



# LEGISLATIVE HISTORY OF **DRUNK DRIVING IN AMERICA**

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A report on the origin and history of legislation, countermeasures, and enforcement campaigns to prevent drunk driving in the United States. (July, 2021)

# LEGISLATIVE HISTORY OF DRUNK DRIVING IN AMERICA

## INTRO AND STATISTICS

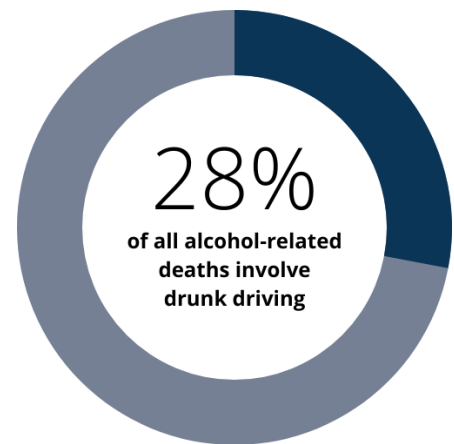
Drunk driving has been a leading cause of death and injuries in the U.S. for decades. Over the years, numerous countermeasures and campaigns have been implemented in an effort to lower the number of deaths and injuries. Prevention and enforcement have been the primary means used to address drunk driving.

Drunk driving is part of a larger issue of alcohol related deaths and injuries. In 2019, an estimated 95,000 people died in the U.S. from alcohol related causes making alcohol the third leading cause of preventable deaths.<sup>1</sup> Of these deaths, 10,142, or 28 percent of all crashes, involve drunk driving.<sup>2</sup>

States have enacted a wide variety of laws to regulate alcohol and the alcohol industry. A common theme of industry regulations is the three-tiered system, which helps balance alcohol availability, price, and promotional practices. These regulations exist with regard to alcohol production, distribution, and sales. Following prohibition, states were given the job of regulating alcohol sales. This resulted in the three-tiered system for alcohol, which most states created to “balance alcohol availability, price, and promotional practices.”<sup>3</sup>

Most safety groups would agree that progress on reducing drunk driving has stalled since the mid-1990s. Major initiatives to reduce drunk driving began in 1980 and this report will primarily look at laws and countermeasures from 1980 to the present.

In 1982, President Reagan created a national commission on drunk driving which resulted in several important recommendations that would become foundations to the U.S. approach to



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<sup>1</sup> <https://www.niaaa.nih.gov/publications/brochures-and-fact-sheets/alcohol-facts-and-statistics>

<sup>2</sup> <https://www.nhtsa.gov/risky-driving/drunk-driving>

<sup>3</sup> <http://healthyalcoholmarket.com/pdf/SafeandSound2014.pdf>

stopping drunk driving. The commission issued a report in 1983 which called for raising the minimum drinking age to 21 and for tough enforcement of drunk driving laws.

In 1984, the U.S. enacted the recommendations of the Reagan Commission and required all states to adopt 21 as the minimum drinking age.

In 1998, the Congress included provisions highly incentivizing the states to pass laws to prevent open alcohol containers in vehicles. These laws are commonly known as “open container laws.”<sup>4</sup>

Over the years, illegal per se alcohol limits were established. In the case of driving under the influence (DUI), per se laws mean that you are guilty of drunk driving without any other evidence needed. Until 2000, per se limits varied across the country from .08 Blood Alcohol Content (BAC) to .12 BAC. Many states settled on .10 BAC as the illegal per se limit.

As part of the FY 2000 Transportation Appropriations bill, the Congress created a national .08 BAC standard to help ensure a uniform approach to drunk driving among all states. This legislation was signed into law by President Clinton.

In recent years, there has been a new emphasis on technology to prevent drunk driving. Ignition interlocks are an example of current technology that can stop drunk driving. Although interlocks have been used for some time, New Mexico became the first state to pass a law requiring all convicted drunk drivers to use an interlock device. Since that time, federal and state laws have evolved to place more of an emphasis on requiring convicted drunk drivers to use an approved interlock device.

As technology has evolved, so has a new emphasis on using technology to stop DUI. While ignition interlocks represent the most current technology to separate drinking from driving, a public/private partnership was formed in 2008 with the goal of creating a passive, in-vehicle alcohol detection system. The program was created by the world’s leading automakers together with the National Highway Traffic Safety Administration (NHTSA). Legislation was passed that authorized the program which became known as the Driver Alcohol Detection System for Safety, or DADSS.

