



2018 Mid-Year Report: State Legislative Activity



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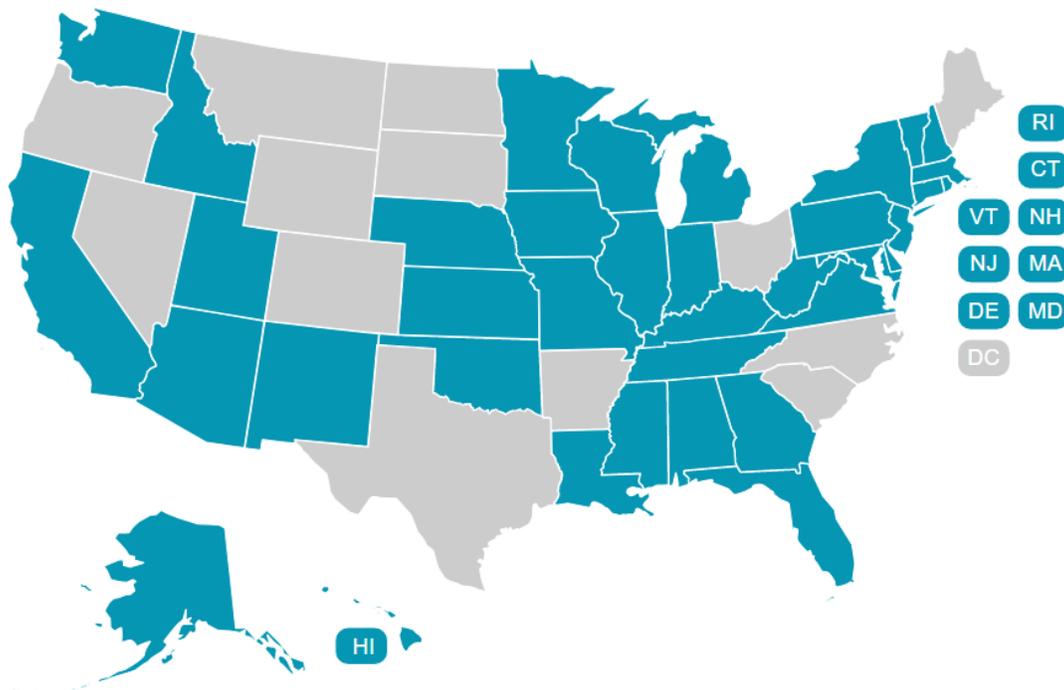
2018 Mid-Year Legislative Summary

Everyone working within the field of traffic safety has one goal: to eliminate deaths on our roadways. In 2016, the most recent year for which data is available, there was a [significant increase in motor vehicle fatalities](#) as 37,461 individuals were killed in motor vehicle crashes (NHTSA, 2017). This represents an increase of 5.6% from 2015 which had seen the largest single year fatality increase since 1966. Alcohol-impaired driving fatalities accounted for 28% of all motor vehicle fatalities, the lowest percentage since the National Highway Traffic Safety Administration began reporting alcohol data in 1982. However, there was a 1.7% uptick in the number of alcohol-impaired driving fatalities from 10,320 lives lost in 2015 to 10,497 in 2016. This number is unacceptable.

One of the first steps towards reducing the number of lives lost to impaired driving is passing effective laws. Each year, the Foundation for Advancing Alcohol Responsibility ([Responsibility.org](#)) engages in advocacy efforts across the country. Our organization supports legislation that furthers the implementation of proven countermeasures aimed at eliminating alcohol and drug-impaired driving and safeguards against underage drinking. Responsibility.org supports [evidence-based strategies](#) that create deterrence, reduce recidivism, and improve treatment outcomes. In addition to supporting bills that strengthen practice, our organization also opposes legislation that weakens existing laws and threatens the efficacy of the criminal justice system.

As of the midway point of 2018, Responsibility.org has focused on more than 200 pieces of impaired driving and underage drinking legislation in 37 states.¹

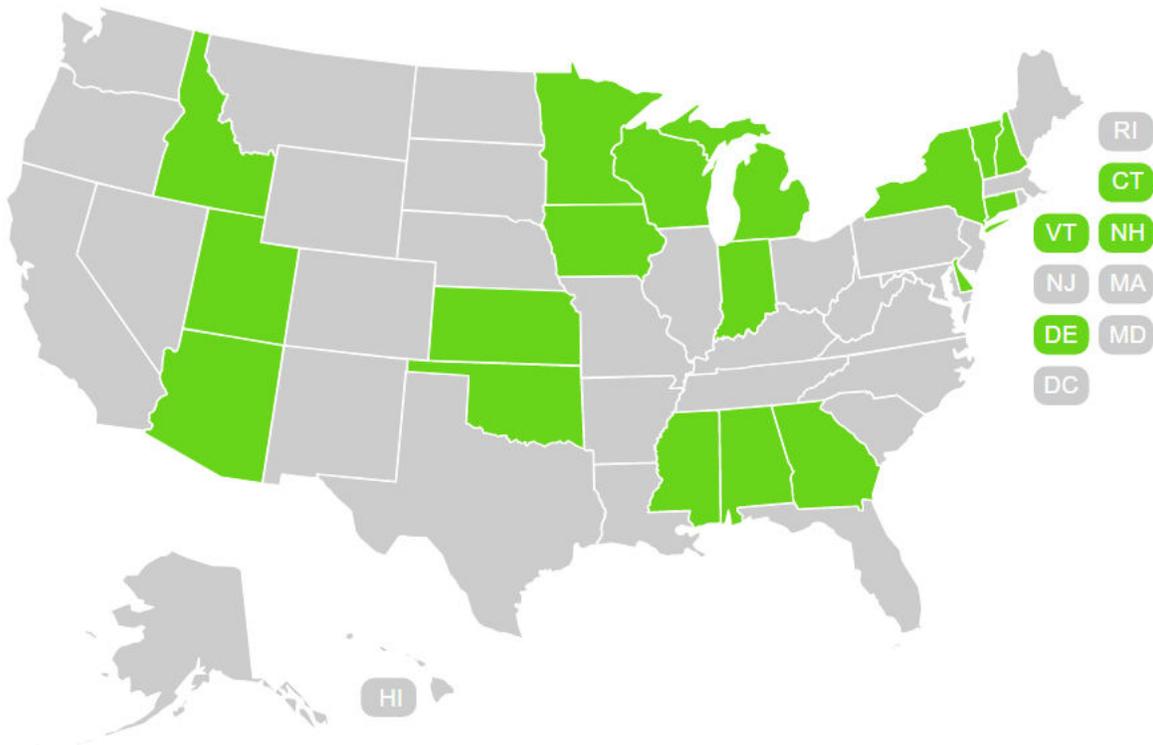
Figure 1: Responsibility.org legislative activity



¹ The Montana, Nevada, North Dakota, and Texas legislatures did not convene in 2018.

