

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

116

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10/2/03  
Date

2003 HOUSE TRANSPORTATION

HB 1161

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161

House Transportation Committee

☐ Conference Committee

Hearing Date January 23, 2003

Tape Number	Side A	Side B	Meter #
3	x		14.0 to end
		x	4.6 to 39.9
Committee Clerk Signature <i>Lauren B. Smith</i>			

Minutes:

Rep. Weisz opened the hearing on HB 1161, a bill for an Act to amend and reenact section 39-06-32, subsection 1 of section 39-08-01, sections 39-20-03.1 and 39-20-03.2, subsection 1 of section 39-20-04.1, subsections 2 and 5 of section 39-20-05, and sections 39-20-07 and 39-20-09 of the North Dakota Century Code, relating to the level of alcohol concentration prohibited for motor vehicle operators.

Keith Magnusson: Deputy Director of Motor Vehicle and Driver Services speaking for Director David Sprynczynak who due to a family emergency could not be present. A copy of the Director's prepared testimony is attached.

Rep. Dosch: ( 20.7 ) The funds that the state is going to lose -- is that in conjunction with the anti-lock device or is it separate?

Keith Magnusson: These are all separate -- the anti-locking device, the BAC, CDL are all are separate and part of a package.

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Hearing Date January 23, 2003

Rep. Ruby: Would there have been the push across the nation to pass this if it weren't for the dollars?

Keith Magnusson: This started as an incentive program -- When that didn't work -- then they went to the mandates. Twenty one states had this before the incentive or the mandates.

Rep. Delmore: Isn't it true that right now some people are being convicted at .08 ?

Keith Magnusson: It is possible -- at .08 on the criminal side -- but it is not part of the per se law. What it is if there is enough other evidence of there driving conduct -- there are two parts to the DUI law -- the criminal -- the legal per se, right now at the 0.10 and the other part is based on their driving conduct -- the blood alcohol was only a part of that -- now for commercial drivers, it is .04 and for those under 21 , it is .02 --

Rep. Delmore: Would you see that changing if we went with the norm and we went with the .08 there would be people charged at .06?

Keith Magnusson: That's possible right now based on their driving conduct.

Rep. Galvin: You said some of the states went to a .08 before the federal mandate?

Keith Magnusson: Yes -- 21 out of the 37 jurisdictions that have it now went to the .08 before the federal mandate.

Col Hughes: ( 25.7 ) Superintendant of the North Dakota High Patrol. He appeared in support of this legislation. A copy of his prepared remarks are attached.

Rep. Weisz: You indicated you didn't think there would be an increase in the arrests -- do you feel there would be an increase in convictions?

Col Hughes: In North Dakota we have a pretty high conviction rate right now -- so I don't think there will be much change. It will be a deterrent.

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Bill/Resolution Number HB 1161  
Hearing Date January 23, 2003

Rep. Price: On page 19 the text talks about road side testing and the standardize sobriety test, I have had someone state to me that the HGN was not effective or accurate below 0.10 - it isn't as accurate at .08 -- would you comment on that?

Col Hughes: It is our belief is that in those cases they have been conducting field sobriety tests -- the officer when conducting those field tests, it is our training you gather the evidence and your determine whether the person is impaired or not prior to arresting him or not -- in those field test the officer doesn't know whether the BAC is .07 or .10 or what it is -- Those states who have the .08 they report they are using the same type of field tests and the portable breath tests, etc. --we still feel it is important that if the person is impaired we make that determination.

Rep. Delmore: In the fatal accidents -- do you have a breakdown of what the blood alcohol content is in those?

Col Hughes: There is a breakdown -- that the State Toxicologist has -- it is more like 1.6 to 1.7 BAC.

Rep. Delmore: In alcohol related accidents -- it could be any person in the car and maybe not the driver who had a high BAC?

Col. Hughes: Right it could be any one -- it is an alcohol related accident if the fatality had a high BAC.

Rep. Thorpe: What is your opinion -- if the officers are out patrolling -- .08 -- in your consideration -- would that be fair to the driver?

Col. Hughes: I get asked frequently on radio talk shows and at gatherings -- person was picked up for drunk driving -- but when you go through the scenario -- what happens is that the officer stopped you because can not drive your car. You were weaving or some thing happened that

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Hearing Date January 23, 2003

drew his attention to you. The might have been a citizen complaint or a cell phone call or something -- but something caused him to stop you before he knew you were drinking.

Keith Ternes: Chief of Police, City of Fargo. I support passage of HB 1161. A copy of his written remarks are attached.

Rep. Ruby: ( 46.9 ) Your comment that after consuming any amount of alcohol, people shouldn't be driving. Why does every bar have a parking Lot? The other thing is that you mentioned that anybody operating a commercial vehicle is legally drunk at .04 -- is that anybody with at CDL license operating their own vehicle or do they have to be driving a commercial vehicle?

Chief Ternes: Operating a commercial vehicle according to the administrative rules.

Deb Jevne: She is a spokes person for the Cass County MADD and a member of the Red River Valley Safe Communities Coalition. A copy of her written remarks are attached.

Deb Jevne's testimony continued to the end of Tape 3 Side A and carries over to Side B.

Barry Maier: Representing the North Dakota Chiefs of Police rose to state their organization's support of this legislation and urged passage of HB 1161.

**Opposition testimony ( 4.6 )**

Patti Lewis: Executive Director of the North Dakota Hospitality Association spoke in opposition to HB 1161. A copy of her written remarks are attached.

Rep. Ruby: How do you compare the two studies -- the one you show and the one that MADD showed?

Patti Lewis: We are all aware of the fact you can make numbers do almost anything -- I don't know where they got their facts -- we do have a Board member here -- Harry Bushaw ( ? sp )

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Bill/Resolution Number HB 1161  
Hearing Date January 23, 2003

who has done a lot of research on that , particularly on North Dakota crash data and he will talk about that. I can only provide you with what I have and that is from the National Highway Traffic Safety Administration and this is their data.

Rep. Weiler: Do you have any data -- I don't know how many years ago -- North Dakota had a .12 -- It was higher than .10 right ?

Patti Lewis: I don't remember those days. I did check on it and nobody seems to recall that.

Rep. Weiler: If it was never .12 then I don't have a question.

Dean Roth: I can answer that Mr. Chairman even though I am not at the podium Mr. Chairman. 'One O' was the first per se law in North Dakota.

Harry Bushaw ( ? sp ) I have never done this before so bear with me. He handed out a lot of materials and presented lengthy references back and forth between charts and tables citing statistics. A copy of those handouts are attached. ( 18.5 )

Terry Schantz: Stated that he did not represent any group but wanted to put a rural view on this. This bill is like the gun control laws -- it tries to scare people -- it makes people afraid because they don't know what .08 is but those who drink don't care.

Janet Seaworth: Representing the North Dakota Beer Wholesalers Association spoke against the bill on the basis of a recent North Carolina report which studied the effects of the .08 BAC law. A copy of her testimony and the referenced report are attached. ( end at 26.3 )

Jim McCabe: A Bismarck attorney who practices in Bismarck. He stated he had represented at least 200 people for DUI in the past 5 years. Their BAC were from .07 up to .38. What we are facing today is a mandate from the federal government. He reviewed the North Dakota

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House Transportation Committee  
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Hearing Date January 23, 2003

and the Federal criminal code history from 1972 to the present. He also referenced Section 8 "the powers of the States" in article 1 of the US Constitution. He stated it was offensive how publicity and for reasons of funding is used to punish people. He cited blood test statistics and trial procedures as well as information on the use of breatholyzers. He cited court cases where field test were not allowed in the courts. He also has had screening test that are not allowed as admissible. His testimony was quite extensive. It ended at ( 37.3 )

Rep. Weisz: We heard testimony here there probably wouldn't be an increase in arrests or people being stopped -- why are saying you are sure there will be ?

Jim McCabe: Because of the screening devices used. That's the reason.

There being no other persons who wished the testify for or against HB 1161, Chairman Weisz closed the hearing.

End of record ( 39,.8 )

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161 b

House Transportation Committee

☐ Conference Committee

Hearing Date February 6, 2003

Tape Number	Side A	Side B	Meter #
3	x		29.5 to 32.7
Committee Clerk Signature <i>Louise B. Fink</i>			

Minutes:

Rep. Weisz, Chairman opened the discussion for action on HB 1161. Rep. Weiler moved a "Do Pass" motion for HB 1161. Rep. Headland seconded the motion. On a roll call vote the motion carried 10 Ayes 2 Nays 1 Absent and not voting.

Rep. Hawken was designated to carry HB 1161 on the floor.

End of record.( 32.7 )

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*Dorinda Hall*  
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*10/2/03*  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
01/03/2003

Bill/Resolution No.: HB 1161

**1A. State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$8,000		
Appropriations				\$8,000		

**1B. County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

Although the state fiscal impact is minimal should this bill pass, the federal dollars the state will not receive is quite dramatic if .08 BAC legislation is not enacted. Beginning in 2004, the penalty starts at 2% of certain federal highway funds and grows 2% each year through 2007. After that the annual loss is 8%. The loss of federal highway funds is estimated at \$2.8 million in 2004, \$5.7 million in 2005, \$8.5 million in 2006, and \$11.3 million in 2007 and thereafter.

**3. State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

**A. Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

**B. Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Computer software would need to be upgraded to handle the new alcohol content change. This impact would affect five software programs used by the division in order to comply with the new legislation. In addition, new forms and manuals would need to be printed.

**C. Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The proposed budget for the biennium did not include this proposed legislation. Additional funds would be necessary to accommodate the change in legislation.

Name: Dawn Olson, Linda Mathern for Agency: ND Dept. of Transportation

Marsha Lembke	
Phone Number:	328-4359
Date Prepared:	01/08/2003

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Date: 2/6/03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1161

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38165.0100

Action Taken Do Pass

Motion Made By Weiler Seconded By Heck

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore		✓
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt	✓	
LeRoy G. Bernstein	✓		Elwood Thorpe		✓
Mark A. Dosch	✓		Steven L. Zaiser	✓	
Pat Galvin	✓				
Craig Headland	✓				
Clara Sue Price	✓				
Dan J. Ruby	A				
Dave Weiler	✓				

Total Yes 10 No 2

Absent 1

Floor Assignment Rep. Humber

If the vote is on an amendment, briefly indicate intent:

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**REPORT OF STANDING COMMITTEE (410)**  
February 11, 2003 10:15 a.m.

Module No: HR-20-2227  
Carrier: Hawken  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1161: Transportation Committee (Rep. Wolez, Chairman) recommends **DO PASS**  
(10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1161 was placed on the  
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-20-2227

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*Diana Hall*  
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2003 SENATE TRANSPORTATION

HB 1161

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Dorena Holladay  
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-13-03

Tape Number	Side A	Side B	Meter #
1	X		35-end
1		X	0-1335
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

**Chairman Senator Thomas Trenbeath** opened the hearing on HB 1161 relating to the level of alcohol concentration prohibited for motor vehicle operators.

**Keith Magnusson** (Deputy Director for Driver and Vehicle Services ND DOT) See attached testimony in support of HB 1161. It needs to stand on its own. It does comply with federal law.

**Senator Trenbeath** asked if the DOT has ever brought forth this bill prior to the federal mandate.

**Keith Magnusson** answered no.

**Senator Trenbeath** asked if it was true that this is a per se law.

**Keith Magnusson** answered that was correct.

**Senator Trenbeath** asked, if under existing law, a police officer could still arrest a person who tested below .10 and prove in a court of law that that person was under the influence of alcohol.

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Senate Transportation Committee  
Bill/Resolution Number HB 1161  
Hearing Date 3-13-03

Keith Magnusson replied that was correct. There are two parts to the criminal law. Only one part to the administrative law.

Senator Trenbeath said that there is a statute presently on the book that says if it is .05 or less the guy is presumed not to be intoxicated. If it is .05 to .10 its up to prove. And at .10 they are under the influence whether in actuality they are or not.

Keith Magnusson replied under the current laws yes.

Senator Trenbeath then said that, even if this doesn't pass, under the influence could still be proven at .08.

Keith Magnusson said that could be done but it is not easy.

Senator Trenbeath asked if he had statistics on the percentage of deaths or injuries due to alcohol impaired drivers where the driver was between .08 and .10.

Keith Magnusson said that he didn't have them with him but would get them.

Senator Espegard asked if the money being held back for not complying could be used for other purposes during this time.

Keith Magnusson said that it cannot be used for any other purpose. It is put in an escrow.

Senator Espegard asked if the escrow is held until the law is passed and then released.

Keith Magnusson answered that it is held for four years. If a law is not passed in that time it is gone. If a law is passed in that time you get the apportionment back. Trying to spend it is the problem.

Col. Jim Hughes (Superintendent of ND Highway Patrol) See attached testimony in support of HB 1161.

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Senate Transportation Committee  
Bill/Resolution Number HB 1161  
Hearing Date 3-13-03

**Senator Espgaard** asked about information relating to accidents that have happened with the blood alcohol level of .08 to .10.

**Col. Hughes** responded that he did not have that information but the average is about .17 for fatality accidents and arrests in the state of ND.

**Senator Taylor** asked about the definition of "alcohol related".

**Col. Hughes** replied that an alcohol related fatality means that alcohol was related in some way to that accident meaning that one of the drivers had been consuming alcohol, not necessarily the person who was killed.

**Senator Trenbeath** asked if it would be alcohol related if a person had been drinking, turned his keys over to a friend to drive him home, and then an accident resulted in the death of the person who had been drinking.

**Col. Hughes** responded that it would not be alcohol related. It would need to be one of the drivers who had been drinking.

**Senator Trenbeath** asked why the bill says .08.

**Col. Hughes** answered that research has indicated that about .08 and above people are significantly impaired.

(Meter 1870) Discussion relating to the ability of officers to make arrests between .05 and .10 now. After the usual procedure when an officer detects the odor of alcohol in the vehicle there are no significant arrests between the .06 and .10 levels.

**Senator Trenbeath** asked about the reduction in deaths over the last 20 years.

**Col. Hughes** replied that the reductions are due to a lot of variables that have taken place over that period of time. Even though deaths have gone down from 200 a year to 100 a year, one

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Bill/Resolution Number HB 1161  
Hearing Date 3-13-03

common factor hasn't changed. That is, the percentage of alcohol related deaths still hover around 40-50%.

**Margy Pearson** (State Toxicologist) (Meter 2155) Was available to give technical expertise on questions by the committee. Addressed the significance of .08. Cited a study that indicated that at a .08 alcohol concentration is the determining factor in the cause of accidents.

**Senator Trenbeath** asked, if .08 is the magic number, would she be in favor of modifying the existing law that says "under .08 is presumed not to be under the influence".

**Margy Pearson** replied that the current law indicates that between a .05 and a .10 there is some indication that, if they are detected as driving impaired, they should be charged for the criminal act of being an unsafe driver.

**Senator Trenbeath** asked where she would set the alcohol per se limit based on the research she has reviewed and on her personal experience.

**Margy Pearson** answered that the research given out does impress on them that .08 is where the bill should be set.

**Chris Magnus** ( Fargo Police Chief) Testified in support of HB 1161. (Meter 2500) Every 33 minutes someone becomes the victim of an alcohol related accident. Nationally, more than 20% of the alcohol related traffic deaths involve alcohol levels below .10. In North Dakota, drivers with blood alcohol levels below .10 were involved in an estimated 140 crashes during 2000 which killed 5 citizens and injured approximately 150 others. The most important reason to lower the legal limit for drinking and driving is to save lives and reduce injuries. The latest research confirms that .08 laws, not only reduce the number of impaired drivers who are operating vehicles with lower blood alcohol levels, but they also reduce the number of people

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Hearing Date 3-13-03

who are driving drunk with blood alcohol levels over .10. The second reason to lower the blood alcohol level to .08 is that it saves money. Alcohol accounts for 30% of North Dakota crash costs. People other than the drinking driver are absorbing as much as half of those costs.

Senator Espegard asked what the reading would be one hour later on the testing done on four drinks in an hour.

Chris Magnus (Meter 3350) Responded that it would depend on several factors, but according to research a 170 lb. man would be at about a .06 to a .07. At .08 or slightly below, the ability to react quickly, process information, and then correspond with physical response like steering the car or braking, is affected.

Senator Espegard made the point that testimony that would lead a person to think he could have four drinks in an hour and not be .08 would be wrong.

Chris Magnus replied that it would be dangerous to guarantee that a person could have four drinks and not be intoxicated. Felt it was fair to say that many people could have something in that vicinity and they would be under the limit.

Senator Trenbeath asked what his sources were for all of his statistics.

Chris Magnus said his sources were from many different places, most from NHTSA.

Senator Trenbeath asked if he had copies of his testimony for the committee and if the testimony included citations for his sources.

Chris Magnus said it did not include the citations but would provide them.

Steven Kenner (Bismarck Police Department) Testified in support and concurred with prior testimony. Addressed the question of "Why .08?". The studies that teach police officers how to

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Hearing Date 3-13-03

look for impaired drivers support the .08. At .08 the fine motor skills of an average person are adversely affected. Those fine motor skills are what are used to do the multitask driving.

Senator Trenbeath asked when the studies were done.

Steven Kenner answered that the studies are ongoing. The original studies started in the early 70's.

Senator Trenbeath asked how many arrests have been made by the Bismarck Police Department of people with blood alcohol content between .08 and .10.

Steven Kenner couldn't speak for the department but replied that he has made about a dozen over the last decade that were charged with driving under the influence. Very few were convicted because there is a problem with the lack of enthusiasm by the prosecution to go with anything under .10.

Senator Trenbeath suggested that the lack of enthusiasm by the prosecution is based on the lack of enthusiasm of juries to convict at that point.

Steven Kenner said that could be.

Deb Jevne (MADD) See attached testimony in support of HB 1161.

Kathy Nelson (MADD) See attached testimony in support of HB 1161.

Patti Lewis (ND Hospitality Association) See attached testimony in opposition to HB 1161.

Janet Seaworth (Executive Director of the Beer Wholesalers Association) See attached testimony opposing HB 1161.

Senator Nething asked about the statistics on the male and female given weights and number of drinks to each .08. Wondered how much difference there is between the .08 and .10.



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Senate Transportation Committee  
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Hearing Date 3-13-03

Janet Seaworth answered that for a 120 lb. woman it is a 1/2 beer in two hours and for a 170 lb. man it is one beer in two hours.

Harry Bushaw (Grand Forks, ND) Testified in opposition. See attached charts.

Asked what the cost is of all the law enforcement personnel enforcing what he refers to as marginal BAC. Asked what percentage of alcohol related accidents is only alcohol incidental and is really drug related.

The hearing on HB 1161 was closed.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-20-03

Tape Number	Side A	Side B	Meter #
2		X	2728-3820
Committee Clerk Signature <i>Mary K. Monson</i>			

Minutes:

Chairman Senator Thomas Trenbeath opened HB 1161 for discussion.

Senator Nething stated that this could be killed if it was dealt with in HB 1439.

Senator Trenbeath answered that HB 1439 relates only to penalties.

Discussion to the effect that two bills would be better than one.

Senator Nething moved a Do Pass on HB 1161 and refer to Appropriations. Seconded by Senator Taylor.

The bill changes the .10 to the .08 every place it appears in the code.

Senator Taylor asked for clarification that passage of HB 1161 would meet Section 163 of the Federal Code and the penalties are the same. They would need to work on the .08 end of HB 1439 and address the different penalties on the high side.

Senator Trenbeath said that was correct. He went on to say that his feelings on the enhanced penalties is that they ought to get something for it but doesn't think it can be done this session.

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*Doreen H. Bell*  
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*10/2/03*  
Date

Page 2  
Senate Transportation Committee  
Bill/Resolution Number HB 1161  
Hearing Date 3-20-03

Hopefully next session they can put a full gamut of graduated penalties in and kill the administrative hearing side. He said he didn't feel they should pass both bills.

Senator Nething said he liked both bills but thought HB 1161 was the bill the public expects to pass.

Senator Trenbeath said that if the committee gave a do pass recommendation to HB 1161, he would like to see the points and fines bill come back and put 75 on it. He also agreed that the public wouldn't like to see an increased speed limit and not go to .08. He also thinks that if they go to .08 they can raise the speed limit.

Senator Nething looks at them as separate issues. He doesn't have any problem with the points and the fines increase but does have a problem with the 75 per se.

Senator Taylor asked when the highway fund penalties come in.

Senator Trenbeath said that if they pass HB 1161 then they keeping funding. If HB 1161 is killed then they will take 2% in '04, 4% in '05, 6% in '06, and 7% in '08. That's an escrow situation and you don't actually start losing funds until 2008.

Senator Mutch said they are fighting a losing battle on the .08.

Senator Trenbeath said yes, although there is a growing resistance to it.

Roll call vote 3-2-1. Passed.

Floor carrier is Senator Nething.

Date: 3-20-03  
Roll Call Vote #:

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1161**

Senate **TRANSPORTATION** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do pass and refer to appropriations

Motion Made By Senator Nething Seconded By Senator Taylor

[illegible]

Total (Yes) 3 No 2

**Absent** 1

Floor Assignment Senator Nothing

**If the vote is on an amendment, briefly indicate intent:**

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Donna Hall  
Operator's Signature

10/2/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 21, 2003 12:51 p.m.

Module No: SR-51-5430  
Carrier: Nothing  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1161: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS**  
and **BE REREFERRED** to the Appropriations Committee (3 YEAS, 2 NAYS,  
1 ABSENT AND NOT VOTING). HB 1161 was rereferred to the Appropriations  
Committee.

(2) DESK, (3) COMM

Page No. 1

SR-51-5430

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Operator's Signature

*10/2/03*  
Date

2003 SENATE APPROPRIATIONS

HB 1161

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10/2/03  
Date

# 2003 SENATE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. HB 1161

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 3-25-03

Tape Number	Side A	Side B	Meter #
1	X		60-996 11/2
Committee Clerk Signature			

Minutes: CHAIRMAN HOLMBERG opened the hearing on HB 1161. Attendance was called, a quorum was established.

(Meter 60) Keith Magnusson, ND DOT, testified on HB 1161. He explained this is an department bill the DOT put in. It is a change for a .08 change for the alcohol level content when driving. The impact is passed is \$8,000 for programing on the mainframe from ITD. Changing the .10 to .08. This change is a federal mandate that federal funds would be withheld if not passed. The fiscal note starts out at 2% the first year, starting October 1st and every year after that if we do not have a bill, it goes up another 2%. About a month ago, the DOT was informed they were going to get more federal funds in the fiscal year that they are in now, and to carry over to the next fiscal year but it is an unknown amount because they are just working on the new six year highway bill. There are provisions, if the bill is passed within four years, the apportionment is returned. There is a spending authority cap that affects all the states.

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10/2/03  
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1161

Hearing Date 3-25-03

(Meter 319) SENATOR KRAUTER stated in the previous biennium, the DOT has always gotten around the mandate as a result of funneling some money through safety, is that not available anymore? KEITH MAGNUSSON stated that the feds are getting smarter. Way back when, almost everything was funneled from safety to construction and it could then be used for other things, such as motor cycle helmet penalty. The repeat offender, that was just defeated, has a loophole in it, where it goes from construction to safety, but you can use it for hazard elimination. So it can be put back into roads for hazard elimination. He feels that loophole will be closed in the new highway bill. The motor carrier safety improvement act that was passed awhile back, those funds are lost completely. With this bill, the apportionment is taken away for that particular year and hold that for four years.

(Meter 448) CHAIRMAN HOLMBERG asked if DOT was to lose 3 million dollars the first year, and not get it back with not passing the bill, that 3 million dollars will build a lot less roads four years from now than it is today, correct? KEITH MAGNUSSON agreed with CHAIRMAN HOLMBERG.

(Meter 497) SENATOR GRINDBERG stated he heard that this change has to be finalized by 2007. It is his understanding that if this is not passed, and waited until next session, there would be a surplus building somewhere that you couldn't use until it passed? (Meter 524) KEITH MAGNUSSON stated that is the deferral of the apportionment he previously talked about. The federal mandate goes into effect October 1st, 2003. There will be a hold on that apportionment and if you pass a law within four years (2007) the apportionment will be given back. But doesn't mean DOT can spend it, there is still a need for spending authority from the federal highway

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Date

10/2/03



Page 3  
Senate Appropriations Committee  
Bill/Resolution Number HB 1161  
Hearing Date 3-25-03

administration. That is a national cap and that spending authority would be spread out over a number of years.

(Meter 586) SENATOR TALLACKSON asked if House amended this bill. KEITH MAGNUSSON stated that no, this is a clean bill. They have approval from the national highway traffic safety administration. If this bill passes, and it does not get bogged down and soften, it is approved it will comply with the mandate. This bill meets the federal sanction rules.

(Meter 651) SENATOR TALLACKSON stated he heard the 75 mile an hour speed limit bill was tied to this, is that correct? KEITH MAGNUSSON answered that was HB 1439. The amendments on HB 1439 took that 75 mile an hour speed limit out of that bill which was a companion bill to HB 1161. It would have put us out of federal compliance. The 75 mile a hour speed limit is going to find its way into HB 1047 which deals with fees for speeding violations.

(METER 706) SENATOR MATHERN asked how is it possible to change on small number on the computer system for ITD and costing \$8,000? KEITH MAGNUSSON stated he is hoping it will cost less than that but it is not as simple as it looks. There are a number of different programs that need to be changed. ITD does the mainframe programming and charge the rates that are set. This is the estimate from them at this time.

(Meter 829) SENATOR TIFANE asked where did it originate? In Congress? Forced by the Federal Department of Transportation? KEITH MAGNUSSON replied that this originated in Congress, originally it was an incentive program. Congress mandated it and 20 states have passed it.

Page 4  
Senate Appropriations Committee  
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Hearing Date 3-25-03

(Meter 916) SENATOR SCHOBINGER referred to SENATOR MATHERN'S question, how many IT people does the department (DOT) have? KEITH MAGNUSSON replied he did not have those figures with him and could supply that information to him.

(Meter 953) SENATOR KILZER stated he had mentioned there were 35 states that have this, are all of those at .08 or some that are low? He stated that impairment in a lot of people's faculties are before you reach .08. KEITH MAGNUSSON stated that all the states are at .08. He stated that .08 has been set as an arbitrary figure for the national standard in ND. He agreed with SENATOR KILZER that many people are impaired before that time.

(Meter 1035) A motion of a DO PASS by SENATOR TALLACKSON and seconded by SENATOR MATHERN. A roll call vote of 11 yeas, 0 nays, and 3 absent passed the bill. The bill was carried back to the Transportation committee, SENATOR NETHING.

CHAIRMAN HOLMBERG closed the hearing to HB 1161.

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10/2/03  
Date

Date: 3-25-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1161

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do PASS

Motion Made By Tallackson Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair					
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann					
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad					
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 11 No \_\_\_\_\_

Absent 3

Floor Assignment Transportation

If the vote is on an amendment, briefly indicate intent:

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Dan Tallackson  
Operator's Signature

10/2/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 25, 2003 9:04 a.m.

Module No: SR-53-5634  
Carrier: Nothing  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1161: Appropriations Committee (Sen. Heltkamp, Chairman) recommends **DO PASS**  
(11 YEAS, NAYS, 3 ABSENT AND NOT VOTING). HB 1161 was placed on the  
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-53-5634

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*Dan Heltkamp*  
Operator's Signature

*10/2/03*  
Date

2003 TESTIMONY

HB 1161

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*Deanna G. Smith*  
Operator's Signature

*10/2/03*  
Date

**HOUSE TRANSPORTATION COMMITTEE**  
**January 23, 2003**

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**David A. Sprynczynatyk, Director**

**HB 1161**

The North Dakota Department of Transportation prefiled HB 1161 as an agency bill. Although it is a fairly long bill, its intent is simply to lower the blood-alcohol content (BAC) threshold from 0.10 to 0.08 for a charge of *per se* (illegal in and of itself) driving under the influence. This lower threshold would apply under both criminal and implied consent administrative license suspension laws. Congress has mandated that states make this change by October 1, 2003.

Our mission at NDDOT is "providing a transportation system that safely moves people and goods." Safety is our focus, and part of our job is to ensure that only safe drivers are on the road. Over the last 30 years, we have made significant progress in reducing deaths on our highways. This has come about through many factors, including stricter laws on drinking and driving, tougher enforcement of those laws, education, public awareness, and a change in the public's attitudes. However, we still kill too many people on North Dakota highways. Last year, 43 percent of the deaths on our highways were alcohol-related.

Impaired drivers are a problem nationally, not just in North Dakota. That is why Congress has mandated a 0.08 BAC law for all states. Some states are adding penalties and sanctions even to BAC test results higher than 0.08. There is also a Congressional mandate for dealing with repeat DUI offenders. Together, all of these programs will help deter driving after drinking too much, and will also deal with those who have severe drinking-and-driving problems.

With Congress, we believe that enacting a 0.08 BAC *per se* law will help to get more impaired drivers off the road. This makes sense because:

- Virtually all drivers are substantially impaired at 0.08 BAC
- The risk of being involved in a crash increases substantially at 0.08 BAC
- Lowering the *per se* limit is proven to be an effective countermeasure to those who are inclined to drive impaired
- 0.08 is a reasonable limit to set
- Most other industrialized nations have set BAC limits at 0.08 or lower

Thirty-five states, the District of Columbia, and Puerto Rico have enacted 0.08 BAC *per se* laws. Twenty-one did so before it became a federal mandate, and two did it as far back as 1983.

We have provided each of you with:

- a fact sheet on the merits of a 0.08 BAC *per se* law for adult drivers in North Dakota
- a booklet titled, "Setting Limits, Saving Lives"
- and updated lists and maps of 0.08 BAC states.

Please take time to look at these materials. The booklet, especially, goes into much more depth than we have time for in this testimony. After studying these materials and thinking about safety on the roads in North Dakota, I believe you will come to the same conclusion that I have -- that this simply makes sense and will save lives.

Page 1 of 2

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As with any federal mandate, there are sanctions if a state does not comply by passing a 0.08 BAC law by this coming October. In the first year of noncompliance, two percent of specified federal aid highway funds (about \$2.87 million) will be withheld from us. The proposed 2003-2005 NDDOT budget does not reflect these funds being withheld. That figure escalates two percent each year for the next three years, where it levels out at eight percent per year (about \$11.5 million, based on current federal funding).

I will leave you with a quote from an editorial in the November 26, 2002, edition of *the Bismarck Tribune*, entitled, "Rethinking Attitudes on Drinking." That editorial was partially in response to a "D" grade given to North Dakota by Mothers Against Drunk Driving (MADD). The editorial ends with this:

**"The legislature should make solid progress  
on implementing more stringent restrictions against drinking and driving.  
Not because the feds say so, not because MADD says so,  
but because it is smart."**

Many lives are at stake. I urge you to make everyone on our highways safer by passing HB 1161.

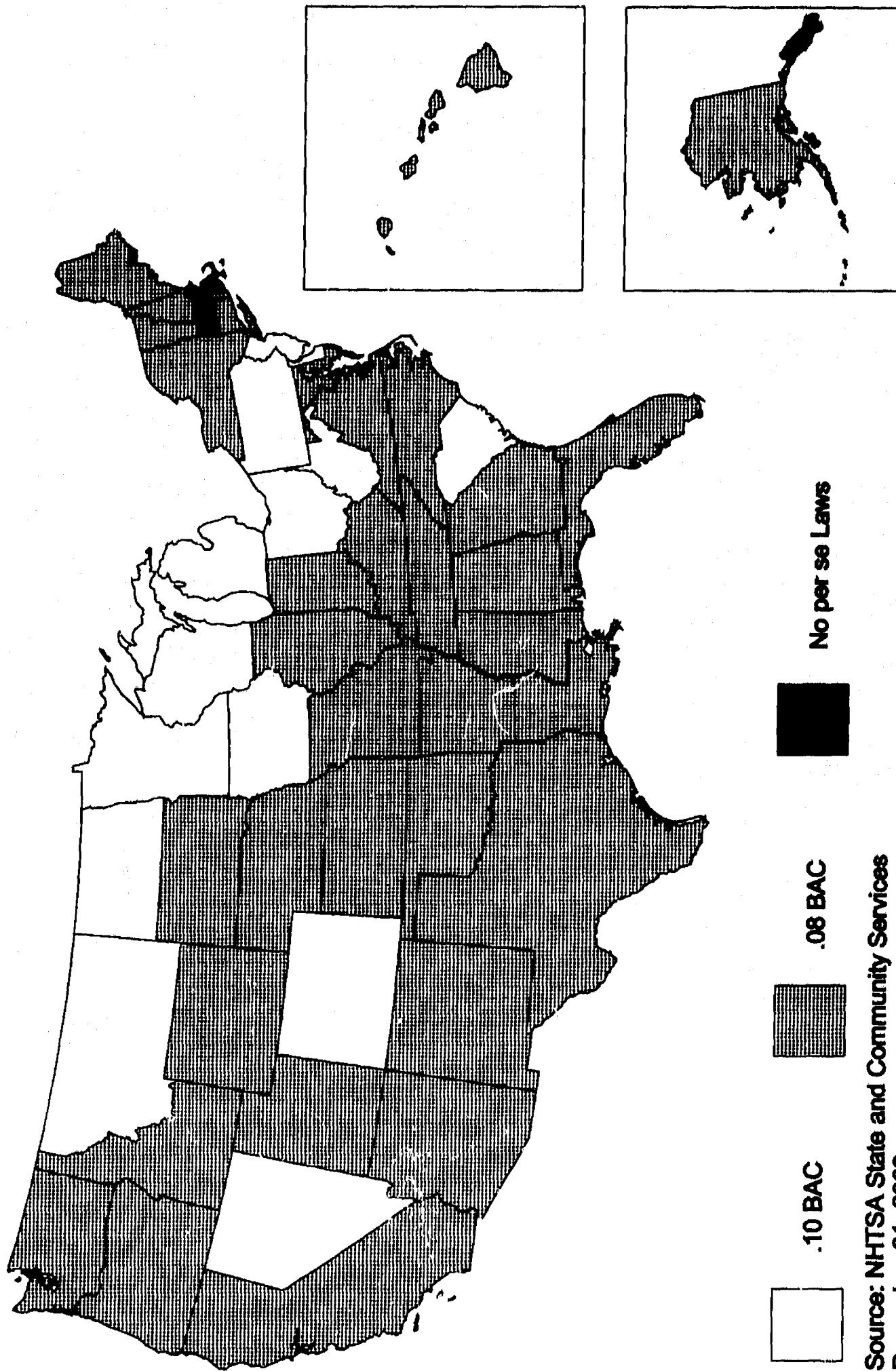
Page 2 of 2

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Date

# STATES WITH BAC PER SE LAWS



No per se Laws

.08 BAC

.10 BAC

Source: NHTSA State and Community Services  
December 31, 2002  
Map Prepared By NDDOT Cartography Section

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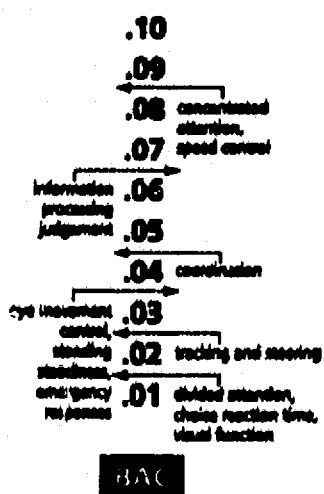
10/2/03



## THE MERITS OF A .08 BAC PER SE LAW FOR ADULT DRIVERS IN NORTH DAKOTA

Several national and state organizations support the recommendation that all states establish .08 BAC as the illegal limit *per se* for drivers aged 21 and older for the following reasons:

**Virtually all drivers are substantially impaired at .08 BAC.** Laboratory and test track research shows that the vast majority of drivers, even experienced drinkers, are impaired at .08 with regard to critical driving tasks.



