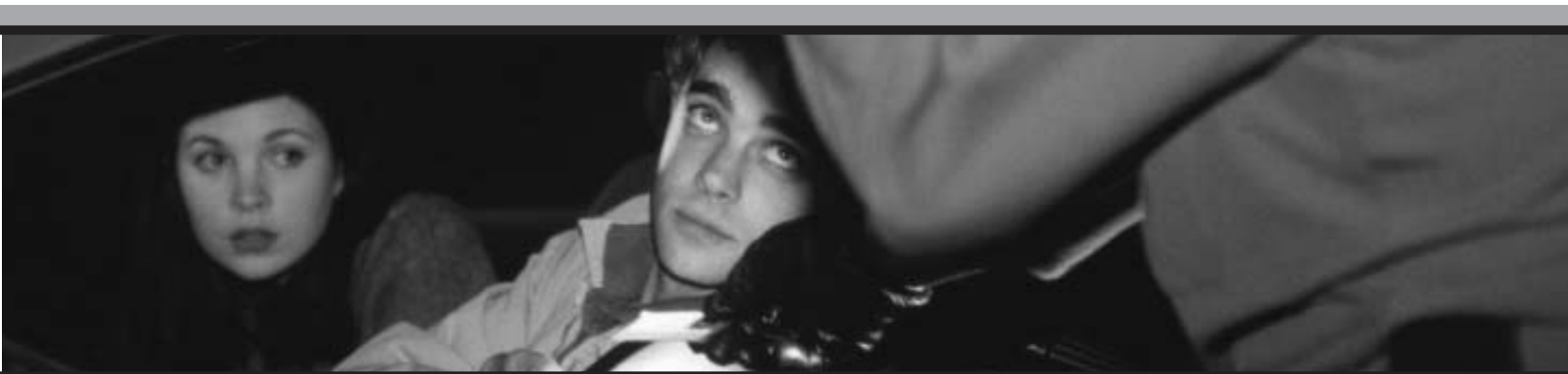


Chapter Three: Drinking and Driving

Alcohol and Its Consequences

Drinking and Driving Laws



Alcohol and Its Consequences

BLOOD ALCOHOL CONCENTRATION

Blood alcohol concentration (BAC) describes the concentration of alcohol in person's blood expressed as weight per unit of volume. For example, at .10 percent BAC, there is a concentration of 100mg of alcohol per 100ml of blood. For most legal purposes, however, a blood sample is not necessary to determine a person's BAC. It can be measured much more simply by analyzing exhaled breath.

ALCOHOL FATALITIES

The following information is based on data from all 50 states. The research comes from the Department of Highway Safety.

- Among fatally injured motor vehicle drivers in 2005, 31 percent had BACs at or above 0.08 percent.
- The proportion of fatalities involving BACs at or above 0.08 percent in 2005 was 33 percent for passenger vehicle drivers and 27 percent for motorcycle drivers. The group of drivers with the lowest proportion was tractor-trailer drivers (2 percent). More pedestrian deaths involve high BACs than any group of drivers.
- Alcohol involvement is highest in nighttime (9 p.m. to 6

a.m.) single-vehicle crashes, in which 66 percent of fatally injured passenger vehicle drivers in 2005 had BACs at or above .08 percent. Only 28 percent of the fatally injured drivers involved in nighttime single vehicle crashes had no alcohol in their blood.

- Among fatally injured passenger vehicle drivers in 2005, 38 percent of males and 19 percent of females had BACs at or above 0.08 percent.
- Forty-five percent of fatally injured drivers on weekends (6 p.m., Friday - 6 a.m., Monday) in 2005 had BACs at or above .08 percent, compared with 24 percent at all other times.
- Among fatally injured passenger vehicle drivers in 2005, 28 percent of males and 14 percent of females had BACs at or above 0.15 percent.
- Among drivers age 35 and older with BACs at or above 0.15 percent on weekend nights, the likelihood of dying in a single vehicle crash is 382 times higher than it is for nondrinking drivers.

