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Taking Three Small Steps Forward in the Journey of Innovation and Diffusion Study

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FLORIDA STATE UNIVERSITY
COLLEGE OF SOCIAL SCIENCE AND PUBLIC POLICY

TAKING THREE SMALL STEPS FORWARD
IN THE JOURNEY OF INNOVATION AND DIFFUSION STUDY

By

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Dedicated to my parents; parents-in-law; my wife Min-Jae; and my lovely daughter Juwon

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ABSTRACT

The aim of this dissertation is to fill in the vacant spots in the innovation and diffusion study, which are meaningful but have not had much work done previously. First, most policy diffusion studies have focused on the adoption of a new policy. However, the diffusion of the repeal of an old policy also occurs across organizations and governments. Thus, the first essay in this dissertation, diffusion of the repeal of a state prevailing wage law, contributes to enrich the theoretical development of policy innovation and diffusion from a different angle, and help us learn more about why governments terminate established policies. The economists have provided economic justifications about why state prevailing wage law should be upheld or abolished depending on their stances. However, the empirical result shows that economic justification is not the most persuasive reason. In other words, other factors are also influential in the repeal of prevailing wage law: regional diffusion, political ideology, union power, socio-economic conditions, minimum wage law and so on. This result accords with the arguments of previous policy termination literatures (Cameron, 1977; Deleon, 1987)

Second, policy innovation and diffusion studies have not seriously considered the role of the judicial branch as one of the important actors in the process of public policy until now, even though it is one of three branches of a modern democratic government. In this dissertation, a systematic examination regarding this issue is attempted to see what impact court rulings have on the diffusion of state adoption of a same sex marriage ban. The result shows that the backlash of gay-friendly court rulings, state public opinion favorable to same sex marriage, Federal DOMA, and supportive institutions for homosexuals in a state are influential factors when a state introduces the first same sex marriage ban regardless of state DOMAs and constitutional amendments. Furthermore, we also find that the backlash of judicial decisions does not always occur by additional multi-state analysis. More specifically, the influence of gay-friendly court rulings has changed from negative to positive in the transition from state Defense of Marriage Acts to state constitutional amendments against same sex marriage.

Third, more effort is needed to reflect the innovative characteristics of policy decision-makers on policy decision making under the theoretical framework of innovation and diffusion studies. The original question of policy innovation and diffusion was about whether a state's policy innovativeness was a general trait of the policy decision-makers (Walker, 1969). However, policy innovation and diffusion studies have, since the early 1970's, generally focused

on a specific policy over time (with several exceptions, such as Boushey, 2010; Boehmke and Skinner, 2012; Nicholson-Crotty, Sean C., et al., 2014). Thus, the third essay of this dissertation attempts to show how state innovativeness works over multiple adoptions in a specific policy arena: alcohol impaired driving policies. We find that all of the aspects of state innovativeness – general, traffic safety, and organizational - increase the likelihood a state adopts alcohol impaired driving laws more comprehensively. Also, the institutional bandwagon is founded as one of the important factors to increase the comprehensiveness of state adoptions of drunk driving policies.

CHAPTER 1

INTRODUCTION

As society is becoming increasingly complex and rapidly changing, many organizations share similar concerns about how they can choose appropriate solutions to their predicament. While some organizations have found their solutions based on rational thinking such as by utilizing the application of a cost-benefit analysis, others have learned from or simply mimicked statutes from other's precedents. Or, in some cases, they are forced to adopt a particular solution by external pressure. In general, it becomes more common for ideas, policies, programs, and innovations to spread from one organization to another. This phenomenon is not limited only to specific types of organizations. In other words, each level of government is not an exception to this trend. Many scholars in political science and public administration have devoted themselves to revealing why and how policies spread from one governmental unit to another within the past 40 years (Walker, 1969; Gray, 1973; Savage, 1985; Berry and Berry, 1990).

Even though the study of policy diffusion has been a staple part of research on American governments and politics for a long time, it is expected that innovation and diffusion research will become a more dynamic field in the future. Policy innovation and diffusion theories cover both incremental and non-incremental policy change, as well as rational and irrational policy decision making. Also, innovation and diffusion theories can be applied to any unit of analysis ranging from individual actors to international organizations. The most important reason why innovation and diffusion theories continue to be a promising research area is that innovations are continually generated in response to social change. Therefore, innovation and diffusion research should enhance our understanding of how social change occurs.

Furthermore, there remain many topics that still need to be researched in innovation and diffusion study. First, most policy diffusion studies have focused on the adoption of a new policy. However, the diffusion of the repeal of an already-adopted policy also occurs across organizations and governments. Thus, research about the diffusion of policy termination would contribute to enrich the theoretical development of policy innovation and diffusion from a different angle, and help us to learn more about why governments terminate established policies. This may be due to the policies not working, or political coalitions rising to oppose them, or

some other reason. Second, the impact of judicial decisions has not seriously been considered as one of the important factors of policy diffusion until now. However, the influence of court rulings on the process of public policy is rapidly growing. It is because the role of the court to mediate the conflicts among social values is becoming important as the complexity of society increases. In this dissertation, a systematic examination regarding this issue is attempted by analyzing the impact of judicial decisions on the diffusion of state laws. Third, more effort is needed to integrate the characteristics of policy decision-makers and policy content under the theoretical framework of innovation and diffusion studies. The original question of policy innovation and diffusion was about whether a state's overall policy innovativeness was a general trait of the policy decision-makers (Walker, 1969). However, policy innovation and diffusion studies have since the early 1970's generally focused on a specific policy over time (with several exceptions, such as Boushey, 2010; Boehmke and Skinner, 2012; Nicholson-Crotty, Sean C., et al., 2014). Thus, integrating the state innovativeness and multi-adoption of a state in a certain policy area can be meaningful to develop policy innovation and diffusion theories a step further, because the role of the decision maker is important in the process of policy adoption and diffusion. Based on this understanding, I attempt to address these issues in this dissertation.

The first paper focuses on the diffusion of policy repeal. It examines why nine states have repealed prevailing wage laws based on an innovation and diffusion framework. Factors of policy repeal may inevitably be similar to policy adoption; because "any new policy adoption is by way of implication a termination of the old policy" (Lowry, 2005) By verifying that the theoretical factors related to the diffusion process works for the repeal of an old policy, similar to the enactment of a new policy, this study may show that policy innovation and diffusion theories can be applied to both the adoption of new policies and the repeal of old ones.

The second paper estimates the effect of judicial decisions on policy diffusion using the state laws banning same sex marriage. Until now, policy innovation and diffusion studies have not seriously considered the role of the judicial branch as one of the important factors of policy diffusion even though it is one of the three branches of a modern democratic government. Concerning the influence of the judicial branch, some scholars argue that the court's decision has inevitably made social policy, because judiciaries can change and enforce law.

However, there are also passive perspectives about the role of court decisions for social change. One of the leading claims is that unpopular judicial victories have not been beneficial to

lead social change because of severe backlash from the opponents of the change (Klarman, 2005). According to this argument, if unpopular judicial decisions for gay rights provoke a backlash against the expansion of it, the positive effect of these judicial decisions would be detected in the regressive policy diffusion. By showing how the influence of judicial decisions for gay rights works for the diffusion of states' DOMA (Defense of Marriage Act) and state constitutional amendment against same sex marriage across states, this paper can show whether the backlash caused by the judicial decision for homosexual rights exists and illustrate the impact of judicial decisions in the diffusion process of same sex marriage bans.

The third paper focuses on linkages between states' innovativeness as a general trait of policy decision maker and their adoptions of drunk driving policies. According to strategic choice theory, organizations do not simply react to external environmental changes. Rather, they strategically take actions to respond to environmental changes (Child, 1972; Dougherty and Heller, 1994). Thus, it is important that decision makers are willing to take a risk to introduce new policy to solve their problems. Based on the concept of state innovativeness, innovative states are inclined to adopt more policies than others, because they are not afraid of the trial and error process that often comes with the introduction of new policy. Thus, one of the contributions of this dissertation would be to show the relationship between the general traits of a state as a decision maker and the comprehensiveness of their policy adoptions in a specific policy arena – Alcohol Impaired Driving. Additionally, the bandwagon effect is considered as another important factor influencing the state adoption of alcohol impaired driving policies, because each alcohol impaired driving policy can be understood as a kind of strategic innovation for decreasing drunk driving.

CHAPTER 2

THE DIFFUSION OF POLICY REPEAL: ECONOMIC OR POLITICAL DETERMINANTS?

2.1 Introduction

Prevailing wage laws require that contractors on government-funded construction projects should pay construction workers at least the wages, benefits and other payments which are “prevailing” for similar work in or near the locality where the project is located (Kessler and Katz, 2001). Prevailing wage is determined by regulatory agencies like State Departments of Labor, based on government surveys at each level of government. Thus, the main purpose of prevailing wage laws is to protect construction workers in public-funded projects by preventing "wage dumping" by irresponsible employers.

As of 2013, 31 states and the District of Columbia had prevailing wage laws. Nine states however, have never enacted such laws, and nine others have repealed prevailing wage laws over a 10-year period. Those nine states that have repealed prevailing wage laws are Alabama, Arizona, Colorado, Florida, Idaho, Kansas, Louisiana, New Hampshire, and Utah. Why have these nine states repealed prevailing wage laws, while most of the states which already have prevailing wage laws continue to retain them?

To answer this question, this study examines why some states have repealed prevailing wage laws, using an innovation and diffusion framework to study law repeal. However, the predominance of policy diffusion models focuses on the adoption of a new policy, not repeal. Also, there is little literature which tries to explain the repeal of laws based on the policy diffusion model. Nevertheless, this study posits that the repeal of an old policy can be explained by the similar mechanisms of policy adoption, even though they are not exactly the same. Lowry (2005) argues that a theory of policy abandonment inevitably includes the same factors of policy adoption because “any new policy adoption is by implication an abandonment of the old policy.”

This paper establishes a process to explain why some states repeal their prevailing wage or not. First, the history of prevailing wage laws is briefly reviewed in order to place this study in a policy context. Second, theoretical arguments about why we can apply the innovation and

diffusion framework that Berry and Berry (2007) have developed to the repeal of prevailing wage are provided based on innovation and diffusion literature. Third, testable hypotheses are suggested based on my theoretical arguments. Fourth, the data and methodology which are used in this study are described. Finally, the significance and limitations of this study are discussed based on its results.

2.2 History and commonalities of states' repeal acts of prevailing wage

2.2.1 History of prevailing wage laws

At the federal level, the prevailing wage law of the Davis-Bacon Act, which was enacted in 1931, requires contractors on federal construction projects to pay appropriate wages - prevailing wages - corresponding to the classes of laborers and mechanics. If a state has its own prevailing wage laws, states should also pay the prevailing wage to laborers and mechanics on state-funded construction projects like the federal government.

As it was mentioned above, prevailing wage laws exist in 31 states and the District of Columbia. Although eight states enacted these laws before the Great Depression, most of the states enacted their prevailing wage laws during the New Deal. Following that period, a number of additional state's prevailing wage laws were enacted, and in 1973 the most recent case was Minnesota enacting their own state prevailing wage law.

However, nine states have never considered prevailing wage laws which include these states: Georgia, Iowa, Mississippi, North Carolina, North Dakota, South Carolina, South Dakota, Vermont, and Virginia. Also, nine others have repealed their prevailing wages laws: Alabama, Arizona, Colorado, Florida, Idaho, Kansas, Louisiana, New Hampshire, and Utah. In the case of Oklahoma, the prevailing wage laws have not been repealed officially, but have not been enforced since 1995 because of a determination in the *City of Oklahoma City vs. State ex rel. Oklahoma Dept. of Labor* (1995) case that the law was ruled to violate the state's constitution relative to the delegation of authority to federal officials. More specifically, the main reason in the finding by the Oklahoma Supreme Court decision is that "the state's prevailing wage survey was unconstitutionally over-reliant on the federal survey." (Philips, 1998)

2.2.2 The commonalities of states' repeal acts of prevailing wage

The prevailing wage repeal acts of the nine states shared some common reasons why the “Little-Davis-Bacon law” should be repealed. These reasons can be commonly summarized as two main themes. The first and major reason suggested by the nine states' repeal acts is that the prevailing wage law caused the waste of a huge amount of tax dollars every year. The main argument of these repeal acts is that the prevailing wage laws set by the government survey was substantially higher than the average market wage. From this point of view, prevailing wage is harmful to tax payers in a state because of paying higher than necessary costs on public-funded projects.

The second reason is the wage was viewed as discriminatory. Prevailing wage has been known as a union wage because unions have exercised their influence on setting prevailing wage rates. As the dominant groups in construction unions have excluded other minority groups from union membership, prevailing wage law have not been regarded as beneficial to minorities and to new entrants, such as the young, to the work force. Following this line of thinking, we can easily understand the reason why the advocates of repealing prevailing wage insist that black construction workers especially have been discriminated against under prevailing wage laws; most of them are not qualified workers or not members of dominant groups in construction unions. Also, Harrison (2006) noted that one of major purposes of the Davis-Bacon Act in 1931 was discrimination against unqualified black construction workers.

Based on the commonalities of nine states' repeal acts of prevailing wage laws, some factors having great influence on the repeal of states' prevailing wage law are expected. First, economic factors around state construction projects may be the most important factors which give impetus to repeal prevailing wage laws because the main purpose suggested by the repeal acts of the prevailing wage is substantial savings on public construction costs.

Second, union power is another important factor which should be considered in analyzing the repeal of prevailing laws. Workers' unions have been regarded as the major interest group who enjoy the profit of prevailing wage laws. Thus, it is anticipated that unions are not likely to be supportive of repeal acts of the prevailing wage law. Certain political organizations have a strong interest in disbanding and/or reducing the power of a unionized labor force. Therefore, the repeal of the law acts as a lightning rod attracting those who have strong interests to organize toward the repeal of the prevailing wage laws.

Third, socio-economic circumstances like racial distribution, and education level in a state, are expected as important indicators which can help us to anticipate the probability of repealing prevailing wage law. If the prevailing wage law is discriminatory, especially to African American and unskilled workers, the probability of repealing prevailing wage law in a state might be highly dependent on these socio-economic circumstances.

2.3 Policy termination theories and the diffusion of policy repeal

The repeal of prevailing wage can be regarded as a type of policy termination. DeLeon (1983) summarized three criteria of policy termination based on the previous termination cases: financial imperative, governmental efficiencies, and political ideology. Kirkpatrick, Lester, and Peterson (1999) categorized the inherent characteristics of a policy, a political environment, and constraints to implementation of termination as influential factors of policy termination. Also, Krause, Yi, and Feiock (2015) showed “political ideology and interest group pressure”, and “perceived program ineffectiveness” are influential factors explaining why many cities disaffiliate from International Council for Local Environmental Initiatives (ICLEI) and terminated the explicit objectives for climate protection in their empirical analysis.

Thus, even though a comprehensive theory of policy termination has not been set up yet, political ideology, the influence of interest groups, economic conditions, and the inefficiency caused by policy can be regarded as main factors of policy termination from previous literatures. These main factors of policy termination are similar to the factors which are used in the internal determinant model of policy innovation and diffusion theory: political ideology, influence of interest groups, economical condition of a state government, etc. Thus, the literature on policy termination can be combined with the internal determinant model to build a theory of policy repeal.

Nevertheless, it is hard to say that the diffusion of repeal of prevailing wage laws can be completely explained only by theories of policy termination. First, the policy termination studies have not seriously considered the effect of other similar actors’ decisions. Other state’s decisions can have a huge impact on a certain state’s decision-making. In explaining policy diffusion, competition and learning among states are core mechanisms in the previous literatures (Walker, 1969; Gray, 1973; Berry and Berry, 2007). The reason of competition among states is to get an advantaged position over other states, or to escape from a disadvantaged position against other

states. The repeal of prevailing law among states can be understood based on this logic. A state wants to be more attractive to government-funded project contractors than other states by giving the bigger economic-incentive through eliminating the barrier of prevailing wage law.

Also, Walker (1969) noted that the policy decision makers look for their solutions from other states by learning, because of a limitation of their intellectual ability, energy and time. Volden (2007) explains the diffusion of policy abandonment, another name of policy repeal and termination, based on learning mechanism. His main argument is that policies verified elsewhere to be ineffective should be easily abandoned, as policies found to be successful elsewhere are more likely to be adopted. As one of the methods to solve a financial crunch and stimulate the construction market in a state, a state can choose the repeal of prevailing wage law based on the example/precedents of other states' repeal cases.

Second, the policy termination literature has been closely linked to the studies of policy evaluation. Therefore, the inefficiency caused by a policy is one of the most influential factors of policy termination. However, in the context of policy diffusion, policy diffusion is not always beneficial (Shipan and Volden, 2012). As it is mentioned above, the reason of competition among states is to achieve an advantaged position over other states, or to escape from a disadvantaged position against other states (Berry and Berry, 2007). Therefore, competition across states may help eliminate inefficiencies of each state government. Ironically, competition may also encourage states to adopt an inefficient program like a race to the bottom in certain welfare programs (Peterson and Rom, 1989).

Also, the wrong lessons from others' experience can be learned, even though learning among state governments can produce more effective policy choices (Sharman 2010). Similarly, Soule (1999) demonstrates the diffusion of an unsuccessful innovation by showing the diffusion of an unsuccessful protest tactic used by student activists during the student divestment movement. Because of the media construction of the tactic as successful, and the conformity with a previous tactical repertoire, the unsuccessful protest tactic was adopted without considering its effectiveness.

Furthermore, policy which already existed in some states can be imitated by other states, regardless of whether it is ultimately suitable to them, because imitation is the copying of another state government's policy without serious evaluation for the effect of the policy or really understanding what solution will be good in the state's context. Imitation cannot guarantee that

states' choices are beneficial to themselves. In addition, even though a particular policy is not helpful and even harmful, it can be adopted under the coercion mechanism of policy diffusion, because coercion is the use of force or incentives by one government to influence the policy decisions of another government. This can easily be seen in a top-down version of innovation and diffusion between federal and states, or state and local governments.

As was stated above, policy termination theories have some limitations to explain the diffusion of repeal of prevailing wage comprehensively. Rather, it is more reasonable to explain the diffusion of the repeal of prevailing wage across states based on core mechanisms of the policy diffusion model.

2.4 Diffusion of states' repeal of prevailing wage law

2.4.1 Regional diffusion

To explain the nine state's repeals of prevailing wage based on innovation and diffusion theory, it is important to know the process by which policies spread across states. Berry and Berry (2007) argue that there are three ways this occurs: through regional diffusion, a leader-laggard diffusion model, and a vertical diffusion model. Generally, vertical influence diffusion is driven by the national government's adoption of policy. Through this, states feel pressure or are given incentives to institute similar policies (Allen, Pettus, and Haider-Markel, 2004) However, the federal government has not repealed the Davis-Bacon Act, and is not trying to abolish states' own prevailing wage law.

Leader-laggard diffusion predicts that more innovative states are much more likely to adopt a new policy than other states (Walker, 1969). According to Walker's definition (1969), policy innovation is "a program or policy which is new to the states adopting it, no matter how old the program may be or how many other states may have adopted it." Based on this definition, he proposed an index of policy innovativeness of a state by evaluating a state's year of adoption relative to the first and last states to adopt. From Walker's (1969) seminal article, scholars of political science have developed the innovativeness score of a state. (Gray, 1973; Cannon and Baum, 1981; Savage, 1985; Boehmke and Skinner, 2012) The basic assumption of these studies is that an innovative state would adopt new policies sooner than less innovative states, at least on average. What one has to look at here is that innovative states will not always adopt all other

innovations earlier than other less innovative states. Thus, the innovativeness of a state would be a better measurement when multiple adoptions of several innovations are analyzed than single adoption of a certain policy. Thus, in our case, the regional diffusion model is expected to have more explanatory power than leader-laggard models and the vertical diffusion model are not pertinent.

Regional diffusion means that states are more likely to adopt a policy if nearby states which share a regional identity or a boundary have already done so (Berry and Berry, 2007). Neighboring states with a certain policy often create pressure for a given state to adopt the policy. Therefore, my hypothesis for regional diffusion is:

Hypothesis 1: The probability that a state would adopt the repeal of prevailing wage is positively related to the percentage of states that border it that have never had such laws or have already repealed them.

2.4.2 Internal determinant models: political, social and economic elements

Basically, the diffusion model, and especially the regional diffusion, gives us insight to understand this phenomenon. However, Berry and Berry (2007) noted that we cannot fully explain policy adoption at the state level only by using the diffusion model. In other words, internal characteristics of a particular state related to policy adoption should be considered at the same time; political, social, and economical characteristics of states.

As was mentioned above, the main factors of policy termination are now posited to be almost the same as the internal determinant model of policy innovation and diffusion theory. Therefore, the internal determinant model relevant to the diffusion of policy adoption covers all of factors which are already referred as main factors of the policy termination.

2.4.2.1 Political ideology and union power as political elements. First, political ideology can be considered as a political element affecting the likelihood of repealing the prevailing wage laws. Many scholars have used two concepts relative to political ideology at the state level in the United States. One is state citizen ideology, and the other is state government elite ideology (W. Berry, E. Ringquist, R. Fording, and R. Hanson, 1998). Erikson, Wright, and

McIver (1993) noted that state citizen ideology can generally be measured by the mean position on a liberal-conservative spectrum of the active constituent in a state. State government elite ideology also is conceived as the mean position on the same spectrum of the elected public officials in a state (Berry and Berry 1992). In other words, the concept of state government elite ideology places more weight on the people in political power relative to public policy decisions than state citizen ideology. Historically, conservative Republicans have long opposed the state's prevailing wage law, while Democrats and union leaders have supported the prevailing wage law. Therefore, my hypothesis related to the political ideology of a state is formulated like this:

Hypothesis 2: The probability that a state would repeal the prevailing wage law increases when citizen has a more conservative ideology (rather than a more liberal one) in the state.

Hypothesis 3: The probability that a state would repeal the prevailing wage law increases when a state government has a more conservative ideology (rather than a more liberal one).

Second, we should consider the political power of interest groups as one of the political elements, which have close relations with our issue. Olson (1982) has provided a convincing theoretical explanation about how interest groups influence economic growth rates. The core of his argument is that interested groups try to make state governments adopt and implement antigrowth policies in order to achieve their own interests, while the long-term impacts of these policy adoptions and implementation are negative on economic growth rates. The influence of interest groups can be observed in the case of prevailing wage laws. Many states in which labor unions have a strong political power have prevailing wage laws. Also, there are wide variations in the state's prevailing wage laws, for example in states such as Nebraska, where labor unions have a relatively weak political power; the wage is close to the competitive market rates. Conversely, in states, like New Jersey, where labor unions are powerful, the prevailing wage is close to or same as the rate of construction union. Accordingly, in the case of repealing the prevailing wage laws, the political power of labor unions in a state should be included as one of the explanatory variables.

Hypothesis 4: The probability that a state would repeal prevailing wage laws increases when labor unions in a state have weaker power than in other states.

2.4.2.2 Socio-economic characteristics of a state as social elements. If the prevailing wage law is discriminatory for African American and unskilled workers, as the nine states' repeal acts claimed, the socio-economic characteristics of a state such as racial distribution and the quality of skilled labors in a state, have influence on the probability of repealing the prevailing wage law. Related to this, two hypotheses can be developed:

Hypothesis 5: The probability that a state would repeal prevailing wage laws increases when the portion of the African American population is higher.

Hypothesis 6: The probability that a state would repeal prevailing wage laws increases when the quality of skilled labors in a state is lower than in other states.

Generally, it is widely perceived that the education level of people has a positive relation with socially liberal attitudes (Dee 2004; Gerber et al. 2010). This suggests that the democratic party is likely to gain more support with more educated people. However, some empirical evidences about this relationship is different. For example, the research performed by the Pew research center (2012) shows that GOP holds advantages in party affiliation among individuals with high school diploma, some college experience, and bachelor degree, even though the advantage has continuously shrunk. In contrast, Democrats gain a majority of support from two extremes: individuals without a high school diploma and with post-graduate degrees. In 1970s and 1980s, there were very few people with post graduate degrees. Therefore, it is expected that the population with a high school diploma is larger in a state, the probability that the state would repeal prevailing wage laws increases because the repeal of prevailing law is a Republicans' agenda.

Hypothesis 7: The probability that a state would repeal prevailing wage laws increases when the population with a high school diploma in a state is larger than in other states.

2.4.2.3 Fiscal health of a state's government and the economy of a state as economic factors. Above all, the fiscal health of a state's government should be considered as an explanatory variable in terms of an economical perspective for explaining the repeal of prevailing wage laws. The main purpose of the nine states' repeal acts is substantial savings of tax dollars by abolishing prevailing wage law. Thus, the need for saving money related to the public funded project is expected to be high under the lack of the state's budget.

If the fiscal health of a state's government is good, it is difficult for a state to repeal the prevailing wage, because it would bring fierce opposition from people who already earn the benefit which the prevailing wage laws have created. Thus, it was expected that the abolition of prevailing wage laws is more readily adopted by a state when the fiscal health of a state's government is bad. This logic is similar to the case of a state's new tax adoption. Hansen (1983) finds both tax adoptions and increases are not easily adopted during prosperous times but during a time of financial hardship. She argued that the political risks of public officials are likely to be reduced by an economic crisis relative to adopting a mandatory tax.

Hypothesis 8: The worse a state's fiscal health, the more likely a state is to repeal the Prevailing Wage Law.

In addition to the fiscal health of a state's government, the state's economy would affect the abolition of a prevailing wage law. If a state's economy is in a good shape, the motivation for repealing the prevailing wage would be decreased, because construction workers could have more opportunity to receive wages in excess of the established prevailing wages if done through the private sector.

Hypothesis 9: The worse a state's economy, the more likely a state is to repeal the Prevailing Wage Law

2.4.3 The effect of an alternative law: state minimum wage law

Minimum wage refers to both the federal minimum wage established by the Fair Labor Standards Act (FLSA) and state minimum wage laws. Individual states have independently changed the level or coverage of the minimum wage; even though states cannot enforce a

minimum wage lower than the federal minimum. The major different characteristic between state minimum wage and prevailing wage is the coverage of whom these laws apply. While state minimum wage laws apply to those who work in that state, prevailing wages apply to employers with state government contracts related to public-funded construction projects.

One reason which was suggested by the nine states' repeal acts is that the prevailing wage law is discriminatory for African American and unskilled workers. However, these unqualified workers could also be protected by state minimum wage law. Therefore, if a state has a minimum wage law, we can expect that the probability of repealing prevailing wage law would decrease.