In 2019, the U.S. House and Senate both introduced legislation to mandate advanced drunk driving technology, whether a DADSS type system or some other vehicle technology, on all new

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<sup>4</sup> [https://one.nhtsa.gov/people/injury/research/opencontainer/exec\\_summary.htm](https://one.nhtsa.gov/people/injury/research/opencontainer/exec_summary.htm)

vehicles.<sup>5</sup> <sup>6</sup> The legislation passed the House in 2020 but no action was taken in the Senate. In 2021, both the U.S. House and Senate attached the respective bills to larger highway reauthorization bills.<sup>7</sup>

Law enforcement and high visibility enforcement has played a central role in stopping drunk driving. Law enforcement really is the front line in stopping and removing drunk drivers from the road. High visibility enforcement uses paid or earned media to advertise that law enforcement will be out looking for drunk drivers. These highly publicized events are coupled with an increased presence of law enforcement conducting DUI checkpoints or saturation patrols. The idea is to remind the public that if you drink and drive, you will be caught.

LAW  
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**STOPPING AND  
REMOVING DRUNK  
DRIVERS FROM THE  
ROAD**

In 2003, the Congress appropriated \$11 million for drunk driving high visibility paid ads. Also known as DUI crackdowns, the first campaign was known as the *You Drink & Drive. You Lose* campaign. Today the campaign runs twice a year and has been rebranded as *Drive Sober or Get Pulled Over*.<sup>8</sup>

While prevention and enforcement have been the primary methods of reducing drunk driving, several key groups and events have helped call attention to the issue and educate the public on the dangers of drinking and driving.

Perhaps the most influential crash involving drunk driving was the Kentucky bus crash on May 14, 1988.<sup>9</sup> On that date, a church group from Radcliffe, Kentucky, was travelling home from Kings Island theme park when a wrong way drunk driver crashed into the bus in Carroll County,

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<sup>5</sup> <https://www.congress.gov/bill/116th-congress/house-bill/4354?q=%7B%22search%22%3A%5B%22Honoring+Abbas%22%5D%7D&s=2&r=4>

<sup>6</sup> <https://www.congress.gov/bill/116th-congress/senate-bill/2604?q=%7B%22search%22%3A%5B%22RIDE+Act+Tom+Udall%22%5D%7D&s=3&r=1>

<sup>7</sup> <https://www.congress.gov/bill/116th-congress/house-bill/2?q=%7B%22search%22%3A%5B%22HR+2%22%5D%7D&s=6&r=1>

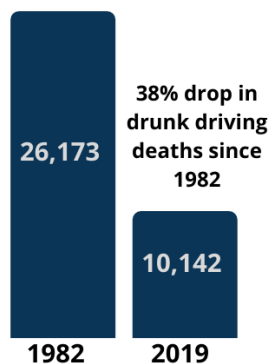
<sup>8</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/ydydyl\\_2001-05.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/ydydyl_2001-05.pdf)

<sup>9</sup> [https://www.wdrb.com/news/victims-and-survivors-honored-years-after-nation-s-worst-drunk/article\\_e921b1d1-fc5d-56f1-b876-f16db402fe72.html](https://www.wdrb.com/news/victims-and-survivors-honored-years-after-nation-s-worst-drunk/article_e921b1d1-fc5d-56f1-b876-f16db402fe72.html)

Kentucky. The event was the worst drunk driving crash in U.S. history killing 24 children and three adults. There were 40 survivors, many of whom suffered devastating injuries and burns.

The crash made national headlines. Groups like Mothers Against Drunk Driving (MADD) used the tragedy to push for tougher DUI laws and penalties. One of the victims, 10-year-old Patricia Nunnallee, was the daughter of Karolyn Nunnallee who would go on to become MADD National President where she would be an advocate to lower the national BAC limit to .08.<sup>10</sup>

Tragedies like the Kentucky bus crash provide opportunities to educate the public on the dangers of drunk driving. One of the earliest books on the dangers of alcohol, **Toward Liquor Control**, discussed the importance of educating the American public about the dangers of alcohol and operating machinery. It further examined the “distinct American atmosphere or attitude and the social pressure it exerts upon the growing individual.”<sup>11</sup>



Groups like MADD would use this model to put a name and a face on those killed by drunk drivers. This helped to create social pressure and change American culture. Not only is drunk driving a crime, but it became socially unacceptable.

Combined, all of these efforts have helped to reduce drunk driving deaths from 26,173 in 1982 to 10,142 in 2019. While this overall reduction in deaths may be impressive, drunk driving still makes up about a third of all traffic deaths.