Individual injury status by unit type and percent alcohol-related collisions, 2003-2006

	2003		2004		2005		2006		2003-06
	<u>Count</u>	<u>Percent alcohol-related</u>	<u>Count</u>	<u>Percent alcohol-related</u>	<u>Count</u>	<u>Percent alcohol-related</u>	<u>Count</u>	<u>Percent alcohol-related</u>	<u>Average % alcohol-related</u>
Fatalities									
Passenger car	454	27.3%	498	29.9%	436	30.0%	420	29.8%	29.3%
Pickup	129	33.3%	138	34.1%	180	32.8%	130	31.5%	32.9%
Motorcycle	77	41.6%	109	34.9%	112	0.2%	108	43.5%	40.0%
SUV	69	33.3%	83	31.3%	94	40.4%	91	31.9%	34.2%
Van	56	19.6%	57	26.3%	61	27.9%	45	20.0%	23.5%
Large trucks	29	13.8%	40	10.0%	42	2.4%	31	3.2%	7.3%
Buses	7	14.3%	13	23.1%	7	14.3%	5	40.0%	22.9%
Non-fatal injuries									
Passenger car	35,700	10.6%	36,868	10.2%	34,677	10.9%	32,035	10.2%	10.5%
Pickup	7,587	15.5%	7,856	14.5%	7,471	14.6%	6,510	15.2%	14.9%
SUV	5,988	11.3%	6,871	11.4%	7,251	11.4%	6,527	11.0%	11.2%
Van	5,053	9.0%	5,457	8.0%	5,033	8.9%	4,703	7.2%	8.3%
Motorcycle	1,777	14.5%	2,276	13.8%	2,196	12.2%	2,410	13.3%	13.5%
Large trucks	1,039	4.6%	1,107	3.9%	1,059	5.6%	754	3.1%	4.3%
Buses	363	9.6%	336	5.1%	480	7.3%	480	6.0%	7.0%

Drinking and Driving Laws

Indiana Impaired Driving Laws

- An operator of a motor vehicle whose alcohol concentration is greater than or equal to .08 grams and less than .15 grams of alcohol per 100 milliliters of blood or 210 liters of breath commits a Class C Misdemeanor. Driving with any schedule I or II substance as defined by IC 25-48-2 (such as marijuana, methamphetamine or cocaine) or its metabolite in their body commits a Class C Misdemeanor, punishable by up to 60 days in prison and up to a \$500 fine. (IC 9-30-5-1)
- An operator of a motor vehicle whose alcohol concentration is greater than or equal to .15 commits a Class A Misdemeanor. Class A Misdemeanors are punishable by up to one year in prison and up to a \$5,000 fine. (IC 9-30-5-1)
- An operator of a motor vehicle who, while driving under the influence of drugs or alcohol endangers a person (including him/herself) commits a Class A Misdemeanor punishable by up to one year in prison and up to a \$5,000 fine. (IC 9-30-5-2)
- A second violation of IC 9-30-5-1 or IC 9-30-5-2 is a Class D Felony if there has been a previous conviction within the past five years of the current violation. D Felonies are punishable by a fine of up to \$10,000 and up to 3 years in prison. (IC 9-30-5-3)
- A person that causes serious bodily injury to another person while operating a motor vehicle with an alcohol concentration of .08 or more, or has a schedule I or II substance or its metabolite in his/her body, commits a Class D Felony. If there has been a previous, unrelated conviction within the past five years for operating a vehicle while intoxicated, it is a Class C Felony, punishable by up to eight years in prison and up to \$10,000 in fines. (IC 9-30-5-4)
- It is a separate offense for each person injured by the impaired operator. (IC 9-30-5-4)
- An operator of a motor vehicle that kills another person with an alcohol concentration of .08 or more, or with a controlled schedule I or II substance or its metabolite in his/her body, commits a Class C Felony punishable by up to eight years in prison and up to \$10,000 in fines. (IC 9-30-5-5)
- If the operator who kills another person has a previous conviction under IC 9-30-5 within the previous five years, the penalty is raised to a Class B Felony, punishable by up to 20 years in prison and up to \$10,000 in fines. (IC 9-30-5-5)
- It is a separate offense for each person killed by the violation of IC 9-30-5-5. (IC 9-30-5-5)

