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Data and Information Relative to Reducing the Legal BAC Level To 0.08 from 0.10

Submitted by: Nevada Office of Traffic Safety

Federal 0.08 BAC National Standard

Background

In October 2000, as part of the FY 2001 DOT Appropriations Act, Congress passed, and the President signed into law, a provision making .08 BAC the national standard for impaired driving. States that do not adopt .08 BAC laws by FY 2004 will have certain highway construction funds withheld.

Criteria:

The Act requires that each state must have a law in effect that complies with the criteria established under Section 163 (Incentive Grant Program for 0.08 BAC), of title 23 of the U.S. Code.

1. Apply to all persons.

2. Set a blood alcohol concentration of not higher than 0.08 percent as the legal limit.

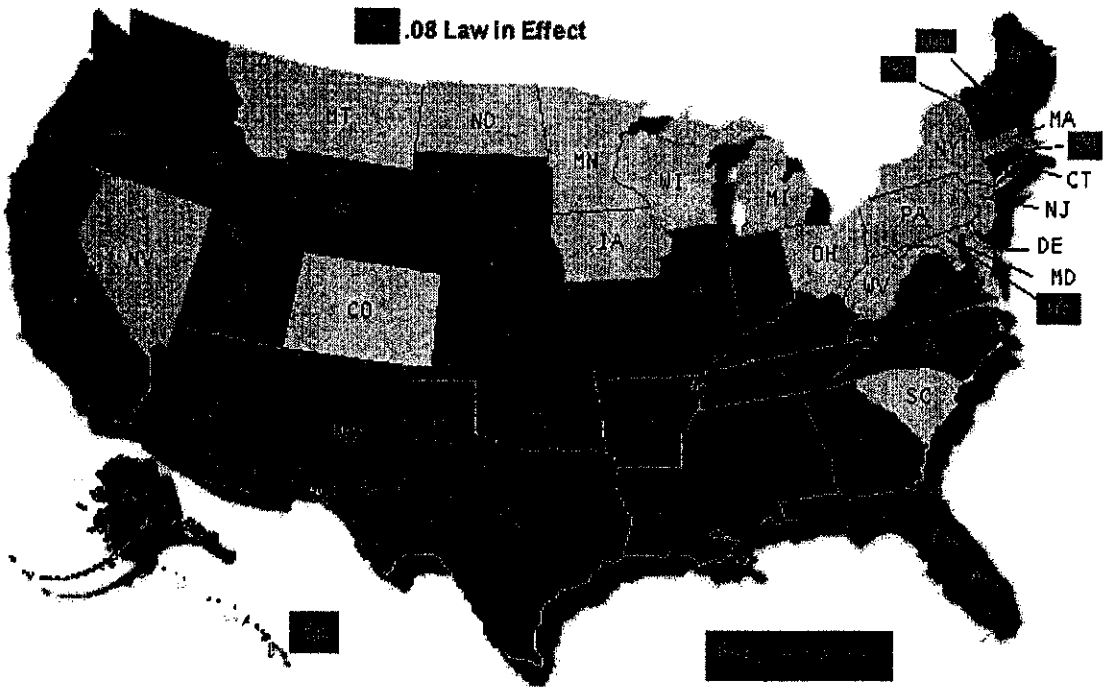
3. Make operation of a motor vehicle by an individual at or above the legal limit a per se offense.

4. Provide for primary enforcement.

5. Apply the 0.08 BAC legal limit to the state's criminal code and, if the state has an administrative license revocation (ALR) law, to its ALR law.