## 21 MINIMUM DRINKING AGE

In 1982, President Reagan appointed a public commission with a 12-month mandate to study and make recommendations to stop drunk driving. At the time, the commission noted that drunk driving deaths accounted for “at least 50 percent of all highway deaths.”<sup>12</sup> The commission was

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<sup>10</sup> [https://www.wdrb.com/news/mother-of-carroll-co-bus-crash-victim-i-chose-to/article\\_3ad52615-c4e6-538c-b3fd-1221a6eeff2f.html](https://www.wdrb.com/news/mother-of-carroll-co-bus-crash-victim-i-chose-to/article_3ad52615-c4e6-538c-b3fd-1221a6eeff2f.html)

<sup>11</sup> Fosdick, Raymond B. and Albert L. Scott. **Toward Liquor Control**. 1933 Page 93.

<sup>12</sup> Volpe, John Presidential Commission on Drunk Driving, 1983. Page 1



chaired by former Department of Transportation Secretary John Volpe and was a first-of-its kind national effort to make recommendations to stop drunk driving.<sup>13</sup>

Commission members included a diverse group of policy makers, industry representatives, and grassroots activists who brought different viewpoints to the discussion. Notable commission members included former Senator Bob Dole, Candy Lightner (Founder of Mothers Against Drunk Driving), Henry King (Brewers Association), and Fred Meister (Distilled Spirits Council of the U.S.).

One of the most important recommendations to come from the commission was the creation of a national 21 minimum drinking age (MDA). The commission urged Congress to pass legislation to withhold a percentage of highway road dollars from states that did not comply with the age limit.

On July 17, 1984, President Reagan signed into law the National Minimum Drinking Age Act which effectively created a national 21 MDA. The new law required states to adopt 21 as the minimum drinking age or the federal government would withhold a portion of the state highway funding.

The 21 MDA is largely considered successful. From 2008 through 2012, the National Highway Traffic Safety Administration estimated that the law prevented over 500 deaths per year.<sup>14</sup> The biggest challenge to the 21 MDA came in 2007 when John McCardell, former president of Middlebury College, launched the group Choose Responsibility. The group believed that the drinking age should be lowered to 18 and that persons 18 and over should obtain a drinking license. While the media covered this story in some detail, it never gained traction legislatively and there was no real threat toward repeal.



Like the three-tiered system of alcohol regulations, the 21 minimum drinking age is a good example of how alcohol is regulated differently than other products. The 21 MDA is considered

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<sup>13</sup> <https://www.presidency.ucsb.edu/documents/statement-the-presidential-commission-drunk-driving><https://www.presidency.ucsb.edu/documents/statement-the-presidential-commission-drunk-driving>

<sup>14</sup> <https://crashstats.nhtsa.dot.gov/Api/Public/Publication/812137>

by some to be one of the most successful public health laws in American history. NHTSA estimates that the 21 MDA has saved 31,959 lives from 1975 to 2017.<sup>15</sup>

## OPEN CONTAINER LAWS

Open container laws prohibit possession of open containers of alcohol and therefore the consumption of any alcoholic beverage in the passenger area of a motor vehicle. The Transportation Equity Act for the 21<sup>st</sup> Century Restoration Act, also known as TEA-21, became Federal law in 1998. The legislation created a program to encourage states to pass open container alcohol laws.

States that fail to comply lose a percentage of the state's Federal-aid highway construction funding as it is transferred for use in highway safety programs related to drunk driving.

The provision is known as Section 154 and has played an important role in encouraging states to pass open container laws. Following passage of TEA-21, four states immediately passed legislation in 1999 to prohibit open containers. Prior to passage of TEA-21, 13 states and the District of Columbia had open container laws in compliance with the new Federal law. To date, 38 states plus D.C. have federally compliant open container laws.<sup>16</sup>

According to a NHTSA study:

*Comparison of crash data showed that states that lacked Open Container laws had significantly greater percentages of alcohol-involved fatal and single-vehicle crashes than the states with partially or fully-conforming laws. Although the differences cannot be attributed with certainty to the presence or absence of Open Container laws, the results of the analyses suggest that conformance with some or all of the six elements of the Federal requirements contributes measurably to traffic safety.<sup>17</sup>*

## NATIONAL .08 BAC LIMIT

Drunk driving per se limits have been around for decades. Per se is a legal term that, in the case of DUI, means you are guilty without any other evidence needed. The Centers for Disease Control and Prevention (CDC) defines .08 BAC as about four drinks consumed in one hour by a

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<sup>15</sup> <https://www.nhtsa.gov/risky-driving/drunk-driving#age-5056>

<sup>16</sup> [https://www.ghsa.org/sites/default/files/2020-07/DrunkDrivingLaws\\_0720.pdf](https://www.ghsa.org/sites/default/files/2020-07/DrunkDrivingLaws_0720.pdf)

<sup>17</sup> <https://one.nhtsa.gov/people/outreach/traftech/TT274.htm>

160-pound man, a .10 BAC is equal to about five drinks, and a .05 BAC is roughly three drinks. The CDC further states that a .08 BAC limit will affect concentration, memory, speed control, reduce processing capability, and impair perception.<sup>18</sup>

Multiple studies have evaluated the effectiveness of the .08 BAC limit. One key finding from years of research is that virtually all drivers are substantially impaired at .08 BAC.<sup>19</sup> In 1988, NHTSA reviewed 177 case studies and confirmed this finding.<sup>20</sup> Studies examining crash risk for drivers with a BAC of .08 or .09 have shown they are 11 to 52 times more likely to be involved in a fatal crash than drivers at .00 BAC.