While the majority of introduced bills fail to pass state legislatures, 2018 saw several notable legislative victories. To date, **28 impaired driving bills** were signed into law in **18 states** (Alabama, Arizona, Connecticut, Delaware, Georgia, Idaho, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, New Hampshire, New York, Oklahoma, Utah, Vermont, and Wisconsin) including mandatory first offender ignition interlock bills in both Idaho ([HB 551](#)) and Iowa ([HF 2338](#)). Fewer jurisdictions introduced underage drinking legislation than in previous years with Mississippi being the only state to successfully pass an alcohol-specific Good Samaritan law ([SB 2197](#)) in 2018.

Figure 2: Enacted impaired driving and underage drinking legislation



Through the implementation and enforcement of these pieces of legislation, **18 states** will be better positioned to reduce injuries and fatalities caused by impaired driving and underage drinking in the coming years. Read the remainder of the report to learn about the specifics of these new laws, emerging legislative trends, and the role that Responsibility.org has played in the legislative process. The resources section at the end of the report provides useful tools for policymakers, practitioners, and advocates who are interested in strengthening the nation's laws and eliminating underage drinking and impaired driving.

Analysis: Impaired driving and underage drinking legislation (enacted as of June 15, 2018)

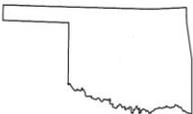
State	Bill	Primary Sponsor(s)	Focus	Provisions	Effective Date
Alabama 	HB 14	Rep. Phillip Pettus (R)	Drunk driving – fees	Requires that a mandatory fee of \$100 be collected from any individual who successfully completes any pretrial diversion or deferral program in any municipal, district, or circuit court where the individual was charged with driving under the influence (DUI). The fee will be deposited into the Alabama Head and Spinal Cord Injury Trust Fund.	07/01/2018
	SB 1	Senator Jim McClendon (R)	Drunk driving – ignition interlock	Requires each person approved for a pretrial diversion program to install an ignition interlock for a minimum of six months or the duration of the pretrial program, whichever is longer; provides that a person convicted of a third offense be authorized or required to obtain an interlock after completion of his/her incarceration and reduces the minimum hard suspension period from 100 to 60 days; requires manufacturers to provide interlock services to indigent clients under certain conditions without charge; specifies the number of violations for extension of interlock program participation.	07/01/2018
	SB 90	Senator Arthur Orr (R)	Drunk driving – lookback period; enhanced sanctions for repeat offenders	Requires a court to consider a defendant’s misdemeanor DUI convictions from the past 10 years (previous lookback period of 5 years). Also requires a court to consider all of a defendant’s prior felony DUI convictions, regardless of date. Under existing Alabama law, the penalty for a fourth or subsequent conviction for DUI is a Class C felony; this bill provides that if a person with a prior felony DUI conviction is subsequently convicted of DUI, the person is guilty of a Class C felony.	07/01/2018

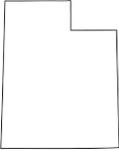
<p>Arizona</p> 	<p>HB 2243</p>	<p>Rep. Eddie Fansworth (R)</p>	<p>Drunk driving – wrong way</p>	<p>Establishes that a person who drives the wrong way on a controlled access highway while under the influence of intoxicating liquor or drugs is guilty of aggravated DUI (Class 4 felony).</p>	<p>08/03/2018</p>
	<p>SB 1400</p>	<p>Senator Steve Smith (R)</p>	<p>Drunk driving – jail programming</p>	<p>Allows a Sheriff of a county with a population of less than 5,000 to establish an aggravated DUI jail program. If an individual commits an aggravated DUI in a county that has established such a program and the person is placed on probation, the mandatory term of incarceration that the person would otherwise serve in prison may be served in the jail program. Requires that an annual recidivism report be submitted to the legislature that compares the recidivism rate for a person who serves a term of mandatory incarceration in a county jail and a person who serves that term of mandatory imprisonment in a prison.</p>	<p>08/03/2018</p>
	<p>SB 1401</p>	<p>Senator Bob Worsley (R)</p>	<p>Drunk driving – ignition interlock</p>	<p>Contains technical interlock improvements: provides definition for what constitutes circumvention, adds failure to properly perform rolling retests as a violation to be reported by the manufacturer and as a criteria for program participation extension, and requires service providers to maintain at least one service center in each county in the state.</p>	<p>08/03/2018</p>
	<p>SB 1502</p>	<p>Senator Steve Smith (R)</p>	<p>Drunk driving – ignition interlock</p>	<p>Provides that the length of time that an interlock is required to be installed in a motor vehicle be reduced by the length of time that the person is incarcerated in a jail or prison for a violation that did not involve alcohol.</p>	<p>08/03/2018</p>
<p>Connecticut</p>	<p>HB 5579</p>	<p>Joint Committee on Judiciary</p>	<p>Drunk driving – ignition interlock</p>	<p>Provides that interlock vendors may include in a lease agreement a reduction to or an elimination of the</p>	<p>10/01/2018</p>