6. Be deemed to be, or be equivalent to, the standard driving-while-intoxicated offense in the state.

Current Status by State



State	Enactment Date	Effective Date
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 (pending NCC approval)	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

Louisana	06/26/01	09/30/03
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
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	01/10/00
Rhode Island	07/13/00	07/13/00
South Dakota	02/27/02	07/01/02
Tennessee	06/27/02	07/01/03
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
Total: 34 States, plus the District of Columbia and Puerto Rico		

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

Source: NHTSA State and Community Services **Updated 07/23/02**

U.S. Department of Transportation, Washington DC 20590

Impact on Federal Highway Funds

Sanctions:

States that do not adopt .08 BAC laws by FY 2004 would have 2% of certain highway construction funds withheld. The penalty increases, by 2% each year, to 8% in FY 2007 and thereafter. To avoid sanction for FY 2004, a state must have a .08 law in effect by September 30, 2003.

Annual Core Apportionments and Potential Penalties Under Sec. 163(a)

For Nevada
Based on estimated FY 2003 apportionments,
after distribution of Minimum Guarantee funds
(Source NHTSA)

Year	%	$ withheld	$ Cumulative
2004	2%	2,839,000	2,839,000
2005	4%	5,678,000	8,517,000
2006	6%	8,517,000	17,034,000
2007	8%	11,356,000	28,390,000

Impact on The Office of Traffic Safety Funding

The Office of Traffic Safety lost $1,000,000 in FFY2002 and a similar amount in FFY2003 in Alcohol Incentive funding for states that had a 0.08 BAC limit.

Nevada Statistics (Fatal Crashes)

Alcohol related traffic fatalities comprise over one third of all traffic deaths. This does represent significant improvement compared to the high of 52% recorded in 1990.

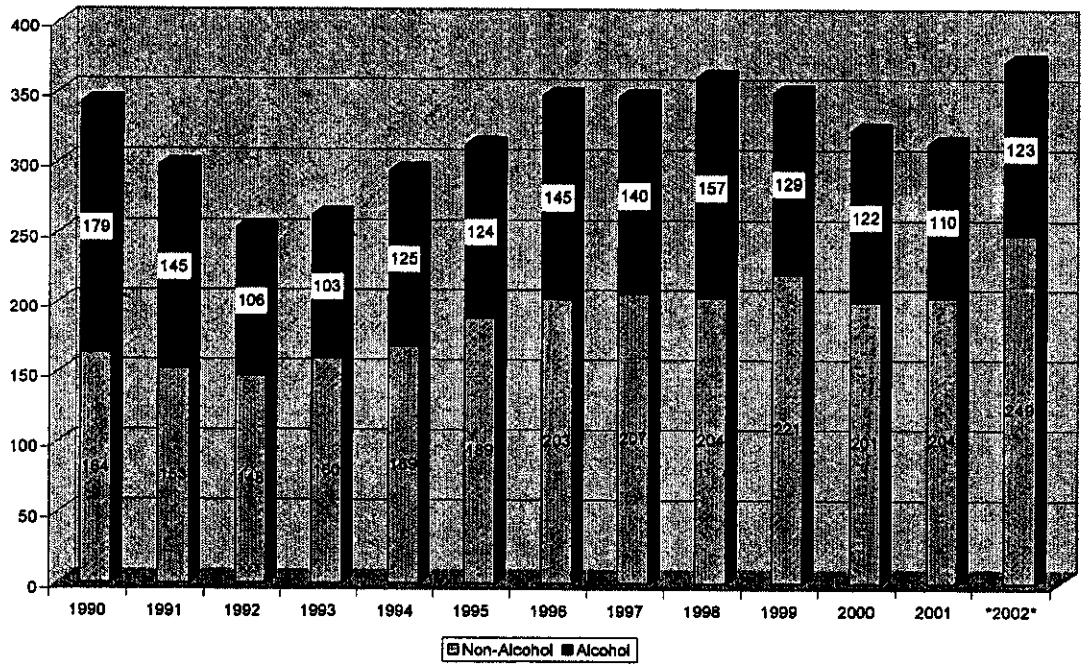
The most recent (2001) FARS (Fatal Accident Reporting System) recorded 110 alcohol related fatalities on Nevada roadways. This represents 35% of the total fatalities (314). Even with significant population increases the number of deaths (total and alcohol related) has decreased since 1998.