*DRIVERS WITH A  
BAC LIMIT OF .08  
WERE **3.93 TIMES**  
THE RISK OF A  
DRIVER WITH NO  
ALCOHOL*

In 2016, NHTSA conducted a comprehensive, 20-month crash causation study in Virginia Beach, Virginia. The primary goal of the study was to determine the crash risk of drugs, in particular marijuana. While the study did not find a significant crash risk associated with marijuana, it did reaffirm the crash risk of alcohol. It found that drivers with a BAC limit of .08 were 3.93 times the risk of a driver with no alcohol.<sup>21</sup>

In addition to clear impairment levels associated with a .08 BAC limit, laws that set .08 as the per se limit have proven to be highly effective in reducing drunk driving deaths. A 2000 study for NHTSA found .08 per se associated with a 13.7 percent decline in fatal drunk driving crashes after Illinois lowered its BAC limit.<sup>22</sup>

Even with clear evidence supporting .08 BAC per se limits, in the 1990's many states set the illegal per se limit at .10 BAC. From 1983 through 1999, only 19 states had passed .08 per se.

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<sup>18</sup> [https://www.cdc.gov/transportationsafety/impaired\\_driving/impaired-drv\\_factsheet.html](https://www.cdc.gov/transportationsafety/impaired_driving/impaired-drv_factsheet.html)

<sup>19</sup> A review of supporting scientific literature appears in: Moskowitz, H., & Fiorentino, D. (2000). A Review of the Literature on the Effects of Low Doses of Alcohol on Driving-Related Skills (DOT HS 809 028). Washington DC: National Highway Traffic Safety Administration.

<sup>20</sup> National Highway Traffic Safety Administration. “.08 BAC Illegal per se Level,” Traffic Safety Facts Volume 2 Number 1. March 2004.

<sup>21</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355\\_drugalcoholcrashrisk.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355_drugalcoholcrashrisk.pdf)

<sup>22</sup> <https://one.nhtsa.gov/portal/site/NHTSA/menuitem.554fad9f184c9fb0cc7ee21056b67789/?vgnnextoid=ac198a8e0acbff00VgnVCM1000002c567798RCRD&vgnnextchannel=d8274dc9e66d5210VgnVCM100000656b7798RCRD&vgnextfmt=default>



In 1998, President Clinton signed into law the Transportation Equity Act for the 21<sup>st</sup> Century. This law provided \$500 million in incentive grants to encourage states to pass .08 per se.<sup>23</sup>

President Clinton and several members of Congress strongly supported a national .08 BAC limit and used the 21 minimum drinking age as a model for achieving this goal. Following the enactment of federal incentive grants, Congress passed a federal sanction for states that did not comply with the .08 BAC standard.

The provision was included in the FY 2001 Department of Transportation Appropriations bill. The law stipulated that all states must pass .08 per se by 2004 or lose a portion of state highway infrastructure funding. The penalty started at 2 percent in 2004 and would increase 2 percent each year until 2008, when it capped at 8 percent. States which passed .08 per se by 2007 would have their highway dollars returned.



By 2004, all states had adopted .08 per se as the illegal alcohol limit with Minnesota the last state to do so. A study from NORC at the University of Chicago found that .08 BAC limits saved 1,736 lives each year; 24,868 lives from 1983 through 2014.<sup>24</sup>

## IGNITION INTERLOCK LAWS

Ignition interlock laws are currently one of the most active areas of federal and state legislative activity. An ignition interlock is a device that is roughly the size of an older model cellphone. It is hardwired into the ignition switch of a vehicle. The driver must blow into the device and register a BAC sample that is below a preset limit, usually .02 BAC, before the car will start.

