

Driving Under Suspension: A Survey of North Dakota Judges



Prepared by:

Jaclyn Andersen
Judge John Grinsteiner, JD
Kimberly Vachal, PhD

Upper Great Plains Transportation Institute
North Dakota State University

Driving Under Suspension: A Survey of North Dakota Judges

Jaclyn Andersen
Judge John Grinsteiner, JD
Kimberly Vachal, PhD

Upper Great Plains Transportation Institute
North Dakota State University
Fargo, ND

June 2022

The contents presented in this report are the sole responsibility of the Upper Great Plains Transportation Institute and the authors.

NDSU does not discriminate in its programs and activities on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, participation in lawful off-campus activity, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, spousal relationship to current employee, or veteran status, as applicable. Direct inquiries to Vice Provost, Title IX/ADA Coordinator, Old Main 201, [\(701\) 231-7708](tel:7012317708), ndsu.eoaa@ndsu.edu.

CONTENTS

INTRODUCTION	1
KEY FINDINGS.....	2
SUMMARY	8
APPENDIX A. Survey Questions.....	9
APPENDIX B. Comments.....	10

LIST OF FIGURES

Figure 1	The penalties resulting from the charge of Driving Under Suspension (DUS) should be increased, decreased, or unchanged	2
Figure 2	The following changes should be made to current DUS penalties	3
Figure 3	All DUS violators should be taken into custody	4
Figure 4	DUS violators should only be taken into custody if they are elevated offenders.....	4
Figure 5	Alcohol-related DUS convictions should be treated differently	5
Figure 6	Reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense.....	5
Figure 7	License restoration should be connected to treatment/sobriety.....	6
Figure 8	TRL (temporary restricted license) privileges for attending evaluations and/or any recommended treatments should be permitted with an incentive that driving privileges could be fully restored upon treatment completion.....	6
Figure 9	TRLs should allow any driving compliant with 24/7 rather than have restrictions.....	7

ABSTRACT

North Dakota's current driving under suspension (DUS) law, enforcement, and effects are explored from the perspective of the state's municipal and district court judges (including judicial referees/magistrates). Overall weighted results are presented in addition to between-group distinctions. These insights provide support for stakeholders considering whether change to DUS law and enforcement is needed.

Results show that current DUS penalties should be decreased, by way of decriminalization, shorter suspensions, and reducing the elevation of the offense or subsequent offense. Unless a DUS violator is an elevated offender, it is not deemed necessary to take that person into custody. Municipal court judges tended to agree that reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense, while district court judges were opposed. Both groups support treating alcohol-related DUS convictions differently and connecting license restoration to treatment/sobriety. Further, nearly all participants support permitting temporary restricted license (TRL) privileges for attending evaluations and/or any recommended treatments as an incentive to fully restore driving privileges. Lastly, rather than have restrictions TRLs should allow any driving that is compliant with the 24/7 program.

INTRODUCTION

In March 2022, an opinion survey was distributed to all North Dakota municipal and district court judges, as well as judicial referees and magistrates (Appendix A). The aim was to understand perceptions of the current driving under suspension (DUS) law, its enforcement, its effects, and whether change is needed. Of the 127 surveys distributed, 53 voluntary responses were collected from 34/58 municipal court judges (Group 1), and 19/69 district court judges and judicial referees/magistrates (Group 2). This report presents the overall weighted results in addition to distinctions found between the groups. Note the low response rate from the group of district court judges and judicial referees/magistrates and keeping in mind that members of this group make up 54.3% of the population, but account for only 27.5% of responses. While overall responses were weighted in attempt to resolve the sample size differences, a larger response rate is necessary in order to responsibly generalize the findings from Group 2.

KEY FINDINGS

Current penalties and possible changes: Participants were asked whether they believe the penalties resulting from the charge of driving under suspension (DUS) should be increased, decreased, unchanged, or otherwise modified (Figure 1). Overall, 42.1% of participants agree that penalties should be decreased. The belief is shared by 64.7% of Group 1 (municipal court judges), and 22.2% of Group 2 (district court judges and judicial referees/magistrates). However, 38.9% of Group 2 would prefer increased penalties. “Other” responses were qualitatively analyzed, and when appropriate were recoded and incorporated into a corresponding response category. Responses that could not be recoded include suggestions for improvement, such as tying penalties to vehicle registration, and rewarding those who are actively attempting to reinstate a suspended license. A complete list of comments will be included in Appendix B.