The preliminary data for 2002 indicates that the decreasing trend noted since 1998 has reversed. In 2002 the total number of traffic deaths reached a new high (372). The number of alcohol related deaths also increased (123).

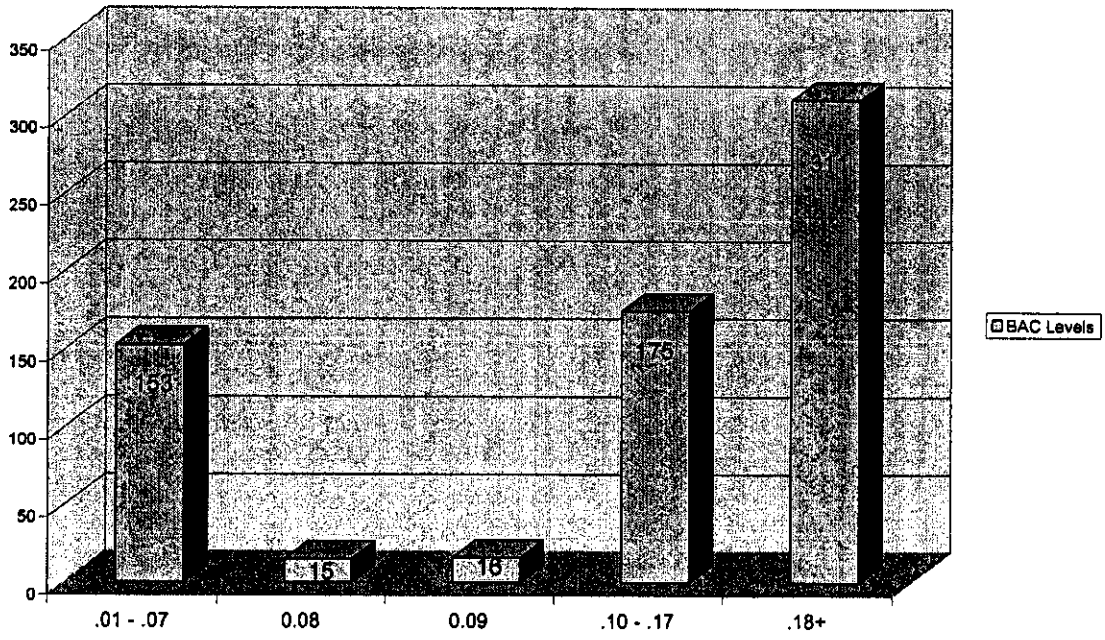
The level of impairment for drivers involved in fatal crashes has remained relatively constant since 1995. The totals for the seven years, 1995 to 2001, show the majority of drivers who tested positive for alcohol had very high BAC levels. BAC levels of 0.18 or above represented 46.4% of alcohol positive drivers, another 26.1% tested 0.10 to 0.17, 4.6% tested 0.08 to 0.09, while the remaining 22.8% were below 0.08.