Ignition interlocks are equipped with various anticircumvention features. For example, breath patterns or hum tones may be required. The user is taught how to use these features in order to help prevent others from



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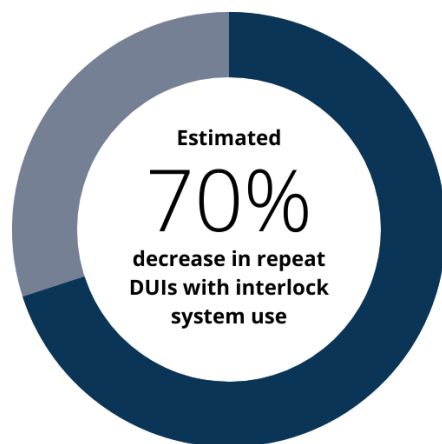
<sup>23</sup> <https://one.nhtsa.gov/About-NHTSA/Traffic-Techs/current/Presidential-Initiative-For-Making-.08-BAC-The-National-Legal-Limit---A-Progress-Report>

<sup>24</sup> [https://www.norc.org/PDFs/Publications/ABSTRACT\\_Effectiveness%20of%2008%20and%2005%20BAC%20Limits.pdf](https://www.norc.org/PDFs/Publications/ABSTRACT_Effectiveness%20of%2008%20and%2005%20BAC%20Limits.pdf)

starting an interlock equipped car. In addition, cameras are increasingly used to monitor the driver and ensure that the DUI offender is actually blowing into the interlock instead of someone performing the task on behalf of the driver. In addition, GPS technology can be used to track convicted drunk drivers.

Ignition interlocks have been around since the 1960s and by 1980 became more widespread.<sup>25</sup> Like other technologies they have progressed in sophistication over time. Today's interlocks are more accurate and reliable than ever. Most major traffic safety organizations support laws that require convicted DUI offenders to use an interlock.

New Mexico was the first state to require all convicted drunk drivers to use an interlock. Since that time, 27 states now require interlocks for first time offenders and all states use interlocks in some form or other for convicted drunk drivers. Six states do not require interlocks.<sup>26</sup> Over the past decade, every state has at a minimum considered legislation to require increased interlock use.



Ignition interlocks are highly effective at reducing repeat DUI when they are installed. The CDC estimates that interlocks can reduce repeat DUI by 70 percent.<sup>27</sup> A 2016 University of Pennsylvania study found states that enacted all offender ignition interlock laws saw a 15 percent reduction in DUI deaths.<sup>28</sup> Another study published by Johns Hopkins University found that all-offender ignition interlock laws reduced drunk driving deaths by 7 percent.<sup>29</sup>

In 2018, MADD obtained data from ignition interlock manufacturers that shows a national picture of ignition interlocks today. Interlock use grew in the U.S. from 100,000 in 2006 to 348,000 in 2017. In 2018, interlocks stopped 348,000 attempts to drive drunk.<sup>30</sup>

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<sup>25</sup> <https://www.cdc.gov/motorvehiclesafety/calculator/factsheet/interlocks.html>

<sup>26</sup> <https://www.iihs.org/topics/alcohol-and-drugs#alcohol-interlocks>

<sup>27</sup> [https://www.cdc.gov/transportationsafety/impaired\\_driving/ignition\\_interlock\\_states.html](https://www.cdc.gov/transportationsafety/impaired_driving/ignition_interlock_states.html)

<sup>28</sup> Kaufman, Elinore J., Douglas J. Wiebe. "Impact of State Ignition Interlock Laws on Alcohol-Involved Crash Deaths in the United States," **Research and Practice**, March 17, 2016

<sup>29</sup> McGinty, Emma, Gregory Tung, Juliana Shulman-Laniel, Rose Hardy, Lainie Rutkow, Shannon Frattaroli, Jon S. Vernick. "Ignition Interlock Laws: Effects on Fatal Motor Vehicle Crashes, 1982-2013," **American Journal of Preventive Medicine**. 2016

<sup>30</sup> <https://www.madd.org/wp-content/uploads/2019/04/IID-State-law-overviews.pdf>

Because of increased use of interlocks by the states and studies that show the effectiveness of interlocks, Congress has included provisions in recent highway reauthorization bills to incentivize use of the devices. States are eligible to fund interlock programs through Section 402 highway safety grants which are distributed based on a preset funding formula. Section 405, high priority safety grants, are distributed when states comply certain safety requirements. In this case, states are rewarded with additional money when they pass ignition interlock laws aimed at all drunk drivers.

Ignition interlocks will continue to be a key DUI countermeasure. Interlock effectiveness is well researched and documented, and momentum continues at the state and federal level to require these devices for all convicted drunk drivers.

## HIGH VISIBILITY ENFORCEMENT

High Visibility Law enforcement combines paid or earned media with increased law enforcement activities. The idea is to highly publicize that law enforcement will be out in extra numbers to catch drunk drivers. This can be done either through paid advertisements, such as NHTSA's bi-annual *Drive Sober or Get Pulled Over* campaign, or through earned media such as social media or other announcements from state or local police agencies.

