



# Drug-Impaired Driving: A Guide for What States Can Do

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**GHSA Webinar**  
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# DRUG- IMPAIRED DRIVING

A GUIDE FOR WHAT STATES CAN DO



FOUNDATION FOR  
ADVANCING ALCOHOL  
RESPONSIBILITY

# Drug-Impaired Driving: A Guide for What States Can Do

## **GHSA report released Sept. 30**

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- ▶ Funding provided by the Foundation for Advancing Alcohol Responsibility ([Responsibility.org](http://Responsibility.org))
- ▶ Available at [www.GHSA.org](http://www.GHSA.org)

# What's in the Report

- ▶ **Definition:** what drugs can impair
- ▶ **Data:** problem size and characteristics
- ▶ **Science:** drug levels, impairment, and crash risk
- ▶ **Laws:** different types, what states have in place now
- ▶ **Enforcement:** SFST, DEC, oral fluid, blood testing
- ▶ **Prosecution and adjudication:** challenges and strategies
- ▶ **Training:** what's available and useful
- ▶ **Sanctions and treatment:** what's effective
- ▶ **Education:** what are states doing now
- ▶ **Recommendations for states**



# Definition: What Drugs Can Impair

- ▶ **Illegal drugs**
  - Narcotics, stimulants, depressants, hallucinogens
- ▶ **Legal, non-medicinal**
- ▶ **Prescription medications**
- ▶ **OTC medications**



## **Hundreds of different drugs with more created constantly**

- ▶ FARS has codes for 430 specific drugs or metabolites
- ▶ Marijuana is illegal, legal, or medicinal in different states
- ▶ Designer and synthetic drugs (e.g., synthetic cannabinoids/cathinones)

Report concentrates on **illegal drugs and marijuana**

# Data: Problem Size and Characteristics

- ▶ **FARS 2013, dead drivers, known test results**
  - 40% with drugs; 1/3 of these were marijuana
  - 40% with alcohol (any BAC)
- ▶ **NHTSA roadside survey 2013-14**
  - 22.5% with drugs, both weekday days and weekend nights
  - 13% with marijuana on weekend nights
  - 8% with alcohol on weekend nights; 1.5% with BAC .08 or above
- ▶ **Survey (NSDUH)**
  - About 20% of young adults age 18-25 and about 6% of adults age 26+ use illegal drugs or marijuana at least monthly.



# Science: Drug Levels, Impairment, Crash Risk

- ▶ **Any drug can impair – experimental studies**
  - Impairment can increase if drugs are used in combination or together with alcohol.
- ▶ **Any drug can increase crash risk**
  - Good crash risk studies are difficult; lots of not-so-good studies



# Science: Marijuana as an Example

## ▶ **Marijuana and impairment**

- Marijuana impairs motor skills and cognitive functions including vigilance, distance perception, coordination, divided attention, and reaction time – in experimental studies.

## ▶ **Marijuana and crash risk**

- Studies show increase in crash risk anywhere from 0% to 200%.
- No scientific consensus.

## ▶ **Measuring marijuana in the body**

- THC concentrations drop to 20% of peak 30 minutes after smoking, while impairment lasts for hours.
- Marijuana metabolites can be detected weeks after smoking.
- Contrast with alcohol: BAC  $\approx$  impairment  $\approx$  crash risk.



# Challenge: Presence vs. Impairment

- ▶ **Relationship between a drug's presence in the body and its impairing effects is complex and not well understood.**
- ▶ **Presence of a drug  $\neq$  impairment**
  - Some drugs/metabolites may remain in the body for days or weeks after initial impairment has dissipated.
  - Individuals differ considerably in the rate of absorption, distribution, action, and elimination of drugs.
  - Some people are more sensitive to the effects of drugs, particularly first-time or infrequent users.
  - Wide ranges of drug concentrations in different individuals produce similar levels of impairment in experimental situations.



# Challenge: Perceptions of Risk

- ▶ **There are many common misperceptions about drugged driving, specifically marijuana-impaired driving. Some people think that:**
  - Drugged driving is not a serious problem.
  - Drug use does not adversely affect driving and may improve it (due to compensation strategies).
  - There are no laws prohibiting drugged driving (i.e., it is not illegal).
  - The likelihood of detection and apprehension for drugged driving is low.