Hypothesis 10: The probability that a state would repeal the prevailing wage decreases when a state has a minimum wage law.

2.5 Research method

2.5.1 Data and measurements

Our investigation is based upon 42 states in the United States, because 8 states have never considered enacting the prevailing wage law, and Washington DC has been under the federal law - the Davis-Bacon Act. Since the prevailing wage laws were not repealed by any state until Florida repealed it in 1978, the observation period is confined from 1978. The state, once having repealed the prevailing wage, had not any risk of repealing it again. However, other states that had not repealed the prevailing wage laws had a risk of abolishing the prevailing wage laws until the last event occurred. In 1988, Louisiana was the last state to repeal the prevailing wage law. Although, Oklahoma's prevailing wage laws have not been enforced since 1995, this case is not included in our observation, because this case is not related with adopting to repeal prevailing wage laws, but with violating the state's constitution relative to the delegation of authority to federal officials. Thus, the period of data is set up from 1978 to 1988. The states that repealed prevailing wage laws are coded as 1; non-repealed states are coded as 0. The table 1 shows information for prevailing wage law by state in the US.

Table 1: State prevailing wage laws

18 States Without a Prevailing Wage Law					
States that have repealed Prevailing Wage Laws			States without Prevailing Wage Law		
	Year Passed	Year of Repeal			
Alabama	1941	1980	Georgia		
Arizona	1912	1984	Iowa		
Colorado	1933	1985	Mississippi		
Florida	1933	1979	North Carolina		
Idaho	1911	1985	North Dakota		
Kansas	1891	1987	South Carolina		
Louisiana	1968	1988	South Dakota		
New Hampshire	1941	1985	Virginia		
Utah	1933	1981			
Oklahoma	1909	1995			
32 States (and DC) with Prevailing Wage Laws					
	Year Passed		Year Passed		Year Passed
Alaska	1931	Maryland	1945	Ohio **	1931
Arkansas	1955	Massachusetts	1914	Oregon	1959
California	1931	Minnesota	1965	Pennsylvania	1961
Connecticut	1935	Missouri	1973	Rhode Island	1935
Delaware	1962	Michigan	1957	Tennessee	1953
DC	1931	Montana	1931	Texas	1933
Hawaii	1955	Nebraska	1923	Vermont	1928
Illinois	1931	Nevada	1937	Washington	1945
Indiana	1935	New Jersey	1913	West Virginia	1933
Kentucky*	1940	New Mexico	1937	Wisconsin	1931
Maine	1933	New York	1894	Wyoming	1967

* Exempted school construction in 1982, Democrat Governor reinstated in 1996

** Repealed prevailing wage for school construction in 1997

Table 2 summarizes the independent variables used in this research. First, the regional influence of policy diffusion is measured by “the percentage of states sharing a border that had previously” (Berry and Berry, 1990) repealed the prevailing wage law. The reason why the ‘percentage the number of “states sharing a border’ is used is that the number of states sharing a border fluctuates by state.

Next, citizen and government ideology is measured based on the article, “Measuring Citizen and Government Ideology in the American States, 1960-93” written by Berry et al. (1998). Their variables relative to governmental elite ideology is on a 0-100 scale, with higher numbers indicating the increase of liberalism. Using this information, the degree of conservatism is calculated inversely (the degree of conservatism = 100 minus ‘Berry, Ringquist, Fording, and Hansson’s elite ideology measure’).

Our measurement relative to the interest group is the difference of labor union density in each state, because labor unions are the most influential interest group directly related with negotiating worker’s wage with companies. To measure this, the difference of each state’s labor union density is estimated based on the article “Estimates of Union Density by State” of Barry T. Hirsch et al. (2001). They measured the union membership and coverage density for the years 1964 through 1999 based on two sources of data: Current Population Survey (cps) and a monthly survey of U.S. households. Between union membership and coverage density, the union coverage density is used in this article because the union coverage density reflects the real overall power of labor unions regardless of whether formal union membership exists or not. The difference of each state’s labor union density is measured by the labor union density of each state minus the average labor union density of all states.

In order to measure the socio-economic characteristics of a state, like the different portion of African American population and education level in a state, the data provided by ‘State Politics and the Judiciary’ on State Politics & Policy Quarterly (SPPQ) is used. The portion of African American population of a state is measured by “Estimated Black Population in 1000’s” from 1977 to 1987. “Percent of Population with High School Diploma” from 1977 to 1987 in a state is used to measure the average education level in a state. According to OECD and national career service of UK, production workers is synonym of blue-collar workers and they can be defined as individuals involved in manufacturing goods in industries like construction, engineering, etc. Thus, “Average Hourly Earnings of Production Workers” in a state is used for measuring the quality of skilled blue collar workers are in the state and relevant data came from Employment and Earning, monthly published by U.S. Bureau of Labor Statistics.

Two indicators are used to represent the fiscal health of a state and state’s general economic condition. These are (1) a measure of state’s annual fiscal health from 1977 to 1987 (The ratio of total-state-revenue minus total-state’s spending to total spending), and (2) a

measure of state economy from 1977 to 1987(Gross State Product Per Capita). To minimize the effect of size differences across states, Ratio and Per Capita are used as a measurement scale. These data are also obtained from ‘State Politics and the Judiciary’ on State Politics & Policy Quarterly (SPPQ) data resource.

Table 2. Explanatory variable descriptions: state prevailing wage law

Theoretical explanation	Variable		Description
Diffusion Models	REGIONAL DIFFUSION		% of states sharing a border that had previously” repealed the prevailing wage laws
Internal Determinants Models	POLITICAL CONSERVATISM	Citizen Ideology	Modified Citizen and Government Ideology measurement (higher score indicate a more conservatism: 1- 100 scale)
		Government Ideology	
	UNIONDENSITY GAP		The labor union density of each state minus the average labor union density of all states
	THE DIFFERENT RACIAL PORTION of African American population in a state		Estimated African American Population in 1000’s
	THE QUALITY OF SKILLED WORER in a state		Average Hourly Earnings of Production Workers
	THE EDUCATION LEVEL of a state		Percent of Population with High School Diploma
	FISCAL HEALTH of government		The ratio of total-state-revenue minus total-state’s spending to total spending
	STATE’s ECONOMY		Gross State Product Per Capita
Alternative law	MINIMUM WAGE LAW of a state		The states with its minimum wage laws are coded as 1; states without its minimum wage law are coded as 0

Lastly, in order to measure the influence of an alternative law effect - Minimum Wage law, the dummy variable whether a state has its own minimum wage or not is used. The states that have minimum wage laws are coded as 1; states without its minimum wage law are coded as 0 based on wage data for the years 1968 through 1998 provided by the Council of State Governments. All data of independent variables are measured in the previous year, because policy implementation, which includes the legislation process requires time, and the period of legislative sessions typically is from January to December. In addition, legislators usually make a policy decision based on the prior year's data.

2.5.2 Event history analysis

There are various methods to analyze the policy diffusion between states. Among these, Event History Analysis (EHA) is the most appropriate approach. Allison (1984) noted that EHA is a strong predictor model based on the probability of a state adopting a policy. The purpose of Event History Analysis (EHA) is to explain why the event occurs at a particular point in time, which means “a qualitative change (an ‘event’)” from one state to another, (Berry and Berry, 1990). ‘Risk set’ and ‘Hazard rate’ are two major key concepts of Event History Analysis (EHA). Berry and Berry (1990) noted that ‘Risk set’ means that “the set of individuals in the sample that are “at risk” of event occurrence (i.e., have a chance of experiencing the event) at a particular time.” This concept is closely related with the concept of ‘survival time’ which means the duration of time up to the event. “Hazard rate” indicates the probability that an individual at risk during a particular time period will experience the event (Berry and Berry, 1990). Thus, in this paper, the hazard rate represents the probability that a state would have repealed the prevailing wage law during 1978-1988. This hazard rate is determined by a set of independent variables. To measure the relationship between survival and several independent variables, Cox proportional-hazards regressions (Cox model) is used in this paper. Based on my ten hypotheses, the following Cox model could be suggested:

$$\begin{aligned} \text{(Repeal)}(i, t) = \exp (\beta_1 \text{Regional_Diffusion}_{i,t-1} + \beta_2 \text{Political_Conservatism(citizen)}_{i,t-1} + \\ \beta_3 \text{Political_Conservatism(gov)}_{i,t-1} + \beta_4 \text{Uniondensity_Gap}_{i,t-1} + \beta_5 \text{Black_Portion}_{i,t-1} + \beta_6 \\ \text{Skilled_Worker}_{i,t-1} + \beta_7 \text{Education_Level}_{i,t-1} + \beta_8 \text{Fiscal_Health}_{i,t-1} + \beta_9 \text{Sate_Economy}_{i,t-1} + \beta_{10} \\ \text{Minimum_Law}_{i,t-1}) \quad \text{----- (1)} \end{aligned}$$

Box-Steffensmeier and Jones (2004) noted that “positive regression coefficients sign of the hazard ratio (>1.0) is increasing with changes in the covariate, and negative regression coefficients sign coefficients (<1.0) indicate the hazard is decreasing.” Thus, in this model, the positive coefficient signs indicate the increase of probability that states would have repealed its prevailing wage law, and negative coefficient signs imply the decrease of probability of repealing its prevailing wage law.

2.6 Results

The equation (1) is estimated with Cox proportional-hazards regressions and the results are presented in Table 3. These results provide some support for my hypotheses relative to the regional factor (Hypothesis 1), political conservatism of citizen and government (Hypothesis 2, 3), the different portion of African American population in a state (Hypothesis 5), the portion of people with high school diploma (Hypothesis 7), and the status of a state economy (Hypothesis 9) at the .01 significant level; as well as Union density (Hypothesis 4) and the effect of Minimum wage law of a state (Hypothesis 10) at the .05 significance level and the quality of blue collar workers in a state (Hypothesis 6) at the .1 significance level. However, the results show that the relationship between the fiscal health of a state and the probability of repealing prevailing wage law is contrary to the hypothesis 8, even though this relation is significant at the .05 significance level.

More specifically, hypothesis 1 concerning the effect of regional diffusion to repeal the prevailing wage law is confirmed (significant at the .01 level). This positive hazard ratio for REGIONAL DIFFUSION means that the risk that a state will repeal its prevailing wage law increases as the percentage of its nearby states have already repealed their prevailing wage laws or never considered enacting their prevailing wage laws increases.

Hypothesis 2 and 3 related with political conservative ideology of citizen and government are empirically supported by results at the significance level .01. This positive hazard ratio for POLITICAL CONSERVATISM means that the risk a state will repeal its prevailing wage law increases as the level of conservatism in citizen and state government ideology increases.

Hypothesis 4 for the influence of interest groups is also supported by results at the significance level .05. As we expected, union density has a negative relationship to the likelihood of repeal of the prevailing wage law, different from REGIONAL DIFFUSION and POLITICAL

CONSERVATISM. This negative hazard ratio for UNIONDENSITY means that, the risk that a state will repeal its prevailing wage law decreases as the level of union density increases in a state. In other words, if the state's union density is higher than the average union density of all states, the probability that the state will repeal prevailing wage law would decrease.

Table 3. The results of cox regression

Independent variables	Haz. Ratio (Robust Std. Err.)
REGIONAL DIFFUSION	1.069 ^{***} (.026)
POLITICAL CONSERVATISM (Citizen)	1.113 ^{***} (.037)
POLITICAL CONSERVATISM (Government)	1.085 ^{***} (.031)
UNION DENSITY	.588 ^{**} (.133)
THE DIFFERENT RACIAL PORTION of African American population	2.217 ^{***} (.574)
THE QUALITY OF SKILLED WORKERS of a state	.180 [*] (.169)
THE EDUCATION LEVEL of a state	5.461 ^{***} (3.18)
FISCAL HEALTH of government	1.20 ^{**} (.107)
STATE's ECONOMY	.148 ^{***} (.086)
MINIMUM WAGE LAW of a state	.000 ^{**} (.017)
Wald chi2	470.89
Prob > chi2	0.0000
Log pseudolikelihood	-8.8317
Number of Cases	424

* $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Reviewing results about the socio-economic characteristics of a state, first, hypothesis 5 related to the African American population in a state is empirically supported by the result at the significance level .01. Thus, the probability that a state would repeal prevailing wage laws increases when the portion of African American population in a state is higher than other states.

Hypothesis 6 for the quality of workers fails to receive the empirical support at the significance level .05. However, if the significant level is relaxed to .1, the result also supports this hypothesis. It means that if the quality of blue collar workers in a state is higher than other states, which is measured by production workers' average hourly earnings, it can be said that a state would not be as likely to repeal prevailing wage laws at a significance level of .1. Hypothesis 7 for the influence of the education level in a state on the probability that the state will repeal prevailing wage law is statistically significant at .01. Therefore, the probability that a state would repeal prevailing wage laws increases when the portion of individuals with high school diplomas in a state is higher than other states (likely because the GOP gained a majority support from people with high school diploma in 1970s and 1980s).

Among the two hypotheses for the economic factors, hypothesis 8 has the opposite direction unlike my expectation, even though the result shows that the effects of FISCAL HEALTH of government relative to repealing the prevailing wage law are statistically significant at .05. This means that the economic justification which nine states commonly argued in their repeal acts of the prevailing wage law is not true. Rather, this result can be interpreted as follows: decent state fiscal health allows for implementing state public-funded constructions, because it is almost impossible that a state propels public construction works in bad fiscal condition. In other words, a state is likely to consider whether it repeals prevailing wage law or not in terms of cost cutting based on the premise that state fiscal health is at least good enough to carry forward public funded constructions. However, hypothesis 9 for the status of STATE's ECONOMY is significant at the significant level 0.01. Thus, it is expected that the probability that a state would adopt the repeal of the prevailing wage decreases when the economy of a state is better than other states.

Lastly, hypothesis 10 is supported by the result at the .05 significant levels. Thus, this result shows that there is the effect of an alternative law – minimum wage law - on repealing prevailing wage law of a state. If a state has a minimum wage law, the probability that a state would repeal the prevailing wage decreases.

Based on this result, it is found that the abolition of prevailing wage laws by each state is influenced by various elements: regional (REGIONAL DIFFUSION), political (POLITICAL CONSERVATISM of citizen and government, and UNION DENSITY), social (THE DIFFERENT PORTION of African American population, THE QUALITY OF skilled workers,

and THE EDUCATION LEVEL), and economic (FISCAL HEALTH of government and STATE's ECONOMY) elements, and the existence of an alternative law (MINIMUM WAGE LAW). More specifically, this result shows that the influences of each element are different. In this case, the positive hazard ratios relative to regional and political ideology are weak (REGIONAL DIFFUSION = 1.069, POLITICAL CONSERVATISM of citizen and government = 1.113 and 1.085). However, the positive or negative hazard ratios relative to other elements are relatively strong than regional and political ideology. (UNIONDENSITY GAP = .588, THE DIFFERENT PORTION of African American population = 2.217, THE QUALITY OF skilled workers = .180, THE EDUCATION LEVEL = 5.461, FISCAL HEALTH of government =1.20, STATE's ECONOMY = .148. MINIMUM WAGE LAW = .000). Therefore, it can be said that the probability that a state would repeal the prevailing wage is more affected by the influence of interest groups, socio-economic conditions, state economic health and the existence of an alternative law than regional and political ideology.

2.7 Conclusion

Until now, most policy diffusion models have focused on the adoption of a new policy, and have not considered the impact of repealing old policies. However, this study shows the possibility that the diffusion of repeal of an old policy and law can be explained by the same logic which explains policy adoption and the mechanisms of policy innovation diffusion such as competition, learning, etc. In other words, the object of policy innovation and diffusion models is not only limited in the adoption of new policy and law, but also can be extended to the repeal of old ones.

Over the past decade, there have been many debates about the economic effect of prevailing wage laws in the United States. Many economists and other experts who support the prevailing wage laws have tried to demonstrate the benefits of prevailing wage laws. For example, Prus (1996) insists that "reforming or repealing these laws will not lead to the kinds of substantial savings promised by proponents of repeal." Opposing this argument, the claims of those who support their repeal also exist. Thieblot (1995) argues that the aggregate savings to all state governments from repeal of state prevailing wage laws could exceed \$4 billion annually.

If this economic justification is the most important reason in the repeal of prevailing wage law, the hypothesis for fiscal health should be supported by this analysis. However, the

hazard ratio relevant to state fiscal health is relatively weak than most of the other explanations. Therefore, it is hard to say that nine states repealed their prevailing law only based on economical facets, unlike economists' arguments. There are many stake holders interested in the repeal of an existing policy and law as well as in the adoption of a new policy. Thus, political, social, economic and other institutional environment should be considered simultaneously to answer this question; why do some states have repealed prevailing wage laws, while other states which already have prevailing wage laws continue to retain them?

There are some limitations to generalizing the results of this study. In the current public affairs context, the influence and role of the judiciary are rapidly increasing. Even though the state legislature is the main actor of adopting new policy and repealing old policy, state judiciary branches have had influence on the decisions of legislature because it is difficult for the state legislature to take an action against a State and Federal Court rulings related to a particular issue.

There are two important States' Supreme Court cases related to the repeal of prevailing wage law: Arizona (1979) and Oklahoma (1995). However, it is difficult to believe that the Oklahoma Supreme Court case affected the other states' repeal of prevailing wage law. The first reason is that the prevailing wage law of Oklahoma State still exists even though it has not been enforced since 1995. Second, after the Oklahoma Supreme Court decision, no other state has repealed its prevailing wage law. The last state to repeal the prevailing wage law was in Louisiana in 1988.

The Arizona Supreme Court case declared that its prevailing wage law was unconstitutional in 1979 and Arizona formally repealed its prevailing wage law in 1984. Florida firstly repealed its prevailing wage law over the veto of the governor in 1979 and eight states had repealed their prevailing wage law by 1988. Therefore, the Arizona Supreme Court case in 1979 can be expected as one factor which may have impact on the other states repeal of prevailing wage law. Nevertheless, the influence of a State Supreme Court decision is not included in this study because the Arizona Supreme Court case is the only one court decision case at the state level during the period of states' repealing prevailing wage law and far more cases are needed to get a statistically significant result about this.

Nevertheless, the influence of the judiciary decision should be considered as an important factor to explain the repeal of old policy and law. To reveal the influence of judiciary on the

repeal of prevailing wage law, we need to develop alternative ways and indicators to measure the influence of the judiciary directly and indirectly.

The debate about whether prevailing wage laws should be repealed is still a controversial issue at all levels of government even though the final event of the repeal of the prevailing wage law at the state level occurred in 1988 at Louisiana. Most recently, New York City's Prevailing Wage Law was struck down by New York Supreme Court in 2013 (Taylor, 2013). Therefore, it is expected that the additional studies about the repeal of prevailing wage law at different levels of government can give us more insights to understand various aspects of repealing an old policy and law.

CHAPTER 3

THE ROLE OF COURTS ON THE DIFFUSION OF SAME SEX MARRIAGE BANS: REINFORCEMENT OR BACKLASH OR NOTHING?

3.1 Introduction

It has been a firm conventional principle that judges should not be "activists." In other words, the role of judges is considered as not making law but applying the law in the conservative views. However, the advocates of judicial activism argue that all court's ruling has inevitable impact on the process of making social policy (Canon & Johnson, 1999), even though the judge may not intend that. From this point of view, part of the inherent power of a court decision is to state what is legal and what must change to meet legal requirements to enforce the law. Also, they insist that the influence of the judiciary in current policy arena would be rapidly growing, because more and more interactive inter-branch relations among the legislative, the judicial, and the administrative branches have emerged (Miller and Barnes, 2004).

The repeal of DADT (Don't Ask, Don't Tell) in the U.S. military by the U.S. Supreme Court can be seen as one example of how judicial decision can exert an influence on public administration. DADT, enacted in 1993 under Clinton administration, did not allow applicants and service members to reveal their sexual orientation in the military. However, it was repealed by Supreme Court in 2010. Therefore, the U.S. government had to take follow-up administrative actions to abolish discrimination in the military in terms of sexual orientation.

However, there is a passive perspective about the role of judiciary for social change. According to this line of thought, court decisions are not the best way to achieve social reform. Rosenberg (1991), in his famous book 'The Hollow Hope,' argues that using the court for social change has not been effective in various social reforms because of inherent constraints of the judicial branch: the nature of constitutional rights, insufficient independence from the other branches, lack of enforcement powers, and less power to implement decisions and make necessary policy. Furthermore, Klarman (2005) even argues that unpopular judicial victories have not been beneficial to social change until the change becomes popular with public opinion, because strong court decisions have provoked a severe backlash from the opponents of the

change. This idea is against conventional wisdom that many fundamental liberty and social rights have been established by historic court victories (Sarat, 2000).

If the judicial decision influences work for or against social change, the effect of judicial decisions is likely to be found in the process of policy diffusion at the state level. Even though a certain court decision in a state has legal force only in its territory, it often has had an effect on other states' policy adoptions as an important precedent regardless of whether its effect is positive or negative. Nonetheless, very little research has attempted to systematically examine this issue to see what impact judicial decisions have on the diffusion of state law.

We can argue that moral policies should be the most likely type of policy to reflect the influence of courts in policy diffusion, because moral policy is social value-driven and one of the main functions of the judicial branch is to deal with what is legal and constitutional in the conflicts of competing social and constitutional values among people. Currently, one of the major issues related to moral policy is the case of LGBT rights, especially as associated with same sex marriage. The severe battles between the proponents and opponents of same sex marriage have been fought across the states both in the courts and legislatures. Thus, judicial decisions in a state and state legislature's adoptions of relevant laws for and against same sex marriage can serve as a good test case to study for better understanding the role of the courts in policy diffusion.

The article will proceed as follows. First, we briefly review what LGBT rights are and the history of LGBT right movements in the United States. Second, we provide theoretical arguments about the role of courts in promoting the diffusion of state policy adoptions relevant to same sex marriage based on previous literatures, as well as testable hypotheses. Third, the statistical methodology and data, which are used in this study, are described. Finally, the conclusions and significance of this study are discussed on the basis of the empirical results and my findings.

3.2 LGBT rights in the United States

3.2.1 The brief history of LGBT movement

LGBT is the acronym of 'Lesbian, gay, bisexual, and transgender.' LGBT rights are sometimes simply called gay and lesbian rights, or gay rights. The LGBT movement can be regarded as the political ideology and social movement for promoting social equality of LGBT

people. In the United States, few attempts to create advocacy groups for gay and lesbian relationships had been made until after World War II. Even though the Society for Human Rights was established as the country's first gay organization in 1924, it was not until the 1950s that the LGBT movements made any real progress in establishing legal rights for LGBT people.

During the early 1950s, Senator Joseph McCarthy began an investigation into homosexuals holding government jobs, because he considered gay persons as communist sympathizers. In 1952, the APA (American Psychiatric Association) included homosexuality in its official list of mental disorders - DSM (Diagnostic and Statistical Manual of Mental Disorders) as one of the sociopathic personality maladies. Thus, gay men and lesbians suffered from the fear of imprisonment in mental hospitals and jails because courts and clinics defined gay as psychotic or criminal throughout the 1950s and 60s. "The lavender scare" well serves to show this fear of homosexuals during that period. Gay people were not protected against work place discrimination, and gay sexual practices were outlawed in many states.

Opposed to these anti-gay activities, political demands for fair treatment of homosexuals in mental health, public policy, and employment increased and many homophile organizations, such as the Mattachine Society (1950), One Inc (1952), and the Daughters of Bilitis (1955), emerged at that time. These organizations have acknowledged gay men as an oppressed cultural minority, not mentally disordered people. Also, prominent scholars in sociology and psychology supported this view. Cory (1951) noted that homosexuals were a legitimate minority group. Hooker (1956) showed that psychologists simply could not distinguish between straight and gay men on standard personality tests.

In 1962, Illinois became the first state to repeal the state's sodomy law, and many gay activists united to create an organized movement similar to the civil rights movement and the anti-Vietnam War protests of the '60s. From this point of view, the Stonewall Riots in 1969 was a meaningful event in LGBT right movement in the United States. Stonewall Riots was a three-day protest of gay, lesbian and transgendered supporters against a police raid on a New York gay bar. After Stonewall, the gay rights movement was transformed from isolated struggles of pro-gay activists to organized resistance by collective and wide-scale radical groups. With this organized movement working to redefine gay rights and the perception of gays in society, the American Psychiatric Society removed homosexuality from the DSM (Diagnostic and Statistical Manual of Mental Disorders) in 1973.

In the 1980s, the emergence of AIDS reinforced the anti-gay rhetoric of the conservatives, because this deadly disease seemed to be concentrated in the gay population, especially among gay males. However, the LGBT movement paradoxically became further organized and politicized at that time. To provide health and medical assistance to those infected, the gay community created organizations, like the Gay Men's Health Crisis in New York City. At the same time, lots of gay rights groups tried to secure funding for education and research to protect LGBT people against discrimination caused by the epidemic of AIDS.

Vermont became the first state to allow 'civil unions' between gay and lesbian couples in 2000. Even Vermont refused to call these unions between homosexuals' marriage; it granted same-sex couples the same benefits and rights as married couples. Since then, several states have provided similar benefits to same-sex couples through civil unions and domestic partnerships. Now, Colorado, Hawaii, Illinois and New Jersey allow for civil unions. Furthermore, Connecticut, Delaware, New Hampshire, Rhode Island and Vermont have converted civil unions into same sex marriages. Also, six states, California, Maine, Nevada, Oregon, Washington, Wisconsin, and District of Columbia have allowed same sex couples to legally form domestic partnerships, and Hawaii has provided them similar benefits under the name of reciprocal beneficiaries. All of these states allow for same sex marriage either via state law or court ruling, as well as civil unions or domestic partnerships.

The year 2003 was the watershed year in the LGBT movements. Above all, gay Americans became free from criminal classification by the repeal of sodomy laws (*Lawrence v. Texas*, 2003). More importantly, actual same-sex marriage was legalized for the first time in Massachusetts in this year. Finally, the U.S. Supreme Court guaranteed the constitutional right for same-sex couples to marry in all 50 U.S. states by its decision on June 26, 2015 (*Obergefell v. Hodges*, 2015). Also, the LGBT movement has made gains in securing legislation against workplace and housing discrimination, and hate crimes protections.

However, while the LGBT movement has made great progress and has been widely accepted in American society, it still remains controversial in many parts of mainstream society. In other words, opposition to enhancement of gay rights continues in the more conservative sectors of American society. Each state has a different set of relevant LGBT policies and laws. Among these, courts have played a small role in establishing rules related to anti-discrimination in employment and housing, or hate crimes protections. However, sodomy laws, LGBT

adoption, and relationship recognition policy like same sex marriage, civil unions, and domestic partnership, have strongly been influenced by judicial decisions (Lax and Phillips, 2009).

