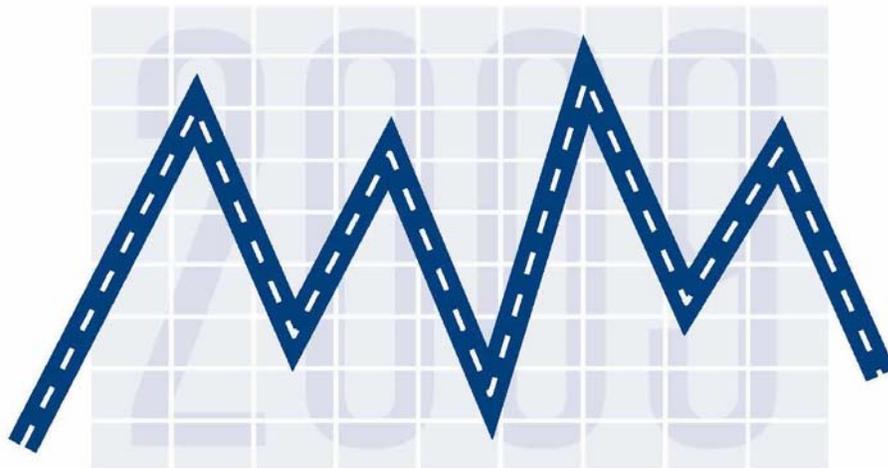


UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Seventh Annual DUI Report to the Utah Legislature



CCJJ
Utah State Capitol Complex
Senate Office Building – Suite 330
P.O. Box 142330
Salt Lake City, Utah 84114-2330
Phone: 801-538-1031 • Fax: 801-538-1024
www.justice.utah.gov

Acknowledgements

The Utah Commission on Criminal and Juvenile Justice acknowledges the contributions of the Utah Substance Abuse and Anti-Violence (USAAV) Coordinating Council, specifically the Council's DUI Committee chaired by Anna Kay Waddoups.

Also contributing to this report are the Utah Administrative Office of the Courts and the Utah Department of Public Safety, including the Highway Patrol, Bureau of Criminal Identification, Driver License Division and Highway Safety Office.

Special thanks to Marty Asay, Paul Boyden, George Braden, Art Brown, Kim Gibb, Ron Gordon, Laurie Gustin, Dr. Christine Mitchell, Gary Mower, Teri Pectol, Jacey Skinner, Monica Taylor, Sgt. Ted Tingey, and David Walsh for their assistance in preparing this report.

Table of Contents

Acknowledgements

Table of Contents

| | |
|--|-----------|
| Executive Summary | 1 |
| DUI in Utah FY 2009 | 1 |
| 1 Introduction | 3 |
| Purpose of the Report | 4 |
| 2009 DUI and Related Legislation | 5 |
| 2009 USAAV DUI Committee | 11 |
| 2 Law Enforcement | 13 |
| DUI Arrests | 13 |
| DUI Arrests by Type | 13 |
| DUI Overtime Enforcement Events | 14 |
| DUI Arrests by Agency Type | 14 |
| DUI Arrests by Gender | 14 |
| DUI Arrests by Age | 15 |
| DUI Arrests by Month | 15 |
| DUI Arrests by County | 16 |
| DUI Arrests by Blood/Breath Alcohol Concentration (BAC) | 17 |
| Repeat DUI Offenders by Type of Arrest | 17 |
| DUI-Related Crashes, Injuries and Fatalities | 18 |
| Rates of DUI-Related Fatalities by Population and Vehicle Miles Traveled | 19 |
| Day and Hour of Alcohol-Impaired Driver Crashes | 20 |
| Use of State Beer Tax Funds for DUI Law Enforcement | 20 |
| 3 Adjudications and Sanctions | 21 |
| Justice Court DUI Data | 21 |
| Justice Court DUI Charges and Outcomes | 21 |
| Justice Court DUI Sanctions | 22 |
| District Court DUI Data | 22 |
| District Court DUI Case Outcomes | 22 |
| District Court Repeat Offender Data | 23 |
| District Court DUI Sanctions | 23 |
| Other DUI Sanctions | 24 |
| 4 Driver License Control | 25 |
| Alcohol Hearing Statistics | 25 |
| 5 Screening, Assessment, Education and Treatment | 27 |
| Screening and Assessment | 27 |
| Education | 27 |
| Treatment | 28 |
| 6 Utah's Impaired Driving Media Campaign | 29 |
| Utah DUI Sentencing Matrix | |

Executive Summary

DUI in Utah FY 2009

DUI-Related Fatalities Decreased in CY 2008

- DUI-related fatalities in Utah decreased from 42 in CY 2007 to 34 in CY 2008.
- In CY 2008, Utah had the second lowest rate of DUI-related fatalities in the nation at 16.7 percent. The national average was 32 percent.

