



## ORLA Position Statement: .05 Blood Alcohol Content Threshold

The 2019 Oregon Legislature is contemplating the creation of a stricter standard for automatic “driving under the influence of intoxicants” (DUII) citations by lowering the current automatic citation standard of .08 blood alcohol content (BAC) to .05.

Currently, the nationally recognized blood alcohol content limit for driving is .08. Recently, however, the National Transportation Safety Board (NTSB) has been pushing state legislators to pass laws lowering the level to .05 BAC, with Utah being the only state to pass legislation.

The following arguments and statistics demonstrate why ORLA opposes such a proposal:

- The biggest growth in impaired drivers by far is marijuana users. According to Oregon State Police (OSP), the state saw a rise in fatal and injury crashes in 2018. Statistics provided by OSP show a nearly 19 percent increase in drug recognition evaluations (DREs) from 2015 when there were 1,508 performed statewide to 2017 when there were 1,823. OSP says DREs are used to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol. Lowering the BAC does nothing to address the largest growing group of offenders.
- The .05 proposal does nothing to make Oregon's streets safer. It presupposes, incorrectly, that Oregon prosecutors presently do not prosecute DUIIs if a party has a BAC of below .08. This is false; prosecutors in fact regularly do so. A prosecutor may prove a defendant is guilty of DUII in one of two ways: (1) Under the influence of intoxicants to a noticeable or perceptible degree, or (2) .08 or greater BAC. So just because a person may register a BAC of .05 or a .06, it does NOT mean no crime is charged. A person at a BAC of .05 (or even lower) is routinely charged under existing law if the person is determined to be under the influence of alcohol to a "noticeable or perceptible degree." Trained officers administer field sobriety tests and make experienced observations to make such a determination.
- Traffic safety statistics do not support the NTSB's .05 BAC argument. For example, only two percent of traffic fatalities involve a driver with a BAC in the disputed .05 to .08 range. Focusing limited traffic safety resources on this group is not a productive use of resources. Instead, lawmakers should focus their efforts on drivers with high BAC scores and repeat offenders responsible for a vast majority of alcohol-related traffic deaths. In fact, 70 percent of alcohol-related traffic fatalities involve a driver with a BAC of 0.15 or above—three times that of 0.05.

- South Australia and Denmark both lowered their BAC limits to .05 in recent years, but studies have not yet detected a significant reduction in drunk driving accidents or fatalities.

## The Current System is Working

The National Highway Traffic Safety Administration is successfully implementing the following strategies and programs decreasing **drunk-driving fatalities on our nation's roadways by 51 percent since 1982**. In addition, drunk-driving fatalities involving persons under 21 have decreased 80 percent.

- Under current Oregon law, motorists can already be cited for driving under the influence for blood alcohol content levels below .08 at the discretion of law enforcement. For example, motorists have been convicted of driving under the influence at levels as low as .05 BAC in Multnomah County.
- Drunk-driving laws make it illegal nationwide to drive with a BAC at or above .08. For people under age 21, “zero tolerance” laws make it illegal to drive with any measurable amount of alcohol in their systems. These laws, along with laws that maintain the minimum legal drinking age of 21, are in place in all 50 states and the District of Columbia. They have had a clear effect on highway safety, saving tens of thousands of lives since their implementation.
- Multi-component interventions combine several programs or policies to prevent drunk driving. The key to these comprehensive efforts is community mobilization by involving coalitions or task forces in design and implementation.
- Mass media campaigns spread messages about the physical dangers and legal consequences of drunk driving. They persuade people not to drink and drive and encourage them to keep other drivers from doing so. Campaigns are most effective when supporting other impaired-driving prevention strategies.
- Administrative license revocation or suspension laws allow police to take away the license of a driver who tests at or above the legal BAC limit or who refuses testing. States decide how long to suspend the license.
- Alcohol screening and brief interventions take advantage of “teachable moments” to identify people at risk for alcohol problems and get them treatment as needed. This combined strategy, which could be delivered in health care, university, or other settings, would help change behavior and potentially reduce alcohol-impaired crashes and injuries.

### Sources:

[https://www.cdc.gov/motorvehiclesafety/impaired\\_driving/states.html](https://www.cdc.gov/motorvehiclesafety/impaired_driving/states.html)  
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