At the federal level, there have been U.S. Supreme Court cases, both for and against the gay-rights movement. One of the first U.S. Supreme Court cases favorable for the gay right movement was *One, Inc. v. Olesen* (1958). "One: The Homosexual Magazine" beginning in 1952 was not allowed to be delivered via U.S. mail by the U.S. Post Office Department and the FBI (Federal Bureau of Investigation). Even though the lower court took the side of the U.S. Post Office Department and the FBI, the Supreme Court reversed the lower court's decision and found in favor of the magazine. This case is meaningful in the LGBT movement because this was the first case for the U.S. Supreme Court to rule in favor of homosexuals. In *Bowers v. Hardwick* (1986), the Supreme Court did not rule in favor of homosexuals. The Supreme Court ruled that "the right to privacy" does not protect gay sodomy, but only covers intimate marital and familial relations. In other words, the Supreme Court declared that the "right of privacy" does not permit homosexuals the right to engage in sodomy. However, the Supreme Court overturned this decision in 2003. The U.S. Supreme Court decriminalized gay sexual conduct by repealing the sodomy law at the federal level in 2003 (*Lawrence v. Texas*, 2003) Also, while the Supreme Court struck down Colorado's amendment for discriminating LGBT people based on their sexual orientation in *Romer v. Evans* (1996), it upheld the Boy Scouts of America's constitutional right to ban gays in the case of *Boy Scouts of America v Dale* (2000).

Currently, the attitude of the Supreme Court's decisions has become more favorable for LGBT rights. The Supreme Court ruled that the DOMA (Defense of Marriage Act) was unconstitutional in *United States v. Windsor* (2013), because DOMA violated the fundamental rights of gays and lesbians to equal protection, and infringed on the states' rights to define marriage. Also, the Supreme Court removed barriers for same sex couples who wanted to marry in California via *Hollingsworth v. Perry* (2013)

Also, there have been state Supreme Court cases for both pro and anti-gay-rights like the federal Supreme Court. In *Baker v. Nelson* (1972), the Supreme Court of Minnesota ruled that a state's denial of a civil marriage license to same-sex couples did not violate the U.S. Constitution. However, the Hawaii Supreme Court ruled that same-sex marriage bans violated the equal protection supported by the state's constitution in *Baehr v. Lewin*, now *Baehr v. Miike*

(1993). In order to ban same-sex marriage, the Hawaii Supreme court argued that the state had to offer compelling reasons for justifying the denial of marriage license for these couples.

On November 18, 2003, the Massachusetts' Supreme Court recognized same-sex marriages based on the equal protection clause of the state constitution (*Goodridge v. Dep't of Pub. Health*, 2003). Since then, the California (*In re Marriage Cases*, 2008), the Connecticut (*Kerrigan v. Commissioner of Public Health*, 2008), the Iowa (*Varnum v. Brien*, 2009), and the New Mexico (*Griego v. Oliver*, 2013) Supreme Courts have each ruled the statute banning same sex marriage was unconstitutional by the same logic. Prior to the U.S. Supreme Court's decision on June 26, 2015 (*Obergefell v. Hodges*, 2015), same sex marriage had been legalized by court decision in 26 states among the 37 states with legal same sex marriage. Also, appeals are in progress in 8 states where gay marriage bans have been overturned: Arkansas, Kentucky, Michigan, Mississippi, Missouri, Nebraska, South Dakota, and Texas. Overall, there have been federal and state Supreme Court decisions that have brought the LGBT movement both some setbacks as well as breakthroughs.

3.3 Backlash thesis and diffusion of anti-LGBT rights

The question remains, are the courtroom victories of gay rights movement always helpful to the extension and diffusion of LGBT rights across states? From conventional wisdom, the answer is 'yes'. However, the widespread scholarly claim on the limitations of a judicial decision is that those victories have stirred up conservative counter-mobilization when courts' decisions were unpopular at that time (Keck, 2009). For example, right after the U.S. Supreme Court repealed the sodomy law at the federal level in 2003 (*Lawrence v. Texas*, 2003) and the Massachusetts' Supreme Court allowed same-sex marriages (*Goodridge v. Dep't of Pub. Health*, 2003), fifteen states immediately amended their constitutions to ban same-sex marriages, as well as alternative forms of legal recognition of same sex marriage like civil unions and domestic partnerships. For this reason, judicial decisions for LGBT rights have drawn fire even from some advocates of gay rights as strategically unwise (Keck, 2009).

3.3.1 Backlash thesis of judicial decision against conventional wisdom

3.3.1.1 Backlash thesis. According to Haider-Markel (2008), backlash can generally be defined as: any political reactions that try to minimize or reverse the political gains of groups that previously had little power and voice in public arenas. More specifically, political actors in the main stream of society may feel threatened by the political successes of a previously marginalized group and respond to this perceived threat in a consistent manner (Blalock 1967; Thomas 1994; Yoder 1991). Also, there are other research studies which have found evidence of backlash, or a negative counter response, in various organizational and social contexts (Francisco 1995, 1996; Rudman and Glick 1999).

The backlash thesis about judicial decisions has been developed by Klarman (1994). From his perspective, the Supreme Court's landmark decision in *Brown v. Board of Education* (1954) sparked massive resistance, exacerbated Southern racial politics at the time, and undermined the support of white moderates. His view differs considerably from the traditional understanding of the *Brown* case, which is generally viewed as having played a crucial role in fostering the civil rights movement by dismantling Jim Crow laws. Klarman (2004) identifies recent same-sex marriage litigation as having as similar impact as court cases like *Brown*. He argued that the most significant short-term result of *Goodridge* (2003), the Massachusetts Supreme Court decision for gay rights, was the severe backlash against LGBT rights similar to what happened in civil rights after *Brown*. Rosenberg (2008) took a similarly negative assessment of current same sex marriage litigations. He focused on conservative counter-mobilization that followed the state high court victories for same sex marriage in Hawaii, Vermont, and Massachusetts. Rimmerman (2002) has even insisted that the 1993 *Baehr* decision of the Hawaii Supreme court for same sex marriage was more beneficial to opponents against LGBT rights than to its advocates.

In 1990, three same-sex couples' marriage licenses in Hawaii were denied and they filed a discrimination law-suit against the state. In 1993, the Hawaii Supreme Court (*Baehr v. Lewin*, now *Baehr v. Miike*, 1993) ruled that same-sex marriage bans violate the state's constitution based on its equal protection clause. Also, the Circuit Court upheld the Hawaii Supreme Court's decision in 1996 (Strasser, 1999). This court case is one of the distinctive victories for the advocates of same-sex marriage rights (Strasser, 1999). However, ironically, this Hawaii Supreme Court's ruling led conservative religious groups to make huge efforts to change public

opinion against same-sex marriage. Consequently, 69 percent of voters in Hawaii approved in 1998 a ballot initiative to amend the state constitution to restrict marriage to only heterosexuals, excluding homosexuals. This history helps explain why some proponents of LGBT rights have criticized the litigation strategy as being more beneficial to opponents, because rights-based litigations without mass support are “ineffective at best and counter-productive at worst” (Keck, 2009).

In sum, the claims by backlash proponents can be summarized in three principals. First, unpopular judicial victories have regularly been followed by huge resistance and opposing legislation. Second, the end result of these judicial victories has been regressive policy change. Third, alternative strategies are likely to be better and more effective than following a litigation strategy (Keck, 2009).

3.3.1.2 Backlash diffusion against LGBT rights. As I mentioned above, if unpopular judicial decisions for LGBT rights in a state stir up backlash against the expansion of LGBT rights, the opponent groups of LGBT rights would try to enforce the adoption of a regressive policy on the state government. Also, this court’s radical decision in a state can trigger counter-mobilization in other states, especially nearby states as a precedent. If this kind of judicial decision was made by the federal court, especially the United State Supreme court, it could lead conservative groups in its jurisdiction to try to reverse the result of this judicial decision. Therefore, it is expected that the positive effect of these judicial victories at either the federal or state level would be detected in the regressive policy diffusion across states.

The state’s law or a constitutional amendment for prohibiting same sex marriage can be regarded as the primary regressive state policy against LGBT rights. As mentioned above, if backlash occurs against an unpopular judicial decision for strengthening LGBT rights in a state, the probability that the state will adopt these regressive policies would increase. Also, in a diffusion context, counter-mobilization caused by unpopular federal and other states’ Supreme Court decisions for LGBT rights would have an effect on a particular state’s policy adoption of regressive policies against same sex marriage as important precedents. Furthermore, it is expected that increasing the number of unpopular court cases for LGBT rights on a national scale can reinforce the backlash movement across states. Therefore, by showing how the influence of judicial decisions for gay rights works for the diffusion of states’ DOMA (Defense of marriage

act) and constitutional amendments against same sex marriage across states, it can be determined whether the backlash caused by judicial decisions for LGBT rights exists or not.

3.3.1.3 Public opinion as the criterion of whether judicial decisions for LGBT rights are popular or not in a state. To measure the influence of judicial decisions on the diffusion of states' DOMA and constitutional amendments, it is important to verify whether some judicial decisions are unpopular or not. Public opinion for same sex marriage can be used as a critical criterion for judging the acceptance of same sex unions. According to Pew research polling, it was not until 2011 that the advocates of gay rights became a majority in the United States. More Americans first supported same-sex marriage by a 46% to 45% margin in 2011. Thus, the judicial decisions of the Federal Supreme Court for gay rights can be nationally regarded as unpopular until 2011.

However, public opinion in favor of same sex marriage has varied by states. If public opinion in a state is not in favor of same sex marriage, backlash would be more likely to occur in the state against the judicial decisions for gay rights regardless if it was made either by the state Supreme Court, a nearby state's Supreme Court, or a federal court. In any case, these judicial judgments should be considered unpopular in the state. In the inverse case, if public opinion is in favor of same sex marriage in a state, backlash would be less likely to occur in the state because these judicial judgments have the majority of public opinion in favor of them. Therefore, it is expected that any state and federal court decisions for gay rights would have a positive effect on the diffusion of the state DOMA and anti-gay constitutional amendments across states without a majority of public support for same sex marriage. From this, a hypothesis related to the backlash thesis is set up as;

Hypothesis 1: The probability that a state would adopt DOMA or a constitutional amendment against the same sex marriage is positively related to the cumulative number of the state and federal court decisions supporting gay rights when the public opinion against same sex marriage in the state.

Furthermore, previous research on morality politics suggest that public opinion is very important if the frame of policy debates has been made as a "moral" debate between parties, as

the opponents of gay rights often did (Haider-Markel and Meier 1996; Mooney 2001). Public perceptions of a social issue like same-sex marriage have influence on political officials because they are dependent on the public for re-election. Therefore, when a majority of public opinion is against same sex marriage, state officials are less likely to act for the legalization of same sex marriage (Kane, 2003). Therefore;

Hypothesis 2: The probability that a state would adopt a state DOMA or a constitutional amendment against gay rights is negatively related to the degree of public opinion in favor of same-sex marriage in the state.

3.3.2 Relevant controls: external and internal factors of a state

To explain a state's adoption of a same sex marriage ban, the external and internal factors of a state are also considered. External factors are important as the information sources of state's decision making for a certain policy adoption. Also, the internal characteristics of a state would become more critical factors of state policy adoption, if a state is aware of the policy, especially in early-adopters (Berry and Berry, 2007). Thus, relevant controls for state external and internal characteristics around same sex marriage issue are included in our analysis

3.3.2.1 External factors of backlash diffusion. To explain state's adoptions of DOMA and constitutional amendments, it is important to know how policies spread across states. Regional diffusion can first be considered as one of the important external factors. The logic of regional diffusion is that states are more likely to adopt a policy when nearby states, sharing a boundary, have already done so (Berry and Berry, 2007). Thus, the hypothesis about regional effect is:

Hypothesis 3: The probability that a state would adopt DOMA or a constitutional amendment is positively related to the number of states that border it that have adopted DOMA or a constitutional amendment.

Also, vertical influence diffusion can be included as an external factor because the federal government enacted the Defense of Marriage Act (DOMA) in 1996 at the national level. The

Defense of Marriage Act was a United States federal law that allowed a state to refuse to recognize same-sex marriages even though other states granted it under their laws. Vertical influence is driven by the federal government's adoption of policy. Because of the federal government's DOMA adoption, states might feel pressure or are given incentives to enact similar laws and policies (Allen, Pettus, and Haider-Markel, 2004). Therefore

Hypothesis 4: The probability that a state would adopt a state Defense of Marriage Act (DOMA) or a constitutional amendment banning same sex marriage increased after 1996, when the federal government enacted the Defense of Marriage Act.

3.3.2.2 The characteristics of a state as inter-determinant factors. Internal characteristics of a particular state related to policy adoption are generally categorized into three sub-characteristics: political, social, and economical characteristics of states. As influential political factors, political ideology, party control of a state legislature, and the power of interest groups can be considered. Religion, race, gender, age or generation, and education level can be included as important demographic factors affecting on the diffusion of same-sex marriage ban.

1) Political ideology

In a state's adoption of moral policy, the prevailing political preference among citizens in a state often is an important factor (Roh and Berry, 2008; Haider-Markel, D. P. ,1999). At the state level, political inclination of citizens is measured as state citizen ideology (W. Berry, E. Ringquist, R. Fording, and R. Hanson, 1998). State citizen ideology is conceived as the mean of citizens' ideological preference on a liberal-conservative spectrum of the constituents in a state. Regarding the same-sex marriage ban, conservatives are more likely to be supportive for introducing a ban of same sex marriage in a state. Thus, a hypothesis related to citizen political ideology can be stated:

Hypothesis 5: The probability that a state would adopt a state DOMA and a constitutional amendment against gay rights increases as the level of citizen conservative political ideology increases.

2) Party control of a state legislature

The main reason that power shifts in political party majorities occurs is public discontent with existing political arrangements. Political elites become more receptive to the public because of the possibility of power shifts among political elites (Piven and Cloward, 1977). According to them, shifts in party control of state legislatures are one of the major factors that led to the policy success of the LGBT movement. Traditionally, the Republican Party has opposed many goals of the LGBT movement. Thus we expect that large shifts to Republican control means an increasingly hostile climate toward gay rights. Therefore, my hypothesis related to the party control of a state is:

Hypothesis 6: The probability that a state would adopt a state DOMA and a constitutional amendment against gay right is positively related to the percent of Republicans in a state legislature.

3) State population characteristics explanations

The demographic and socio-economic characteristics of a state can be regarded as critical factors affecting on the diffusion of same sex marriage bans. In previous research, gender has consistently been found to be related with attitudes toward homosexuality. Overall, men are less likely to support LGBT rights than are women (Finlay & Walther, 2003; Jenkins et al., 2007, McVeigh & Diaz, 2009). Also, there are generational differences in attitudes towards homosexuality. Younger generations (millennials and Gen-Xers) are more supportive of LGBT rights than older generations (Adamczyk and Pitt, 2009; Andersen and Fetner, 2008). Even though some studies have found no racial differences in attitudes toward gay rights (Herek & Glunt, 1993; Herek & Capitanio, 1995; Firestone et al., 2003; Jenkins et al. 2007), most studies have found that African Americans and Hispanic have more negative attitudes toward gay rights than whites (Bonilla & Porter, 1990; Loftus, 2001; Schulte, 2002; Lewis, 2003; Lewis & Gossett, 2008; Bauermeister et al. 2007; Abrajano et al., 2008).

Socioeconomic characteristics of a state population could influence a state policy adoption. According to the new national poll by Pew Research Center (2013), income level is one of the decisive factors influencing or associated with attitudes toward gay rights; people with family incomes above \$75,000 are more likely to support gay marriage than others. Also, this

poll shows that Americans with a high school education or less are likely to oppose gay marriage. Generally, it is expected that education levels may increase political tolerance toward people who are different from one's self (Gibson, 1987; Haider-Markel and Meier, 1996), which may lead to more support for liberal social policies (Haider-Markel, 2001) and in particular, support for minorities who face significant prejudice, such as sexual minorities (Sullivan, Piereson, and Marcus, 1982; Seltzer, 1993).

However, state population characteristics are not directly included in this paper, because most of a state's demographic factors are already included to measure the state public opinion for same sex marriage. There have been many separate surveys asking about the public's opinions regarding same sex marriage, but there has not been any unified annual survey estimating state-level public attitudes on same sex marriage. In other words, there is no comparable survey across all states, covering a long period. Therefore, sophisticated methods have been used to generate state level public opinion based on multiple national and individual agency's polls by using state demographic and regional characteristics (Gelman and Little, 1997; Gelman, and Bafumi, 2006; Lax and Phillips, 2009b; Flores and Barclay, 2013). The state public opinion data used in this paper, is provided by Flores and Barclay (2015). To estimate state level public opinion on same-sex marriage with multilevel regression and post-stratification (MRP), their measurement includes most of state demographic characteristics: gender, age, race, and education level. Because of this reason, the possible hypothesis related to these state population characteristics are not directly dealt with in this paper.

3.3.2.3. The impact of other institutions related to same-sex marriage. The influence of other state institutions favorable to gay rights is expected to be important factors affecting the diffusion of state's ban of same sex marriage as an external and internal factor. Table 4 presents relevant institutions included in this study and data sources for each variable. As an internal factor, if a state has more supportive institutions for gay rights, such as allowing adoption of children by same-sex couples, repeal of sodomy law, etc., the state would be less likely to support same-sex marriage ban. Therefore;

Hypothesis 7: The probability that a state would adopt a state DOMA and a constitutional amendment against gay right is negatively related to the number of a state’s institutions that provide legal support or recognition for gay rights.

Also, the logic of regional diffusion can be applied to the influence of other institutions for homosexual rights. If nearby states already have many more institutions supportive of gay rights than the average number of adoptions of all states, it can create the pressure on the state to adopt a new pro-gay policy. Thus, one would another hypothesis like this:

Hypothesis 8: The probability that a state would adopt state’s DOMA and a constitutional amendment against gay right is negatively related to the number of nearby states’ institutions for gay rights.

Table 4. List of supportive institutions for homosexual rights

State Institutions	Data source
1. Medical Facilities (Hospital Visitation)	1. Fileff, M. (2011). Hospital Visitation: The Forgotten Gay Rights Struggle. <i>J. Marshall L. Rev.</i> , 45, 939.
2. Non-Discrimination Law (Housing)	2. NCLR (2014). Adoption by Lesbian, gay and bisexual parents: An Overview of Current law.
3. Non-Discrimination Law (Employment)	3. Equality Maps on the database of MAP (The Movement Advancement Project)
4. Hate Crime Laws	4. National Gay and Lesbian Task Force. (2008). Second-Parent Adoption in the U.S.
5. Safe Schools Laws (Anti-Bullying)	5. Hunt, J. (2012). <i>A State-by-State Examination of Nondiscrimination Laws and Policies: State Nondiscrimination Policies Fill the Void but Federal Protections Are Still Needed.</i> Center for American Progress.
6. Same Sex Couple Adoption	6. HRC (2014). <i>Beyond Marriage Equality: A Blueprint for Federal Non-Discrimination Protections</i> , Human Right Campaign
7. Repeal of Sodomy Law	7. Cahill, S., & Tobias, S. (2006). Policy issues affecting gay, lesbian, bisexual and transgender families. <i>Ann Arbor, MI: University of Michigan Press.</i>
	8. Kane, M. D. (2007). Timing matters: Shifts in the causal determinants of sodomy law decriminalization, 1961–1998. <i>Social Problems</i> , 54(2), 211-239

3.4 Data and methodology

3.4.1 Data for dependent variables and explanations

The dependent variable is a state's ban of same sex marriage which had been adopted by states between 1994 and 2012. Therefore, this period is the time frame of our data set. First, the first state ban of same sex marriage regardless of whether it is a state DOMA or constitutional amendment is coded as "1". Furthermore, one more dependent variable is created for an additional analysis which focuses on the change of status of a state's same sex marriage ban because it is composed of state DOMA and constitutional amendments against same-sex marriage. More specifically, the states with their own DOMA are coded as 2, the states that amended their constitution against same sex marriage are coded as 3; and non-adopted states are coded as 1.

To gather data for the court decisions for gay rights, the federal and state court cases are counted, which are related to six policy areas: (1) sodomy, (2) hospital visitation of same sex partner, (3) same sex couple child adoptions, (4) parental rights of same sex couple, (5) anti-discrimination based on sexual orientation and (6) relationship recognition policy, such as same sex marriage. However, the court cases of HIV, transgender, and immigration cases of foreign same sex partner are not included because court decisions of these cases are more influenced by other issues: public health, immigration, foreign relationship, etc. Also, dismissed and settlement cases are not counted as valid judicial cases. These data come from the legal dockets of Lambda legal, the American Civil Liberties Union (ACLU), Gay & Lesbian Advocates & Defenders (GLAD), Michigan clearing houses, Rutgers law school library, Marriage equality website and LexisNexis database.

A total 528 federal and state court cases have been reviewed, 199 judicial decisions are classified as supportive judicial decisions for homosexuals' right. The time period of court data is between 1993 and 2011, because all of the independent variables are lagged variables. Generally, state legislature decisions made based on the situation of the prior year and the process of legislation takes at least one legislative session from the proposition of a certain law to the adoption of the law.

Table 5. Dependent variable: same sex marriage bans by state

State	State DOMA	Constitutional Amendment	State	State DOMA	Constitutional Amendment
AL	1998	2006	MT	1997	2004
AK	1995	1998	NE		2000
AZ	1996		NV		2002
AR	1997	2004	NH		
CA	2000	2008	NJ		
CO	2000	2006	NM		
CT			NY		
DE	1996		NC	1995	2012
FL	1997	2008	ND	1997	2004
GA	1996	2004	OH	2004	2004
HI	1994	1998	OK	1996	2004
ID	1996	2006	OR		2004
IL	1996		PA	1996	
IN	1997		RI		
IA			SC	1996	2006
KS	1996	2005	SD	1996	2006
KY	1998	2004	TN	1996	2006
LA	1999	2004	TX	1997	2005
ME	1997		UT	1997	2004
MD	2010		VT		
MA			VA	1997	2006
MI	1996	2004	WA	2007	
MN	1997		WV	2000	
MS	1997	2004	WI		2006
MO	1996	2004	WY	2003	

In order to distinguish which court ruling can trigger a possible backlash in a state from supportive judicial decisions for gay rights, state level public opinion on same sex marriage is used as the criterion. If supportive court decisions for gay rights occur in a state without the majority (50% and above) of citizens in support of same sex marriage, these are regarded as valid court cases potentially causing a backlash. More specifically, federal district court decisions without majority support of same sex marriage is coded as “1” and assigned to the state where the district court is. Federal Circuit court decisions are coded as “1” and assigned to only states without the majority support on same sex marriage under its jurisdiction. U.S. Supreme Court cases for homosexuals’ right are coded “1” and assigned to the states across the nation, where the public opinion of state majority is negative. Thus, circuit and U.S. Supreme Court

cases are counted differently from state to state depending on the public opinion for same sex marriage in each state, even if the court cases are exactly same. State court cases are coded in the same way as federal district court, but only state supreme cases are included in our analysis. It is because our unit of analysis is a state. In other words, if the jurisdiction of the court is smaller than the state level, that case is not counted as an effective case. And then, the cumulative number of court cases in a state is calculated by three categories: total courts, federal courts, and State Supreme courts' cases.

As I already mentioned, Flore and Barclay (2015) provided the state public opinion data on same sex marriage for this paper. To estimate public opinion on same-sex marriage at state level over the course of 14 years, a substantial amount of survey data is aggregated and used as raw data from multiple polling agencies and news companies. Based on these data, they measure state public attitude on same sex marriage since 1992 to 2016 by reflecting the effect of demographic attributes and geographic context with a mixed effects logistic regression model and post-stratification.

Among external factors, the regional influence of policy diffusion is measured by “the percentage of states sharing a border that had previously” (Berry and Berry, 1990) adopted a state DOMA or constitution amendment. The reason why the number of states sharing a border is not directly used is that the total number of nearby states fluctuated by state. To measure the vertical influence caused by federal DOMA, a dummy variable is introduced; the federal DOMA dummy is one for 1996 and zero for other years. Regarding the political variables, first, citizen ideology data is obtained from ‘Updated Citizen and Government Ideology the data, 1960-2013’ from Richard C. Fording database, based on the article, “Measuring Citizen and Government Ideology in the American States, 1960-93” written by Berry et al. (1998). Second, party control is measured the number of Republicans in each State House and this data is extracted from the historic records of state partisan composition in *Books of the States* between 1993 and 2011.

Lastly, the influence of other state institutions for same-sex marriage in a state and nearby states is measured by the number of pro-gay policies which they have. If a state has a pro-gay policy, then a +1 is assigned to that state's score. As it mentioned, this score is a summated scale of dummy variables for whether a state has its own law related to hospital visitation of same sex partner, same sex couple child adoption, anti-discrimination law based on sexual orientation in employment and housing, hate crimes, safe school laws for homosexual students

and the repeal of sodomy laws. The range of this score is between ‘0’ and ‘7.’ Table 6 shows and defines the explanatory variables of this study.