A new comprehensive laboratory study provides what is perhaps the clearest laboratory evidence to date of the significant impairment that exists in all measures of performance by .08 BAC. In addition, this study finds that impairment

exists in relatively equal levels among all age groups, sexes, and drinker types. This study, which employed a driving simulator and special divided attention test was conducted by the Southern California Research Institute, Human Factors North, and Westat Inc., all well-respected firms in the traffic safety research community.

### **The risk of being involved in a crash increases substantially by .08 BAC.**

The risk of being in a crash gradually increases at each BAC level, but rises very rapidly after a driver reaches or exceeds .08 BAC compared to drivers with no alcohol in their blood systems. Research by the Insurance Institute for Highway Safety indicates that the relative risk of being killed in a single vehicle crash for drivers at BACs between .05 and .09 are 11 times that of drivers at .00 BAC (no alcohol).

### **Lowering the *per se* limit is a proven effective countermeasure which will reduce alcohol-related traffic fatalities.**

There is evidence from California that significant reductions in alcohol-related fatalities occurred in 1990 (a 12% reduction), the year .08 and an administrative license revocation law went into effect. A study by Boston University compared five states that lowered their illegal limit from .10 to .08 with five states that did not do so. They found a 16% reduction in the proportion of fatal crashes involving fatally injured drivers whose BACs were .08 or higher in five .08 states. That same study showed an 18% reduction in the proportion of fatal crashes involving fatally injured drivers at very high BACs (.15 or higher) in those .08 states. A 1995 NHTSA study found significant decreases in four states that adopted .08 on nine measures of alcohol-related fatalities. Decreases in alcohol-related fatalities ranged from 4% to 40% in those states analyzed.

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**.08 is a reasonable level to set the limit.**

A .08 BAC is not typically reached with a couple of beers after work or a glass or two of wine with dinner. The average 170 pound male would have to consume more than four 12oz cans of beer within 1 hour on an empty stomach to reach .08 BAC. The average 137 pound female would need at least three cans of beer in one hour on an empty stomach to reach that level. That female driver would need four equivalent drinks over a 2 hour period to get above a .08 BAC and the male would need five equivalent drinks.

**The public supports levels below .08 BAC.** NHTSA surveys show that most people would not drive after consuming 2 or 3 drinks in an hour and believe the limit should be no higher than that. Recent polls show that 2 out of every 3 Americans favor lowering the limit to .08 when they are aware of how much alcohol it takes to reach that level.

**Most other industrialized nations have set BAC limits at .08 or lower** and have had these laws in place for many years. For example, Canada and Great Britain set their limits at .08—as do Austria and Switzerland. All States in Australia now have a .05 limit. France and German recently lowered to .05, while Sweden's illegal limit is .02 BAC.

**As of December 31, 2002, 35 states plus the District of Columbia have enacted .08 legislation and are actively enforcing it.**

Sources:  
*Setting Limits, Saving Lives*, NHTSA, April 2001  
North Dakota Crash Reporting System (1997 - 2001)  
Fatal Analysis Reporting System (1997 - 2001)

## **North Dakota Alcohol-Related Crashes**

**1997 - 2001**

### **Alcohol-related FATAL crashes:**

207	Alcohol-related fatal crashes
165	Had a known BAC
31	(18.8%) involved a drinking driver with a BAC <0.10

### **Alcohol-related INJURY crashes:**

2,367	Alcohol-related injury crashes
298	Had a known BAC
64	(21.5%) involved a drinking driver with a BAC <0.10

### **Alcohol-related PROPERTY DAMAGE ONLY crashes:**

2,585	Alcohol-related property damage crashes
514	Had a known BAC
106	(20.6%) involved a drinking driver with a BAC <0.10

**A .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink.**

# States with .08 BAC Per Se Laws

Alabama	07/31/95	10/01/95
Alaska	07/03/01	09/01/01
Arizona	04/11/01	08/31/01
Arkansas	03/06/01	08/13/01
California	1989	01/01/90
Connecticut	07/01/02	07/01/02
District of Columbia	12/01/98	04/13/99
Florida	04/27/93	01/01/94
Georgia	04/16/01	07/01/01
Hawaii	06/30/95	06/30/95
Idaho	03/17/97	07/01/97
Illinois	07/02/97	07/02/97
Indiana	05/09/01	07/01/01
Kansas	04/22/93	07/01/93
Kentucky	04/21/00	10/01/00
Louisiana	06/26/01	09/30/2003
Maine	04/28/88	08/04/88
Maryland	04/10/01	09/30/01
Mississippi	03/11/02	07/01/02
Missouri	06/12/01	09/29/01
Nebraska	03/01/01	09/01/01
New Hampshire	04/15/93	01/01/94
New Mexico	03/19/93	01/01/94
New York	12/30/02	Pending
North Carolina	07/05/93	10/01/93
Oklahoma	06/08/01	07/01/01
Oregon	08/04/83	10/15/83
Puerto Rico	01/10/00	01/10/01
Rhode Island	07/13/00	07/13/00
South Dakota	02/27/02	07/01/02
Tennessee	06/27/02	07/01/2003
Texas	05/28/99	09/01/99
Utah	03/19/83	08/01/83
Vermont	06/06/91	07/01/91
Virginia	04/06/94	07/01/94
Washington	03/30/98	01/01/99
Wyoming	03/11/02	07/01/02

Note: Rhode Island's law has been confirmed as not meeting the Section 163 Incentive Grant requirements.

Source: NHTSA State and Community Services

Updated 12/31/02

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Operator's Signature

Date

**TESTIMONY - HOUSE BILL 1161  
HOUSE TRANSPORTATION COMMITTEE  
JANUARY 23, 2003 - 2:30 PM  
FORT TOTTEN ROOM**

Mr. Chairman and members of the House Transportation Committee, my name is Jim Hughes, Superintendent of the North Dakota Highway Patrol. I appear in support of House Bill 1161 lowering the legal alcohol concentration for drivers to 0.08 percent.

In 2002, North Dakota recorded 97 traffic fatalities with preliminary results indicating approximately 43 percent, or 42 victims, died in alcohol-related traffic accidents. Highway Patrol troopers investigated the majority of those fatal accidents. I'm in my thirtieth year with the Highway Patrol. Over those years, I've seen a substantial decrease in highway deaths from a high of over 200 traffic deaths to an average of less than 100 in recent years. However, when 40 to 50 percent of traffic deaths in recent years are alcohol related, I see that as a tragic and unnecessary loss of life. We can do something about this. I believe lowering the legal alcohol concentration for drivers to 0.08 percent is a major step towards tackling this issue.

How will this affect the Highway Patrol? Our troopers will continue their commitment and aggressive approach towards detecting and apprehending the impaired driver. Troopers made 1115 arrests for driving under the influence of alcohol in 2002. A driver suspected of driving impaired will undergo the same field sobriety testing procedures as are currently being used. The trooper must still have reason to believe a person is under the influence of alcohol. Are more arrests going to be made? I don't believe you will see any substantial increase in arrests. Information obtained from our counterparts in the South Dakota Highway Patrol is that in the six months after 0.08 went into effect in their state (effective July 1, 2002) approximately 66 arrests out of about 4000 were for 0.08 and 0.09. It's anticipated similar results would occur in North Dakota.

I believe lowering the legal alcohol concentration to 0.08 percent would act to deter impaired driving. If we can deter someone from getting behind the wheel of a vehicle and driving while they're under the influence of alcohol, precious lives can be saved. I believe this bill has the potential to be a strong deterrent. I stand in support of House Bill 1161 and ask for a vote of DO PASS.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you or the committee members may have.

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*Deanna G. Ball*  
Operator's Signature

*1/21/03*  
Date

**FARGO POLICE DEPARTMENT**

222 4th Street North  
P.O. Box 150  
Fargo, North Dakota 58107

To: Honorable Members of the Fifty-Eighth Legislative Assembly of North Dakota - Transportation Committee

From: Deputy Chief of Police Keith A. Ternes; Fargo Police Department

Re: House Bill No. 1161

Date: January 23, 2003

The Fargo Police Department, like every law enforcement agency from across the country, has always been dedicated to making our roadways as safe as possible. Of course removing alcohol impaired drivers from our streets and avenues is a key component towards accomplishing this objective. For the past ten years however, the Fargo Police Department has emphasized and re-emphasized the enforcement of both state and local drunk driving laws.

In 1995, 526 drunk drivers were arrested by Fargo Police officers. In 2000, there were 687 drunk drivers arrested. In 2001, 725 drunk drivers were arrested, and last year (2002), 804 drunk drivers were removed from Fargo city streets. We've literally made hundreds upon hundreds of DUI arrests; trying hard to send the message that if you drink and drive in the city of Fargo, you will be arrested!

Unfortunately, people don't seem to be getting the message. The measures presently in place are not capturing the attention of those that choose to drink and drive. People living in Fargo and North Dakota's everywhere continue to be at risk as they drive on our streets and highways because of drunk drivers, and they continue to die on our highways because of drunk drivers.

The legislature now has the opportunity to join thirty-six other states and establish a standard that has proven to be effective in reducing alcohol-related traffic deaths. Passing legislation that changes the states drunk driving per se law from .10 to .08 will not only improve law enforcements capacity to remove drunk drivers from our roadways, but more importantly it will save lives! It will also send the message to those that choose to drive drunk, that North Dakotans tolerance for drunk driving has just been lowered!!

EMERGENCY CALLS  
911

NON-EMERGENCY  
(701) 235-4493

RECORDS  
(701) 241-1420  
DEPARTMENT FAX  
(701) 241-8272

ADMINISTRATION  
(701) 241-1427  
Fax (701) 297-7789  
CHIEF CHRIS MAGNUS  
(701) 241-1400

INVESTIGATIONS  
(701) 241-1405  
Fax (701) 241-1407  
[www.fargopolice.com](http://www.fargopolice.com)



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The most common opposition I've heard concerning the .08 legislation is that it is unfair; that a person can reach that level after consuming only three or four drinks, and that bars and other liquor establishments will be disadvantaged because of the lower limit.

This is not about how many drinks it takes for a person to reach a certain blood alcohol limit. It doesn't matter if it takes two, or three, or ten drinks to reach a level of intoxication. If after consuming any amount of alcohol a person becomes intoxicated, they should not be driving. They shouldn't be behind the wheel of a car. That's what this legislation is about. It's about recognizing that at .08 blood alcohol concentration people are intoxicated, and their ability to safely operate a motor vehicle is impaired. Scientific studies and research have demonstrated this fact. What is somewhat ironic is that in North Dakota we've already identified this through other existing legislation. We already prohibit anyone from operating a commercial vehicle with a blood alcohol concentration of .04 %. Why? Because we know what the risks are associated with people operating a commercial vehicle under that level of intoxication. Would we even consider allowing a commercial airline pilot or train engineer to operate these modes of transportation with a .08 blood alcohol concentration? The answer obviously is no. And why? Again, because we recognize the significant level of intoxication associated with .08 BAC. As a police officer, and through my experience of having made hundreds of arrests for drunk driving, as well as teaching other police officers how to identify impaired drivers through field sobriety testing, I know that persons attempting to operate a motor vehicle at .08 BAC are impaired, and they shouldn't be behind the wheel.

Across the entire State of North Dakota, we know we have a significant amount of work to do to resolve the issues associated with drunk driving. No one component will resolve the issue alone. Enforcement by itself won't work. Education and public awareness activities by themselves won't work. Just passing this law by itself won't solve the problem. But, by passing this law and lowering the limit associated with North Dakota's per se law from .10 to .08, combined with more stringent enforcement of this law, tougher sentencing for those who choose to violate this law, additional public awareness and educational activities, and by demonstrating that North Dakotans are lowering their tolerance for DUI drivers, we can make progress towards solving this problem. Most importantly, we'll be saving lives and making our roadways safer!

On behalf of the Fargo Police Department, Fargo Police Chief Chris Magnus, Fargo's Mayor, the honorable Bruce Furness and the Fargo City Commission, I urge you to support the passing of this very important piece of legislation. Thank you very much for your time.

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.08 Resource Center

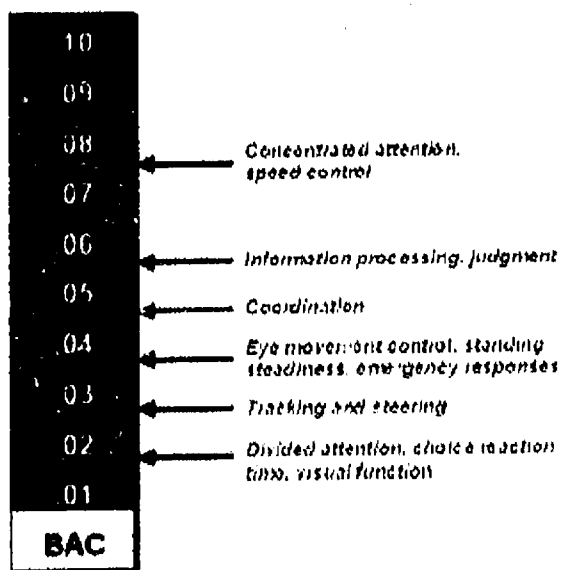
## .08 BAC Resource Center

### Impairment at .08 BAC

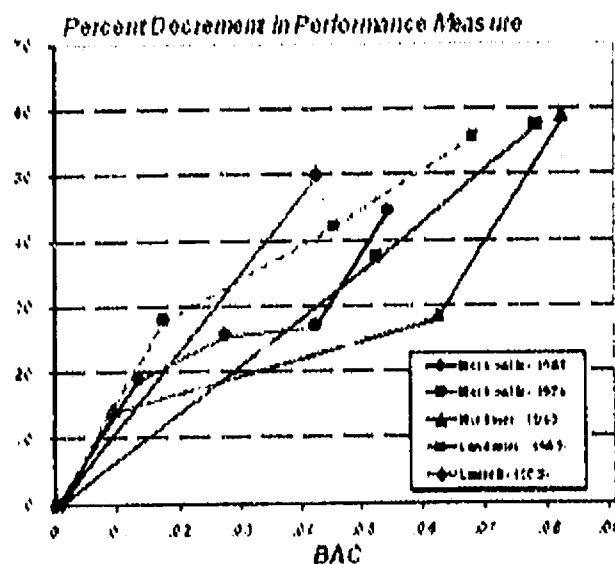
[.08 Resource Center Index](#) | [State Laws](#) | [Effectiveness of .08](#) | [.08 BAC Impairment](#)  
[Acute Alcoholic Influence](#) | [Impairment Charts](#) | [Other Documents](#) | [Crash Risk](#)  
[Point - Counterpoint](#) | [.08 Summary](#) | [Supporters of Lower BAC Levels](#)

- By the time a level of .08 is reached, virtually everyone experiences dangerous driving skill impairment, even those who are experienced or habitual drinkers
- No matter how many drinks it takes to reach .08 BAC, everyone is impaired with regard to critical driving tasks

#### BAC and Impairment



#### Experimental Studies of Impairment and BAC



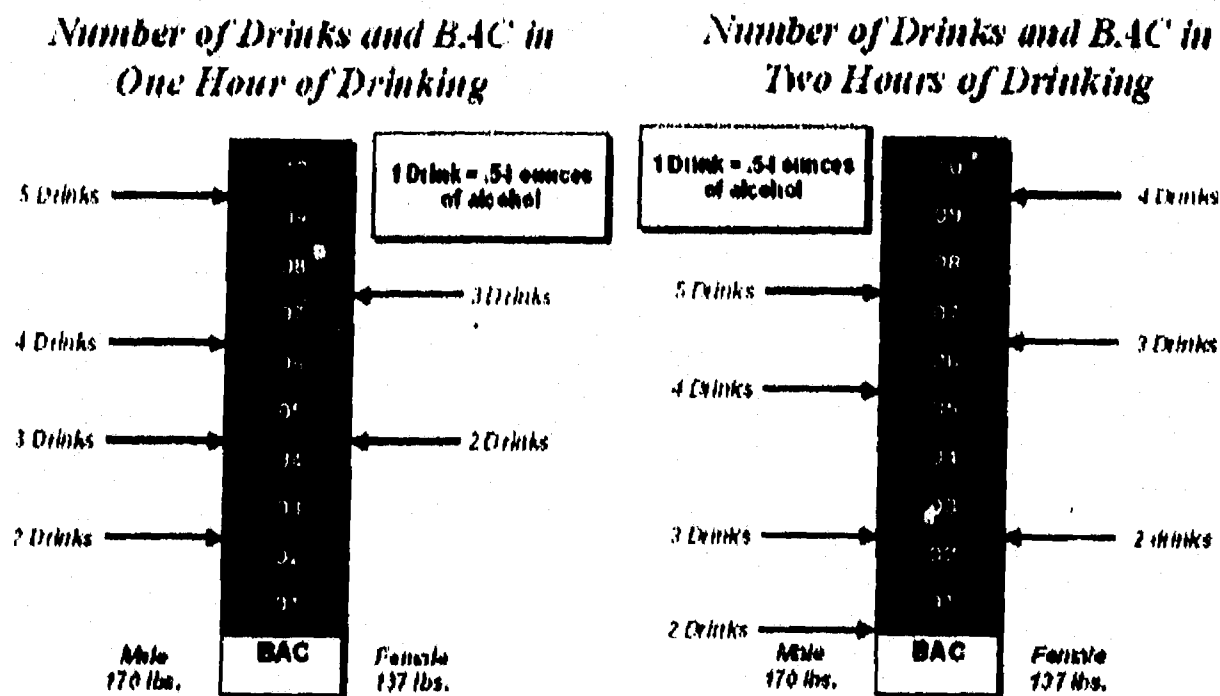
<http://ncadd.com/08/impairment.cfm>

1/17/2003

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*Dennan Hall*  
Operator's Signature

1/21/03  
Date



**Driver Characteristics and Impairment at Various BACs**  
(posted 09/20/2000)

This laboratory study examined the effects of alcohol on driving skills at BACs of 0.00% to 0.10% in a sample of 168 subjects assigned to age, gender, and drinking practices groups. The study was designed to determine the BACs at which impairment of specific experimental tasks occur and the interaction of age, gender and drinking practices with BAC on the magnitude of impairment.

**PDF version**

**Relative Risk Calculated For Driver Fatalities In Alcohol-Related Crashes**

Technology Transfer Series  
Number 222 May 2000

<http://ncadd.com/08/impairment.cfm>

1/17/2003

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*Deanna Hall*  
Operator's Signature

1/2/03  
Date



**TESTIMONY OF DEB JEVNE  
SPOKESPERSON FOR MADD CASS COUNTY  
HOUSE OF REPRESENTATIVES TRANSPORTATION COMMITTEE  
THURSDAY, JANUARY 23, 2003**

**FOR THE RECORD, MY NAME IS DEB JEVNE, AND I AM THE  
SPOKESPERSON FOR MOTHERS AGAINST DRUNK DRIVING CASS  
COUNTY AND ALSO A MEMBER OF THE RED RIVER VALLEY SAFE  
COMMUNITIES COALITION BUT MORE IMPORTANTLY I AM HERE  
BECAUSE I AM A VICTIM OF DRUNK DRIVING.**

**I HAVE BEEN AN ACTIVIST IN THE CAMPAIGN AGAINST DRINKING AND  
DRIVING SINCE MY OLDEST SON WAS INJURED BY A DRIVER WHO  
CHOSE TO DRINK AND DRIVE.**

**AT THE TIME OF MY SON'S CRASH, I WAS TOLD THAT THE DRIVER  
WITH A BLOOD ALCOHOL LEVEL OF .09 HIT MY SON, THREE BLOCKS  
FROM OUR HOME DURING THE THANKSGIVING HOLIDAY OF 1996. THE  
DRIVER WAS UNDER A .10 AND WAS NOT CONSIDERED LEGALLY  
DRUNK.**

**I HAVE DISCOVERED THAT THIS IS A DIFFICULT FIGHT, WHICH  
REQUIRES ACTION ON NUMEROUS FRONTS AT ONCE. WE MUST MAKE  
CARS AND ROADS SAFER. WE MUST STRICTLY ENFORCE THE LAWS  
THAT WE HAVE. WE MUST USE ADMINISTRATIVE LICENSE  
RESTRICTIONS TO KEEP UNSAFE DRIVERS OFF OUR HIGHWAYS AND  
WE MUST CONTINUE TO CHANGE THE ATTITUDES OF SOCIETY**

1

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*Deanna Hall*  
Operator's Signature

10/2/03  
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REGARDING DRINKING AND DRIVING. NOBODY THINKS IT IS SAFE TO DRINK AND DRIVE HOWEVER, TOO MANY PEOPLE THINK THEY WILL NOT SUFFER THE CONSEQUENCES. WE MUST HAVE LAWS THAT SUPPORT US IN ALL OF THESE ENDEAVORS. I WILL FOCUS MY COMMENTS ON A PARTICULAR EFFECTIVE LAW, .08 BAC.

SO WHAT IS MAGIC ABOUT .08 BAC? AT THAT LEVEL, RISK SIGNIFICANTLY INCREASES AND VIRTUALLY EVERYONE IS SERIOUSLY IMPAIRED. I BELIEVE THE DRIVER THAT INJURED MY SON ILLUSTRATES THE POINT PERFECTLY. HE HAD SAT IN A BAR FOR SEVERAL HOURS AND GOT BEHIND THE WHEEL OF A CAR, DROVE 90 MILES AN HOUR IN A 25 MILE AN HOUR RESIDENTIAL ZONE, RAN THREE STOP SIGNS AND HIT MY SON.

OPPONENTS OF THIS LAW WOULD HAVE YOU BELIEVE THAT THIS LAW WOULD EFFECT THE SOCIAL DRINKER, THE POOR 120 POUND WOMAN WHO HAS A FEW GLASSES OF WINE. AFTER YEARS OF DEBATING .08, I THINK ANY REASONABLE INDIVIDUAL KNOWS THAT THIS IS NOT TRUE.

I AM NOT TRYING TO CHANGE WHAT HAS HAPPENED IN MY LIFE BUT I AM TRYING TO PREVENT THIS FROM HAPPENING TO ANOTHER FAMILY. WE CAN NOT GET BACK THE 238 LIVES THAT WE IN NORTH DAKOTA HAVE LOST IN THE LAST 5 YEARS IN DRUNK DRIVING

FATALITIES. I WANT TO SAVE THE SEVERAL LIVES A YEAR THAT STUDIES SHOW ENACTMENT OF A .08 LAW COULD SAVE HERE IN NORTH DAKOTA. MOST OF THE WESTERN WORLD WOULD CONSIDER DEBATE OVER REDUCING THE LEGAL BAC TO .08 RIDICULOUS, SINCE THEY HAVE MUCH MORE STRINGENT LEVELS BUT THEY WOULD ALSO BE APPALLED TO HAVE OVER 17,000 THOUSAND DEATHS NATIONALLY CAUSED BY DRUNK DRIVERS ON THEIR HIGHWAYS EVERY YEAR.

ALTHOUGH SEPARATING THE EFFECT OF A .08 LAW FROM THE NUMEROUS OTHER FACTORS THAT HELP DECREASE FATALITIES HAS BEEN DIFFICULT, MANY, MANY, MANY STUDIES NOW SHOW THAT .08 DOES SAVE LIVES. AS A RESULT 35 STATES PLUS THE DISTRICT OF COLUMBIA HAVE ENACTED .08 LAWS AND THEIR EXPERIENCE SHOWS THAT IT DOES SAVE LIVES. ILLINOIS IS A PARTICULARLY GOOD EXAMPLE BECAUSE THE STATE HAS LONG EMPLOYED ADMINISTRATIVE LICENSE RESTRICTIONS, A MEASURE THAT HAS OFTEN BEEN COMBINED WITH ENACTMENT OF .08 LAWS. THE EXPERIENCE IN ILLINOIS SHOWS THAT .08 ALONE SAVES LIVES, ALTHOUGH CLEARLY, WHEN USED IN COMBINATION WITH OTHER MEASURES, THE EFFECT CAN BE EVEN MORE POWERFUL. ILLINOIS ALCOHOL-RELATED FATALITIES DROPPED 13.7 PERCENT AFTER THE ENACTMENT OF .08.

THE REDUCTION IN FATALITIES WITH THIS LAW OCCURS NOT ONLY AT LOW BAC LEVELS BUT AT ALL LEVELS ACROSS THE SPECTRUM. IT

**ALSO REDUCES THE AVERAGE BAC LEVELS IN THE HIGHER RANGES. ILLINOIS DROPPED FROM A .18 TO A .16. THE .08 LAW IN ILLINOIS HAD NO MAJOR IMPACT ON OPERATIONS OF THE CRIMINAL JUSTICE SYSTEM OR THE DRIVERS LICENSE SYSTEM. THE COURTS AND PROSECUTORS REPORTED ONLY MINOR CHANGES IN THEIR OPERATIONS DUE TO THE CHANGE IN THE LAW. JAILS AND PROBATION REPORTED NO NOTICEABLE CHANGE ASSOCIATED WITH THIS LAW. THERE WAS NO EVIDENCE THAT ADDITIONAL RESOURCES WERE NEEDED BY THE POLICE BECAUSE A LOWER BAC DOES NOT MEAN INCREASED ARRESTS---LAW ENFORCEMENT MUST HAVE PROBABLE CAUSE.**

**COSTS WERE NEGLIGIBLE AND FAR OUTWEIGH THE COST PER ALCOHOL-RELATED INJURY IN NORTH DAKOTA. AN ALCOHOL-RELATED FATALITY IN NORTH DAKOTA COST 1 MILLION DOLLARS IN MONETARY COSTS AND 2.3 MILLION DOLLARS IN QUALITY OF LIFE LOSSES. THE COST PER INJURED SURVIVOR OF AN ALCOHOL-RELATED CRASH AVERAGED \$45,000 IN MONETARY COSTS AND \$49,000 IN QUALITY OF LIFE LOSSES.**

**THE ONLY GROUP IN AMERICA AND NORTH DAKOTA WHO OPPOSE THIS LAW IS CERTAIN SEGMENTS OF THE ALCOHOL INDUSTRY AND I SAY CERTAIN SEGMENTS, BECAUSE THE CENTURY COUNCIL WHO**

**REPRESENTS 4 OF THE LARGER DISTILLERS IN THE UNITED STATES  
HAS NOT ONLY NOT OPPOSED THE .08 LAW, BUT HAS WITHDRAWN  
THEIR FINANCIAL SUPPORT FROM THE AMERICAN BEVERAGE  
INDUSTRY. AND INDEED IN ILLINOIS THE RESTAURANT INDUSTRY  
PROJECTED A +4.7% INCREASE AFTER THE PASSAGE OF .08 BAC.**

**LET ME CLOSE WITH A FINAL FEW THOUGHTS ON .08---**

- **THIS LAW SAVES LIVES**
- **THIS LAW REDUCES FATALITIES AND INJURIES AT NOT ONLY LOW BAC LEVELS, BUT ACROSS THE SPECTRUM.**
- **THIS LAW IS NOT A TARGETING FOR THE SOCIAL DRINKER.**
- **THIS LAW DOES NOT REDUCE CONSUMPTION, SO THERE WOULD BE NO LOSS IN REVENUE TO THE ALCOHOL INDUSTRY FOR A .08 LAW.**

**A PERSON AT .08 BAC BEHIND THE WHEEL OF A CAR IS A DANGER TO  
THEMSELVES AND TO ALL OF US. I URGE YOU TO PASS THIS  
IMPORTANT LAW.  
THANK-YOU!**

**.08 Fact Sheet: 2003****.08 BAC: THE FACTS****.08 Means Dangerous Impairment**

- An average 170-pound man must have more than four drinks in one hour on an empty stomach to reach a .08 percent blood alcohol concentration (BAC) level. A 137-pound woman would reach .08 BAC after about three drinks in an hour on an empty stomach (National Highway Traffic Safety Administration) - a level that exceeds what is commonly accepted as social drinking.
- Regardless of how much alcohol it takes to get to this level, at .08 BAC any driver is a dangerous threat on the road. .08 BAC is the level at which the fatal crash risk significantly increases and virtually everyone is seriously impaired, affecting all of the basic critical driving skills including: braking, steering, lane changing, judgment and response time (NHTSA).
- The risk of a driver being killed in a crash at .08 BAC is at least 11 times that of drivers without alcohol in their system. At .10 BAC the risk is at least 29 times higher (Zador).
- More than 20 percent of alcohol-related traffic deaths involve BAC levels below .10 percent (NHTSA).

**.08 Saves Lives**

- If every state passed a .08 BAC law, about 500 lives would be saved each year (Hingson, et al).
- .08 BAC is a proven effective measure to reduce alcohol-related traffic deaths. Studies have shown a 6 to 8 percent reduction in alcohol-related traffic deaths in states following the passage of .08 BAC (MADD).

**.08 Needed in Every State**

- 14 states still define intoxicated driving as .10 BAC per se -- the most lenient definition of drunk driving in the industrialized world.
- 35 states and the District of Columbia have a .08 BAC per se law (AK, AL, AR, AZ, CA, CT, FL, GA, HI, ID, IL, IN, KS, KY, LA (eff. 9/30/03), MD, ME, MO, MS, NE, NH, NM, NC, NY (eff. 11/03), OK, OR, RI\*, SD, TN (eff. 7/31/03), TX, UT, VT, VA, WA and WY). Massachusetts has a .08 BAC limit but is the only state without a per se law.  
\* Rhode Island's per se law is not federally compliant.
- The BAC level is .08 in Canada, Austria, Great Britain and Switzerland.
- Seventy-two (72) percent of Americans support lowering the drunk driving limit to .08 blood alcohol concentration (BAC) as an initiative to reduce drunk driving. (Independent Gallup Survey sponsored by MADD and General Motors).
- With the help of MADD, .08 became federal law in October 2000, requiring states to pass a .08 BAC per se law by October 1, 2003, or face the withholding of 2 percent of their federal highway construction funds. States without the law by this date will lose an additional 2 percent of highway funds each year until 2006. Passing the law before October 1, 2007 allows the return of withheld highway funds to those states that did not pass the law before October 1, 2003.

This information is brought to you courtesy of Mothers Against Drunk Driving -- find us online at <http://www.madd.org/>.

The mission of MADD is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.

<http://www.madd.org/stats/printable/0,1068,4789,00.html>

1/21/03

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*Donna Hall*  
Operator's Signature

10/2/03  
Date

**North Dakota  
Hospitality  
Association**

***ND's Restaurant, Lodging &  
Beverage Association***

P.O. Box 428 • Bismarck, ND 58502 • Phone: 701-223-3313 • 1-800-627-3374 • Fax: 701-223-0215  
e-mail: ndha@btigate.com

**North Dakota Hospitality Association  
Testimony  
HB 1161**

Chairman Weisz and members of House Transportation Committee, I am Patti Lewis, Executive Director of the North Dakota Hospitality Association and am here today to speak in opposition of House Bill 1161.

The North Dakota Hospitality Association - representing the state's food, lodging and beverage industry - faces many challenges. Burdensome government regulations, high taxation and a public perception that many of the products and services we provide may be harmful, are just some of them. Our greatest hurdle today, however, is the pressure we have to follow a federal mandate - on an issue, I might add, that is clearly a state's rights decision - to reduce the allowable blood alcohol level from .10 to .08.

Please understand that our association and its members are adamantly opposed to irresponsible behavior, regardless of its cause, but feel that focusing on a BAC reduction from .10 to .08 only penalizes our responsible, social drinkers. This does nothing to reduce the fatalities caused by repeat, high BAC offenders. You'll find along with this testimony, a graph generated from information provided by the National Highway Traffic Administration which demonstrates that most of the alcohol-related fatalities occur after a BAC of .14 and higher. Actually, fatalities were higher in those with trace amounts of alcohol than at either .08 or .10. We obviously have failed at eliminating the real problem - repeat and high BAC offenders.

More recent information can be found in the following two pages. This is a study requested by the Connecticut legislature and - again - inarguably shows that no statistically significant difference exists in alcohol related fatalities in the states imposing either the .08 or .10. So, who are we really targeting in this national and state legislation? Again, we are penalizing our responsible, social drinkers and not addressing the real issue.

Most importantly, however, this bill does not solve the total problems surrounding impaired drivers. Each day, the number of methamphetamine, cocaine, marijuana and other drug related arrests increases. Since these drug users drive vehicles, our state's resources may be more efficiently utilized by cracking down on drug-induced impaired

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*Doreen Hall*  
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drivers as well as high BAC, repeat offender alcohol impaired drivers. We need to help our local and state law enforcement officials arrest drug induced impaired drivers as diligently and forcefully as they do alcohol impaired drivers.

Let's remember that alcohol is a legal product in our state and country. Meth, coke and other street drugs are not. Through aggressive campaigns, the public is beginning to accept the notion that drinking and driving is illegal. Recall that the slogan has gone from "Don't Drive Drunk," to "Don't Drink and Drive." This perception has a great cost on our restaurant and beverage industry. Responsible consumers once believed that it was okay to have a few drinks after work or a couple of glasses of wine with dinner. That is no longer the case. And, rest assured, that moving from .10 to .08 BAC is going to increase that perception. You have heard that this will not effect those people but, since BAC depends greatly upon our level of food consumption, rest, weight and other factors, who knows the amount of alcohol it will take to get to .08? More importantly, who will take the risk to find out?

And while this bill will adversely effect the hospitality industry, keep in mind that it will also effect the tax revenues collected by the state and city governments. State general sales tax, state beer and liquor taxes and city lodging and restaurant taxes will all be negatively impacted by this legislation.

The members of the hospitality association certainly understand what a terrible position the federal government has put you in. And we understand your struggle to be responsible to North Dakotans while being judicious in your decisions. Yet, let's not punish our social drinks and one of the state's largest industries for the sake of what could be termed an unconstitutional federal mandate.

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Operator's Signature

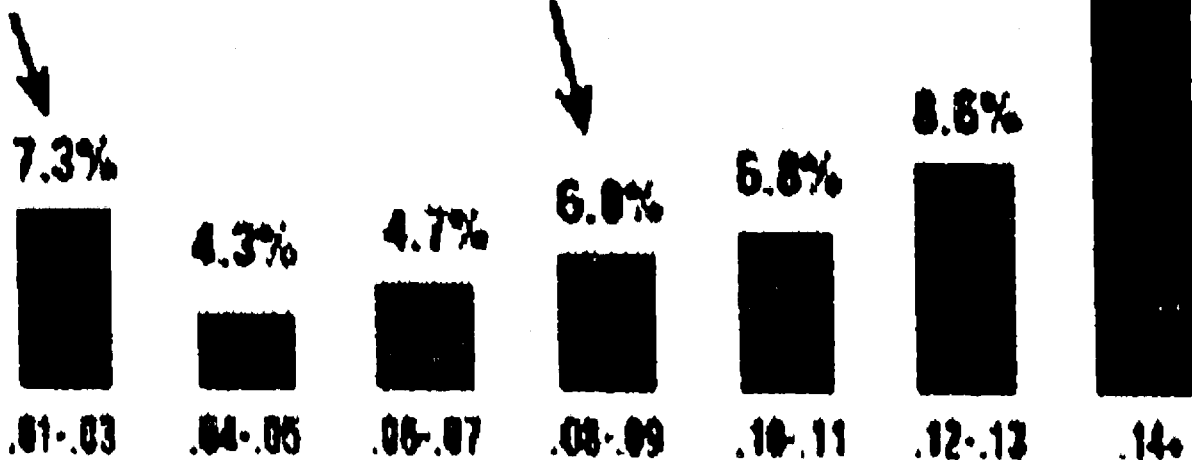
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# 1997 US Alcohol-Related Traffic Fatalities

Trace Amounts  
of Alcohol

Focus of .08%  
Proposal



## Blood Alcohol Concentration (BAC) Level/Traffic Fatalities

Source: National Highway Traffic Safety Administration 1997 Data Files  
Numbers represent traffic fatalities in which a driver involved was actually tested at .01% BAC or above.