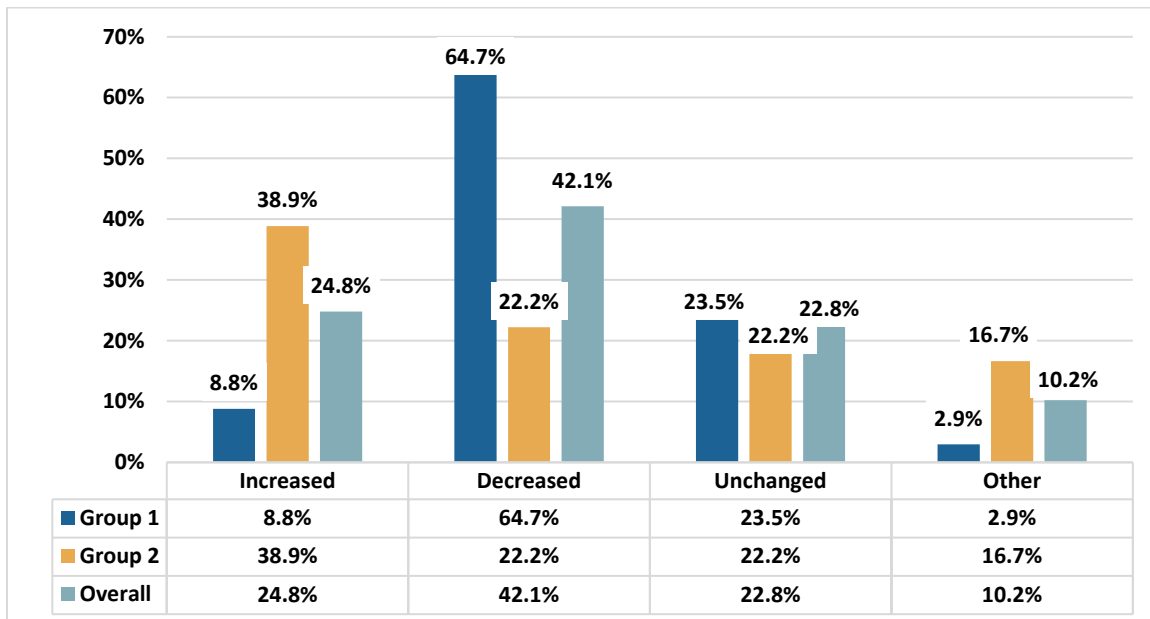


Figure 1. The penalties resulting from the charge of Driving Under Suspension (DUS) should be increased, decreased, or unchanged.

Next, participants selected their preference(s) from a list of possible changes to current DUS penalties (Figure 2). Participants were allowed to select more than one option, resulting in a total of 78 responses. Group 1 most commonly selected decriminalization (30.2%), while 36.0% of Group 2 selected additional elevation of offense or subsequent offense. Overall weighted results show a preference for shorter suspensions (22.3%) and decriminalization (21.0%). Once again, “other” responses were recoded and incorporated into an appropriate response category. Responses that could not be recoded included suggestions of specific contingencies for determining when DUS penalties should be applicable. When considered categorically, 74.3% of responses suggest a preference to ease current DUS penalties.