Law Enforcement: Arrests

- There were 15,683 DUI arrests in FY 2009, 386 more than the previous year. The majority of the arrests, 81 percent, were for violation of the .08 blood/breath alcohol concentration (BAC) per se statute.
- Fifty-six percent of all arrests for DUI were made by municipal law enforcement agencies.
- Seventy-six percent of DUI drivers were male.
- Ten percent of arrestees were under the legal drinking age of 21. DUI drivers ages 25 through 36 accounted for 39 percent of all arrests.
- The majority of DUI arrests occurred along the Wasatch Front with Weber, Davis, Salt Lake and Utah Counties accounting for 68 percent of the total arrests.
- The average BAC was .14, with the highest at .43, over *five times* the legal limit!

- Approximately 67 percent of arrests were for a first DUI offense, 21 percent were for a second offense, eight percent were for a third offense, and four percent were for a fourth or subsequent offense.

Courts: Adjudications and Sanctions

- Of the total of 14,268 DUI cases handled by Utah's courts in FY 2009, Justice Courts handled the majority with 12,002 (84%), and District Courts handled 2,266 (16%).
- Seventy-five percent of District Court DUI cases and 59 percent of Justice Court DUI cases resolved in FY 2009 resulted in a guilty plea or verdict.
- Justice Court judges ordered offenders to participate in an educational series in 1,782 cases, ordered offenders into substance abuse treatment in 1,291 cases, and ordered ignition interlock devices in 853 cases.
- District Court judges ordered offenders to participate in an educational series in 459 cases, ordered offenders into substance abuse treatment in 698 cases, and ordered ignition interlock devices in 312 cases.
- The average jail sentence for a DUI offense was 151 days and the average fine for a DUI conviction was \$1,468.

Driver License Control

- The Driver License Division conducted 5,159 hearings to determine if there was sufficient information to warrant the suspension or revocation of the individual's driver license.
- In 2,388 cases, either the arresting officer or the DUI offender used the telephonic option to call in for the driver license hearing.

Introduction

Wendy Kerbs was planting flowers in her front yard in Roy on the afternoon of May 13, 2009, when an impaired driver traveling over 50 miles per hour on the residential street lost control of his SUV, smashed into a light pole, uprooted trees, and rolled his vehicle onto her lawn crushing her. Wendy's husband Marlin, who had been working by her side, had gone to get a hose when he heard the crash. He saw the SUV on his lawn and an uprooted blue spruce tree, right where he and his wife had been gardening. He rushed to his wife's aid and she died in his arms.

The driver of the SUV, 40-year-old Richard Allan Bash, fled the scene and broke into a nearby house to hide. He took another car and was eventually caught by police, who had to get a search warrant to draw his blood when he refused chemical tests.

In addition to driving under the influence of alcohol, Bash also had methamphetamine in his system. He pleaded guilty to one count of second degree felony automobile homicide, the toughest charge currently allowed under Utah law. In exchange for the plea, misdemeanor counts of leaving the scene of a fatal accident, driving with a suspended license, and driving with alcohol restrictions were dismissed. On June 30, 2009, the judge sentenced Bash to one to 15 years in prison. According to court records, Richard Bash has an extensive history of traffic violations, as well as convictions for other felony and misdemeanor crimes. He also has seven prior convictions for DUI in various states.

Wendy Kerbs was only 54 years old and was looking forward to retiring from her job at Hill Air Force Base in the near future. In addition to gardening, she loved to sew. Now her family has only memories of someone they thought of as a role model and "the most unselfish person you'd ever meet".

DUI in Utah isn't just about the statistics. It's about our citizens and their families, and the safety of our communities.

Information for this story was obtained from newspaper articles by **Deseret News** reporters Joseph M. Dougherty and Linda Thompson, and **Salt Lake Tribune** reporter Stephen Hunt.