# Laws: Types, Current Status

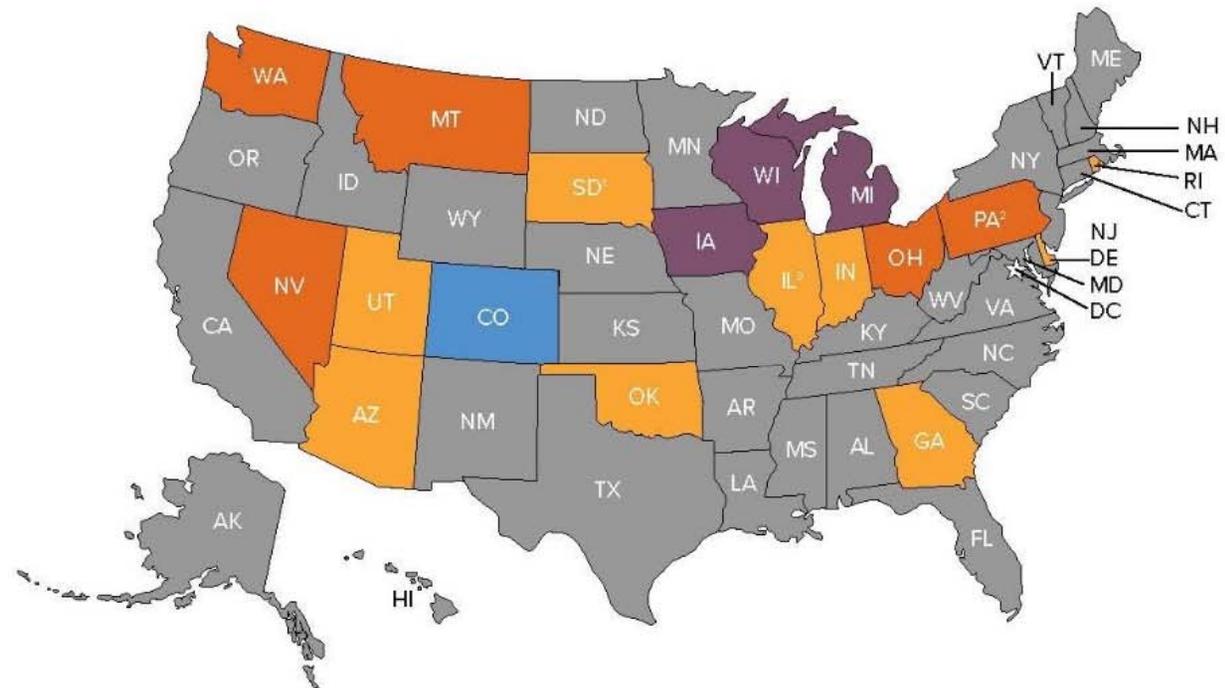
- ▶ **Impairment laws (driving under the influence of drugs-DUID)**
  - Illegal to drive while abilities impaired
  - All states
  - To enforce: observe behavior, link to evidence of a drug
- ▶ ***Per se* laws**
  - Illegal to drive with amounts over the *per se* limit
  - 6 states, for some drugs
  - To enforce: chemical evidence of drug
- ▶ **Zero tolerance laws**
  - Illegal to drive with any measureable amount (could include metabolites)
  - 15 states, for some drugs
  - To enforce: chemical evidence of drug

## SUMMARY OF CURRENT LAWS FOR MARIJUANA IMPAIRED DRIVING

18 states have zero tolerance or non-zero *per se* laws for marijuana.

- 9 states: zero tolerance for THC or a metabolite (AZ, DE, GA, IL, IN, OK, RI, SD, UT).
- 3 states: zero tolerance for THC but no restriction on metabolites (IA, MI, WI).
- 5 states: *per se* limits for THC of 1 ng (PA), 2 ng (NV and OH), or 5 ng (MT and WA); NV, OH, and PA also have non-zero *per se* limits for metabolites.
- 1 state: reasonable inference law for THC with a 5 ng limit (CO).