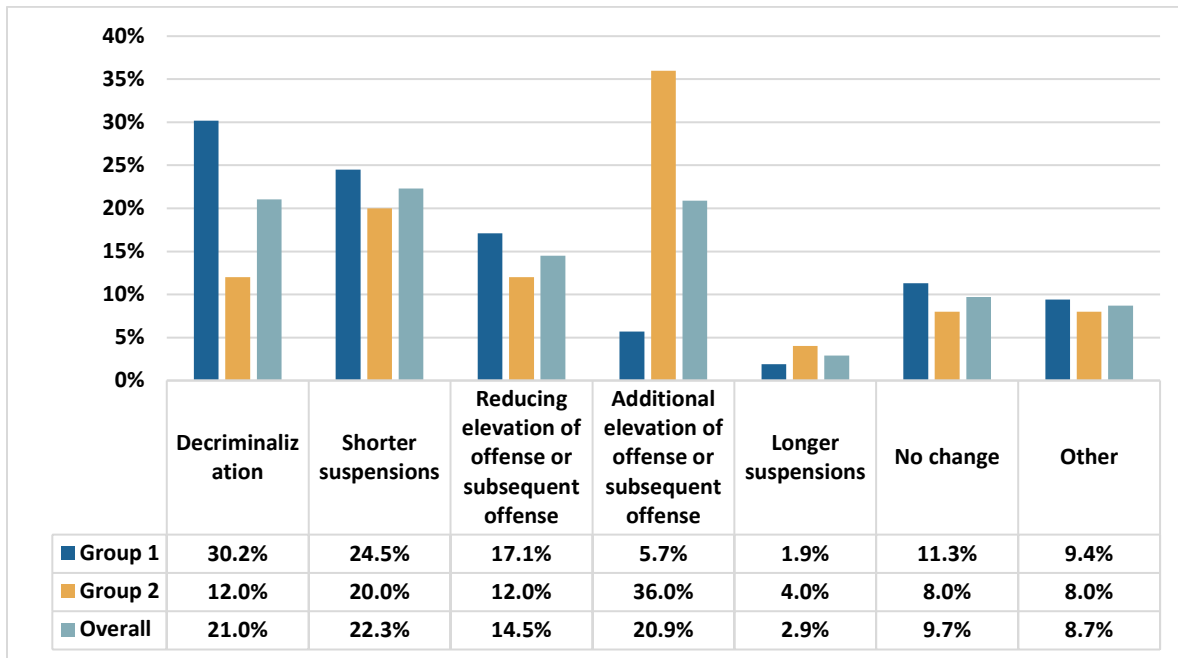


Figure 2. The following changes should be made to current DUS penalties.

Taking DUS violators into custody: When asked whether all DUS violators should be taken into custody, both groups most frequently disagreed at 94.1% (Group 1), 89.5% (Group 2), and 91.6% overall (Figure 3). Further, 58.8% of Group 1 agreed that DUS violators should *only* be taken into custody if they are elevated offenders, with Group 2 agreeing at nearly 78.9%, and 69.8% overall (Figure 4).

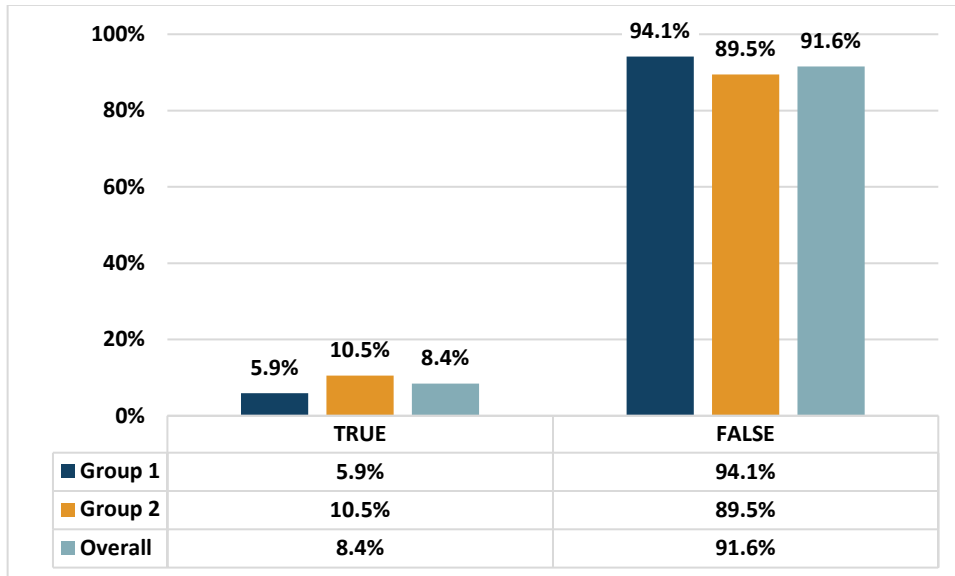


Figure 3. All DUS violators should be taken into custody.