Table 6. The descriptions of explanatory variables: state same sex marriage ban

Theoretical explanation	Variable	Description
Backlash of Judicial Decisions	Total Court Cases	Federal Court Decisions + State Supreme Court Decisions
	- Federal Court Cases	The cumulative number of the Federal district, circuit and Supreme court decisions favorable to gay rights under negative public opinion in a state
	- State Supreme Court Cases	The cumulative number of State Supreme court decisions supporting gay rights when the public opinion is negative in a state.
Public Opinion	State Public Opinion on same sex marriage	Smoothed estimates of state public opinion on same sex marriage from 1992 to 2016 (Flore and Barclay, 2015) - Higher score indicates a more supportive: 1- 100 scale
External Diffusion	Regional Pressure by nearby states with same sex marriage ban	% of states sharing a border that had previously a same sex marriage ban
	Vertical Pressure by Federal DOMA	Year dummy variable (1996)
	INSTITUTIONS for homosexuals’ right in nearby states	Average number of gay-friendly institutions in nearby states
Internal Determinants	Political	Citizen Political Ideology - Higher score indicates a more liberal: 1- 100 scale
		Republican Party Control in Legislature The percentage of Republicans in a State House
	INSTITUTIONS for homosexuals’ right in a state	Total number of gay-friendly institutions in a state

3.4.2 Event history and multi-state survival analysis

The policy diffusion between states has been analyzed by various methods. Among these, Event History Analysis (EHA) is a strong predictor model based on the probability of a state adopting a policy (Allison, 1984). Based on the Event History Analysis (EHA), it is well explained why “a qualitative change” from one state to another - in other words, an ‘event’ - occurs at a certain point in time (Berry and Berry, 1990). In a dataset for event history analysis, each state year is regarded as a case. States that could adopt a certain policy in a particular year are included in the dataset to make up the risk set for that year. After a state adopted the policy, any further explanation for that state is not entered into the dataset. Thus, the size of the risk set varies by year depending on the number of early adopters that have already adopted the policy. The probability that a state would have adopted the bans of same sex marriage is determined by a set of independent variables. Basically, the following EHA model could be laid out based on hypotheses:

$$\text{ADOPT}_{it} = \beta_1 \text{Total_Court_Cases}_{i,t-1} + \beta_2 \text{State_Public_Opinion}_{i,t-1} + \beta_3 \text{Regional_Diffusion}_{i,t-1} + \beta_4 \text{Vertical_Diffusion}_{i,t-1} + \beta_5 \text{Citizen_Ideology}_{i,t-1} + \beta_6 \text{Republican_House}_{i,t-1} + \beta_7 \text{Insitution_Own}_{i,t-1} + \beta_8 \text{Institution_Nearby}_{i,t-1} \text{ ----- (1)}$$

First, logistic regression is used to estimate the effect of judicial decisions on the diffusion of state same sex ban with other explanatory variables. The dependent of this model is the first state ban of same sex marriage regardless of state DOMAs and constitutional amendments because they are the same in terms of a state’s ban of same sex marriage. Second, state DOMAs and constitutional amendments can be regarded as the series of state bans of same sex marriage along a continuum, even though some states only have their own DOMA or some states directly amended their constitution against same sex marriage without passing a state DOMA. Therefore, the changes in state bans of same sex marriage can be understood as a transitional process from one stage to another stage. To measure the transitional probability of same sex marriage bans, a multi-state model for panel data is used with the simple model – which includes two main variables of our analysis: court decisions and state public opinion – by using the ‘msm’ package for R. Furthermore, it could be possible that the influence of federal court and state court decisions on the bans of same sex marriage are different. To estimate this,

additional analysis is implemented which divides court decisions into effective federal and state court cases.

3.5 Results of analysis

3.5.1 States' adoptions of same sex marriage ban

Equation 1 is estimated with pooled cross-sectional time series logit, and Table 7 presents the results of maximum likelihood estimates (MLEs) of our empirical model. The results of the analysis about states' adoption of same sex marriage bans across states, provide some support for my hypotheses. First, only one hypothesis for the vertical influence of federal legislature action (Federal Defense of Marriage Act) receives statistical support from the result at .05 significance level. Based on this result, the federal defense of marriage act enacted in 1996 has a strong impact on the adoption of same sex marriage bans at the state level. In other words, the federal legislature action banning same sex marriage was an influential factor in the process of diffusion of same sex marriage bans across states.

However, if the statistical significance level of empirical results is relaxed from .05 to .1, three additional hypotheses gain statistical support in the results. First of all, hypothesis 1 concerning the backlash of judicial decisions for gay rights is empirically supported. The odd ratio of total judicial court decisions for gay rights is 1.390 at the significant level .1. This means that one court decision for homosexuals' rights in a state where the majority of public opinion is against same sex marriage, increase in a state raises the odds of a state's adoption of same sex marriage ban by 1.390, holding all other explanatory variables constant. In other words, the chance of a state's adoption of same sex marriage ban increases by 39% with each gay-friendly court ruling without mass support in the state under *ceteris paribus* assumption. Therefore, it can be said that the backlash of judicial decisions for homosexuals' rights in a state in which popular opinion is against same sex marriage exists. In other words, court decisions supporting homosexual rights has a positive influence on state legislatures' likelihood of adopting a same sex marriage ban, when public opinion in the state is negative about same sex marriage. Also, hypothesis 2 for state public opinion favorable to same sex marriage and hypothesis 7 relative to the influence of supportive institutions for homosexual rights in a state gain empirical support at the significance level .1. According to the results, both supportive public opinion for same sex

marriage and institutions favorable to homosexual rights in a state have negative relationships with the state's likelihood of adopting a same sex marriage ban. Table 7 shows these estimation results.

Table 7. Logit maximum likelihood estimates for event history analysis model of same sex marriage ban adoption

Predictor	Model 1		
	<i>B</i>	<i>SE B</i>	<i>Odds (e^B)</i>
TOTAL COURT CASES for homosexuals' right	.329*	.178	1.390*
STATE PUBLIC OPINION	-.094*	.056	.911*
REGIONAL DIFFUSION	-.005	.132	.995
VERTICAL DIFFUSION of FEDERAL DOMA	1.182***	.459	3.261***
CITIZEN POLITICAL IDEOLOGY	-.003	.014	.997
THE PORTION OF REPUBLICANS in a state legislature	1.655	1.175	5.234
INSTITUTIONS for homosexuals' right in a state	-.450*	.255	.638*
INSTITUTIONS for homosexuals' right in nearby states	-.157	.268	.855
Constant	2.76	1.599	1.318
(LR) chi-square		45.61	p. < .000
df		8	
Pseudo R ²		.178	
N		381	

Note: e^B = exponentiated *B*. The dependent variable in this analysis is a state's same sex marriage ban coded so that 0 = has not same sex marriage ban and 1 = has same sex marriage ban regardless of state DOMA and constitutional amendment between 1994 and 2012.

* $p < .1$. ** $p < .05$. *** $p < .01$.

3.5.2 Multi-state model for multi-stage of same sex marriage bans

Based on the results of the first model, we find considerable evidence to support the backlash thesis: that negative political action results from judicial decisions opposed to public opinion in states' adoption of same sex marriage bans. If so, one key question remains: Is it only unpopular court decisions without a majority of public support that spark a political backlash? In other words, can't court rulings bring about social change without mass support? As mentioned above, it is expected that there could be differences between the adoption of state DOMAs and constitutional amendments even though both are the same in terms of same sex marriage ban of a state because the legislature process and requirements for a quorum are generally different between these two types of laws. Thus, the impact of judicial decisions might be different on each type of state same sex marriage ban, and not the same as the result of the first combined model indicates.

More specifically, twenty-six states amended their constitution against same sex marriage under the condition that they already enacted their state DOMA. Eleven states only have their own DOMA, and did not amend their constitutions. And, four states amended their constitution against same sex marriage but they did not enact state DOMA before. Therefore, state DOMA and constitutional amendments can be understood as transitional stages of a state's same sex marriage ban along a continuum: the first stage without any ban, the second stage only with state DOMA, and the third stage with a state constitutional amendment. To focus on the change of influence by judicial decisions on each stage, two major explanatory variables relative to hypothesis 1 (Backlash of judicial decisions) are used for a multi-state survival analysis: court cases and state public opinion.

A multi-state model, mainly used in biostatistics, has been a useful tool to describe how individuals move from one state to another state in continuous time (Jackson, 2012). Thus, the survival model can be understood as the simplest two state multi-state model which has one possible transition from "alive" to "dead." One of the most common multi-state models in biostatistics is the health-illness-death model (Putter, Fiocco, and Geskus 2007). Each state represents the status of health, illness and death. Transitions are allowed from health to illness, illness to death and health to death (Jackson, 2016). We match health to a stage without any ban, illness to stage only with state DOMA, and death to stage with constitutional amendment. Thus,

this model can be applied to our case state ban of same sex marriage appropriately. In general, recovery from illness to health is often considered in this model. However, in this analysis, we have not indicated the possibility of reversibility: the transition back from state 2 to 1 and from 3 to 1. It is because there is no reverse transition until the last event in 2012. Figure 1 depicts the 3-state multi-state model for our analysis.

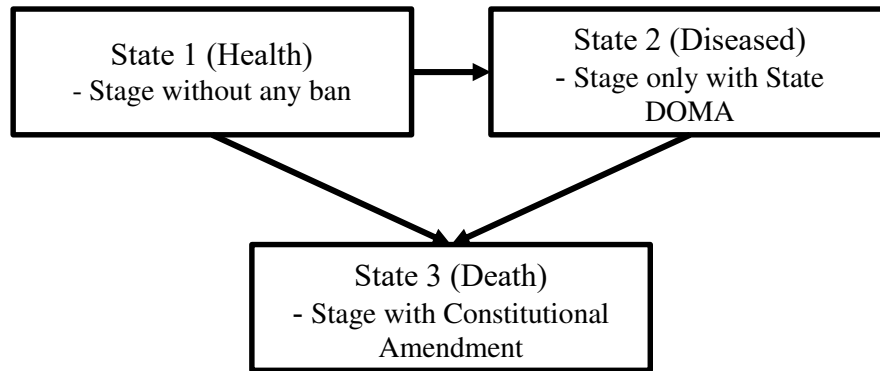


Figure 1: Healthy-illness-death model for state same sex marriage bans

In this model, transition hazard can be understood as the influence of risk factors on rates of state DOMA (illness) or state constitutional amendment (death). In general, multi-state analysis with panel data relies on the Markov assumption; future transition only depends on the current state (Jackson, 2011). To estimate hazards of each transition, the ‘msm’ package for R is used in this analysis.

Furthermore, it is also expected that the influence of federal courts and state supreme court decisions could be different on each transition of same sex marriage bans. Thus, the analysis for the differentiated model of federal courts’ and state supreme court’ cases is implemented as well. The results of each multi-state model for the influence of court decisions are presented in table 8 below.

Unlike the result of first overall model, it is found that the backlash of court decisions did not always occur during the whole period. First, the result shows that the hazard ratio of the influence of a court decision is .765 from federal court cases in the transition from State 1 to State 2 at the significance level .1. In other words, for every one federal court case increase, the hazard of a state’s adoption of a state DOMA goes down by an estimated 23.5 per cent. It means that the increase of supportive federal court decisions for homosexual rights in a state has a

negative relationship to a state’s DOMA adoption. Thus, the courtroom victories for gay rights in federal court cases are rather helpful to promote the rights of homosexuals’ marriage, just the same as conventional wisdom argues, even though the majority of people in a state are not in favor of same sex marriage. In other words, this result is exactly opposite to the backlash thesis of the impact of unpopular court decisions. Although total court cases are not statistically supported by our result, the result is similar in direction although less strong, to the federal court cases.

Table 8. Transitional hazard ratios for variables predicting the influence of judicial decisions on state’s bans of same sex marriage

Transition	Model 2			Model 3			Base line
	TOTAL COURT CASES	STATE PUBLIC OPINION	Base line	FEDERAL COURT CASES	STATE SUPREME COURT CASES	STATE PUBLIC OPINION	
State1 - State1			-.096**				-.079**
State1 - State2	.839	.869**	.085**	.765*	1.431	.862**	.079**
State1 - State3	1.998	.749	.010**	5.744	9.622e-07	.737**	.000
State2 - State2			-.048**				-.041**
State2 - State3	1.374**	.919**	.048**	1.478**	0.774	.912**	.041**
-2 * log-likelihood		414.642			405.407		

Note: The dependent variable in this analysis is the stage of a state’s same sex marriage ban. So, the stage without any bans of same sex marriage is coded ‘1’ for State 1, the stage with state defense of marriage act is coded ‘2’ as State 2, and the stage with state constitutional amendment against same sex marriage is coded ‘3’ as State 3.

* $p < .1$. ** $p < .05$. *** $p < .01$.

However, the shape of the influence by judicial decisions on the same sex marriage changes in the transition from State 2 to State 3. According to the results, the hazard ratio of the total court cases is 1.374 in the transition from State 2 to State 3 at the significance level .05. These results indicate that the increase of supportive total court decisions for gay rights in a state has a positive relationship to the state constitutional amendment against same sex marriage. Also, the result of federal court cases is similar to the total court cases. The hazard ratio of the

federal court cases is 1.478 in the transition from State 2 to State 3 at the significance level .05. Thus, it can be said that the backlash against judicial decisions for homosexual rights occurs in the transition from State 2 to State 3. In this transition, the increase of the judicial decisions for homosexual rights has a harmful effect on the legalization of same sex marriage in a state without majority support for same sex marriage in the state. Based on these results, it can be said that the influence of judicial decisions is different depending on the transitional stages of state same sex marriage bans.

State supreme court cases fail to receive empirical support from the results at any transitional stage. Thus, the change of state same sex marriage bans is likely to be influenced by the federal court rulings, but not by state supreme court decisions. In addition, the hazard ratio of state supreme court cases is completely contradictory to the ratio for federal court cases, even though it fails to get the statistical support from the results. From this, we find the possibility that the influence of federal and state court cases may vary, even though the overall contents or meaning of the court decisions are very similar to the same issue.

As expected, the results relative to state public opinion are similar in all models. Even though the result finds no strong statistical support for the influence of state public opinion in the transition from State 1 to State 3, all of the results show a negative relationship between state public opinion in support of same sex marriage and a state's adoption of same sex marriage bans. Therefore, it can be said that the influence of a favorable state public opinion for same sex marriage reduces the probability that the state will adopt a ban of same sex marriage, regardless of the transitional stages.

3.6 Conclusion, limitations and insights

Our empirical analyses offer considerable support for our hypotheses relative to a state's adoption of same sex marriage bans. In the first overall model, hypotheses for the influence of the judicial decisions, state public opinion, the impact of federal DOMA, and institutions for homosexual rights in a state are empirically supported, when a state introduces the ban of same sex marriage for the first time, through either a state DOMA or constitutional amendment against same sex marriage. Among these explanations, a favorable state public opinion for same sex marriage and supportive institutions for gay rights in a state have a negative influence on a state adoption of same sex marriage ban, while passage of the federal defense of marriage act has

positive vertical influence on a state's adoption of the ban. In the case of judicial decisions supporting gay rights, the result shows that they have a positive relationship to state legislature's adoption of same sex marriage ban. It can be said that the backlash caused by court decisions for homosexuals' rights occurs and increases the likelihood that a state introduces a same sex marriage ban.

However, we also find that this backlash thesis does not always occur, when we utilize the additional multi-state analysis. According to the result, the influence of favorable court decisions for gay rights on state adoption of same sex marriage bans changes from negative to positive in the transition from state DOMAs to state constitutional amendments, while the influence of state public opinion supportive of same sex marriage is constitutively negative. Thus, one of the contributions of this paper is to show that the influence of judicial decisions cannot simply be explained only based on either judicial activism or backlash thesis. Without considering both theoretical arguments simultaneously, and state public opinion, it is almost impossible to understand the role of court decisions for social change correctly. It is because courtroom victories sometimes promote change of society forward, sometimes backward as well.

From the practical point of view, this paper can give many non-profit organizations useful insights to rethink their litigation strategy for achieving their purposes. Based on our results, judicial decisions in favor of their purpose are sometimes useful, but sometimes not. The context matters and the type of court decision matters. In other words, courtroom victories are not always beneficial or harmful in terms of achieving the non-profits' overarching goal. Thus, it is important to know when is good timing for the non-profits to use litigation to accomplish their intended goal.

There are some limitations in this analysis. First, individual court cases are evenly coded as "1" and assigned to the state in this analysis. However, the magnitude of judicial decisions may vary from case to case. For example, the influence of some landmark cases, like *Lawrence v. Texas* (2003), *Goodridge v. Dep't of Pub. Health* (2003), etc., are likely to be different from other cases. Also, different process of constitutional amendments for each state is not considered this time. The ways a state constitution can be amended vary from state to state; and these differences are likely to have an influence on the difficulty of passing constitutional amendments for each state. Therefore, if these different weights of individual court case and different characteristics of each state's constitutional amendment process can be appropriately considered,

we are likely to get more accurate results about the influence of judicial decisions on same sex marriage laws. Methodologically, a simple 3 state multi-state model with the Markov assumption is used in this paper by using ‘msm’ package for R. However, there are many advanced and flexible statistical methods which are already developed in biostatistics. Like a human, a policy has its own life cycle. This same sex marriage case cannot be an exception. Thus, these advanced analytical techniques in biostatistics would be helpful to get more precise results in the analysis of policy change from its formulation to termination, as well as this case.

Same sex marriage was legalized across all states by the U.S. Supreme Court's decision on June 26, 2015 (*Obergefell v. Hodges*, 2015). Thus, the overall transition process of state same sex marriage bans cannot be fully explained by a unidirectional illness-death model, if we include the legalization of same sex marriage in a state as an another possible transition by extending the time period of our data to 2015. It is because the possibility of reversibility should be considered: the transition back from state 2 to 1 and from 3 to 1. By doing so, the interesting patterns of influence of judicial decisions can be detected in these additional transitions.

Furthermore, it can be possible to observe the change of the influence of gay friendly court decisions according to the life cycle of state's ban of same sex marriage, from its birth to death.

Since the U.S. Supreme Court legally allowed same-sex marriage, protests against this decision, great and small, have continuously occurred. For example, county clerk, Ms. Davis, refused to issue a marriage license to same sex couples in Kentucky against this Supreme court decision in 2015. She argued that to issue a marriage license to same sex couple violates her Christian beliefs. In a New York Times interview (2015), she said “To me, this has never been a gay and lesbian issue. It is about marriage and God’s words.” Especially, many of religious freedom bills have been filed in state legislatures since *Obergefell v. Hodges* (2015). These kinds of protests can be understood as a series of backlash caused by the U.S. Supreme Court ruling for same sex marriage. Thus, it could be one of several interesting topics to reveal the relation between the diffusion of state religious freedom bills and state ban or legalization of same sex marriage.

As society is getting more and more complicated, the conflicts among social values, represented by constitutional rights, are becoming severe, like this case: religious freedom versus anti-discrimination based on the sexual orientation. Thus, the intervention of the judicial branch is going more often to try to reconcile different social values. In other words, interactive inter-

branch relations among the three branches of government grow in importance in society unlike before (Miller and Barnes, 2004). Therefore, to know the unique characteristics of court decisions is meaningful for public administration in order to prepare effective policies responding to the social changes triggered by controversial judicial decisions.

CHAPTER 4

INNOVATIVENESS, BANDWAGON, AND COMPREHENSIVENESS OF STATE ADOPTIONS IN ANTI-DRUNK DRIVING LAWS

4.1 Introduction

According to the National Highway Traffic Safety Administration, over 426,547 people were killed in traffic crashes on American highways in the ten years from 2002 to 2012 (National Highway Traffic Safety Administration, 2014). About a third among these fatalities resulted from alcohol-impaired-driving crashes. In 2013, 10,076 people died in motor vehicle crashes that involved an alcohol-impaired driver. Even though the alcohol-impaired-driving fatalities gradually declined to 10,076 in 2013 from 13,582 in 2005, the alcohol-impaired-driving is still a serious problem for public health. On a daily basis, almost 30 people a day in the United States were killed in crashes involving at least one alcohol-impaired driver. Also, the annual economic loss of alcohol-related crashes is huge. Even when only tangible losses from alcohol-impaired-driving crashes - medical cost, property damage, etc. - are estimated, it adds up to \$49.8 billion as of 2010. To address this societal problem, states have adopted a number of policies for deterring alcohol-impaired driving. Even if all states commonly criminalize driving with a blood alcohol concentration (BAC) at or above 0.08 percent, penalties and specific laws adopted by each state vary substantially. Until now, the main stream of policy innovation and diffusion studies has focused on a single reform over time. However, in practice, a state often adopts a “package” of reforms to achieve the policy goal in many cases, such as school choice (Mintrom, 1997), gay rights (Haider-Markel, 1998), and the small group health insurance reforms (Stream, 1999). While some states adopted only a few reforms, others adopted all of them to achieve their policy goal. Thus, this article builds on the idea that another way to examine innovativeness is to look at a broad policy area, and we examine the extent of states’ adoptions among policies related to alcohol impaired driving. That is, why do some states go farther than others in deterring alcohol-impaired driving?

This study also contributes to the literature on state diffusion of policies by testing whether a “bandwagon” effect exists influencing the diffusion of state anti-drunk driving laws. Abrahamson and Rosenkopf’s (1993) definition of “bandwagon” diffusion can be summarized as

a process whereby a management fad spreads across different systems because it becomes popular rather than based on results and rational efficiency. Two types of bandwagon effects have been found in limited management and policy studies (Kennedy, M. T., & Fiss, P. C, 2009; Lee, J. Y., & Chan, K. C. ,2003; Rosenkopf, L., & Abrahamson, E. ,1999)—institutional and competitive and bandwagon effects—and both will be tested in our multivariate models.

To explain why some states adopt more comprehensive package of policies for controlling drunk driving in their jurisdictions, this article proceeds in the following manner. First, the current status of alcohol impaired driving is briefly reviewed to understand the severity of drunk driving and what kinds of policies have been adopted by states for decreasing it. Next, theoretical arguments about why some states' set of policy adoptions are more comprehensive will be provided with testable hypotheses. And then, the data and methodology used in this study are described. Finally, the significant insights and limitations of this study are discussed based on the results.

4.2 Drunk driving in the United States

4.2.1 What alcohol impaired driving is and the magnitude of drunk driving problem for public health

An alcohol-impaired driver is defined as having a blood alcohol concentration (BAC) of 0.08 or higher by the National Highway Traffic Safety Administration (NHTSA). A driver's BAC level is determined by the grams of alcohol per deciliter of blood (g/dL). Thus, a BAC of 0.08 means 8 parts of alcohol per 10,000 parts of blood.

Why was the legal limit of blood alcohol concentration (BAC) established at 0.08 or higher? A BAC of 0.10 was the general legal limit of alcohol-impaired driving in most states before 1993. From Borkenstein et al.'s original findings in 1964, many researchers have shown that the greater the level of BAC, the higher the probability of a car crash. However, there were little research to investigate which level of driver BAC is the critical point in terms of the probability of car crash until 1992. Mounce and Pendleton (1992) showed that drivers at 0.08 BAC are significantly impaired with regard to critical driving tasks. Also, the federal government strongly encouraged states to adopt 0.08 BAC. In 1988, the Federal government provided \$500 million of incentive grants to states which have enacted a .08 BAC per se law by Transportation Equity Act for the 21st Century ("TEA 21"). Also, the Department of

Transportation's 2001 Appropriations Act (HR4475) forced states to choose between passing a .08 per se law by 2004 and losing federal highway construction funds.

As I mentioned earlier, the rate of alcohol-impaired-driving fatalities gradually declined over 10 years. The fatality rate per 100 Million vehicle miles traveled (VMT) has declined from 0.44 in 2004 to 0.34 in 2013. However, the social costs of the alcohol-impaired-driving are still huge in both personnel and economic loss. According to the report of the National Highway Traffic Safety Administration 2014, in the U.S., every 12 seconds someone will be injured and every 51 minutes some will be killed in a drunk driving crash. Direct economic losses caused by alcohol-impaired driving total more than \$49.8 billion in 2010. If relatively intangible social costs, like lost quality of life, are considered, this annual cost would increase to \$206.9 billion (National Highway Traffic Safety Administration, 2014).

4.2.2 The state policies for deterring alcohol-impaired driving

To decrease the social losses caused by alcohol-impaired driving, states have adopted a number of policies against alcohol-impaired driving. All states have adopted the 21-year-old minimum legal drinking age and the .08 BAC at least partly because of fiscal pressure and incentives from the federal government. However, there have been substantial differences in each state's adoptions of other policies for controlling drunk driving.

These policies can be categorized as 3 sets of laws (Karch and Richardson JR., 2012). The first set of laws has been focused on preventing underage drunk driving. False ID laws and zero tolerance laws can be included in this set of laws. The second set of laws attempts to reduce the probability of alcohol-impaired driving prior to the act of drunk driving by reducing alcohol consumption. Taxes on alcohol, anti-consumption law, dram shop laws and open container laws are categorized as this group of laws. The third set of policies has sought to determine illegal impairment and punish an alcohol-impaired driver. All states had adopted a 0.08 BAC level by 2005. However, some states have raised additional penalties for a high BAC, ranging from 0.15 to 0.25, as "enhanced impairment." Even though the test of a driver's BAC level is important to implement the BAC laws, most drivers can simply refuse this test. Therefore, many states have adopted consent laws for forcing all drivers to take the BAC level test and the administrative per se law to support implementing the BAC laws. In addition to these various policies seeking to

implement BAC laws, states can use a number of post-arrest sanctions like license suspension or revocations, the mandatory use of an interlock device, fines, and jail time. The sanctions of states on repeat offenders are much tougher. Also, many states still have alcohol exclusion laws¹, even though some states have repealed these laws.

4.2.3 How can the variation in states' adoptions of the laws against drunk driving be understood in terms of the adoption of innovation?

Most innovation and diffusion studies have focused on whether a state had adopted a certain policy and how early a state adopted a policy in relation to other states (Walker 1969; Gray 1973; Nice, 1994). However, neither of these measures can explain the reason why the extent of anti-drunk driving laws adopted by each state varies. As an alternative single adoption, Stream (1999) argued that more comprehensive policy solutions are adopted by more innovative states. In other words, the degree of adopted policies can be an appropriate measurement of innovation instead of the adoption of one of the policies, when a state has adopted a “package” of policy options to achieve the policy goal like in the case of states' alcohol impaired driving laws. In some cases, later and less innovative adopters can adopt more comprehensive and efficient solutions than early and more innovative states. However, this is because of their learning or mimicking other more innovative states, not their own state innovativeness in this case.

A similar measurement is devised by Mintrom and Vergari (1997) in their article about school choice. Nice (1994) and Haider-Markel (1998) used similar indices of comprehensiveness as dependent variables in their works. Stream (1999) constructed an additive scale of ten small group insurance market reforms to measure the comprehensiveness of each state's adoptions of these reforms. To pursue an understanding of which states address drunk driving laws more or less comprehensively, this study employs the comprehensiveness in a state's adoptions of relevant laws as the dependent variable to explain why some states have actively adopted many anti-drunk driving laws, while others have not.

¹ “The Alcohol Exclusion Law, embedded in the Uniform Accident and Sickness Policy Provision Law (UPPL) of many States, allows insurance companies to deny reimbursement to hospitals for treatment to those who are injured while impaired by alcohol or any drug not prescribed by a physician at the time of injury.” (NHTSA, 2008)

4.3 Explanations of state's adoption of alcohol impaired driving policies

To answer why some states have adopted a more comprehensive policy package than others, it is important to show what kinds of factors have influence on the variation in the extent of each state's policy adoption among alcohol impaired driving laws. Thus, in this section, we suggest major explanations of states' adoptions of anti-drunk driving laws with specific hypotheses mainly based on the policy innovation and diffusion literatures, but geared towards drunk driving as a policy area.

