

## Extreme Drunk Driving

By Jeanne Mejeur

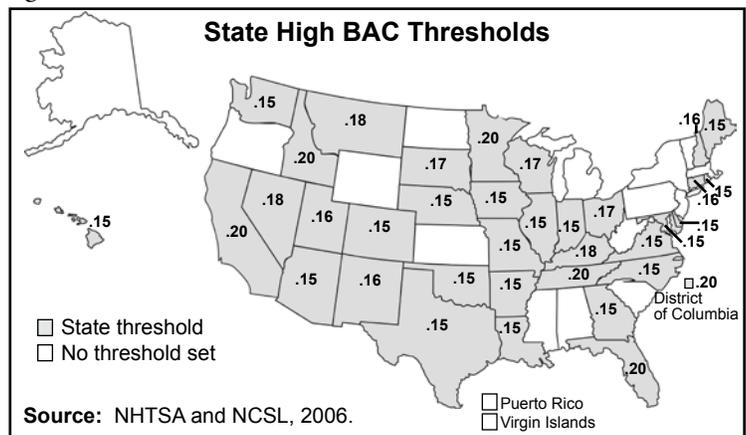
*Extreme drunk drivers have a high blood alcohol content.*

Six members of the Gonzales family were driving home from a soccer game near Santa Fe, N.M., this past November when their minivan was hit head-on by a pick-up truck going the wrong way on I-25. Only one daughter survived the horrific crash. It was caused by a drunk driver with a blood alcohol content (BAC) level of .32, four times the legal limit.

Of the more than 43,000 traffic deaths in 2005, 39 percent were alcohol related. Fifty-two percent of drivers in the alcohol-related fatalities had BAC levels at or above .16. That's extreme drunk driving.

### State Action

To address this problem, at least 35 states and the District of Columbia have enacted high BAC laws, with BAC thresholds that range from .15 to .20. Those thresholds are in addition to the standard .08 illegal per se offense, creating a tiered system of offenses. Most states impose longer license suspensions, longer terms of imprisonment, additional fines, installation of ignition interlocks, mandatory alcohol treatment and possible vehicle sanctions, such as impoundment or forfeiture.



*Thirty-five states and the District of Columbia have high BAC laws.*

*Eleven states considered bills in 2006.*

In the 2006 legislative session, at least 11 states considered bills regarding high BAC offenses or penalties, and laws were passed in Colorado, Delaware, Hawaii, Maryland and Nebraska. Highlights of these laws include:

- Colorado dropped its highest BAC threshold from .20 to .17.
- Delaware lowered its high BAC threshold from .16 to .15.
- Hawaii enacted a high BAC offense, setting the limit at .15.
- Maryland imposed a one-year ignition interlock requirement for offenders with a BAC of .15 or higher.
- Nebraska enacted a high BAC offense, with the limit established at .15.

Two recent studies show that high BAC laws are effective, particularly in reducing repeat offenses. Both were conducted by the National Highway Traffic Safety Administration (NHTSA) over a

four-year period. The first, *Evaluation of Enhanced Sanctions for Higher BACs: Summary of States' Laws*, published in 2001, described the provisions adopted by states with high BAC laws.

The second study, *Enhanced Sanctions for Higher BACs: Evaluation of Minnesota's High-BAC Law*, was published in 2004. Minnesota's high BAC limit is relatively high, at .20, but it imposes harsh penalties. The study found that Minnesota's high BAC law was effective in reducing recidivism among high BAC first-time offenders. In addition, test refusal rates declined for first offenders and remained unchanged for repeat offenders. The law also was effective in increasing the severity of sanctions imposed on high BAC offenders.

### Federal Action

**SAFETEA-LU Alcohol Provisions.** The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) authorizes nearly \$515 million in impaired driving incentive grants for fiscal years 2006 through 2009 for states that meet specific eligibility criteria. One of those criteria is a high-risk drivers program for high BAC offenders.

*Federal funds support high BAC laws.*

SAFETEA-LU incentive grants available for qualified states				
Year	2006	2007	2008	2009
Authorization	\$120 million	\$125 million	\$131 million	\$139 million

To qualify for incentive grants under SAFETEA-LU, a state must either have an alcohol-related fatality rate of 0.5 or less per 100 million vehicle miles traveled or adopt three of eight specified programs in FY 2006, four programs in FY 2007 and five programs in FY 2008 and FY 2009. The eight qualifying programs are: • High-Visibility Impaired Driving Enforcement Program; • Prosecution and Adjudication Outreach Program; • BAC Testing Program; • High Risk Drivers Program (High BAC); • Alcohol Rehabilitation or Driving While Intoxicated (DWI) Court Program; • Underage Drinking Prevention Program; • Administrative License Suspension or Revocation (ALR) System; and • Self-Sustaining Impaired Driving Prevention Program.

*States must meet criteria to receive federal funding.*

The High-Risk Drivers provision of SAFETEA-LU requires that state laws on high-risk drivers must include stronger penalties for individuals who, in any five-year period after June 9, 1998, are convicted of a drunk driving offense with a BAC of .15 or above. SAFETEA-LU mandates that these penalties must be stricter than the state's penalties for a standard drunk driving offense and must include a:

*High BAC laws must have specific penalties and a .15 BAC.*

- Mandatory one-year license suspension, although a provisional license may be granted after 45 days to allow the offender to drive to and from work, school, alcohol treatment or interlock service facility and only in a vehicle equipped with an ignition interlock; and
- Mandatory alcohol assessment, with mandatory treatment, if deemed appropriate.

### Selected References

National Highway Traffic Safety Administration. *Evaluation of Enhanced Sanctions for Higher BACs: Summary of States' Laws*. DOT HS 809 215. Washington, D.C.: NHTSA, March 2001.

National Highway Traffic Safety Administration. *Enhanced Sanctions for Higher BACs: Evaluation of Minnesota's High-BAC Law*. DOT HS 809 677. Washington, D.C.: NHTSA, November 2003.

### Contacts for More Information

Jeanne Mejeur  
NCSL—Denver  
(303) 364-7700, ext. 1467  
jeanne.mejeur@ncsl.org

Nancy Ross  
National Highway Traffic Safety Administration  
(202) 366-9980  
nancy.ross@dot.gov