				charge for services (e.g., installation, maintenance, removal) a person is deemed indigent. To prove indigency, a client may provide the vendor with a valid participation card or letter indicating participation in the state-administered federal Supplemental Nutrition Assistance Program or the state-administered federal Low Income Home Energy Assistance Program.	
Delaware 	HB 132	Rep. Helene Keeley & Senator Stephanie Hansen (D)	Drunk driving – ignition interlock	Allows all applicants who are required to participate in the interlock program to be eligible to submit an application for an indigent plan; modifies the frequency of mandatory reporting and service center visits (from bimonthly to monthly) to allow for quicker intervention in instances of non-compliance.	02/14/2018
Georgia 	SB 407	Senators Brian Strickland, Larry Walker, Jesse Stone, Butch Miller, PK Martin, John Kennedy, & Chuck Efrstration (R)	Drunk driving – ignition interlock	A judge presiding in a drug court division, mental health court division, veterans court division, or operating under the influence court division, as a reward or sanction for the participant’s behavior, may order the department to issue a limited driving permit or ignition interlock device limited driving permit in accordance with provisions and conditions the court determines to be appropriate or suspend/revoke such limited permit. The court may order the issuance of the limited driving permit or ignition interlock device limited driving permit for a one-year period and may allow for a renewal.	07/01/2018
Idaho 	HB 551	House Committee on Judiciary, Rules, and Administration (Senator Grant Burgoyne & Rep. Melissa Wintrow) (D)	Drunk driving – ignition interlock (first offender)	Requires the mandatory installation of an ignition interlock device for one year for individuals convicted of first-time DUI (prior law only required interlock installation for a second or subsequent offense). Also provides that for those individuals who can demonstrate financial hardship and are unable to afford device installation and maintenance fees they can	01/01/2019

				petition to the county to pay costs through the Court Interlock Device and Electronic Monitoring Device Fund.	
Indiana 	SB 404	Senators Eric Koch, Aaron Freeman, Greg Taylor (D), Tom Washburne, John Young, & Jack Jordan (R)	Drunk driving – causing death	Removes the criteria that a driver be over 21 years of age for a level 4 felony to apply in instances where death is caused by a motor vehicle and the operator has a BAC of .15 or higher or a controlled substance or its metabolite are found in the person’s blood; modifies affirmative defense language.	07/01/2018
Iowa 	HF 2338	Reps. Tom Shipley & Jarad Klein (R)	Drunk driving – ignition interlock (first offender)	Requires the installation of an ignition interlock for all convicted OWI offenders, including first-time offenders. Eliminates periods of ineligibility for a temporary restricted license and allows offenders to install the devices immediately. Individuals who receive a restricted interlock license are not subject to limited driving privileges that were previously in statute (i.e., only being permitted to drive to and from places of employment, school, or treatment). Also requires new technological capabilities of all interlock devices including GPS, camera, and real-time reporting features.	07/01/2018
Kansas 	HB 2439	Reps. Russ Jennings, Shelee Brim, Leo Delperdang, Leonard Mastroni, Ron Ryckman, Scott Schwab, Eric Smith, Sean Tarwater, & John Wheeler (R)	Drunk driving – causing death; enhanced sanctions for repeat offenders	Amends the involuntary manslaughter statute to include criteria related to impaired driving. An individual is guilty of a level 3 felony if they kill another person while driving under the influence and they simultaneously are violating restrictions imposed as a result of previous offenses, are driving impaired while their privileges are suspended/revoked as a result of a previous conviction, or if a habitual offender designation is in place.	07/01/2018

<p>Michigan</p> 	<p>HB 5046</p>	<p>Rep. Steve Marino (R)</p>	<p>Drunk driving – fees</p>	<p>Provides for a waiver of driver responsibility fees for successful participation in a DWI/sobriety court program that ends on or after October 1, 2018.</p>	<p>03/01/2018</p>
	<p>HB 5282</p>	<p>Rep. Peter Lucido (R)</p>	<p>Drunk driving – administrative hearings; ignition interlock</p>	<p>Modifies the hearing procedures for restricted license applications in instances where an interlock is required. Notes that a restricted license must not be issued until the Secretary of State has verified that one or more interlocks have been installed in that individual’s vehicles.</p>	<p>07/01/2018</p>
<p>Minnesota</p> 	<p>SF 3638</p>	<p>Senators Mark Koran, Rich Draheim (R) & Karla Bigham (D)</p>	<p>Drunk driving – off-road vehicles (“Little Alan’s Law)</p>	<p>Incorporates recreational vehicles into DWI laws; cross-references loss of operating privileges so that a DWI or refusal in any vehicle will result in losses of operating privileges for all types of vehicles (including ATVs, snowmobiles, and motorboats).</p>	<p>08/01/2018</p>
<p>Mississippi</p> 	<p>SB 2197</p>	<p>Senator Michael Watson (R)</p>	<p>Underage drinking – Good Samaritan</p>	<p>Establishes that a peace officer shall not take a person into custody based solely on the commission of an offense involving alcohol if the peace officer reasonably believes that: the person was acting in good faith when they requested emergency medical assistance for an individual who required it due to alcohol consumption; the person requesting assistance did not illegally provide alcohol to the injured party; the person provided his/her full name and other relevant information and remained at the scene until assistance arrived; and, cooperated at the scene.</p>	<p>07/01/2018</p>

	SB 2663	Senator David Parker (R)	Drugged driving – testing	Establishes a drug testing program for offenders who are convicted of driving under the influence of drugs. Similar to an interlock-restricted license, the court has the discretion to allow a DUID offender driving privileges if they are participating in a drug testing program. The Department of Public Safety will require all vendors in these programs to report test results to the court on a monthly basis, except in instances of a positive or missed test which must be reported to the court within 5 days. Costs of testing are borne by the individual unless they are deemed to be indigent.	07/01/2020
New Hampshire 	SB 346	Senator Regina Birdsell (R)	Impaired driving – ignition interlock; drugged driving	Requires that all interlock devices required to be installed after the effective date of the bill be enhanced technology devices; eliminates the authority of the Department of Safety to order installation of an interlock in DWI cases not involving alcohol.	01/01/2019 01/01/2022 (Section 4)
New York 	SB 7306	Senator Pam Helming (R)	Impaired driving – testing	Mandates “field testing” of drivers involved in a motor vehicle collision resulting in injury or death (previously worded as “field sobriety test” or “chemical test”).	07/18/2018
Oklahoma 	HB 2643/ SB 1091	Rep. Dustin Roberts & Senator Greg Treat (R)	Impaired driving – enhanced penalties	Removes discretion of district attorneys to seek enhanced punishment in certain impaired driving cases.	11/01/2018