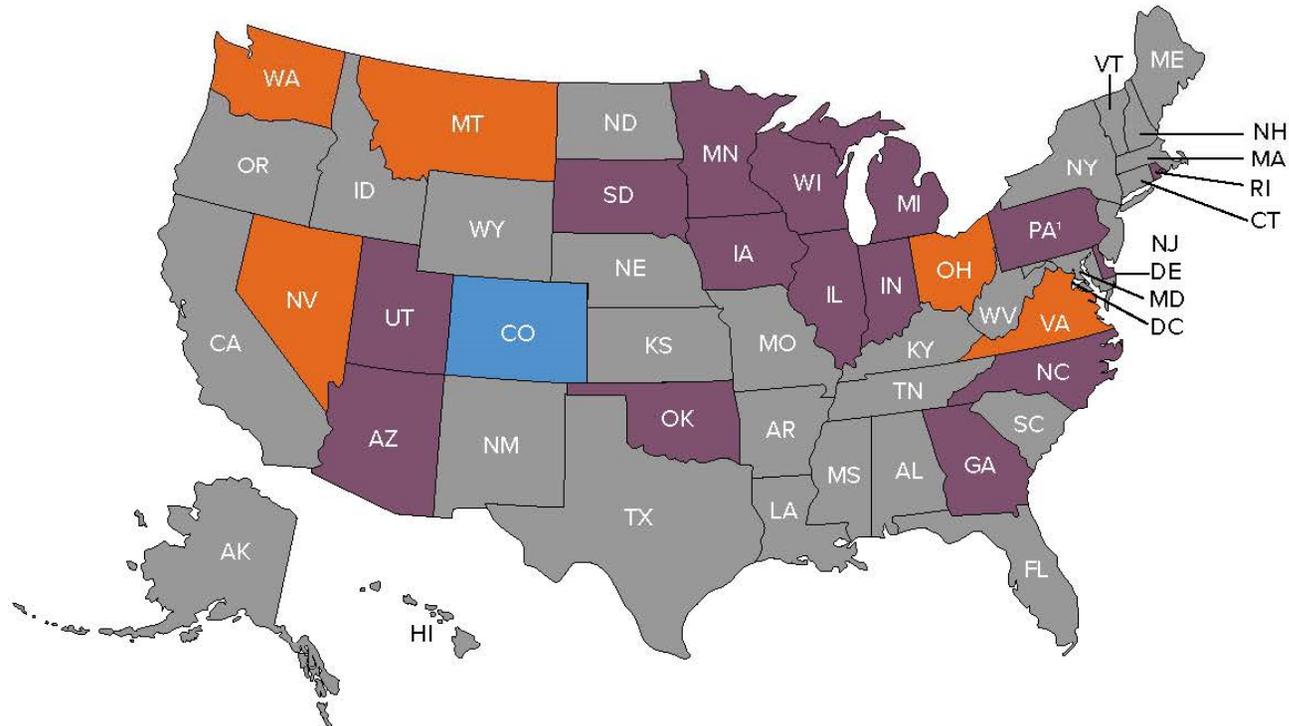
## STATE BY STATE: Marijuana Drug-Impaired Driving Laws AS OF AUGUST 2015



- 1 South Dakota is a zero tolerance state only for drivers under the age of 21.
- 2 Pennsylvania is often classified as both a zero tolerance and *per se* state. A minimum threshold of 1 ng is needed for a chemical test to be admitted into evidence for prosecution purposes.
- 3 Illinois is currently classified as a zero tolerance state. However, legislation has been passed and is awaiting the Governor's signature that would create a 15 ng *per se* limit.