4.3.1 Innovativeness of policy decision maker

4.3.1.1 State innovativeness as a general trait of policy decision-maker. The advocate of the strategic choice theory argues that organizations do not merely react to external environmental changes but that they strategically take actions to respond the environmental change (Child, 1972, Dougherty and Heller, 1994). Much of the research in strategic management is on the basis of this assumption (Subramanian, 1996). From this perspective, the states' adoption of innovation can be understood as a consequence of strategic decision-making of states. Thus, it is expected that the impact of decision maker's inclination has a major influence on the process of policy adoption and diffusion from the perspective of strategic choice theory. Yet, the main stream of policy innovation and diffusion studies has largely focused the patterns of diffusion on single policies and put aside state innovativeness as a general trait of decision-makers (an exception is Boehmke and Skinner, 2012), in part because past studies have not found consistent levels of innovativeness by states across all policies. However, in this study, we are examining the innovativeness of states that adopt more comprehensive laws rather than piecemeal policy choices for drunk driving.

However, as discussed previously, the innovative inclination of a state in policy decision-making can be regarded as one of the important factors affecting its policy adoption. Also, the original question of innovation and diffusion is about a state's innovativeness as a general trait of a policy decision-maker (Walker, 1969). According to his argument, policy innovation is defined as "a program or policy which is new to the states adopting it, no matter how old the program may be or how many other states may have adopted it" (Walker, 1969). Based on this definition, he proposed an index of policy innovativeness of a state by evaluating a state's year of state

adoptions of 88 policies relative to the first and last states to adopt. Even though there have been criticisms against his approach, the innovativeness score of a state has been developed by political scientists (Gray, 1973; Cannon and Baum, 1981; Savage, 1985; Boehmke and Skinner, 2012). Based on previous literatures, states' innovativeness can be understood as their inclination to adopt a new policy sooner than other states. However, if a state adopted an innovation earlier than others, it does not necessarily mean that the state will adopt all other innovations earlier. Thus, Damanpour (1987) noted that innovativeness of an organization must be measured based on multiple adoptions of several innovations. In this line of thinking, it can be expected that more innovative state are likely to adopt more policies compared to other states during a set period.

From this perspective, anti-drunk driving is a good policy area to show the reasons why the packages of a state's policy adoptions in one policy area vary substantially by the state's innovativeness. Each state's alcohol impaired driving law can be understood as a stipulated innovative approach to reduce alcohol impaired driving. These innovative approaches covered the whole process contributing to decline in alcohol impaired driving: prevention, screening, enforcement, sanction, the introduction of technology, etc. If a state is more innovative, in other words, if a state is not afraid for trial and error in the introductions of new policies, the state would adopt more anti-drunk driving policies than other states. Therefore, the first hypothesis related to state's innovativeness is formulated like this;

H1-1: The higher the innovativeness score of a state government in general, the more likely it will adopt a higher number of drunk driving laws

4.3.1.2 State's innovativeness in relevant policy areas for traffic safety. Virginia Gray (1973) argued that the influences of political and economic variables on policy adoption are different according to policy area. It means that the state will not always exhibit the same pattern of policy adoption for all other policies. For example, some states were found to be one of the first movers in adopting moral policies but not in adopting economic policies. It means the issue-specific innovativeness of a state is not necessarily the same as the general innovativeness of the state - the general trait of a policy decision-maker. There is the similar attempt to show the relationship between the general state innovativeness and the issue specific innovativeness in higher education policy area (Tandberg, et al., 2016).

In this case, drunk driving laws directly link to the broader area of traffic safety, especially driving safety. Thus, a state's innovativeness in traffic safety policy area is as important as general innovativeness of the state. Driving safety laws cover most of the problematic driving behaviors: Aggressive Driving, Child Passenger Safety, Distracted Driving, Drug Impaired Driving, Drunk Driving, Helmets, Seat Belts, Speed Limits, etc. The adoptions of these driving safety laws also vary by state. Thus, based on the variance of states' adoptions of policies and laws for driving safety, issue-specific innovativeness related to traffic safety can be measured. Therefore, the second hypothesis is;

H1-2: The higher the innovativeness score of a state government in relevant policy areas for traffic safety, the more likely that it will adopt a higher number of anti-drunk driving laws.

4.3.1.3 Organization factors and innovativeness. One stream of innovation research has examined the relationships between organizational factors and levels of innovativeness. Even though an individual is the unit of analysis in Rogers' (1983) original innovation-diffusion model, organizational theorists quickly adopted its important components to explain the adoption of new innovations at an organizational level.

More generally, organizational size, complexity (professionalism), and slack resources have been found to be critical determinants of innovativeness (Burns and Stalker, 1961; Rogers 1995). Even though previous literatures have delivered inconclusive findings, past research mainly suggests that large organizations tend to adopt more innovations than smaller ones (Kimberly, J. R. and Evanisko, 1981; Damanpour, 1992; and Walker, 2006). Also, high levels of professionalism, is believed to promote the adoption of innovations beyond the status quo. (Pierce & Delbecq, 1977; Damanpour, 1991). Further, a high level of slack resources is believed to enhance the organizational adoption of innovations, because they allow organizations to be able to afford to adopt innovations, buffer failures, and cope with the costs of instituting innovations (Rosner, 1968). Reversely, if an organization has less slack resources because of financial burden, it would be less likely to introduce more innovations. Therefore,

H1-3: The larger the size of a state government, the more likely that it will adopt a greater number of anti-drunk driving laws.

H1-4: The higher the level of professionalism in a state government, the more likely that it will adopt a higher number of anti-drunk driving laws.

H1-5: The larger the state's debts (fewer slack resources), the more likely that it will adopt a smaller number of anti-drunk driving laws.

4.3.2 Institutional and competitive bandwagon effect

Previous research emphasized that it is important to know how states' adoptions are spread across states. Abrahamson and Rosenkopf (1993) have explored the concept of "bandwagon" by using mathematical modeling. Based on their definition, "bandwagon" can be understood as the process whereby a management fashion or fad is spread across different systems, against rational efficiency theory. They argue that if the assessments of its outcome and effect are ambiguous, the technical, organizational or strategic innovation is likely to be diffused in a bandwagon manner. The implication from this finding is that bandwagons may facilitate diffusion or rejection of innovations, regardless of their efficiencies. In other words, inefficient innovations, as well as efficient innovation, may be diffused in a bandwagon manner.

They have suggested two types of bandwagon pressures: institutional bandwagon pressures and competitive bandwagon pressures. According to their argument, institutional bandwagon pressures occur when non-adopters are afraid to be different from many adopters. Thus, it can be measured by the average number of states' adoptions among anti-drunk driving laws. More specifically, the gap between the average number of all states' adoptions and a certain state's adoptions among anti-drunk driving laws will create an institutional "bandwagon" effect on the state's policy decision-making. In this line of thinking, a hypothesis related to institutional bandwagon is presented;

H2-1: As the average number of all states' adoptions of anti-drunk driving policies increase over time, a state will be more likely to adopt more anti-drunk driving policies

Also, competitive bandwagon effects occur because non-adopters worry about below average performance if many adopters enjoy profit from their adoptions. The gap between the average decrease of victims in the states with more anti-drunk driving policies and the decrease

of victims in a state will create a competitive “bandwagon” pressure on the state. Therefore, one would expect that

H2-2: As the gap between the average decrease of victims in states with more anti-drunk driving policies and the average decrease of victims in a state increases, the state will be likely to adopt more anti-drunk driving laws policies.

4.3.3 Internal characteristics of a state as controls

Relevant controls for state internal characteristics are included in our analysis, because state policy adoption cannot be fully explained without considering these factors (Berry and Berry, 2007). In order to measure the influence of internal alcohol specific and general characteristics of a state in the phase of policy adoption, alcohol consumption, political ideology, demographics, and socio-economic conditions are used.

4.3.3.1 Alcohol consumption. As controls, first, alcohol consumption in a state can be considered for reflecting alcohol related characteristics of a state. In some states, the portion of the alcoholic beverage sales business in a state industry is relatively bigger than other states. In these states, introducing comprehensive regulations which can decrease alcohol consumption is more difficult because potential political and economic influence of this industry on a state policy decision-making is relatively big. Therefore;

H3: The probability that a state will adopt more alcohol impaired driving policies is negatively related to alcohol consumption per capita in the state.

4.3.3.2 Political ideology. Two types of state political ideology have been used by many scholars: citizen ideology of general electorate and government ideology of elected public officials (W. Berry, E. Ringquist, R. Fording, and R. Hanson, 1998). Generally, state citizen ideology is the ideological position of the active electorate on a liberal-conservative spectrum (Erikson, Wright, and McIver, 1993), while state government ideology is the ideological equilibrium point produced by power distribution among the elected public officials with affiliations to liberal or conservative political ideology in a state (Berry and Berry, 199 W. Berry,

E. Ringquist, R. Fording, and R. Hanson, 1998). However, both Republicans mainly representing conservatives and Democrats speaking for liberals have commonly insisted that alcohol impaired driving is not a partisan political issue compared to other critical issues like same sex marriage, abortion, etc. In other words, drunk driving policies generally receive bipartisan support regardless of political ideology. Therefore;

H4-1: The probability that a state will adopt more anti-drunk driving policies is not significantly related to citizen ideology in the state.

H4-2: The probability that a state will adopt more anti-drunk driving policies is not significantly related to government ideology in the state.

4.3.3.3 Demographic and socio-economic explanations. The demographic and socio-economic characteristics of a state - gender, race, income level and education level - can be included as important factors affecting on the comprehensiveness of a state's anti-drunk driving policies. First, even though the arrest rate of female drunk drivers has been increasing (Schwartz, 2008), a consistent pattern over time has been men's greater involvement in alcohol-related risks, like drunk driving (Chan, Neighbors, Gilson, Larimer, & Marlatt, 2007; Wilsnack, Kristjanson, & Wilsnack, 2006). From this, one would expect that;

H5-1: The probability that a state will adopt more anti-drunk driving policies is positively related to the proportion of men in the state population.

About ethnic groups, past research shows the relationships between ethnicity and drunk driving. Blacks and Hispanics appear to be at higher risk for alcohol-related driving problems than others (Herd 1985; Caetano 1984) Therefore;

H5-2: The probability that a state will adopt more anti-drunk driving policies, is positively related to the proportion of Blacks and Hispanics in the state population.

Finally, the socioeconomic status of drunk driver can mainly be measured by their income and education level. According to Moskowitz, Walker, and Gomberg's (1979) research on the characteristics of drunk drivers, the income level of convicted offenders is lower - about 18 percent lower than non-convicted citizens. Also, these studies suggest that the education level of convicted drunk driver is more likely to be high school dropouts and have fewer years of education. Thus, the hypotheses of socioeconomic factors are;

H5-3: The probability that a state will adopt more anti-drunk driving policies, is positively related to the average income level in the state.

H5-4: The probability that a state will adopt more anti-drunk driving policies, is positively related to the average education level in the state.

4.4 Data and methodology

To investigate the determinants of state adoptions of anti-drunk driving policies across states, a data set capturing the longitudinal and spatial aspects of states' adoption of drunk driving policies is required. Panel data set should be constructed to incorporate annual indicators of factors relevant to the states' adoptions of alcohol impaired policies for the fifty states.

4.4.1. Dependent variables

To measure the comprehensiveness of alcohol impaired driving policies of a state, a fourteen-point additive scale was created by assigning points to each state mainly based on the number of drunk driving polices which each state had. The time period of data is set up between 1990 and 2010. If a state has adopted an alcohol impaired driving relevant policy, then a +1 is assigned to that state's index. This index is a summated scale of dummy variables for whether a state has a false id law, a minimum drinking age law (MLDA 21), a zero tolerance law, a .10 BAC law, a .08 BAC law, a high BAC law, the mandatory use of an interlock device for first and repeated offender, an alcohol exclusion law, an administration revocation law, a primary breath test law, an implied consent law, a dram shop law, an open container law, an anti-consumption law, and an alcohol tax. Among the sixteen policies, a minimum drinking age law (MLDA 21) and an implied consent law are not included, because these laws are already adopted by all states

before the observation period. For the alcohol tax, the measurement used in this paper is the dummy variables related to a state beer tax rate per barrel; a zero is assigned for a state if the state beer tax rate is below the average of all states and a one for the state with beer tax rates above average. Table 9 identifies the state alcohol impaired driving laws included in the study and data source.

4.4.2. Independent variables

4.4.2.1. State general innovativeness. To reflect the state innovativeness as a general trait of decision makers, state smoothed innovation rates over time, developed by Boehmke and Skinner (2012), is used in our model. They tried to address the weakness of Walker’s original approach of innovation score by updating his measure with new data covering 189 different policies and new methodological approach. They used event history analysis as the basic logic of their innovativeness scores to solve the problem of right-censoring and to measure state innovativeness changes over time. Basically, they focused on whether a state adopts a policy in a specific time, not when a state adopts a policy. In other words, how innovative a state is at that specific time is estimated by how many policies the state adopts among possible adoptions.

Table 9. State alcohol impaired driving laws included in analysis

State laws	Data source
1. False id law	1. Alcohol policy information system (APIS)
2. Minimum drinking age law (MLDA 21)	2. Ponicki, W. R. (2004) Statewide Availability Data System II: 1933 - 2003(Pacific Institute for Research and Evaluation, Prevention Research Center.)
3. Zero tolerance law	3. Digest of State US. Alcohol-Highway Safety Related Legislation from 1990 to 2010 (National Highway Traffic Safety Administration)
4. .10 BAC law	
5. .08 BAC law	
6. High BAC law	
7. Mandatory use of an interlock device (first offender)	
8. Mandatory use of an interlock device (repeated offender)	
9. Alcohol exclusion law	
10. Administration revocation law	
11. Primary breath test law	
12. Implied consent law	
13. Dram shop law	
14. Open container law	
15. Anti-consumption law	
16. Alcohol tax (Beer tax rate).	

$$R_{it} = \frac{\sum_{i=1}^{K_{it}} Y_{ikt}}{K_{it}}$$

In their equation, Y_{ikt} is the zero in years of non- adoption and one in the year of adoption. After adoption year, it is treated as missing in the following years. Thus, the numerator represents the cumulative number of state i 's adoptions in the year of t . K_{it} is the number of policies adopted by at least one state in year t , that is to say the denominator of this equation is the number of possible adoptions by state i at that time point. Furthermore, this measure can be used in calculating the changes in a state's innovativeness over time from year T_0 to T by adding up total a state's adoptions and dividing by the number of total annual adoption opportunities during the time period. This logic is expressed in the following equation:

$$\bar{R}_{ij} = \frac{\sum_{t=T_0}^T \sum_{i=1}^{K_{it}} Y_{ikt}}{\sum_{t=T_0}^T K_{it}}$$

4.4.2.2. State issue specific innovativeness. However, as mentioned previously, the general innovativeness of the state is not necessarily the same as the issue-specific innovativeness of a state (Gray, 1973). To measure the issue-specific innovativeness of a state, first of all, the data for the policies relevant to traffic safety are gathered. If the overall traffic safety innovativeness would be measured, alcohol impaired should be included because reducing drunk driving is one of the core sub policy areas in traffic safety policy. However, our interest in this paper is the influence of state innovativeness in other traffic safety areas on the comprehensiveness of a state's policy adoptions against alcohol impaired driving. Thus, state drunk driving laws are not included in measuring state traffic safety innovativeness here. In other words, issue specific innovativeness measured in this paper can be named as 'State traffic safety innovativeness except alcohol impaired driving policies.' A total of thirteen policies and programs related to traffic safety are included: Aggressive driving law, Auto-enforcement law related to speed and red-light camera, Graduated Driver Licensing (GDL), Universal helmet law, License law for old drivers, Seat belt law, the ban of hand-held cellphone law, the ban of mobile texting law, Work-zone safety law, Sobriety check point law, Drug Per Se Law for all drivers,

and Drug Evaluation and Classification Program. And then, the state innovativeness related to traffic safety is recalculated based on these relevant policies in the same way as was performed for the general state innovativeness by Boehmke and Skinner (2012). More specifically, how innovative a state is in traffic safety policy area at that specific year is estimated by how many traffic safety policies the state has adopted among possible adoptions. Appendix C shows the state smoothed innovation rates over time in traffic safety policy area except alcohol impaired driving.

Figure 2 shows the pattern of change in traffic safety innovativeness across all states from 1990 to 2010. From 1995 to the mid and late 2000s, it is found that state traffic safety innovativeness except alcohol impaired driving policy area has gradually increased in this graph.

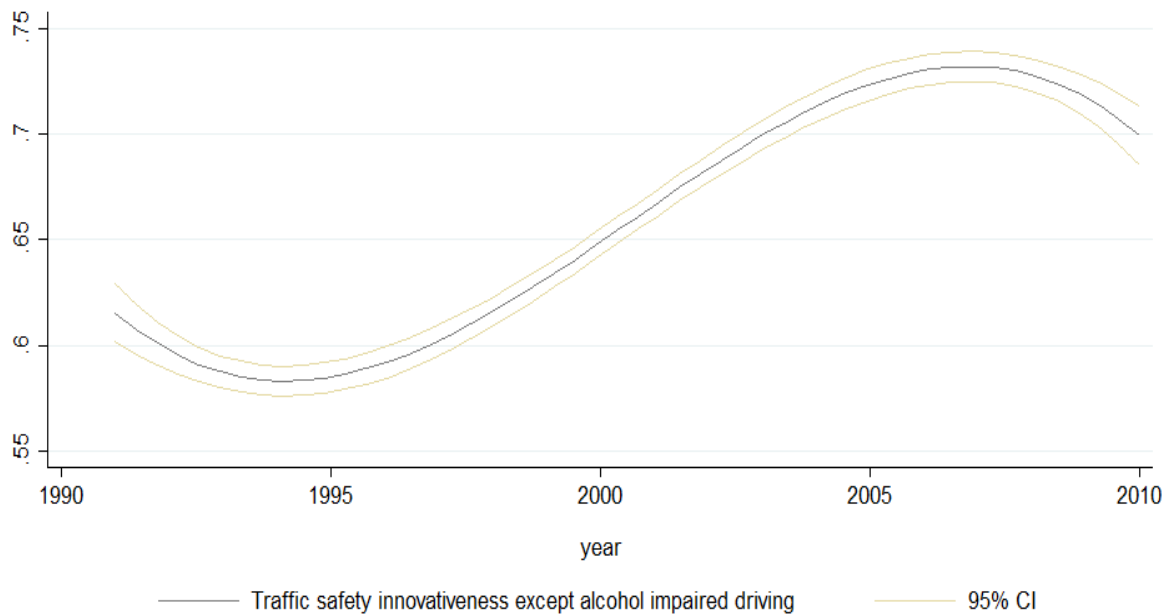


Figure 2: Traffic safety innovativeness except drunk driving policy area, 1990–2010

Figure 3 is the scatterplot of state general innovativeness and traffic safety innovativeness and the correlation between these is -0.0821 at a 95% significance level. This result shows that issue specific state innovativeness is not always similar to general state innovativeness. In other

words, the pattern of a state’s policy adoptions can be different according to policy area. This result is consistent with Virginia Gray’s argument (1973).

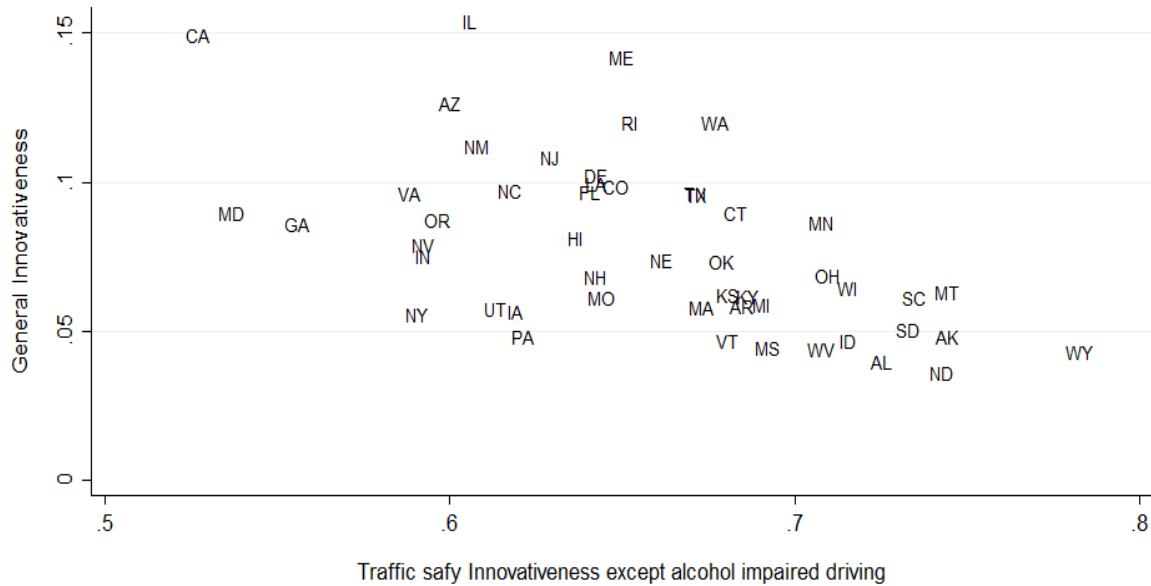


Figure 3: General state innovativeness vs traffic safety innovativeness except drunk driving policy area

4.4.2.3. Organizational innovativeness. Organizational factors are also important factors affecting on state innovativeness, especially organizational size, slack resources, and professionalism in an organization (Bums and Stalker, 1961; Rogers 1995). To measure the organizational size, the number of state government employees, whose job type is high way, per 10 miles of highway in a state is used. The professionalism for a state government is measured by the average payroll of the state employee in highway jobs.² More specifically, total payroll in highway work-related is divided by the total number of employees in highway jobs for measuring professionalism in a state professionalism in traffic related fields³. The deficiency of slack resources of a state government is represented by amounts in dollar per capita of state-local

² This measurement is similar to legislative professionalism measured based on state legislator salaries. (Ferraz & Finan, 2009; King, 2000; Squire, 1992; Eliassen & Pedersen, 1978)

³ Annual Survey of Public Employment and Payroll was not done for 1996 because of changing the base reporting period for these from October to March. This change was introduced with the 1997 Census of Governments. Therefore, the same data as 1997 is used for 1996 in this analysis.

government debts in this study. These data are obtained from ‘Government Employment & Payroll’ and ‘Statistical Abstract of the United States’ from 1990 to 2010 published by the United States census bureau.

4.4.2.4. Bandwagon effects. Among Bandwagon effects, an institutional bandwagon can be measured by the difference between the national average of states’ adoptions and a state’s adoptions among anti-drunk driving laws because institutional bandwagon pressures are caused by non-adopters’ fear of being different from all other states. Competitive bandwagon effects occur when it is expected that the average performance of many adopters is better than non-adopters. Therefore, the equation that the average of alcohol-related fatalities in a state minus the average of alcohol-related fatalities in states with more alcohol impaired driving policies than the state, can be used for measuring competitive bandwagon. The data of alcohol-related fatalities are obtained from NHTSA annual reports from 1990 to 2010.

4.4.2.5. Controls related to the internal characteristics of a state. As an alcohol related control variable, annual alcohol consumption in a state is used. State alcohol consumption is measured in gallons of ethanol per capita and this data came from the alcohol consumption trends, 1977–2012 (LaVallee, Kim, and Yi, 2014). About the measurements of political ideology, citizen ideology is measured by the average position of the active constituents on a continuum from a liberal to conservative in a state, and state government ideology also is the ideological mean score produced based on the distribution of power among the elected public officials: the governor and the major party representatives in the state legislature (W. Berry, E. Ringquist, R. Fording, and R. Hanson, 1998). The demographic and socio-economic characteristics of a state have been regarded as important factors explaining the different patterns of state policy adoptions. To measure the impacts of these factors, the data in ‘State Politics and the Judiciary’ on State Politics & Policy Quarterly (SPPQ) are used. The percent of men in a state population for gender and ‘estimated Black and Hispanic Population in 1000’s’ for race are used for measuring the influence of demographic factors. About the socio-economic factors, state income level is measure by ‘median income in current dollars’ and state formal education levels is represented by the percentage of the population with a bachelor’s degree (Census Bureau, 1983-2013). The variables used in our analysis are listed in the table 10 below.

Table 10. Variable descriptions: state alcohol impaired driving policies

Theoretical explanation	Variable		Description
Innovativeness Models	State Overall Innovativeness		Smoothed Innovation Rates over time (Boehmke and Skinner, 2012)
	Traffic Safety Innovativeness (except Alcohol impaired driving policy area)		Smoothed Traffic Safety Innovation Rates over time (calculated by author in the same way as Boehmke and Skinner (2012) used)
	Organizational State Innovativeness	Size	The number of state government high way job-related employees, per 10 miles of highway in a state
		Professionalism	Average payroll of highway work-related employees (Total payroll in highway work-related is divided by the total number of employees in highway jobs)
Deficiency of Resource Slack		Amounts in dollar per capita of state-local government debts	
Bandwagon Models	Institutional Bandwagon		Institutional dissimilarity (The gap between the national average of states' adoptions and a state's adoptions among anti-drunk driving laws)
	Competitive Bandwagon		Below performance compared to other states with more alcohol impaired driving policies (The gap between the average of alcohol-related fatalities in a state and the average of alcohol-related fatalities in states with more alcohol impaired driving policies than the state)
Internal Determinants Models	Alcohol Consumption		Gallons of ethanol per capita in a state
	Political Ideology	Citizen Ideology	Citizen and Government Ideology measurement (Higher score indicate a more liberal: 1-100 scale)
		Government Ideology	
	The different portion of Male population		Percentage of Male Population in a state
	The different portion of Black and Hispanic population		Percentage of Black and Hispanic Population in a state
	Income Level of a state		Median income in current dollars
Education Level of a state		Percent of Population with a bachelor's degree	

4.4.3. Methodology

To investigate the determinants of state adoptions of drunk driving policies across states, the statistical estimation technique should ideally be capable of analyzing temporal and spatial patterns of policy adoptions. Therefore, panel analysis is conducted in this paper, because this method is suited for studying all 50 states (same units) for twenty years (multiple times). Also, a statistical test (F test) supports that panel analysis is better than pooled OLS ($P=0.00$).