<p>Utah</p> 	<p>HB 43</p>	<p>Rep. Craig Hall & Senator Todd Weiler (R)</p>	<p>Impaired driving – testing</p>	<p>Clarifies who is authorized to draw blood and under which circumstances. Notes that a peace officer may require an individual to submit to a blood test for a law enforcement purpose only if: a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test; b) the peace officer obtains a warrant to administer the blood test; or c) a judicially recognized exception to obtaining a warrant exists. The legislation further clarifies that those who are authorized to perform a blood draw are immune from civil or criminal liability.</p>	<p>05/08/2018</p>
	<p>HB 65</p>	<p>Rep. John Westwood & Senator Don Ipson (R)</p>	<p>Impaired driving – ignition interlock; drugged driving</p>	<p>Removes from the definition of "interlock restricted driver" a driver convicted of driving under the influence if the conviction does not involve alcohol.</p>	<p>05/08/2018</p>
	<p>HB 98</p>	<p>Rep. Norman Thurston & Senator J. Stuart Adams (R)</p>	<p>Drunk driving – definitions</p>	<p>Removes the definition of "novice licensed driver" and removes a novice licensed driver from the definition of "alcohol-restricted driver."</p>	<p>12/30/2018</p>
	<p>HB 295</p>	<p>Rep. Steve Eliason & Senator J. Stuart Adams (R)</p>	<p>Drunk driving – wrong way</p>	<p>Increases the penalty for driving under the influence to a class A misdemeanor if the individual was also driving in the wrong direction on a freeway or controlled-access highway during the offense.</p>	<p>05/08/2018</p>
<p>Vermont</p> 	<p>HB 511</p>	<p>House Committee on Transportation</p>	<p>Drugged driving – marijuana open container law</p>	<p>Legalizes recreational marijuana; contains provisions related to use of marijuana in a motor vehicle and establishes a \$200 civil penalty for any individual who possess an open container of marijuana in the passenger area.</p>	<p>07/01/2018</p>

<p>Wisconsin</p> 	<p>SB 135</p>	<p>Senators Van Wanggaard & Howard Marklein (R)</p>	<p>Impaired driving – administrative license revocation; enhanced sanctions for repeat offenders</p>	<p>Provides for permanent revocation of an individual’s operating privilege if the person has committed four or more OWI offenses or has committed two or more OWI offenses and has two or more “qualifying convictions.” A person whose operating privilege is revoked under this legislation is not eligible for an occupational license; however, after 10 years of the revocation period have elapsed, the person may apply for reinstatement of his/her operating privilege. At that time, the Department of Transportation may reinstate their operating privileges if: 1) the person has not been convicted of certain felonies or misdemeanors related to motor vehicle use during the 10-year period immediately preceding the application for reinstatement; and 2) the person submits to and complies with an assessment by an approved public treatment facility for examination of the person's use of alcohol and controlled substances and development of a driver safety plan for the person.</p>	<p>09/01/2018</p>
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In addition to the passage of the aforementioned legislation, several problematic bills were defeated this legislative session. Responsibility.org joined traffic safety and criminal justice partners in opposing bills that proposed:

- Eliminating sobriety checkpoints ([NH HB 1283](#));
- Permitting impaired driving on residential property ([VA SB 308](#));
- Eliminating administrative license revocation ([WV HB 2306](#), [HB 3033](#), and [SB 294](#));
- Lowering the 21 minimum legal drinking age ([LA SB 429](#));
- Expunging DUI convictions ([MS HB 1316/SB 2520](#) and [WV HB 4240](#)); and,
- Establishing DUI diversion programs ([ID HB 553](#)).

Legislative Trends

Each year, legislators from across the country endeavor to pass impaired driving and underage drinking laws that research has shown to be effective. In addition to implementing evidence-based laws, policymakers also attempt to close loopholes and strengthen the framework of existing programs. While there are certain categories of laws that are introduced annually, new legislative trends invariably emerge as certain aspects of traffic safety come into focus (e.g., legislation related to marijuana-impaired driving is more likely to be introduced when a state has or is considering legalization). The following is a summary of the legislative trends that emerged in 2018:

Alcohol-impaired driving:

Enhanced penalties for high-risk/repeat offenders. A myriad of sanctions are available for drunk drivers who repeatedly drive under the influence and with high blood alcohol concentrations (BACs). Given that the majority of states have already passed felony DUI laws, an emerging trend in recent years has been to increase the severity of punishment for high-risk impaired driving. The application of harsher penalties (such as fines or imprisonment) may incapacitate these offenders, but punishment in a vacuum is often not enough to reduce recidivism and lead to long-term behavior change. Therefore, it is important that these pieces of legislation also include assessment and treatment provisions.

In 2018, several states passed legislation that targets high-risk impaired drivers including **Indiana, Kansas, and Wisconsin**. Other states that introduced legislation that proposed increasing administrative license suspension/revocation (ALS/ALR), periods of incarceration, fees/fines, or offense categories (i.e., increase misdemeanor or felony class) included **Iowa, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, Pennsylvania, Tennessee, Virginia, Wisconsin, and Wyoming**. Maryland, one of only four states that does not have a felony DUI offense, attempted to pass this legislation for the second year in a row without success.

Another high-risk category of impaired driver that has been the focus of legislation in several states is the individual who drives the wrong way while under the influence. In states like **Arizona**, wrong way impaired drivers have caused multiple fatality crashes and have spurred the introduction of punitive legislation. While some jurisdictions have stopped short of classifying this offense as a felony (**Utah** increased the class of misdemeanor), at a minimum, driving the wrong way while impaired should be considered an aggravating factor at sentencing.

In order to effectively reduce recidivism among high-risk impaired drivers, Responsibility.org supports the application of alcohol/drug monitoring technologies, intensive supervision, treatment, and aftercare for these offenders in addition to punishment.

