

Excellence in Prevention – descriptions of the prevention programs and strategies with the greatest evidence of success

Name of Program/Strategy: Blood Alcohol Concentration Laws (Per se Laws)

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1. Overview and description

Per se laws— a specific BAC level (usually .05 or .08) at which a driver is considered legally impaired and can be arrested (Andenaes, 1988). The BAC can be measured by taking a blood sample from a driver or via an analysis of the exhaled breath. The invention of the breathalyzer and other portable devices for collecting samples of drivers' breaths, combined with per se legislation, revolutionized law enforcement of drinking and driving.

All USA states have longstanding laws prohibiting driving while impaired by alcohol. The U.S. Congress included a provision in the Fiscal Year 2001 Department of Transportation and Related Agencies Appropriations Act 213 requiring states and territories to implement .08 BAC laws by October 1, 2003 or risk losing federal highway construction funds. Certain policies depend upon laws that clearly define drinking and driving with a BAC at or higher than a prescribed level for the whole population (e.g., .08 or .05) or for young drivers (usually zero or .02).

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Excellence in Prevention is a project of Oregon Addiction and Mental Health Services and Washington Division of Behavioral Health and Recovery. Information is drawn from many sources, including the National Registry for Effective Prevention Programs (NREPP), sponsored by the Center for Substance Abuse Prevention.

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2. Implementation considerations (if available)

3. Descriptive information

Areas of Interest	Substance abuse prevention
Outcomes	
Outcome Categories	Alcohol
Ages	
Gender	Male Female
Races/Ethnicities	American Indian or Alaska Native Asian Black or African American Hispanic or Latino White Race/ethnicity unspecified
Settings	
Geographic Locations	Urban Suburban Rural and/or frontier Tribal
Implementation History	
NIH Funding/CER Studies	
Adaptations	
Adverse Effects	
IOM Prevention Categories	Universal

4. Outcomes

Scientific Evidence

- Lowering the permissible BAC levels for adults to .08 in all states (Shults et al., 2001).

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- Reducing the legal BAC limit to .05 (Howat, Sleet, & Smith, 1991; National Committee on Injury Prevention and Control, 1989).
- Strong evidence of the general deterrent influence of these per se laws although the effects tend to be temporary. The deterrent effect gradually wears off as drivers realize that their chances of detection are in fact not very high (Ross, 1982).
- Internationally, lower BAC limits produced positive results consistently (Bartl and Esberger, 2000; Norström, 1997; Henstridge et al., 1997; Kloeden and McLean, 1994).
- Effects in USA are mostly positive, long-term, and cost-effective (Mann et al., 2001).
- Making motorists uncertain about the real risk of detection may paradoxically be the key to cost-effective deterrence (Homel, 1988; Nagin, 1998).
- Reductions in the allowable levels of driver impairment have been associated with reduced crash levels (Liben, Vingilis, & Blefgen, 1987; Ross, 1982; Zador et al., 1989).

5. Cost effectiveness report (Washington State Institute of Public Policy – if available)

6. Washington State results (from Performance Based Prevention System (PBPS) – if available)

7. Who is using this program/strategy

Washington Counties	Oregon Counties
All counties	

8. Study populations

9. Quality of studies

The documents below were reviewed for Quality of Research. The research point of contact can provide information regarding the studies reviewed and the availability of additional materials, including those from more recent studies that may have been conducted.

References

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Ross, H. L. (1982). *Deterring the drinking driver: Legal policy and social control* (2nd ed). Lexington, MA: D.C. Heath and Company.

Shults, R. A., Elder, R. W., Sleet, D. A., Nichols, J. L., Alao, M. O., Carande-Kulis, V. G., Zaza, S., Sosin, D. M., Thompson, R. S., & Task Force on Community Preventive Services. (2001). Reviews of evidence regarding interventions to reduce alcohol-impaired driving. *American Journal of Preventive Medicine*, 21(4 Suppl), 66-88.

Zador, P., Lund, A., Fields, M., & Weinberg, K. (1989). Fatal crash involvement and laws against alcohol-impaired driving. *Journal of Public Health Policy*, 10, 467-485.

10. Readiness for Dissemination

Revised Code of Washington

The Revised Code of Washington (RCW) is the compilation of all permanent laws now in force. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the

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initiative process), arranged by topic, with amendments added and repealed laws removed. It does not include temporary laws such as appropriations acts.

RCW 46.61.502—Driving under the influence

- (1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:
 - (a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or
 - (b) While the person is under the influence of or affected by intoxicating liquor or any drug; or
 - (c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.
- (2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.
- (3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.
- (4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.
- (5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.
- (6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:
 - (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or
 - (b) The person has ever previously been convicted of:
 - (i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 6.61.520(1)(a);
 - (ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);
 - (iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or
 - (iv) A violation of this subsection (6) or RCW 46.61.504(6).

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11. Costs (if available)

12. Contacts

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West Building
Washington, DC 20590
(888) 327-4236

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