PENALTIES

Statutory Maximum Penalties:

Classification
Imprisonment
Fine

Class C Felony
5 years usual (2 to 8)
up to \$10,000

Class D Felony
2 years usual (1 to 4)
up to \$10,000

Class A Misdemeanor
up to 1 year
up to \$5,000

Class B Misdemeanor
up to 180 days
up to \$1,000

Class C Misdemeanor
up to 60 days
up to \$500

In addition to the criminal penalty for driving while intoxicated or with .08 percent BAC, the driver's license shall be suspended for at least 90 days for a first offense and up to two years for a second offense. A third offense could result in a ten-year suspension.



Drinking and Driving Laws

If You Are Arrested:

- You will be handcuffed and taken to the police station.
- Your car and your person will be searched.
- Your car will be towed at your expense.
- You will be asked to take a certified breath test. If you refuse, your license will automatically be suspended for one year. (Implied consent law IC 9-30-6-1)
- If you take a breath test and it shows that your blood alcohol content is .08% or more, your driver's license will be suspended for a minimum of 30 days.
- To be released from jail, bail will have to be posted.

If You Are Convicted:

A First Offense

- You will have to pay court costs and fees in excess of \$300.00.
- You may receive a jail sentence of up to one year.
- You will be fined up to \$5,000.
- Your license may be suspended up to two years, or
- You may be placed on probation and be required to enroll in, and pay for, a substance abuse education course. Your license may also be suspended for a minimum of 30 days followed by a 180-day probationary period in which you can only drive for employment purposes.
- You may be required to have an Ignition Interlock Device installed on your car.
- You may be required to attend a victim impact panel.
- You may be required to submit to urine testing.
- You may also face other terms of probation.

A Second Offense

- You will be imprisoned for a minimum of five days or up to three years, and/or be required to perform community service.
- You will be fined up to \$10,000
- Your license will be suspended at least 180 days and up to two years.
- You may be placed on probation and be required to enroll in, and pay for, a substance abuse education course.
- You may be required to have an Ignition Interlock Device installed.
- You may be required to attend a victim impact panel.
- You may be required to submit to urine testing.
- You may also face other terms of probation.

A Third Offense

- You may be imprisoned for a minimum of ten days and up to three years and/or be required to perform community service.
- You will be fined up to \$10,000
- Your license will be suspended for a least one year and may be suspended for up to ten years.

- You may be adjudged as a habitual traffic violator.
- You may be charged and sentenced as a habitual substance offender, for which you may be imprisoned for an additional term of one year and up to an additional eight years.
- You may be placed on probation and be required to enroll in, and pay for, a substance abuse education course.
- You may be required to have an Ignition Interlock Device installed on your car.
- You may be required to attend a victim impact panel.
- You may be required to submit to urine testing .
- You may also face other terms of probation.

Open Containers and Consumption in a Vehicle

An operator who has an alcoholic concentration equivalent to at least four-hundredths (0.04) gram of alcohol per 100 milliliters of blood, or per 210 milliliters of breath, and who; while the vehicle is in operation, knowingly allows a container:

- 1) that has been opened;
- 2) that has a broken seal; or
- 3) from which some of the contents have been removed;

to be in the passenger compartment commits a class B infraction which can be up to a \$1000 fine (IC 9-30-15-3)

If a person has a previous unrelated judgment under this law or a previous unrelated conviction or judgment under 9-30-5 within 12 months before a judgment under this chapter, the court may recommend a driver's license suspension for up to a year (IC 9-30-15-3)

An operator of a motor vehicle who knowingly consumes an alcoholic beverage while the vehicle is being operated on a public highway may be fined up to \$1000 (B infraction) (IC 9-30-15-4).