Look-back periods. A look-back period is the length of time that a drunk driving offense remains on a driver's record. In many states, the look-back period also has criminal sentencing implications as it often is the timeframe used to determine whether previous offenses can be taken into consideration and an individual can be sanctioned as a repeat offender. Responsibility.org recommends states establish a look-back period of no less than 10 years to allow judges to take into consideration a sizeable portion of an offender's driving record when applying sanctions. In recent years, many states have followed this recommendation and sought to increase five-year look-back periods to ten years or lifetime. This year,

Alabama successfully extended the look-back period while bills in **Iowa, Mississippi, and Rhode Island** failed.

Ignition interlocks. One of the most effective countermeasures available to jurisdictions to separate drinking from driving is the ignition interlock. Interlocks require DUI offenders to provide a breath sample before being able to start their vehicle. If the breath sample registers a BAC above a defined pre-set limit, the vehicle will not start. The device also requires repeated breath tests while the vehicle is in use to ensure the DUI offender continues to remain sober throughout the duration of their trip.

Ignition interlock devices are highly effective for both repeat drunk drivers and first-time DUI offenders, while they are installed. Recent research has found that state laws that require interlocks for all DUI offenders were associated with a 7% decrease in the rate of fatal crashes involving a driver above the legal limit (.08) and an 8% decrease in the rate of fatal crashes involving a high-BAC (.15+) driver (McGinty et al., 2017). In order for the benefits of interlocks to be maximized, the use of the technology should be coupled with other effective interventions such as assessment and treatment to facilitate behavior change.

Interlock laws have evolved over time as more states have transitioned from mandatory laws for repeat and high-BAC offenders only to expanding eligibility to all offenders (including first-time offenders). While the nature of these laws has varied from mandatory (i.e., interlock installation is a condition of probation and/or re-licensing) to incentivized, the growing trend has been for state legislatures to modify laws to expand reach and, subsequently, increase program participation rates. As of this legislative session, 32 states now have all offender provisions with **Idaho and Iowa** becoming the most recent states to create mandatory all offender programs. First offender legislation was introduced but has yet to pass in **Massachusetts, New Jersey, and Wisconsin**.

Regardless of whether a state has a mandatory all offender law, there are many opportunities to strengthen the structure and implementation of interlock programs. Recent legislative trends include:

- Expanding eligibility to include first offenders, individuals who refuse to submit to a BAC test, individuals sentenced for DUI child endangerment, and treatment court participants;
- Creating hybrid programs that contain both judicial and administrative components (i.e., interlock installation is ordered by a judge but is also a condition of license reinstatement) to close loopholes that allow offenders to avoid installing the device;
- Allowing individuals to install the interlock post-arrest/pre-conviction and have the time on the device count towards day-for-day credit towards the interlock requirement (this incentivized entry often requires individuals to waive their right to an administrative hearing);
- Reducing the hard suspension period for individuals who install the interlock to incentivize program entry;
- Establishing or improving indigency/unaffordability provisions to guarantee that individuals not be excluded from interlock programs on the basis of financial hardship;
- Defining program violations and authorizing an agency to take action in instances of non-compliance;



- Modifying device requirements to include enhanced monitoring capabilities such as cameras and GPS features;
- Creating offenses for tampering and device circumvention; and,
- Establishing compliance-based exit criteria to ensure that individuals keep the interlock installed until they demonstrate that they can separate drinking from driving over a prolonged period.

States that successfully passed interlock legislation that contained some of the above strategies include **Alabama, Arizona, Connecticut, Delaware, Georgia, New Hampshire, and New York**. These technical interlock bills proved to be the most common type of impaired driving legislation introduced in 2018 with an additional 13 states (**AZ, CT, HI, IA, IN, LA, MD, NJ, OK, RI, VA, WA, and WI**) attempting to improve their interlock programs.

Another legislative trend observed in 2018 is the creation of interlock exemptions for individuals arrested for impaired driving who test positive for drugs only. This exemption passed in both **New Hampshire** and **Utah** and was introduced in **Rhode Island**. The rationale for such a carve-out is that the interlock is an inappropriate sanction for an individual who has a drug problem and that they should be subjected to drug testing as opposed to alcohol monitoring. The drawback of this practice is that individuals under supervision commonly switch their substance of choice when they have knowledge of testing parameters.

Responsibility.org continues to support mandatory and effective use of ignition interlocks for all convicted DUI offenders and encourages states to identify gaps in their statutes and programs to improve implementation.

Courts and programs. Each year, legislation is introduced that seeks to improve the prosecution, sentencing, and supervision of impaired drivers. These bills include measures that improve court efficiency, offender tracking, and supervision and treatment practices. Responsibility.org supports legislation that strengthens each facet of the DUI system. In particular, countermeasures such as DUI Courts, 24/7 programs, and staggered sentencing have the potential to change the behavior of high-risk impaired drivers through intensive supervision, swift accountability, assessment, and treatment.

In 2018, several monitoring bills were introduced that proposed 24/7 or other alcohol monitoring programs. These bills have either failed or stalled in **California, New York, and New Mexico**. A staggered sentencing bill in **Kansas** also failed to gain traction. It appears as though more jurisdictions are looking to take advantage of the 24/7 incentive grant contained in the [FAST Act](#) although these efforts have fallen short. Other supervision programs that passed during the 2018 legislative session include a new jail program for individuals convicted of aggravated DUI in **Arizona** and a drug testing program for drug-impaired drivers in **Mississippi**.





Testing provisions. Since the Supreme Court released its opinion in [Birchfield v. North Dakota](#) in the summer of 2016, many states have sought to amend implied consent and testing statutes to clarify when a warrant is needed and penalties associated with refusal. Recent high-profile incidents have also led to the introduction of many bills that specify who is authorized to perform a blood draw and under what circumstances. Both **New York** and **Utah** passed bills that addressed these issues. Other states that introduced similar technical legislation included

Connecticut, Iowa, Kansas, Nebraska, New Jersey, New Mexico Oklahoma, Rhode Island, Utah, and Vermont.

Oral fluid testing bills were not as prevalent in 2018 as in previous years. Only **Vermont** introduced legislation that would permit law enforcement to use roadside oral fluid testing for the purpose of identifying drug-impaired drivers. This bill passed the House but ultimately died in the Senate.

