



Traffic Safety Facts Banner

Number 288

November 2003

U.S. Department of Transportation
National Highway Traffic Safety Administration
400 Seventh Street, S.W., Washington, DC 20590

STUDY LOOKS AT ENHANCED SANCTIONS FOR HIGH BAC OFFENDERS

The National Highway Traffic Safety Administration (NHTSA) encourages states to impose enhanced sanctions for drivers convicted of driving while intoxicated (DWI) with “high” blood alcohol concentrations (BACs). As of January 1, 2003, thirty-one states have implemented a High-BAC sanctioning system. States vary in what they define as a “high” BAC - limits are between .15 and .20 BAC.

The Preusser Research Group (PRG) conducted a study for the National Highway Traffic Safety Administration (NHTSA) to determine whether:

- Enhanced sanctions have an impact on recidivism for high BAC offenders
- There is an impact on alcohol-related fatalities
- Such legislation creates process problems for the State - - do these laws create additional burdens on the prosecution, adjudication, and/or sanctioning systems?

As a first step in the research, PRG compiled information on each state’s High BAC laws (see *Traffic Tech #248*, May 2001). Minnesota was selected as a site for the evaluation study.

Minnesota implemented its “High BAC” law in 1998, and defines a high BAC as .20 or higher. The enhanced sanctions include doubling of all license revocations and mandatory jail time. In addition, Minnesota became the only state to provide a pre-conviction administrative license plate impoundment for high-BAC first-time offenses. There are also more severe penalties for high-BAC repeat offenders.

Recidivism rates

The researchers examined the recidivism rates of drivers arrested for DWI who refused to take an alcohol test, those who had a BAC below .17, those with a BAC of .17-.19, and those with a BAC of .20 and higher. The offenders in the .17-19 range served as a special comparison group - - offenders in this range had a relatively high BAC but were not subject to enhanced sanctions under Minnesota’s law.

First-time offenders arrested in 1998, who had BACs of .20 or more, had lower recidivism rates after one year than offenders who had BACs of .17-.19. The difference was statistically significant. There were similar, but not statistically significant differences in the second year after the law change. Recidivism rates were also significantly higher for those who refused the BAC test than for offenders with a BAC of .20 or higher.

Test Refusals

Although it might be expected that the BAC test refusal rate would increase with implementation of the high BAC sanctions, the rate of refusals actually declined significantly among first-time offenders, and was essentially unchanged among repeat offenders. This was likely due to Minnesota’s strong law for test refusals.

Fatally-Injured Drivers

The percentage of high BAC drivers among fatally injured drivers tested for alcohol rose from 14.4 percent in 1997 to 17.9 percent in 1998, and then fell to 16.2 percent in 1999 and 2000. However, these differences were not statistically significant.

Process Evaluation

Mandatory sanctions do not always mean that offenders received the required penalties. However, the study confirmed that a large majority of those convicted of a High BAC offense received enhanced penalties during the three years after the law took effect. The percentage of first offenders receiving enhanced sanctions declined from the first to the second year.

Interviews were conducted with about 20 experts in Minnesota's DWI laws and practices, including representatives from the enforcement, judicial, prosecutorial, public defender, research communities, and driver license sanctioning officials. These experts were asked about the implementation of the laws, whether the appropriate sanctions were received and served, and the effectiveness of the law. According to these experts, there was little, if any, publicity associated with the law's passage or implementation. Several of the experts believe that the general driving population is largely unaware that enhanced sanctions may be imposed on drivers with higher BACs - - thus it is unlikely there would be a general deterrent effect.

HOW TO ORDER

For a copy of *Evaluation of Minnesota's High BAC Law* (44 pages), write to the Office of Research and Technology, NHTSA, NTI-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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