

2020 Extreme DUI Bill Summary

This bill does the following things:

- 1. Creates an extreme DUI in state code under the following conditions:**
 - a. BAC of .16 or greater;
 - b. BAC of .05 or greater plus the presence of any controlled substance; or
 - c. The presence of two or more unprescribed controlled substances together.
 - i. Cannabis used as recommended by a doctor under Utah Medical Cannabis Act is excluded from this section of extreme DUI

- 2. Creates a new sentencing structure for extreme DUI offenses:**
 - a. 1st DUI offense: 5 days in jail OR 2 days in jail plus 30 days home confinement with alcohol monitoring
 - i. Penalty for non-extreme DUI is 2 days in jail or 48 hours community service
 - b. 2nd DUI offense: 20 days in jail OR 10 days in jail with 60 days home confinement with alcohol monitoring
 - i. Penalty for non-extreme DUI 2nd offense is 10 days in jail or 5 days in jail plus 30 days home confinement with alcohol monitoring
 - c. 3rd DUI and subsequent offenses: 120 days in jail plus 120 days of home confinement with alcohol monitoring
 - i. Penalty for non-extreme DUI 3rd and subsequent offenses is 60 days in jail plus 60 days home confinement with alcohol monitoring

- 3. Requires supervised probation for all extreme DUI offenses**

- 4. Prohibits the plea deal of Impaired Driving under 41-6a-502.5 for extreme DUI offenses**
 - a. Currently not available by statute for anything but a 1st offense DUI

- 5. Makes it a separate DUI offense for every child under 16 years old in the car**
 - a. This is just what we already do for injuries and death caused by DUI crashes. Every person injured or killed is a separate DUI offense. This will make every child in the car a separate offense.

- 6. Restricts the use of a plea in abeyance for Impaired Driving, Driving with a Measurable Controlled Substance, and Criminal Refusal in addition to DUI which is already restricted.**
 - a. Any offense that enhances a future DUI = no plea in abeyance

- 7. Makes these new provisions cooperative with the 24/7 Sobriety Program**
 - a. This program is being proposed to expand from the pilot program in Weber County to statewide in a different bill this legislative session
 - b. This is a very good program and works to reduce recidivism
 - c. This bill will incentivize people to enter the 24/7 program by suspending mandatory jail as long as a person successfully completes the 24/7 program, but if they don't, they will have to serve the jail time.

How Other States are Handling These Types of Cases

The following states have something similar to this proposal already in their laws where there are increased criminal penalties for higher BAC DUI offenses:

| State | What level criminal penalties increase |
|-----------------------|--|
| Rhode Island | Increase penalties at both .10 and .15 |
| Pennsylvania | Increase penalties at both .10 and .16 |
| South Carolina | Increase penalties at both .10 and .16 |
| Arizona | Increase penalties at both .15 and .20 |
| Delaware | Increase penalties at both .15 and .20 |
| Indiana | Increases from class C misdemeanor to class A misdemeanor at .15 |
| Louisiana | Increase penalties at .15 and .20; Also an aggravating factor for more prison time in vehicular homicide cases |
| North Carolina | Aggravated circumstance at .15 |
| Florida | Doubles fine and increases jail at .15 |
| Washington | Increases penalties at .15 |
| Illinois | Increases penalties at .16 |
| Minnesota | Increases penalties at .16 |
| Oklahoma | Increases penalties at .15 |
| Texas | Increases penalties at .15 |
| West Virginia | Increases penalties at .15 |
| North Dakota | Increases penalties at .16 for 1 st offense only |
| Ohio | Increases penalties at .17 |
| New Mexico | Aggravated offense under code with different penalties at .16 |
| New York | Enhanced charge with different penalties at .18 |

Why are we doing this – Extreme DUI Behavior followed by the inevitable human misery from the senseless loss of life and injuries needs to stop.

Recent Crashes/Fatalities:

1. Drunken man crashes into house and woman asleep in bed, police say
<https://www.ksl.com/article/50023256/drunken-man-crashes-into-house-and-woman-asleep-in-bed-police-say>
Yanito was given a test to measure his blood alcohol content, which measured **0.30%**, or **six times the legal limit**, the affidavit states.
2. <https://www.ksl.com/article/50024320/salt-lake-woman-charged-with-manslaughter-in-crash-that-killed-high-school-sports-star>
 - a. Thompson told emergency responders that she had **drank three cups of absinthe and taken 20 Valium pills prior** to leaving her house, according to the charges. Prosecutors also noted that emergency crews were able to smell alcohol on Thompson's breath "through the N95 masks that they were wearing."
 - b. **Her blood-alcohol content was measured at 0.267, or more than five times the legal limit, the charges state.** Thompson's California driver's license had also expired in 2014, police say.
3. <https://www.ksl.com/article/46773497/salt-lake-boy-faces-long-recovery-after-truck-crashed-into-his-home>
4. <https://www.ksl.com/article/46734564/drunken-woman-was-driving-wrong-way-on-freeway-troopers-say> Johnson took a Breathalyzer test that registered her blood alcohol content at .225%, or 4 1/2 times the legal limit.