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*Donna G. Ball*  
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## OLR RESEARCH REPORT

May 28, 2002

2002-R-0516

### COMPARISON OF .08 AND .10 BAC LIMITS AND FATALITY RATES

By: Kristina D. Arsenault, Research Fellow

You asked for an update of three previous OLR Reports (98-R-0465, 99-R-0305, and 2001-R-0370) comparing the motor vehicle fatality rates in states whose driving under the influence (DUI) laws use a blood alcohol count (BAC) of .08 with states with a .10 limit. More specifically, you asked how Connecticut compares to both groups. BAC refers to the specific alcohol concentration in a driver's blood.

#### SUMMARY

The latest motor vehicle fatality rates are available only through calendar year 2000. Based on those statistics, regression analysis shows that there is no statistical difference between the average fatality rate in states that use a BAC of .08 and states with a .10 limit. The average 2000 fatality rate in the 20 states with a .08 BAC limit was somewhat lower than the average in states with a .10 limit (1.45 vs. 1.68 fatalities per 100 million vehicle miles traveled), but the difference cannot be measured as statistically significant. This finding was similar in past reports.

As of 2000, 30 states, including Connecticut have a .10 BAC limit and 20 states have a .08 BAC limit. Most of the states enforce a "per se" DUI law maintain that is illegal to operate a vehicle if you exceed the requisite BAC legal limit. Evidence of a person's BAC at or above the prescribed limit is illegal. In other words, there need be no finding of impairment.

In states without an "illegal per se" law, your BAC is just one of the factors that determines whether or not you're a drunk driver. Some examples of those other factors would include slurred speech and unsteady gait. Every state except Massachusetts and South Carolina has an "illegal per se" law. Massachusetts's law states that a BAC of 0.8% is evidence of alcohol impairment but is not illegal "per se". South Carolina law states that a BAC of .10 is evidence of alcohol impairment but is not illegal "per se".

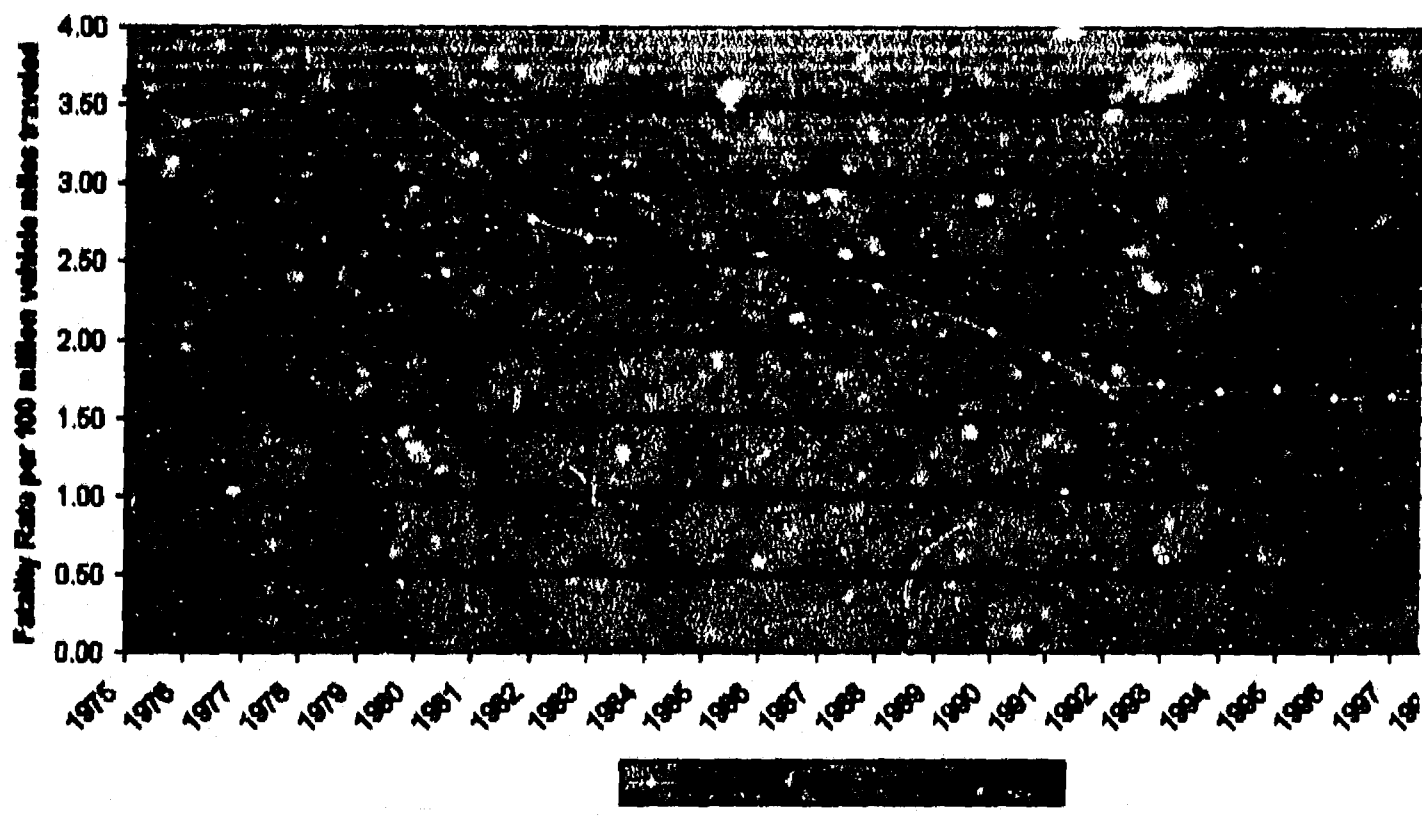
Three states, Kentucky, Rhode Island and Texas have changed their BAC limit from .10 to .08 since the last report. Their 2000 fatality rates are included on the chart with those states having a BAC limit of .08.

Massachusetts has the lowest motor vehicle fatality rate in the nation for 2000

*Kristina D. Arsenault*  
Operator's Signature

10/2/03  
Date

**Figure 1: Average Fatality Rates of States with a .08 and .10 BAC Limits Compared**



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*Diana Goldsmith*  
Operator's Signature

10/2/03  
Date

TESTIMONY OF JANET DEMARAIS SEAWORTH  
EXECUTIVE DIRECTOR  
NORTH DAKOTA BEER WHOLESALERS ASSOCIATION

HB 1161  
House Transportation Committee

Mr. Chairman, members of the committee, my name is Janet Seaworth. I'm the Executive Director of the North Dakota Beer Wholesalers Association. Our association is comprised of seventeen family owned and operated wholesalers, many in their third generation of ownership.

Four years ago, this legislature debated the merits of .08 and rejected .08 as ineffective and an unwise use of our law enforcement resources. That hasn't changed. And our position remains the same.

**\*Lowering the BAC to .08 will not reduce the number of alcohol-related crashes.** Drivers with a low BAC are not the problem. According to the U.S. Department of Transportation, the average BAC level among fatally injured drinking drivers is .17%, more than twice the proposed .08% arrest level. Nearly two-thirds of all alcohol-related fatalities involve drivers with BACs of .14% and above.<sup>1</sup> In 1991, in testimony before the Governor's DUI Task Force, the state toxicologist testified that the average BAC of apprehended drivers in North Dakota was .163%, more than two times the proposed .08%. It was the state toxicologist's opinion that lowering the BAC to .08 would not reduce traffic fatalities.

**\*States with .08 BAC do not have a lower incidence of drunk driving deaths than states with a .10 BAC.** Look at the comparisons: Of the ten states that have the lowest incidence of alcohol-related fatalities, only two have .08.<sup>2</sup> In 1996, New Mexico had the nation's highest rate of alcohol-related traffic deaths despite the fact that it had adopted .08.<sup>3</sup> North Carolina actually saw a 21% increase in the alcohol-related fatality rate after it enacted .08.<sup>4</sup> A study conducted by the University of North Carolina, at the request of NHTSA, concluded that lowering the BAC limit to .08 in North Carolina had no effect.<sup>5</sup> And a GAO report released in June 1999 on the "Effectiveness of State .08 Blood Alcohol Laws" concluded that "the evidence does not conclusively establish that .08 BAC laws, by themselves, result in reductions in the number and severity of alcohol-related crashes."<sup>6</sup>

**\*Lowering the BAC to .08 will dilute law enforcement efforts and resources.** According to traffic safety specialists, lowering the BAC merely increases the population subject to arrest and

<sup>1</sup> National Highway Traffic Safety Administration, "1996 Drivers of vehicles in transport with known alcohol-test results," Fatal Accident Reporting System [CD-ROM and database on-line](Washington D.C.: U.S. Department of Transportation, 1996).

<sup>2</sup> U.S. Department of Transportation, National Highway Traffic Safety Administration, Alcohol Traffic Safety Facts, "Fatalities by the Highest BAC in the Crash by State," 1999 FARS Data.

<sup>3</sup> See footnote 1.

<sup>4</sup> See footnote 1.

<sup>5</sup> Foss, Stewart, Reinfurt, "Evaluation of the Effects of North Carolina's 0.08% BAC Law," Highway Safety Research Center, University of North Carolina, November 1998.

<sup>6</sup> United States General Accounting Office, "Highway Safety: Effectiveness of State .08 Blood Alcohol Laws," June 1999.

increases the likelihood that chronic alcoholics or repeat offenders will be less likely to be arrested.<sup>7</sup>

Four years ago this legislature determined, rightly so, that .08 was not the answer. According to the GAO study I have cited, highway research shows that the best countermeasure against drunk driving is a combination of laws, sustained public education, and vigorous enforcement. The only thing that has changed since the legislature considered .08 in 1999 is that the state now faces considerable sanctions if it does not enact .08. We do not agree that it is appropriate for Congress to pass a law which would set a national standard for impaired driving and punish states that do not comply. Nevertheless, given the circumstances, it is difficult for us to ask you to forego certain highway construction funds on principal. That is your call. But if you are serious about saving lives, and want to effectively address the number of alcohol-related fatalities, we ask that you consider the proposals introduced which include graduated penalties, mandatory minimum sentences, mandatory treatment for repeat offenders and ignition interlocks.

Thank you.

For more information, contact NDBWA, P.O. Box 7401, Bismarck, ND 58507, (701) 258-8098.

---

<sup>7</sup> Pete Youngers, "Federal Anti-Alcoholism Diverts Dollars From Effective Safety Measures," The Moderation Reader, Nov/Dec, 1990, p. 36.

Donna G. Ballantyne  
Operator's Signature

10/2/03  
Date

**Evaluation of the Effects of North Carolina's 0.08% BAC Law**

Robert D. Foss, Ph.D.  
J. Richard Stewart, Ph.D.  
Donald W. Reinfurt, Ph.D.

Highway Safety Research Center  
University of North Carolina

November, 1998

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## Executive Summary

Sixteen states have reduced the *per se* illegal blood alcohol concentration (BAC) limit for drivers to 0.08%. There is a substantial amount of evidence from experimental studies to indicate that a variety of individual skills are impaired at BACs well below 0.08%. Epidemiologic studies indicate that the risk of a crash increases sharply for drivers with BACs above 0.08%. To date, however, few studies have been done to determine whether reducing the legal BAC limit translates into reduced numbers of alcohol-related motor vehicle crashes.

Four previous studies of the effects of 0.08% laws on motor vehicle crashes have found equivocal and somewhat conflicting results. In California, a 1991 study reported a 12% decrease in alcohol-related fatalities following implementation of an 0.08% BAC limit. However, California also enacted an Administrative License Revocation (ALR) law six months after lowering the BAC limit, and it was not possible to determine whether the ALR law, the 0.08% law, or the combination of the two was responsible for the decrease. A later study of the California law, looking at longer time periods, found no significant decrease in alcohol-involved crashes as a result of the lower BAC limit.

Two studies examined the first five states to reduce their BAC limit to 0.08%. One study found decreases in at least one indicator of drinking-driving in four of the five states. A second study, using a somewhat different research design, found a decrease in high BACs among fatally injured drivers in three of the five states. Again, however, it was not possible to disentangle effects of ALR laws from those of the lower BAC limit in three of the states studied. Further clouding the issue is the fact that the two states that showed no decrease in the second study were among those in which the earlier study had found an apparent decline in drivers with high BACs.

The present study was conducted in an effort to clarify the effect of reducing the BAC limit to 0.08%. North Carolina enacted an 0.08% BAC limit on October 1, 1993. No other legislation that would significantly affect drinking-driving was enacted in close proximity to the 0.08% law.

Using telephone survey data, we were able to gauge public knowledge and awareness of the 0.08% BAC limit in North Carolina. Interviews with 302 randomly sampled persons in four counties found that about two-thirds believed the BAC limit had changed in the past two years. Just over one-third were able to report the limit correctly as 0.08%. A substantial proportion of the sample did not drink and, as would be expected, drinkers were more aware that the limit had changed (73%) than non-drinkers (56%). They also were twice as likely to know the new limit (50% vs. 26%). Those who reported drinking at least once a week were even more likely to know the new limit (67%). Respondents overwhelmingly (85%) believed that lowering the BAC limit increased the likelihood that individuals would be arrested for drinking-driving.

To determine whether the 0.08% law produced a decrease in alcohol-related crashes, we examined several indicators. Alcohol involvement in all crashes in North Carolina between 1991 and 1995, as well as fatal and serious injury crashes only were examined. In addition, surrogate measures of alcohol-related crashes (nighttime crashes; nighttime fatal and serious injury crashes) were also examined. All these measures have been declining, almost continuously, in North Carolina since the early 1980s. To control for the effects of this general trend, as well as seasonal fluctuations, we carried out structural time series analyses examining monthly crash statistics. In each case we looked for evidence of either an immediate decrease in the rate or a change in the general trend of alcohol-related crashes following implementation of the lower BAC limit. There was no significant change in the rate, nor in the trend, coinciding with introduction of the lower BAC limit, for any of the measures examined.

To determine whether the trend in alcohol-related crashes in North Carolina may have benefitted in comparison with a broader general trend in the U.S. (which had leveled out and appeared to be on the verge of increasing again), we compared North Carolina fatal crash data with those from 11 other states that have high rates of alcohol testing for fatally injured drivers. The data series representing the North Carolina proportion of all fatally injured drivers in the 12 states who had BACs in excess of 0.10% was examined for either a step shift or a change in the trend. Again there was no evidence that the pattern in North Carolina changed following enactment of the lower BAC limit, or that it differed in comparison to the other 11 states.

To see whether the BAC levels of persons had been reduced by the 0.08% law, even if not brought below the 0.10% threshold of the previous limit, we examined the mean monthly BACs of fatally injured drivers whose BAC was above 0.10%. Again there was no evidence of an effect of the new BAC limit. The monthly average BACs remained essentially unchanged from 1990 through 1995, with an overall mean of 0.21%.

Finally, we conducted a series of simple before-after comparisons of various indicators of alcohol involvement in fatal crashes. These analyses examined each of the six measures that the National Highway Traffic Safety Administration used in its initial examination of the effect of 0.08% laws: (1) driver BAC > 0.01%, (2) driver BAC > 0.10%, (3) police-reported alcohol involvement, (4) single vehicle nighttime crash, (5) single vehicle nighttime male driver crash, and (6) estimated alcohol involvement. To examine changes in these measures we used the same analytic approach employed by Hingson et al. (1996) in their widely-cited study of the first five states to enact 0.08% limits - comparing changes in North Carolina rates with those in comparison states. To avoid potential pitfalls of trying to select a single appropriate comparison state, we compared North Carolina data with all 37 states that had retained higher per se limits from 1991 through 1996.

Of the six measures considered, two showed a significantly greater decrease in North Carolina than in the comparison states: police-reported alcohol and estimated alcohol, which is based in part on police report as well. For both these measures, the apparent effect of the 0.08% law is an artifact of grouping several months data before the law took effect, rather than an effect of the law itself. During the pre-0.08% period, noteworthy changes occurred in North Carolina that are obscured when the data are grouped. When analyses to ameliorate this artifact were conducted, none of the six measures showed a significantly greater decrease in North Carolina than in the states that retained a higher BAC limit.

Although North Carolina has a reputation for being progressive and aggressive in its efforts to deal with drinking drivers, it does not appear that the state is so different as to render it non-comparable to other states. Several indicators of alcohol use in fatal crashes during the early 1990s were similar to those for other states. On the salient measures of police-reported alcohol involvement and the proportion of killed drivers with a BAC in excess of 0.10%, the rates in North Carolina were lower by differences of 2.3% and 1.7%, respectively, both of which are statistically significant.

In conclusion, it appears that lowering the BAC limit to 0.08% in North Carolina did not have any clear effect on alcohol-related crashes. The existing downward trend in alcohol-involvement among all crashes and among more serious crashes continued, but does not appear to have changed following enactment of the lower BAC limit. When compared with the 11 other states that measure alcohol use by the large majority of fatally injured drivers, as does North Carolina, the measured BACs of fatally injured drivers did not decline as a result of the 0.08% law in North Carolina. Finally, the North Carolina trend in several other commonly used indicators of alcohol involvement in fatal crashes did not differ in comparison with the 37 states that retained higher BAC limits.

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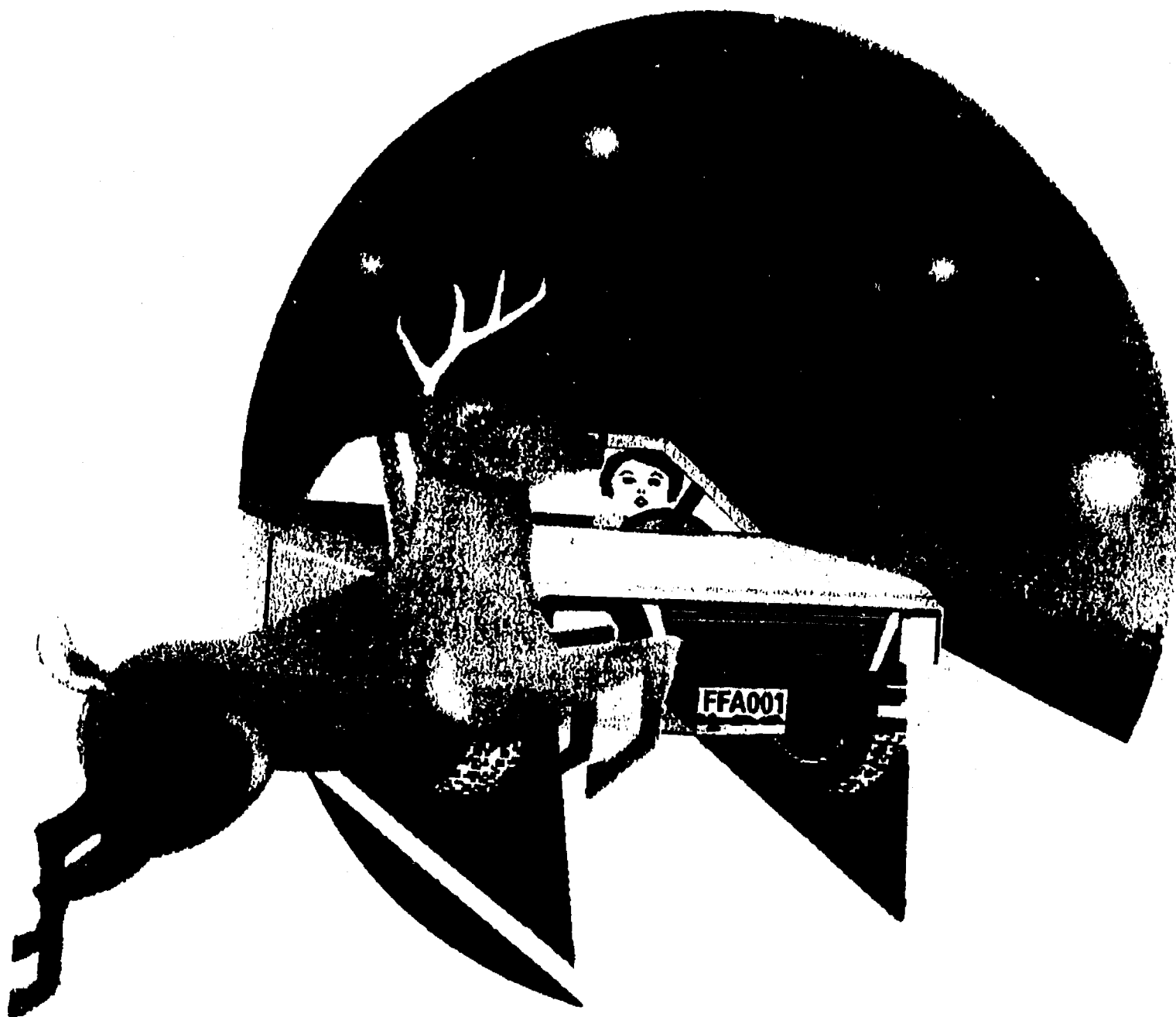
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10/2/03



# 1992 NORTH DAKOTA VEHICULAR CRASH FACTS



Drivers License and Traffic Safety Division  
North Dakota Department of Transportation

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**Introduction to the "Fatality" information presented on now missing  
page 14 of 1992 ND Crash Facts and the manner in which the data was  
either distorted, or deceptively presented, to exaggerate the  
relationship between auto fatalities and alcohol, and promote an "ANTI  
ALCOHOL AGENDA"**

There was a great deal of free air time in the form of Public Service Announcements given to this data after it was published. It followed the format "Of the alcohol related accidents 52% had a BAC of .05% or higher". The obvious intent was to mislead the public into thinking that over half the accidents involving fatalities were alcohol related. As you will be able to see from the following information, this is not even close to the truth. Had the lead in statement of the Public Service Announcements (PSA's) been honest and stated "Of the alcohol related accidents 100% had a BAC of .05% or higher" it would have been obvious to the public that they were only referring to accidents involving alcohol, and it would have been a true statement.

When this distortion of data with public funds was brought to the attention of Governor Schaffer and his staff they obviously took action. Unfortunately someone in the Dept of Transportation decided that rather than continuing to print this page with it's very valuable data, but with correct and honest percentages, it would be wiser to remove this page entirely from the ND Crash Facts booklet. So after many years of the same format, page 14 was suddenly omitted, while the rest of the book remained essentially the same. This data was and is very valuable to those interested in the truth regarding alcohol related fatalities, and its restoration would go a long way to restoring confidence in the data reported by the ND Dept of Transportation.

Since this deceptive presentation of data was revealed, there has been a move afoot to utilize a real catchall term, "Alcohol Related" with no reference to the BAC levels involved. Now we have thrown the door wide open for even greater distortion of what should be honest reliable data. There also continues to be further efforts to make "Alcohol Related" and "Drunk Driving" synonymous. Even more disturbing is the probability that this format (which probably didn't originate in ND), may have been used by numerous other states to influence the Federal Government into mandating a .08 National BAC or risk losing their federal highway funds.

Please study the information to follow, while we make an attempt to view the data provided by the ND Dept of Transportation in an honest and objective fashion.

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## FATALITY BLOOD ALCOHOL CONCENTRATION LEVELS

The North Dakota Century Code requires that the state toxicologist analyze a blood sample of every person killed in a traffic crash for the purpose of determining if the individual has a Measurable Blood Alcohol Concentration (BAC), and what the percentage of BAC was. The following statistics were provided by the state toxicologist for the period January 1983 through December 1992.

	1992	January 1983 thru December 1992
Traffic deaths in North Dakota	88	986
Victims 14 years of age and older	54	922
Number of satisfactory blood samples analyzed	58	667
<b>Victims</b>	88 (58)*	986 (667)*
Measurable BAC	30 or 52%	383 or 57%
BAC of 0.05% or higher	30 or 52%	365 or 55%
BAC of 0.10% or higher	29 or 50%	324 or 49%
BAC of 0.15% or higher	26 or 45%	265 or 40%
BAC of 0.20% or higher	19 or 33%	161 or 24%
<b>Drivers Killed</b>	59 (44)*	631 (493)*
Measurable BAC	24 or 55%	294 or 59%
BAC of 0.05% or higher	24 or 55%	281 or 57%
BAC of 0.10% or higher	23 or 52%	252 or 51%
BAC of 0.15% or higher	20 or 45%	206 or 42%
BAC of 0.20% or higher	15 or 34%	122 or 25%
<b>Drivers killed in single-vehicle crashes</b>	30 or (25)*	319 or (267)*
Measurable BAC	16 or 64%	195 or 73%
BAC of 0.05% or higher	16 or 64%	194 or 73%
BAC of 0.10% or higher	16 or 64%	180 or 67%
BAC of 0.15% or higher	13 or 52%	152 or 57%
BAC of 0.20% or higher	11 or 44%	92 or 34%
<b>Victims 14 to 20 years of age</b>	14 (11)*	178 (134)*
Measurable BAC	6 or 55%	80 or 60%
BAC of 0.05% or higher	6 or 55%	74 or 55%
BAC of 0.10% or higher	6 or 55%	61 or 46%
BAC of 0.15% or higher	5 or 45%	36 or 27%
BAC of 0.20% or higher	3 or 27%	15 or 11%
<b>Drivers 14 to 20 years of age</b>	11 or (9)*	110 or (91)*
Measurable BAC	6 or 67%	57 or 63%
BAC of 0.05% or higher	6 or 67%	55 or 60%
BAC of 0.10% or higher	6 or 67%	45 or 51%
BAC of 0.15% or higher	5 or 56%	28 or 31%
BAC of 0.20% or higher	3 or 33%	10 or 11%

\*Numbers in parenthesis are the number of blood samples processed by the state toxicologist.

*Deanna Ball*  
Operator's Signature

10/2/03  
Date

1992 N D Crash Facts is the primary source for ALL computed data below

A more inclusive Picture

Side by side Comparisons of ND Dept of Transportation Figures vs Our Calculations  
100% or TOTAL of ALL victims of North Dakota Traffic Deaths (88)

# of Satisfactory Blood Samples Analyzed (58)  
(also = Fatalities not tested + No Alcohol in body)

Green #'s used for % Per Cent Calculations, #'s in red omitted from ND Calculations



Per Page 14 ND Crash Facts Book

Divisor used for % Calcs →	(58)*	%Book
Measurable BAC	30	or 52%
BAC of 0.05% or higher	30	or 52%
BAC of 0.10% or higher	29	or 50%
BAC of 0.15% or higher	26	or 45%
BAC of 0.20% or higher	19	or 33%
Not tested	No Entries	
No Alcohol in Body	No Entries	

Totals → 134 = 232%

Per our calculations with omitted Data

Divisor used for % Calcs →	(88)	1992 %Actual
Measurable BAC	0	or 0.0%
BAC of 0.05% to 0.10%	1	or 1.1%
BAC of 0.10% to 0.15%	3	or 3.4%
BAC of 0.15% to 0.20%	7	or 8.0%
BAC of 0.20% or higher	19	or 21.6%
Not tested	30 or 34.1%	
No Alcohol in Body	28 or 31.8%	

Totals → 88 = 100%

**DRIVERS KILLED "ALL VEHICLE" CRASHES (59 or 67.1%) of TOTAL VICTIMS**

**Per Page 14 N D Crash Facts Book**

59 (44)\*  
 Measurable BAC 24 or 55%  
 BAC of 0.05% or higher 24 or 55%  
 BAC of 0.10% or higher 23 or 52%  
 BAC of 0.15% or higher 20 or 45%  
 BAC of 0.20% or higher 15 or 34%  
 Not tested -----> -No Entry-  
 No Alcohol in Body-----> -No Entry-

**Per our calculations with omitted Data**

(88)  
 Measurable BAC 0 or 0.0%  
 BAC of 0.05% to 0.10% 1 or 1.1%  
 BAC of 0.10% to 0.15% 3 or 3.4%  
 BAC of 0.15% to 0.20% 5 or 5.7%  
 BAC of 0.20% or higher 15 or 17.1%  
 Not tested -----> 15 or 17.1%  
 No Alcohol in Body-----> 20 or 22.7%

**DRIVERS KILLED IN "SINGLE VEHICLE" CRASHES (30 or 34.1%) of TOTAL VICTIMS**

**Per Page 14 N D Crash Facts Book**

30 (25)\*  
 Measurable BAC 16 or 64%  
 BAC of 0.05% or higher 16 or 64%  
 BAC of 0.10% or higher 16 or 64%  
 BAC of 0.15% or higher 13 or 52%  
 BAC of 0.20% or higher 11 or 44%  
 Not tested -----> No Entry  
 No Alcohol in Body-----> No Entry

**Per our calculations with omitted Data**

(88)  
 Measurable BAC 0 or 0.0%  
 BAC of 0.05% to .010% 0 or 0.0%  
 BAC of 0.10% to .015% 3 or 3.4%  
 BAC of 0.15% to .020% 2 or 2.3%  
 BAC of 0.20% or higher 11 or 12.5%  
 Not tested -----> 5 or 5.7%  
 No Alcohol in Body-----> 9 or 10.2%

**The Balance of the very valuable Data "on the now, MISSING" page 14**  
**All of our percentages are based on TOTAL ND ACCIDENT VICTIMS**  
**The numbers in green are the numbers used to calculate Percentages**

**Per Page 14 N D Crash Facts Book**

14 (11)\*  
 Measurable BAC 6 or 55%  
 BAC of 0.05% or higher 6 or 55%  
 BAC of 0.10% or higher 6 or 55%  
 BAC of 0.15% or higher 5 or 45%  
 BAC of 0.20% or higher 3 or 27%  
 Not tested -----> No Entry  
 No Alcohol in Body-----> No Entry

**Per our calculations with omitted Data**

(88)  
 Measurable BAC 0 or 0.0%  
 BAC of 0.05% to .010% 0 or 0.0%  
 BAC of 0.10% to .015% 1 or 1.1%  
 BAC of 0.15% to .020% 2 or 2.3%  
 BAC of 0.20% or higher 3 or 3.4%  
 Not tested -----> 3 or 3.4%  
 No Alcohol in Body-----> 5 or 5.7%

**Per Page 14 N D Crash Facts Book**

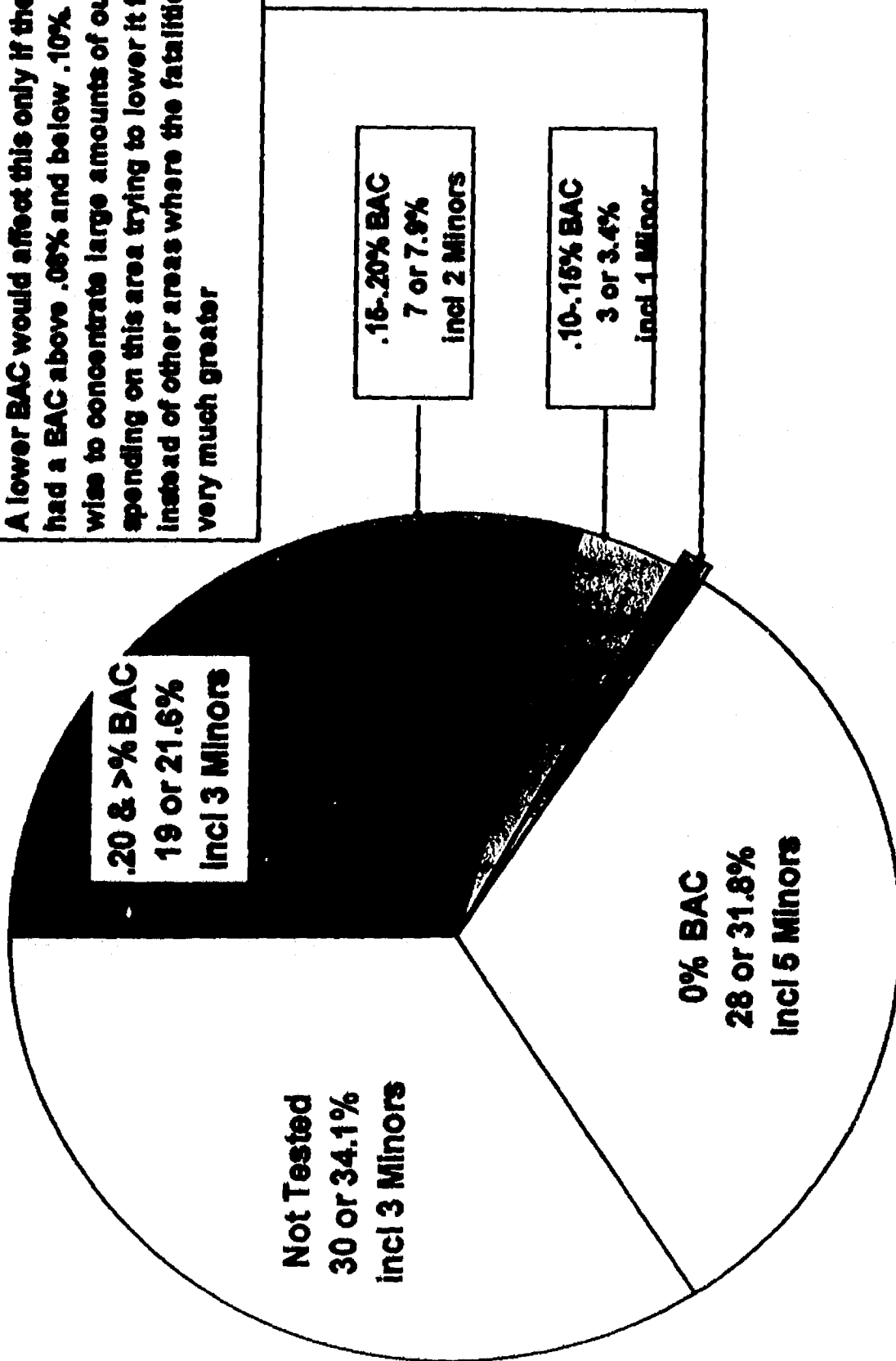
11 (9)\*  
 Measurable BAC 6 or 67%  
 BAC of 0.05% or higher 6 or 67%  
 BAC of 0.10% or higher 6 or 67%  
 BAC of 0.15% or higher 5 or 56%  
 BAC of 0.20% or higher 3 or 33%  
 Not tested -----> No Entry  
 No Alcohol in Body-----> No Entry

**Per our calculations with omitted Data**

(88)  
 Measurable BAC 0 or 0.0%  
 BAC of 0.05% to .010% 0 or 0.0%  
 BAC of 0.10% to .015% 1 or 1.1%  
 BAC of 0.15% to .020% 2 or 2.3%  
 BAC of 0.20% or higher 3 or 3.4%  
 Not tested -----> 2 or 2.3%  
 No Alcohol in Body-----> 3 or 3.4%