Purpose of the Report

The *Seventh Annual Driving Under the Influence Report to the Utah Legislature* was prepared in accordance with §41-6a-511 of the Utah Code. The statute requires the Utah Commission on Criminal and Juvenile Justice to prepare an annual report of DUI related data, including the following:

- Data collected by the state courts to allow sentencing and enhancement decisions to be made in accordance with violations involving driving under the influence of alcohol and/or other drugs;
- Data collected by the justice courts (same DUI related data elements collected by the state courts); and
- Any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related processes of:
 - law enforcement;
 - adjudication;
 - sanctions;
 - drivers' license control; and
 - alcohol education, assessment, and treatment.

2009 DUI and Related Legislation



The following bills and one appropriation were passed by the Utah Legislature in the 2009 General Session:

S.B. 12 **DUI Amendments** *Senator Sheldon L. Killpack*

Defines “driving under the influence court” as “a court that is approved as a driving under the influence court by the Utah Judicial Council according to standards established by the Judicial Council”.

Provides that certain reports issued by the Driver License Division may not contain evidence of an impaired driving conviction if the reporting court notifies the Driver License Division that the defendant is participating in or has completed the program of a driving under the influence court with exception for a CDL license holder or a violation that occurred in a commercial vehicle.

Provides that if an impaired driving conviction is amended to a driving under the influence conviction in certain circumstances, the Driver License Division shall start the applicable suspension or revocation on the date of the amended conviction and may not subtract any time for which the license was previously suspended or revoked.

Requires the Driver License Division to reinstate a person’s driver license prior to completion of the specified suspension period immediately upon receiving written verification of the person’s conviction of impaired driving if:

the written verification is received prior to the completion of the suspension period; and

the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

S.B. 116 **Criminal Penalty Amendments** *Senator Daniel R. Liljenquist*

Provides that the definition of a conviction, for purposes of certain driving under the influence provisions, only includes convictions arising from a separate episode of driving.

Clarifies that a person is guilty of a separate offense for each victim suffering bodily injury, serious bodily injury, or death as a result of the person's violation of the driving under the influence or automobile homicide provisions whether or not the injuries arise from the same episode of driving.

Clarifies that a person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's violation of the prohibition on driving a vehicle in a negligent manner and having a measurable amount of a controlled substance in the person's body whether or not the injuries arise from the same episode of driving.

S.B. 147 *Driver License Revisions*
Senator Lyle W. Hillyard

Provides that the Driver License Division may extend to a person a limited driving privilege to and from the person's place of employment when the person's original denial, suspension, revocation, or disqualification involved certain driving under the influence offenses if:

the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

the Driver License Division receives written verification from the person's primary care physician that to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years and that the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

for a period of one year prior to the date of the request for a limited driving privilege the person has not been convicted of a violation of any motor vehicle law in which the person was the operator of the vehicle or the Driver License Division has not received a report of an arrest for a violation of any motor vehicle law or a report of an accident in which the person was involved as an operator of the vehicle.

Provides that the discretionary privilege authorized is limited to when the limited privilege is necessary for the person to commute to school or work and may be granted only once during certain periods.

S.B. 272 Driver License Sanctions and Sentencing
Requirements for Driving Under the Influence and
Alcohol Related Offenses
Senator Scott K. Jenkins

Increases the driver license suspension periods for certain driving under the influence offenses committed on or after July 1, 2009:

from a period of 90 days to 120 days for a person 21 years of age or older on the date of arrest who has violated certain driving under the influence or alcohol related offenses for the first time;

from a period of one year to two years for a person 21 years of age or older on the date of arrest who has violated certain driving under the influence or alcohol related offenses two or more times;

from a period of 24 months to a period of 36 months for a person who is 21 years of age or older, who refuses to submit to a chemical test, and who has a previous license sanction for certain alcohol related offenses;

from a period of 90 days to until the person is 21 years of age or for a period of 120 days, whichever is longer, for a person under 21 years of age on the date of arrest who has violated certain driving under the influence provisions for the first time;

from a period of one year to until the person is 21 years of age or for a period of two years, whichever is longer, for a person under 21 years of age on the date of arrest who has violated certain driving under the influence provisions two or more times;

from a period of 18 months to until the person is 21 years of age or for a period of 18 months, whichever is longer, for a person who is under 21 years of age and who refuses to submit to a chemical test; and

from a period of 24 months to until the person is 21 years of age or for a period of 36 months, whichever is longer, for a person who is under 21 years of age who refuses to submit to a chemical test, and who has a previous license sanction for certain alcohol related offenses.