Concerning the selection between fixed effect and random effect models, the Hausman Test shows that the fixed effect model is more relevant and significant than the random effect model ($\text{Prob}>\chi^2 = 0.00$).

However, ‘heteroscedasticity’ and other statistical problems can arise from methodological perspective, when using panel analysis. Therefore, these statistical issues should be checked before conducting a full-scale analysis. Relevant tests like Wooldridge, Pesaran, and modified Wald test were conducted for checking these issues. Autocorrelation, heteroscedasticity, and cross-sectional dependence are detected by results of these tests. To deal with these statistical issues, fixed-effect regression with Driscoll and Kraay standard errors is applied to our panel analysis, because the error structure of Driscoll and Kraay assumes that there are autocorrelation, possible cross sectional dependency, and heteroscedasticity in panel data (Hoechle, 2007).

4.5 Findings

Overall, results of the statistical analysis (shown in Table 11) provide considerable support for our hypotheses. The first overall result is support (for Hypothesis H1 and not for H4) that the comprehensiveness of state adoptions of alcohol impaired driving policies is not the product of partisan politics. Rather, state policy adoptions against drunken driving are influenced by the innovativeness of a state government overall as well as the innovativeness of the state’s traffic safety policies, professionalism of state government, bandwagon effects from other early adopter’s choices and performance, and various socio-economic conditions of a state. And the results for hypotheses 4-1 and 4-2 strongly suggest that adoption of anti-drunk driving laws is not influenced by political party affiliation of citizen and the partisan proclivities of elected government elites in a state.

Table 11. Fixed effect estimation with Driscoll and Kraay standard errors

Independent variables	Fixed Effect with Driscoll-Kraay (Robust Std. Err.)
State Overall Innovativeness	1.182 ^{***} (.339)
Traffic Safety Innovativeness (except Alcohol impaired driving policy area)	2.047 ^{**} (.887)
The size of State government (Organizational Innovativeness)	.806 ^{***} (.188)
The Professionalism of State government (Organizational Innovativeness)	.460 ^{**} (.090)
The Deficiency of Resource Slack of State government (Organizational Innovativeness)	-.000 [*] (.000)
Institutional Bandwagon effect	.837 ^{***} (.019)
Competitive Bandwagon effect	-.603 (.404)
Alcohol Consumption	-1.503 ^{***} (.265)
Political Liberalism (Citizen)	-.000 (.002)
Political Liberalism (Government)	-.001 (.001)
The different portion of Male population	90.002 ^{***} (13.723)
The different portion of Black and Hispanic population	2.641 (2.344)
State Income Level	.000 ^{***} (.000)
State Education Level	.093 ^{***} (.018)
Const.	-43.206 ^{***} (6.780)
Number of cases	998
Number of groups	50
R ² (within)	.9129
F-test	9584.09 ^{***}

* $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

4.5.1. The explanations of general, issue-specific, and organizational innovativeness

First, both hypotheses for state general (Hypothesis 1-1) and issue-specific traffic safety innovativeness (Hypothesis 1-2) demonstrate strong statistical support. For as a state's overall innovativeness score, calculated by Boehmke and Skinner (2012), increases in a state, the state's alcohol impaired driving policy index representing the comprehensiveness of state adoptions is expected to increase by .982 (at a significance level .05), holding all other variables constant. Also, the comprehensiveness of a state's drunk driving policy will increase by 2.896, whenever the rate of the state's traffic safety innovativeness (omitting alcohol impaired driving policies) increases by one, holding all other variables constant ($p < .01$). Thus, these results can be understood that the comprehensiveness of a state's alcohol impaired driving policies is under or related to the influence of the state's innovative tendency to take risks for introducing new policy, regardless of general and issue-specific policy areas. Among the two types of innovativeness of a state, the comprehensiveness of a state's adoptions of alcohol impaired driving is changed more sensitively by issue specific (traffic safety) innovativeness than general state innovativeness. However, general innovativeness has more relevance to comprehensiveness of state anti-drunk driving policies than traffic safety innovativeness because the t scores of general innovativeness (3.49) is larger than traffic safety innovativeness (2.31).

In terms of organizational innovativeness, two of our hypotheses receive statistical supports at significance level .01. First, if the number of state government employees per 10 miles of highway in high way jobs increases by one, the comprehensiveness of state adoptions against drunk driving increase by 0.801 ($p < .000$). Based on this, it is expected that more alcohol impaired driving policies are likely to be adopted by a state with a larger size of employees in highway work-related than smaller numbers of employees (Hypothesis 1-3). Also, as the average payroll of the state employees in highway jobs increases by one thousand dollars, the comprehensiveness of a state adoptions in alcohol impaired driving policies will increase by 0.460, when all other variables are constant ($p < .000$). Hypothesis 1-4 that a state with a high level of professionalism is more likely to adopt anti-drunk driving laws is confirmed based on this result. However, the hypothesis 1-5 related to resource slack of a state fails to receive empirical support at the significance level .05. The result reports that the comprehensiveness of a state's adoptions of alcohol impaired driving policies (Hypothesis 1-5) is associated with a

negative relationship with state and local government debts at a significance level .1 ($p=0.096$), holding all other variables constant, although the coefficient ($-.0000295$) is very small in practical terms. Thus, this result can be interpreted as indicating that high level of resource slack has a weak relation to the comprehensiveness of state adoptions in anti-drunk driving policy area compared to other variables for organizational innovativeness.

4.5.2. Bandwagon effect

As already mentioned, bandwagon diffusion is defined as the process of how a management fashion or fad is spread across different systems under the pressure caused by institutional differences from other actors and perceptible benefits of early adopters (Abrahamson and Rosenkopf, 1993). The hypothesis for institutional bandwagon effect (Hypothesis 2-1) is supported by statistical results at the significance level .01. However, the hypothesis for competitive bandwagon effect (Hypothesis 2-2) fails to receive empirical support by the statistical results. Reviewing the results of the institutional bandwagon explanation, if the average number of all states' adoptions of alcohol impaired driving policies increases by one, alcohol impaired driving policy index is expected to increase by .837 ($p<.000$). This result suggests that a state with fewer anti-drunk driving policies than national average is likely to feel pressure to adopt more alcohol impaired driving policies because of a fear of being different from many other states.

According to the results for competitive bandwagon effect, whenever the gap between the average of alcohol-related fatalities in a state and the average of alcohol-related fatalities in states with more alcohol impaired driving policies increases by one unit, the alcohol impaired driving policy index in the state will decrease by .603, holding all other variables constant ($p=.151$). Thus, we can find that the comprehensiveness of a state's adoptions of alcohol impaired driving is changed under the pressure of institutional bandwagon, but not strongly impacted by a competitive bandwagon effect. Furthermore, considering the relevance of explanatory variables in the model to the dependent variables, the institutional bandwagon pressure is more relevant than other explanations because its t-value (44.84) is much higher than any other independent variables. Based on these results, the institutional bandwagon effect can be regarded as one of the persuasive mechanisms to explain the diffusion pattern of states' adoptions in the alcohol impaired driving policy area.

4.5.3. Other explanations from controls

Our hypothesis 3 for finding a negative relationship between annual alcohol consumption in a state and the state's adoptions of alcohol impaired driving policy shows statistical significant at a significance level of .01. If annual alcohol consumption of ethanol per capita increases by one gallon, a state's comprehensiveness of anti-drunk driving policies decreases by 1.503 ($p < .000$). In other words, the result shows that introducing a comprehensive package of alcohol impaired driving policies is more difficult in a state with a high level of alcohol consumption. The potential political and economic influence of alcohol industry in a state represented by alcohol consumption has a negative relation with a state's decision making for adopting more policies against drunk driving more comprehensively than other states.

Examining the influence of political ideology on state adoptions of anti-drunk driving policies, the results show that there is no significant relationship between them, on both citizen (Hypothesis 4-1) and government ideology (Hypothesis 4-2). This means that the comprehensiveness of state adoptions of alcohol impaired driving policies is not the product of partisan politics or liberal-conservative ideology. Rather, it can be more persuasive that a state's adoptions of alcohol impaired driving policies are understood as management approaches or fashion and fad to control drunk driving in the state.

Most of the hypotheses for demographic and socio-economic characteristics of a state receive support from the statistical results, as previous literatures have argued more generally for policy innovation (Chan, Neighbors, Gilson, Larimer, & Marlatt, 2007; Wilsnack, Kristjanson, & Wilsnack, 2006; Herd 1985; Caetano 1984; Moskowitz, Walker, and Gomberg, 1979). More specifically, the results support the hypothesis (Hypothesis 5-1) that the more male population is in a state, the more comprehensively the state adopts anti-drunk driving policies at significant level 0.01 when other variables are constants. However, another hypothesis related to race fails to receive a statistical support at any significance level (Hypothesis 5-2). Both hypotheses about socio-economic characteristics are statistically significant at level .01. In other words, a high level of income (Hypothesis 5-3) and educational level (Hypothesis 5-4) in a state are expected to be positively associated with comprehensiveness of the state's policy adoptions against drunk driving.

4.6 Summary and discussion

This study examines the factors related to the comprehensiveness of state alcohol impaired driving policies, with specific interests on state policy innovativeness, two kinds of bandwagon effect, and the impact of partisan politics and ideology on states adopting comprehensive anti-drunk driving policies. It uses a panel design of fifty states from 1990 to 2010. Sixteen state-level alcohol impaired driving laws are used to measure the comprehensiveness of a state's package of anti-drunk driving policies. Table 12 summarizes our findings.

Table 12. Summary of relationships between each hypothesis and the comprehensiveness of state alcohol impaired driving laws

No	Hypothesis	Result	Direction
1-1	State Overall Innovativeness	1.182*** (.339)	+
1-2	Traffic Safety Innovativeness	2.047** (.887)	+
1-3	Organizational State Size	.806*** (.188)	+
1-4	Professionalism Innovativeness	.460** (.090)	+
1-5	Deficiency of Resource Slack	-.000* (.000)	-
2-1	Institutional Bandwagon	.837*** (.019)	+
2-2	Competitive Bandwagon	-.603 (.404)	Not supported
3	Alcohol Consumption	-1.503*** (.265)	-
4-1	Citizen Ideology Political Ideology	-.000 (.002)	Not supported
4-2	Government Ideology	-.001 (.001)	Not supported
5-1	The different portion of Male population	90.002*** (13.723)	+
5-2	The different portion of Black and Hispanic population	2.641 (2.344)	Not supported
5-3	Income Level of a state	.000*** (.000)	+
5-4	Education Level of a state	.093*** (.018)	+

* $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

We find that states that are overall more innovative in policy adoptions are more likely to be comprehensive in their adoptions of anti-drunk driving laws, and similarly, states that are more innovative in traffic safety policies are more likely to adopt a higher number of anti-drunk driving laws. Thus in this policy area of impaired driving laws, innovative states adopt a larger package of these laws. Few studies have examined if states adopt a comprehensive package of laws in a policy subfield, or adopt policies which could be considered substitutes or partial coverage laws. This study shows a clear pattern that innovative states have adopted more laws among the sixteen laws that constitute our dependent variable index related to impaired driving rather than fewer.

We find that larger states, states with a higher level of government professionalism, and states with less debt are more likely to be comprehensively innovative. These results are similar to what many studies on state policy innovation find associated with innovative states. Results also show that states with less alcohol consumption per capita are less likely to adopt comprehensive driver impaired policies, suggesting need to address severity of drunk driving may be a factor in states' actions.

We introduce the concept of diffusion by bandwagon effect, which has mainly been used developed in management innovation and diffusion studies. We find it is a primary explanatory variable in our model explaining the comprehensiveness of state policy adoptions against drunk driving. Based on the results, institutional bandwagon pressure is significantly associated with the comprehensiveness of state level anti-drunk driving policies. The difficulty to assess the effectiveness of alcohol impaired driving policies in a short period of time can be regarded as one of main reasons explaining this result. Even for an individual policy, it isn't easy to assess precisely its outcome in a short time period. Due to ambiguous assessments of them, alcohol impaired driving policies may be diffused in a bandwagon manner regardless of whether they are efficient or not. As mentioned above, the result only supports the hypothesis for institutional bandwagon, not for the competitive bandwagon hypothesis. Thus, in this case, the positive bandwagon effect occurs due to a state's concern about institutional dissimilarity to other states, and not by comparing its below average performance to other states which have more alcohol impaired driving policies. Indeed, this finding suggests that states are not adopting more driver impaired laws based on the overall positive performance of a larger number of laws in other states. In sum, it can be said that the comprehensiveness of state alcohol impaired driving policy

adoptions is decided by a state's innovativeness and bandwagon effect created by "management fashion or fad" across states under the constraints represented by internal characteristics of a state.

Most explanations of the control variables, such as richer and more educated citizens in a state are similar to the results of other previous innovation research. In other words, the internal characteristics of a state, which are expected to increase drunk driving by previous research like male population, income level, and education level, are positively associated with the increase of state policy adoptions for reducing alcohol impaired driving. One exception is the hypotheses related to ethnic group differences (Black and Hispanic population) in a state. Also, the result reports that there is no significant relation between prevalent political ideology in a state and the comprehensiveness of the state's alcohol impaired driving policy adoptions. The current empirical research by Macinko and Silver (2015) shows a similar result-- that the political makeup of a state government is not the most influential predictor in alcohol policy adoptions in the state. Thus, it can be understood that state's policy adoptions against drunk driving are not the product of partisan politics.

One of the main differences between this paper and previous literatures is that this paper is highly focused on a state's innovativeness as a general trait of policy decision-maker. A state's decision making inclination is expected to be one of the major factors influencing the process of policy adoption and diffusion, even if the main stream of policy innovation and diffusion studies has focused on a single policy adoption by a state (Boehmke and Skinner, 2012). According to strategic management scholars (Child, 1972, Dougherty and Heller, 1994), organizations do not always react to external environmental changes passively. Rather, they actively take actions to respond to significant environmental changes based on their strategies in many cases. Thus, a state's tendency to take a risk in introducing a new solution is an important factor predicting how much and how fast the state actively adopts new policies for solving drunk driving problem in its jurisdiction. The results of this paper also support this explanation.

However, the pattern of policy adoption by a state is likely not the same in all policy areas, because the influences of political, institutional and economic constraints in a state could be different depending on the policy area (Virginia Gray, 1973). In other words, a state may be one of the first adopters in an economic policy area, but a later adopter in a moral policy area. Thus, issue specific innovativeness should be considered as the flip side or alternative to overall

state innovativeness. In this paper, a state's issue specific innovativeness in traffic safety area, except alcohol impaired driving policy area, is used as one of the important variables as well as the state's general innovativeness across overall policy areas. To measure the state traffic safety innovativeness, thirteen policies are included and it is calculated in the same way as was used for the state overall innovativeness regardless of policy areas by Boehmke and Skinner (2012). According to the results, a state's traffic safety innovativeness outside of the narrow alcohol impaired driving policy area is not strongly associated with the state's general innovativeness. Therefore, one of contributions of this paper is to empirically show that state general innovativeness can be different than issue specific innovativeness in the same state, depending on the policy area. Even if the relationship between state general and traffic safety innovativeness outside of alcohol impaired driving policy area are weak, the results indicate that both state overall policy innovativeness and the comprehensiveness of state policy packages against drunk driving are significantly correlated.

Furthermore, organizational innovativeness of a state government is included as one of the independent variables related to alcohol impaired driving in this study. While the concept of state innovativeness focuses on the decision-making stage in the public policy process, organizational innovativeness puts more weight on the organizational capacity for implementing relevant policies. In other words, if a state does not have enough capacity to implement a policy, the state may be less likely to adopt more policies. In this paper, the size, professionalism, and slack resources of a state are considered as the components of the state's organizational innovativeness. The results also support our hypotheses; the more organizational innovative capacity a state has in terms of the size, professionalism and slack resources, the more likely the state is to comprehensively adopt the package of alcohol impaired driving policies.

There are a number of limitations in this paper. First, to measure the bandwagon effect, the concepts of institutional and competitive bandwagon, defined by Abrahamson and Rosenkopf (1993), are used. However, all of their propositions about bandwagon effect and mathematical models are not fully applied to this study. Thus, more developed analysis focusing on all of aspects of bandwagon effect for the variation among state's alcohol-impaired driving policy adoptions would be meaningful as a future study. It is because a state adoption of alcohol impaired driving policy is not a bi-political issue, and therefore it can be regarded as a state's strategy to reduce drunk driving in the state.

Among possible explanations, the different age profile of a state citizens is not included in this study. However, population age distribution might be expected to have an influence on a state's adoptions of anti-drunk driving policies (U.S. Department of Transportation, 2012). Historically, nonprofit organizations represented by MADD (Mothers Against Drunk Driving) have a huge impact on the expansion of alcohol impaired driving policies. Because of the limitations of this dataset, the influence of interest groups is not tested as well. Therefore, if these kinds of deficiencies will be supplied in future studies, we can get more sufficient and precise understanding about this question: Why do some states choose more comprehensive policies than others in the adoptions of alcohol impaired driving policies?

CHAPTER 5

CONCLUSION AND FUTURE STUDY

As discussed in the introduction, the main stream of policy innovation and diffusion study is focused on the adoption of a new single policy. However, the main mechanisms of innovation and diffusion works on all levels of the heuristic process of public policy. The starting point of this dissertation is to fill in the vacant spots in terms of public policy process, where theoretical models of innovation and diffusion study can be applied, but have not had much work done previously. Hopefully, my dissertation has contributed to extend the scope of policy innovation and diffusion study.

From the perspective of a policy life cycle, innovation and diffusion mechanisms could be involved from the birth to the death of a policy. In other words, even the death of a policy can be diffused across states, as well as an established agenda, a newly designed policy, policy reinvention, and so on. This is similar to the spread of death from an infectious disease in epidemiology and the main reason why we apply the innovation and diffusion framework to the repeal of the prevailing wage law in the first essay.

The economists for and against prevailing wage law have argued the reasons for upholding and abolishing prevailing wage law based on economic justifications. However, the repeal of an old policy and law is not simply decided based on economic effects because there are many stakeholders who enjoy political, social, and even economic benefits from the policy. Deleon (1987) argues that economics was rarely behind the decision making of policy termination. Cameron (1977) also insists that economic justification did not change the decision of policy termination. In short, even though a cost-benefit type of economic analyses and policy evaluations can trigger debate about the termination of a certain policy and law, we require empirical results to say that the economic factor is the most critical factor leading to the repeal of an old policy and law. The empirical results of the first essay suggest that economic justifications in the nine states that repealed prevailing wage laws acts are not the primary reason; other factors are also important in the repeal of prevailing wage law, including union power, socio-economic conditions and so on.

As a future study, first, it could be meaningful to estimate the difference of the impact of risk factors depending on the level of termination target: a program, a policy, a government function, etc. According to Bardach (1976), it is usually unnecessary to differentiate programs, policies, organizations, and government functions in terms of policy termination, because efforts to terminate any of them generate similar political contests. However, I think the weight of each risk factor could be different according to the level of termination target. For example, inefficiency could be the most important factor of terminating a low-level target like a program. To measure the outcome of a program is relatively easier than other higher-level targets like a policy, an organization, a government function, and so on. It means, as operational manifestation of policies, programs can be dropped and replaced with more effective ones based on performance investigation (Daniels, 1997). Also, programs are the easiest target to terminate in terms of political circumstances and the influence of interest groups because programs usually have weaker political supporters than do high-level targets. On the contrary, it is expected that high-level target of termination would not be critically affected by its inefficiency. Usually, it is almost impossible to estimate the outcome of them precisely. In other words, it is difficult to determine whether they are efficient or not. In this case, the decision of repealing high-level targets could be highly influenced by political and social interest groups. Thus, this could be a good topic to study to understand the role unique characteristics may play in policy termination by level of policy and its implementation or institution.

Second, a meaningful next step is to develop a more comprehensive and integrated theory of innovation adoption and repeal. Previous policy termination studies were incomplete and did not compare termination directly with influential factors and relationships found in policy adoption. As mentioned above, innovation and diffusion mechanisms are at work throughout the entire life of a policy. However, it is also expected that policy adoption and termination has its own unique characteristics because the birth of a policy is not exactly the same as the death of the policy. By integrating theories of policy adoption and termination, we can find “new factors” in the repeal of an old policy that match or don’t match with adoption theory. Further, we can also find the answer about whether policy termination act is diffused in a similar fashion to policy adoption diffusion across states.

As societies grow more complicated, the conflicts among social values is getting more severe; the need for reconciling conflicts in social values has been drastically increased. Thus, it

is more likely that the judicial branch is more often involved in controversial social issues than before. In other words, it is possible that judicial decisions have a strong effect on the process of public policy relative to social issues. However, the influence of court decisions on morality policy, a highly salient and contentious, often partisan policy, has not been studied. We examine the impact of state and federal court decisions regarding homosexuals' rights on state policy actions regarding legislative and constitutional changes in bringing forth same sex marriage bans. More specifically, we test the "backlash" theory vs. the supportive theory of court decisions on same sex marriage to see which is more supported by state action.

The overall result shows that the backlash of court cases in favor of gay rights, supportive state public opinion for same sex marriage, Federal DOMA, and the extent of gay-friendly institutions in a state are important factors related to the likelihood a state introduces a same sex marriage ban. Furthermore, we also find that the backlash of court decisions does not always occur by additional multi-state analysis. The use of the multi-state model is a new theoretical and analytical contribution to innovation and diffusion study that shows particular strength in allowing us to assess how states move from one stage to another. Based on health-illness-death model, we match stage without any ban to health, stage only with state DOMA to illness, and stage with constitutional amendment to death. As we conceptualize this model, we examine the impact of state and federal court decisions on each transition from one stage to another; in this paper from stage health to stage illness to stage death. Multi-state analysis shows that the increase of favorable court rulings for homosexual rights in a state is sometimes helpful, and sometimes harmful, in preventing a state from adopting a same sex marriage ban. In other words, judicial decisions sometimes facilitate the social change as it was intended to do, but sometimes trigger a backlash against it. This result helps practitioners to consider if legal action is always positive or what risks it can present in the policy arena.

Also, we find the importance of public opinion as a contextual and mediating variable in same sex marriage. If so, does public opinion have this much impact on all policies or is morality policy an exception? Further efforts to answer this question on a broader range of policies and contexts could be a good comparative research topic to reveal the different impact of public opinion depending on types of policy. Furthermore, as discussed in the conclusion of the second paper, the diffusion of state religious freedom acts should be studied to assess if its diffusion pattern represents a similar or different form of "backlash" theory compared against the

legalization of same sex marriage. Also, by analyzing the interactive effects between the diffusion of religious freedom and the legalization of same sex marriage, we can get an interesting insight about whether and how the constructive and destructive inference occur between different diffusion patterns of conflicting policies or laws.

Lastly, the public policy process can be understood as a kind of a decision making process for designing and implementing effective ways to solve societal problems. Thus, the tendency of states in their decision-making is one of influential factors in this process, because states do not merely adjust themselves to internal and external environmental contingencies, but they strategically take actions even though there might be risk or anti-legal decisions reflected in their policy choices, as in the same sex marriage. This type of resistance and state legislative assertion has not been actively studied in previous literatures. State legislatures may also act comprehensively in a policy area (rather than adopting piece-meal acts). Examining the correlation of all aspects of state policy innovativeness with a non-ideological policy area, such as drunk driving laws, has not been conducted. Therefore, we estimated the impact of state innovativeness on adoption of alcohol impaired driving policies in this dissertation. The result supports the finding that all aspects of state innovativeness has an influence on state adoptions of alcohol impaired driving laws: overall, issue specific, and organizational. This possible relationship between comprehensiveness of a policy area laws and state innovativeness provides some support to an interpretation that innovative states may adopt more comprehensively rather than a few policies at a time in a policy area. Our findings are not conclusive (or can be widely generalized to other policy areas) since they are based on one policy area, but this finding and pattern has not been demonstrated before.

Also, the institutional bandwagon is revealed as one of the factors that influence the comprehensiveness of state adoptions of drunk driving policies as well as several factors that relate to state variables such as larger states, a higher level of government professionalism, and less debt. According to this result, we can understand that state's adoption of drunk driving laws has a diffusion pattern that has been called a Bandwagon effect, and studied in management fads. In Bandwagon diffusion, states adopt a policy through mimicking or isomorphic effects when that policy seems popular and has good intentions and has little to no political opposition.

As a meaningful next step, it would be good to examine the influence of state innovativeness in other similar policy areas like health regulations on tobacco, marijuana, or

other harmful practices. Furthermore, it could be worthy to examine different patterns in the influence of state innovativeness dependent on policy typology, such as moral, economic and so on.