**ALL FATALITIES - % of Total, and BAC Relation - Minimal Impact of "LOWERING" the BAC to .08%**  
Includes 14 under 21 fatalities, 11 were drivers of which 6 had a BAC of .10 or greater

**.01-.10% BAC, 1 or 1.1% of Fatalities**  
A lower BAC would affect this only if the person had a BAC above .08% and below .10%. Are we wise to concentrate large amounts of our tax spending on this area trying to lower it further instead of other areas where the fatalities are so very much greater



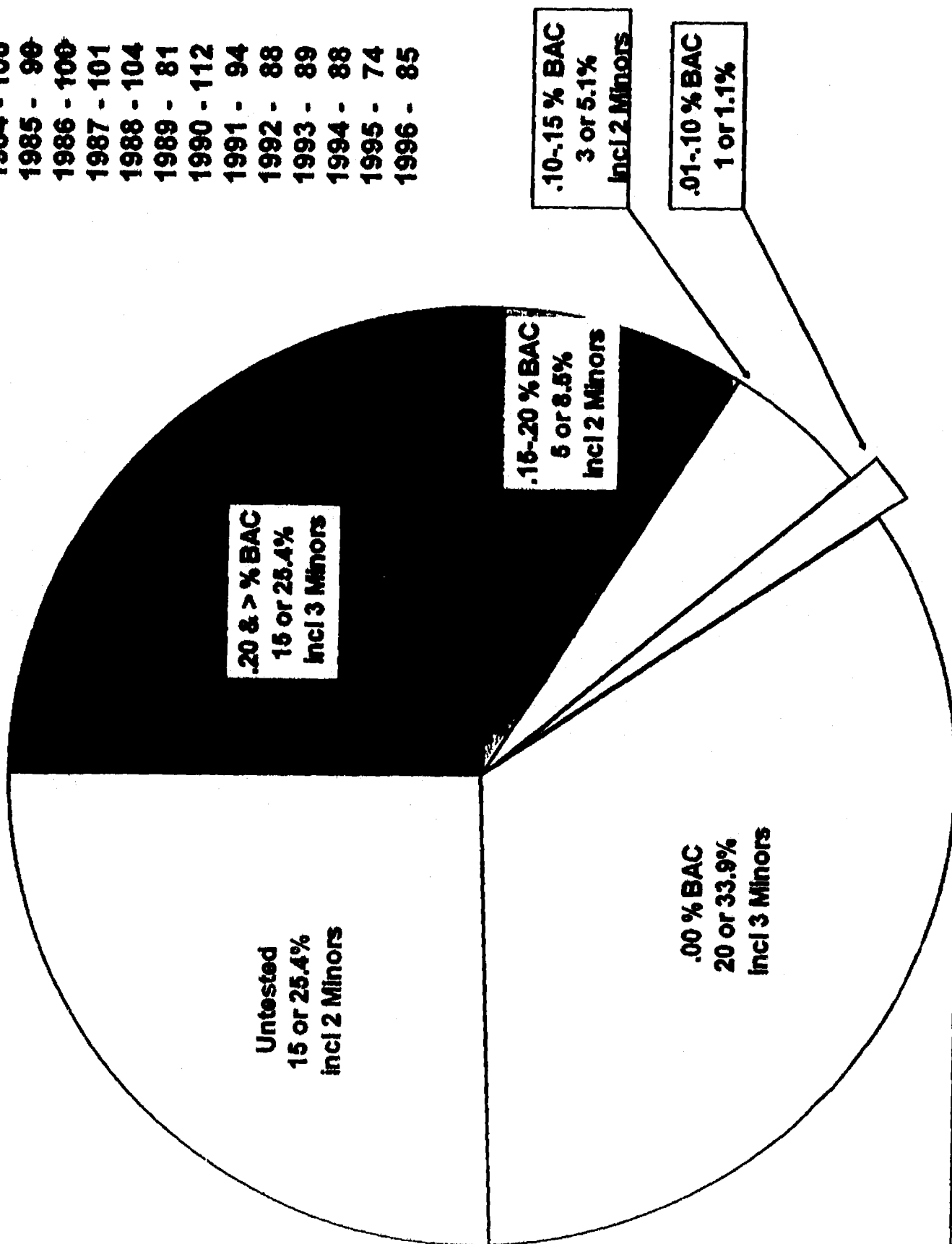
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*Dannan Hall*  
Operator's Signature

10/2/03  
Date

# ND "DRIVER" 1992 Fatalities 59 or 67.1% of Total

⇒ All Fatalities  
 1984 - 100  
 1985 - 90  
 1986 - 100  
 1987 - 101  
 1988 - 104  
 1989 - 81  
 1990 - 112  
 1991 - 94  
 1992 - 88  
 1993 - 89  
 1994 - 88  
 1995 - 74  
 1996 - 85



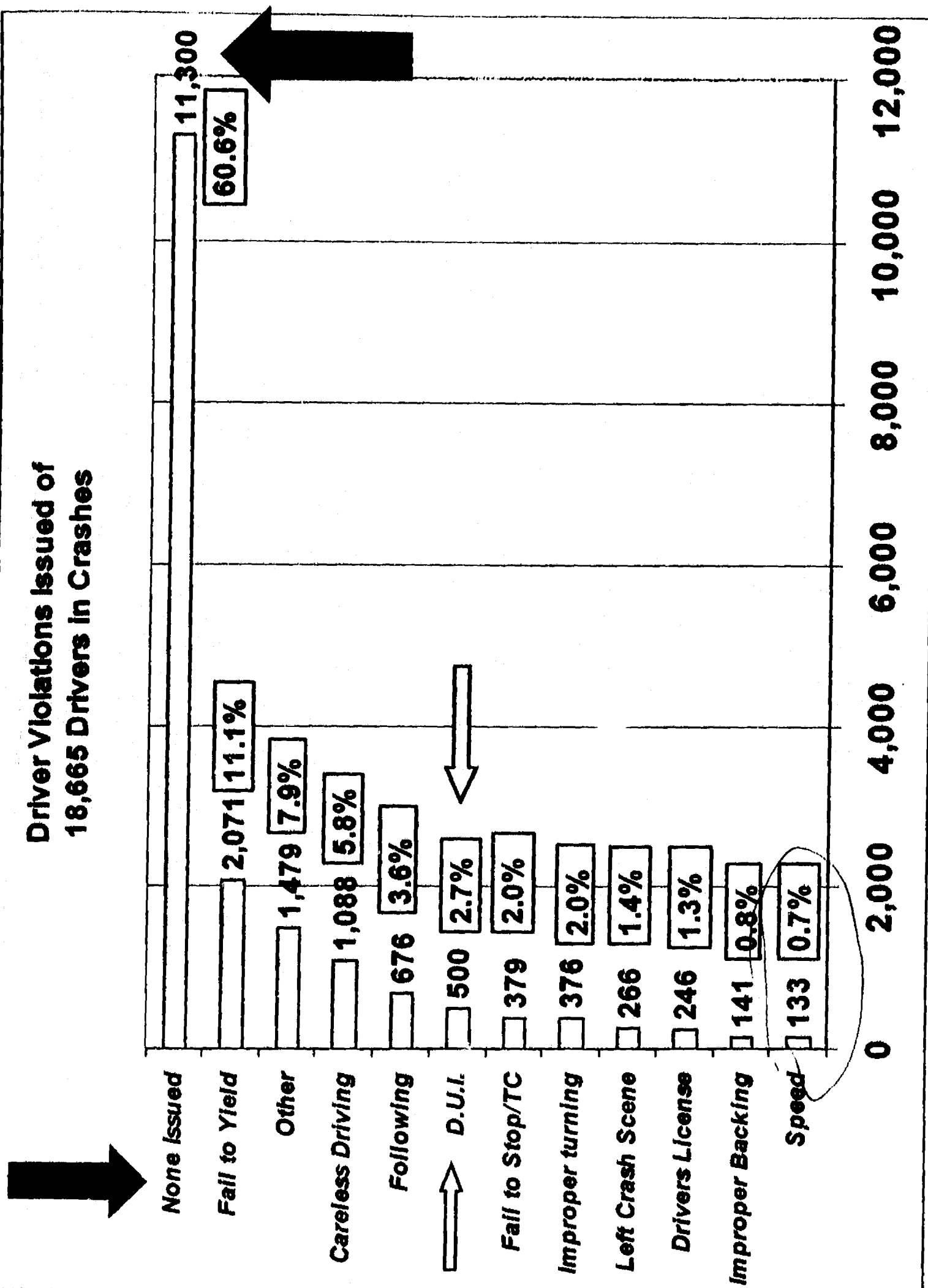
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Operator's Signature *Deanna Hall*

Date 10/2/03



# Driver Violations Issued of 18,665 Drivers in Crashes



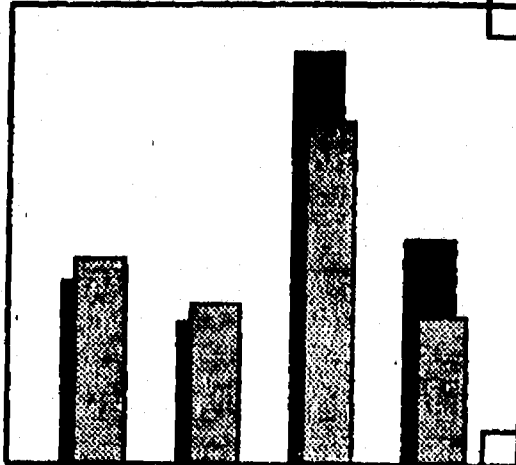
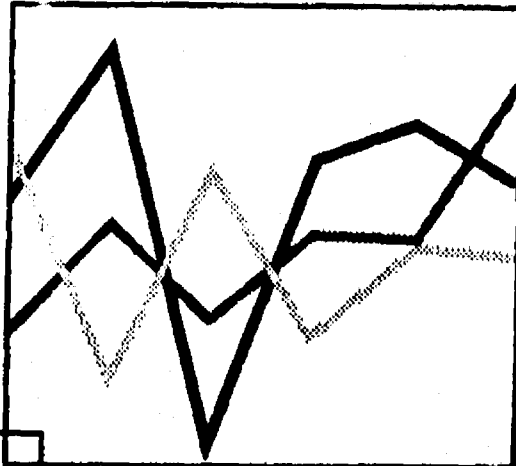
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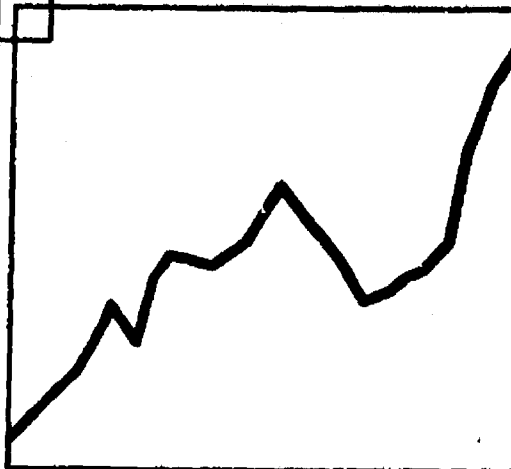
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# NORTH DAKOTA

## VEHICLE CRASH FACTS



**1993**



**Drivers License and Traffic Safety Division  
North Dakota Department of Transportation**

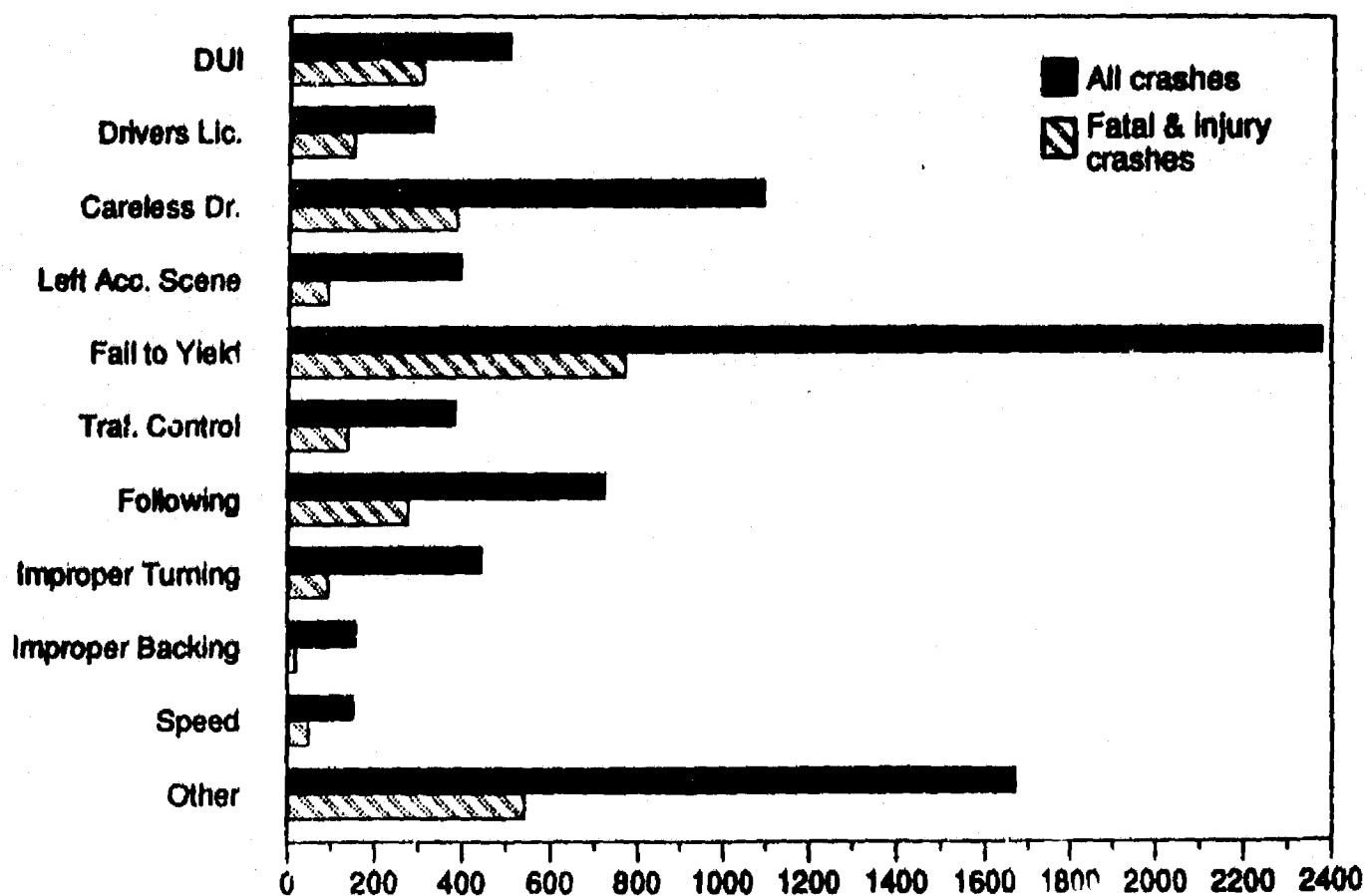
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Operator's Signature

10/2/03  
Date

## DRIVER VIOLATION – 1993 CRASHES

Violation	All Crashes	Fatal and Injury Crashes
DUI	503 or 6.1%	304 or 10.9%
Drivers License	327 or 4.0%	147 or 5.3%
Careless Driving	1,089 or 13.3%	383 or 13.7%
Left Acc. Scene	392 or 4.8%	87 or 3.1%
Fall to Yield	2,378 or 29.0%	767 or 27.5%
Traffic Control	379 or 4.6%	135 or 4.8%
Following	721 or 8.8%	274 or 9.8%
Improper Turning	441 or 5.8%	90 or 3.2%
Improper Backing	154 or 1.9%	17 or 0.6%
Speed	150 or 1.8%	46 or 1.6%
Other	1,670 or 20.4%	540 or 19.4%
<b>TOTALS</b>	<b>8,204</b>	<b>2,790</b>



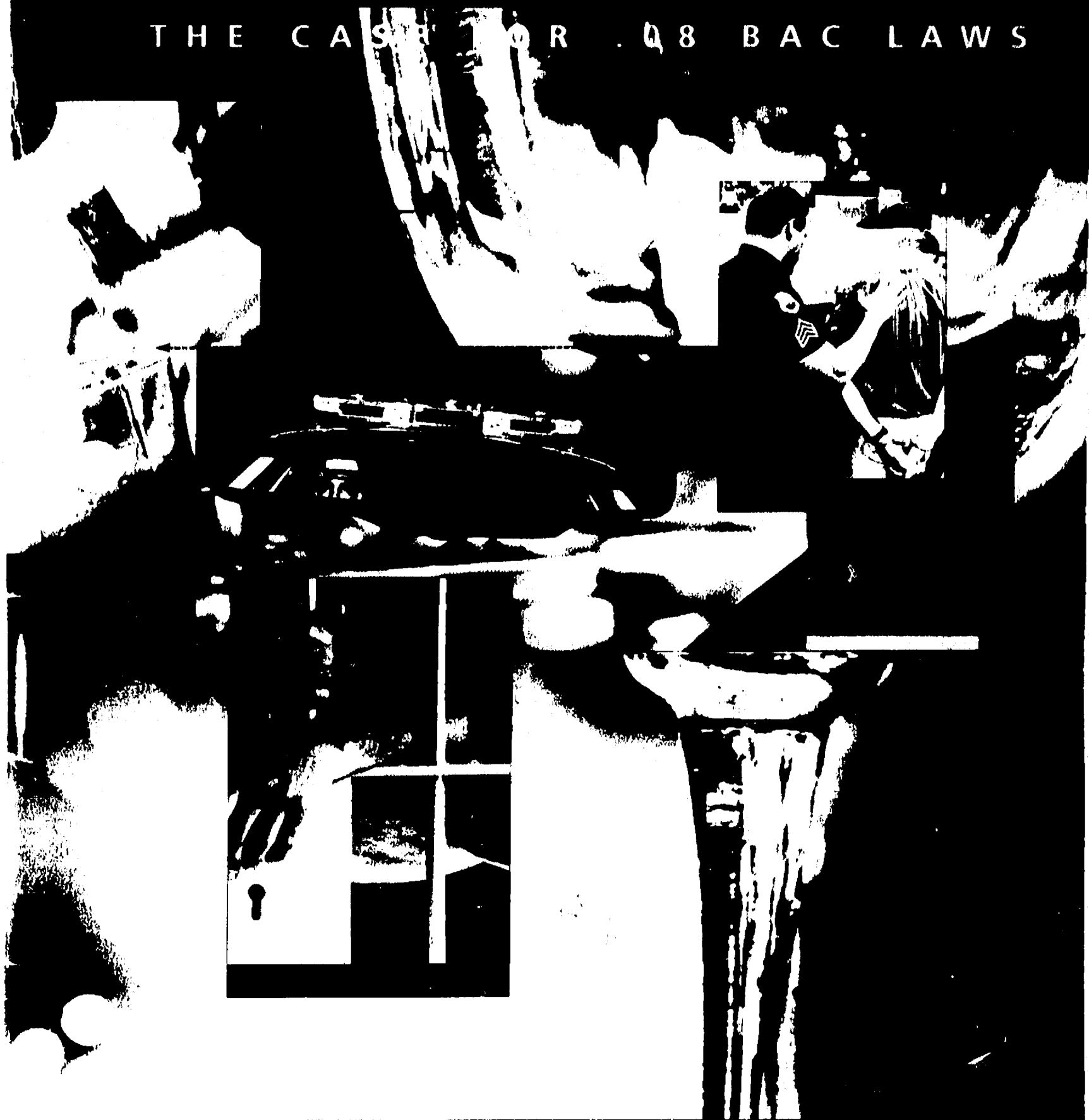
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# Setting Limits, Saving Lives

THE CASE FOR Q8 BAC LAWS



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*Dennis H. [Signature]*  
Operator's Signature

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*Donna G. Smith*  
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Date

## SECTION 1

### INTRODUCTION

**E**very 33 minutes someone in this country dies in an alcohol-related crash. In the time it takes you to read this booklet, someone else will die needlessly.

#### BACKGROUND

In 1995, the National Highway Traffic Safety Administration (NHTSA) held a national summit with state and community leaders to create a new comprehensive strategy to reduce impaired driving nationwide. In 1998, The President addressed the Nation on setting new standards to prevent impaired driving. The President called for the promotion of a national legal limit, under which it would be illegal *per se* to operate a motor vehicle with a blood alcohol concentration (BAC) of .08 or higher, across the country, including federal property.

The President directed the Secretary of Transportation to work with Congress, other agencies, the states, and other concerned safety groups to develop a plan to promote the adoption of .08 BAC limit. NHTSA, as the lead agency, in partnership with other agencies and organizations developed an implementation plan. The plan *Partners in Progress: An Impaired Driving Guide for Action* established a national goal to reduce alcohol-related motor vehicle fatalities to no more than 11,000 by the year 2005.

The plan has four key components:

- Enact strong legislation to include .08 BAC
- Develop effective public education programs
- Embrace active, high visibility law enforcement
- Build public-private partnerships

#### OVERVIEW OF THE PROBLEM

Impaired driving is the most frequently committed violent crime in America. Every 33 minutes, someone in this country dies in an alcohol-related crash. In the time it takes you to read this booklet, someone else will die needlessly.

For many years, we were making good progress. Due to the tireless efforts of many organizations and citizens around the country, alcohol-related traffic deaths decreased significantly. In the last decade, alcohol-related fatalities dropped from 23,630 in 1988 to 15,786 in 1999, according to NHTSA.

This 33% drop in alcohol-related deaths is generally attributed to:

- Stronger laws,
- Tougher enforcement, and
- Effective public education.

Today, Americans better understand the impaired driving problem, fewer are driving after drinking, and more are getting caught when they do.

While alcohol-related fatalities have decreased the past four years (after an increase in 1995), alcohol involvement is still the single greatest factor in motor vehicle deaths and injuries. Only about 5% of all crashes involve the use of alcohol, but 38% of fatal crashes do.

15,786 deaths in one year is 15,786 grieving families too many. But the carnage doesn't end there. In addition to these tragic deaths, another one million people are injured in alcohol-related traffic crashes annually. And these crashes cost society over \$45 billion every year for things like:

- Emergency and acute health care costs,
- Long-term care and rehabilitation,
- Police and judicial services,
- Insurance,
- Disability and workers' compensation,
- Lost productivity, and
- Social services for those who cannot return to work and support their families.

Just one alcohol-related fatality is estimated to cost society \$950,000. Each alcohol-related injury averages \$20,000. Eventually, we all bear the costs of these deadly actions, through tax-payer supported services and programs, higher insurance costs and even higher prices on goods and services, since employers pick up about half the costs associated with motor vehicle crashes.

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**"TERMINOLOGY"**

**T**he phrase "drunk driving," while still common in everyday language and completely understandable, is not used as a legal term since many drivers who are part of the problem do not exhibit visible outward signs of drunkenness.

"Impaired driving" in general means driving while abilities are impaired by alcohol or drugs. "Driving while intoxicated" (DWI) or "Driving under the influence" (DUI) means driving while under the influence of alcohol or drugs. In general, this booklet will use the term impaired driving to describe the overall problem and DWI to describe the crime of driving while over the legal limit or under the influence of alcohol or other drugs.

**WE KNOW WHAT WORKS**

We know what works to reduce the incidence of impaired driving - a combination of:

- effective laws,
- strong enforcement, and
- highly visible public information and education.

The successes of the past two decades can be attributed to all of these factors combining to change people's behavior. We've made some real progress, thanks to grassroots organizations, citizen activists, national highway safety and public health groups, concerned legislators and other elected leaders, involved industries and millions of people with plain old common sense.

"One for the road" used to be the standard and the antics of a drunk used to be considered funny. Now we've made changes in the way we look at impairment. Many of us have changed our behavior as well, either by moderating our drinking if we must drive or designating a driver before alcohol is consumed. Party hosts are more cautious and guests look

out for one another. And the hospitality industry has made a commitment to training servers to recognize the signs of impairment.

Impaired driving has been reduced since the early 80s but it is still an enormous problem. There is more we can do, and it all begins with effective laws.

**KEY LAWS THAT EVERY STATE NEEDS**

There are four key laws that have been proven effective in the fight against impaired driving (see chart, "State Anti-Impaired Driving Laws," page 6). It is important to understand what each is and how it works, both alone and together with other laws.

**Illegal per se** - An illegal per se law makes it illegal in and of itself to drive with an alcohol concentration measured at or above the established illegal level. Forty-nine states have established a per se law (the exception is Massachusetts). In 26 of those states, the legal limit is .10% blood alcohol concentration (BAC) per se. That means it is against the law to drive a motor vehicle if you have a BAC of .10 or more, whether or not you exhibit visible signs of intoxication. Twenty-four other states, DC and Puerto Rico have established BAC as the illegal limit (see chart, "States with BAC Per Se Laws," page 5).

**Administrative license revocation (ALR)** - An ALR law gives state officials the authority to suspend administratively the license of any driver who fails or refuses to take a BAC test. Notice of the suspension is given immediately, although a temporary permit is usually issued. The permit is valid from 7-45 days, depending on the state. During that time, the accused person can appeal through administrative channels. If no appeal is filed, the license is then automatically suspended for a prescribed period of time. Suspensions range from seven days to six months for first-time offenders, again depending on the state, and are longer for repeat offenders. ALR laws do not replace criminal prosecution, and their constitutionality has been consistently upheld whenever challenged. As of late 2000, 40 states plus DC had ALR laws.

**Zero tolerance** - Zero tolerance laws make it illegal for drivers under age 21 to drive with any measurable amount of alcohol in their system, regardless of the BAC limit for older drivers. Since it is illegal in every state for those under 21 to purchase or publicly possess

alcoholic beverages, it makes sense that no amount of alcohol should be tolerated for drivers under that age. Many states have set the limit for underage drivers at .02 BAC (some at .00 and .01). This helps reduce legal challenges that claim mouthwash, gum or cold medicine are somehow responsible for a positive but very low BAC reading (there is no evidence that such substances affect the standard breath analysis tests when they are conducted properly or that other challenges about the accuracy of alcohol detection equipment are valid). By late 1999, all 50 states plus DC had zero tolerance laws for youth. States that did not have zero tolerance laws for youth by 1998 faced a federal sanction of the withholding of highway construction funds.

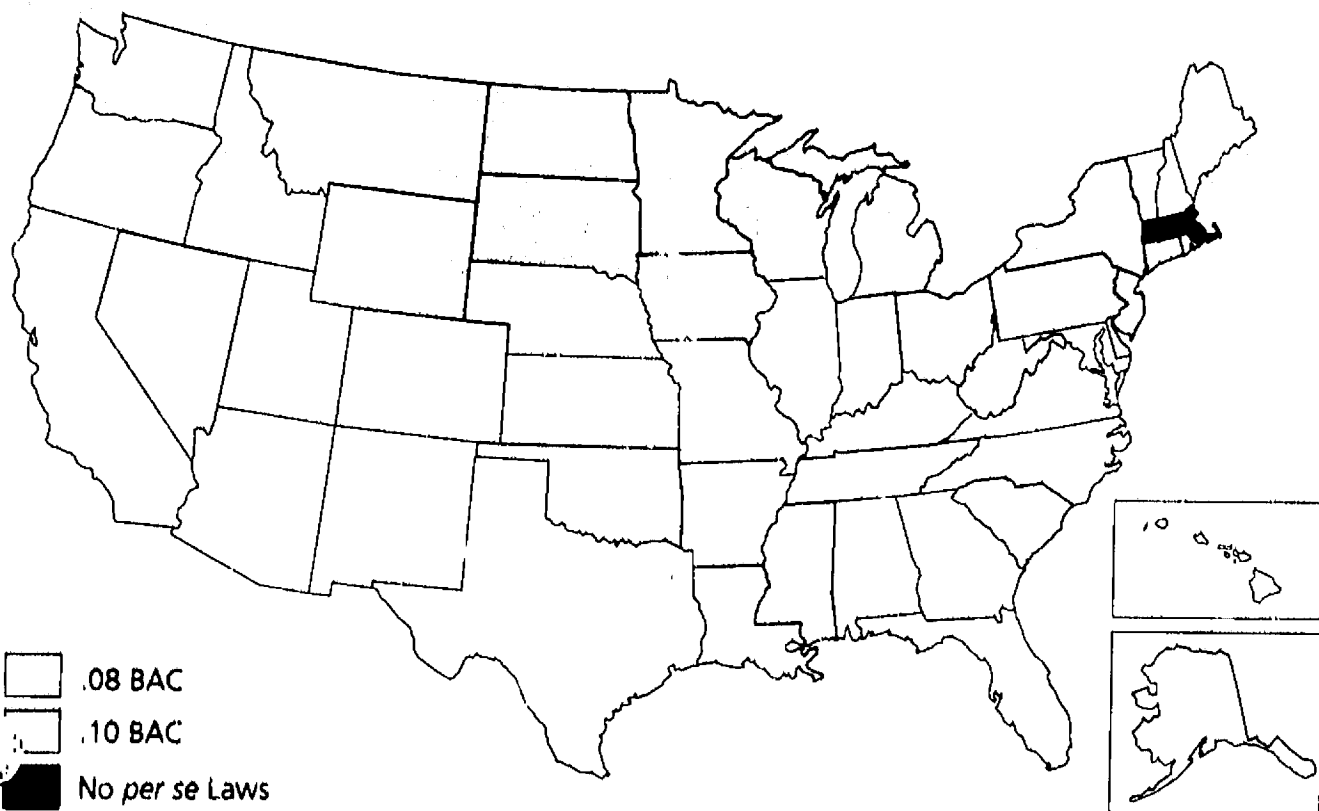
**.08 BAC** - .08 establishes a lower limit to define intoxication for all drivers. Lowering the BAC limit to .08 sets the illegal limit at a point at which driving skills are proven to be compromised. At .08 BAC, virtually all drivers, even experienced drinkers, show impairment in driving ability. For the great majority, there is serious deterioration in driving performance at .08. Although virtually all highway safety groups and transportation safety agencies support .08, only 24 states, plus DC

and Puerto Rico (see chart below) have adopted such laws as of April 2001. Some organizations in the alcohol and hospitality industries vigorously oppose .08 legislation whenever it is proposed.

In addition to these four key laws, the National Safety Council and NHTSA (along with many other organizations and agencies) encourage other anti-impaired driving steps such as:

- The use of sobriety checkpoints and saturation patrols by law enforcement agencies, coupled with high levels of publicity;
- Increased enforcement for underage drinking and driving;
- Graduated driver licensing programs for new, young drivers;
- The use of designated driver and safe ride programs;
- Responsible server programs;
- Public education; and
- Continued research to find new and better ways to combat impaired driving.

#### STATES WITH BAC PER SE LAWS



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## SECTION 1 - INTRODUCTION

## "STATE ANTI IMPAIRED DRIVING LAWS"

State	BAC per se level	ALR	Zero Tolerance*	.08 B1
Alabama	.	.	.	.
Alaska	.	.	.	.
Arizona	.	.	.	.
Arkansas	.	.	.	.
California	.	.	.	.
Colorado	.	.	.	.
Connecticut	.	.	.	.
Delaware	.	.	.	.
District of Columbia	.	.	.	.
Florida	.	.	.	.
Georgia	.	.	.	.
Hawaii	.	.	.	.
Idaho	.	.	.	.
Illinois	.	.	.	.
Indiana	.	.	.	.
Iowa	.	.	.	.
Kansas	.	.	.	.
Kentucky	.	.	.	.
Louisiana	.	.	.	.
Maine	.	.	.	.
Maryland	.	.	.	.
Massachusetts	.	.	.	.
Michigan	.	.	.	.
Minnesota	.	.	.	.
Mississippi	.	.	.	.
Missouri	.	.	.	.
Montana	.	.	.	.
Nebraska	.	.	.	.
Nevada	.	.	.	.
New Hampshire	.	.	.	.
New Jersey	.	.	.	.
New Mexico	.	.	.	.
New York	.	.	.	.
North Carolina	.	.	.	.
North Dakota	.	.	.	.
Ohio	.	.	.	.
Oklahoma	.	.	.	.
Oregon	.	.	.	.
Pennsylvania	.	.	.	.
Rhode Island	.	.	.	.
South Carolina	.	.	.	.
South Dakota	.	.	.	.
Tennessee	.	.	.	.
Texas	.	.	.	.
Utah	.	.	.	.
Vermont	.	.	.	.
Virginia	.	.	.	.
Washington	.	.	.	.
West Virginia	.	.	.	.
Wisconsin	.	.	.	.
Wyoming	.	.	.	.
TOTAL	49	40+DC	50+DC	24 STATES + DC and Puerto Rico

\*Zero tolerance is defined as .02 or less for all drivers under age 21.

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## SECTION 2

### WHAT IS .08?

SECTION 2 - WHAT IS .08?

#### "A DRINK IS A DRINK IS A DRINK"

*1 drink equals .54 ounces of alcohol. This is the approximate amount found in: one shot of distilled spirits, or one can of beer, or one glass of wine.*

#### MEASURING IMPAIRMENT

The amount of alcohol in a person's body is measured by the weight of the alcohol in a certain volume of blood. This is called the blood alcohol concentration, or "BAC." Because the volume of blood varies with the size of a person, BAC establishes an objective measure to determine levels of impairment.

The measurement is based on grams per deciliter (g/dl), and in most states a person is considered legally intoxicated if his or her BAC is .10 g/dl or greater;

Thus, alcohol makes up one-tenth of one percent of a person's blood.

A driver's BAC can be measured by testing the blood, breath, urine or saliva. Breath testing is the primary method used by law enforcement agencies. Preliminary breath testing can be performed easily during a roadside stop using a hand-held device carried by law enforcement officers. It is non-invasive and can even be performed while the person is still in his or her vehicle.

Evidentiary breath testing equipment is evaluated for precision and accuracy by NHTSA. Test instruments approved by NHTSA as conforming to specifications are accurate within plus or minus .005 of the true BAC value.

#### STATE BAC LEVELS

All states but one (Massachusetts) have established BAC *per se* levels. Twenty-four of those states plus the District of Columbia and Puerto Rico have set that level at .08. For more state-specific data, see the chart "The State of the States," on next page.

#### FEDERAL .08 BAC LAW

In 1998, a plan was developed by NHTSA and its partners which encouraged states to promote and adopt a .08 BAC illegal *per se* limit, at or above which it is unlawful to drive a motor vehicle. The plan included: 1) setting a .08 BAC standard on federal property, including national parks and Department of Defense installations; 2) encouraging tribal governments to adopt, enforce, and publicize .08 BAC; and 3) developing an education campaign to help the public understand the risks associated with combining alcohol and driving. As a follow-up in November 1999, NHTSA published a status report of accomplishments to date on the .08 BAC national plan (DOT HS 808 000A).

Legislation was first introduced in 1997 which would have required all states to enact and enforce .08 laws or face reductions in federal highway construction funds. In 1998 Congress passed the Transportation Equity Act for the 21st Century (TEA-21) authorizing highway, highway safety and other programs for the next six years. While TEA-21 did not establish .08 as the standard for impaired driving nationwide, it did provide \$500 million of incentive grants over six years to states that have enacted and are enforcing a .08 *per se* law.