Minors

If you are a minor and lie about your age or present false evidence that you are not a minor (such as a fake ID), the court may fine you up to \$500. Using a fake ID will also result in a license suspension for up to 1 year (IC 7.1-5-7-1).

It is a class C misdemeanor (up to 60 days in jail and \$500 fine) for a minor to possess, consume, or transport alcohol on a public highway (if you're not riding with at least one parent). If you are driving a motor vehicle while doing any of the above, the court may order your license suspended for up to 1 year. If you are less than 18, however, the judge must suspend your license for at least 60 days (IC 7.1-5-7-7).

If you are under 21 years old and drive a motor vehicle with a BAC between 0.2-0.8, you will be fined up to \$500 and your license suspended for up to one year (IC 9-30-5-8.5).

Drinking and Driving Laws by State

State	BAC Defined as illegal per se	Administrative license suspension 1st offense?	Restore driving privileges during suspension?	Do penalties include interlock/forfeiture?
Alabama	0.08	90 days	no	no/no
Alaska	0.08	90 days	after 30 days	yes/yes
Arizona	0.08	90 days	after 30 days	yes/yes
Arkansas	0.08	120 days	yes	yes/yes
California	0.08	4 months	after 30 days	yes/yes
Colorado	0.08	3 months	yes	yes/no
Connecticut	0.08	90 days	yes	no/no
Delaware	0.10	3 months	no	yes/no
D.C.	0.08	2-90 days	yes	no/no
Florida	0.08	6 months	yes	yes/yes
Georgia	0.08	1 year	yes	yes/yes
Hawaii	0.08	3 months	after 30 days	yes/no
Idaho	0.08	90 days	after 30 days	yes/no
Illinois	0.08	3 months	after 30 days	yes/yes
Indiana	0.08	180 days	after 30 days	yes/no
Iowa	0.08	180 days	after 90 days	yes/no
Kansas	0.08	30 days	no	yes/no
Kentucky	0.08	--	--	yes/yes
Louisiana	0.08	90 days	after 30 days	yes/yes
Maine	0.08	90 days	yes	yes/yes
Maryland	0.08	45 days	yes	yes/no
Massachusetts	0.081	90 days	no	no/no
Michigan	0.085	--	--	yes/yes
Minnesota	0.08	90 days	after 15 days	no/yes
Mississippi	0.08	90 days	no	yes/yes
Missouri	0.08	30 days	no	yes/yes
Montana	0.08	--	--	yes/yes
Nebraska	0.08	90 days	after 30 days	yes/no
Nevada	0.08	90 days	after 45 days	yes/no
New Hampshire	0.08	6 months	no	yes/no
New Jersey	0.08	--	--	yes/no
New Mexico	0.08	90 days	after 30 days	yes/no
New York	0.08	variable	yes	yes/yes
North Carolina	0.08	30 days	after 10 days	yes/yes
North Dakota	0.08	91 days	after 30 days	yes/yes
Ohio	0.08	90 days	after 15 days	yes/yes
Oklahoma	0.08	180 days	yes	yes/yes
Oregon	0.08	90 days	after 30 days	yes/yes
Pennsylvania	0.08	--	--	yes/yes
Rhode Island	0.08	--	--	yes/yes
South Carolina	0.08	--	--	yes/yes
South Dakota	0.08	--	--	no/no
Tennessee	0.08	--	--	yes/yes
Texas	0.08	90 days	yes	yes/yes
Utah	0.08	90 days	no	yes/no
Vermont	0.08	90 days	no	no/yes
Virginia	0.08	7 days	no	yes/no
Washington	0.08	90 days	after 30 days	yes/yes
West Virginia	0.08	6 months	after 30 days	yes/no
Wisconsin	0.08	6 months	yes	yes/yes
Wyoming	0.08	90 days	yes	no/no