- Zero tolerance for THC and metabolites
- Zero tolerance for THC only
- THC *per se*
- Reasonable inference THC Law
- No zero tolerance or *per se* laws for marijuana

**STATE BY STATE:**  
**DUID ZT or *Per se* for Some Drugs**  
 AS OF AUGUST 2015



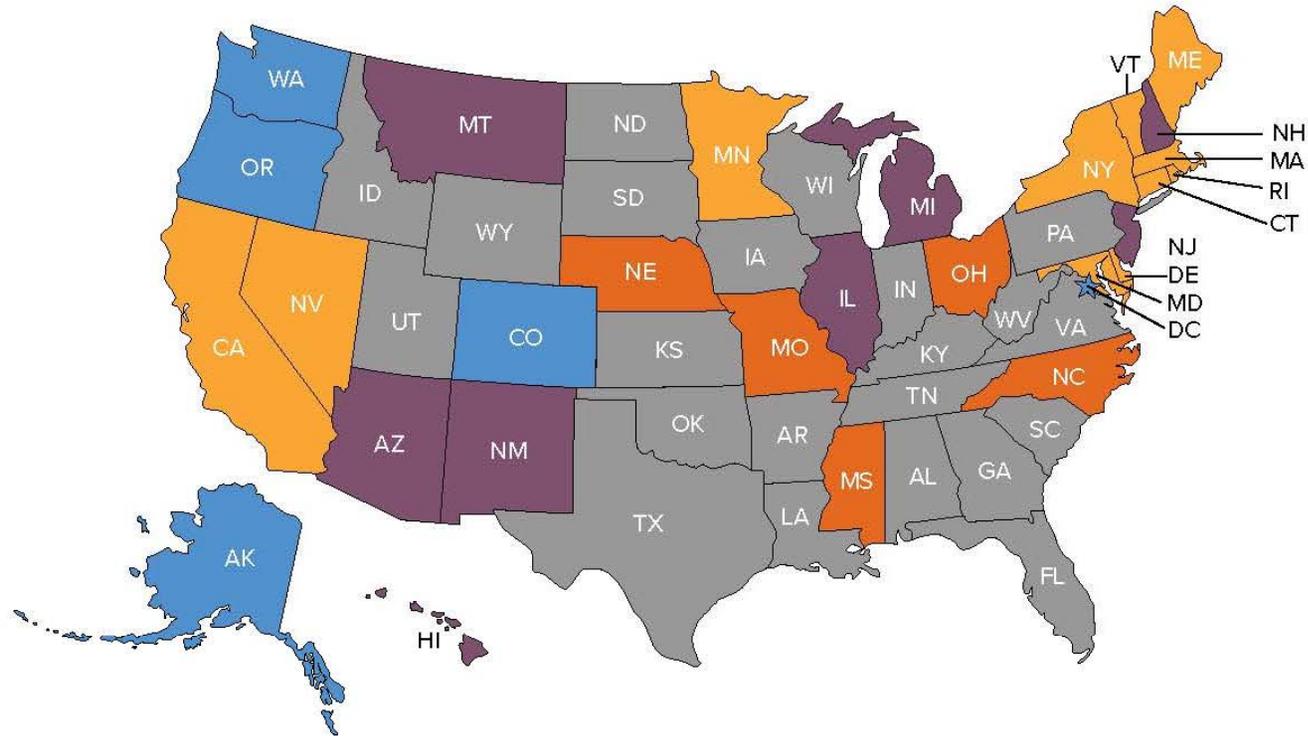
1 Pennsylvania has both a zero tolerance law for some drugs and a 1 ng *per se* law for THC. Pennsylvania's 1 ng *per se* law is in effect a zero tolerance law.

Click on a color to highlight the states in that category

- Per se* limit greater than zero for some drugs
- Zero tolerance for some drugs
- Reasonable inference law with a limit greater than zero for THC

[SHOW FULL MAP](#)

**STATE BY STATE:**  
**Marijuana Possession and Use Laws**  
 AS OF AUGUST 2015



Click on a color to highlight the states in that category

- Decriminalized (not medical or recreational)
- Medical (not decriminalized or recreational)
- Decriminalized and medical but not recreational
- Everything— recreational, decriminalized, and medical

[SHOW FULL MAP](#)

# Laws: Types, Current Status

**There are several emerging trends in DUID laws (2015 legislative session):**

- ▶ **Increased nanogram limits**
  - Proposed limit of 25ng (oral)/15ng (blood) in Illinois
- ▶ **Oral fluid/saliva testing**
  - Bills in California, New York, Vermont, and Virginia
- ▶ **Open container laws**
  - Bills in Alaska and Washington