In October 2000, Congress passed .08 BAC as the national standard for impaired driving as part of the Transportation Appropriations Bill. States that don't adopt .08 BAC laws by 2004 would have 2% of certain highway construction funds withheld, with the penalty increasing to 8% by 2007. States adopting the standard by 2007 would be reimbursed for any lost funds. This bill was signed on October 23, 2000.

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## "THE STATE OF THE STATES"

State	BAC per se level	# of Fatalities (1999)	Percent alcohol-rel.
Alabama	.08	1,138	38
Alaska	.10	76	53
Arizona	.08	1,024	40
Arkansas	.08	604	31
California	.08	3,559	38
Colorado	.10	626	35
Connecticut	.10	301	45
Delaware	.10	100	40
District of Columbia	.08	41	53
Florida	.08	2,918	36
Georgia	.08	1,508	34
Hawaii	.08	98	44
Idaho	.08	278	37
Illinois	.08	1,456	44
Indiana	.10	1,013	34
Iowa	.10	490	33
Kansas	.08	537	35
Kentucky	.08	814	35
Louisiana	.10	924	46
Maine	.08	181	32
Maryland	.08	590	30
Massachusetts	.	414	49
Michigan	.10	1,382	40
Minnesota	.10	625	32
Mississippi	.10	927	39
Missouri	.10	1,094	40
Montana	.10	220	47
Nebraska	.08	295	42
Nevada	.10	350	45
New Hampshire	.08	141	47
New Jersey	.10	727	40
New Mexico	.08	460	45
New York	.10	1,548	22
North Carolina	.08	1,505	36
North Dakota	.10	119	47
Ohio	.10	1,430	32
Oklahoma	.10	739	33
Oregon	.08	414	41
Pennsylvania	.10	1,549	39
Rhode Island	.08	88	41
South Carolina	.10	1,065	31
South Dakota	.10	150	43
Tennessee	.10	1,285	38
Texas	.08	3,518	49
Utah	.08	360	21
Vermont	.08	90	38
Virginia	.08	877	36
Washington	.08	634	42
West Virginia	.10	395	37
Wisconsin	.10	745	41
Wyoming	.10	189	37
U.S. Total		41,611	38

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## SECTION 3

### EFFECT OF BAC ON TRAFFIC CRASHES

#### SECTION 3 - EFFECT OF BAC ON TRAFFIC CRASHES

**S**etting the BAC limit at .08 is a reasonable response to the problem of impaired driving.

#### THE EFFECT OF ALCOHOL ON ABILITY

**W**ith each drink consumed, a person's blood alcohol concentration increases. Although the outward appearances vary, virtually all drivers are substantially impaired at .08 BAC. Laboratory and on-road research shows that the vast majority of drivers, even experienced drinkers, are significantly impaired at .08 with regard to critical driving tasks such as braking, steering, lane changing, judgment and divided attention. In a recent study of 168 drivers, every one was significantly impaired with regard to at least one measure of driving performance at .08 BAC. The majority of drivers (60-94%) were impaired at .08 BAC in any one given measure. This is regardless of age, gender, or driving experience (see chart, "BAC and Areas of Impairment," at right).

The risk of being in a motor vehicle crash also increases as the BAC level rises. The risk of being in a crash rises gradually with each BAC level, but then rises very rapidly after a driver reaches or exceeds .08 BAC compared to drivers with no alcohol in their system.

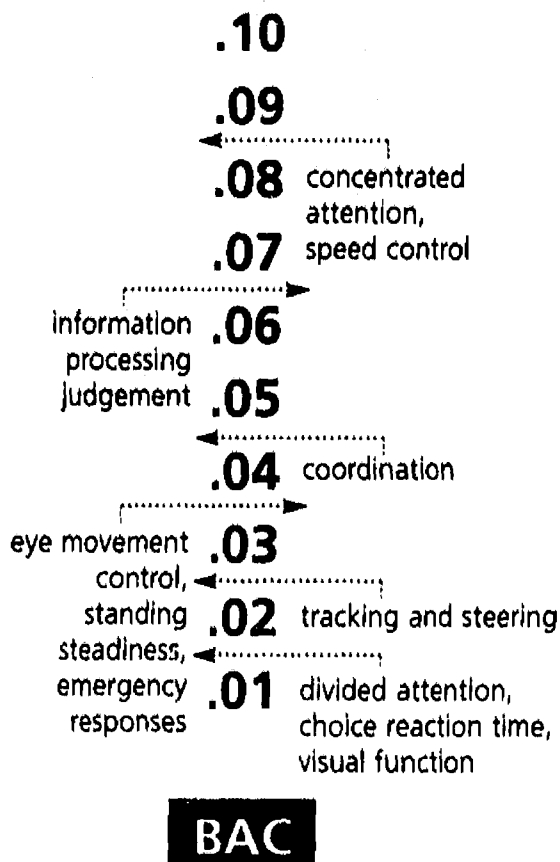
A recent NHTSA study indicates that between .08 and .10 BAC, the relative risk of a fatal single vehicle crash varied between 11% (drivers 35 and older) and 52% (male drivers age 16-20).

#### .08 SETS A REASONABLE LIMIT

Setting the BAC limit at .08 is a reasonable response to the problem of impaired driving. At .08, virtually everyone is impaired to the point that driving skills are degraded. Research has provided clear and consistent evidence that .08 laws, particularly in combination with ALR laws are associated with reductions in alcohol-related fatal crashes and fatalities. Most states that

have lowered their BAC to .08 have found a measurable drop in impaired driving fatalities, as have many industrialized countries that have adopted BAC limits of .08 and lower (see chart, "BAC Levels in Other Countries," on page 12). .08 also impacts even heavy drinkers, who account for a high percentage of DWI arrests. At the same time, lowering the BAC limit to .08 makes it possible to convict seriously impaired drivers whose BAC levels would otherwise be considered marginal because they are at, or just over, .10.

#### "BAC AND AREAS OF IMPAIRMENT"



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## SECTION 4

### THE CASE FOR .08 BAC LAWS

## SECTION 4 - THE CASE FOR .08 BAC LAWS

**T**he science is clear. At .08, you are impaired, and you should not be driving. .08 BAC laws work.

Research studies provide consistent and persuasive evidence of impact.

- The research is clear. Virtually all drivers are significantly impaired at .08 BAC. A 1988 NHTSA review of 177 studies documented this impairment. In 2000 NHTSA released a review of 112 more recent studies which provided additional evidence of impairment at .08 BAC. Thus, nearly 300 studies have shown that, at .08 BAC, virtually all drivers are impaired with regard to critical driving tasks such as divided attention, complex reaction time, steering, lane changing and judgement.
- A new comprehensive laboratory study provides what perhaps the clearest laboratory evidence to date of the significant impairment that exists in all measures of performance by .08 BAC. In addition, this study finds that impairment exists in relatively equal levels among all age groups, sexes, and drinker types. This study, which employed a driving simulator and special divided attention test was conducted by the Southern California Research Institute, Human Factors North, and Westat Inc., all well-respected firms in the traffic safety research community.
- Another reason for supporting .08 BAC laws is because they are effective in reducing alcohol-related fatal crashes. At least nine independent studies have now been conducted, covering nearly all of the states that have enacted .08 BAC laws. These studies have consistently shown that .08 BAC laws are associated with reductions in alcohol-related fatalities, particularly in conjunction with ALR laws, already in place in 40 states. The newest studies are listed below.
  - In 1999, NHTSA released three comprehensive studies on the effectiveness of .08 BAC laws. These studies found persuasive evidence that .08 BAC laws are associated with alcohol-related fatal crashes.
  - Another study was released in 2000 by a Boston University research group. This study found an overall 6 percent impact of the laws in six states which enacted .08 BAC laws in 1993 and 1994.
  - In September 2000, NHTSA released a study on the effectiveness of the .08 BAC law implemented in Illinois in 1997. This study found that the new law was associated with a 13.7 percent decline in the number of drinking drivers involved in fatal crashes. The reduction included drivers at both high and low BAC levels. This is significant because critics of .08 BAC laws have often claimed that they do nothing to affect high BAC drivers. The study also found that there were no major problems reported by law enforcement or sanctioning systems.
  - A 1999 report by the Government Accounting Office (GAO) reviewed the studies available at that time and found strong indications that .08 BAC laws, in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement, can save lives.
  - An Independent, non-federal, Task Force on Community Preventive Services, supported by the Department of Health and Human Services has completed a systematic review of studies of BAC laws. The Task Force unanimously agreed that the evidence for the effectiveness of .08 BAC laws is strong. The review found that .08 BAC laws consistently resulted in declines in crash fatalities in states in which they were implemented. This in-depth review found a median (7 percent) decline in measures related to alcohol-related fatalities associated with these laws.

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**IMPAIRED DRIVING AFFECTS US ALL**

About two out of every five Americans will be involved in an alcohol-related crash at some time in their lives, and many of them will be innocent victims. There is no such thing as a drunk driving accident. Virtually all crashes involving alcohol could have been avoided if the impaired person were sober.

As BAC levels rise, so does the risk of being involved in a fatal crash. Recent research has shown that, in single vehicle fatal crashes, the relative fatality risk for drivers with BACs between .08 and .10 is at least eleven times greater than for drivers with a BAC of zero and is 52 times greater for young males.

**STATES HAVE THE RESPONSIBILITY**

In the United States, BAC limits are set by states. The limit of .10 found in most states is the highest in the industrialized world (see chart, "BAC Levels in Other Countries, at right).

An eleven state study also examined the effects of .08 BAC and ALR laws. It found that .08 BAC legislation was associated with reductions in alcohol-related fatalities, alone or in conjunction with ALR laws, in seven of the eleven states studied. In five of these states (VT, KS, NC, FL, NM), implementation of the .08 BAC law itself was associated with significantly lower rates of alcohol-related fatalities. These results take into account any pre-existing downward trends the states were already experiencing, due to other factors such as the presence of other laws, use of sobriety checkpoints, etc. In two states (CA and VA), significant reductions were associated with the combination of .08 BAC and ALR laws, implemented within 6 months of each other. This study also found evidence of reduced alcohol (beer) consumption in several states following implementation of .08 laws.

Another study analyzed the effects of a .08 BAC law implemented in 1993 in North Carolina, a state which had already been experiencing a sharp decline in alcohol-related fatalities since 1987. This study concluded that there was little clear effect of the lower BAC limit. Results from various analyses suggested that some reductions may have been associated with the law but the magnitude of these effects was not sufficient to make this conclusion.

NHTSA, the federal agency charged with the safety of motor vehicles and our nation's highway safety, has long supported .08 state laws. In a 1992 Report to Congress, the agency recommended that all states lower their illegal per se limit to .08 for all drivers 21 years and above. (NHTSA supports zero tolerance for drivers under the legal drinking age - see Section 1 for more information.) Numerous other federal agencies with an interest in public health and safety issues, as well as dozens of private sector organizations, support NHTSA's call for universal .08 state laws (see box, "Who Supports .08 BAC Laws?", page 13).

**BAC LEVELS IN OTHER COUNTRIES**

<b>Austria</b>	<b>.08</b>
<b>Australia</b>	<b>.05</b>
<b>Canada</b>	<b>.08</b>
<b>Finland</b>	<b>.05</b>
<b>United Kingdom</b>	<b>.08</b>
<b>Netherlands</b>	<b>.05</b>
<b>Norway</b>	<b>.05</b>
<b>Sweden</b>	<b>.02</b>
<b>Switzerland</b>	<b>.08</b>

**WHY SOME STATES DON'T HAVE .08**

As a public policy to deter impaired driving, .08 has lagged behind other countermeasures such as per se, administrative license revocation and zero tolerance for those under 21. Nearly all states have per se, the vast majority have ALR and all have zero tolerance.

But the passage of new .08 laws has been slow, despite consistent evidence that these laws are effective. Some organizations in the alcohol and hospitality industries oppose any and all such proposals at the state level. This is both sad and ironic, since these industries have not only been strong supporters of many other anti-impaired driving laws, but have also been crucial partners in getting safety messages out to hard-to-reach audiences.

Promotions such as designated driver programs and (13) ride/call-a-cab efforts showcase their concern, and generate enormous goodwill from the general public and raise awareness. It is tragic that some of the same companies and trade associations that have launched excellent server training programs, public information campaigns and other efforts to reduce impaired driving so vigorously oppose legislation when it comes to .08 (see box, "What the Hospitality Industry Can Do," on page 18).

A 1999 report by the General Accounting Office (GAO), which reviewed the available .08 BAC studies, stated that, while the evidence of impact of .08 BAC laws is not conclusive, "there are strong indications that .08 BAC laws, in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement, can save lives."

GAO is correct in concluding that a .08 BAC law can be an important component of a state's overall highway safety program. Highway safety research shows that the best countermeasure against drunk driving is a combination of laws, including .08 BAC, sustained public education, and vigorous enforcement. As GAO stated, "there are strong indications that .08 BAC laws, when added to existing laws and programs, are associated with reductions in alcohol-related fatalities."

With regard to whether the studies are "conclusive," it must be pointed out that all research is equivocal and therefore, by that definition, inconclusive. In context, however, particularly with the addition of the recently released studies conducted by NHTSA, the evidence is consistent and convincing that, in most states where .08 BAC laws have been added to existing impaired driver control efforts, they have been associated with reductions in alcohol-related fatalities.

#### THE TIME IS NOW

Research by NHTSA, the Boston University School of Public Health, and the California Department of Motor Vehicles have shown impaired driving reductions already attributable to .08, as well as the potential for saving additional lives when all states adopt .08 BAC laws. Not only would deaths and injuries go down, but costs would decline as well. Alcohol-related crashes cost society \$45 billion every year, not including pain, suffering, and lost quality of life. For more information on these costs, see Appendix A, "Facts on the Economic Issues".

#### WHO SUPPORTS .08 BAC LAWS?

Advocates for Highway and Auto Safety  
Allstate Insurance  
American Alliance for Rights and Responsibilities  
American Association of Motor Vehicle Administrators  
American Association of Neurological Surgeons  
American Automobile Association  
American Automobile Manufacturers Association  
American Coalition for Traffic Safety  
American Insurance Association  
American Medical Association  
American Spinal Cord Injury Association  
American Spinal Injury Association  
American Trucking Associations  
Association for the Advancement of Automotive Medicine  
Center for Substance Abuse Prevention, U.S. Department of Health and Human Services  
Daimler Chrysler Corporation  
Federal Highway Administration  
Ford Motor Company  
Insurance Information Institute  
Insurance Institute for Highway Safety  
International Association of Chiefs of Police  
Kemper Insurance Group  
Mothers Against Drunk Driving (MADD)  
National Association of Governors' Highway Safety Representatives  
National Commission Against Drunk Driving  
National Committee on Uniform Traffic Laws and Ordinances  
National District Attorneys Association  
National Institute for Alcohol Abuse and Alcoholism  
National Safety Council  
National Sheriffs' Association  
Nationwide Insurance  
Operation Lifesaver  
Remove Intoxicated Drivers  
Students Against Destructive Decisions (SADD)  
The Century Council  
USAA Insurance  
U.S. Department of Justice  
U.S. Surgeon General

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## SECTION 5

### MYTHS ABOUT .08 BAC

## SECTION 5 MYTHS ABOUT .08 BAC

**A** .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink.

**M**yth about .08 abound, many proliferated by those who actively oppose .08 laws. Here are a few of the commonly heard myths, countered by research-based facts from the National Highway Traffic Safety Administration, academic and scientific institutions, and credible private sector organizations such as Mothers Against Drunk Driving.

#### MYTH:

"I know when I'm 'too drunk to drive' - I don't need to be concerned about my blood alcohol concentration."

**FACT:** Your driving skills can be seriously compromised even when your behavior is not observably "drunk." Alcohol causes impairment in reaction time, attention, tracking, comprehension and other skills essential for safe driving. Even when attempting to drive carefully, an impaired driver cannot compensate for those reduced abilities. In addition, alcohol affects your ability to judge whether or not you are impaired.

#### MYTH:

"The American public does not support .08 because most people have no idea how much alcohol it would take to put them over the legal limit."

**FACT:** According to several national surveys, most Americans would not drive after having two or three drinks in one hour. Therefore, most Americans would likely support .08.

#### MYTH:

".08 BAC legislation will not affect problem drinker drivers who have high BAC levels."

**FACT:** Research shows that .08 laws not only reduce the incidence of impaired driving at lower BACs, they also reduce the incidence of impaired driving at high BACs over .10 (Voas and Tippetts, 1999). A .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink. A .08 BAC law is a key part of a complete package to reduce impaired driving. While problem drinker drivers account for a significant part of the DWI problem, by far the majority of fatally injured drinking drivers had no prior alcohol-related offenses. A comprehensive anti-impaired driving program must use all available laws and programs to reduce DWI.

#### MYTH:

"Lowering the BAC limit to .08 places an unnecessary strain on the law enforcement community by forcing officers to monitor the behavior of currently legal drivers and pay less attention to the real problem, repeat offenders and those with high BACs."

**FACT:** Studies have indicated that lowering the *per se* limit to .08 does not place an unnecessary strain on law enforcement. Officers still must have probable cause to stop and test drivers to determine if they are impaired. A .08 law actually makes it easier for law enforcement to arrest drivers at .10 or .11 BACs because these are no longer "borderline" cases.

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**MYTH:**

**"If you start arresting people driving with a .08 BAC, you will clog up the court system."**

**FACT:** Even in large states, like California and Illinois, research has indicated that .08 BAC laws have had little impact on the state's judicial system. There has been no evidence of increases in the proportion of arrested drivers who plead guilty, request jury trials or appeal convictions. .08 is a deterrent to impaired driving, especially when coupled with other effective anti-DWI measures. Anything that reduces the incidence of DWI reduces the overall burden on society, including the judicial system.

**MYTH:**

**".08 is just the first step toward even lower BACs and eventually another attempt at prohibition."**

**FACT:** Widely accepted public health research has identified .05 as the BAC level at which driving skills begin to deteriorate. Because of this, some organizations - most notably the American Medical Association - officially support .05 as the safest limit. However, safety professionals generally do not believe such laws would have any reasonable chance politically in this country.

Even those organizations that have adopted such policies accept .08 as the best reasonable and acceptable compromise that will save lives, prevent injuries and reduce costs to society. The notion that safety organizations seek a return to prohibition is unfounded.

**MYTH:**

**"The United States General Accounting Office (GAO) says .08 BAC laws do not work."**

**FACT:** The GAO report stated the following: "Overall, the evidence does not conclusively establish that .08 BAC laws, by themselves, result in reductions in the number or severity of alcohol-related crashes." They went on to say: "There are, however, strong indications that .08 BAC laws in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives."

Of course, .08 BAC laws do not save lives "by themselves". They must be publicized, enforced, and work in combination with the other laws of the state. The research evidence consistently shows that, in aggregate, when states adopt .08 BAC laws, there are associated reductions in alcohol-related fatalities especially in combination with administrative license revocation laws which 40 states already have.



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## CONSUMER EDUCATION AND PUBLIC SUPPORT

**A** MADD/Gallup poll found that the vast majority of the American public considers drunk driving the number one major highway safety problem and most support tough laws and sanctions to reduce impaired driving.

## POLLS SUPPORT ANTI-DWI EFFORTS

**T**he American public overwhelmingly supports legislation and programs to curb impaired driving. In a poll conducted for Mothers Against Drunk Driving (MADD), the Gallup Organization found that the vast majority of the American public considers drunk driving the number one major highway safety problem and most support tough laws and sanctions to reduce impaired driving.

All of the approaches to deal with impaired driving do appear in public opinion polls, but the programs that have received more attention in the media and other public forums - ALR, zero tolerance, sobriety checkpoints and vehicle confiscation for repeat offenders - poll higher than .08. The likely reason is that people do not understand the technical aspects of how BACs are determined and what .08 means in real terms. When it comes to their own tolerance for alcohol and their own abilities, however, the American public is certain: most say they would not drive after consuming two or three drinks in one hour.

**.08 IS A PUBLIC HEALTH POLICY**

The challenge for .08 supporters is to help people make a connection between their own common sense and the public policy that would define impaired driving as .08. Clearly, the more people know about the problem and the potential solutions, the more they support changes to bring about those solutions. A .08 BAC law is a key part of any public health initiative that aims to reduce society's burden from impaired driving. Supporters of .08 have many allies and resources to call upon, both at the national level and in the states. A list of resource organizations is included in the appendix.

## HELP IS AVAILABLE

Federal and State Governments and several private sector organizations hold workshops, publish idea samplers and planners, and offer other helpful organizing tools that may help .08 supporters achieve their public policy goals.

## WHAT YOU CAN DO

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Contact information on these and other organizations is available in the appendix. Here are just a few suggestions:

**You Drink & Drive. You Lose.** - In December 1999, NHTSA launched the *You Drink & Drive. You Lose.* impaired driving prevention campaign. This campaign serves as the umbrella campaign for federal impaired driving initiatives aimed at achieving the *Partners in Progress* national goal of only 11,000 fatalities by 2005. The campaign is based on activity in four key areas: increasing public awareness through education; building public-private partnerships; enacting strong legislation; and staging highly visible enforcement efforts. And, in just one year, more than 100 million Americans have been exposed to the campaign through newspapers, magazines, radio, television and on the Internet.

The campaign was designed to create a sense of urgency about deterring impaired driving because impaired driving crashes have reached a plateau remaining fairly constant at the 16,000 fatality level. Also, it has been a number of years since the Agency has had a national impaired driving campaign. *You Drink & Drive. You Lose.* targets high risk populations such as; 21 to 34 year-olds, high BAC and repeat offenders, and underage drinkers.

As part of the campaign, partners like the National Association of Governors' Highway Safety Representatives and various national criminal justice and traffic safety organizations, such as MADD, AAA, and the National Safety Council, support the nationwide law enforcement mobilizations in July and December aimed at deterring impaired driving and arresting impaired drivers. Recent surveys indicate the majority of Americans endorse the use of enforcement techniques such as sobriety checkpoints and saturation patrols; these two strategies are prominently used during the two national mobilizations, as well as throughout the year.

NHTSA's long-term national public information campaign (television, radio and outdoor public service advertising), in partnership with the Ad Council, focuses on "innocent victims" - those who have perished due to drunk driving crashes. This campaign, *Friends Don't Let Friends Drive Drunk*, is being integrated into the *You Drink & Drive. You Lose.* overall campaign effort.

**Drunk and Drugged Driving (3D) Prevention Month Program Planner** - The annual 3D Planner is chock full of ideas and helpful information on organizing grassroots efforts around the December 3D Month

as well as other times of the year. For example, the Planner includes the *Designated Driver Community Action Guide* full of helpful information and tips for planning and promoting year-round community based designated driver programs, resources and media tools to help promote the December law enforcement mobilization, camera ready artwork, fact sheets and brochures. The Planner is produced by NHTSA in cooperation with a national coalition of anti-drunk driving organizations and is available through your NHTSA Regional Administrator.

**Mothers Against Drunk Driving** - MADD offers many resources to local activists through chapters in every state, including Impaired Driving Issues Workshops, publications and training materials, victim support services, and community programs such as Project MADD Ribbon, Operation Prom/Graduation and Team Spirit. Contact your local MADD chapter or the national office.

**National Safety Belt Coalition** - Although not directly involved in impaired driving issues, the Coalition and its parent organization, the National Safety Council, have published several useful books for local organizers, including *Patterns for Partnerships - A Guide to Creating and Nurturing Grassroots Coalitions* and *Building Traffic Safety Partnerships - A Guide for State Highway Safety Professionals to Work with Local Government Associations*.

#### WHAT THE HOSPITALITY INDUSTRY CAN DO

- Educate patrons on the dangers of drinking and driving.
- Encourage patrons to designate a driver.
- Provide information on local law enforcement resources.
- Encourage patrons to call a taxi or use public transportation.
- Encourage patrons to call a friend or family member for a ride.
- Encourage patrons to use ride-sharing services.
- Encourage patrons to use designated driver services.
- Encourage patrons to use sobriety checkpoints.
- Encourage patrons to use saturation patrols.
- Encourage patrons to use sobriety checkpoints.
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## SECTION 7

### LAW ENFORCEMENT

### SECTION 7 - LAW ENFORCEMENT

*.08 is supported by law enforcement organizations . . .  
[groups that] would not support a law that is unenforceable,  
ineffective or burdensome on police officers.*

#### ENFORCING .08

One of the arguments used against .08 is the impact on the law enforcement and judicial system. However, when the largest state, California, lowered the BAC limit to .08, there was little impact on court administrators or judges.

The main impact in California has been on prosecutors' decisions concerning whether or not cases should be filed. Previously, those arrested for DWI with BACs below .12 typically were allowed to plea to reduced charges. Since the limit was changed, this plea-bargain "discount" has dropped to about .10 BAC. No increases were reported in the proportion of DWI defendants pleading guilty, requesting jury trials, or appealing convictions. Similar results were seen in a recent study in Illinois.

#### ROADSIDE TESTING

Newly published research has confirmed the ability of officers to accurately detect - at roadsides, impaired drivers at .08 BAC levels or above. Administration of the scientifically validated Standardized Field Sobriety Tests (SFSTs) - Horizontal Gaze Nystagmus (HGN), the walk-and-turn and the one-leg stand, by properly trained officers, is still the most effective means of confirming suspicions on impaired driving. HGN checks the eyes for nystagmus (an involuntary jerking of the eye), while the walk-and-turn and one-leg stand are divided attention tests, validated for their sensitivity to alcohol. They test the person's ability to follow instructions while performing a physical task (psycho-physical tests). Use of the SFSTs at roadside have been judicially recognized in many states as an acceptable means to determine probable cause for arrest.

While other methods have been developed to assist officers to quickly determine suspected BAC levels, i.e., breath analysis equipment, this equipment has not gained evidentiary status and the results detected are not admissible in court.

#### LAW ENFORCEMENT SUPPORTS .08

.08 is supported by law enforcement organizations, including the International Association of Chiefs of Police, the National Sheriffs' Association and the National Organization of Black Law Enforcement Executives. These organizations and others like them would not support a law that is unenforceable, ineffective or burdensome on police officers.

#### TREATMENT CAN HELP

Medical treatment programs for repeat offenders - and sometimes even first time offenders - have become an increasingly popular part of the sentencing process. Some states require certain treatments while others recommend but do not require them.

This leads to concern that programs will be overcrowded with long waiting lists. Most safety organizations recommend that impaired driving programs be self-supporting. Fines and fees paid by offenders should cover the cost of all sentencing, including treatment for alcoholism or alcohol abuse. This reduces the burden on taxpayers while helping to ensure that offenders get the help they need.

Medical treatment for impaired drivers, whether required by law or ordered at the discretion of a judge, correctly positions impaired driving as a public health problem. .08 laws do not contribute to burdens on society but help to identify those with a problem and get them into programs to reduce the chance they will eventually kill or injure themselves or someone else.

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## SECTION 8

### SUMMARY

## SECTION 8 - SUMMARY

If every state adopted a .08 per se law, hundreds of lives could be saved every year, with thousands of injuries prevented and millions of dollars saved.

#### .08 IS REASONABLE

.08 is a reasonable BAC level. A .08 BAC is not reached with a couple of beers after work or a glass or two of wine with dinner. The public supports .08, and surveys show that most people would not drive after consuming two or three drinks.

#### WORKS

As a public health initiative and a traffic safety policy, .08 works and works well, especially in combination with other laws and programs. A .08 BAC per se law will:

- Increase the arrests and convictions for impaired drivers at .10 and above;
- Raise the perceived risk of arrest for driving after drinking;
- Improve public awareness about how much alcohol it takes to be dangerously impaired; and
- Bring the U.S. closer to per se limits of most industrialized nations.

#### .08 COULD SAVE YOUR LIFE

Every year, thousands of lives are lost in traffic accidents caused by drunk drivers. A .08 BAC per se law would reduce the number of drunk drivers on the road, saving lives and reducing the economic burden of drunk driving accidents. A .08 BAC per se law would also reduce the number of injuries and deaths caused by drunk drivers, saving lives and reducing the economic burden of drunk driving accidents.

Drunk driving is a leading cause of traffic accidents and deaths. A .08 BAC per se law would reduce the number of drunk drivers on the road, saving lives and reducing the economic burden of drunk driving accidents. A .08 BAC per se law would also reduce the number of injuries and deaths caused by drunk drivers, saving lives and reducing the economic burden of drunk driving accidents.



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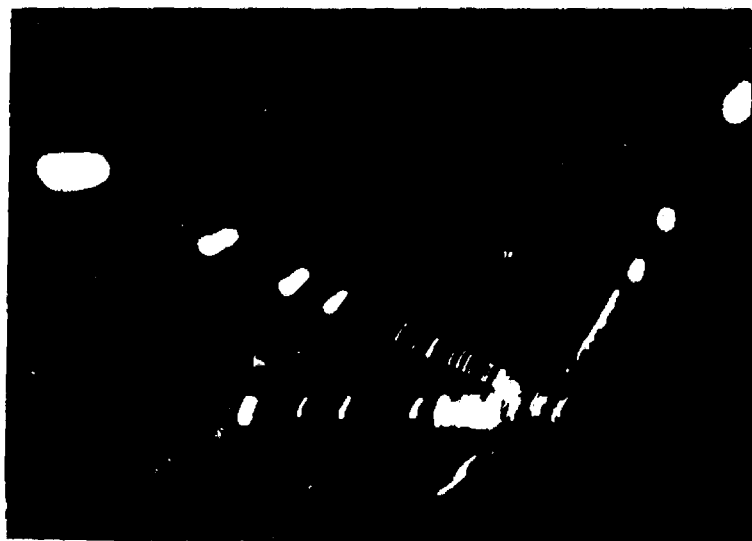
## APPENDIX A

### FACTS ON THE IMPAIRED DRIVING PROBLEM

#### APPENDIX A - FACTS ON THE IMPAIRED DRIVING PROBLEM

According to the US Department of Transportation's Fatality Analysis Reporting System and the National Highway Traffic Safety Administration's National Center for Statistical Analysis:

- In 1999, 41,611 people were killed in highway crashes. Another 3 million were injured. These crashes cost society \$150 billion every year.
- Of those killed on our highways in 1999, 15,786 died in alcohol-related crashes (38%).
- Approximately one million people are injured in alcohol-related traffic crashes annually.
- Alcohol involvement is the single greatest factor in motor vehicle deaths and injuries. While about 5% of all crashes involve the use of alcohol, 38% of all crashes do.
- Anti-impaired driving efforts work. From 1988 to 1999, alcohol-related fatalities dropped 33%. This drop is generally attributed to stronger laws, tougher enforcement, and good consumer education.
- Among all drivers involved in fatal crashes in 1999, 23% had been drinking.
- Many states now are lowering the BAC defining impaired driving from .10 to .08. A BAC as low as .02 has been shown to affect driving skills and crash likelihood.
- The probability of a crash increases significantly at .05 and even more rapidly at .08.
- Among drivers with BACs above .15 on weekend nights, the likelihood of death in a single-vehicle crash is more than 380 times higher than it is for nondrinking drivers.
- The highest proportion of driver deaths involving BACs at or above .08 in 1999 occurred in passenger vehicles. The group of drivers with the lowest proportion was tractor-trailer drivers.
- In 1999, 29 percent of all fatal crashes during the week were alcohol-related, compared to 51 percent on weekends. For all crashes, the alcohol involvement rate was 5 percent during the week and 13 percent during the weekend.
- The highest rates of drivers involved in fatal crashes in 1999 with BACs at or above .10 were recorded for drivers 21-24 years old (27 percent), followed by ages 25-34 (24 percent) and 35-44 (21 percent).



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## APPENDIX A FACTS ON THE ECONOMIC ISSUES

According to NHTSA:

- In 1999, 41,501 people were killed in highway crashes. Another 3 million were injured.
- Motor vehicle crashes cost society \$150 billion each year in emergency and acute health care costs, long-term care and rehabilitation, police and judicial services, property damage, insurance, disability and workers compensation, lost productivity, and social services for those who cannot return to work and support their families.
- Alcohol-related crashes cost society over \$45 billion every year. Just one alcohol-related fatality is estimated to cost society about \$950,000. Each alcohol-related injury averages about \$20,000.
- Almost a quarter of first-year medical costs for persons hospitalized as a result of a crash are paid by tax dollars, about two-thirds through Medicaid and one-third through Medicare.
- Employers pay for approximately half the cost of motor vehicle crashes, through insurance, disability, worker's compensation, and lost productivity. Eventually, we all bear the costs through tax-payer supported services and programs, higher insurance costs, and higher prices on goods and services.

According to a 1994 study by economist Ted R. Miller of the National Public Services Research Institute:

- The indirect costs of alcohol-related crashes (pain, suffering and lost quality of life) increase the toll for alcohol-related crashes to \$134 billion a year.
- Alcohol-related crashes cost society \$1.00 per drink or \$2.20 per ounce of alcohol consumed. This figure includes drinks consumed in the home.
- Crash costs are \$5.54 for every mile driven by alcohol-impaired drivers. This includes \$2.34 to people other than the alcohol-impaired driver. By comparison, crash costs are \$.10 per mile driven while sober.
- Alcohol-related crashes account for 19% of auto insurance payments in 1993 (a decline from 26% in 1990).
- An alcohol-impaired driving crash costs each innocent victim \$36,000. Comparable crime costs per victim are: assault - \$30,000; robbery - \$16,000; motor vehicle theft - \$4,000. Yet, the impaired driving crash is the only one of these crimes that is often not considered a felony upon the first offense.



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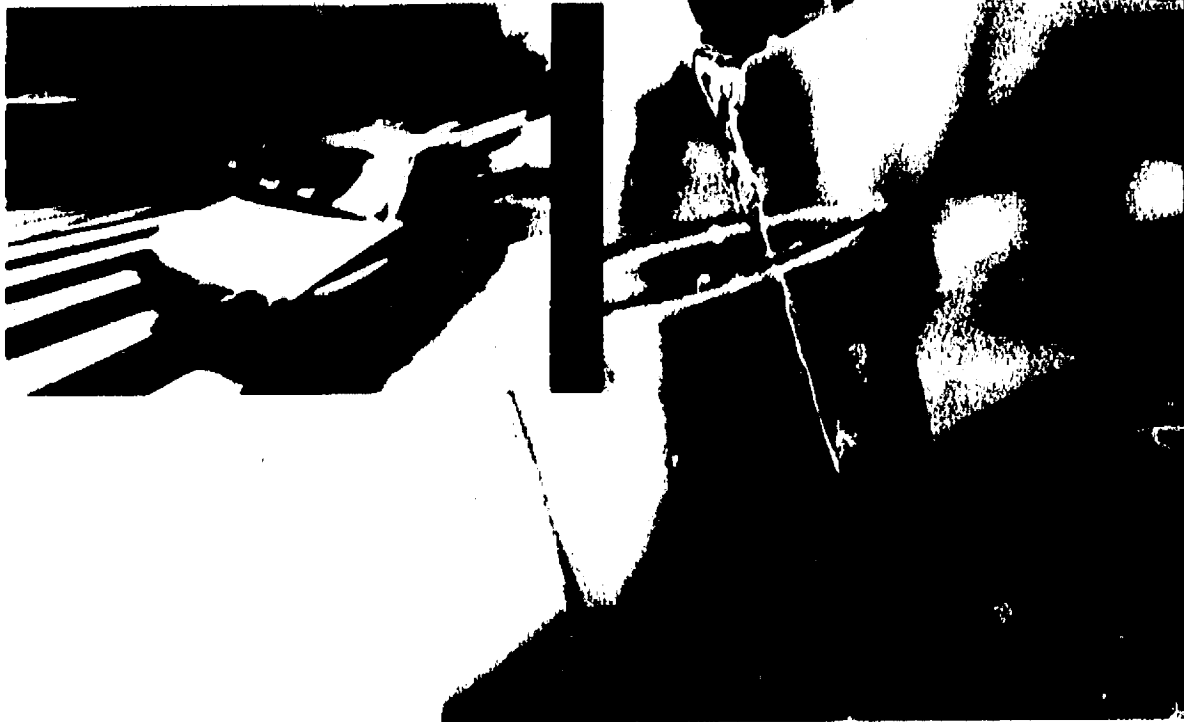
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## APPENDIX A

### THE FACTS ABOUT .08

#### APPENDIX A - THE FACTS ABOUT .08

- A law making .08 BAC the illegal limit is a reasonable, sensible approach to the problem of impaired driving.
- .08 laws increase the arrest and conviction rates for impaired drivers at .10 and above while raising the perceived risk of arrest for driving after drinking.
- .08 laws raise public awareness about how much alcohol it takes to be dangerously impaired.
- Most other industrial nations already set their legal limit at .08 or lower.
- Supporters of .08 BAC laws include federal and state agencies, consumer and victim's organizations, highway safety groups, law enforcement organizations, medical and public health groups, insurance companies and other business interests, and many others.
- According to a poll by the Gallup Organization for Mothers Against Drunk Driving, 97% of Americans believe drunk driving is a major highway safety problem.
- If every state had adopted a .08 per se law in 1997, instead of the 15 states that had .08 laws, an additional 590 lives could have been saved, according to a recent study conducted by researchers at the Pacific Institute for Research and Evaluation.
- At .08, virtually all drivers are impaired to the point that critical driving skills such as reaction time, attention, tracking, and comprehension are degraded.