States that are exploring ways to further expedite the warrant process should consider implementing an electronic warrant system. With a majority of states already having authorizing legislation or court rules, these systems allow officers to obtain a warrant for a blood draw in minutes which is especially valuable in drug-impaired driving cases. For more information about how to implement e-warrant systems, download the Responsibility.org [Implementation Guide](#).

Lower BAC limit. The illegal per se BAC limit in the United States is .08. Lower BACs exist for certain classes of drivers, namely those under the age of 21 (.02) and commercial drivers (.04). A few states also have lower BAC laws for certain offenses, such as repeat DUI offenses or as a lesser included offense (e.g., Driving While Ability Impaired (DWAI) in Colorado and New York).

In 2017, Utah became the first state to pass a .05 per se law which will go into effect at the end of this year. Several other states have followed Utah's example and introduced legislation that proposes a lower BAC limit including **Delaware, Hawaii, New York** (.06), and **Washington**; none of this legislation has moved. As **Vermont** explored the legalization of marijuana, language that advocated lowering the BAC limit to .05 in cases where the driver had any measurable amount of THC² in their blood was included in oral fluid legislation; these provisions were removed after the bill was introduced. A similar bill in **California** has stalled in the Senate.

² Delta-9-tetrahydrocannabinol (THC) is the main psychoactive component in marijuana.

Drug-impaired driving:

Drug and polysubstance-impaired driving pose a significant threat on the nation's roadways. In 2016, the most recent year for which data is available, 43.6% of fatally-injured drivers with known drug test results tested positive for an impairing drug (FARS, 2017) with marijuana being the most commonly detected substance. Recent [data](#) from the Washington Traffic Safety Commission (2018) revealed that polysubstance-impairment (e.g., a combination of alcohol and drugs or multiple drugs on board) is now the most common type of impairment found among drivers involved in fatal crashes in that state. In fact, among drivers in fatal crashes from 2008-2016 that tested positive for alcohol or drugs, 44% tested positive for two or more substances with alcohol and THC being the most common combination. These data are concerning and with more states legalizing both medicinal and recreational marijuana and the opioid epidemic affecting large swaths of the country, policymakers are attempting to institute legislative solutions to the problem.



Responsibility.org supports several [commonsense measures to combat DUID](#) including better data collection (e.g., increased testing for drug impairment including mandatory testing for drugs and alcohol in all fatal and serious injury crashes; improved drug testing protocols; and, improved data and record systems which differentiate between arrests for alcohol-impaired and drug-impaired driving), strengthened laws (e.g., state laws that provide separate and distinct sanctions for DUI and DUID; enhanced penalties for polysubstance impaired driving; zero tolerance per se laws for people under 21 for marijuana and other drugs), and increased education and training for criminal justice practitioners.

Policymakers employed a variety of policy approaches to addressing DUID in 2018 including per se laws for THC and controlled substances, marijuana-impaired driving offenses, marijuana open container laws, oral fluid testing provisions (see previous section), and requiring the study of the potential impact of legalization on traffic safety. To date, none of the following bills have passed.

Per se laws. Similar to the BAC limit for alcohol, per se laws for drugs specify a legal limit for controlled substances. A person commits an offense if they have a detectable amount of the substance that exceeds that limit. Proponents of these laws argue that establishing a limit makes it easier to prosecute as it reduces the burden on law enforcement to prove impairment. The challenge with per se laws for drugs is that there is yet to be a widely accepted scientific basis for a relationship between a specific substance concentration amount, impairment, and collision risk, thereby making these laws somewhat arbitrary. In 2018, zero tolerance laws for marijuana or other controlled substances were proposed in **Arizona, Hawaii, New Jersey, New Mexico, and Wisconsin**. For THC, the proposed per se limit was 5 nanograms in HI, NM, and WI, and 2 nanograms in NJ. **Arizona** sought to modify their existing zero tolerance law to specify that an individual could be convicted of DUID if they are found to have either active or inactive metabolites in their body. In **California**, a zero tolerance THC bill that applied specifically to drivers under the age of 21 was introduced but has failed to pass (refer to the following section for more details on this legislation).

Marijuana and driving/open container. A number of jurisdictions that have legalized marijuana are now attempting to create offenses that prohibit using/consuming marijuana while driving a vehicle. Both **Kentucky** and **West Virginia** introduced similar provisions as part of broader legalization legislation that, if passed, would have established both fines and administrative license suspensions for the offense. A proposed open container law would make it a misdemeanor to be in possession of a



controlled substance while operating a motor vehicle (with a suspension ranging from 60 days to 2 years) in **New Hampshire**. The provisions would not apply to marijuana so long as the product was in a secure container that was not in the passenger compartment of the motor vehicle.

Legalization study. When Colorado and Washington legalized recreational marijuana by ballot initiative in 2012, there was minimal thought given to the potential unintended consequences that this may have on traffic safety. In the years since this occurred, more jurisdictions are taking a proactive approach and are studying the impact that legalization may have in their respective states. Traffic safety has now become an area of central focus in these initiatives. Several states including New Jersey and Rhode Island have charged task forces with investigating how marijuana influences driving ability (on its own and when combined with other substances) and crash risk. These task forces are also instructed to obtain and review data on marijuana-impaired driving fatalities, crashes, arrests, and convictions.

Underage drinking:

Responsibility.org supports legislation aimed at preventing underage drinking, such as Good Samaritan laws, social host laws, zero tolerance for drinking alcohol underage and driving, and the 21 minimum legal drinking age. In recent years, the number of bills aimed at curbing underage drinking has decreased and in 2018, only a handful of legislation was introduced to address this problem.

Good Samaritan. Fear of police involvement is the most common reason for not calling 911 during a medical emergency. In recognition of this fact, many states have enacted laws that exempt from arrest and prosecution any victim or “Good Samaritan” who renders aid in a drug or alcohol-related emergency. Commonly referred to as ‘Good Samaritan,’ ‘911 Lifeline,’ or ‘Medical Amnesty/Immunity,’ these laws seek to offer limited, situational immunity as an incentive for taking life-saving measures. Responsibility.org supports the passage of Good Samaritan laws, efforts to effectively publicize these laws, and further evaluation of these efforts for effectiveness.



