



Enhanced Sanctions for High-BAC Drivers

Drivers with a high blood alcohol concentration (BAC) have a heightened relative crash risk. Compared with drivers who have not consumed alcohol, drivers with BACs of .15 or above are 380 times more likely to be involved in a single-vehicle fatal crash (Zador et al., 1991). As such, they pose a critical threat to public safety. Among the 10,511 alcohol-impaired driving fatalities in 2018, 67% were in crashes in which at least one driver had a BAC of .15 g/dL or higher (NHTSA, 2019).

High-BAC offenders can be classified as high-risk impaired drivers. Many of these individuals have driven drunk repeatedly but may have avoided detection or prosecution for these offenses. As such, the approaches and strategies utilized among high-BAC offenders is often similar, if not equivalent, to those used to address the risks and needs posed by repeat offenders.

The specifics of high-BAC laws vary by state but typically include lengthier administrative license suspension/revocation periods, mandatory installation of ignition interlocks, increased fines, lengthier periods of incarceration, mandatory assessment and treatment, and ineligibility for deferred sentencing or diversion programs.

The BAC level at which these enhanced sanctions apply also varies, although it typically ranges from .15 to .20. Several jurisdictions have created a tiered system whereby enhanced sanctions are required at more than one BAC level and are applied in a graduated fashion. For example, impaired drivers in Virginia face enhanced penalties at both .15 and .20. In states where there is judicial discretion, the presence of a high-BAC is often taken into consideration as an aggravating factor at the time of sentencing.

Research Highlights:

A 2003 study examined Minnesota's high-BAC law which imposed mandatory minimum administrative and criminal sanctions for offenders who drove with a BAC of .20 or higher. The researchers found that in the two years since the law's implementation, the percentage of high-BAC offenders decreased (21.0% to 20.4%). The severity of case dispositions for high-BAC offenders (both first and repeat) increased, although the severity appeared to decline over time for first offenders (McCartt and Northrup, 2003). With respect to test refusal rates, there was a decline for first offenders from 12.7% in 1997 to 10.5% in 2000, but the rate for repeat offenders remained consistent at 22%.

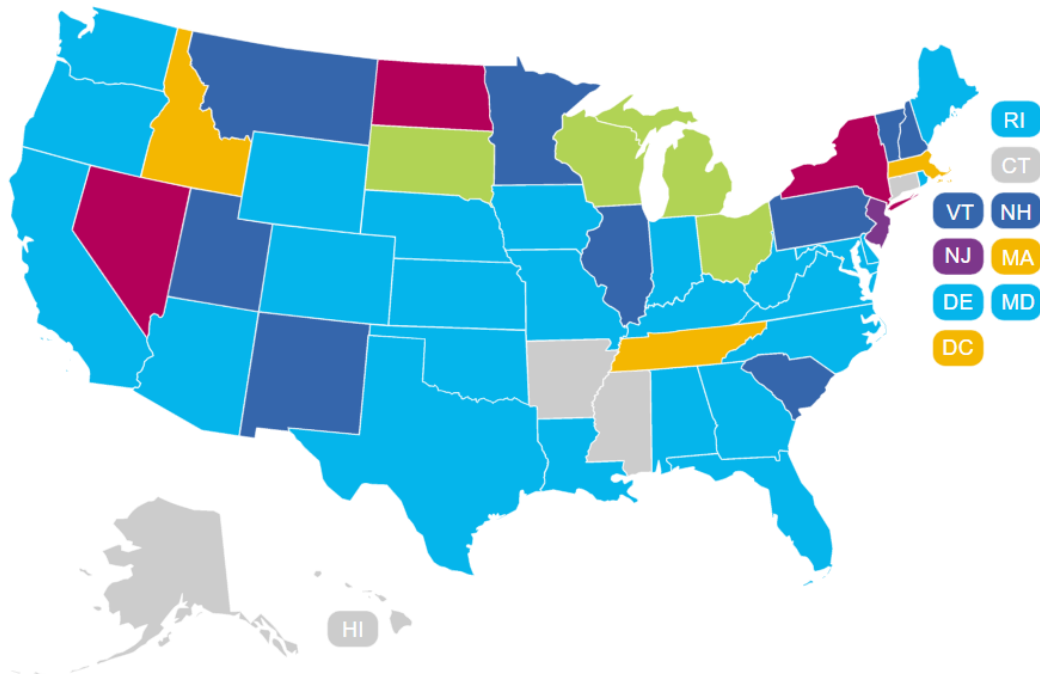
McCartt and Northrup (2003) further noted that most states they interviewed as part of their review of high-BAC systems reported few problems implementing this type of law and indicated that it had a positive impact on their overall DUI system. The most commonly noted problem was the potential for these laws to increase refusal rates as offenders would look to avoid the enhanced penalties by refusing to submit to a chemical test.

A potential solution to address the refusal problem is to pass laws that 1) criminalize chemical test refusal, and 2) ensure that the penalties for refusal are more punitive than those for driving with a high-BAC.



Prevalence:

Forty-five states and the District of Columbia have enhanced penalties for drivers with high BACs. Only Alaska, Arkansas, Connecticut, Hawaii, and Mississippi lack this type of law. To learn what the high-BAC cutoff is in each state, please refer to the Responsibility.org [State Laws Map](#).



STATE LAW: ENHANCED PENALTIES FOR HIGH-BAC



Responsibility.org Position:

Responsibility.org supports enhanced sanctions for high-BAC offenders. In recognition of the heightened risk these offenders pose to public safety, Responsibility.org recommends that mandatory screening and assessment for mental health and substance use disorders be used to identify issues that require further intervention. Assessment outcomes should guide criminal justice practitioners in determining the appropriate level of supervision and identifying interventions that are best suited to address offenders' individual treatment needs.

References:

- McCartt, A., & Northrup, V. (2003). *Enhanced Sanctions for Higher BACs: Evaluation of Minnesota's High-BAC Law*. DOT HS 809 677. Washington, D.C.: National Highway Traffic Safety Administration.
- National Highway Traffic Safety Association (NHTSA). (2018). *Traffic Safety Facts: Alcohol-Impaired Driving, 2017 Data*. DOT HS 812 630. Washington, D.C.: Author.
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- Zador, P. (1991). Alcohol-related relative risk and fatal driver injuries in relation to driver age and sex. *Journal of Studies on Alcohol*, 52(4), 302-310.