal interaction, music playing, and physical interaction.⁸ Similarly, in police reports of fatal crashes in which two or more teenagers were in the vehicle, the difficulty faced by teens was evidenced in the following: (1) distraction, for example, turning around to talk to someone in the rear seat; (2) physical interference, like a passenger grabbing the steering wheel; or (3) inducements to risk taking, such as when a passenger tries to get the driver to overtake another vehicle.⁹

Having identified these particular distractions for teen drivers, the initial question that comes to mind is: don't driver education

³ Williams & Mayhew, *supra* note 1, at 1.

⁴ *Fact Sheet*, *supra* note 2.

⁵ Allen F. Williams, Insurance Institute for Highway Safety, *Teenage Passengers in Motor Vehicle Crashes: A Summary of Current Research*, at 3 (Dec. 2001), available at http://www.hwysafety.org/safety%5Ffacts/teens/teen_passengers.pdf.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

courses inform teens of these types of risks and teach them how to avoid them? Automobile safety advocates indicate that while driver education courses teach basic vehicle control skills, they don't lead to lower crash involvement for teens.¹⁰ This conclusion should be obvious from the above statistics. If driver education courses alone were doing the job, surely crash rates among teens would not be so shocking. In response to the void that exists, state legislatures have worked to develop laws that target these teen-specific distractions in an attempt to lower the relevant crash statistics.¹¹ The result: graduated driver licensing systems.

III. The Graduated Driver Licensing System

A. What is it?

Graduated licensing, in its most general sense, is a structure that phases beginning drivers into on-road driving, thereby giving them an opportunity to gain experience under conditions that involve lower risk.¹² New drivers are introduced to more complex driving situations through various stages.¹³ The graduated driver licensing (“GDL”) systems in states that have enacted them are often broken down into three different stages: (1) the learner’s phase; (2) the intermediate phase; and (3) the full privilege phase.¹⁴ States have adopted various forms of these three stages, picking and choosing any or all of these three elements to design their own particular GDL system.¹⁵ Using West Virginia’s thorough GDL law as an example, the following explores each stage of the GDL system.

¹⁰ Insurance Institute for Highway Safety and National Highway Traffic Safety Admin, *Q&A: Teenagers: Graduated Driver Licensing* (Dec. 2002), available at <http://www.hwysafety.org/safety%5Ffacts/qanda/gdl.htm> [hereinafter *Q&A*].

¹¹ See *infra* App., p. 171-72.

¹² Williams & Mayhew, *supra* note 1, at 1.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See *infra* App., p. 171-72 (indicating the general GDL provisions each state has adopted).

B. Stage 1 – The Learner’s Phase

An extended learner’s period is essential in any graduated system.¹⁶ The learner’s phase focuses on providing beginner drivers with supervised on-road practice in various conditions.¹⁷ Supervision cannot be provided by anyone. Certainly, the goals of the GDL system would not be advanced, for example, by allowing supervision by another sixteen-year-old who has just received his license. Therefore, supervision is typically restricted to a fully licensed driver, having attained the age of twenty-one.¹⁸ Jurisdictions sometimes mandate the kind of driving allowed by a beginner driver in the learner’s phase, others leave it to the discretion of the supervisor.¹⁹ Additionally, the supervisor may have to certify that the beginner driver has completed a certain number of hours of on-road practice in order to move to the next, intermediate stage of the GDL system.²⁰ Finally, from state to state, the age at which one may obtain what is often called a “junior” driver’s license varies widely, ranging anywhere from fourteen to sixteen years old.²¹

Using West Virginia’s GDL law as an example, a teen may apply for a “level one instruction permit” upon turning fifteen years old.²² Only under certain conditions may the holder of a level one instruction permit operate a motor vehicle. In West Virginia, those are conditions are:

Under the direct supervision of a licensed driver, twenty-one years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members; . . . [b]etween

¹⁶ Williams & Mayhew, *supra* note 1, at 2.

¹⁷ *Id.*

¹⁸ Williams & Mayhew, *supra* note 1, at 3.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 2.