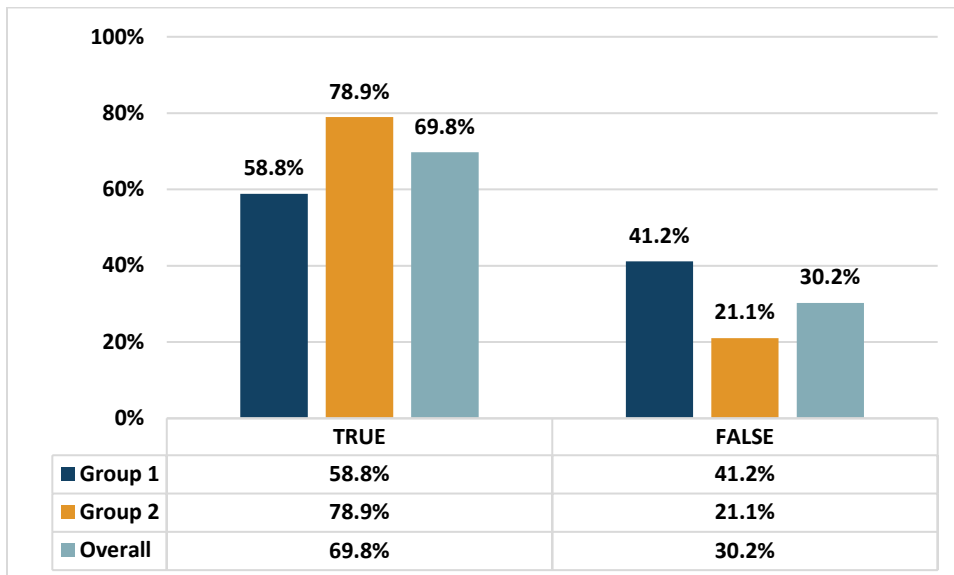


Figure 4. DUS violators should only be taken into custody if they are elevated offenders.

Alcohol-related convictions: As shown in Figure 5, overall, 74.0% agreed that alcohol-related DUS convictions should be treated differently (61.8% and 84.2% for Groups 1 and 2, respectively). The survey did not give or ask for explanations of these differences, rather assumed that results reflect the opinion that these convictions are not ideal and should be treated differently than they are now. Overall, responses imply relatively equal support on both sides of the idea that that reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offence (Figure 6). Results show a clear difference of opinion between groups, with 67.6% of municipal court judges supporting reinstatement, while 57.9% of district court oppose. Further research could help explain the between-group discrepancy. Figure 7 shows that overall, 82.2% of participants believe that license restoration should be connected to treatment/sobriety. This opinion holds true for both groups, with Group 1 agreeing at 73.5% and Group 2 agreeing at 89.5%.

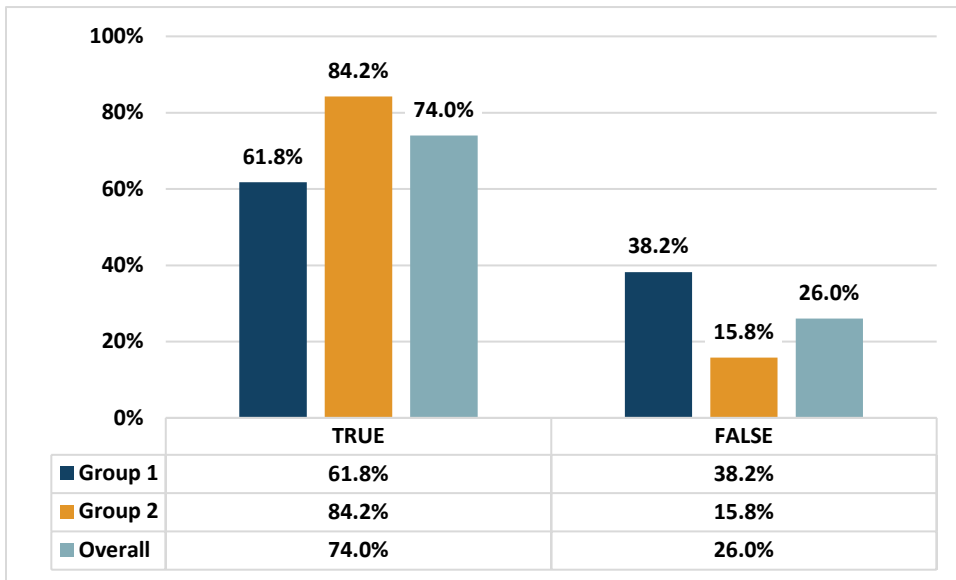


Figure 5. Alcohol-related DUS convictions should be treated differently.