Provides that a person is an interlock restricted driver if the person, within the last 18 months, has been convicted of a driving under the influence violation.

Requires a court to order a minor's driver license suspended for a period of one year if the minor violates certain alcohol related offenses for the first time and the violation was committed on or after July 1, 2009.

Provides that a court may reduce a minor's license suspension for certain alcohol related offenses if the violation is the minor's first violation and the minor completes an educational series.

Requires a court to order a minor's driver license suspended for a period of two years for a second or subsequent violation of certain alcohol related offenses and the violation was committed on or after July 1, 2009.

Provides that for a second or subsequent violation of certain alcohol related offenses, a court shall order a minor to participate in an educational series and may order a minor to participate in a screening.

H.B. 21 [Amendments to Driver License Sanction Requirements](#)

Representative Richard A. Greenwood

Provides that the requirement that the reinstatement of a person's license for a person under 21 years of age operating a vehicle with a detectable amount of alcohol in the person's body is contingent upon the person's completion of an action recommended by a local substance abuse authority or substance abuse program is only applicable within five years after the effective date of the license sanction.

H.B. 104 [Driver License Hearing Amendments](#)

Representative Richard A. Greenwood

Provides that certain Driver License Division hearings may be held in a county that is adjacent to the county in which the arrest occurred rather than just being held in the county in which the arrest occurred.

H.B. 151 Motor Vehicle Forfeiture Amendments
Representative Christopher N. Herrod

Provides that a motor vehicle is subject to criminal or civil forfeiture upon a finding by the court that:

the motor vehicle was used in a violation of certain driving under the influence provisions;

the operator of the vehicle has previously been convicted of a felony driving under the influence violation or automobile homicide; and

the operator of the motor vehicle was driving on a denied, suspended, revoked, or disqualified license and the denial, suspension, revocation, or disqualification was imposed because of a violation of certain driving under the influence provisions.

H.B. 237 Criminal Penalties Amendments – Leaving the Scene of an Accident
Representative Christopher N. Herrod

Increases the penalty from a class A misdemeanor to a third degree felony for a person who violates the requirement to stop the vehicle at the scene of an accident and remain at the scene of the accident until the operator has fulfilled certain requirements if the accident resulted in the injury or death of a person and the person has previously been convicted of certain violations that were committed on or after May 12, 2009.

Appropriation

Alcoholic Beverage Enforcement and Treatment Restricted Account

The 2009 Legislature appropriated \$5,622,600 to the Alcoholic Beverage Enforcement and Treatment Restricted Account (§32A-1-115) for FY 2009-2010. Funding from this account is distributed on a formula basis to Utah's municipalities and counties to be used for one or more of the following purposes: (1) DUI law enforcement, (2) general alcohol-related law enforcement, (3) prosecution/court costs for alcohol-related cases, (4) treatment of alcohol problems, (5) alcohol-related education/prevention, and (6) confinement of alcohol law offenders.

2009 USAAV DUI Committee



The Utah Substance Abuse and Anti-Violence (USAAV) Coordinating Council's DUI Committee members represent state and local agencies and organizations dealing with the DUI issue in Utah. With the support and action of Utah's Legislature and other key leaders and policymakers, the Committee continued its work to strengthen Utah's ability to effectively address the DUI problem.

| Anna Kay Waddoups Citizen Member and Chair | |
|--|--|
| David Beach | Director, Highway Safety Office <i>Utah Department of Public Safety</i> |
| Edward Berkovich | Traffic Safety Resource Prosecutor <i>Utah Prosecution Council</i> |
| Bart Blackstock | Citizen Member and Former Deputy Director Driver License Division, <i>Department of Public Safety</i> |
| Paul Boyden | Executive Director <i>Statewide Association of Prosecutors</i> |
| Neil Cohen | Compliance Officer <i>Utah Department of Alcoholic Beverage Control</i> |
| Patty Fox | Post-Trial Services Program Manager <i>Salt Lake County Criminal Justice Services</i> |
| Colonel Daniel Fuhr | Superintendent, Utah Highway Patrol <i>Utah Department of Public Safety</i> |
| Kim Gibb | Bureau Chief, Driver License Division <i>Utah Department of Public Safety</i> |
| Chief Wayne Hansen | Farmington Police Department <i>Utah Chiefs of Police Association</i> |
| Gail Johnson | Educational Specialist for Driver Education <i>Utah State Office of Education</i> |
| Teri Pectol | Program Manager, Highway Safety Office <i>Utah Department of Public Safety</i> |
| Richard Schwermer | Assistant State Court Administrator <i>Administrative Office of the Courts</i> |
| Sheriff Kirk Smith | Washington County Sheriff's Office <i>Utah Sheriffs Association</i> |
| Holly Watson | Substance Abuse Education Program Manager <i>Utah Division of Substance Abuse and Mental Health</i> |
| Mary Lou Emerson <i>Director, USAAV Council</i> | Monica Taylor <i>Administrative Assistant, USAAV/CCJJ</i> |