²² W. VA. CODE § 17B-2-3a(i) (1994).

the hours of five a.m. and eleven p.m. . . .²³

Taking a closer look at this statute, notice the evils that it targets. The number of passengers in the vehicle is restricted to a total of three, with an older, more experienced driver being the only other person allowed in the front seat. The supervisor can then presumably maintain some control over the level of distraction created by the other passengers in the car. In addition, the hours during which the beginner driver may operate a vehicle are restricted to prevent nighttime driving after eleven o'clock. The major restrictions imposed by the West Virginia statute aim to eliminate the very specific dangers that teens face described above: crash and injury resulting from passenger distraction and nighttime driving.

C. The Intermediate Stage

“The highest risk for beginning drivers is when they first get their licenses and can drive unsupervised, with the first few months being particularly risky. Thus key features of graduated licensing include establishing an appropriate minimum age for unsupervised driving and initially restricting some kinds of unsupervised driving.”²⁴ Therefore, the intermediate stage, while attempting to give the beginning driver less supervision, maintains restrictions that still strive to protect the safety of the beginner driver. Consistent with this, most states’ GDL systems continue to disallow dangerous nighttime driving, unless supervised by an adult.²⁵ Moreover, several states continue their efforts to curb the risk of distraction through continued limits on the number of passengers allowed in the car. “Requirements vary as to whether this restriction applies to all passengers or to teenagers only, how many passengers are allowed, and whether family members are exempt.”²⁶

Again looking to the West Virginia’s GDL law as an example, upon the grant of an intermediate driver’s license, the holder may only operate a motor vehicle under the following conditions:

(A) Unsupervised between the hours of five a.m. and

²³ *Id.* § 17B-2-3a(i)(2).

²⁴ Williams & Mayhew, *supra* note 1, at 4 (citations omitted).

²⁵ *Id.* at 5; *see also infra* App., p. 171-72 (showing the type of restrictions each state has placed on drivers during the intermediate stage).

²⁶ Williams & Mayhew, *supra* note 1, at 5.

eleven p.m.; (B) Only under the direct supervision of a licensed driver, age twenty-one years or older, between the hours of eleven p.m. and five a.m. except when the licensee is going to or returning from: (i) Lawful employment; (ii) A school sanctioned activity; (iii) A religious event; or (iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another; . . . (D) Operates the vehicles with no more than three passengers under the age of nineteen, unless the passengers are family members, in addition to the driver.²⁷

Evaluation of this statutory provision reveals that the intermediate phase of a GDL system gives beginner drivers *gradual* freedom to drive unsupervised, while maintaining checks on the potential disasters created by the two crash factors: nighttime driving and passengers.

D. The Full Privilege Phase

The final stage in the GDL system gives drivers exactly what it says – full privileges. Typically granted upon the driver reaching a certain age, which is eighteen in most cases, all restrictions are removed and the driver may operate a vehicle unsupervised at all times. For example, in West Virginia, the statute explicitly states: “[u]pon attaining the age of eighteen years, a person holding an unrevoked, unsuspended or reinstated junior driver’s license shall be entitled to exercise all the privileges of a regular driver’s license without further examination or driver testing.”²⁸ This stage ends the GDL system after beginner drivers have had sufficient experience in a supervised and restricted manner, allowing states to mitigate the risk factors present for teens behind the wheel.

IV. The Measured Benefits of GDL Systems

For those of us that are old enough to remember the sole requirement of a driver education class, the new restrictions placed on beginner drivers may seem unnecessary. This assumption is challenged, however, by the remarkable statistics that indicate the powerful effect GDL systems can have on human lives. Although most GDL systems in the United States are too new for formal

²⁷ W. VA. CODE § 17B-2-3a(j)(2) (1994).