Once the event is publicized, law enforcement then conducts drunk driving checkpoints or saturation patrols to look for drunk drivers.

The goal is deterrence.

Would-be drunk drivers hear or see the message not to drink and drive, this is reinforced by seeing checkpoints or saturation patrols out on the roads, and the potential drunk driver makes the decision not to drink and drive.

A successful DUI checkpoint is one that stops no drunk drivers, because the goal is to stop people from driving drunk in the first place.

DUI checkpoints are a critical tool in stopping and deterring drunk drivers. Currently 37 states conduct DUI checkpoints. Ten states do not conduct checkpoints because of state constitutional issues and three choose not to conduct these lifesaving events.<sup>3132</sup> It is



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<sup>31</sup> <https://www.cdc.gov/motorvehiclesafety/calculator/factsheet/checkpoints.html/>

<sup>32</sup> <https://www.kshb.com/news/local-news/missouri-lawmakers-consider-ban-on-sobriety-checkpoints>

important to note that in 1990, the U.S. Supreme Court ruled in *Michigan Department of State Police v. Sitz* that sobriety checkpoints are legal.

For states that do not conduct checkpoints, saturation patrols are an alternative means to provide high visibility enforcement. A saturation patrol can involve increased, “roving” law enforcement patrols during a specified period of time along with signage that indicates an additional law enforcement presence.

NHTSA conducts three national high-visibility events, or “crackdowns,” each year. *Click it or Ticket* is the iconic seat belt crackdown that occurs every Memorial Day. *Drive Sober or Get Pulled Over* occurs twice per year during Labor Day and around New Year’s.



Congress provides over \$30 million each year for these three high visibility crackdowns. The funding is used for national paid media and is targeted at demographics considered high risk for drinking and driving. In addition, NHTSA provides grant funding through the section 402 highway safety grant program and section 405 priority grant program which can be used for law enforcement to conduct DUI checkpoints and saturation patrols during this period.

High visibility enforcement is one of the most effective DUI countermeasures in use to stop drunk driving. According to one study, “There is substantial and consistent evidence from research that highly publicized, highly visible, and frequent sobriety checkpoints in the United States reduce impaired driving fatal crashes by 18 to 24 percent.”<sup>33</sup>

## FUTURE TECHNOLOGIES

In 2008, NHTSA worked with the leading automotive manufacturers to sign a five-year, \$10 million public-private agreement to determine the feasibility and proof of concept for an advanced alcohol detection technology. The goal of the project was to create a passive, in-vehicle technology that precisely and accurately detects alcohol at .08 BAC, then the illegal limit in all 50 states. If alcohol was detected at this level, the car would be able to act and potentially stop the driver from operating the car.

The project quickly identified two concepts, one a touch-based system and the other a breath-based system. The idea for the breath-based system was to collect ambient air from the driver in

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<sup>33</sup> <https://pubmed.ncbi.nlm.nih.gov/15276922/>

order to determine his or her BAC limit. The touch-based concept was designed to measure BAC through the fingertip. The driver would need to touch a sensor, potentially the push button starter, in order to test BAC.

The program became the Driver Alcohol Detection System for Safety (DADSS). A Blue-Ribbon Panel of experts from automotive, government, safety, and other groups was formed to inform and advise the DADSS project. Initial results for the program were very positive so advocacy groups and the members of the auto industry worked together to obtain federal funding for the project.

In 2010 Senators Tom Udall (D-NM) and Bob Corker (R-TN) introduced legislation known as the ROADS SAFE Act.<sup>34</sup> The bill would authorize federal funding for DADSS. In 2012 the legislation was included as part of the highway reauthorization bill known as The Moving Ahead for Progress for the 21<sup>st</sup> Century Act, or MAP-21. The legislation was signed into law and would provide roughly \$5 million per year for the program.

DADSS received strong support from Capitol Hill, the Department of Transportation, and advocacy groups. On June 4, 2015, DADSS unveiled its concept vehicle during an event at the Department of Transportation featuring U.S. Transportation Deputy Secretary Victor Mendez, NHTSA Administrator Mark Rosekind, Senator Tom Udall and Representative Nita Lowey. During this event, it was announced that the projects research would be done within five to eight years.

In December of 2015, Congress reauthorized the DADSS program as part of the five-year highway reauthorization bill known as Fixing America's Surface Transportation Act, or FAST Act. The authorization guaranteed an additional \$21 million for the program.