Law Enforcement

The Utah Department of Public Safety, through its Driver License Division and Highway Safety Office, collects information on all DUI arrests. In FY 2009, Utah law enforcement officers made 15,683 DUI arrests, 386 more than in the previous year.

DUI Arrests

DUI Arrests by Type

As illustrated in the following table, the distribution of DUI arrests by type of violation in FY 2009 was very similar to previous years. The majority of the arrests, 81 percent, were for violations of the per se law, for driving at or above the legal blood/breath alcohol concentration level of .08. Almost 12 percent of arrests were for refusal to submit to a chemical test. Under Utah law, any person who operates a motor vehicle is considered to have given consent to tests of breath, blood, urine, or oral fluids for the purpose of determining whether they are driving in violation of the DUI laws. Refusal may result in revocation of the driver license and prohibition of driving without an ignition interlock device. It is also illegal to drive with any measurable controlled substance or metabolite in one's body, which accounted for one percent of arrests. Violations of the Not a Drop statute, by persons under the age of 21 who drove with any measurable alcohol concentration in their body, accounted for about six percent of the arrests. The fewest arrests were of commercial drivers exceeding the .04 limit, which represented only 0.2 percent of the total.

| DUI Arrests by Type | FY 2007 | | FY 2008 | | FY 2009 | |
|--------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Per se Alcohol (.08) | 11,732 | 80.0% | 12,368 | 80.8% | 12,705 | 81.0% |
| Refusal of Chemical Test | 1,737 | 11.9% | 1,802 | 11.8% | 1,872 | 11.9% |
| Not a Drop (< 21) | 910 | 6.2% | 902 | 5.9% | 877 | 5.6% |
| Drug or Metabolite | 251 | 1.7% | 195 | 1.3% | 205 | 1.3% |
| Commercial Driver (.04) | 28 | 0.2% | 30 | 0.2% | 24 | 0.2% |
| TOTAL | 14,658 | 100.0% | 15,297 | 100.0% | 15,683 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Overtime Enforcement Events

The arrests made in FY 2009 included those that occurred as a result of specialized DUI overtime enforcement events specifically targeted at removing drivers under the influence of alcohol and/or other drugs from Utah's roads. A portion of the DUI impound fees collected was specifically designated to fund the overtime shifts. During FY 2009, 89 law enforcement agencies throughout the state participated in overtime events, including local police agencies, Sheriffs' offices, and the Utah Highway Patrol.

The table below shows the measures associated with DUI overtime enforcement events in FY 2009. Of the total 1,232 DUI arrests, 973 were for alcohol, 155 were for drugs, and 104 were for metabolite. Among the individuals arrested, 716 submitted to a breath test with an average BAC of .14, 210 submitted to a blood test, 86 submitted to a urine test, and 104 refused all chemical tests.

| Statewide DUI Overtime Enforcement Events | FY 2007 | FY 2008 | FY 2009 | Percent Change FY 08 – FY 09 |
|---|---------|---------|---------|------------------------------|
| 5-Hour Shifts Worked | 2,347 | 1,956 | 2,180 | +11.4% |
| Vehicles Stopped | 18,642 | 14,867 | 19,233 | +29.4% |
| DUI Arrests | 1,536 | 1,286 | 1,232 | -4.2% |
| Vehicles Impounded | 1,436 | 1,206 | 1,173 | -2.7% |
| Alcohol-Related Arrests* | 862 | 747 | 742 | -0.7% |
| Drug-Related Arrests** | 631 | 460 | 440 | -4.3% |
| Warrants Served | 528 | 429 | 544 | +26.8% |
| Other Warnings/Citations | 19,276 | 15,942 | 17,199 | +7.9% |