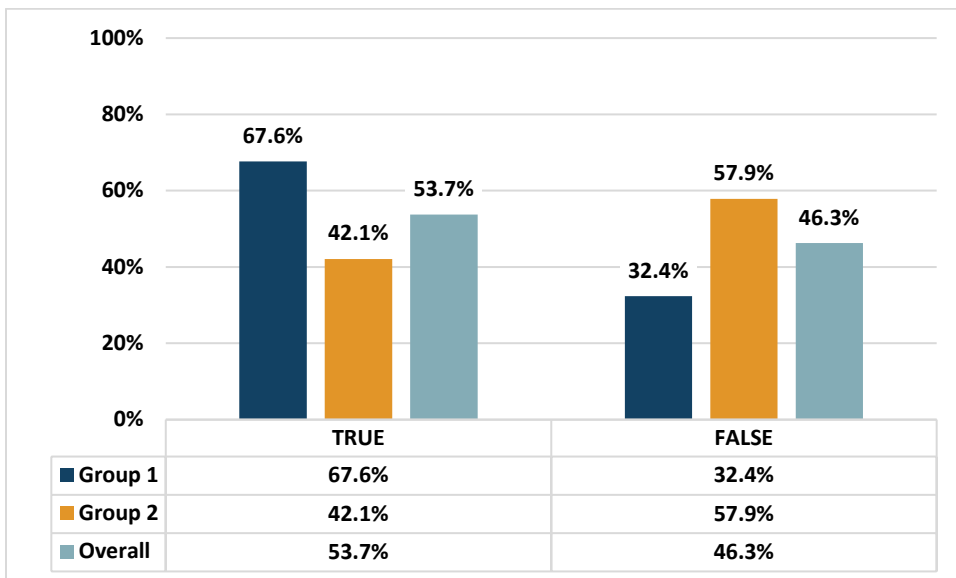


Figure 6. Reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense.

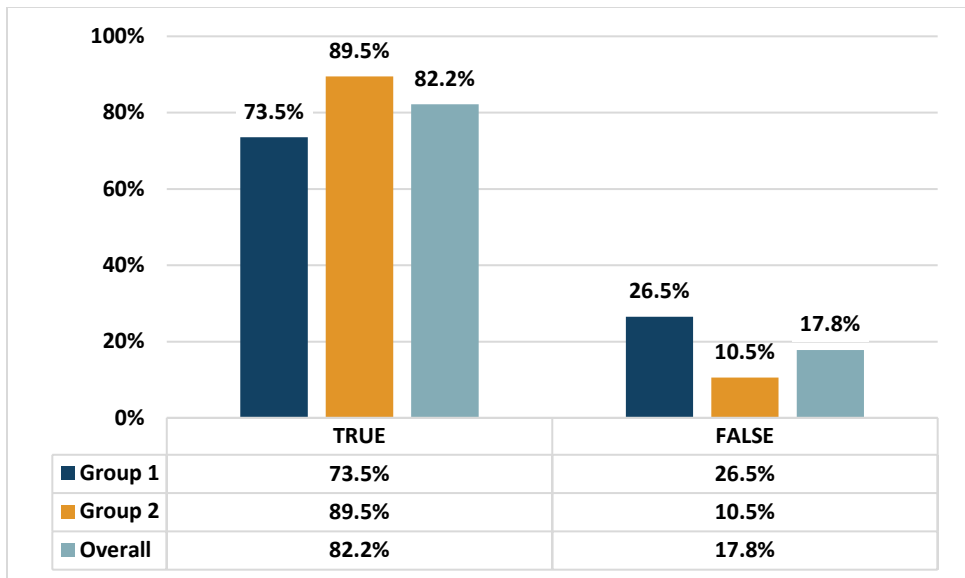


Figure 7. License restoration should be connected to treatment/sobriety.