In January of 2019, Rima, Issam, Ali, Isabelle, and Giselle Abbas were killed by a drunk driver while traveling home to Michigan from Florida. In response, Congresswoman Debbie Dingell (D-MI) introduced the Honoring Abbas Family Legacy to Terminate Drunk Driving Act (HALT) Act named in honor of the family.<sup>35</sup> Senators Tom Udall (D-NM) and Rick Scott (R-FL) introduced similar legislation, the Reduce Impaired Driving for Everyone (RIDE) Act, in the Senate.<sup>36</sup>

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<sup>34</sup> <https://www.congress.gov/bill/111th-congress/senate-bill/3039?s=1&r=6>

<sup>35</sup> <https://www.congress.gov/bill/116th-congress/house-bill/4354/all-info>

<sup>36</sup> <https://www.congress.gov/bill/116th-congress/senate-bill/2604?q=%7B%22search%22%3A%5B%22RIDE+Act+Tom+Udall%22%5D%7D&s=6&r=1>

The HALT and RIDE Act would require that the Department of Transportation issue a rulemaking to require new cars to use advanced drunk driving technology to stop drunk driving. The HALT Act was included in H.R. 2, the Moving Forward Act, in 2020. The bill passed the U.S. House but did not receive action in the Senate.

Both the HALT and RIDE Acts were reintroduced in 2021 and both are currently included as part of the larger highway and infrastructure authorization bills. Should this legislation become law, the Department of Transportation would be required to initiate a rulemaking on advance drunk driving technologies.

In June 2021, DADSS announced that a breath-based technology system would be ready for commercial vehicles by late 2021. The technology is a first-generation system that requires drivers to breathe near the device in order to provide a sample.<sup>37</sup>

In addition to the DADSS technology, NHTSA issued a request for information on future drunk driving technologies in the fall of 2020 and published the results in January 2021. Other emerging technologies such as Driver Monitoring Systems and other advanced systems are being considered as possible technology solutions for drunk driving.

## CURRENT EVENTS

Current events of 2020 and 2021 are having a major impact on drunk driving in the United States. During the Covid pandemic of 2020, racial and law enforcement issues became tense. As mentioned, law enforcement is at the core of getting drunk drivers off the road. If police are making fewer stops and arrests, then more drunk driving will occur.

Even before the pandemic, DUI arrests had witnessed a significant decline. According to FBI statistics, DUI arrests fell from 1.171 million in 2008 to 802,047 in 2017. NHTSA data shows DUI deaths increasing from 9,878 in 2011 to 10,142 in 2019. Early estimates predict drunk driving deaths increased by 9 percent in 2020.<sup>38</sup>

In 2021, law enforcement issues continue to impact DUI enforcement. Protests and calls to defund the police have impacted recruitment, retention, and retirements among law enforcement.

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<sup>37</sup> <https://www.dadss.org/news/updates/new-alcohol-detection-technology-from-dadss-coming-to-commercial-vehicles-this-year>

<sup>38</sup> <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813118>



A survey by the Police Executive Research Forum showed retirements up 45 percent, an 18 percent increase in resignations, and a 5 percent decrease in the hiring rate.<sup>39</sup>

*THE NATIONAL  
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DRIVING.*

These numbers will have a major impact on drunk driving arrests. The survey highlighted Minneapolis Chief Medaria Arradondo who “told a City Council panel that reduced staffing is making his department ‘one-dimensional,’ with officers mostly responding to 911 calls and not having time to do proactive policing.”<sup>40</sup> The national conversation on law enforcement and policing will continue to have a major impact on highway safety including drunk driving.

In recent years, marijuana legalization and the relaxing of drug laws have been major topics of impaired driving. To date, 19 states have legalized recreational use of marijuana and 18 states allow medical marijuana use.

Drug impaired driving presents significant challenges. For example, current per se limits for marijuana do not have the same research and science as alcohol. States are currently trying to determine effective impairment levels. Colorado was the first state to legalize recreational marijuana and set an illegal per se limit of .5 nanograms of THC. However, researchers disagree on whether this level is appropriate. Research from NHTSA as part of the Drug and Alcohol Crash Risk: A Case Control Study found that after adjusting for age and gender risks, “there was no significant contribution to crash risk from any drug.”<sup>41</sup>

Mixing alcohol with drugs, referred to as polysubstance use, is also difficult to measure. Some would argue that polysubstance use has become the most common source of drug impairment on the roads. However, the NHTSA case control study again found alcohol to be the major cause of impairment when other factors are included.<sup>42</sup>

As more states look to legalize marijuana and loosen drug penalties, drug impaired driving and polysubstance use will continue to be a much talked about issue.

