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NHTSA strongly supports .08 per se limits. However, when state legislatures debated .08 issues, one argument that often arose against .08 was that more should be done to apprehend and punish the repeat offenders or high BAC offenders rather than the “social drinkers,” and that stronger laws and sanctions should be in effect for these offenders. One law that is often discussed is a lower blood alcohol concentration (BAC) limit for convicted DWI offenders. With a lower BAC law, those with a DWI conviction would face a lower BAC limit than the state’s standard BAC limit for adult drivers. Only a very few states have lower BAC limits for DWI offenders.

Mid-America Research Institute conducted a research study for the National Highway Traffic Safety Administration to examine one State’s lower BAC limit for convicted DWI offenders. Maine’s law was selected for evaluation.

Maine was the first State to pass a lower BAC law for convicted DWI offenders. In 1988 Maine lowered its BAC limit for convicted OUI (Operating under the Influence of Intoxicants) offenders from .10 to .05 for a period of two months post-conviction. The law mandated an administrative license suspension but did not establish .05 as a criminal offense. In 1995, Maine revised its lower BAC law and reduced the limit for convicted OUI offenders to .00 BAC for one year after a first offense. Adjudication and sanctioning are conducted through an administrative process.

Maine's OUI Laws	1988	1995
Standard BAC offense	.10	.08
Standard license suspension by number of offenses	90 days - 1st; 18 months - 2nd; 4 years - 3rd	Same
BAC limit for convicted OUI offenders	.05	.00
Duration of lower BAC limit period	2 mo	1 year; 2 years for BAC test refusal; 10 years 2nd

The study examined:

- Maine’s process of detecting and arresting convicted OUI offenders driving with alcohol in their systems,
- Analyses of recidivism and crash data.

Findings

Detection and Arrest

The procedures for detecting and stopping a suspect under the low BAC law may differ from those in standard OUI situations. Because the drivers must have previous OUIs, and they could have only a low amount of alcohol in their systems, most violations are recognized after the drivers are already stopped for another driving violation, rather than for gross signs of driving impairment.

Once the officer notes the person has a conditional license, the officer observes for any signs of drinking. If any sign is observed, the officer may administer the Standardized Field Sobriety Test. If the driver is found to be over the standard illegal limit of .08, the driver is processed according to customary OUI procedures. If the person is determined to be below .08 but had consumed alcohol, the officer prepares and sends a short report to the Bureau of Motor Vehicles (BMV). The BMV then notifies the driver of a one-year license suspension.

The lower BAC law for OUI offenders does not seem to have created significant procedural or processing problems in Maine. In 1993, there were 250 license suspensions flowing

from violations of the lower BAC law; in 2000, there were 200.

Recidivism

Analysis of OUI data indicated little impact on recidivism. The recidivism of the “after law change” group was about 7 percent lower than the “before” group for both drivers with and without prior OUI offenses.

Fatal Crashes

Analysis of Maine’s data showed that convicted OUI offenders in fatal crashes, as a percent of all drivers in fatal crashes, decreased by 45 percent, from 12.9 percent to 7.1 percent after 1988 ($p=.059$), and decreased still more after 1995. During the same period, the percent increased slightly in two neighboring comparison States (Vermont and New Hampshire; neither have lower BAC limits for convicted offenders).

For alcohol-related fatal crashes, convicted drivers with a BAC of .01 to .09, as a percent of all drivers in fatal crashes, stayed about the same between 1988 and 2001, but increased gradually in the two comparison States. However, the differences between Maine and the comparison States were not statistically significant.

For convicted drivers in alcohol-related fatal crashes with a BAC of .10+, there was a decrease from 18 percent in 1982 through 1987 to 13 percent in 1996 through 2001. There was an increase from 15 percent to 17 percent in the comparison States. After 1995, convicted offenders, as a percent of all .10+ drivers in alcohol-related fatal crashes, decreased from 19 percent in 1996 to 11 percent in 2001. In the comparison States, there was an increase from 12 percent to 25 percent.

Conclusions

The lower BAC limit for convicted OUI offenders seems to be an important element in Maine’s effort to decrease alcohol-impaired driving.

How To Order

For a copy of Evaluation of Lower BAC Limits for Convicted OUI Offenders in Maine, write to the Office of Research and Technology, NHTSA, NHT-131, 400 Seventh Street SW., Washington, DC 20590 or send a fax to 202-366-7096. Amy Berning was the project manager for this study.

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