

Ten Key Facts about DWI in New Mexico

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As the legislature deliberates Senate Bill 5¹ (SB5) and other DWI-related legislation, a few key facts should be highlighted:

1. Per 100,000 population, New Mexico ranked #10 for DWI-related fatalities, and #9 for sober highway fatalities (NHTSA, 2007²). Surprisingly, New Mexico ranks worse for sober fatalities than DWI fatalities.
2. Per million miles driven, New Mexico ranked #20 in 2007 for DWI-related fatalities and #20 for sober highway fatalities³. Per-miles-driven is a more accurate measure than per 100,000 population because accident risk increases as miles driven increase.
3. The Blood-Alcohol Content (BAC) in the most troubling and recent DWI-related fatalities were extremely high -- .22% (Scott Owens, .16% four hours after the crash is roughly equivalent to .22% at the time of the crash), .21% (Carlos Fierro), .32% (Dana Pabst), .18.% (Gordon House). It is this level of drunkenness, about three times the legal limit (.07% BAC⁴), that is responsible for the horrible accidents, not people at low (.08% - .10%) BAC levels.
4. There is no information available state-wide on the relationship between the number of drinks and blood-alcohol content⁵, or between blood-alcohol content and risk of crash⁶. The MVD does not provide or possess this information. It is not in the driver's license booklet or on the driver's license test. It is not provided by NMDOT or by state or local police. An informal survey of twelve adults found that the vast majority (10 out of 12) did not know how many drinks, for their gender and body weight, would put them at .08% BAC or higher. There is, in effect, mass ignorance in New Mexico regarding drinking, blood-alcohol content, and crash risk.
5. The risk of crash for a driver with a .08% to .10% BAC is approximately four times that of a sober driver⁷. The risk of crash for a driver using a cell phone is also approximately four times that of a sober driver⁸.

¹ <http://legis.state.nm.us/Sessions/10%20Regular/bills/senate/SB0005.pdf>

² <http://www.dwiwatch.org/fatality-rates-by-state-2007.pdf>

³ <http://www.dwiwatch.org/fatality-rates-by-state-2007.pdf>

⁴ Note that .08% BAC is commonly called "the legal limit." This terminology is misleading. A BAC of .08% is not legal, but illegal. Therefore, .07% is a more accurate figure for "the legal limit"

⁵ <http://www.dwiwatch.org/bac-table-both.html>

⁶ http://www.dwiwatch.org/Images/CrashRiskDunlap_x.jpg

⁷ http://www.dwiwatch.org/Images/CrashRiskDunlap_x.jpg

6. Governor Richardson is pushing legislation⁹ (SB5) which among other things increases the penalty for a first-time DWI to include 3 days in jail (mandatory), DWI class, community service and 1 year with an interlock device at driver's expense (approximately \$1,000 in costs). At the same time, Governor Richardson is supporting legislation to set the penalty for driving and cell-phoning, which has the same crash risk as a BAC of .08% - .10%, at \$200.

According to DWI Czar Rachel O'Connor, targeting first-time DWI is important because “65% of DWI fatalities involve a person with no prior DWI convictions.” However, this is likely a matter of population size, not due to a causal relationship.

A more reliable fact for action is this – 3 out of 4 DWI fatalities in New Mexico involve a driver with a very high BAC, .15% or higher¹⁰. It is this group, and not the lower BAC group that should be targeted for increased penalties and mandatory treatment. The relationship here is clearly causal since crash risk rises dramatically above .12% BAC¹¹.

7. The law does not discriminate between drunken driving and drunken car-sleeping. People who know they are too drunk to drive and decide to spend the night in their vehicles, and thus not endanger society, are being arrested, put in jail, and subjected to the same stiff penalties as if they were driving.

8. Gas stations, convenience stores, supermarkets and other businesses are permitted to sell alcohol late into the night¹². Since most DWI-related fatalities occur after 9pm, this policy is contraindicated.

9. Researchers at UNM recently reported that of the 2,000 repeat offenders in 2006-2007, 52 percent were not sentenced to substance abuse treatment as required by a 2004 law. Since alcoholism is at the root of very high BACs, this is a serious matter.

10. The NMDOT report *Driving While Impaired*¹³ is not about DWI but “alcohol-involved”. The data include traffic accidents where a driver or a pedestrian had a BAC of .02% or higher¹⁴. As such, the report gives inflated findings by including non-DWI accidents. Further, the report does not state that the criteria is .02% BAC or higher, or that an accident where a pedestrian who had a drink at dinner and then steps in front of a sober driver is counted as “alcohol-involved.” There is no problem with these criteria but the report should state them clearly, and should also show data for DWI (.08% BAC and higher) not just “alcohol-involved.” The media frequently misstate the NMDOT data as “DWI” which is incorrect.

DWIWatch.org is a grass-roots non-profit organization. For more information contact Bob Funkhouser, 505-920-8593, mesabob@gmail.com, or visit dwiwatch.org

⁸ <http://www.dwiwatch.org/A-Comparison-of-the-Cell-Phone-Driver-and-the-Drunk-Driver.pdf>

⁹ <http://legis.state.nm.us/Sessions/10%20Regular/bills/senate/SB0005.pdf>

¹⁰ 102 of 133 (77%) DWI fatalities in 2007 were .15% BAC or higher. See: <http://www.dwiwatch.org/fatality-rates-by-state-2007.pdf>

¹¹ http://www.dwiwatch.org/Images/CrashRiskDunlap_x.jpg

¹² http://en.wikipedia.org/wiki/List_of_alcohol_laws_of_the_United_States_by_state

¹³ http://www.unm.edu/~dgrint/dwirep/dwir07_FINAL.pdf

¹⁴ Personal contact with NMDOT personnel.