Utah’s .05 BAC Law Frequently Asked Questions

Blood alcohol concentration (BAC) laws have been a key intervention tool for reducing alcohol-impaired driving and reducing associated injuries and fatalities both in the United States and internationally. Historically, statutory limits on a driver’s BAC level (per se limit) were based on currently available scientific information. In 1949, for example, a driver was only presumed to be under the influence when their BAC was above 0.15, nearly twice the 0.08 limit. Current research demonstrates that a person’s ability to operate a motor vehicle begins to deteriorate at a BAC below 0.05 percent.¹ With this new and scientifically supported information, in May 2013, the National Transportation Safety Board (NTSB) recommended that states establish a per se BAC limit of 0.05 or lower in a national effort to reduce alcohol-impaired driving.²

The 2017 Utah Legislature passed HB155 “Driving Under the Influence and Public Safety Revisions.” The bill takes effect on December 30, 2018. The following information may be utilized to address inquiries about the new, lower BAC limit.

Q. What is the goal of the lowered BAC limit?
A. The Utah legislature passed HB155 to save lives by preventing drunk driving, which senselessly kills and injuries people every year in Utah.

• Research on the effectiveness of laws shows that lowering the per se BAC limit changes behavior at all BAC levels by reducing the rate of driving after drinking. Lowering the BAC limit is an effective intervention for preventing driving at both high and low BAC levels.³
• Studies have demonstrated that even a BAC as low as .01 can affect driving-related performance. At BAC limits from 0.02% to 0.10%, alcohol significantly impaired performance on some measures. The magnitude of the impairment increased with increasing BAC.⁴
• The presence of alcohol in a driver’s system, even at a level under the previous 0.08 BAC limit, presents a danger on Utah’s roadways.
• According to the NTSB, a .05 BAC law has a significant positive impact on public safety through its broad deterrent effect. While it does not necessarily result in an increased number of DUI arrests, it discourages individuals who have been drinking from getting behind the wheel in the first place.

Q. Is drunk driving a big public safety issue in Utah?
A. Yes.

• Despite decades of public campaigns and other efforts to discourage driving after drinking, survey and observational data show that many people continue to do so.
• Over the last five years, there were 54,402 arrests for DUI in Utah which represents an average of 29.8 per day.
• Mothers Against Drunk Driving estimates that the average impaired driver has driven while impaired 80 times before first arrest.
• By extrapolating data from a Centers for Disease Control survey for the general population, researchers estimated there were 4 million individuals who drove while
impaired and approximately 112 million alcohol-impaired driving episodes that year.\(^5\)

- Over the last 10 years in Utah there have been 30 traffic deaths involving drivers with a BAC of 0.05 to 0.07 percent, or an average of 3 deaths a year.\(^6\)
- Over the last 10 years in Utah (2007-2016) there have been 332 traffic deaths involving drivers with a BAC of 0.08 percent and above, or an average of 33 deaths a year.\(^7\)

**Q. How does BAC affect driving?**

**A.** Research from laboratory and driving simulator studies regarding the effects of alcohol on driving-related skills (divided attention, vigilance, tracking, perception, and reaction time) has shown that several types of performance are affected by BAC levels as low as 0.01.\(^8\)

- The NTSB concluded that BAC levels as low as 0.01 have been associated with driving-related performance impairment and BAC levels as low as 0.05 have been associated with significantly increased risk of fatal crashes.\(^9\)
- Many individuals believe that if a driver’s BAC is under the current per se limit of 0.08, the driver is able to safely drive. In reality, studies demonstrate that by the time a driver’s BAC reaches 0.08, his or her fatal crash risk has at least doubled.\(^10\)
- The chart below provides details about the type of impairment observed at certain BAC levels.\(^11\)

<table>
<thead>
<tr>
<th>BAC</th>
<th>Type of Impairment</th>
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</thead>
<tbody>
<tr>
<td>0.001-0.009</td>
<td>Driving Simulator Lane Deviations</td>
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<tr>
<td></td>
<td>Divided Attention</td>
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<tr>
<td>0.010-0.019</td>
<td>Drowsiness</td>
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<td></td>
<td>Psychomotor Skills</td>
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<td></td>
<td>Cognitive Tasks</td>
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<td></td>
<td>Tracking</td>
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<tr>
<td>0.020-0.029</td>
<td>Choice Reaction Time</td>
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<tr>
<td></td>
<td>Visual Functions</td>
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<tr>
<td>0.030-0.039</td>
<td>Vigilance</td>
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<tr>
<td></td>
<td>Perception</td>
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<tr>
<td>0.040-0.049</td>
<td>Simple Reaction Time</td>
</tr>
</tbody>
</table>

**Q. How are police officers going to enforce the new law?**

**A.** For law enforcement officers, this law won’t change anything.

- Law enforcement officers will continue to make arrests based on observed impairment.
- By focusing on impairment instead of a predetermined BAC level, officers will be able to identify and arrest both alcohol-impaired and drug-impaired drivers from Utah roadways.
- The current training for law enforcement officers dictates that they should make DUI arrest decisions based on impairment observed during the entire investigation, in other words, the driver’s inability to safely operate a vehicle.\(^12\)
- Significant changes in the law enforcement SFST current training are not anticipated in light of the newly passed .05 BAC limit.
Q. How have law enforcement agencies prepared this new law?
A. Law enforcement agencies statewide have prepared through proactive planning.
- All law enforcement agencies were required to complete Standardized Field Sobriety Testing (SFST) refresher training as part of the legislation.
- The Utah Highway Patrol has completed SFST refresher training for all troopers.
- UHP clarified policy for the use of portable breath testing devices.
- Probable cause for arrest is based on the totality of circumstances (driving pattern, physical indicators, standardized field sobriety tests, etc.)

Q. How will we know if this law is effective and accomplishing the goal of saving lives and preventing drunk driving?
A. To evaluate the effectiveness of the law in accomplishing the goal of reducing impaired driving, the Utah Department of Public Safety (DPS) will be working with research entities to track arrest and crash data. DPS will also work with a marketing research firm to track the effect of the law on people’s behavior.
- The National Highway Transportation Safety Administration will also be conducting research on the law’s effects.

Q. What can people do to stay safe and not get a DUI when they plan on drinking?
A. If an individual plans on drinking, s/he should plan on not driving.
- Every instance of impaired driving is 100% preventable.
- There are many options available for a safe and sober ride home – designated drivers, taxis, ride shares. There is no excuse for choosing to drink and drive.

For Additional Information
Marissa Cote
Utah Department of Public Safety Public Affairs Office
801-793-8025 mvillasenor@utah.gov

References
4 Moskowitz and Fiorentino. NHTSA A Review of the Literature on the Effects of Low Doses of Alcohol on Driving-Related Skills, April 2000.
7 ibid.
8 Moskowitz and Fiorentino. NHTSA A Review of the Literature on the Effects of Low Doses of Alcohol on Driving-Related Skills, April 2000.
10 ibid.
11 ibid.