



## Driving Drunk With Kids in the Car

*By Jeanne Mejeur*

A 40-year-old woman was arrested this past November in Covington, La., after police found her slumped over the steering wheel of her car. With her were five children, ranging in age from 4 to 9. She was driving them to Mississippi when she passed out, drunk. The police showed up after a 7-year-old girl in the car used a cell phone to call 911. Luckily, none of the kids were hurt. Unfortunately, not all kids are that lucky. More than 12,000 children under the age 14 died in alcohol-related traffic accidents between 1994 and 2000, according to the National Highway Traffic Safety Administration. In 64 percent of those deaths, the child was riding with the drunk driver.

*Nearly 2,000 children a year are killed in drunk driving accidents.*

While traffic fatalities involving alcohol have declined 25 percent since 1990, the percentage of child passenger deaths has not decreased as significantly. According to a recent study from the University of North Carolina, the percentage of alcohol involvement for child fatalities has actually increased. The study noted that drunk drivers who had children in the vehicle at the time of their offenses were more likely to have previous drunk driving convictions or prior driver license suspensions and were less likely to buckle up their children.

*At least 27 states have addressed the issue.*

### State Action

State lawmakers have taken seriously the potential harm children face when they ride with a drunk driver. At least 27 states have passed laws since the early 1990s to expand protection for children and punish those drunk drivers who put them at risk.

*Many states have imposed stiffer penalties for drunk driving with children present.*

#### States with Separate Offenses for Drunk Driving with Children in the Vehicle

	Offense	Penalty
<b>Arizona</b>	1 <sup>st</sup> offense (felony)	1 year in jail
	2 <sup>nd</sup> offense (felony)	1 to 2.5 years in jail
	3 <sup>rd</sup> offense (felony)	3 to 4.5 years in jail, \$150,000 fine
<b>Georgia</b>	1 <sup>st</sup> offense (misdemeanor)	1 to 5 months in jail, \$200 to \$500 fine
	2 <sup>nd</sup> offense (misdemeanor)	3 to 12 months in jail, \$400 to \$1,000 fine
	3 <sup>rd</sup> offense (felony)	1 to 3 years in jail, \$1,000 to \$5,000 fine
<b>Idaho</b>	non-injury (misdemeanor)	up to 6 months in jail, \$300 fine
	injury or death (felony)	1 to 10 years in jail
<b>Ohio</b>	1 <sup>st</sup> offense (misdemeanor)	up to 6 months in jail, \$1,000 fine
	1 <sup>st</sup> offense, with injury (felony)	up to 1 year in jail, \$2,500 fine
	subsequent offense (felony)	up to 1 year in jail, \$2,500 fine
	subsequent offense, with injury (felony)	up to 18 months in jail, \$5,000 fine
	all offenses	90-day license suspension and 200 hours of community service

Source: National Highway Traffic Safety Administration, U.S. Department of Transportation, 2002.

The approach 21 states have taken is to increase the penalties for drunk driving if a child is in the vehicle. From significantly higher fines and longer mandatory jail sentences to longer license suspensions and felony convictions, drunk drivers who endanger children often find themselves facing double the penalties of a standard drunk driving offense. Under the laws passed in most of these states, the child need not suffer physical harm for the stiffer penalties to apply.

*Twenty-one states have increased penalties for drunk driving if a child is in the vehicle.*

At least four states have adopted laws making it a separate offense to have a child in the vehicle while the driver is under the influence of alcohol or controlled substances. In establishing separate offenses, Arizona, Georgia, Idaho and Ohio have followed the trend of creating aggravated drunk driving offenses where there are special circumstances, such as a particularly high level of intoxication or endangering a child.

Although enhancing penalties or creating separate drunk driving offenses are the more common approaches, two states have used existing child abuse and neglect statutes to cover drunk driving with a child in the vehicle. In Colorado, a person is guilty of child abuse if they knowingly or recklessly commit an act that injures or kills a child. Colorado case law has supported that the child abuse statute applies, regardless of

whether the child is in the car being driven by the drunk driver or is a passenger in another vehicle involved in a collision with the drunk driver. Iowa has a similar law that an adult can be charged with child neglect for recklessly exposing a child to danger by driving while intoxicated with a child in the vehicle. As in Colorado, the Iowa statute has been tested and supported in the courts.

#### **Protecting You/Protecting Me**

Sponsored by Mothers Against Drunk Driving and General Motors, *Protecting You/Protecting Me* is an elementary school curriculum to teach students about the risks of underage drinking and the danger of riding with a driver who may be impaired. The course offers "Ten Rules for Safe Riding," designed to help kids stay safe in vehicles, including how to refuse a ride from an unsafe driver. For more information, contact your state MADD chapter or visit the national MADD Web site at [www.madd.org](http://www.madd.org).

*Drunk driving with children present is child abuse in some states.*

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