Temporary Restricted Licenses (TRL): Figure 8 shows nearly all participants believe that TRL privileges for attending evaluations and/or any recommended treatments should be permitted with an incentive that driving privileges could be fully restored upon treatment completion (97.1% for Group 1, 94.7% for Group 2, and 95.8% overall). Lastly, approximately two thirds of all participants (and of each group) agreed that TRLS should allow any driving that is compliant with 24/7 rather than have restrictions (Figure 9).

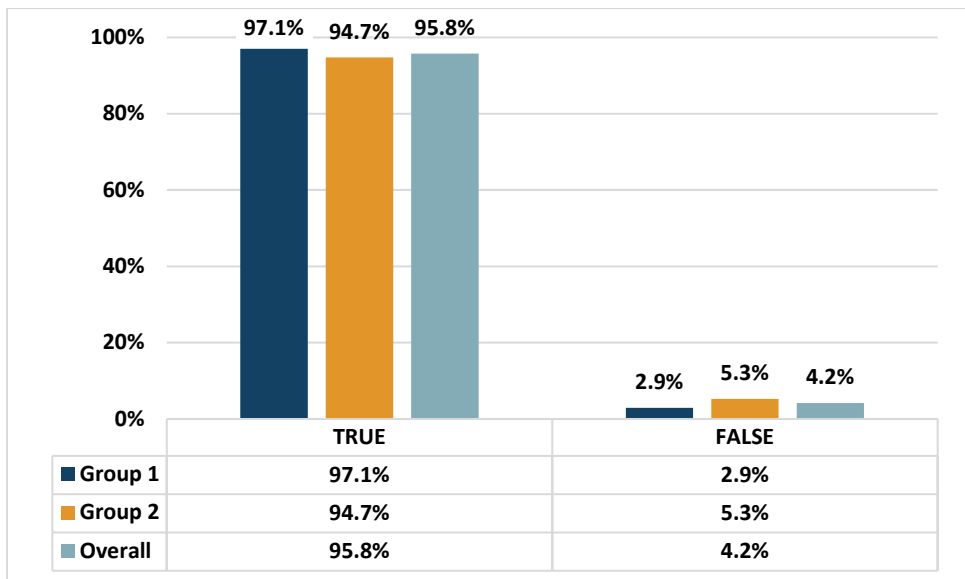


Figure 8. TRL (temporary restricted license) privileges for attending evaluations and/or any recommended treatments should be permitted with an incentive that driving privileges could be fully restored upon treatment completion.

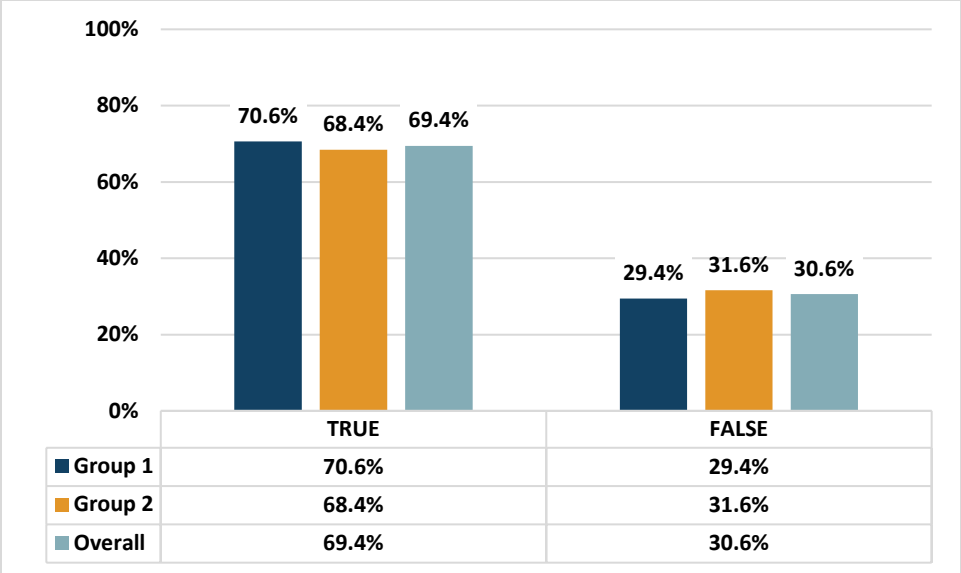


Figure 9. TRLs should allow any driving compliant with 24/7 rather than have restrictions.