²⁸ *Id.* § 17B-2-3a(f).

evaluation, reductions in crashes and injuries have been reported.²⁹ In Florida, which implemented a GDL system in July 1996, there was a nine percent reduction in fatal and injury crash involvement for fifteen- to seventeen-year-olds in 1997 from those same figures in 1995.³⁰ After enacting GDL programs in 1997, both Michigan and North Carolina reported decreases in crashes involving sixteen-year-old drivers in 1999.³¹ In North Carolina, these crashes decreased by twenty-seven percent when compared to 1996 statistics.³² In Michigan, these crashes decreased by twenty-five percent from the 1996 figures.³³ Oregon's GDL system had a particularly beneficial effect on male teen drivers. In that state, teens who completed the GDL system experienced sixteen percent fewer crashes during their first year of driving compared to those who had not received their license under the GDL system.³⁴

As mentioned above, however, teen drivers not only put themselves at risk, but also increase the chance of injury for those that travel with them. California, the first state to have a meaningful passenger restriction, refused to allow passengers younger than the age of twenty to be transported without an adult present for the first six months of licensure.³⁵ Results from preliminary studies of 1999 show that teenage passenger deaths and injuries when traveling with sixteen-year-old drivers declined by twenty-three percent from figures during the prior five years.³⁶

V. Conclusion

Teen death and injury resulting from the free-for-all allowed by unlimited and unregulated access to vehicles has become too costly as measured by human life. The implementation of a system that eases beginner drivers into a regimen of safe practice while behind the wheel seems like such an obvious solution that one can

²⁹ Williams & Mayhew, *supra* note 1, at 1.

³⁰ *Q&A*, *supra* note 10.

³¹ *Id.*

³² *Id.*

³³ *Fact Sheet*, *supra* note 2.

³⁴ *Id.*

³⁵ Williams, *supra* note 5.

³⁶ *Id.*

only ask: why did we wait so long? The amazing reduction in crash statistics after the adoption of GDL systems points to legislation that has succeeded in achieving its desired effect. With mandates that are narrowly tailored to address specific risk factors, parents are given help for increasing the chances of their children living *through* their teens and doing so injury-free. This is one law about which we can finally say: “they just got it right.”

APPENDIX*

STATE	GDL Provision 1 6 month holding period in learner stage	GDL Provision 2 30-50 hrs. supervised driving in learner stage	GDL Provision 3 Nighttime restriction in intermediate stage	GDL Provision 4 Passenger restriction in intermediate stage
Alabama	X			
Alaska	X			
Arizona				
Arkansas	X			
California	X	X		X
Colorado	X	X		
Connecticut				
Delaware	X		X	
District of Columbia	X	X	X	
Florida	X	X		
Georgia	X			X
Hawaii				
Idaho		X	X	
Illinois				
Indiana				X
Iowa	X			
Kansas		X		
Kentucky	X			
Louisiana				
Maine		X		X

* Advocates for Highway and Auto Safety, *Highway Safety Law Chart*, available at http://www.saferoads.org/state/st_lawchart.htm (last updated Apr. 23, 2003). For a detailed chart of state GDL systems, see Insurance Institute for Highway Safety and Highway Loss Data Institute, *U.S. Licensing Systems for Young Drivers* (Apr. 2003), available at http://www.hwysafety.org/safety%5Ffacts/state_laws/us_licensing_systems.pdf.

STATE	GDL Provision 1 6 month holding period in learner stage	GDL Provision 2 30-50 hrs. supervised driving in learner stage	GDL Provision 3 Nighttime restriction in intermediate stage	GDL Provision 4 Passenger restriction in intermediate stage
Maryland		X		
Massachusetts	X			X
Michigan	X	X		
Minnesota	X	X		
Mississippi	X		X	
Missouri	X			
Montana				
Nebraska				
Nevada		X		
New Hampshire				
New Jersey	X			X
New Mexico	X	X		X
New York			X	
North Carolina	X		X	X
North Dakota	X			
Ohio	X	X		
Oklahoma				
Oregon	X	X		X
Pennsylvania	X	X		
Rhode Island	X			
South Carolina	X	X	X	
South Dakota			X	
Tennessee	X	X		X
Texas	X			X
Utah		X		X
Vermont	X	X		X
Virginia	X	X		
Washington	X	X		X
West Virginia	X			
Wisconsin	X	X		X
Wyoming				