In the last five years, Good Samaritan legislation has been the most common type of underage drinking bill introduced. Widespread support for this policy has resulted in the majority of states passing and implementing these laws for alcohol overdoses, and more recently, drug overdoses. The shift toward passing Good Samaritan laws for drug overdoses has been motivated by the growth of the opioid epidemic and the increasing number of resulting overdose deaths each year.

As a result, many of the states that initially passed Good Samaritan laws that were specific to alcohol and have now begun to expand the statutes to include controlled substances. In 2018, **Mississippi** passed a Good Samaritan law that Responsibility.org supported and **Florida, Iowa, and Massachusetts** introduced legislation that failed to pass.

Social host. Social host laws and ordinances are designed to reduce underage alcohol consumption by imposing liability on adults who knowingly host parties or allow the consumption of alcohol on the property they own, lease, or control. Under these laws, adults can be held liable for alcohol-impaired driving crashes regardless of whether they are the ones who provided the alcohol to minors. Several jurisdictions also have laws that can be applied even if the adult was unaware that underage alcohol consumption occurred on their property.

While this type of legislation is introduced each year, it appears as though states have now begun to focus on modifying existing provisions as opposed to instituting new versions of these laws. Both **Georgia** and **Mississippi** introduced social host bills in 2018, but neither passed before the end of session.

Responsibility.org supports social host laws that prohibit adults from knowingly providing and/or serving alcohol to individuals under the legal drinking age of 21 and recommends that adults who knowingly provide alcohol to minors should face sanctions such as driver's license suspension, mandatory community service, mandatory fines dedicated to underage drinking prevention, potential jail time, graduated penalties for repeat offenses, and other sanctions deemed appropriate by judicial discretion. It is our hope that states will continue to examine their existing social host provisions and improve their implementation whenever possible.



To learn more about the policies that Responsibility.org supports and to access a summary of the evidence base and prevalence of these laws/programs, visit our [policy page](#).

Advocacy in Action



California SB 1273: Youth Zero Tolerance for THC

For several years, Responsibility.org has had the privilege of partnering with [Students Against Destructive Decisions](#) (SADD). In March, we collaborated with SADD to hold a California Traffic Safety Summit to educate students on impaired driving issues and how they can become engaged in advocating for legislative change in their state. These students then had the opportunity to put this knowledge into practice when they joined Erin Holmes (Director of Traffic Safety, Responsibility.org) at the California State Capitol in Sacramento to offer support to Senator Jerry Hill's [CA SB 1273](#).



Prior to a Senate Public Safety Committee hearing, SADD students Alyssa Suzuki, Julio Mendez Vargas, Agustin Arreola Leon, and the Don Pedro High School SADD Chapter joined Senator Hill, Lt. Robert McGroarty (Ret.), and Erin at a [press event](#) to articulate why the passage of SB 1273 is needed. As originally introduced, this legislation would establish a zero tolerance policy and mandatory one year license suspension for young drivers (under 21) who operate a vehicle with any detectable amount of THC in their system. The proposed legislation applies a well-established and evidence-based policy that has existed for years for alcohol and extends it to another substance that, while legal for those over the age of 21 in California, should be and remains an illicit substance for youth. The enactment and publicization of this type of law has the potential to alter youth perceptions about the dangers, illegality, and consequences of driving after using cannabis and ultimately, deter young drivers from engaging in this behavior.

While the bill was ultimately watered down in committee and is unlikely to move this session, legislators acknowledged that the presence of the students made a difference and applauded them for their engagement in the civic process. We hope that Senator Hill will reintroduce the original version of the zero tolerance bill and that California legislators will opt to protect young drivers by sending a clear message about the dangerous of driving impaired by drugs.



Maryland SB 296/HB 349: Felony DUI

Responsibility.org has been particularly active in the state of Maryland in recent years, collaborating with a wide range of partners to support the passage of impaired driving legislation (such as Noah’s Law and oral fluid pilot bills) and strengthening of social host laws. For the second year in a row, Responsibility.org worked with Governor Larry Hogan’s office to support a felony DUI bill. Entitled the Repeat Drunk Driving Offenders Act ([MD SB 296/HB 349](#)), this legislation would classify fourth and subsequent DUI convictions as a felony. At present, Maryland is one of only four states that does not have a felony law for multiple DUI offenses.³ Given the high-risk nature of repeat offenders and the danger that they pose, Responsibility.org joined law enforcement, prosecutors, and highway safety advocates in supporting this important piece of legislation. Unfortunately, the bill once again failed to pass as the House of Delegates and Senate could not agree on amendments. It is our hope that the Governor will continue to lead on this issue and that action will be taken to reduce impaired driving fatalities in the state.



³ Maine, New Jersey, and Pennsylvania have not passed felony DUI laws. To learn more, access our felony DUI map.

Online advocacy efforts

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Help us save lives! 📞 Call the Senate Judicial Proceedings & House Judiciary Committees & ask them to pass SB 296 and HB 349!



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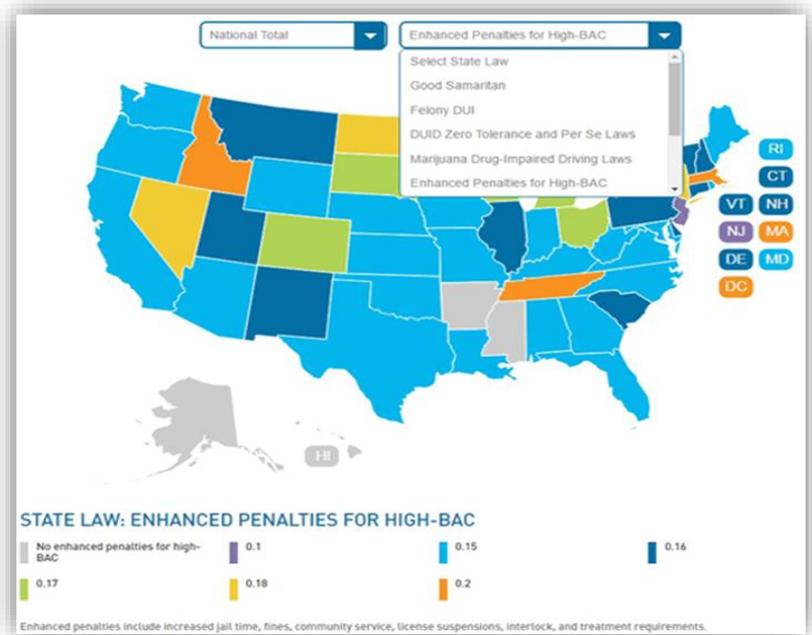
In 2018, Responsibility.org appealed to the public to advocate for the passage of priority legislation. Through the Responsibility.org online platforms, we encouraged citizens to support Idaho's [HB 551](#) and Maryland's [SB 296](#)/[HB 349](#) by contacting their local state representatives and asking them to assume a leadership role in the fight against high-risk impaired drivers. By informing and engaging the public on these issues, Responsibility.org was able to foster a grassroots approach and raise the profile of these important pieces of legislation. We will continue to enlist concerned members of the public as our partners in advocating for change.