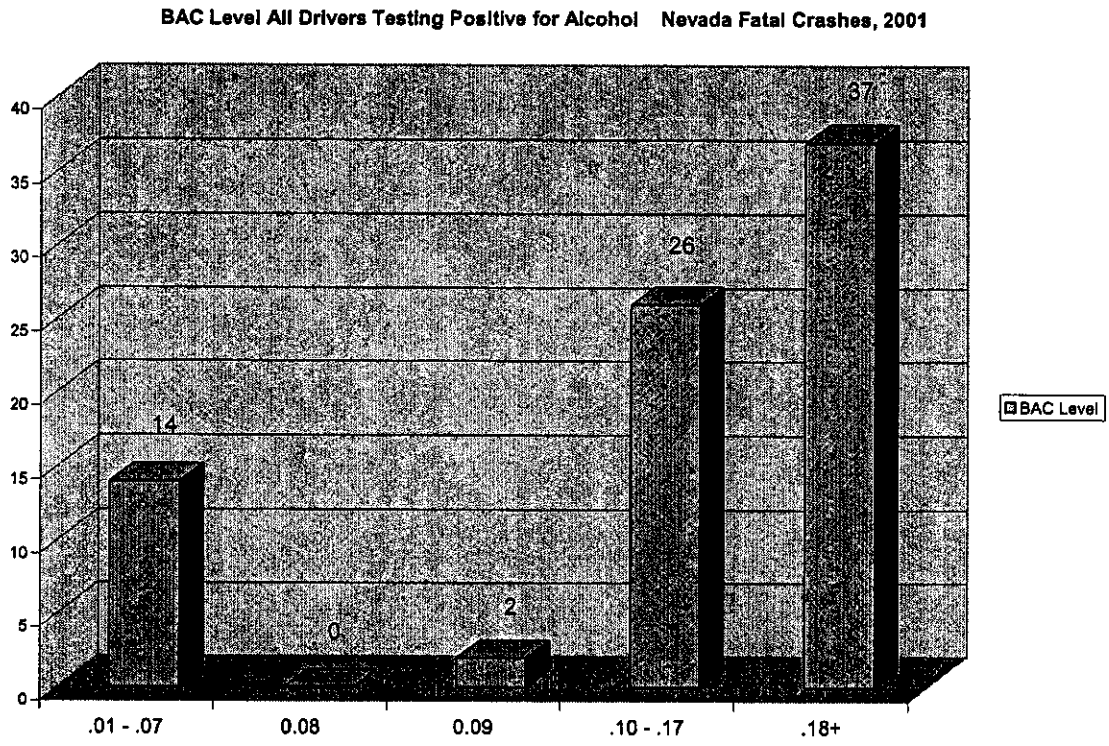
Charts/Graphs, Nevada Traffic Fatalities

Nevada Traffic Fatalities, Non-Alcohol and Alcohol Related 1990 to 2002



BAC Levels for All Drivers Testing Positive for Alcohol
Nevada Fatal Crashes, 1995 to 2001





Nevada Statistics (Serious Injury Crashes & Trauma Registry Billings)

In 2000 there were 28,536 people injured in 18,795 injury crashes (there were an additional 443 survivors from fatal crashes). Of these injury-only crashes, slightly less than 10% (1,795) were alcohol related. It is important to note, that an alcohol related crash is much more likely to be a fatal crash (10% for injury crashes and 35% for fatal crashes).

Nevada's Administrative Code (NAC), section 450B.770, defines the criteria for trauma cases. For 2000, Nevada's Trauma Registry shows 3,407 trauma patients admitted because of a motor vehicle crash.

The total amount billed for these 3,407 patients was $105,280,344.
The average is $30,901

The total amount billed for only Medicaid/County Pay was $8,852,275.
187 patients averaged $47,338.

Citations issued statewide during NV's major seatbelt campaign
May 20 to June 2, 2002

Special funding from NHTSA was received for this campaign, which was a major effort to increase the seatbelt usage rate within Nevada.

The law enforcement agencies participating in the campaign were asked to report on the citations issued during their intensified enforcement activities. Again, the emphasis was on use or non-use of seat belts.

Because Nevada has a secondary seatbelt law, citations for seatbelt usage can only be written after a stop for a primary traffic offense. The citation categories reported by the agencies were: Seat Belt, Child Seat, DUI, Felony, and Other. "Other" included primary violations such as: red light running, improper turn, no registration, no insurance, etc.