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<sup>39</sup>[https://www.policeforum.org/workforcesurveyjune2021?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosam&stream=top](https://www.policeforum.org/workforcesurveyjune2021?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosam&stream=top)

<sup>40</sup>[https://www.policeforum.org/workforcesurveyjune2021?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosam&stream=top](https://www.policeforum.org/workforcesurveyjune2021?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosam&stream=top)

<sup>41</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355\\_drugalcoholcrashrisk.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355_drugalcoholcrashrisk.pdf)

<sup>42</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355\\_drugalcoholcrashrisk.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355_drugalcoholcrashrisk.pdf)

While .08 BAC per se is the illegal limit in 49 states, the issue of lowering the per se limit to .05 has been a topic of discussion in traffic safety. In 2013, the National Transportation Safety Board (NTSB) recommended lowering the per se limit to .05. According to the NTSB, lowering the BAC limit to .05 would save 500 to 800 lives per year.<sup>43</sup>



To date, only Utah has acted and lowered its per se limit to .05. Other states have seen legislation introduced to lower the limit, but thus far none have made significant progress toward enacting legislation.

## CLOSING

Since the 1980s, the United States has made good progress toward reducing drunk driving deaths and injuries. In 1980, approximately 28,000 people were killed in drunk driving deaths.<sup>44</sup> In 2019, the number was down to 10,142. While this reduction is impressive, it still represents 10,142 people who are killed each year in a preventable crime.

Unfortunately, progress on reducing drunk driving deaths has stalled. In 1994, 13,390 people were killed in drunk driving deaths. That number held steady until 2008 and reached its lowest point in 2011 with 9,865 deaths. After 2011 deaths began to rise again and have been over 10,000 each year since 2015. Early estimates from 2020 predict a 9 percent increase over 2019 deaths, a clear indication that there is still much work to be done.

Proven countermeasures like the 21 minimum drinking age, open container laws, keeping the alcohol industry regulated, a national .08 BAC per se limit, high visibility law enforcement, and ignition interlocks have played a major role in reducing DUI deaths and injuries. Alcohol regulations such as the three-tiered system have also helped to reduce overall alcohol related deaths and injuries. In the future, technologies like DADSS or other safety systems like driver monitoring could help significantly reduce or even eliminate drunk driving.

Several challenges exist in the immediate future. Law enforcement must continue to take the lead in stopping drunk drivers and with the current challenges facing police and police departments, it is possible that drunk driving deaths and injuries will continue to increase. In addition, drug impaired driving and polysubstance use need more research and proven

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<sup>43</sup> <https://www.cnn.com/2013/05/14/us/ntsb-blood-alcohol/index.html>

<sup>44</sup> [https://www.ncjrs.gov/ovc\\_archives/nvaa99/chap12.htm](https://www.ncjrs.gov/ovc_archives/nvaa99/chap12.htm)

countermeasures to save lives. There is an urgent need for working roadside impairment technology for polysubstance use detection.

## ABOUT THE AUTHOR

J.T. Griffin has over 20 years of Capitol Hill and government relations experience. His career began on Capitol Hill where he worked for over 8 years for a senior member of the House Appropriations Committee on issues ranging from transportation to commerce and technology.

He left Capitol Hill to lead the government relations and communications department at Mothers Against Drunk Driving. For over 13 years he helped the organization achieve unprecedented success by advancing major federal and state legislation.



On Capitol Hill, J.T. has a bi-partisan reputation for bringing together lawmakers, staff, and other interest groups to achieve success. He has built an extensive network of Washington contacts and is considered an international traffic safety expert. This includes testifying on influential panels before groups like the NTSB and the National Academy of Sciences. In addition, he has prepared five MADD National Presidents with written testimony and coaching when testifying before several House and Senate committees.

As the head of government relations and communications, J.T. led his advocacy team to major victories in Congress and in state capitols. J.T. has worked with many individual members of Congress and Senators to introduce various pieces of “standalone” legislation. To accomplish this, he has developed strategic legislative agendas and advanced these goals in each of the last three highway authorization bills as well as over a dozen annual appropriations bills. This has resulted in millions of dollars in federal funding for technology and transportation programs as well as major improvements to our nation’s highway safety programs. At the state level, J.T. has worked in almost all 50 states to pass stronger drunk driving laws. These laws are research and data driven and are proven save lives. His expertise has led to the passage of ignition interlock laws in 34 states. Together these laws have helped save over 8,000 lives.

In the fall of 2020, J.T. formed Griffin Strategies, LLC, a full-service Government Relations firm representing clients before the federal government including the U.S. House of Representatives, U.S. Senate, and various federal agencies. The firm specializes in issues relating to transportation and technology, the federal appropriations process, and advising non-profit organizations on fundraising and best practice management.



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