SUMMARY

The purpose of this research was to understand North Dakota's current driving under suspension (DUS) law, its enforcement, its effects, and whether change is needed from the perspective of municipal and district court judges (including judicial referees/magistrates). Overall weighted results are presented in addition to distinctions found between the municipal and district court judge groups. These insights provide support for stakeholders to continually improve current practices.

The majority of participants feel that current DUS penalties should be decreased by way of decriminalization, shorter suspensions, and reducing the elevation of the offense or subsequent offense. When it comes to taking DUS violators into custody, most participants don't think it is necessary unless the person is an elevated offender. Participants largely agree that alcohol-related DUS convictions should be treated differently. There is a clear difference of opinion between the two groups of judges with regard to allowing reinstatement for drivers serving a current suspension/revocation for an alcohol-related offense with municipal court judges tending to agree while district court judges oppose. However, both groups support the idea of connecting license restoration to treatment/sobriety. Further, nearly all participants support permitting temporary restricted license (TRL) privileges for attending evaluations and/or any recommended treatments as an incentive to fully restore driving privileges. Lastly participants believe that TRLs should allow any driving that is compliant with 24/7 rather than have restrictions.

Further research would benefit from encouraging more district court judges to participate in order to more accurately gauge the perspectives of this group. Additionally, based on participant comments, allowing textual responses to each survey question would allow users to elaborate on or qualify their opinions. Finally, the divide on whether reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense should be explored.

APPENDIX A. SURVEY QUESTIONS

1. The penalties resulting from the charge of Driving Under Suspension (DUS) should be:
 - a. Increased
 - b. Decreased (ex. non-criminal traffic citation)
 - c. Unchanged
 - d. Other
2. The following changes should be made to current DUS penalties:
 - a. Longer suspensions
 - b. Additional elevation of offense or subsequent offense
 - c. Shorter suspensions
 - d. Reducing elevation of offense or subsequent offense
 - e. Decriminalization
 - f. No change
 - g. Other
3. All DUS violators should be taken into custody.
 - a. True
 - b. False
4. DUS violators should only be taken into custody if they are elevated offenders.
 - a. True
 - b. False
5. Alcohol-related DUS convictions should be treated differently.
 - a. True
 - b. False
6. Reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense.
 - a. True
 - b. False
7. License restoration should be connected to treatment/sobriety.
 - a. True
 - b. False
8. TRL (temporary restricted license) privileges for attending evaluations and/or any recommended treatments should be permitted with an incentive that driving privileges could be fully restored upon treatment completion.
 - a. True
 - b. False
9. TRLs should allow any driving compliant with 24/7 rather than have restrictions.
 - a. True
 - b. False
10. Additional Comments:

APPENDIX B. COMMENTS

Summary of General Comments

- DUS penalties are lacking, offenders won't pay fines
- Disapproval of survey content
- Suspensions just provide opportunities for offenders to reoffend
- “One of the things that I have seen as a practicing attorney and judge is the spiral affect where suspension time continues to be treated with court fees and reinstatement fees that low income individuals have a very, very difficult time paying and breaking the cycle. They have a difficult or near impossible time not driving and law enforcement in smaller communities has their ears pinned back looking for these types of violations.”
- “Many DUS violators do not have money and need to get to work. With prisons being full, there should be more options.”

Summary of Suggestions

- Consider an administrative sanction that fits the severity of the offense; smaller fines, payable tickets; limit duration of suspension; incentivize license reinstatement.
- Take license plates from vehicles; consider “whiskey plates” or similar idea; prohibit sale of motor vehicle to individuals with a suspended license
- Penalties should be decreased or decriminalized for 1st or 2nd violation and those unrelated to alcohol; reserve resuspension for when public safety is threatened; Do not suspend for non-payment of fines and fees or tickets.
- Separate DUS from child support issues
- If DUS issued in another state, ND license should be available
- “Grant work permits without bureaucracy”