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SNARE the DRUG Impaired

THE OFFICIAL NEWSLETTER OF THE MINNESOTA DRE
ISSUE 2 VOLUME 1 SEPTEMBER 2002

SAFE & SOBER CONFERENCE KICKS OFF 2002/2003

The Saint Cloud Civic Center was the site for the kick-off of the 2002/2003 Safe & Sober Season. Safe & Sober is beginning its 9th year in Minnesota. Thanks to the Office of Traffic Safety and all the departments and officers that have participated since 1994, Minnesota is nationally recognized for its success with the program. This year's conference focused on seat belt use.



Kathy Swanson, Director of the Office of Traffic Safety address the Conference on the history and direction of Safe & Sober in Minnesota

The program included George Ferris, representing NHTSA, who spoke on the Chiefs' Challenge. John Moffat, Director of Washington (state) Traffic safety Council addressed the group on his experiences in raising seat belt awareness and the challenges of passing a primary seat bet law. The Seat Belt Forum discussed the barriers to education, law enforcement, and legislation. With a response form Senator John Hottinger and Representative Bill Kuisle.

The afternoon consisted of four break-out sessions addressing Effective Ways of Communicating with the Legislature, How to Work with Community Partners, Motivating your Officers, and Public Information – Ideas to Try with the Media.

PBT vs. INTOXILYZER

The discussion of the use of the PBT over the Intoxilyzer has been one that has stayed alive in the Minnesota DRE program since its inception.

The Intoxilyzer argument has its roots in the DRE 12 step process. The manual states that the purpose of the breath alcohol test “enables the DRE to assess whether alcohol may be the sole cause of the observable impairment, or whether it is likely that some other drug or drugs, or other complicating factors are contributing to the impairment”. The Intoxilyzer gives the DRE a printed, court admissible copy of the subject’s alcohol content. The printed record is concrete evidence of the subject’s alcohol content, thus removing most of the defense’s arguments.

The PBT issue has been born out of experience. Some DREs question whether it is necessary to obtain a breath alcohol test when little or no alcohol is suspected. The main sticking point is the argument by defense that the subject; a) already subjected to an evidentiary test (blood or urine), b) the DRE had no probable cause to ask for a breath test, or c) that alcohol content can be determined in the urine or blood test.

In the ‘State v Klawitter’ case in 1994, the Minnesota Supreme Court ruled that DRE testimony is admissible and that the “officer should be allowed to give an opinion based on the officer’s training and experience and his or her observations based on the 12 step drug recognition protocol”. The Supreme Court accepted the opinion of the DRE provided the 12-step protocol was maintained. This suggests that the Drug Influence Evaluation is at issue if all 12 steps were not completed.

A recent case in Hawaii was thrown out based only on the PBT issue. The subject had been arrest for DWI at a roadblock. The officer subsequently asked the subject to submit to the PBT. The subject blew .000 AC. Continued on page 3

SAFE & SOBER CONFERENCE (continued)

Kathy Swanson, director of the Office of Traffic Safety, spoke on the past, present, and future of the Safe & Sober Program. She illustrated the success of the program in Minnesota since 1994. Swanson showed that when looking at the statistics (either by Vehicle Miles Traveled or by Population), the number of Minnesota lives saved by wearing seat



The State Patrol’s Bat Mobile on display

belts during Safe & Sober’s run ranges from 600-800. There were 6000-9000 people spared from a serious life changing injury by wearing their seat belts during that same time. Swanson stated that the national seat belt use average is at 79%. Thanks to Safe & Sober, Minnesota’s statewide seat belt usage has risen from 57% in 1994 to the national average of 79% in 2002.

The State Patrol will join forces with 74 city and 25 county police agencies and hit the roads in 2002/2003 to make sure Minnesota stays Safe & Sober.

PBT vs. INTOXILYZER (continued)

The subject was arrested and submitted to a drug influence evaluation. The evaluation was thrown out on the judge's opinion that there was a 'justifiable argument' concerning the alcohol content.

The use of the PBT in Hawaii is similar to its use in Minnesota. The Hawaii Department of Health does not recognize the PBT as a reliable instrument. They do, however, have a law that allows the use of the PBT as probable cause for arrest.

The judge in this case (who happened to sit on the bench for the evidentiary hearing and ruled in favor of the DRE program) stated that the officer did not follow the DRE protocol when he administered the PBT instead of the Intoxilyzer. The case was subsequently dismissed.

DWI SATELLITE TRAINING BRIEFS OFFICERS ON NEW LAWS

On September 12th, the Office of Traffic Safety in conjunction with representatives from the State Patrol, Office of the Attorney General, Scott County Joint Prosecution, Hennepin County Sheriff's Office, and The Bureau of Criminal Apprehension will be holding the 10th annual satellite training forum.

The forum will be broadcast via satellite to 46 sites throughout the state. Over 750 officers are slated to attend the training. Topics to be covered include statutory changes (felony DWI, plate impoundment, etc.), charging CVO cases, Implied Consent issues, special vehicles (boats, snowmobiles, ATVs, etc.), and new case law. Officers will be encouraged to fax or call in questions from their site.

In the past, this training has proven to be extremely helpful in assisting officers and better preparing them to detect and remove impaired drivers from our roads

ADVANCED OFFICER TRAINING SWINGS INTO HIGH GEAR

The 2002/2003 Safe & Sober grants have been released and a number of new agencies have been designated partners for the next year.

This always requires a great deal of training. Officers interested in working during the Safe & Sober grant waves must be trained in Standardized Field Sobriety Testing (SFST), Advanced SFST, and Occupant Protection Usage and Enforcement (OPUE). Any officers that need training can check the POST Board website for upcoming classes.

Any departments that are interested in sponsoring any of these classes, please contact Kammy Huneke at 651/297-1748

A CALL FOR ARTICLES

Snare The Drug Impaired will be a quarterly newsletter addressing DRE, DWI, and Traffic Safety issues. Each issue will have articles about the latest projects, statistics, and newest information. The majority of this information will come from officers in the field. If you have any initiatives to promote traffic safety, trends you are seeing in your area, articles you have read, or interesting anecdotes, please forward them to State DRE Coordinator Don Marose at 444 Cedar St., Suite 130, Saint Paul, MN 55101 or don.marose@state.mn.us.