Resources

Interested in becoming more engaged in affecting change? Responsibility.org has a number of resources available to policymakers, practitioners, and advocates to assist in navigating the state legislative process.

Get the facts. For an easy-to-navigate compendium of the latest state-specific data (including alcohol-impaired driving fatalities, DUI arrests, and underage drinking statistics) refer to the *State Facts* portion of our website and see how your state compares to national averages.

Know the laws. In the United States, the majority of laws are enacted at the state level and there is often great variance from one jurisdiction to another. Our interactive [State Map](#) quickly, reliably, and comprehensively provides up-to-date information on state impaired driving and underage drinking laws. With more than 20 different issue areas covered, the State Map continues to be expanded and updated in real-time. Simply select a type of legislation from the drop-down menu and see how your state measures up to the rest of the country. The Map provides users with an opportunity to identify where gaps exist and how laws can be strengthened in each state.



POLICY OPTIONS

- Establish a state task force to address DUID.** Include every facet of the DUID system, including enforcement agencies and other interested parties. Be certain to assign clear roles and responsibilities to each.
- Provide more tools to law enforcement.** Provide funding to train officers on DUID, license suspension programs to identify DUID offenders, and interlock.
- Establish enhanced penalties for polysubstance-impaired driving.** A single offense involving alcohol and another substance (e.g., marijuana) can be more dangerous than either substance alone. This policy heightens awareness and deters drivers with others who have high blood alcohol concentrations (BAC) of 0.15.
- Create parity in sanctions between DUI and DUID where appropriate.** Many states have more lenient penalties for DUI and DUID.
- Mandate screening and assessment.** A comprehensive assessment of an individual's personal health, alcohol consumption, and driving history is essential to identify and address underlying issues.
- Establish a zero tolerance law for all drugs, including marijuana, for drivers under the age of 21.** Implement drug impairment measures, such as random and random breathalyzer programs. The law establishes parity with existing zero tolerance laws for alcohol for drivers under the age of 21.
- Require treatment if indicated by an assessment.** The treatment requirement can vary along an assessment of jurisdiction.
- Increase the number of DUI or hybrid DUI/Drug Courts.** Increase the number of DUI or hybrid DUI/Drug Courts to cover states with the highest traffic fatalities, repeat offenders, and programs that highly reflect on existing legislation and existing laws.
- Improve your state's DUID data collection.** • Increase educational drug testing of all traffic-related drivers. • Encourage alcohol and drug testing for licensing drivers in local and interstate markets.
- Separate DUI and DUID statistics.** It is important to separately identify drug and polysubstance-impaired driving and report all data in a single database.
- Ensure that the language in your DUID statute is broad enough.** • Review that the language in your DUID statute is broad enough to include individuals and emerging synthetic/ designer drugs.

Additional Sources

For more information about DUID, refer to *Drug-Impaired Driving: A Guide for What States Can Do*, published by the Governors' Highway Safety Association (GHSA) with funding from the Department of Justice. For more information on DUID and effective state actions to address the problem, refer to *Drug-Impaired Driving: Marijuana and Opioids Raise Critical Issues for States*.

For more information on DUID, refer to the National Highway Traffic Safety Administration (NHTSA) website: www.nhtsa.gov

To learn more about the DUID data in our State Maps, visit www.Responsibility.org/StateMaps

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Advocate for what works. Decades of research has resulted in the identification of evidence-based practices and effective countermeasures. To make a strong case for the passage of impaired driving and underage drinking laws, refer to [Responsibility.org policies](#) – a resource that provides information about the prevalence of common strategies and the research that supports their implementation. Need ideas about how to strengthen existing laws and/or close loopholes in the system? We have developed [Policymakers' Checklists](#) on complex topics like drug-impaired driving to provide legislators with options to address the problem comprehensively. Also, visit the [End Impaired Driving](#) portion of our website to access the latest research on the most pressing traffic safety concerns like the newly released Governors' Highway Safety Association guide [Drug-Impaired Driving: Marijuana and Opioids Raise Critical Issues for States](#).

Moving Forward

The passage of legislation is merely the starting point in actualizing change. Laws provide the foundation for policy, strategies, and programs. The implementation process builds upon this foundation and creates a framework that is refined and expanded over time. How laws are implemented or translated into practice determine whether they will effectively accomplish their intended purpose.

Implementation however, is not a singular or static process. On the contrary, it is an ongoing and dynamic one. The ability of jurisdictions to measure progress is closely connected to their success in effectively filling gaps that exist and developing evidence-based actions to reduce impaired driving. As a result, it is imperative that new laws and associated programs be evaluated post-implementation to determine whether they meet their objectives and where improvements are needed.

Responsibility.org recognizes that the passage of strong impaired driving laws is an important and necessary step towards eliminating deaths on our nation's roadways. However, without effective implementation of these laws, this goal will not be realized. Our organization is committed to taking a systems approach and working with partners to ensure that the laws we advocate for are implemented in a way that will maximize benefits. For this reason, we are available to offer support, expertise, and technical assistance to improve policy and programs. Interested in learning how to strengthen practice? Contact our Director of Traffic Safety at erin.holmes@responsibility.org.