# Enforcement: SFST, DEC, Blood, Oral Fluid

## ▶ At the roadside

- Stop driver for traffic violation, observe impairment
- Screening: SFSTs can screen for some drugs
- Oral fluid screening kits: 5 minutes, \$20

## ▶ At the station

- DEC: need trained DRE, exam takes 90 minutes
- Chemical evidence, usually blood: must draw quickly

## ▶ At the lab

- Drug analysis can cost \$150-300; labs often backed up

## ▶ Training

- Advanced Roadside Impaired Driving Enforcement (ARIDE)
- Drug Evaluation and Classification (DEC) Program



# Prosecution and Adjudication

## ▶ Prosecutors and judges

- Often not familiar with DUID cases; different from DUI
- If both alcohol and drug charges, often drop drug charge
  - Alcohol is simpler, easier to convict

## ▶ Training

- **National:**
  - National Traffic Law Center (NTLC)
  - National Center for DWI Courts (NCDC)
  - National Judicial College (NJC)
- **State:**
  - Traffic Safety Resource Prosecutors (TSRP)
  - Judicial Outreach Liaisons (JOL)



# Sanctions and Treatment

## ▶ Drug and alcohol screening

- New assessment tools:

**CARS: Computerized Assessment and Referral System**

Cambridge Health Alliance

**IDA: Impaired Driving Assessment**

American Probation and Parole Association

**NHTSA briefing on these Oct. 14, 10:00am EDT**

## ▶ Drug treatment: used in most states

## ▶ Intensive supervision: used in many states

## ▶ DWI and Drug Courts

- 448 combined DWI/drug (hybrid) courts concentrating on DUID offenders
- 2,800 drug courts

# Education: Examples from the States

## ▶ Prescription medications

- Arkansas: Arkansas Take Back (disposed of unused meds)
- New York: Drugged Driving is Impaired Driving
- Oklahoma: incorporated into End DUI campaign

## ▶ Marijuana

- Colorado and Washington: Drive High, Get a DUI

## ▶ Young drivers

- Ohio: Drugged Driving = Done Driving



*\*Links to programs/campaigns in report*

# Recommendations for States

## 1. Planning

- Assess your state's drugged driving issues
- Build broad partnerships
- Create a drugged driving strategic plan

## 2. Education

- Develop and implement a campaign

## 3. Laws and sanctions

- Zero tolerance for illegal drugs
- Zero tolerance for drivers under 21 for all drugs
- *Per se* law for marijuana if recreational use is legal
- Examine your DUID laws and revise as needed
  - Screening tests, implied consent, separate DUI and DUID charges, etc.



# Recommendations for States

## 4. Training

- Law enforcement: ARIDE and DEC
- Prosecutors and judges: through NTLC, TSRPs, NJC, JOLs

## 5. Testing

- Test all fatally-injured drivers for drugs
- Test all DUID arrestees for drugs
- Ensure that labs will provide timely drug test results

## 6. Prosecution and adjudication

- Screen and assess all DUID and DUI offenders
- Use drug courts, intensive supervision, and drug treatment

## 7. Data

- Track DUID and DUI separately in crash, arrest, court data
- Use surveys to track public knowledge and attitudes

# National Needs

## ▶ Education

- A national drug-impaired driving campaign
- Materials for prosecutors, judges, legislators



## ▶ Enforcement

- Accurate, cheap, convenient roadside oral fluid kits
- Evaluate SFST usefulness for drugs

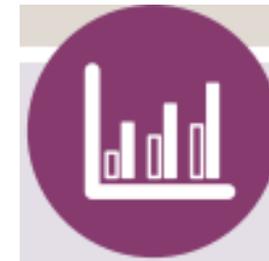


## ▶ Data

- Drug testing best practices: which drugs, what thresholds
- Improved drug reporting in FARS

## ▶ Research

- Evaluate drug law and program effects
- Study impairing effects of most common drugs



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