During the campaign 11,001 citations were written:

Other:	6,620	60.18%
Seat Belt:	3,570	32.45%

Child Seat:	412	3.75%
DUI:	202	1.84%
Felony:	197	1.79%

One unexpected statistic that arose from this data was that, even for an enforcement campaign designed to increase seat belt use, **nearly 1 of every 50 citations was written for DUI.**

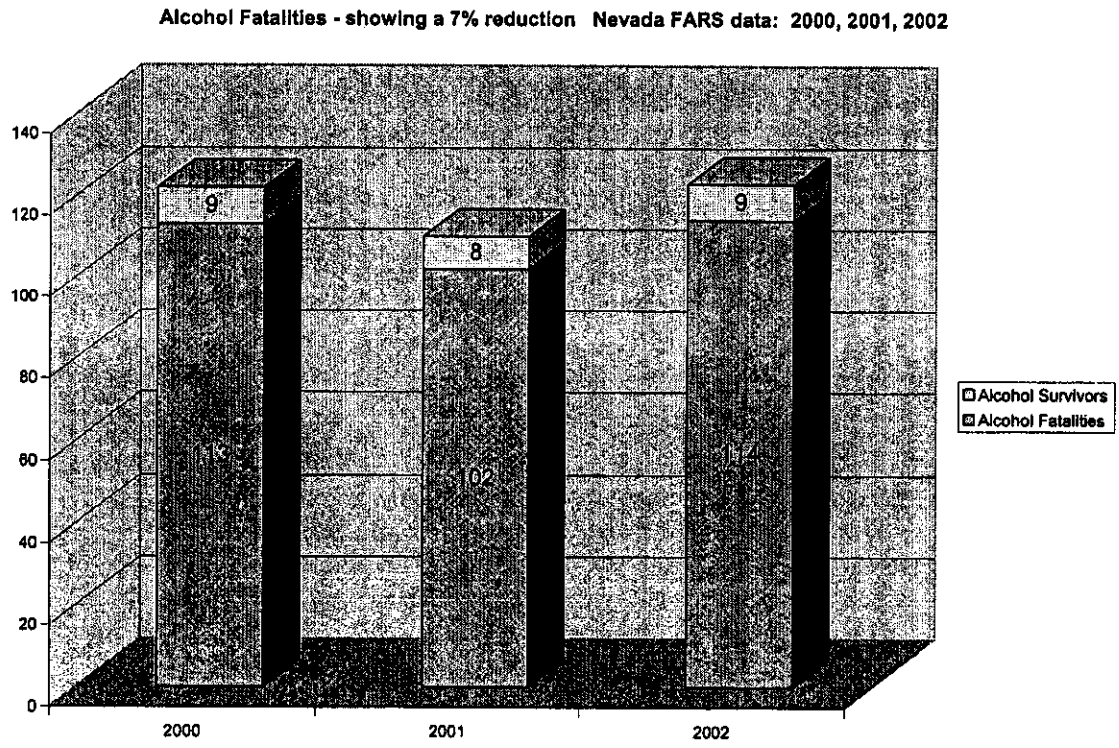
NEVADA CRIME/CRASH CLOCK - 2001 HIGHLIGHTS

CRIMES		HOURS	MINUTES	CRASHES	
		0	28	18,800	Serious Injury Traffic Crash
6,337	Aggravated Assualt	1	23		
		4	51	1,800	Alcohol Related Serious Injury Traffic Crash
883	Rape	9	55		
		27	54	314	Fatality - Traffic Crash
186	Murder	47	6		
		79	36	110	Alcohol Fatality - Traffic Crash
109	Murder - by Firearm	80	23		

Potential Impact on Nevada's Alcohol Fatalities

States that have enacted the 0.08 BAC law have experience decreases in Alcohol related fatalities. The percentage of these decreases has ranged from 1% to 16%. The actual percentage decrease realized depends on additional factors such as: effectiveness of the implementation, current trends in Alcohol fatalities, population growth, and educational efforts. Given the variables in predicting the decrease, the Office of Traffic Safety has used a 7% decrease in Alcohol related fatalities as a reasonable outcome. This would reduce the percentage of Alcohol related fatalities to all traffic fatalities to 33% from 35%.

The graph below shows the effect of a 7% decrease on the Alcohol Fatalities for 2000, 2001, and 2002.



Studies

Impairment Level

Study Title: A Review of the Literature on the Effects of Low Doses of Alcohol on Driving-Related Skills.