From the Recent 2019 DUI CCJJ Report:

- a. **Alcohol fatalities jumped** 33% to 48 in CY2018 (Page 4)
- b. **Drug –positive fatalities** continued to soar to 97 in CY2018; a 273% increase since 2010; and now represents over one – third of all crash fatalities. Page 4
- c. You have to consume a lot of alcohol to get to .16. "160 lb man one hour 7 beers to get to .15% Page 32
- d. Of the 9,995 arrest, 41% had no BAC reported. **2,452 were reported to have BAC .16+ or about 25% of the total arrests Page 27**

Relative Risk of being involved in a fatal crash by BAC : For age group 21-34 for >.15 is **200%** (see attached pdf .)

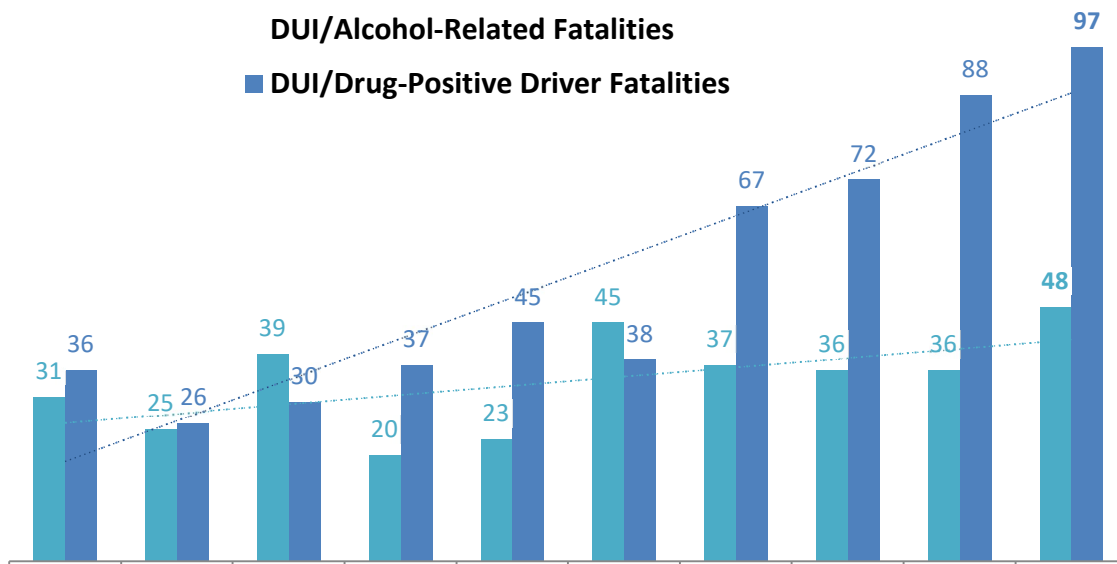
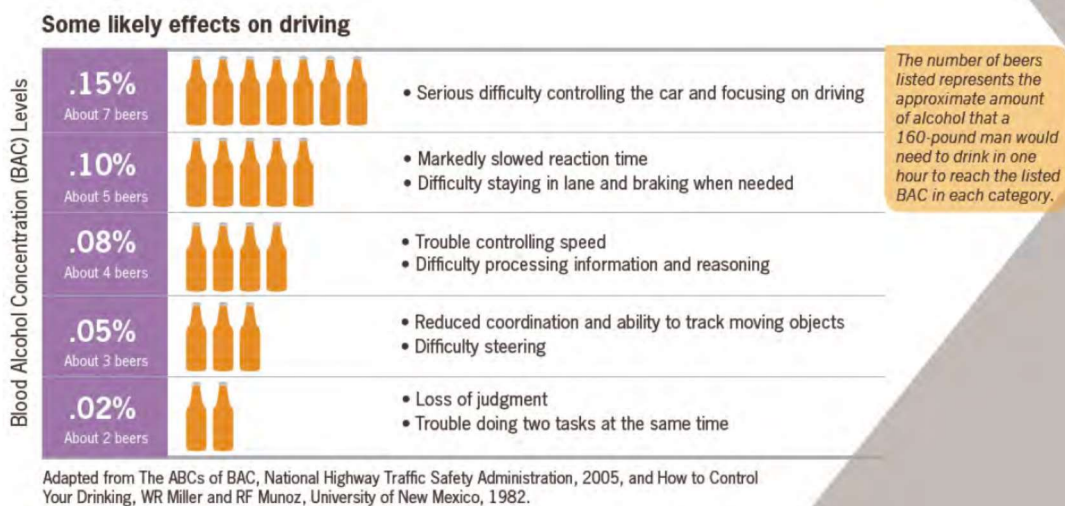


Figure A1. Blood Alcohol Concentration and Likely Effects on Driving⁵



Relative Risk* of Being Involved in a Fatal Crash by BAC

| Driver Age | BAC | | |
|------------|------------|------------|--------|
| | .05 - .079 | .08 - .099 | ≥.15 |
| 16-20 | 6.24 | 12.61 | 490.41 |
| 21-34 | 4.78 | 8.74 | 200.03 |
| 35+ | 4.03 | 6.89 | 111.94 |

*Risk relative to BAC=.00 for same age group

- Relative risks are the same for men and women at a given BAC. Relative risk for 16-20 year old women are now the same as 16-20 year old men at a given BAC (a change from 1996).

[Source: Voas, Torres, Romano, Lacey, JSAD, (2012)]