APPENDIX A

FEDERAL AND STATE COURT RULINGS RELATED TO GAY-RIGHTS

No	Court Cases	Type of Court
1	<i>Shahar v. Bowers</i> , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, 1993	Federal District
2	<i>Cammermeyer v. Aspin</i> , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, SEATTLE DIVISION, 1994	Federal District
3	<i>Able v. United States</i> , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 1995	Federal District
4	<i>Nabozny v. Podlesny</i> , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN, 1996	Federal District
5	<i>Southworth v. Grebe</i> , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN, 1996	Federal District
6	<i>Henkle v. Gregory</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA, 2001	Federal District
7	<i>Barnes-Wallace v. Boy Scouts of America</i> , UNITED STATES DISTRICT COURT, S.D. CALIFORNIA, 2003	Federal District
8	<i>Largess v. Supreme Judicial Court for Mass.</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2004	Federal District
9	<i>McConnell v. United States</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA, 2005	Federal District
10	<i>Wilson v. Ake</i> , UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION, 2005	Federal District
11	<i>Citizens for a Responsible Curriculum v. Montgomery County Pub. Schs.</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, SOUTHERN DIVISION, 2005	Federal District
12	<i>Citizens for Equal Prot., Inc. v. Bruning</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA, 2005	Federal District
13	<i>Smelt v. County of Orange</i> , UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION, 2005	Federal District
14	<i>Walker v. State</i> , CIVIL ACTION, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON DIVISION, 2006	Federal District
15	<i>Bishop v. Oklahoma ex rel. Edmondson</i> , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA, 2006	Federal District
16	<i>Walker v. Mississippi</i> , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON DIVISION, 2006	Federal District

17	<i>Finstuen v. Edmondson, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA, 2006</i>	Federal District
18	<i>Cook v. Rumsfeld, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2006</i>	Federal District
19	<i>Bishop v. Oklahoma ex rel. Edmondson, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA, 2006</i>	Federal District
20	<i>Catholic League for Religious & Civil Rights v. City & County of San Francisco, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2006</i>	Federal District
21	<i>Triche-Winston v. Shewry, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, 2006</i>	Federal District
22	<i>Milberger v. KBHL, LLC, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII, 2007</i>	Federal District
23	<i>Parker v. Hurley, C.A., UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2007</i>	Federal District
24	<i>Butler v. Adoption Media, LLC, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2007</i>	Federal District
25	<i>Gillman v. Sch. Bd. for Holmes County, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, PANAMA CITY DIVISION, 2008</i>	Federal District
26	<i>Wooten v. California, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, 2008</i>	Federal District
27	<i>Walker v. United States, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA, 2008</i>	Federal District
28	<i>Langbehn v. Public Health Trust, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION, 2009</i>	Federal District
29	<i>Smelt v. United States, UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA (Southern Division - Santa Ana), 2009</i>	Federal District
30	<i>Walker v. Barbour, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON DIVISION, 2009</i>	Federal District
31	<i>Perry v. Schwarzenegger, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2009</i>	Federal District
32	<i>Stern v. Cosby, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2009</i>	Federal District
33	<i>Little v. Fenty, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 2010</i>	Federal District
34	<i>McMillen v. Itawamba County School District, et al., UNITED STATES DISTRICT COURT FOR MISSISSIPPI Northern District Court, 2010</i>	Federal District

35	<i>Walker v. Mobile County Clerks, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION, 2010</i>	Federal District
36	<i>Hogan v. Anasazi Found., UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA, 2010</i>	Federal District
37	<i>Massachusetts v. United States HHS, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2010</i>	Federal District
38	<i>Gill v. Office of Pers. Mgmt., UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2010</i>	Federal District
39	<i>Perry v. Schwarzenegger, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2010</i>	Federal District
40	<i>Fisher v. Jacksonville Sheriff's Office, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION, 2010</i>	Federal District
41	<i>Dragovich v. United States Dep't of the Treasury, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2011</i>	Federal District
42	<i>Golinski v. United States OPM, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2011</i>	Federal District
43	<i>Hutchinson v. Cuyahoga County Bd. of County Comm'rs, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, 2011</i>	Federal District
44	<i>Perry v. Schwarzenegger, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION, 2011</i>	Federal District
45	<i>Handi Lui v. Holder, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 2011</i>	Federal District
46	<i>Temple v. Abercrombie, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII, 2011</i>	Federal District
47	<i>Catholic Charities of the Diocese of Springfield-in-Illinois et al. v. Illinois et al., UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, 2011</i>	Federal District
48	<i>Coraggio v. Time Magazine Co., UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 1996</i>	Federal District
49	<i>Miller v. Vesta, Inc., UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN, 1996</i>	Federal District
50	<i>Southworth v. Grebe, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN, 1996</i>	Federal District
51	<i>Marcum v. Catron, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY, LONDON DIVISION, 1999</i>	Federal District
52	<i>Bennett v. Yoshina, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII, 2000</i>	Federal District
53	<i>United States v. Costigan, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, 2000</i>	Federal District

54	<i>Weaver v. Bonner</i> , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, 2000	Federal District
55	<i>Good News Empl. Ass'n v. Hicks</i> , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2004	Federal District
56	<i>Albright v. Morton</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2004	Federal District
57	<i>O'Neill v. Coughlan</i> , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION, 2004	Federal District
58	<i>Blankenship v. Blackwell</i> , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION, 2004	Federal District
59	<i>Martinez-Aguero v. Gonzalez</i> , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, EL PASO DIVISION, 2005	Federal District
60	<i>Raymen v. United Senior Ass'n</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 2005	Federal District
61	<i>Chambers v. Campbell</i> , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION, 2005	Federal District
62	<i>Pa. Family Inst. v. Black</i> , UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, 2005	Federal District
63	<i>Raymen v. United Senior Ass'n</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 2006	Federal District
64	<i>United States Conf. of Catholic Bishops v. Media Research Ctr.</i> , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, ALEXANDRIA DIVISION, 2006	Federal District
65	<i>Timmon v. Wood</i> , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, 2006	Federal District
66	<i>Carey v. Wolnitzek</i> , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY, 2006	Federal District
67	<i>Wolfson v. Brammer</i> , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA, 2006	Federal District
68	<i>Citizens for Tax Reform v. Deters</i> , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION, 2006	Federal District
69	<i>Pa. Family Inst., Inc. v. Celluci</i> , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 2007	Federal District
70	<i>Pa. Family Inst., Inc. v. Celluci</i> , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 2007	Federal District

71	<i>Wolfson v. Brammer, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA, 2007</i>	Federal District
72	<i>Carey v. Wolnitzek, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY, CENTRAL DIVISION, 2007</i>	Federal District
73	<i>Pa. Family Inst., Inc. v. Celluci, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 2007</i>	Federal District
74	<i>Ford v. Flannery, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA, HAMMOND DIVISION, 2008</i>	Federal District
75	<i>Patterson v. Ind. Newspapers, Inc., UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA, INDIANAPOLIS DIVISION, 2008</i>	Federal District
76	<i>Kelley v. United States, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, ALEXANDRIA DIVISION, 2008</i>	Federal District
77	<i>Maradiago v. Castle, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, 2008</i>	Federal District
78	<i>ProtectMarriage.com v. Bowen, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, 2009</i>	Federal District
79	<i>Blakeman v. Walt Disney Co., UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 2009</i>	Federal District
80	<i>Nat'l Org. for Marriage v. McKee, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, 2009</i>	Federal District
81	<i>Nat'l Org. for Marriage, Inc. v. Walsh, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK, 2010</i>	Federal District
82	<i>Massachusetts v. United States HHS, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2010</i>	Federal District
83	<i>Nat'l Org. for Marriage v. McKee, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, 2010</i>	Federal District
84	<i>Does 1 v. Enfield Pub. Sch., UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT, 2010</i>	Federal District
85	<i>Perry v. Schwarzenegger, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2010</i>	Federal District
86	<i>Nat'l Org. for Marriage v. McKee, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, 2010</i>	Federal District
87	<i>Hogan v. Anasazi Found., UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA, 2010</i>	Federal District
88	<i>Nat'l Org. for Marriage, Inc. v. Walsh, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK, 2010</i>	Federal District
89	<i>Lee v. Bureau of Prisons, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 2010</i>	Federal District

90	<i>Holland v. City of San Francisco, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2010</i>	Federal District
91	<i>Nat'l Org. for Marriage & Am. Principles in Action v. McKee, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, 2011</i>	Federal District
92	<i>Grard v. Me. Today Media, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, 2011</i>	Federal District
93	<i>Doe v. Reed, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, 2011</i>	Federal District
94	<i>Protectmarriage.com v. Bowen, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, 2011</i>	Federal District
95	<i>Art of Living Found. v. Does, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION, 2011</i>	Federal District
96	<i>Cammermeyer v. Perry, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 1996</i>	Federal Circuit
97	<i>Nabozny v. Podlesny, UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 1996</i>	Federal Circuit
98	<i>Able v. United States, UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, 1996</i>	Federal Circuit
99	<i>Shahar v. Bowers, UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 1997</i>	Federal Circuit
100	<i>Able v. United States, UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, 1998</i>	Federal Circuit
101	<i>Andrew Holmes v. California National Guard, UNITED STATES COURT OF APPEALS FOR THE NINE CIRCUIT, 1998</i>	Federal Circuit
102	<i>Southworth v. Grebe, UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 1998</i>	Federal Circuit
103	<i>MUELLER v. COMMISSIONER OF INTERNAL REVENUE, UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 2002</i>	Federal Circuit
104	<i>Lofton v. Secretary of the Department of Children & Family Services, UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 2004</i>	Federal Circuit
105	<i>Largess v. Supreme Judicial Court, UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT, 2004</i>	Federal Circuit
106	<i>Smelt v. County of Orange, UNITED STATES COURT OF APPEALS FOR THE NINETH CIRCUIT, 2005</i>	Federal Circuit
107	<i>Citizens for Equal Protection v. Bruning, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 2006</i>	Federal Circuit
108	<i>Matthews v. Gonzales, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2006</i>	Federal Circuit

109	<i>Citizens for Equal Prot. v. Bruning, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 2006</i>	Federal Circuit
110	<i>McConnell v. United States, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 2006</i>	Federal Circuit
111	<i>Finstuen v. Crutcher, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT, 2007</i>	Federal Circuit
112	<i>Cook v. Gates, UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT, 2008</i>	Federal Circuit
113	<i>Parker v. Hurley, UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT, 2008</i>	Federal Circuit
114	<i>Triche-Winston v. Cal. Dep't of Pub. Health, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2008</i>	Federal Circuit
115	<i>Catholic League for Religious & Civ. Rights v. City & County of San Francisco, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009</i>	Federal Circuit
116	<i>Witt v. Department of the Air Force, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2008</i>	Federal Circuit
117	<i>In re Levenson, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009</i>	Federal Circuit
118	<i>Bishop v. Okla. ex rel. Edmondson, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT, 2009</i>	Federal Circuit
119	<i>In re Levenson, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009</i>	Federal Circuit
120	<i>Perry v. Proposition 8 Official Proponents, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009</i>	Federal Circuit
121	<i>Catholic League for Religious & Civ. Rights v. City & County of San Francisco, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009</i>	Federal Circuit
122	<i>Perry v. Schwarzenegger, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010</i>	Federal Circuit
123	<i>Diaz v. Brewer, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009</i>	Federal Circuit
124	<i>Wooten v. California, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010</i>	Federal Circuit
125	<i>Cagle v. James St. Group, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT, 2010</i>	Federal Circuit
126	<i>Keeton v. Anderson-Wiley, UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 2011</i>	Federal Circuit
127	<i>Log Cabin Republicans v. United States, UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 2011</i>	Federal Circuit
128	<i>Phelps v. Hamilton, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT, 1995</i>	Federal Circuit
129	<i>Compassion in Dying v. Washington, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 1994</i>	Federal Circuit

130	<i>Tucker v. California Dep't of Educ.</i> , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 1996	Federal Circuit
131	<i>Southworth v. Grebe</i> , UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 1998	Federal Circuit
132	<i>Ross v. Clayton County</i> , UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 1999	Federal Circuit
133	<i>Chesser v. Sparks</i> , UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 2001	Federal Circuit
134	<i>Weaver v. Bonner</i> , UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 2002	Federal Circuit
135	<i>Church of the Am. KKK v. City of Gary</i> , UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 2003	Federal Circuit
136	<i>Republican Party of Minn. v. White</i> , UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 2004	Federal Circuit
137	<i>Harper v. Poway Unified Sch. Dist.</i> , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2006	Federal Circuit
138	<i>Entm't Software Ass'n v. Blagojevich</i> , UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 2006	Federal Circuit
139	<i>Pa. Family Inst., Inc. v. Black</i> , UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT, 2007	Federal Circuit
140	<i>Nader v. Blackwell</i> , UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT, 2008	Federal Circuit
141	<i>Owens v. Auto. Machinists Pension Trust</i> , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2009	Federal Circuit
142	<i>Fla. Family Policy Council v. Freeman</i> , UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, 2009	Federal Circuit
143	<i>United States v. Fell</i> , UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, 2009	Federal Circuit
144	<i>Patterson v. Ind. Newspapers, Inc.</i> , UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 2009	Federal Circuit
145	<i>Anonymous Online Speakers v. United States Dist. Court for the Dist. of Nevada Reno (In re Anonymous Online Speakers)</i> , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010	Federal Circuit
146	<i>Carey v. Wolnitzek</i> , UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT, 2010	Federal Circuit
147	<i>Wersal v. Sexton</i> , UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 2010	Federal Circuit
148	<i>Wolfson v. Brammer</i> , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010	Federal Circuit
149	<i>Perry v. Schwarzenegger</i> , No. 10-16696, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010	Federal Circuit
150	<i>Lopez v. Candaele</i> , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010	Federal Circuit

151	<i>Perry v. Schwarzenegger, No. 10-16696, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2011</i>	Federal Circuit
152	<i>Perry v. Schwarzenegger, No. 10-16751, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2011</i>	Federal Circuit
153	<i>Perry v. Schwarzenegger, No. 10-16696, No. 10-16751, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2011</i>	Federal Circuit
154	<i>Anonymous Online Speakers v. United States Dist. Court (In re Anonymous Online Speakers), UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2010</i>	Federal Circuit
155	<i>Perry v. Brown, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, March 23, 2011, Filed, Transferred by Perry v. Brown, 2011 U.S. App. LEXIS 13776 (9th Cir. Cal., Apr. 27, 2011)</i>	Federal Circuit
156	<i>Perry v. Brown, No. 10-16696, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 2011 U.S. App. LEXIS 13776, April 27, 2011</i>	Federal Circuit
157	<i>Nat'l Org. for Marriage v. McKee, UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT, 2011</i>	Federal Circuit
158	<i>Hurley v. Irish-American Gay, Lesbian, & Bisexual Group of Boston, SUPREME COURT OF THE UNITED STATES, 1995</i>	U.S. Supreme Court
159	<i>In re FAVRE, UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, 1995</i>	United States Bankruptcy court
160	<i>Romer v. Evans, SUPREME COURT OF THE UNITED STATES, 1996</i>	U.S. Supreme Court
161	<i>Oncale v. Sundowner Offshore Services, SUPREME COURT OF THE UNITED STATES, 1998</i>	U.S. Supreme Court
162	<i>Board of Regents of the University of Wisconsin System v. Southworth, SUPREME COURT OF THE UNITED STATES, 2000</i>	U.S. Supreme Court
163	<i>Boy Scouts of America v. Dale, SUPREME COURT OF THE UNITED STATES, 2000</i>	U.S. Supreme Court
164	<i>United States v. Marcum, THE AIR FORCE COURT OF CRIMIAL APPEALS, 2002</i>	The Air Force Court of Criminal Appeals
165	<i>Lawrence v. Texas, SUPREME COURT OF THE UNITED STATES, 2003</i>	U.S. Supreme Court
166	<i>In re Kandau, UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON, 2004</i>	United States Bankruptcy court
167	<i>United States v. Marcum, UNITED STATES COURT OD APPEALS FOR ARMED FORCES, 2004</i>	Court of Appeals for the Armed Forces
168	<i>In re Mercier, UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF FLORIDA, 2005</i>	United States Bankruptcy court

169	<i>United States v. Orellana</i> , UNITED STATES NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS, 2006	CORPS COURT OF CRIMINAL APPEALS
170	<i>Rabin v. Schoenmann (In re Rabin)</i> , UNITED STATES BANKRUPTCY APPELLATE PANEL FOR THE NINTH CIRCUIT, 2006	United States Bankruptcy court
171	<i>Merrill v. Comm'r</i> , UNITED STATES TAX COURT, 2009	UNITED STATES TAX COURT
172	<i>Christian Legal Society v. Martinez</i> , SUPREME COURT OF THE UNITED STATES, 2010	U.S. Supreme Court
173	<i>In re Balas</i> , UNITED STATES BANKRUPTCY COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 2011	United States Bankruptcy court
174	<i>Adar v. Smith</i> , SUPREME COURT OF THE UNITED STATES, 2011	U.S. Supreme Court
175	<i>Republican Party v. White</i> , SUPREME COURT OF THE UNITED STATES, 2002	U.S. Supreme Court
176	<i>PS Chez Sidney, L.L.C. v. ITC</i> , UNITED STATES COURT OF INTERNATIONAL TRADE, 2006	International Trade Cases
177	<i>J.L.M. v. S.A.K.</i> , COURT OF CIVIL APPEALS OF ALABAMA, 2008	State Court case
178	<i>Ex parte H.H.</i> , SUPREME COURT OF ALABAMA, 2002	State Court case
179	<i>N.B. v. A.K.</i> SUPREME COURT OF ALABAMA, 2010	State Court case
180	<i>Jegley v. Picado</i> , SUPREME COURT OF ALASKA, 2002	State Court case
181	<i>Bess v. Ulmer</i> , SUPREME COURT OF ALASKA, 1999	State Court case
182	<i>Alaska Civ. Liberties Union v. State</i> , SUPREME COURT OF ALASKA, 2005	State Court case
183	<i>Howard v. Arkansas</i> , SUPREME COURT OF ALASKA, 2006	State Court case
184	<i>State v. ACLU of Alaska</i> , SUPREME COURT OF ALASKA, 2009	State Court case
185	<i>State v. Native Village of Tanana</i> , SUPREME COURT OF ALASKA, 2011	State Court case
186	<i>Standhardt v. Superior Court of Ariz.</i> , COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT E, 2003	State Court case
187	<i>Riepe v. Riepe</i> , COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT B, 2004	State Court case
188	<i>Cook v. Cook</i> , COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, 2005	State Court case
189	<i>State v. Freitag</i> , COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT C, 2006	State Court case
190	<i>Arizona Together v. Brewer</i> , SUPREME COURT OF ARIZONA, 2007	State Court case
191	<i>Egan v. Fridlund-Horne</i> , COURT OF APPEALS OF ARIZONA, DIVISION ONE, 2009	State Court case
192	<i>May v. Daniels</i> , SUPREME COURT OF ARKANSAS, 2004	State Court case
193	<i>Bethany v. Jones</i> , SUPREME COURT OF ARKANSAS, 2011	State Court case
194	<i>Grobesson v. City of Los Angeles</i> , LOS ANGELES SUPERIOR COURT(District), 1996	State Court case

195	<i>Grobesson v. City of Los Angeles, , LOS ANGELES SUPERIOR COURT (District), 1998</i>	State Court case
196	<i>Curran v. Mount Diablo Council of the Boy Scouts of America, SUPREME COURT OF CALIFORNIA, 1998</i>	State Court case
197	<i>Colin ex rel. Colin v. Orange Unified Sch. Dist., UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 2000</i>	State Court case
198	<i>Koebke v. Bernardo Heights Country Club, SUPERIOR COURT OF SAN DIEGO COUNTY, 2002</i>	State Court case
199	<i>Koebke v. Bernardo Heights Country Club, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 2004</i>	State Court case
200	<i>Lockyer v. City and County of San Francisco, SUPREME COURT OF CALIFORNIA, 2004</i>	State Court case
201	<i>Koebke v. Bernardo Heights Country Club, SUPREME COURT OF CALIFORNIA, 2005</i>	State Court case
202	<i>Coordination Proceeding, Special Title [Rule 1550(c)], Marriage Cases, JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4365, APPELLATE DIVISION, SUPERIOR COURT OF CALIFORNIA, SAN FRANCISCO COUNTY, 2005</i>	State Court case
203	<i>Armijo v. Miles, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION ONE, 2005</i>	State Court case
204	<i>Knight v. Superior Court, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 128 Cal. App. 4th 14; 26 Cal. Rptr. 3d 687; 2005</i>	State Court case
205	<i>City and County of San Francisco v. State of California, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION THREE, 2005</i>	State Court case
206	<i>Gunn v. Mariners Church, COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION THREE, 2005</i>	State Court case
207	<i>CAMPAIGN v. SCHWARZENEGGER, C048303, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 2006</i>	State Court case
208	<i>KNIGHT v. SCHWARZENEGGER, C048596, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 2006</i>	State Court case
209	<i>In re Marriage Cases, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION THREE, 2008</i>	State Court case
210	<i>Ellis v. Arriaga, CALIFORNIA APPEALS COURT, 2008</i>	State Court case
211	<i>North Coast Women's Care Medical Group vs. Superior Court (44 Cal. 4th 1145), SUPREME COURT OF CALIFORNIA, 2008</i>	State Court case
212	<i>In re Marriage Cases, SUPREME COURT OF CALIFORNIA, 2008</i>	State Court case
213	<i>Strauss v. Horton, SUPREME COURT OF CALIFORNIA, 2009</i>	State Court case
214	<i>California Education Committee, LLC, et al. v. O'Connell, SACRAMENTO SUPERIOR COURT, 2009</i>	State Court case
215	<i>People v. Shear, No., COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 1999</i>	State Court case

216	<i>Coral Construction, Inc. v. City and County of San Francisco, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION FOUR, 2007</i>	State Court case
217	<i>Estate of Frank P. Dito, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION THREE, 2008</i>	State Court case
218	<i>In re Schwing, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SIX, 2008</i>	State Court case
219	<i>Estate of Thor A. Tollefsen, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION ONE, 2009</i>	State Court case
220	<i>Falossi v. Koenig, COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION TWO, 2010</i>	State Court case
221	<i>Bautista v. County of Los Angeles, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2010</i>	State Court case
222	<i>Bautista v. County of L.A., COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2010</i>	State Court case
223	<i>In re M.C., COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION ONE, 2011</i>	State Court case
224	<i>Olson v. Sacha Baron Cohen, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2011</i>	State Court case
225	<i>Manduley v. Superior Court, SUPREME COURT OF CALIFORNIA, 2002</i>	State Court case
226	<i>In re Jesusa V., SUPREME COURT OF CALIFORNIA, 2004</i>	State Court case
227	<i>Lewis v. Alfaro, SUPREME COURT OF CALIFORNIA, 2004</i>	State Court case
228	<i>Lockyer v. City & County of San Francisco, SUPREME COURT OF CALIFORNIA, 2004</i>	State Court case
229	<i>Marriage Cases, In re, SUPREME COURT OF CALIFORNIA, 2007</i>	State Court case
230	<i>In re E.J., SUPREME COURT OF CALIFORNIA, 2010</i>	State Court case
231	<i>Coral Construction, Inc. v. City and County of San Francisco, SUPREME COURT OF CALIFORNIA, 2010</i>	State Court case
232	<i>Perry v. Brown, SUPREME COURT OF CALIFORNIA, 2011</i>	State Court case
233	<i>Romer v. Evans, 517 U.S. 620, 1993 WL 518586, Colo. Dist.Ct., 1993</i>	State Court case
234	<i>Romer v. Evans, 517 U.S. 620, 882 P.2d 1335, COLORADO SUPREME COURT, 1994</i>	State Court case
235	<i>Ross v. Denver Dep't of Health & Hosps., COURT OF APPEALS OF COLORADO, DIVISION ONE, 1994</i>	State Court case
236	<i>Schaefer v. City & County of Denver, COURT OF APPEALS OF COLORADO, DIVISION FOUR, 1998</i>	State Court case
237	<i>In re Adoption of Baby Z., SUPREME COURT OF CONNECTICUT, 1999</i>	State Court case
238	<i>Rosengarten v. Downes, APPELLATE COURT OF CONNECTICUT, 2002</i>	State Court case

239	<i>Lane v. Albanese, SUPERIOR COURT OF CONNECTICUT, 2005</i>	State Court case
240	<i>Kerrigan v. State, SUPERIOR COURT OF CONNECTICUT, JUDICIAL DISTRICT OF NEW HAVEN, AT NEW HAVEN, 2006</i>	State Court case
241	<i>Kerrigan v. Comm'r of Pub. Health, SUPREME COURT OF CONNECTICUT, 2006</i>	State Court case
242	<i>Kerrigan v. Comm'r of Pub. Health, SUPREME COURT OF CONNECTICUT, 2008</i>	State Court case
243	<i>Mueller v. Tepler, APPELLATE COURT OF CONNECTICUT, 2011</i>	State Court case
244	<i>Raftopol et al. v. Ramey et al., SUPREME COURT OF CONNECTICUT, 2011</i>	State Court case
245	<i>William Adam Flowers v. Lacey Flowers, TRIAL COURT OF CONNECTICUT, 2011</i>	State Court case
246	<i>State v. John M., APPELLATE COURT OF CONNECTICUT, 2006</i>	State Court case
247	<i>Kerrigan v. State, SUPERIOR COURT OF CONNECTICUT, JUDICIAL DISTRICT OF NEW HAVEN, AT NEW HAVEN, 2005</i>	State Court case
248	<i>Chambers v. Chambers, FAMILY COURT OF DELAWARE, NEW CASTLE, 2002</i>	State Court case
249	<i>Bancroft v. Jameson, FAMILY COURT OF DELAWARE, SUSSEX, 2010</i>	State Court case
250	<i>P.W. v. D.W., FAMILY COURT OF DELAWARE, KENT, 2010</i>	State Court case
251	<i>Posik v. Layton, COURT OF APPEAL OF FLORIDA, FIFTH DISTRICT, 1997</i>	State Court case
252	<i>Lowe v. Broward County, COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT, 2000</i>	State Court case
253	<i>Frandsen v. County of Brevard, COURT OF APPEAL OF FLORIDA, FIFTH DISTRICT, 2001</i>	State Court case
254	<i>Kantaras v. Kantaras, COURT OF APPEAL OF FLORIDA, SECOND DISTRICT, 2005</i>	State Court case
255	<i>Higgs v. Kolhage, TRIAL AND APPELLATE of FLORIDA, 2005</i>	State Court case
256	<i>Wakeman v. Dixon, COURT OF APPEAL OF FLORIDA, FIRST DISTRICT, 2006</i>	State Court case
257	<i>Embry v. Ryan, COURT OF APPEAL OF FLORIDA, 2009</i>	State Court case
258	<i>Fla. Dep't of Children & Families v. X.X.G., COURT OF APPEAL OF FLORIDA, THIRD DISTRICT, 2010</i>	State Court case
259	<i>In re Gill, FLORIDA THIRD DISTRICT COURT OF APPEAL, 2010</i>	State Court case
260	<i>T.M.H. v. D.M.T., COURT OF APPEAL OF FLORIDA, FIFTH DISTRICT, 2011</i>	State Court case
261	<i>Hall v. Maal, COURT OF APPEAL OF FLORIDA, FIRST DISTRICT, 2009</i>	State Court case
262	<i>Hall v. Maal, COURT OF APPEAL OF FLORIDA, FIRST DISTRICT, 2010</i>	State Court case
263	<i>Powell v. Georgia, SUPREME COURT OF GEORGIA, 1998</i>	State Court case
264	<i>Burns v. Burns, COURT OF APPEALS OF GEORGIA, SECOND DIVISION, 2002</i>	State Court case
265	<i>O'Kelly v. Cox, SUPREME COURT OF GEORGIA, 2004</i>	State Court case