Report Date was April, 2000

Conducted by: Herbert Moskowitz, Ph.D

For NHTSA

Findings Summary:

1. Alcohol impairs some driving skills beginning with any significant departure from zero BAC. By BACs of 0.05, the majority of the experimental studies examined reported significant impairment. By 0.08, more than 94% of the studies reviewed cited skills impairment.

2. Specific performance skills are differentially affected by alcohol. Some skills are significantly impaired by BACs of 0.01, while others do not show impairment until BACs of 0.06.

3. All drivers are expected to experience impairment in driving-related skills by 0.08 or less.

Some test examples:

A. Divided Attention: 0.005 BAC, Impairment begins
Measures an individual's ability to divide attention between two tasks such as: maintaining lane position and visual search.

B. Psychomotor Skills: 0.04 to 0.08 BAC, Impairment begins.
The more complex the task the lower the BAC was when impairment began. By 0.08, all studies show impairment.

C. Reaction Time: 0.06 BAC, Impairment begins.
This is specific to Choice Reaction Time, where a person has several response possibilities.

D. In driving tests (simulators or on-road): 0.039 BAC, Impairment begins.

Study Title: Effectiveness of the Illinois .08 Law

Report Date: September, 2000

Conducted by: Pacific Institute for Research and Evaluation

For: NHTSA

Findings Summary:

Illinois was the first Midwestern State to enact the 0.08 law in 1997. At that time all neighboring states were at the .10 level. An advantage to this study was that all states had already enacted the ALR (Administrative License Revocation) law, so the 0.08 law was the only change.

DUI arrest data and fatal crash data was collected for the two years prior to 1997 and for 1997 and 1998.

The number of arrests (see tables below) increased after the passage of the .08 law. It should be noted that the percentage of arrests in the .10-.14 has also increased. These .10 arrests would have been border-line prior to the .08 passage. For the time studied, the population growth of Illinois was approximately 1% per year.

From the fatal data, the number of drinking drivers involved in fatal crashes decreased by 13.7% in the first full year of implementation (1998). This is higher than the average reduction in a study conducted by Voas and Tippetts of the Pacific Institute for Research and Evaluation. Their study looked at FARS data from all 50 states for the period of 1982 to 1997. Their conclusion was that the 0.08 law decreased alcohol related traffic fatalities by an average of 8% (reductions ranged from 16% to 1%).

The impact on the courts and prosecutors was minimal, with no perceived difference in work/case load after the implementation of .08. The same was true for the parole/probation department. In the case of the parole/probation department the majority of the work/case load continued to be associated with the high BAC level offender.

There was a perception that the persons at .08-.09 level would be the individual that just had a "few drinks" after work. The Cook County (Chicago) treatment provider (Central States Institute) analyzed their data for 1999. They found that 22% of the .08-.09 had a previous DUI arrest and 39% were assigned a risk level between the third and sixth level (sixth being the highest risk level).

DUI arrests in Illinois, 1995 to 1998

Year	1995	1996	1997	1998
Number	44,433	44,710	47,034	49,547
Average BAC	.18	.18	.17	.16
.08 - .09 arrests	<1%	<1%	4%	8%

Percentage of DUI arrests by BAC range

Year	1995	1996	1997	1998
.08-.09 BAC	<1%	<1%	4%	8%
.10-.14 BAC	29%	30%	31%	33%
.15-.19 BAC	39%	38%	36%	34%
.20-.24 BAC	22%	22%	20%	18%
.25> BAC	10%	10%	9%	7%

Study Title: Validation of the Standardized Field Sobriety Test Battery at BACs Below .10 BAC percent

Report Date: August, 1998

Conducted by: Anacapa Sciences, Inc.

For: NHTSA

Findings Summary:

The results of this study provide clear evidence of the validity of the Standardized Field Sobriety Test Battery to discriminate above or below 0.08 percent BAC, using a slightly modified scoring procedure. Further, study results strongly suggest that the SFSTs also accurately discriminate above or below 0.04 percent BAC.