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## APPENDIX A

## WHAT YOU CAN DO ABOUT IMPAIRED DRIVING

Mothers Against Drunk Driving (MADD) offers the following suggestions to help fight impaired driving:

- Your best defense against an alcohol-impaired driver is to wear your safety belt and be sure children are properly secured in child safety seats.
- Be a responsible host. Serve food and have non-alcoholic drinks available. Don't let your guests drive after drinking alcohol and never serve alcohol to someone under the age of 21.
- Write letters to the editor of local newspapers expressing your concern over alcohol-impaired driving and underage drinking in your community.
- Never ride in a car operated by someone who has been drinking - call a cab or ask a friend to drive you home.
- Support measures to strengthen the war against alcohol-impaired driving and victims' rights laws by contacting elected officials.
- Report alcohol-impaired drivers immediately to area law enforcement from a car phone or pay phone with the license plate number, description of the vehicle, and the direction in which it was traveling. Keep a safe distance from anyone driving erratically and do not try to intervene yourself.

If you or someone you love becomes the victim of an alcohol-impaired driving crash, call 800-GET-MADD or your local MADD chapter for victim assistance and support.



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## APPENDIX B RESOURCES

### THE FEDERAL GOVERNMENT

The National Highway Traffic Safety Administration (NHTSA), an agency of the US Department of Transportation, is responsible for anti-impaired driving and other highway safety programs. NHTSA maintains statistics and fact sheets, and provides information to the media, grassroots organizations, other government agencies, and the general public. Check out their homepage on the World Wide Web (<http://www.nhtsa.dot.gov>) for more information about the agency's services and publications, as well as highway safety facts.

NHTSA also has ten regional offices to serve the safety community and the general public. The NHTSA regional administrator that serves your state is a great resource for those working to fight impaired driving.

#### NHTSA REGION I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)  
Volpe National Transportation Systems Center  
Kendall Square, Code 903  
Cambridge, MA 02142  
Phone 617/494-3427  
Fax 617/494-3646

#### NHTSA REGION II

(New Jersey, New York, Puerto Rico, Virgin Islands)  
222 Mamaroneck Avenue, Suite 204  
White Plains, NY 10605  
Phone 914/682-6162  
Fax 914/682-6239

#### NHTSA REGION III

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)  
10 South Howard Street, Suite 4000  
Baltimore, MD 21201  
Phone 410/962-0090  
Fax 410/962-2770

#### NHTSA REGION IV

(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)  
Atlanta Federal Center  
150 Peachtree Street, Suite 17T30  
Atlanta, GA 30303  
Phone 404/562-3739  
Fax 404/562-3763

#### NHTSA REGION V

(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)  
19900 Governor Drive, Suite 201  
Olympia Fields, IL 60461  
Phone 708/503-8822  
Fax 708/503-8991

#### NHTSA REGION VI

(Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Indian Nations)  
819 Taylor Street, Room 8A38  
Fort Worth, TX 76102  
Phone 817/334-3653  
Fax 817/334-8339

#### NHTSA REGION VII

(Iowa, Kansas, Missouri, Nebraska)  
901 Locust Street  
Kansas City, MO 64106  
Phone 816/329-3900  
Fax 816/329-3910

#### NHTSA REGION VIII

(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)  
555 Zang Street, 4th Floor  
Lakewood, CO 80228  
Phone 303/969-6917  
Fax 303/969-6294

#### NHTSA REGION IX

(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands)  
201 Mission Street, Suite 2230  
San Francisco, CA 94105  
Phone 415/744-2995  
Fax 415/744-2532

#### NHTSA REGION X

(Alaska, Idaho, Oregon, Washington)  
3140 Jackson Federal Building  
915 Second Street  
Seattle, WA 98174  
Phone 206/220-7640  
Fax 206/220-7651

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Two other federal agencies are also good sources of information:

**National Clearinghouse for Alcohol and Drug Information**  
**Center for Substance Abuse Prevention**  
 US Department of Health and Human Services  
 PO Box 2345  
 Rockville, MD 20847-2345  
 Phone: 800/729-6686  
 Web site: <http://www.health.org>

**National Transportation Safety Board**  
 490 L'Enfant Plaza, SW  
 Washington, DC 20594  
 Phone: 202/314-6000  
 Web site: <http://www.nts.gov>

#### STATE GOVERNMENTS

Each governor appoints a highway safety representative to manage the state's highway safety program, including administration of the federal Highway Safety Community Grant program. The governor's representative also serves as a liaison between the governor and the highway safety community. These professionals and their staffs are a great resource on all highway safety issues, particularly impaired driving. The governor's representatives have a national organization in Washington:

**National Association of Governors' Highway Safety Representatives**  
 750 First Street, NE, Suite 720  
 Washington, DC 20002  
 Phone: 202/789-0942  
 Fax: 202/789-0946

The following are the offices of the governors' highway safety representatives:

**Alabama Department of Economic & Community Affairs**  
**Law Enforcement/Traffic Safety Division**  
 PO Box 5690  
 Department of Economic & Community Affairs  
 401 Adams Avenue, Suite 466  
 Montgomery, AL 36103-5690  
 Phone: 334/242-5803  
 Fax: 334/242-0712

**Highway Safety Planning Agency**  
**Alaska Department of Public Safety**  
 3132 Channel Drive, Room 145  
 Juneau, AK 99801-7898  
 Phone: 907/465-4371  
 Fax: 907/463-4030

**Governor's Representative/Commissioner of Public Safety American Samoa Government**  
 PO Box 1086  
 Pago Pago, AS 96799  
 Phone: 011-684-633-1111  
 Fax: 011-684-699-4224

**Governor's Office of Community and Highway Safety**  
**Arizona Department of Public Safety**  
 3030 North Central, Suite 1550  
 Phoenix, AZ 85012  
 Phone: 602/255-3216  
 Fax: 602/255-1265

**Highway Safety Program**  
**Arkansas Highway & Transportation Department**  
 PO Box 2261  
 11300 Baseline Road  
 Little Rock, AR 72203-2261  
 Phone: 501/569-2648  
 Fax: 501/569-2651

**Office of Traffic Safety California Business, Transportation, & Housing Agency**  
 7000 Franklin Boulevard, Suite 440  
 Sacramento, CA 95823  
 Phone: 916/262-0997  
 Fax: 916/262-2960

**Colorado Office of Transportation Safety**  
**Department of Transportation**  
 Headquarters Complex  
 4201 East Arkansas Avenue  
 Denver, CO 80222  
 Phone: 303/757-9440  
 Fax: 303/757-9219

**Division of Highway Safety**  
**Connecticut Department of Transportation**  
 2800 Berlin Turnpike  
 PO Box 317546  
 Newington, CT 06131-7546  
 Phone: 860/594-2370  
 Fax: 860/594-2374

**Office of Highway Safety**  
**Delaware Department of Public Safety**  
 PO Box 1321  
 Dover, DE 19903-1321  
 Phone: 302/744-2745  
 Fax: 302/739-5995

**Transportation Safety Branch**  
**Department of Public Works**  
 200 4th Street, NW, 7th Floor  
 Washington, DC 20009  
 Phone: 202/671-0492  
 Fax: 202/939-7185

**Safety Office Florida Department of Transportation**  
 605 Suwannee Street, MS 53  
 Tallahassee, FL 32399-0450  
 Phone: 850/488-3546  
 Fax: 850/922-2935

**Georgia Governor's Office of Highway Safety**  
 1 Park Tower  
 34 Peach Tree Street, Suite 1600  
 Atlanta, GA 30303  
 Phone: 404/696-6996  
 Fax: 404/651-9107

**Highway Safety Coordinator**  
**Guam Department of Public Works**  
 542 North Marine Drive  
 Tamuning, GU 96910  
 Phone: 011-671-647-5059  
 Fax: 011-671-649-3733

**Vehicle Safety Office**  
**Department of Transportation**  
 Operator Assisted Calls: 01-671-646-3211  
 869 Punchbowl Street  
 Honolulu, HI 96813  
 Phone: 808/587-2160  
 Fax: 808/587-2313

**Office of Highway Safety**  
**Idaho Transportation Department**  
 PO Box 7129, 3311 West State Street  
 Boise, ID 83707-1129  
 Phone: 208/334-8101  
 Fax: 208/334-3858

**Division of Traffic Safety**  
**Illinois Department of Transportation**  
 PO Box 19245  
 3215 Executive Park Drive  
 Springfield, IL 62794-9245  
 Phone: 217/782-4974  
 Fax: 217/782-9159

**Indiana Governor's Council on Impaired and Dangerous Driving**  
 150 West Market Street, Suite 330  
 Indianapolis, IN 46204  
 Phone: 317/232-4220  
 Fax: 317/232-5150

**Indian Highway Safety Program**  
**Bureau of Indian Affairs**  
 Department of the Interior  
 505 Marquette Avenue, NW, Suite 1425  
 Albuquerque, NM 87102  
 Phone: 505/248-5053  
 Fax: 505/248-5064

**Governor's Traffic Safety Bureau**  
**Iowa Department of Public Safety**  
 307 East 7th Street  
 Des Moines, IA 50319-0248  
 Phone: 515/281-3907  
 Fax: 515/281-6190

**Kansas Bureau of Traffic Safety**  
 Thatcher Building, 2nd Floor  
 217 S.E. 4th  
 Topeka, KS 66603-3504  
 Phone: 913/296-3756  
 Fax: 913/291-3010

**Highway Safety Standards Branch**  
**Kentucky State Police Headquarters**  
 919 Versailles Road, 2nd Floor  
 Frankfort, KY 40601-2638  
 Phone: 502/695-6306  
 Fax: 502/573-1634

**Highway Safety Commission**  
**Louisiana Department of Public Safety**  
 PO Box 66336  
 Baton Rouge, LA 70896  
 Phone: 225/925-6991  
 Fax: 225/922-0083

**Bureau of Highway Safety**  
**Maine Department of Public Safety**  
 164 State House Station  
 Augusta, ME 04333  
 Phone: 207/624-8756  
 Fax: 207/624-8768

**Northern Mariana Islands**  
**Department of Public Safety**  
 PO Box 791  
 Saipan, M.P. 96950  
 Phone: 011-670-664-9000  
 Fax: 011-670-664-9019

**Office of Traffic & Safety**  
**Maryland State Highway Administration**  
 7491 Connelley Drive  
 Hanover, MD 21076  
 Phone: 410/787-4017  
 Fax: 410/787-4082

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*Deanna G. Smith*  
 Operator's Signature

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**Massachusetts Governor's Highway Safety Bureau**  
Park Plaza, Suite 5220  
Boston, MA 02202  
Phone: 617/973-8900  
Fax: 617/973-8917

**Michigan Office of Highway Safety Planning**  
4000 Collins Road, PO Box 30633  
Lansing, MI 48909-8133  
Phone: 517/336-6477  
Fax: 517/333-5756

**Office of Traffic Safety**  
**Minnesota Department of Public Safety**  
Town Square, Suite 150  
444 Cedar Street  
St. Paul, MN 55101-5150  
Phone: 612/296-9507  
Fax: 612/297-4844

**Highway Safety Office**  
**Mississippi Department of Public Safety**  
PO Box 23039  
401 North West Street, 8th Floor  
Jackson, MS 39225-3039  
Phone: 601/359-7880  
Fax: 601/359-7832

**Missouri Division of Highway Safety**  
PO Box 104808  
Jefferson City, MO 65110-4808  
Phone: 573/751-4161  
Fax: 573/634-5977

**Highway Traffic Safety**  
**Montana Department of Justice**  
P.O. Box 201001  
2701 Prospect Avenue, Room 109  
Helena, MT 59620-1001  
Phone: 406/444-3423  
Fax: 406/444-7303

**Office of Highway Safety**  
**Nebraska Department of Motor Vehicles**  
PO Box 94612  
301 Centennial Mall South  
Lincoln, NE 68509-4789  
Phone: 402/471-3900  
Fax: 402/471-9594

**Office of Traffic Safety Nevada Department of**  
**Motor Vehicles & Public Safety**  
555 Wright Way  
Carson City, NV 89711-0090  
Phone: 702/687-5720  
Fax: 702/687-5328

**New Hampshire Highway Safety Agency**  
Pine Inn Plaza  
117 Manchester Street  
Concord, NH 03301  
Phone: 603/271-2131  
Fax: 603/271-3790

**Division of Highway Traffic Safety**  
**New Jersey Dept. of Law & Public Safety**  
225 East State Street, CN-048  
Trenton, NJ 08625  
Phone: 609/633-9300  
Fax: 609/633-9020

**Traffic Safety Bureau New Mexico State Highway &**  
**Transportation Department**  
PO Box 1149  
Santa Fe, NM 87504-1149  
Phone: 505/827-0427  
Fax: 505/827-0431

**New York State Governor's Traffic**  
**Safety Committee**  
Empire State Plaza, Swan St. Bldg., Room 521  
Albany, NY 12228  
Phone: 518/474-9007  
Fax: 518/473-6946

**North Carolina Governor's Highway**  
**Safety Program**  
215 East Lane Street  
Raleigh, NC 27601  
Phone: 919/733-3083  
Fax: 919/733-0604

**Driver Licensing & Traffic Safety**  
**North Dakota Department of Transportation**  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700  
Phone: 701/328-2601  
Fax: 701/328-2435

**Office of the Ohio Governor's Highway**  
**Safety Representative**  
PO Box 182081  
1970 W. Broad Street  
Columbus, OH 43218-2081  
Phone: 614/466-3250  
Fax: 614/728-8330

**Highway Safety Office**  
**Oklahoma Department of Public Safety**  
3223 N. Lincoln  
Oklahoma City, OK 73105  
Phone: 405/521-3314  
Fax: 405/524-4906

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*Donna Hall*  
Operator's Signature

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**Transportation Safety Section**  
**Oregon Department of Transportation**  
500 South Street, N.E.  
Salem, OR 97310-1333  
Phone: 503/986-4190  
Fax: 503/986-4189

**Pennsylvania Bureau of Highway & Traffic Engineering**  
555 Walnut Street, 7th Floor, Forum Place  
Harrisburg, PA 17105-2047  
Phone: 717/787-7350  
Fax: 717/783-8012

**Traffic Safety Commission**  
**Puerto Rico Department of Public Works**  
Box 41289, Minillas Station  
Sanjurjo, PR 00940  
Phone: 809/723-3590  
Fax: 809/727-0486

**Rhode Island Governor's Office of Highway Safety**  
345 Harris Avenue  
Providence, RI 02909  
Phone: 401/222-3024  
Fax: 401/222-6038

**South Carolina Department of Public Safety**  
**Office of Safety & Grants**  
1000 Broad River Road  
Columbia, SC 29210  
Phone: 803/896-8387  
Fax: 803/896-8393

**South Dakota Office of Highway Safety**  
118 West Capital  
Pierre, SD 57501  
Phone: 605/773-4183  
Fax: 605/773-6893

**Tennessee Governor's Highway Safety Program**  
**Department of Transportation**  
500 Deaderick Street, Suite 800  
Andrew Jackson State Office Bldg.  
Nashville, TN 37243-0341  
Phone: 615/741-2589  
Fax: 615/741-9673

**Traffic Operations Division**  
**Texas Department of Transportation**  
125 E. 11th Street  
Austin, TX 78701-2483  
Phone: 512/416-3202  
Fax: 512/416-3214

**Utah Department of Public Safety**  
**Highway Safety Office**  
5263 South 300 West, Suite 202  
Salt Lake City, UT 84107  
Phone: 801/293-2481  
Fax: 801/293-2498

**Governor's Highway Safety Program**  
**Vermont Department of Public Safety**  
103 South Main Street  
Waterbury, VT 05671-2101  
Phone: 802/244-1317  
Fax: 802/244-4124

**Virginia Department of Motor Vehicles**  
**Transportation Safety Office**  
PO Box 27412  
2300 West Broad Street  
Richmond, VA 23269-0001  
Phone: 804/367-1670  
Fax: 804/367-6631

**Governor's Representative**  
**Virgin Islands Office of Highway Safety**  
Lagoon Street Complex, Fredricksted  
St. Croix, VI 00840  
Phone: 340/776-5820  
Fax: 340/772-2626

**Washington Traffic Safety Commission**  
PO Box 40944  
1000 South Cherry Street  
Olympia, WA 98504-0944  
Phone: 360/753-6197  
Fax: 360/586-6489

**Governor's Highway Safety Program West Virginia**  
**Criminal Justice & Highway Safety Division**  
Capitol Complex, Building 3, Room 118  
Charleston, WV 25301  
Phone: 304/558-1515  
Fax: 304/558-6083

**Bureau of Transportation Safety**  
**Wisconsin Department of Transportation**  
PO Box 7936  
4802 Sheboygan Avenue, Room 809  
Madison, WI 53707  
Phone: 608/266-3048  
Fax: 608/266-0441

**Highway Safety Program**  
**Wyoming Transportation Department**  
PO Box 1708  
Cheyenne, WY 82003-1708  
Phone: 307/777-4450  
Fax: 307/777-4250

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*Deanna Ballach*  
Operator's Signature

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Date

# **THE PRIVATE SECTOR**

The National Safety Council, with chapters all over the country, can provide information on a wide range of occupational, home and traffic safety issues. The Council produces dozens of publications and provides services and educational opportunities in these areas.

**National Safety Council**  
1121 Spring Lake Drive  
Itasca, IL 60143  
Phone: 630/285-1121  
Fax: 630/285-1315  
Web site: <http://www.nsc.org>

Mothers Against Drunk Driving is a non-profit, grass roots organization with more than 400 chapters nationwide. It "is not a crusade against alcohol consumption;" Its focus is "to look for effective solutions to the drunk driving and underage drinking problems, while supporting those who have already experienced the pain of these senseless crimes." To join, find a chapter in your area or for more information, contact the National Office at:

**Mothers Against Drunk Driving**  
511 E. John Carpenter Freeway, #700  
Irving, Texas 75062  
Phone: 214/744-MADD (6233)  
Fax: 972/869-2206/2207  
Web site: <http://www.madd.org>

Other private sector groups may be helpful. Here is a list of some of the national organizations that support .08 BAC laws.

**Advocates for Highway and Auto Safety**  
750 First Street, NE, Suite 901  
Washington, DC 20002  
Phone: 202/408-1711  
Web site: <http://www.saferoads.org>

**American Automobile Association**  
1000 AAA Drive  
Heathrow, FL 32746  
Phone: 407/444-7000  
Web site: <http://www.aaa.com>

**American Automobile Manufacturers Association**  
1401 H Street, NW, Suite 900  
Washington, DC 20005  
Phone: 202/326-5500  
Web site: <http://aama.com>

**American Coalition for Traffic Safety**  
1110 N. Glebe Road, Suite 1020  
Arlington, VA 22201  
Phone: 703/243-7501

**American Insurance Association**  
1130 Connecticut Avenue, Suite 1000  
Washington, DC 20036  
Phone: 202/828-7100  
Web site: <http://www.aladc.org>

**American Medical Association**  
515 North State Street  
Chicago, IL 60610-4379  
312/464-5000  
Web site: <http://www.ama-assn.org>

**Insurance Institute for Highway Safety**  
1005 North Glebe Road  
Arlington, VA 22201  
Phone: 703/247-1500  
Web site: <http://www.hwysafety.org>

**International Association of Chiefs of Police**  
515 North Washington Street  
Alexandria, VA 22314  
Phone: 703/836-6767  
Web site: <http://www.theiacp.org>

**National Commission Against Drunk Driving**  
1900 L Street NW, Suite 705  
Washington, DC 20036  
Phone: 202/452-6004  
Web site: <http://www.ncadd.com>

**Remove Intoxicated Drivers (RID)**  
PO Box 520  
Schenectady, NY 12301  
Phone: 518/393-4357  
Web site: TBA

**Students Against Destructive Decisions (SADD)**  
PO Box 800  
Marlboro, MA 01752  
Phone: 508/481-3568  
Web site: [www.sadd.org](http://www.sadd.org)

## APPENDIX C

### MODEL LAW

## APPENDIX C - MODEL LAW

The Uniform Vehicle Code, published by the National Committee on Uniform Traffic Laws and Ordinances, is a document developed by transportation and highway safety professionals to serve as a guideline for those developing state motor vehicle legislation. Below is an excerpt of the Model Law Language. The entire Uniform Vehicle Code is available on the World Wide Web at <http://www.ncutlo.org>.

#### CHAPTER 11 - RULES OF THE ROAD

##### ARTICLE IX - SERIOUS TRAFFIC OFFENSES

11-902 - Driving while under the influence of alcohol or drugs

(a) A person shall not drive or be in actual physical control of any vehicle while:

1. The alcohol concentration in such person's blood or breath is 0.08 or more based on the definition of blood and breath units in [Section 11-903(a)(5)].

Optional 1. The alcohol concentration in such person's blood or breath as measured within three hours of the time of driving or being in the actual physical control is 0.08 or more based on the definition of blood and breath units in [Section 11-903]. If proven by a preponderance of evidence, it shall be an affirmative defense to a violation of this subsection that the defendant consumed a sufficient quantity of alcohol after the time of driving or actual physical control of a vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to be

0.08 or more. The foregoing provision shall not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than three hours after such alleged violation.

2. Under the influence of alcohol;
  3. Under the influence of any other drug or combination of other drugs to a degree which renders such person incapable of safely driving; or
  4. Under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving.
- (b) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drug shall not constitute a defense against any charge of violating this section.
- (c) In addition to the provisions of [Section 11-904], every person convicted of violating this section shall be punished by imprisonment for not less than 10 days or more than one year, or by fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment and on a second or subsequent conviction, such person shall be punished by imprisonment for not less than 90 days nor more than one year, and, in the discretion of the court, a fine of not more than \$1,000.

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Operator's Signature

Date

10/2/03



## ACKNOWLEDGMENTS

This publication was originally written by Katherine R. Hutt, APR, President of Nautilus Communications, designed by Bobbi Kittner, principal of Kittner Design, and edited by Jane Roemer, Director of Public Policy, and Laura Wilkinson, Public Policy Associate, of the National Safety Council in 1997.

BIBLIOGRAPHY

## BIBLIOGRAPHY

Traffic Safety Facts: Alcohol 1998, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, 1999.

"Lowering State Legal Blood Alcohol Limits to 0.08%: The Effect on Fatal Motor Vehicle Crashes," by Ralph Hingson, Sc.D., Timothy Heeren, Ph.D. and Michael Winter, M.P.H., Social and Behavioral Science Department and Department of Epidemiology and Biostatistics, Boston University, as published in American Journal of Public Health, September 1996.

.08 BAC Limit Saves Lives - Why Every State Needs a .08 BAC Law (brochure); National Safety Council, Itasca, IL, and National Highway Traffic Safety Administration, Washington, DC; 1994.

.08 BAC Illegal Per Se Level (State Legislative Fact Sheet); National Highway Traffic Safety Administration, Washington, DC; September 1996.

.08 - Save Lives in Your State, 11-minute video produced by USAA, San Antonio, TX, for the National Highway Traffic Safety Administration, Washington, DC; 1985.

The Effects Following the Implementation of an 0.08 BAC Limit and an Administrative Per Se Law in California, National Highway Traffic Safety Administration (DOT HS 807 777), August 1991.

Mothers Against Drunk Driving, fact sheets (various)

Mothers Against Drunk Driving, press release dated September 20, 1996.

"The Impact of Lowering the Illegal BAC Limit to .08 in Five States in the U.S.," by Delmas Johnson and James Fell, National Highway Traffic Safety Administration, Washington, DC, 39th Annual Proceedings of the Association for the Advancement of Automotive Medicine, Chicago, IL, October 16-18, 1995.

Too Impaired to Drive?, 12-minute video on impairment at .08 BAC by USAA, San Antonio, TX, for the National Highway Traffic Safety Administration, Washington, DC, 1999.

The Relationship of Alcohol Safety Laws to Drinking Drivers in Fatal Crashes, by Robert B. Voas and A. Scott Tippetts, Pacific Institute for Research and Evaluation, Bethesda, MD, for the National Highway Traffic Safety Administration, April, 1999.

Effects of .08 BAC Laws, by Robert Apsler, A.R. Char, and Wayne M. Harding, Rainbow Technology, and Terry M. Zain, National Highway Traffic Safety Administration, March, 1999, DOT HS 808 892.

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*Doreen G. Hall*  
Operator's Signature

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Date

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*Evaluation of the Effects of North Carolina's .08 BAC Law, by Robert D. Foss, J. Richard Stewart, and Donald W. Reinfort, Highway Safety Research Center, University of North Carolina, for the National Highway Traffic Safety Administration, March, 1999.*

*Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 Percent, by Jack W. Stuster and Marcelline Burns, Anacapa Science, Santa Barbara, CA, for the National Highway Traffic Safety Administration, August 1998, DOT HS 808 839.*

*Effectiveness of State .08 Blood Alcohol Laws, General Accounting Office (GAO) Report to Congressional Committees, June 1999, GAO/RCED-99-179.*

*Driver Characteristics and Impairment at Various BACs, by H. Moskowitz, M. Burns, D. Fiorentino, A. Smiley, and P. Zador, Southern California Research Institute, for the National Highway Traffic Safety Administration, August 2000 DOT HS 809 075.*

*"Effects of Recent 0.08 Percent Legal Blood Limits on Fatal Crash Involvement," by Ralph Hingson, Timothy Heeren, and Michael Winter, in Injury Prevention 2000; 6:109-114.*

*On DWI Laws in Other Countries, by Kathryn Stewart, for the National Highway Traffic Safety Administration, March 2000, DOT HS 809 037.*

*A Review of the Literature on the Effects of Low Doses of Alcohol on Driving-Related Skills, by Herbert Moskowitz and Dary Fiorentino, for the National Highway Traffic Safety Administration, April 2000, DOT HS 809 028.*

*Relative Risk of Fatal Crash Involvement by BAC, Age, and Gender, by P. Zador, S.A. Krawchuk, and R.B. Voas, for the National Highway Traffic Safety Administration, April 2000 DOT HS 809 050.*

*Effectiveness of the Illinois .08 Law, R.B. Voas, E. Taylor, T.K. Baker, and S. Tippetts, Pacific Institute for Research Evaluation, for the National Highway Traffic Safety Administration, in press.*

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*Deanna Hall*  
Operator's Signature

10/2/03  
Date

**SENATE TRANSPORTATION COMMITTEE**

**March 13, 2003**

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**Keith C. Magnusson, Deputy Director for Driver and Vehicle Services**

**HB 1161**

The North Dakota Department of Transportation prefiled HB 1161 as an agency bill. Although it is a fairly long bill, its intent is simply to lower the blood-alcohol content (BAC) threshold from 0.10 to 0.08 for a charge of *per se* (illegal in and of itself) driving under the influence. This lower threshold would apply under both criminal and implied consent administrative license suspension laws. Congress has mandated that states make this change by October 1, 2003.

Our mission at NDDOT is "providing a transportation system that safely moves people and goods." Safety is our focus, and part of our job is to ensure that only safe drivers are on the road. Over the last 30 years, we have made significant progress in reducing deaths on our highways. This has come about through many factors, including stricter laws on drinking and driving, tougher enforcement of those laws, education, public awareness, and a change in the public's attitudes. However, we still kill too many people on North Dakota highways. Last year, 43 percent of the deaths on our highways were alcohol-related.

Impaired drivers are a problem nationally, not just in North Dakota. That is why Congress has mandated a 0.08 BAC law for all states. Some states are even adding enhanced penalties and sanctions for higher BAC test results. There is also a Congressional mandate for dealing with repeat DUI offenders. Together, all of these programs will help deter driving after drinking too much, and will also deal with those who have severe drinking-and-driving problems.

With Congress, we believe that enacting a 0.08 BAC *per se* law will help to get more impaired drivers off the road. This makes sense because:

- Virtually all drivers are substantially impaired at 0.08 BAC
- The risk of being involved in a crash increases substantially at 0.08 BAC
- Lowering the *per se* limit is proven to be an effective countermeasure to those who are inclined to drive impaired
- 0.08 is a reasonable limit to set
- Most other industrialized nations have set BAC limits at 0.08 or lower

Thirty-five states, the District of Columbia, and Puerto Rico have enacted 0.08 BAC *per se* laws. Twenty-one did so before it became a federal mandate, and two did it as far back as 1983.

We have provided each of you with:

- a fact sheet on the merits of a 0.08 BAC *per se* law for adult drivers in North Dakota
- a booklet titled, "Setting Limits, Saving Lives"
- and updated lists and maps of 0.08 BAC states.

Please take time to look at these materials. The booklet, especially, goes into much more depth than we have time for in this testimony. After studying these materials and thinking about safety on the roads in North Dakota, I believe you will come to the same conclusion that I have -- that this simply makes sense and will save lives.

Page 1 of 2

*Deanna Hall*  
Operator's Signature

10/2/03  
Date

As with any federal mandate, there are sanctions if a state does not comply by passing a 0.08 BAC law by this coming October. In the first year of noncompliance, two percent of specified federal aid highway funds (about \$3.18 million) will be withheld from us. The proposed 2003-2005 NDDOT budget does not reflect these funds being withheld. That figure escalates two percent each year for the next three years, where it levels out at eight percent per year (about \$12.7 million, based on current federal funding).

I will leave you with a quote from an editorial in the November 26, 2002, edition of *the Bismarck Tribune*, entitled, "Rethinking Attitudes on Drinking." That editorial was partially in response to a "D" grade given to North Dakota by Mothers Against Drunk Driving (MADD). The editorial ends with this:

**"The legislature should make solid progress  
on implementing more stringent restrictions against drinking and driving.  
Not because the feds say so, not because MADD says so,  
but because it is smart."**

Many lives are at stake. I urge you to make everyone on our highways safer by passing HB 1161.

Page 2 of 2

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Deanna Holm  
Operator's Signature

10/2/03  
Date

TESTIMONY - HOUSE BILL 1161  
SENATE TRANSPORTATION COMMITTEE  
MARCH 13, 2003 - 8:30 AM  
LEWIS AND CLARK ROOM

Mr. Chairman and members of the Senate Transportation Committee, my name is Jim Hughes, Superintendent of the North Dakota Highway Patrol. I appear in support of House Bill 1161 lowering the legal alcohol concentration for drivers to 0.08 percent.

In 2002, North Dakota recorded 97 traffic fatalities with preliminary results indicating approximately 43 percent, or 42 victims, died in alcohol-related traffic accidents. Highway Patrol troopers investigated the majority of those fatal accidents. I'm in my thirtieth year with the Highway Patrol. Over those years, I've seen a substantial decrease in highway deaths from a high of over 200 traffic deaths to an average of less than 100 in recent years. However, when 40 to 50 percent of traffic deaths in recent years are alcohol related, I see that as a tragic and unnecessary loss of life. We can do something about this. I believe lowering the legal alcohol concentration for drivers to 0.08 percent is a major step towards tackling this issue.

How will this affect the Highway Patrol? Our troopers will continue their commitment and aggressive approach towards detecting and apprehending the impaired driver. Troopers made 1115 arrests for driving under the influence of alcohol in 2002. A driver suspected of driving impaired will undergo the same field sobriety testing procedures as are currently being used. The trooper must still have reason to believe a person is under the influence of alcohol. Are more arrests going to be made? I don't believe you will see any substantial increase in arrests. Information obtained from our counterparts in the South Dakota Highway Patrol is that in the six months after 0.08 went into effect in their state (effective July 1, 2002) approximately 66 arrests out of about 4000 were for 0.08 and 0.09. It's anticipated similar results would occur in North Dakota.

I believe lowering the legal alcohol concentration to 0.08 percent would act to deter impaired driving. If we can deter someone from getting behind the wheel of a vehicle and driving while they're under the influence of alcohol, precious lives can be saved. I believe this bill has the potential to be a strong deterrent. I stand in support of House Bill 1161 and ask for a vote of DO PASS.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you or the committee members may have.

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**TESTIMONY OF DEB JEVNE  
SPOKESPERSON FOR MADD CASS COUNTY  
SENATE TRANSPORTATION COMMITTEE  
THURSDAY, MARCH 13, 2003**

**FOR THE RECORD, MY NAME IS DEB JEVNE, AND I AM THE  
SPOKESPERSON FOR MOTHERS AGAINST DRUNK DRIVING CASS  
COUNTY AND ALSO A MEMBER OF THE RED RIVER VALLEY SAFE  
COMMUNITIES COALITION BUT MORE IMPORTANTLY I AM HERE  
BECAUSE I AM A VICTIM OF DRUNK DRIVING.**

**I HAVE BEEN AN ACTIVIST IN THE CAMPAIGN AGAINST DRINKING AND  
DRIVING SINCE MY OLDEST SON WAS INJURED BY A DRIVER WHO  
CHOSE TO DRINK AND DRIVE.**

**AT THE TIME OF MY SON'S CRASH, I WAS TOLD THAT THE DRIVER  
WITH A BLOOD ALCOHOL LEVEL OF .09 HIT MY SON, THREE BLOCKS  
FROM OUR HOME DURING THE THANKSGIVING HOLIDAY OF 1996. THE  
DRIVER WAS UNDER .10 AND WAS NOT CONSIDERED LEGALLY DRUNK.**

**I HAVE DISCOVERED THAT THIS IS A DIFFICULT FIGHT, WHICH  
REQUIRES ACTION ON NUMEROUS FRONTS AT ONCE. WE MUST MAKE  
CARS AND ROADS SAFER. WE MUST STRICTLY ENFORCE THE LAWS  
THAT WE HAVE. WE MUST USE ADMINISTRATIVE LICENSE  
RESTRICTIONS TO KEEP UNSAFE DRIVERS OFF OUR HIGHWAYS AND  
WE MUST CONTINUE TO CHANGE THE ATTITUDES OF SOCIETY  
REGARDING DRINKING AND DRIVING. NOBODY THINKS IT IS SAFE TO  
DRINK AND DRIVE. HOWEVER, TOO MANY PEOPLE THINK THEY WILL  
NOT SUFFER THE CONSEQUENCES. WE MUST HAVE LAWS THAT  
SUPPORT US IN ALL OF THESE ENDEAVORS. I WILL FOCUS MY  
COMMENTS ON A PARTICULAR EFFECTIVE LAW, .08 BAC.**

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*Deanna Hall*  
Operator's Signature

10/2/03  
Date

SO WHAT IS MAGIC ABOUT .08 BAC? AT THAT LEVEL, RISK SIGNIFICANTLY INCREASES AND VIRTUALLY EVERYONE IS SERIOUSLY IMPAIRED. I BELIEVE THE DRIVER THAT INJURED MY SON ILLUSTRATES THE POINT PERFECTLY. HE HAD SAT IN A BAR FOR SEVERAL HOURS AND GOT BEHIND THE WHEEL OF A CAR, DROVE 90 MILES AN HOUR IN A 25 MILE AN HOUR RESIDENTIAL ZONE, RAN THREE STOP SIGNS AND HIT MY SON.

