Enhanced Sanctions for High-BAC Drivers

Responsibility.org Position:

Responsibility.org supports enhanced sanctions for high-BAC impaired driving offenders. In recognition of the heightened risk these offenders pose to public safety, Responsibility.org recommends using mandatory screening and assessment for mental health and substance use disorders 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.

This paper includes the most current and relevant data for this position as of January 9, 2025.

Overview:

Drivers with a high blood alcohol concentration (BAC) have greatly increased the risk of crashing, particularly at levels of .15 g/dL or higher, making them 380 times more likely to be involved in a single-vehicle fatal crash compared to a non-drinking driver (Zador et al., 1991). As such, they pose a critical threat to public safety. These drivers also accounted for the majority of alcohol-impaired driving fatalities in 2022 at 67% (NHTSA, 2024).

High-BAC offenders can be considered high-risk impaired drivers and are often treated similarly to repeat offenders, with longer license suspension, mandatory ignition interlocks, higher fines, longer jail time, assessment and treatment requirements, and limited access to diversion programs that can include alcohol education or treatment. The BAC level that triggers these enhanced sanctions varies by state, typically ranging from .15 to .20, and some states have tiered systems for graduated penalties. In jurisdictions with judicial discretion, high-BAC is often an aggravating factor in sentencing.

Research Highlights:

A 2003 study examined Minnesota's previous 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 in test refusal rates for first offenders from 12.7% in 1997 to 10.5% in 2000, but the rate for repeat

offenders remained consistent at 22%. Minnesota enacted a more stringent high-BAC law in 2015 by lowering the threshold for these enhanced penalties from .20 to .16 (Minn. Stat. § 169A.03).

McCartt and Northrup (2003) further noted that most officials from the various 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 noted problem was the potential for these high BAC 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:

As of 2024, forty-six states and the District of Columbia have enhanced penalties for drivers with high BACs. Only Alaska, Arkansas, Connecticut, and Mississippi lack this type of law.

Access Responsibility.org's interactive State Laws Map for more details.

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). (2022). *Traffic Safety Facts: Alcohol-Impaired Driving, 2022 Data*. DOT HS 813 578. Washington, D.C. https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813578

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.