266	<i>Moses v. King, Trial court of GEORGIA, 2005</i>	State Court case
267	<i>Perdue v. O'Kelley, SUPREME COURT OF GEORGIA, 2006</i>	State Court case
268	<i>Moses v. King, COURT OF APPEALS OF GEORGIA, 2006</i>	State Court case
269	<i>Mongerson v. Mongerson, SUPREME COURT OF GEORGIA, 2009</i>	State Court case
270	<i>Baehr v. Lewin, SUPREME COURT OF HAWAII, 1993</i>	State Court case
271	<i>Baehr v. Miike, SUPREME COURT OF HAWAII, 1999</i>	State Court case
272	<i>Baehr v. Miike, SUPREME COURT OF HAWAII, 1996</i>	State Court case
273	<i>State v. Mallan, SUPREME COURT OF HAWAII, 1998</i>	State Court case
274	<i>ACLU v. Echohawk, SUPREME COURT OF IDAHO, 1993</i>	State Court case
275	<i>State of Idaho v. Holden, Idaho Ct. App, 1995</i>	State Court case
276	<i>In re Estate of Hall, APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, SECOND DIVISION, 1998</i>	State Court case
277	<i>In re Marriage of Weisbruch, APPELLATE COURT OF ILLINOIS, SECOND DISTRICT, 1999</i>	State Court case
278	<i>In re Marriage of Simmons, APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, THIRD DIVISION, 2005</i>	State Court case
279	<i>Connor v. Velinda C., APPELLATE COURT OF ILLINOIS, FIFTH DISTRICT, 2005</i>	State Court case
280	<i>In re T.P.S., APPELLATE COURT OF ILLINOIS, FIFTH DISTRICT, 2011</i>	State Court case
281	<i>In re T.P.S., APPELLATE COURT OF ILLINOIS, FIFTH DISTRICT, 2011</i>	State Court case
282	<i>Downey v. Muffley, COURT OF APPEALS OF INDIANA, THIRD DISTRICT, 2002</i>	State Court case
283	<i>Morrison v. Sadler, COURT OF APPEALS OF INDIANA, SECOND DISTRICT, 2005</i>	State Court case
284	<i>Mariga v. Flint, COURT OF APPEALS OF INDIANA, SECOND DISTRICT, 2005</i>	State Court case
285	<i>A.B. v. S.B., SUPREME COURT OF INDIANA, 2005</i>	State Court case
286	<i>In re Infant Girl W., Morgan County Juvenile Court of INDIANA, 2005</i>	State Court case
287	<i>In re Infant Girl W., COURT OF APPEALS OF INDIANA, 2006</i>	State Court case
288	<i>Doe v. Town of Plainfield, COURT OF APPEALS OF INDIANA, 2008</i>	State Court case
289	<i>Rodriguez v. Lake County Dep't of Child Servs. (In re A.M.P.), COURT OF APPEALS OF INDIANA, 2009</i>	State Court case
290	<i>Varnum v. Brien, SUPREME COURT OF IOWA, 2009</i>	State Court case
291	<i>In re Estate of Gardiner, DISTRICT COURT OF KANSAS, 1998</i>	State Court case
292	<i>In re Estate of Gardiner, COURT OF APPEALS OF KANSAS, 2001</i>	State Court case
293	<i>In re Estate of Gardiner, SUPREME COURT OF KANSAS, 2002</i>	State Court case
294	<i>State v. Limon, SUPREME COURT OF KANSAS, 2005</i>	State Court case
295	<i>Stinemetz v. Kan. Health Policy Auth., COURT OF APPEALS OF KANSAS, 2011</i>	State Court case

296	<i>Robinson v. Commonwealth, SUPREME COURT OF KENTUCKY, 2006</i>	State Court case
297	<i>S.J.L.S. v. T.L.S., COURT OF APPEALS OF KENTUCKY, 2006</i>	State Court case
298	<i>Forum for Equal. PAC v. McKeithen, SUPREME COURT OF LOUISIANA, 2005</i>	State Court case
299	<i>Ralph v. City of New Orleans, SUPREME COURT OF LOUISIANA, 2009</i>	State Court case
300	<i>Ghassemi v. Ghassemi, COURT OF APPEAL OF LOUISIANA, FIRST CIRCUIT, 2007</i>	State Court case
301	<i>Boswell v. Boswell, THE DIVORCE COURT OF MARYLAND, 1996</i>	State Court case
302	<i>Boswell v. Boswell, COURT OF APPEALS OF MARYLAND, 1997</i>	State Court case
303	<i>Boswell v. Boswell, COURT OF APPEALS OF MARYLAND, 1998</i>	State Court case
304	<i>Williams v. Glendening, BALTIMORE CITY Cir. Ct, 1998</i>	State Court case
305	<i>Williams v. Glendening, COURT OF APPEALS OF MARYLAND, 1999</i>	State Court case
306	<i>Balt : Flanigan v. Univ. of Md. Med. Sys. Corp., Md. Cir. Ct. Balt. 2002</i>	State Court case
307	<i>Hedberg v. Detthow, Maryland Court of Special Appeals, 2006</i>	State Court case
308	<i>Conaway v. Deane, COURT OF APPEALS OF MARYLAND, 2007</i>	State Court case
309	<i>Hurley v. Irish-American Gay, Lesbian, & Bisexual Group of Boston, SUPERIOR COURT OF MASSACHUSETTS (Trials_19993)</i>	State Court case
310	<i>Hurley v. Irish-American Gay, Lesbian, & Bisexual Group of Boston, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 1994</i>	State Court case
311	<i>E.N.O. v. L.M.M., SUPREME JUDICIAL COURT OF MASSACHUSETTS, 1999</i>	State Court case
312	<i>Connors V. City of Boston, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 1999</i>	State Court case
313	<i>GLAD v. Attorney General, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2002</i>	State Court case
314	<i>GOODRIDGE v. DEPARTMENT OF PUB. HEALTH, SUPERIOR COURT OF MASSACHUSETTS, AT SUFFOLK, 2002</i>	State Court case
315	<i>Goodridge v. Dep't of Pub. Health, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2003</i>	State Court case
316	<i>Salucco v. Alldredge, SUPERIOR COURT OF MASSACHUSETTS, AT ESSEX, 2004</i>	State Court case
317	<i>Cote-Whitacre v. Dep't of Pub. Health, SUPERIOR COURT OF MASSACHUSETTS, AT SUFFOLK, 2004</i>	State Court case
318	<i>Opinions of the Justices to the Senate, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2004</i>	State Court case
319	<i>Doyle v. Goodridge, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2005</i>	State Court case
320	<i>Cote-Whitacre v. Dep't of Pub. Health, CIVIL ACTION NO. 04-2656, SUPERIOR COURT OF MASSACHUSETTS, AT SUFFOLK, 2006</i>	State Court case

321	<i>Cote-Whitacre v. Dep't of Pub. Health, SJC-09436, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2006</i>	State Court case
322	<i>Schulman v. AG, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2006</i>	State Court case
323	<i>Schulman v. Reilly, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2006</i>	State Court case
324	<i>Charron v. Amaral, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2008</i>	State Court case
325	<i>Londergan v. Carrillo, APPEALS COURT OF MASSACHUSETTS, 2009</i>	State Court case
326	<i>Cote-Whitacre v. Dep't of Pub. Health, SUPERIOR COURT OF MASSACHUSETTS, AT SUFFOLK, 2007</i>	State Court case
327	<i>Carney v. AG, SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2006</i>	State Court case
328	<i>People v. Brashier, THE MICHIGAN COURT of APPEALS, 1992</i>	State Court case
329	<i>McGuffin v. Overton, Mich. Ct. App, 1995</i>	State Court case
330	<i>In the Matters of Unmarried Couple Adoptions, WASHTENAW COUNTY CIRCUIT, 1995</i>	State Court case
331	<i>In the Matters of Unmarried Couple Adoptions, SUPREME COURT OF MICHIGAN, 2002</i>	State Court case
332	<i>Rohde v. Ann Arbor Pub. Sch., SUPREME COURT OF MICHIGAN, 2007</i>	State Court case
333	<i>Nat'l Pride at Work, Inc. v. Governor of Mich., SUPREME COURT OF MICHIGAN, 2008</i>	State Court case
334	<i>Giancaspro v. Congleton, THE MICHIGAN COURT of APPEALS, 2009</i>	State Court case
335	<i>People v. Schmidt, COURT OF APPEALS OF MICHIGAN, 1997</i>	State Court case
336	<i>Lilly v. City of Minneapolis, C6-94-1583, C8-94-1584, CX-94-1585, COURT OF APPEALS OF MINNESOTA, 527 N.W.2d 107; 1995 Minn. App. LEXIS 120; 67 Fair Empl. Prac. Cas. (BNA) 386, January 31, 1995, Filed</i>	State Court case
337	<i>Goins v. West Group, COURT OF APPEALS OF MINNESOTA, 2000</i>	State Court case
338	<i>Doe v. Ventura, COURT OF APPEALS OF MINNESOTA, 2011</i>	State Court case
339	<i>Douglas Benson, et al. v. Hennepin County Local Registrar Jill Alverson, et al., JUDICIAL DISTRICT COURT OF HENNEPIN COUNTY (MN), 2011</i>	State Court case
340	<i>Estate of Reaves v. Owen, COURT OF APPEALS OF MISSISSIPPI, 1999</i>	State Court case
341	<i>St. Louis Health Care Network v. State, SUPREME COURT OF MISSOURI, 1998</i>	State Court case
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344	<i>Snetsinger v. Mont. Univ. Sys., SUPREME COURT OF MONTANA, 2004</i>	State Court case

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349	<i>Matter of Adoption of A Child by J.M.G., SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION, ESSEX COUNTY, 1993</i>	State Court case
350	<i>In re Adoption of Two Children by H.N.R., SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, 1995</i>	State Court case
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352	<i>In re Application for Change of name Bacharach, SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, 2001</i>	State Court case
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354	<i>Lewis v. Harris, SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, 2005</i>	State Court case
355	<i>Hennefeld v. Township of Montclair, TAX COURT OF NEW JERSEY, 2005</i>	State Court case
356	<i>Lewis v. Harris, A-68 September Term 2005, SUPREME COURT OF NEW JERSEY, 2006</i>	State Court case
357	<i>Quarto v. Adams, SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, 2007</i>	State Court case
358	<i>A.A. v. State, SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, 2006</i>	State Court case
359	<i>Hennefeld v. Township of Montclair, TAX COURT OF NEW JERSEY, 2005</i>	State Court case
360	<i>ANCIENT ORDER OF HIBERNIANS v. DINKINS, NY LOWER COURT, 1993</i>	State Court case
361	<i>In re Cooper, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 1993</i>	State Court case
362	<i>Storrs v. Holcomb, SUPREME COURT OF NEW YORK, TOMPKINS COUNTY, 1996</i>	State Court case
363	<i>Raum v. Restaurant Assocs., 61421, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, 1998</i>	State Court case
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365	<i>Levin v. Yeshiva Univ., COURT OF APPEALS OF NEW YORK, 2001</i>	State Court case
366	<i>Langan v. St. Vincent's Hosp., SUPREME COURT OF NEW YORK, NASSAU COUNTY, 2003</i>	State Court case

367	<i>In re Guido</i> , CIVIL COURT OF THE CITY OF NEW YORK, NEW YORK COUNTY, 2003	State Court case
368	<i>In re Daniels</i> , CIVIL COURT OF THE CITY OF NEW YORK, NEW YORK COUNTY, 2003	State Court case
369	<i>People v. West</i> , JUSTICE COURT OF NEW YORK, TOWN OF NEW PALTZ, ULSTER COUNTY, 2004	State Court case
370	<i>People v. Greenleaf</i> , JUSTICE COURT OF NEW YORK, TOWN OF NEW PALTZ, ULSTER COUNTY, 2004	State Court case
371	<i>Matter of Shields v. Madigan</i> , SUPREME COURT OF NEW YORK, ROCKLAND COUNTY, 2004	State Court case
372	<i>Hernandez v. Robles</i> , SUPREME COURT OF NEW YORK, NEW YORK COUNTY, 2005	State Court case
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374	<i>Langan v. St. Vincent's Hosp. of N. Y.</i> , SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 2005	State Court case
375	<i>Matter of Hebel v. West</i> , SUPREME COURT OF NEW YORK, APPELLATE DIVISION, THIRD DEPARTMENT, 2005	State Court case
376	<i>Hernandez v. Robles</i> , SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT, 2005	State Court case
377	<i>Funderburke v. New York State Dep't of Civ. Serv.</i> , SUPREME COURT OF NEW YORK, NASSAU COUNTY, 2006	State Court case
378	<i>Saegert v. Simonelli</i> , SUPREME COURT OF NEW YORK, NASSAU COUNTY, 2006	State Court case
379	<i>Cytron v. Malinowitz</i> , SUPREME COURT OF NEW YORK, KINGS COUNTY, 2006	State Court case
380	<i>Cannisi v. Walsh</i> , SUPREME COURT OF NEW YORK, KINGS COUNTY, 2006	State Court case
381	<i>Gonzalez v. Green</i> , SUPREME COURT OF NEW YORK, NEW YORK COUNTY, 2006	State Court case
382	<i>Langan v. St. Vincent's Hospital</i> , COURT OF APPEALS OF NEW YORK, 2006	State Court case
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384	<i>Samuels v. New York State Dept. of Health</i> , SUPREME COURT OF NEW YORK, APPELLATE DIVISION, THIRD DEPARTMENT, 2006	State Court case
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386	<i>Godfrey v. Spano</i> , SUPREME COURT OF NEW YORK, WESTCHESTER COUNTY, 2007	State Court case
387	<i>Godfrey v. Hevesi</i> , SUPREME COURT OF NEW YORK, ALBANY COUNTY, 2007	State Court case
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389	<i>Lewis v. N.Y. State Dep't of Civ. Servs., SUPREME COURT OF NEW YORK, ALBANY COUNTY, 2008</i>	State Court case
390	<i>Godfrey v. DiNapoli, SUPREME COURT OF NEW YORK, ALBANY COUNTY, 2008</i>	State Court case
391	<i>Golden v. Paterson, SUPREME COURT OF NEW YORK, BRONX COUNTY, 2008</i>	State Court case
392	<i>Debra H. v. Janice R., SUPREME COURT OF NEW YORK, NEW YORK COUNTY, 2008</i>	State Court case
393	<i>C.M. v. C.C., SUPREME COURT OF NEW YORK, NEW YORK COUNTY, 2008</i>	State Court case
394	<i>Martinez v. County of Monroe, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FOURTH DEPARTMENT, 2008</i>	State Court case
395	<i>Funderburke v. New York State Dept. of Civ. Serv., SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 2008</i>	State Court case
396	<i>Godfrey v. Spano, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 2008</i>	State Court case
397	<i>Debra H. v. Janice R., THE APPELLATE DIVISION OF NEW YORK, FIRST DEPARTMENT, 2009</i>	State Court case
398	<i>Estate of Ranfile, SURROGATE'S COURT OF NEW YORK, NEW YORK COUNTY, 2009</i>	State Court case
399	<i>Matter of Sebastian, SURROGATE'S COURT OF NEW YORK, NEW YORK COUNTY, 2009</i>	State Court case
400	<i>B.S. v. F.B., SUPREME COURT OF NEW YORK, WESTCHESTER COUNTY, 2009</i>	State Court case
401	<i>Lewis v. New York State Dept. of Civ. Serv., SUPREME COURT OF NEW YORK, APPELLATE DIVISION, THIRD DEPARTMENT, 2009</i>	State Court case
402	<i>Matter of H.M. v. E.T., SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 2009</i>	State Court case
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405	<i>Parker v Waronker, SUPREME COURT OF NEW YORK, ONONDAGA COUNTY, 2010</i>	State Court case
406	<i>Avery v Caldwell, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT, 2010</i>	State Court case
407	<i>Matter of H.M. v E.T., COURT OF APPEALS OF NEW YORK, 2010</i>	State Court case
408	<i>Debra H. v Janice R., COURT OF APPEALS OF NEW YORK, 2010</i>	State Court case
409	<i>Taylor v Taylor, SUPREME COURT OF NEW YORK, WESTCHESTER COUNTY, 2011</i>	State Court case
410	<i>Matter of Putnam/Northern Westchester Bd. of Coop. Educ. Servs. v Westchester County Human Rights Commn., SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 2011</i>	State Court case

411	<i>Matter of Ranfile, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT, 2011</i>	State Court case
412	<i>Dickerson v Thompson, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, THIRD DEPARTMENT, 2011</i>	State Court case
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414	<i>People v. Cintron, SUPREME COURT OF NEW YORK, BRONX COUNTY, 2006</i>	State Court case
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417	<i>Will of Alan Zwerling, SURROGATE'S COURT OF NEW YORK, QUEENS COUNTY, 2008</i>	State Court case
418	<i>Zunce v. Rodriguez, CIVIL COURT OF THE CITY OF NEW YORK, KINGS COUNTY, 2008</i>	State Court case
419	<i>Matter of Reisner v. Catone, SUPREME COURT OF NEW YORK, NEW YORK COUNTY, 2011</i>	State Court case
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424	<i>Boseman v. Jarrell, NORTH CAROLINA SUPREME COURT, 2010</i>	State Court case
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426	<i>In re Adoption of Doe, COURT OF APPEALS OF OHIO, NINTH APPELLATE DISTRICT, SUMMIT COUNTY, 1998</i>	State Court case
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435	<i>In re S.J.L. and J.K.L.</i> , COURT OF APPEALS OF OHIO, 2010	State Court case
436	<i>In the Matter of L.K.M.</i> , SUPREME COURT OF OHIO, 2011	State Court case
437	<i>State v. Jenkins</i> , COURT OF APPEALS OF OHIO, FIRST APPELLATE DISTRICT, HAMILTON COUNTY, 2004	State Court case
438	<i>State v. Newell</i> , COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK COUNTY, 2005	State Court case
439	<i>State v. Adams</i> , COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK COUNTY, 2005	State Court case
440	<i>State v. Rexroad</i> , COURT OF APPEALS OF OHIO, SEVENTH APPELLATE DISTRICT, COLUMBIANA COUNTY, 2005-Ohio-6790; 2005	State Court case
441	<i>State v. Edwards</i> , COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK COUNTY, 2005	State Court case
442	<i>State v. Burk</i> , COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT, CUYAHOGA COUNTY, 2005	State Court case
443	<i>State v. Nixon</i> , COURT OF APPEALS OF OHIO, NINTH APPELLATE DISTRICT, SUMMIT COUNTY, 2006	State Court case
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446	<i>State v. Ward</i> , COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, GREENE COUNTY, 2006	State Court case
447	<i>State v. McKinley</i> , COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, LOGAN COUNTY, 2006	State Court case
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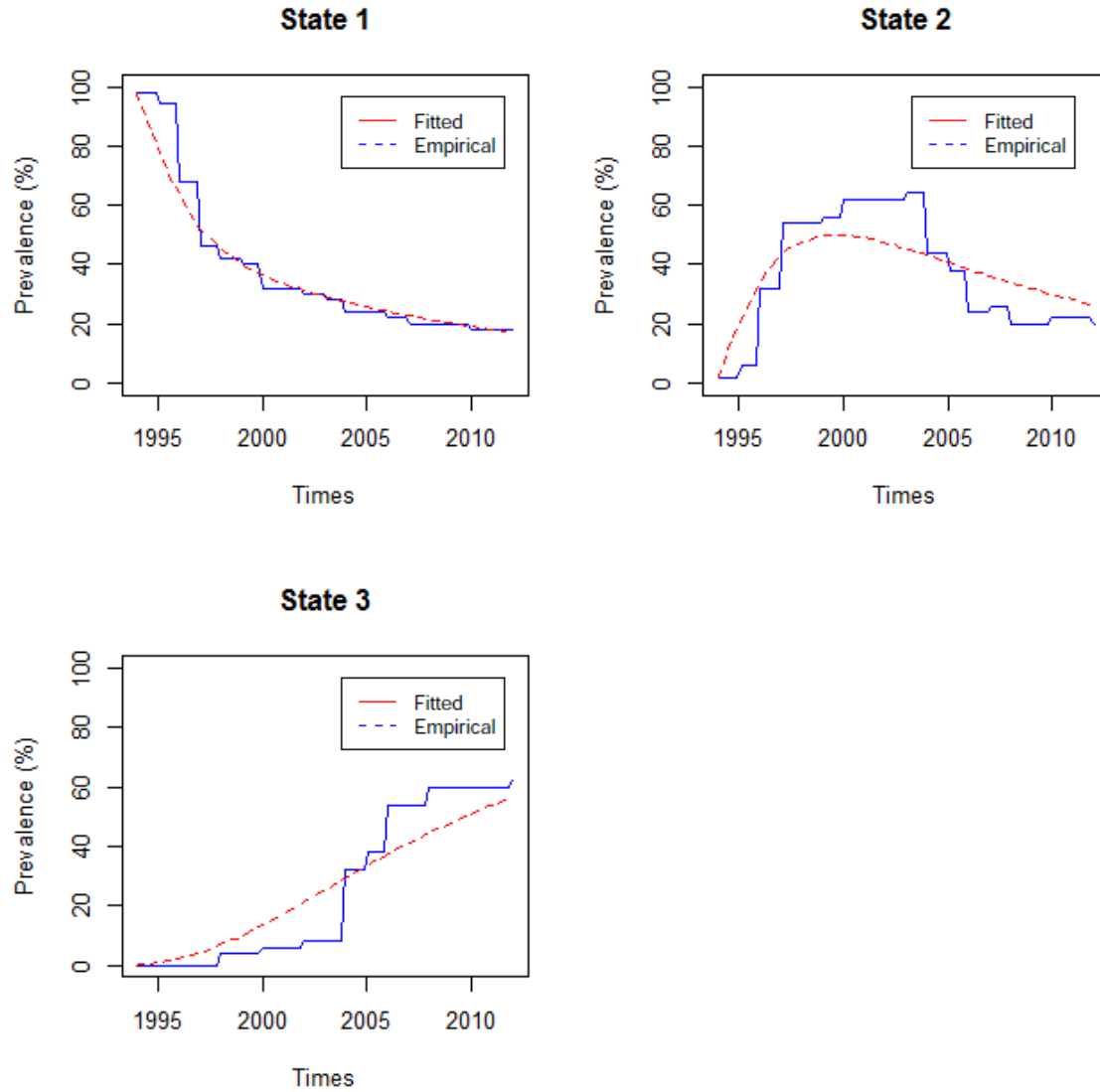
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458	<i>Martinez v. Kulongoski, COURT OF APPEALS OF OREGON, 2008</i>	State Court case
459	<i>Shineovich v. Shineovich, COURT OF APPEALS OF OREGON, 2009</i>	State Court case
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485	<i>In re J.B., COURT OF APPEALS OF TEXAS, FIFTH DISTRICT, DALLAS, 2010</i>	State Court case
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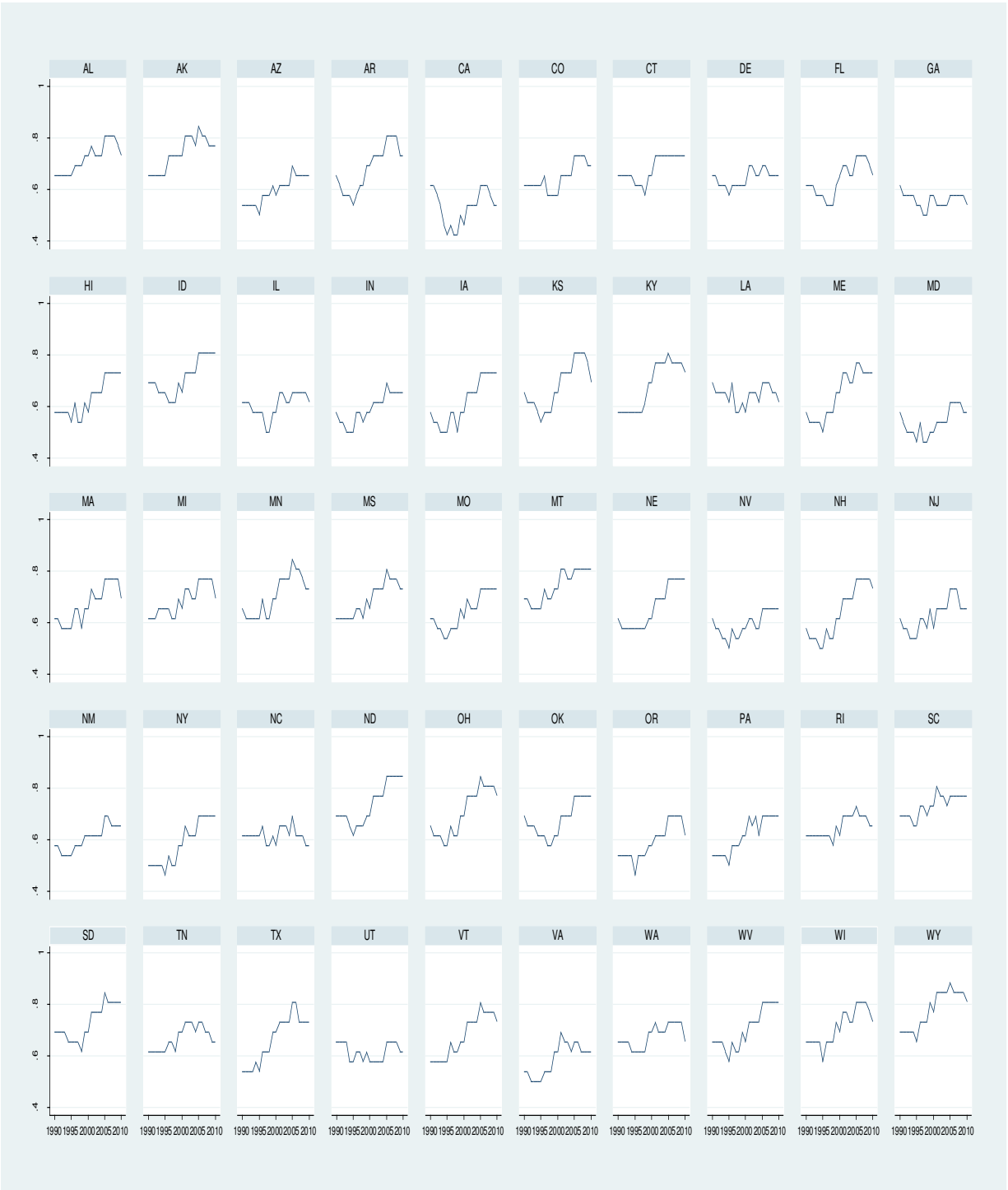
APPENDIX B

THE ESTIMATION OF MULTI STATE ANALYSIS



APPENDIX C

THE STATE SMOOTHED RATES OVER TIME IN TRAFFIC SAFETY INNOVATIVENESS EXCEPT ALCOHOL IMPAIRED DRIVING POLICIES



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BIOGRAPHICAL SKETCH

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