OPPONENTS OF THIS LAW WOULD HAVE YOU BELIEVE THAT THIS LAW WOULD EFFECT THE SOCIAL DRINKER, THE 170 POUND MAN WHO HAS A FEW BEERS? AFTER YEARS OF DEBATING .08, I THINK ANY REASONABLE INDIVIDUAL KNOWS THAT THIS IS NOT TRUE.

I AM NOT TRYING TO CHANGE WHAT HAS HAPPENED IN MY LIFE BUT I AM TRYING TO PREVENT THIS FROM HAPPENING TO ANOTHER FAMILY. WE CAN NOT GET BACK THE 238 LIVES THAT WE IN NORTH DAKOTA HAVE LOST IN THE LAST 5 YEARS IN DRUNK DRIVING FATALITIES. I WANT TO SAVE THE SEVERAL LIVES A YEAR THAT STUDIES SHOW ENACTMENT OF A .08 LAW COULD SAVE HERE IN North Dakota.

MOST OF THE WESTERN WORLD WOULD CONSIDER DEBATE OVER REDUCING THE LEGAL BAC TO .08 RIDICULOUS, SINCE THEY HAVE MUCH MORE STRINGENT LEVELS BUT THEY WOULD ALSO BE APPALLED TO HAVE OVER 17,000 THOUSAND DEATHS NATIONALLY CAUSED BY DRUNK DRIVERS ON THEIR HIGHWAYS EVERY YEAR.

ALTHOUGH SEPARATING THE EFFECT OF A .08 LAW FROM THE NUMEROUS OTHER FACTORS THAT HELP DECREASE FATALITIES HAS BEEN DIFFICULT. MANY, MANY, MANY STUDIES NOW SHOW THAT .08 DOES SAVE LIVES. AS A RESULT, 35 STATES PLUS THE DISTRICT OF COLUMBIA HAVE ENACTED .08 LAWS AND THEIR EXPERIENCE SHOWS

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*Dan H. H. H. H.*  
Operator's Signature

12/2/03  
Date

THAT IT DOES SAVE LIVES. ILLINOIS IS A PARTICULARLY GOOD EXAMPLE BECAUSE THE STATE HAS LONG EMPLOYED ADMINISTRATIVE LICENSE RESTRICTIONS, A MEASURE THAT HAS OFTEN BEEN COMBINED WITH ENACTMENT OF .08 LAWS. THE EXPERIENCE IN ILLINOIS SHOWS THAT .08 ALONE SAVES LIVES. ALTHOUGH CLEARLY, WHEN USED IN COMBINATION WITH OTHER MEASURES, THE EFFECT CAN BE EVEN MORE POWERFUL. ILLINOIS ALCOHOL-RELATED FATALITIES DROPPED 13.7 PERCENT AFTER THE ENACTMENT OF .08.

THE REDUCTION IN FATALITIES WITH THIS LAW OCCURS NOT ONLY AT LOW BAC LEVELS BUT AT ALL LEVELS ACROSS THE SPECTRUM. IT ALSO REDUCES THE AVERAGE BAC LEVELS IN THE HIGHER RANGES. ILLINOIS DROPPED FROM A .18 TO A .16. THE .08 LAW IN ILLINOIS HAD NO MAJOR IMPACT ON OPERATIONS OF THE CRIMINAL JUSTICE SYSTEM OR THE DRIVERS LICENSE SYSTEM. THE COURTS AND PROSECUTORS REPORTED ONLY MINOR CHANGES IN THEIR OPERATIONS DUE TO THE CHANGE IN THE LAW. JAILS AND PROBATION OFFICES REPORTED NO NOTICEABLE CHANGE ASSOCIATED WITH THIS LAW. THERE WAS NO EVIDENCE THAT ADDITIONAL RESOURCES WERE NEEDED BY THE POLICE BECAUSE A LOWER BAC DOES NOT MEAN INCREASED ARRESTS---LAW ENFORCEMENT MUST HAVE PROBABLE CAUSE.

COSTS WERE NEGLIGIBLE AND FAR OUTWEIGH THE COST PER ALCOHOL-RELATED INJURY IN NORTH DAKOTA. AN ALCOHOL-RELATED FATALITY IN NORTH DAKOTA COST 1 MILLION DOLLARS IN MONETARY COSTS AND 2.3 MILLION DOLLARS IN QUALITY OF LIFE LOSSES.

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*Dorinda Hall*  
Operator's Signature

10/2/03  
Date



**THE COST PER INJURED SURVIVOR OF AN ALCOHOL-RELATED CRASH  
AVERAGED \$45,000 IN MONETARY COSTS AND \$49,000 IN QUALITY OF  
LIFE LOSSES.**

**THE ONLY GROUP IN AMERICA AND NORTH DAKOTA WHO OPPOSE  
THIS LAW IS CERTAIN SEGMENTS OF THE ALCOHOL INDUSTRY AND I  
SAY CERTAIN SEGMENTS, BECAUSE THE CENTURY COUNCIL WHO  
REPRESENTS 4 OF THE LARGER DISTILLERS IN THE UNITED STATES  
HAS NOT ONLY NOT OPPOSED THE .08 LAW, BUT HAS WITHDRAWN  
THEIR FINANCIAL SUPPORT FROM THE AMERICAN BEVERAGE  
INDUSTRY. INDEED, IN ILLINOIS, THE RESTAURANT INDUSTRY  
PROJECTED A +4.7% INCREASE AFTER THE PASSAGE OF .08 BAC.**

**LET ME CLOSE WITH A FINAL FEW THOUGHTS ON .08---**

- **THIS LAW SAVES LIVES**
- **THIS LAW REDUCES FATALITIES AND INJURIES, NOT  
ONLY AT LOW BAC LEVELS, BUT ACROSS THE SPECTRUM.**
- **THIS LAW IS NOT TARGETING THE SOCIAL DRINKER.**
- **THIS LAW DOES NOT REDUCE CONSUMPTION, SO THERE WOULD BE  
NO LOSS IN REVENUE TO THE ALCOHOL INDUSTRY FOR A .08 LAW.**

**A PERSON AT .08 BAC BEHIND THE WHEEL OF A CAR IS A DANGER TO  
THEMSELVES AND TO ALL OF US. I URGE YOU TO PASS THIS  
IMPORTANT LAW.  
THANK-YOU!**

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*Donna Hall*  
Operator's Signature

10/2/03  
Date

**SENATE STATEMENT**

**MARCH 13, 2003**

Good Morning. I am Kathy Nelson, a member of MADD Cass County, and a victim of an alcohol impaired crash.

On November 12, 1995, my 8 year old son Matthew was killed by an alcohol impaired driver in a devastating car crash. My husband and son were returning from a weekend in Bismarck when a speeding pickup on a gravel side road sped through a stop sign directly into the side of our pickup.

The reason I'm here today is to personalize your work somewhat. I greatly admire the legislative work that you do here, although it must become faceless paperwork at times. I am here in support of Bill 1161 - reducing the legal blood alcohol limit from .10 to .08. As I'm sure you know from your research, the .10 limit puts a person at a severely impaired state. The .08 limit still requires a 200 pound man to consume 5 alcoholic beverages in ONE HOUR, well beyond any definition of social drinking.

The young man who broad sided the pickup my son was riding in had, according to witnesses, consumed 3 to 4 beers and 1 to 2 whiskey drinks in the hour before getting behind the wheel. Yet, 2 hours after being brought in the emergency room and going through intensive medical treatments and blood transfusions, still maintained an alcohol level of .04. Not high enough to be convicted of drunk driving, but high enough to kill.

But you know all the facts. I want to enlighten you on what sort of impact impaired driving has had in my life. Since the loss of my son, I have many concerns or troubles in the following aspects of life: raising surviving children, marriage, faith, work, mood, sleep, traveling, leaving my house, speaking to strangers, public speaking, separation anxiety, what type of vehicle I drive, anger control, anxiety, and depression.

I will only elaborate on a couple of things:

\*Raising surviving children: Talk to any teacher or friend of my children and they are thriving, intelligent, gifted children who are doing well. Talk to them at home and Phillip (13) desperately wants a big brother; Eli (10) struggles with separation anxiety, and Karly (5) just wishes the crash never happened because she wants to meet Matthew.

\*Leaving my house: This includes many things. Traveling is difficult, meetings strangers is difficult, and allowing my children to go places with other people is difficult. I never used to be this type of person - I was involved in everything I could be. I had no trouble speaking in front of crowds, and was a regular member of Toastmasters. Now, the security of being home and alone outweighs the benefits of working outside of my home.

All because of someone who chose to drink and drive.

We need to send a message that it is NOT OKAY.

Kathy Nelson 128 N Woodcrest Drive Fargo, ND 58102 701-232-2152

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*Dorinda Hall*  
Operator's Signature

10/2/03  
Date

**North Dakota Hospitality Association  
Testimony  
HB 1161**

Chairman Trenbeath and members of Senate Transportation Committee, I am Patti Lewis, Executive Director of the North Dakota Hospitality Association and am here today to speak in opposition of House Bill 1161.

The North Dakota Hospitality Association - representing the state's food, lodging and beverage industry - faces many challenges. Burdensome government regulations, high taxation and a public perception that many of the products and services we provide may be harmful, are just some of them. Our greatest hurdle today, however, is the pressure we have to follow a federal mandate - on an issue, I might add, that is clearly a state's rights decision - to reduce the allowable blood alcohol level from .10 to .08.

Please understand that our association and its members are adamantly opposed to irresponsible behavior, regardless of its cause, but feel that focusing on a BAC reduction from .10 to .08 only penalizes our responsible, social drinkers. This does nothing to reduce the fatalities caused by repeat, high BAC offenders. You'll find along with this testimony, a graph generated from information provided by the National Highway Traffic Administration which demonstrates that most of the alcohol-related fatalities occur after a BAC of .14 and higher. Actually, fatalities were higher in those with trace amounts of alcohol than at either .08 or .10. We obviously have failed at eliminating the real problem - repeat and high BAC offenders.

More recent information can be found in the following two pages. This is a study requested by the Connecticut legislature and - again - inarguably shows that no statistically significant difference exists in alcohol related fatalities in the states imposing either the .08 or .10. So, who are we really targeting in this national and state legislation? Again, we are penalizing our responsible, social drinkers and not addressing the real issue.

Most importantly, however, this bill does not solve the total problems surrounding impaired drivers. Each day, the number of methamphetamine, cocaine, marijuana and other drug related arrests increases. Since these drug users drive vehicles, our state's resources may be more efficiently utilized by cracking down on drug-induced impaired

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*Patti Lewis*  
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10/2/03  
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drivers as well as high BAC, repeat offender alcohol impaired drivers. We need to help our local and state law enforcement officials arrest drug induced impaired drivers as diligently and forcefully as they do alcohol impaired drivers.

Let's remember that alcohol is a legal product in our state and country. Meth, coke and other street drugs are not. Through aggressive campaigns, the public is beginning to accept the notion that drinking and driving is illegal. Recall that the slogan has gone from "Don't Drive Drunk," to "Don't Drink and Drive." This perception has a great cost on our restaurant and beverage industry. Responsible consumers once believed that it was okay to have a few drinks after work or a couple of glasses of wine with dinner. That is no longer the case. And, rest assured, that moving from .10 to .08 BAC is going to increase that perception. You have heard that this will not effect those people but, since BAC depends greatly upon our level of food consumption, rest, weight and other factors, who knows the amount of alcohol it will take to get to .08? More importantly, who will take the risk to find out?

And while this bill will adversely effect the hospitality industry, keep in mind that it will also effect the tax revenues collected by the state and city governments. State general sales tax, state beer and liquor taxes and city lodging and restaurant taxes will all be negatively impacted by this legislation.

The members of the hospitality association certainly understand what a terrible position the federal government has put you in. And we understand your struggle to be responsible to North Dakotans while being judicious in your decisions. Yet, let's not punish our social drinks and one of the state's largest industries for the sake of what could be termed an unconstitutional federal mandate.

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Deanna Baller  
Operator's Signature

10/2/03  
Date

Date: 03/12/2003 03:06 pm -0500 (Wednesday)  
From: Tyler Bolden  
To: Marti Miller  
Subject: Re: Fwd: ND legislation - Complete

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**\*\* High Priority \*\***

Marti -

Here is a preliminary draft of our review for ND. Part of my first e-mail was cut off. The official review will follow later this week.

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I have reviewed both bills from the State of North Dakota. HB 1439 is not compliant with all the requirements of Section 163. Most notably, HB 1439 retains the 0.10 limit in the ALR provisions and distinguishes the penalties for offenders with a BAC of .08-.10, .11-.15 and .16 and higher. Specifically, the fines associated with the proposed .08 offense are reduced and the driver's license suspension provisions may be waived for offenders with a BAC between .08-.10.

I have also reviewed HB 1161. This bill is compliant with the Section 163 requirements. It retains the same penalties previously associated with the .10 offense, but lowers the legal limit to .08.

Accordingly, this office concludes that HB 1439, if enacted without change, would not allow North Dakota to meet the requirements of Section 163. However, HB 1161, if enacted without change, would enable North Dakota to comply with the requirements of Section 163 and the agency's implementing regulations.

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Tyler Bolden  
Operator's Signature

10/2/03  
Date

**TESTIMONY OF JANET DEMARAIS SEAWORTH  
EXECUTIVE DIRECTOR  
NORTH DAKOTA BEER WHOLESALERS ASSOCIATION**

**HB 1161  
Senate Transportation Committee**

Mr. Chairman, members of the committee, my name is Janet Seaworth. I'm the Executive Director of the North Dakota Beer Wholesalers Association. Our association is comprised of seventeen family owned and operated wholesalers, many in their third generation of ownership.

Four years ago, this legislature debated the merits of .08 and rejected .08 as ineffective and an unwise use of our law enforcement resources. That hasn't changed. And our position remains the same.

**\*Lowering the BAC to .08 will not reduce the number of alcohol-related crashes.** Drivers with a low BAC are not the problem. According to the U.S. Department of Transportation, the average BAC level among fatally injured drinking drivers is .17%, more than twice the proposed .08% arrest level. Nearly two-thirds of all alcohol-related fatalities involve drivers with BACs of .14% and above.<sup>1</sup> In 1991, in testimony before the Governor's DUI Task Force, the state toxicologist testified that the average BAC of apprehended drivers in North Dakota was .163%, more than two times the proposed .08%. It was the state toxicologist's opinion that lowering the BAC to .08 would not reduce traffic fatalities.

**\*States with .08 BAC do not have a lower incidence of drunk driving deaths than states with a .10 BAC.** Look at the comparisons: Of the ten states that have the lowest incidence of alcohol-related fatalities, only two have .08.<sup>2</sup> In 1996, New Mexico had the nation's highest rate of alcohol-related traffic deaths despite the fact that it had adopted .08.<sup>3</sup> North Carolina actually saw a 21% increase in the alcohol-related fatality rate after it enacted .08.<sup>4</sup> A study conducted by the University of North Carolina, at the request of NHTSA, concluded that lowering the BAC limit to .08 in North Carolina had no effect.<sup>5</sup> And a GAO report released in June 1999 on the "Effectiveness of State .08 Blood Alcohol Laws" concluded that "the evidence does not conclusively establish that .08 BAC laws, by themselves, result in reductions in the number and severity of alcohol-related crashes."<sup>6</sup>

**\*Lowering the BAC to .08 will dilute law enforcement efforts and resources.** According to

<sup>1</sup> National Highway Traffic Safety Administration, "1996 Drivers of vehicles in transport with known alcohol-test results," Fatal Accident Reporting System [CD-ROM and database on-line] (Washington D.C.: U.S. Department of Transportation, 1996).

<sup>2</sup> U.S. Department of Transportation, National Highway Traffic Safety Administration, Alcohol Traffic Safety Facts, "Fatalities by the Highest BAC in the Crash by State," 1999 FARS Data.

<sup>3</sup> See footnote 1.

<sup>4</sup> See footnote 1.

<sup>5</sup> Foss, Stewart, Reinfurt, "Evaluation of the Effects of North Carolina's 0.08% BAC Law," Highway Safety Research Center, University of North Carolina, November 1998.

<sup>6</sup> United States General Accounting Office, "Highway Safety: Effectiveness of State .08 Blood Alcohol Laws," June 1999.

traffic safety specialists, lowering the BAC merely increases the population subject to arrest and increases the likelihood that chronic alcoholics or repeat offenders will be less likely to be arrested.<sup>7</sup>

Four years ago this legislature determined, rightly so, that .08 was not the answer. According to the GAO study I have cited, highway research shows that the best countermeasure against drunk driving is a combination of laws, sustained public education, and vigorous enforcement. The only thing that has changed since the legislature considered .08 in 1999 is that the state now faces considerable sanctions if it does not enact .08. We do not agree that it is appropriate for Congress to pass a law which would set a national standard for impaired driving and punish states that do not comply. Nevertheless, given the circumstances, it is difficult for us to ask you to forego certain highway construction funds on principal. That is your call. But if you are serious about saving lives, and want to effectively address the number of alcohol-related fatalities, we ask that you consider the proposals introduced which include graduated penalties, mandatory minimum sentences, mandatory treatment for repeat offenders and ignition interlocks.

Thank you.

For more information, contact NDBWA, P.O. Box 7401, Bismarck, ND 58507, (701) 258-8098.

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<sup>7</sup> Pete Youngers, "Federal Anti-Alcoholism Diverts Dollars From Effective Safety Measures," The Moderation Reader, Nov/Dec, 1990, p. 36.

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*Dan H. Hall*

Date

10/2/03

# DEALING WITH THE HARD CORE DRINKING DRIVER

H.M. Simpson, D.R. Mayhew and D.J. Belrness

Traffic Injury Research

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## SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

This report re-examines the problem of the *hard core drinking driver* -- those individuals who repeatedly drive after drinking, especially with high blood alcohol concentrations (BACs) and who seem relatively resistant to changing this behaviour.

It shows that there has been virtually no change in the magnitude of the problem since the release of our previous report in 1991. Although hard core drinking drivers are a relatively small group in the total driving population, they continue to account for a very substantial proportion of drinking-driving problems, including fatal and injury-producing crashes. To illustrate, hard core drinking drivers account for only 1% of all drivers on the road at night during the weekend, but they represent nearly half of all the fatal crashes at that time. They also account for almost one-third (27%) of all fatally injured drivers and about two-thirds (65%) of all fatally injured drivers who are drinking.

The report focuses on a variety of measures that offer promise for dealing efficiently and effectively with hard core drinking drivers. It recommends:

*The use of an efficient method for identifying and processing hard core drinking drivers when they enter the legal /administrative system.*

- ◆ The efficiency and effectiveness of identifying and processing offenders could be increased by the introduction of a tiered-BAC system, which uses the BAC at the time of arrest as a criterion for determining the sanctions imposed.

*Assessment of DWI offenders to identify the problems they present, particularly those related to alcohol dependence.*

- ◆ Assessment -- or at least some type of screening -- should be required of all DWI offenders. In practice, however, it may be more efficient to require assessment only of repeat offenders and first offenders with high BACs -- i.e., those most likely to be harmfully involved with alcohol and at greatest risk of committing a subsequent DWI offence.

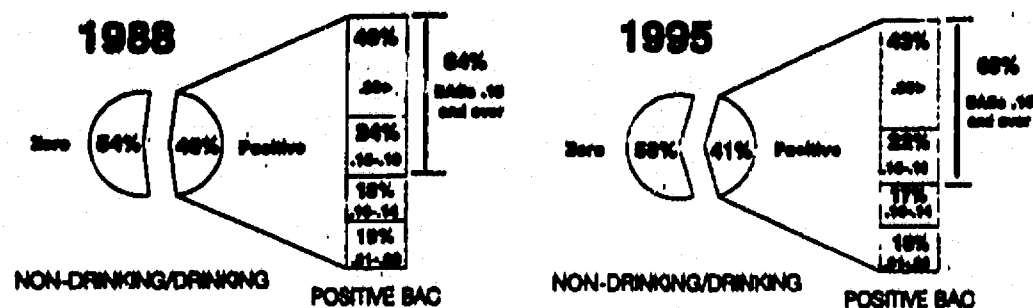
*Treatment and rehabilitation programs should be viewed as an essential and viable part of any strategy designed to deal with the problem of the hard core drinking driver.*

- ♦ a variety of treatment programs should be available so that offenders are diverted to the most appropriate program (treatment matching).

*Programs are needed to prevent or limit the opportunity of the "hard core" to drink and drive prior to, during, and even following treatment. Some of these programs -- such as licence suspension -- can be targeted directly at the offender; others can be directed at the offender's vehicle.*

- ♦ Administrative licence suspension is an effective DWI countermeasure and should continue to be promoted. Despite its effectiveness, a significant proportion of those with a suspended license continue to drive. Although this does not negate the beneficial effect of licence suspension, a greater impact might be realized if all suspended drivers could be kept off the road but especially the hard core. To increase the impact of licence suspension, measures are needed to enhance the detection of unlicensed drivers and a wider range of sanctions are needed to reduce the numbers of those who ignore their suspension.
- ♦ Very brief jail terms appear to be effective with first-offenders but it is not yet known whether this applies to hard core offenders.
- ♦ Despite the relatively weak evidence that lengthy jail terms have any beneficial safety impact, for various reasons, such as punishment and retribution, jail and prison sentences will continue to be used.
- ♦ Electronically monitored home confinement of DWI offenders appears to be a viable, effective and less costly alternative to incarceration.
- ♦ Intensive supervised probation is an effective means of ensuring that offenders comply with treatment recommendations.
- ♦ Alcohol ignition interlocks have been extensively evaluated and proven to be an effective means of preventing driving after drinking, even among repeat offenders. Their widespread use should be encouraged.
- ♦ Devices such as autotimers and fuel locks appear promising and warrant further study -- these have not yet been evaluated, so it is unknown how and for whom they might be most effective.
- ♦ Administrative impoundment and immobilization of vehicles being operated by suspended drivers appears to be an efficient and effective means of bolstering licence suspensions and preventing repeat DWI behaviour.

## BACs Among Fatally Injured Drivers In the United States



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*Dannan G. Ball*  
Operator's Signature

10/2/03  
Date

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## Targeting "High-BAC" Repeat Offenders

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Despite the great deal of progress which has been made in the fight against drunk driving, the challenge is not over. While social drinkers appear to have heard the message about drunk driving, there remains a very small percentage who repeatedly drive with extremely high blood alcohol levels. If we are going to continue the progress, many experts believe we must target the high-BAC repeat offender – these "hard-core" drinking drivers – for further sanctions. Consider this:

- **The "hard-core" drinking driver is not reached by conventional messages.** A 1991 study by the Traffic Injury Research Foundation (TIRF) found that still today some 80 percent of fatally injured drunk drivers have a blood alcohol content of .15 percent or higher. That is the equivalent of about six drinks in an hour for a 160-pound man. In addition, the study found that more than one-half of drunk drivers killed may have a blood alcohol content of .20 or above. Education and awareness efforts appear to be ineffective with this group.
- **Promising approaches to reaching the "hard-core" do exist.** The TIRF study suggests that an overall strategy to address the high-BAC driver might include: tiered-BAC systems that tie the level and type of sanction to the BAC of the driver, so that minor impairment and severe drunkenness are treated differently; assessment, treatment and rehabilitation coupled with sanctions, and the employment of certain technological approaches, like the alcohol ignition interlock.
- **Alcohol ignition interlocks, for example, may keep convicted drunk drivers from driving drunk again and again.** Alcohol ignition interlocks are essentially small breath-testing units installed in the offender's car and linked to the vehicle's ignition system. In order to start the vehicle, the driver must "blow" a breath sample below a certain level. BACs in excess of that level cause the ignition to lock, preventing the offender from operating the vehicle. Studies have shown that these devices work in keeping the abuser from driving drunk. And, coupled with counseling and treatment, ignition interlock devices may have longer-term benefits as well.
- **Measures shouldn't penalize all drinkers for the problems caused by a few.** With government's limited resources, it makes good sense to concentrate efforts – and money – on those who are causing the problems ... the high-BAC drivers. Measures like the interlock devices fit the bill because they are highly targeted toward offenders and deal directly with the drunk driving problem. Such approaches are inherently more fair and sensible than other approaches that inconvenience and punish all consumers in order to address the problems created by the few.

According to many researchers, like those at the world-renowned Traffic Injury Research Foundation, keeping repeat "high-BAC" offenders off the road will go a long way toward solving the remaining drunk driving problem. The TIRF suggestions for targeting the "hard-core," like the alcohol ignition interlock device, aim carefully at the problem and are worth serious consideration.

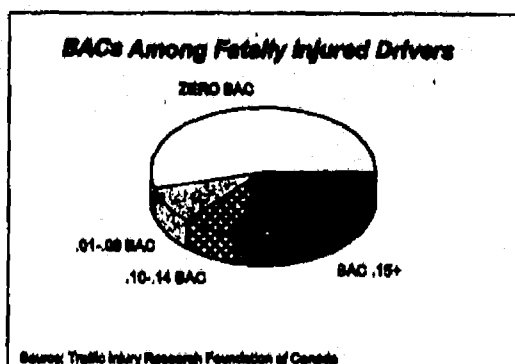
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## The Hard-Core Drinking Driver

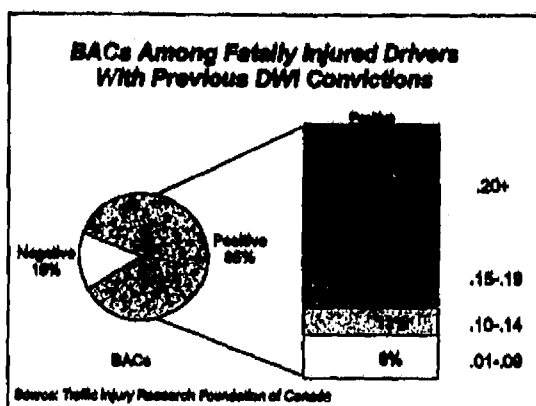
### *Profile of a Typical Drunk Driving Fatality*

Evidence indicates that a large proportion of the drunk driving problem appears to be concentrated among a small percentage of drivers. A study of U.S. federal government data by the Traffic Injury Research Foundation of Canada, offers some good direction on where the nation should focus attention in the fight against drunk driving. The study found:

**High-BAC drivers are causing the vast majority of the drunk driving fatalities.** While education and awareness and law enforcement have persuaded many social drinkers not to drive drunk, it appears the hard-core drinking drivers have not yet heard the message. Almost 80 percent of drunk drivers killed in 1991 had a blood alcohol content (BAC) of .15 or above – the equivalent of about six drinks in an hour for a 160 pound person. Over one-half of all drunk drivers killed had a BAC of .20 or above. That's twice the legal limit in most states. And, about 8,500 of these hard core drivers are killed on U.S. roads each year – not counting their victims. This is almost one-third of all drivers killed – drinking or nondrinking.



**A very small percentage is causing most of the problem.** The study also found that while these drivers make up only one percent of drivers on the road on weekend nights, they constitute half of all drivers killed.



**"Hard-core" are most likely problem drinkers or alcoholics.** The study found that these drivers are more likely to have a history of drunk driving convictions and driver's license suspension related to drunk driving. In fact, the study found that 80 percent of fatally injured drinking drivers with previous DWI convictions had BACs of .15 and above.

**High-BAC drivers are hard to reach.** Based on the findings about high-BAC drivers, the report suggests that an overall strategy to target these abusers might include: a tiered-BAC approach, which ties the sanc-

tion to the BAC of the driver so that minor impairment and severe drunkenness are treated differently; increased assessment, treatment and rehabilitation; and possible technological approaches.

The public demands that government zero-in on the most cost-efficient solutions to society's problems. It is increasingly evident that the "hard-core" are causing an extremely high proportion of traffic fatalities. By targeting these alcohol abusers, the nation can continue to make further progress in reducing drunk driving.

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10/2/03  
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**NATIONAL TRANSPORTATION SAFETY BOARD**  
**Public meeting of June 27, 2000**  
**ABSTRACT OF FINAL REPORT**  
**(Subject to Editing)**  
**Safety Report Regarding Actions to Reduce Fatalities, Injuries,**  
**and Crashes Involving the Hard Core Drinking Driver**  
**NTSB SR-00/01**

**EXECUTIVE SUMMARY**

In 1984, the National Transportation Safety Board published a Safety Study titled *Deficiencies in Enforcement, Judicial, and Treatment Programs Related to Repeat Offender Drunk Drivers (NTSB/SS-84/04) (the Repeat Offender Study)*. That study identified repeat offender drinking drivers (included in this report under the category of "hard core drinking drivers") as a serious traffic safety problem.

In the more than 15 years that have passed since that investigation was concluded, efforts have been made by all the States to address this major safety problem. However, despite significant progress, the measures taken and the degree of implementation have not been uniform, and 15,794 people still died in 1999 from alcohol-related crashes. This number is far above the target set by the Secretary of Transportation in 1995 to reduce the number of alcohol-related fatalities to no more than 11,000 by 2005.

For purposes of this report, the NTSB uses the term "hard core drinking drivers" to include repeat offender drinking drivers (that is, offenders who have prior convictions or arrests for a Driving While Impaired [DWI] by alcohol offense) and high-BAC offenders (that is, all offenders with a blood alcohol concentration [BAC] of 0.15 percent or greater).

From 1983 through 1998, at least 137,338 people died in crashes involving hard core drinking drivers.<sup>1</sup> NHTSA's data also indicate that 99,812 people were injured in fatal crashes involving hard core drinking drivers (as defined by the Safety Board) during that same time period. In 1998 alone, hard core drinking drivers were involved in a minimum of 6,370 highway fatalities, the estimated cost of which was at least \$5.3 billion.

In preparing this report, the Safety Board reviewed the literature on countermeasures that have been found effective in reducing recidivism, crashes, fatalities, and injuries. This report identifies the highway safety problem involving hard core drinking drivers, discusses research on control measures, and proposes solutions. It also discusses steps taken by the United States Congress to address the hard core drinking driver problem by enacting certain provisions in the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and recommends that the Department of Transportation evaluate modifications to the provisions of TEA-21 so that it can be more effective.

TEA-21 may better assist the States to reduce the hard core drinking driver problem if it were modified to include items such as those in the NTSB model program, listed below.

The Safety Board believes that a model program to reduce hard core drinking driving should incorporate the following elements:

<http://www.nts.gov/publicn/2000/SR0001.htm>

6/30/00

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- Frequent and well-publicized statewide sobriety checkpoints that include checking for valid driver's licenses. Checkpoints should not be limited to holiday periods.
- Vehicle sanctions to restrict or separate hard core drinking drivers from their vehicles, including license plate actions (impoundment, confiscation, or other actions); vehicle immobilization, impoundment, and forfeiture; and ignition interlocks for high-BAC first offenders and repeat offenders.
- State and community cooperative programs involving driver licensing agencies, law enforcement officers, judges, and probation officers to enforce DWI suspension and revocation.
- Legislation to require that DWI offenders who have been convicted or administratively adjudicated maintain a zero blood alcohol concentration while operating a motor vehicle.
- Legislation that defines a high blood alcohol concentration (0.15 percent or greater) as an "aggravated" DWI offense that requires strong intervention similar to that ordinarily prescribed for repeat DWI offenders.
- As alternatives to confinement, programs to reduce hard core drinking driver recidivism that include home detention with electronic monitoring and/or intensive probation supervision programs.
- Legislation that restricts the plea bargaining of a DWI offense to a lesser, non-alcohol-related offense, and that requires the reasons for DWI charge reductions be entered into the public record.
- Elimination of the use of diversion programs that permit erasing, deferring, or otherwise purging the DWI offense record or that allow the offender to avoid license suspension.
- Administrative license revocation for BAC test failure and refusal.
- A DWI record retention and DWI offense enhancement look-back period of at least 10 years.
- Individualized sanction programs for hard core DWI offenders that rely on effective countermeasures for use by courts that hear DWI cases.

## CONCLUSIONS

1. Efforts by public and private entities have contributed to substantial reductions since 1983 in the number of fatalities (23,646 to 15,794) and proportion (56 percent to 38 percent) of alcohol-related crashes.
2. While hard core drinking drivers constituted only 0.8 percent (1 of 119) of all drivers on the road in the National Roadside Survey, they constituted 27 percent of drivers in fatal crashes during the same time period in 1996. These data clearly suggest that hard core drinking drivers are overrepresented in fatal crashes.
3. Hard core drinking drivers (repeat offender drinking drivers with a prior DWI arrest or conviction within the past 10 years and offenders with a blood alcohol concentration of 0.15 percent or greater) pose an increased risk of crashes, injuries, and fatalities. Therefore, the States should target hard core

<http://www.nts.gov/publicn/2000/SR0001.htm>

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drinking drivers to further reduce the significant loss of human life and immense societal costs they cause.

4. Administrative license revocation is an effective measure to reduce alcohol-related crashes and fatalities.
5. Publicized DWI enforcement including sobriety checkpoints can be very effective in identifying the hard core drinking driver and in reducing alcohol-involved driving and alcohol-related crashes.
6. Sobriety checkpoints provide an opportunity to apprehend not only alcohol-impaired drivers but also unlicensed drivers and those who are driving on licenses suspended or revoked for DWI.
7. Vehicle sanctions to separate the hard core drinking driver from his or her vehicle or to prevent him or her from drinking while impaired appear to be effective tools in reducing hard core drinking driver recidivism.
8. Laws restricting plea bargaining have been found to reduce the number of DWI repeat offenses as well as the number of alcohol-related crashes.
9. Diversion programs that allow license retention or erasure of DWI offenses from the driver's record may prevent the State from prosecuting hard core drinking drivers as repeat offenders in the future.
10. The elevated crash risk and potential for recidivism of high-BAC (0.15 percent or greater) drivers constitute a safety problem that warrants State legislation creating a high-BAC "aggravated" alcohol offense.
11. The optimal way to target hard core drinking drivers to reduce the crashes, injuries, and fatalities they cause is with a comprehensive program that would include items such as those included in the NTSB model program.
12. TEA-21 may be more effective in assisting the States to reduce the hard core drinking driver problem if it were modified to include items such as those included in the NTSB model program.

## **SAFETY RECOMMENDATIONS**

As a result of this study, the National Transportation Safety Board makes safety recommendations as follows:

### **to the States and the District of Columbia**

Establish a comprehensive program that is designed to reduce the incidence of alcohol-related crashes, injuries, and fatalities caused by hard core drinking drivers, that includes items such as those included in the NTSB model program.

### **to the Department of Transportation**

Evaluate modifications to the provisions of the Transportation Equity Act for the 21<sup>st</sup> Century so that it can be more effective in assisting the States to reduce the hard core drinking driver problem, and recommend changes to Congress as appropriate. Considerations should include

<http://www.nts.gov/publicn/2000/SR0001.htm>

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the following: a) a revised definition of "repeat offender" to include administrative actions on driving-while-impaired offenses; b) mandatory treatment for hard core offenders; c) a minimum period of 10 years for records retention and driving-while-impaired offense enhancement; d) administratively imposed vehicle sanctions for hard core drinking drivers; e) elimination of community service as an alternative to incarceration; and f) inclusion of house arrest with electronic monitoring as an alternative to incarceration.

Member John Hammerschmidt will provide a dissenting opinion on conclusion #12 and the safety recommendation to the Department of Transportation. Member George Black was not present and will vote at a later date.

1 Nineteen ninety-eight is the most recent year for which complete data are available from the National Highway Traffic Safety Administration.

NTSB Home | Press Releases

<http://www.nts.gov/publicn/2000/SR0001.htm>

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GAO

United States General Accounting Office

Report to Congressional Committees

June 1999

# HIGHWAY SAFETY

## Effectiveness of State .08 Blood Alcohol Laws



*Janet Hemmick  
Lawson  
Additional  
Testimony  
3-13-03*



GAO

Accountability \* Integrity \* Reliability

GAO/RCED-99-179

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On average, according to NHTSA, a 170-pound man reaches .08 BAC after consuming five 12-ounce beers (4.5-percent alcohol by volume) over a 2-hour period. A 120-pound woman reaches the same level after consuming three beers over the same period. NHTSA publishes a BAC estimator that computes the level of alcohol in a person's blood on the basis of the person's weight and gender and the amount of alcohol consumed over a specified period of time. This estimator assumes average physical attributes in the population—in reality, alcohol affects individuals differently, and this guide cannot precisely predict its effect on everyone. For example, younger people have higher concentrations of body water than older people; therefore, after consuming the same amount of alcohol, a 170-pound 20-year-old man attains a lower BAC level on average than a 170-pound 50-year-old man.

As figure 2 illustrates, NHTSA's estimator shows that the difference between the .08 BAC and .10 BAC levels for a 170-pound man is one beer over 2 hours. The difference between the .08 BAC and .10 BAC levels for a 120-pound woman is one-half a beer over the same time period.

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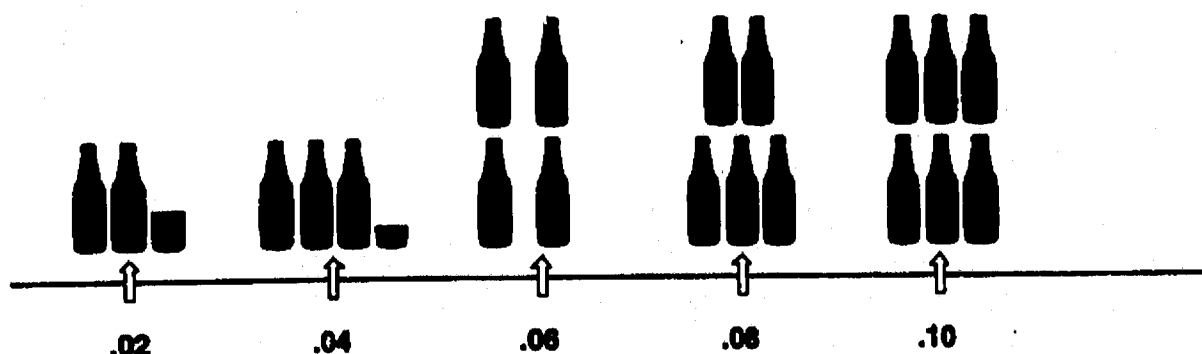
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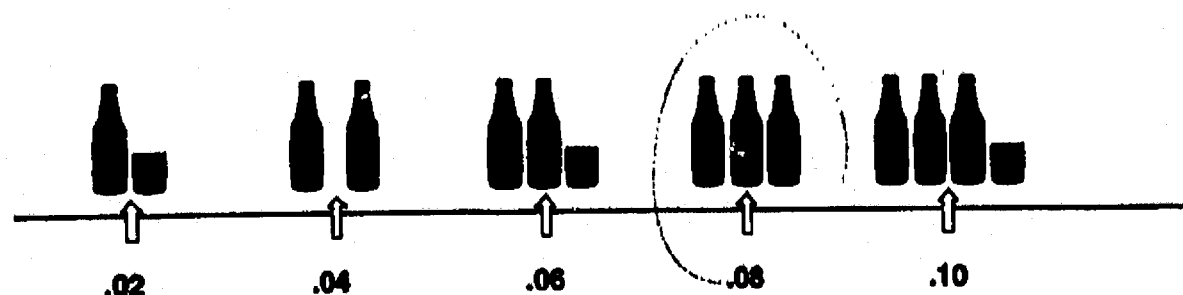
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Figure 2: Alcohol Consumption and Blood Alcohol Levels

170 lb.  
Man



120 lb.  
Woman



Drinks consumed in a 2-hour period

- 12-ounce beer (4.5% alcohol by volume)
- 1/2 beer
- 1/4 beer

Source: GAO's illustration based on NHTSA's BAC estimator.

Alcohol use is a significant factor in fatal motor vehicle crashes. In 1997, the most recent year for which data are available, there were 16,189 alcohol-related fatalities, representing 38.6 percent of the nearly 42,000 people killed in fatal crashes that year. In the states with .08 BAC laws, alcohol was involved in 36 percent of all traffic fatalities, lower than the national average and the 39.5-percent rate of alcohol involvement in the

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rest of the states.<sup>3</sup> Utah had the lowest level at 20.6 percent; the District of Columbia had the highest at 58.5 percent. Among the 10 states with the lowest levels of alcohol-related fatalities, 3 were states with .08 BAC laws and 7 were states with .10 BAC laws. Among the 10 states with the highest levels of alcohol-related fatalities, 2 were states with .08 BAC laws, 7 were states with .10 BAC laws, and 1 had no BAC per se law.

Although alcohol use remains a significant factor in fatal crashes, fatalities involving alcohol have declined sharply over the last 15 years. In 1982, 25,165 people died in crashes involving alcohol, 57.3 percent of the nearly 44,000 traffic fatalities that year. The proportion of fatal crashes that involved alcohol declined during the 1980s, falling below 50 percent for the first time in 1989. The involvement of alcohol in fatal crashes declined markedly in the early 1990s, from about 50 percent of the fatal crashes in 1990 to nearly 40 percent in 1994. During this time, the number of people killed in crashes involving alcohol declined by around 25 percent. The proportion of fatalities involving alcohol rose slightly in the next 2 years before falling, in 1997, to its lowest level since 1982, as figure 3 shows.

<sup>3</sup>This analysis excludes Idaho and Illinois, states that had .08 BAC laws take effect during 1997.

DOT HS 809 323

U.S. Department of Transportation  
National Highway Traffic  
Safety Administration



# Traffic Safety Facts 2000



The National Highway Traffic Safety Administration (NHTSA) defines a fatal traffic crash as being alcohol-related if either a driver or a nonoccupant (e.g., pedestrian) had a blood alcohol concentration (BAC) of 0.01 grams per deciliter (g/dl) or greater in a police-reported traffic crash. Persons with a BAC of 0.10 g/dl or greater involved in fatal crashes are considered to be intoxicated. This is the legal limit of intoxication in most states.

Traffic fatalities in alcohol-related crashes rose by 4 percent from 1999 to 2000. The 16,653 alcohol-related fatalities in 2000 (40 percent of total traffic fatalities for the year) represent a 25 percent reduction from the 22,084 alcohol-related fatalities reported in 1990 (50 percent of the total).

NHTSA estimates that alcohol was involved in 40 percent of fatal crashes and in 8 percent of all crashes in 2000.

The 16,653 fatalities in alcohol-related crashes during 2000 represent an average of one alcohol-related fatality every 32 minutes.

An estimated 310,000 persons were injured in crashes where police reported that alcohol was present — an average of one person injured approximately every 2 minutes.

Approximately 1.5 million drivers were arrested in 1999 for driving under the influence of alcohol or narcotics. This is an arrest rate of 1 for every 121 licensed drivers in the United States (2000 data not yet available).

About 3 in every 10 Americans will be involved in an alcohol-related crash at some time in their lives.

In 2000, 31 percent of all traffic fatalities occurred in crashes in which at least one driver or nonoccupant had a BAC of 0.10 g/dl or greater. Sixty-nine percent of the 12,892 people killed in such crashes were themselves intoxicated. The remaining 31 percent were passengers, nonintoxicated drivers, or nonintoxicated nonoccupants.

Table 1. Types of Fatalities in Fatal Crashes Involving at Least One Intoxicated Driver or Nonoccupant, 2000

Category	Number	Percentage
Intoxicated Drivers	7,328	57
Nonintoxicated Drivers	820	6
Passengers	2,686	21
Intoxicated Nonoccupants (Pedestrians and Pedalcyclists)	1,594	12
Nonintoxicated Nonoccupants	486	4
Total Fatalities	12,892	100

National Center for Statistics & Analysis • Research & Development • 400 Seventh Street, S.W. • Washington, D.C. 20590

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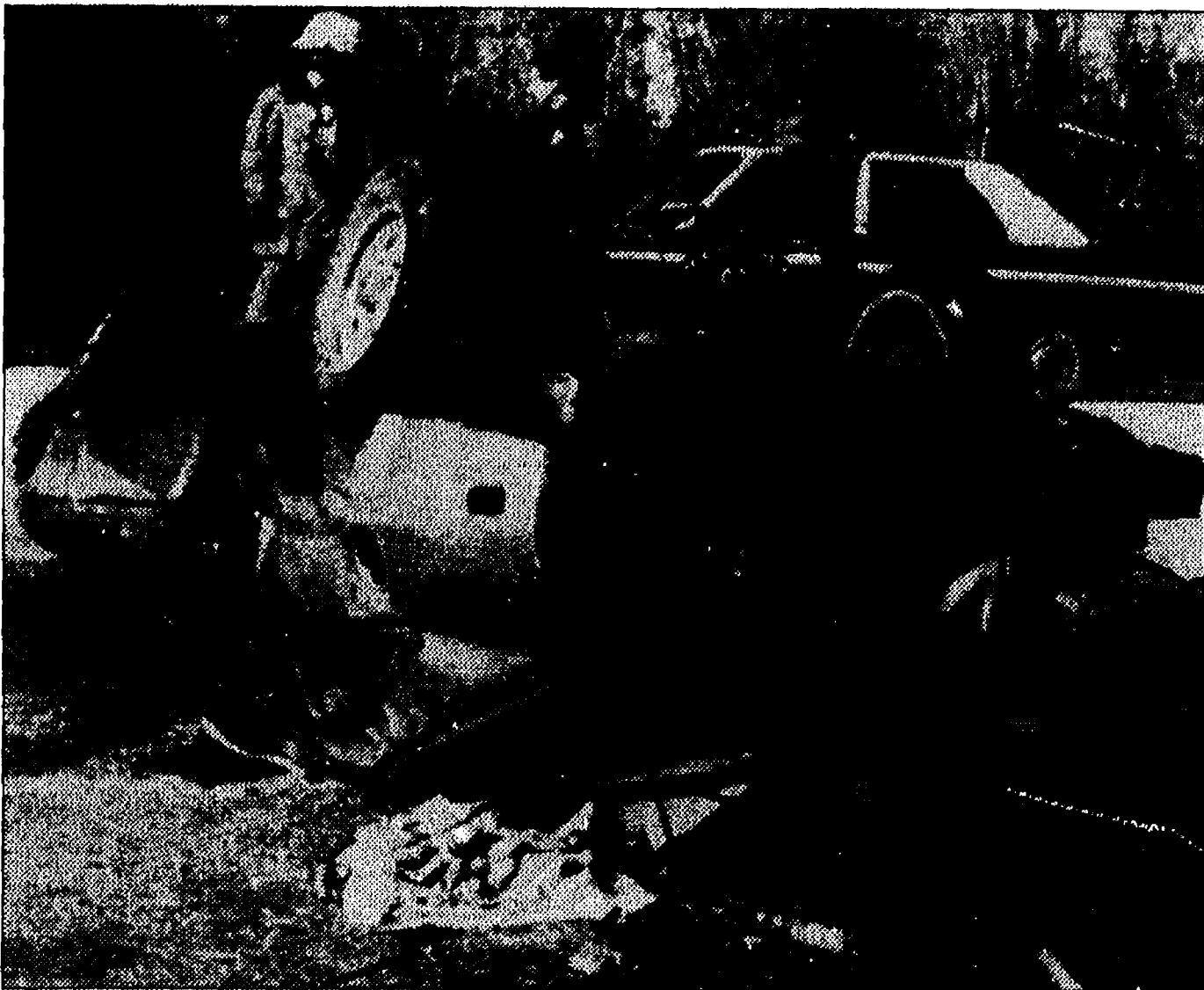
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U.S. Department  
of Transportation  
National Highway  
Traffic Safety  
Administration

# Traffic Safety Facts 2000



**A Compilation of Motor Vehicle Crash Data  
from the Fatality Analysis Reporting System  
and the General Estimates System**

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**Table 114**  
**Persons Killed, by State and Highest Blood Alcohol Concentration in the Crash (Continued)**

State	0.05 or less	0.06-0.09	0.10-0.14	0.15 or more	Total	0.05 or less	0.06-0.09	0.10-0.14	0.15 or more	Total
NJ	412	58	88	12	231	32	319	44	731	100
NM	225	52	46	11	189	37	208	48	439	100
NY	1,039	71	126	9	293	20	419	29	1,488	100
NC	949	64	103	7	419	28	523	38	1,472	100
ND	45	52	5	6	36	42	41	48	86	100
OH	835	82	105	6	411	50	518	38	1,381	100
OK	431	58	53	8	189	25	221	34	662	100
OR	263	58	56	12	132	29	188	42	451	100
PA	902	59	107	7	511	34	618	41	1,520	100
RI	39	49	10	12	31	38	41	51	89	100
SC	643	60	94	9	329	31	422	40	1,065	100
SD	92	53	15	9	66	38	61	47	173	100
TN	795	61	112	9	399	31	511	39	1,396	100
TX	1,871	50	448	12	1,450	38	1,898	50	3,799	100
UT	284	78	21	6	68	18	89	24	373	100
VT	48	61	4	5	27	34	31	39	79	100
VA	589	63	85	9	257	28	341	37	839	100
WA	357	56	59	9	217	34	275	44	632	100
WV	235	57	28	6	149	38	175	43	419	100
WI	454	57	57	7	288	38	345	43	799	100
WY	107	70	6	4	40	26	45	30	182	100
USA	25,168	89	3,761	9	12,882	31	18,853	48	41,221	100
PR	289	51	73	13	203	36	277	49	604	100

Note: NHTSA estimates alcohol involvement when alcohol test results are unknown. For more information, see page 7 of this report.

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**Table 115**  
**Drivers Involved in Fatal Crashes, by State**  
**and Blood Alcohol Concentration of the Driver (Continued)**

State	Total	0.01-0.09	0.10-0.19	0.20-0.29	0.30-0.39	0.40-0.49	0.50-0.59	0.60-0.69	0.70-0.79	0.80-0.89	0.90-0.99
NJ	780	78	84	8	174	17	258	25	1,848	100	
NM	388	72	40	7	117	21	157	28	553	100	
NY	1,884	84	90	5	231	12	321	18	2,888	100	
NC	1,803	79	83	5	341	17	434	21	2,837	100	
ND	88	82	6	6	34	32	40	38	188	100	
OH	1,449	78	100	5	358	19	458	24	1,888	100	
OK	701	79	45	5	144	18	189	21	888	100	
OR	478	78	44	7	109	17	154	24	632	100	
PA	1,579	75	97	5	434	21	531	25	2,119	100	
RI	80	83	10	10	28	27	38	37	88	100	
SC	1,047	74	89	6	277	20	388	28	1,413	100	
SD	155	71	15	7	47	22	62	29	217	100	
TN	1,312	75	100	6	330	19	429	25	1,741	100	
TX	3,389	87	473	9	1,184	23	1,857	33	5,848	100	
UT	382	84	23	5	53	11	75	18	487	100	
VT	85	70	3	4	25	26	28	30	83	100	
VA	886	75	75	6	212	17	288	22	1,284	100	
WA	821	72	58	7	188	21	244	28	888	100	
WV	367	71	30	6	123	24	153	29	529	100	
WI	808	73	82	6	240	22	302	27	1,108	100	
WY	138	78	5	3	33	19	39	22	178	100	
USA	43,131	76	3,581	8	18,488	18	13,988	24	57,888	100	
PR	483	80	77	11	149	21	228	31	718	100	

Note: NHTSA estimates alcohol involvement when alcohol test results are unknown. For more information, see page 7 of this report.

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Table 116  
Drivers Killed in Fatal Crashes, by State  
and Blood Alcohol Concentration of the Driver (Continued)

NJ	270	65	32	8	117	28	148	35	418	100
NM	141	56	18	7	84	35	102	42	343	100
NY	608	74	54	7	148	19	202	28	770	100
NC	630	69	46	5	238	26	282	31	912	100
ND	26	19	3	5	24	46	27	51	83	100
OH	805	64	52	8	280	30	332	38	828	100
OK	292	68	28	6	108	25	134	32	426	100
OR	182	64	25	9	79	28	104	36	286	100
PA	905	61	59	8	329	33	388	38	983	100
RI	26	52	5	10	19	38	24	48	86	100
SC	453	66	43	6	188	27	229	34	662	100
SD	68	57	7	7	34	35	41	43	87	100
TN	552	64	60	7	256	29	318	36	868	100
TX	1,265	57	179	8	751	35	960	43	2,225	100
UT	158	79	11	5	32	18	43	21	202	100
VT	32	57	2	4	22	39	24	43	86	100
VA	419	70	38	6	140	23	178	30	597	100
WA	228	80	30	8	121	32	151	40	377	100
WV	162	60	19	7	91	33	110	40	272	100
WI	327	61	28	5	183	34	211	39	536	100
WY	61	72	1	2	22	26	23	28	84	100
USA	16,408	64	1,760	7	7,328	29	8,908	36	25,482	100
PR	138	58	26	11	75	31	101	42	244	100

Note: NHTSA estimates alcohol involvement when alcohol test results are unknown. For more information, see page 7 of this report.

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Case No.: 380005

NHTSA Reports 4 Drunk Drivers

NHTSA Reports 5 Drunk Drivers

Number Of Fatalities: 1

Total Fatalities: 2

Police Report Drinking	NHTSA Derived Driver Drinking	Alcohol Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	Evidential Test (Breath, Blood, Urine)	Whole Blood	1
Drinking	Drinking	Observed	Not Tested	
Drinking	Drinking	Observed	Not Tested	
Drinking	Drinking	Observed	Not Tested	

Vehicle No.: 1  
DriverVehicle No.: 1  
PassengerVehicle No.: 1  
PassengerVehicle No.: 1  
Passenger

Case No.: 380006

NHTSA Reports 1 Drunk Drivers

NHTSA Reports 6 Drunk Drivers

Number Of Fatalities: 1

Total Fatalities: 3

Police Report Drinking	NHTSA Derived Driver Drinking	Alcohol Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	Evidential Test (Breath, Blood, Urine)	Whole Blood	2
Not Drinking	No Drinking	Observed	Not Tested	

Vehicle No.: 1  
DriverVehicle No.: 2  
Driver

Case No.: 380007

NHTSA Reports 2 Drunk Drivers

NHTSA Reports 8 Drunk Drivers

Number Of Fatalities: 1

Total Fatalities: 4

Police Report Drinking	NHTSA Derived Driver Drinking	Alcohol Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	Evidential Test (Breath, Blood, Urine)	Whole Blood	3
Drinking	Drinking	None Given	Not Tested	
Not Drinking	No Drinking	Observed	Whole Blood	

Vehicle No.: 2  
DriverVehicle No.: 2  
PassengerVehicle No.: 1  
Driver

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Case No.: 380009 NHTSA Reports 1 Drunk Drivers NHTSA Reports 9 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 5

Police Report: Drinking NHTSA Derived: Drinking Alcohol Test: 25 Evidence: Whole Blood (Breath, Blood, Urine) Proof Of: Drunk Driver

Case No.: 380012 NHTSA Reports 1 Drunk Drivers NHTSA Reports 10 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 6

Police Report: Drinking NHTSA Derived: Drinking Alcohol Test: 30 Evidence: Whole Blood (Breath, Blood, Urine) Proof Of: Drunk Driver

Case No.: 380013 NHTSA Reports 1 Drunk Drivers NHTSA Reports 11 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 7

Police Report: Drinking NHTSA Derived: Drinking Alcohol Test: 12 Evidence: Whole Blood (Breath, Blood, Urine) Proof Of: Drunk Driver

Case No.: 380014 NHTSA Reports 1 Drunk Drivers NHTSA Reports 12 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 8

Police Report: Drinking NHTSA Derived: Drinking Alcohol Test: 25 Evidence: Vitreous (Breath, Blood, Urine) Proof Of: Drunk Driver

Case No.: 380015 NHTSA Reports 1 Drunk Driver NHTSA Reports 1 Drunk Driver Number Of Fatalities: 1 Total Fatalities: 1

Proof Of Drunk Driver

Police Report Drinking	NHTSA Reported Driver Drinking	Alcohol Test Result	Alcohol Test Type	Alcohol Test	Proof Of Drunk Driver
Unknown	Drinking	.21	Evidential Test (Breath, Blood, Urine)	Whole Blood	8
Not Drinking	No Drinking	0.00	Evidential Test (Breath, Blood, Urine)	Whole Blood	

Vehicle No.: 1 Driver

Case No.: 380018 NHTSA Reports 1 Drunk Driver NHTSA Reports 1 Drunk Driver Number Of Fatalities: 1 Total Fatalities: 1

Proof Of Drunk Driver

Police Report Drinking	NHTSA Reported Driver Drinking	Alcohol Test Result	Alcohol Test Type	Alcohol Test	Proof Of Drunk Driver
Not Drinking	Drinking	.05	Observed	Vitreous	

Vehicle No.: 1 Driver

Case No.: 380020 NHTSA Reports 1 Drunk Driver NHTSA Reports 15 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 11

Proof Of Drunk Driver

Police Report Drinking	NHTSA Reported Driver Drinking	Alcohol Test Result	Alcohol Test Type	Alcohol Test	Proof Of Drunk Driver
Police Reported Unknown	Drinking	.20	Evidential Test (Breath, Blood, Urine)	Whole Blood	9

Vehicle No.: 1 Driver

Case No.: 380022 NHTSA Reports 1 Drunk Driver NHTSA Reports 16 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 12

Proof Of Drunk Driver

Police Report Drinking	NHTSA Reported Driver Drinking	Alcohol Test Result	Alcohol Test Type	Alcohol Test	Proof Of Drunk Driver
Not Drinking	Drinking	.20	Evidential Test (Breath, Blood, Urine)	Vitreous	10
Not Drinking	No Drinking	None Given	Observed	Not Tested	
Not Drinking	No Drinking	None Given	Observed	Not Tested	
Not Drinking	No Drinking	None Given	Observed	Not Tested	

Vehicle No.: 2 Driver

Vehicle No.: 1 Driver

Vehicle No.: 1 Passenger

Vehicle No.: 1 Passenger

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Operator's Signature *Donna G. Ballantyne*

Date 10/2/03

Case No.: 380025

NHTSA Reports 00 Drunk Drivers  
 Police Report: Drinking  
 Driver: Drinking  
 Alcohol Test: .01  
 Evidential Test: (Breath, Blood, Urine)  
 Alcohol Test Type: Whole Blood  
 Proof of Drunk Driver

Vehicle No.: 1  
 Driver

Case No.: 380027

NHTSA Reports 2 Drunk Drivers  
 Police Report: Drinking  
 Driver: Drinking  
 Alcohol Test: .21  
 Evidential Test: (Breath, Blood, Urine)  
 Alcohol Test Type: Whole Blood  
 Proof of Drunk Driver

Vehicle No.: 1  
 Driver

Vehicle No.: 1  
 Passenger

Drinking

Evidential Test (Breath, Blood, Urine)  
 Whole Blood

Case No.: 380028

NHTSA Reports 00 Drunk Drivers  
 Police Report: Drinking  
 Driver: Drinking  
 Alcohol Test: .01  
 Evidential Test: (Breath, Blood, Urine)  
 Alcohol Test Type: Whole Blood  
 Proof of Drunk Driver

Vehicle No.: 1  
 Driver

Vehicle No.: 1  
 Passenger

Drinking

Evidential Test (Breath, Blood, Urine)  
 Whole Blood

Case No.: 380034

NHTSA Reports 1 Drunk Drivers  
 Police Report: Drinking  
 Driver: Drinking  
 Alcohol Test: .08  
 Evidential Test: (Breath, Blood, Urine)  
 Alcohol Test Type: Vitreous  
 Proof of Drunk Driver

Vehicle No.: 1  
 Driver

Vehicle No.: 2  
 Driver

Police Reported Unknown  
 Not Drinking

Evidential Test (Breath, Blood, Urine)  
 Vitreous

Observed

Not Tested

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Date 10/2/03

Case No.: 380036 NHTSA Reports 2 Drunk Drivers **Page 6 of 16**  
 Police Report: Drinking **Number Of Fatalities: 1** **Total Fatalities: 17**

Vehicle No.: 1 Driver Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Case No.: 380037 NHTSA Reports 1 Drunk Drivers **Number Of Fatalities: 1** **Total Fatalities: 13**

Vehicle No.: 1 Driver Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Case No.: 380038 NHTSA Reports 2 Drunk Drivers **Number Of Fatalities: 1** **Total Fatalities: 19**

Vehicle No.: 1 Driver Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Case No.: 380040 NHTSA Reports 1 Drunk Drivers **Number Of Fatalities: 1** **Total Fatalities: 20**

Vehicle No.: 1 Driver Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

Drinking **Alcohol Test Type** **Proof Of Drunk Driver**

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Date 10/2/03



Case No.: 380043 NHTSA Reports 1 Drunk Drivers NHTSA Reports 29 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 21

Police Report	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Test Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	.18	Evidential Test (Breath, Blood, Urine)	Whole Blood	20
Police Reported Unknown	No Drinking	0.00	Evidential Test (Breath, Blood, Urine)	Whole Blood	

Case No.: 380044 NHTSA Reports 1 Drunk Drivers NHTSA Reports 30 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 22

Police Report	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Test Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	None Given	Observed	Not Tested	

Case No.: 380046 NHTSA Reports 2 Drunk Drivers NHTSA Reports 33 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 24

Police Report	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Test Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	0.00	Evidential Test (Breath, Blood, Urine)	Breath "BAC"	
Not Drinking	No Drinking	None Given	Observed	Not Tested	

Case No.: 380047 NHTSA Reports 2 Drunk Drivers NHTSA Reports 33 Drunk Drivers Number Of Fatalities: 1 Total Fatalities: 24

Police Report	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Test Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	.13	Evidential Test (Breath, Blood, Urine)	Whole Blood	21
Not Drinking	No Drinking	None Given	Observed	Not Tested	
Drinking	No Drinking	None Given	Observed	Not Tested	

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Date 10/2/03

Case No.	Vehicle No.	Driver	Police Report	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Test Type	Number Of Fatalities	Total Fatalities	Proof Of Drunk Driver
380051	2	Driver	Not Drinking	Drinking	.02	Observed	Whole Blood		
	1	Driver	Not Drinking	No Drinking	None Given	Observed	Not Tested		
NHTSA Reports 1 Drunk Drivers									
380053	1	Driver	Drinking	Drinking	.18	Evidential Test (Breath, Blood, Urine)	Whole Blood	22	
NHTSA Reports 35 Drunk Drivers									
			Drinking	Drinking					
NHTSA Reports 1 Drunk Drivers									
380054	1	Driver	Drinking	Drinking	.07	Evidential Test (Breath, Blood, Urine)	Whole Blood	27	
	1	Passenger	Drinking	Drinking	None Given	Observed	Not Tested		
	1	Passenger	Drinking	Drinking	None Given	Observed	Not Tested		
NHTSA Reports 40 Drunk Drivers									
380056	1	Driver	Drinking	Drinking	.24	Evidential Test (Breath, Blood, Urine)	Whole Blood	23	
NHTSA Reports 1 Drunk Drivers									
			Drinking	Drinking					

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10/2/03  
Date

Case No.: 380057

NH SA Reports 1 Drunk Drivers

NHTSA Reports 41 Drunk Drivers

Police Report

NHTSA Report

Alcohol Test

Alcohol Test

Alcohol Test

Alcohol Test

Alcohol Test

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Vehicle No.: 1  
Driver

Proof of  
Drunk Driver

Alcohol Test  
Time

Whole Blood

Evidential Test  
(Breath, Blood,  
Urine)

26

24

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*Deanna G. Ball*  
Operator's Signature

10/2/03  
Date

Vehicle No.: 1  
Driver

Vehicle No.: 2  
Driver

Vehicle No.: 3  
Driver

Vehicle No.: 2  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.: 2  
Passenger

Vehicle No.: 2

Vehicle No.: 3

Vehicle No.: 3

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18/2/03  
Date

Case No.: 380062

NHTSA Reports 1 Drunk Drivers

Vehicle No.: 1  
Driver

Vehicle No.: 1  
Passenger

Vehicle No.: 2  
Driver

Drinking	Drinking	.03	Evidential Test (Breath, Blood, Urine)	Whole Blood
Not Drinking	No Drinking	None Given	Observed	Not Tested

Case No.: 380065

NHTSA Reports 1 Drunk Drivers

Vehicle No.: 1  
Driver

Vehicle No.: 2  
Driver

Not Drinking	Drinking	.01	Observed	Vitreous
Not Drinking	No Drinking	0.00	Evidential Test (Breath, Blood, Urine)	Whole Blood

Case No.: 380066

NHTSA Reports 1 Drunk Drivers

NHTSA Reports 46 Drunk Drivers

Vehicle No.: 1  
Driver

Police Report Drinking	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	.12	Evidential Test (Breath, Blood, Urine)	Whole Blood	26

Case No.: 380067

NHTSA Reports 1 Drunk Drivers

NHTSA Reports 47 Drunk Drivers

Vehicle No.: 1  
Driver

Police Report Drinking	NHTSA Derived Driver Drinking	Alcohol Test Results	Alcohol Detection Test	Alcohol Test Type	Proof Of Drunk Driver
Drinking	Drinking	.20	Evidential Test (Breath, Blood, Urine)	Whole Blood	27

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10/2/03  
Date

Case No.: 380070

NHTSA Report: 1

Vehicle No.: 1  
Driver

Drinking

Drinking

Drinking

Evidential Test  
(Breath, Blood,  
Urine)

Whole Blood

28

Vehicle No.: 1  
Passenger

Drinking

Drinking

.02

Evidential Test  
(Breath, Blood,  
Urine)

Viscous

Vehicle No.: 1  
Passenger

Drinking

Drinking

None Given

Observed

Not Tested

Vehicle No.: 1  
Passenger

Drinking

Drinking

None Given

Observed

Not Tested

Case No.: 380073

NHTSA Report: 2 Drunk Drivers

NHTSA Report: 33 Drunk Drivers

Number Of Fatalities: 1 Total Fatalities: 38

Police Report  
DrinkingNHTSA Report  
Driver DrinkingAlcohol Test  
ResultsAlcohol  
Detection TestAlcohol Test  
TypeProof Of  
Drunk DriverVehicle No.: 1  
Occupant

Drinking

No Drinking

.23

Evidential Test  
(Breath, Blood,  
Urine)

Whole Blood

28

Vehicle No.: 1  
Occupant

Drinking

No Drinking

.20

Evidential Test  
(Breath, Blood,  
Urine)

Whole Blood

Case No.: 380074

NHTSA Report: 1 Drunk Drivers

NHTSA Report: 64 Drunk Drivers

Number Of Fatalities: 1 Total Fatalities: 39

Police Report  
DrinkingNHTSA Report  
Driver DrinkingAlcohol Test  
ResultsAlcohol  
Detection TestAlcohol Test  
TypeProof Of  
Drunk DriverVehicle No.: 1  
Driver

Drinking

Drinking

.23

Evidential Test  
(Breath, Blood,  
Urine)

Whole Blood

28

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Case No.: 300078

Vehicle No.: 1  
Driver

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.	Drinking	Drinking	Drinking	Evidential Test (Breath, Blood, Urine)	Whole Blood
Vehicle No.: 1 Passenger	Drinking	Drinking	Drinking	Observed	Not Tested
Vehicle No.: 1 Passenger	Drinking	Drinking	Drinking	Observed	Not Tested

Vehicle No.: 1  
Driver

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Vehicle No.	Drinking	Drinking	Drinking	Evidential Test (Breath, Blood, Urine)	Whole Blood
Vehicle No.: 1 Driver	Drinking	Drinking	Drinking	Observed	Not Tested
Vehicle No.: 1 Passenger	Drinking	Drinking	Drinking	Observed	Not Tested
Vehicle No.: 1 Passenger	Drinking	Drinking	Drinking	Observed	Not Tested
Vehicle No.: 1 Passenger	Drinking	Drinking	Drinking	Observed	Not Tested
Vehicle No.: 1 Passenger	Drinking	Drinking	Drinking	Observed	Not Tested

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Case No.: 380081  
Vehicle No.: 1  
Driver  
Vehicle No.: 1  
Passenger

Police Reported  
Unknown

Drinking

None Given

Not Reported

Not Tested

Case No.: 380086  
Vehicle No.: 1  
Driver  
Vehicle No.: 1  
Passenger  
Vehicle No.: 1  
Passenger  
Vehicle No.: 1  
Passenger

Drinking

Drinking

Drinking

Police Reported  
Unknown

None Given

Observed

Not Tested

Observed

Not Tested

Evidential Test  
(Breath, Blood,  
Urine)

Not Tested

Case No.: 380087  
Vehicle No.: 1  
Driver

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Case No.: 380069

NHTSA

Vehicle No.: 1  
Driver

Vehicle No.: 1  
Passenger

Vehicle No.: 1  
Passenger

Drinking	Drinking	None Given	Observed	Whole Blood
Drinking	Drinking	None Given	Observed	Not Tested

Case No.: 380069

NHTSA

Vehicle No.: 1  
Driver

Case No.: 380090

NHTSA

Vehicle No.: 1  
Driver

Case No.: 380091

NHTSA

Vehicle No.: 1  
Driver

Drinking	Drinking	None Given	Observed	Whole Blood
Drinking	Drinking	None Given	Observed	Not Tested

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*Donna Hall*

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Case No.	Vehicle No.	Driver	Not Drinking	Drinking	None Given	Observed	Not Tested
Case No.: 300007	Vehicle No.: 1	Driver					
	Vehicle No.: 1	Passenger					
Case No.: 300004	Vehicle No.: 1	Driver					
Case No.: 300005	Vehicle No.: 1	Driver					
Case No.: 300006	Vehicle No.: 1	Driver					

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*Diana Hall*  
Operator's Signature

10/2/03  
Date