Source: Utah Department of Public Safety, Highway Safety Office
 *Includes open container and youth alcohol violations (possession, consumption, attempted purchase, Not a Drop)
 **For example, drug possession

DUI Arrests by Agency Type

More than half of all arrests in FY 2009, nearly 56 percent, were made by municipal law enforcement agencies, with the Utah Highway Patrol responsible for almost 28 percent of arrests, and Sheriffs' Offices responsible for 16 percent of DUI arrests.

| DUI Arrests by Agency Type | FY 2007 | | FY 2008 | | FY 2009 | |
|----------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Sheriffs' Offices | 2,386 | 16.3% | 2,728 | 17.8% | 2,576 | 16.4% |
| City Police/Other | 8,979 | 61.2% | 8,805 | 57.6% | 8,733 | 55.7% |
| Highway Patrol | 3,293 | 22.5% | 3,764 | 24.6% | 4,374 | 27.9% |
| TOTAL | 14,658 | 100.0% | 15,297 | 100.0% | 15,683 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Gender

The table on the following page shows the proportions of male and female arrestees have remained very consistent over the past three years. In FY 2009, 76 percent were male and 23 percent were female.

| DUI Arrests by Gender | FY 2007 | | FY 2008 | | FY 2009 | |
|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Male | 11,611 | 79.2% | 11,965 | 78.2% | 11,972 | 76.3% |
| Female | 3,024 | 20.6% | 3,272 | 21.4% | 3,653 | 23.3% |
| Unspecified | 23 | 0.2% | 60 | 0.4% | 58 | 0.4% |
| TOTAL | 14,658 | 100.0% | 15,297 | 100.0% | 15,683 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Age

The youngest DUI driver in FY 2009 was 15 years old. About 10 percent of arrestees were under the legal drinking age of 21. Drivers between the ages of 25 and 36 accounted for nearly 39 percent of all arrests.

| DUI Arrests by Age | FY 2007 | | FY 2008 | | FY 2009 | |
|--------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Unknown | 0 | 0.0% | 2 | 0.0% | 1 | 0.0% |
| 15-20 | 1,643 | 11.2% | 1,612 | 10.5% | 1,556 | 9.9% |
| 21-24 | 2,726 | 18.7% | 2,887 | 18.9% | 2,894 | 18.5% |
| 25-36 | 5,488 | 37.4% | 5,882 | 38.4% | 6,087 | 38.8% |
| 37-48 | 3,081 | 21.0% | 3,132 | 20.5% | 3,255 | 20.8% |
| 49-87 | 1,720 | 11.7% | 1,782 | 11.7% | 1,890 | 12.0% |
| TOTAL | 14,658 | 100.0% | 15,297 | 100.0% | 15,683 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Month

As in previous years, DUI arrests remained fairly consistent throughout FY 2009, with an average arrest rate of 1,307 per month. The highest number of arrests occurred in August (1,539), with the lowest number of arrests in June (1,115).

| DUI Arrests by Month | FY 2007 | | FY 2008 | | FY 2009 | |
|----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| July | 1,214 | 8.3% | 1,302 | 8.5% | 1,230 | 7.8% |
| August | 1,228 | 8.4% | 1,312 | 8.6% | 1,539 | 9.8% |
| September | 1,314 | 9.0% | 1,353 | 8.8% | 1,469 | 9.4% |
| October | 1,250 | 8.5% | 1,242 | 8.1% | 1,263 | 8.0% |
| November | 1,178 | 8.0% | 1,270 | 8.3% | 1,395 | 8.9% |
| December | 1,257 | 8.6% | 1,307 | 8.5% | 1,207 | 7.7% |
| January | 1,175 | 8.0% | 1,139 | 7.4% | 1,361 | 8.7% |
| February | 1,100 | 7.5% | 1,176 | 7.8% | 1,220 | 7.8% |
| March | 1,246 | 8.5% | 1,370 | 9.0% | 1,286 | 8.2% |
| April | 1,202 | 8.2% | 1,245 | 8.1% | 1,201 | 7.7% |
| May | 1,277 | 8.7% | 1,314 | 8.6% | 1,397 | 8.9% |
| June | 1,217 | 8.3% | 1,267 | 8.3% | 1,115 | 7.1% |
| TOTAL | 14,658 | 100.0% | 15,297 | 100.0% | 15,683 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by County

Consistent with past years, the majority of DUI arrests during FY 2009 occurred along the Wasatch Front with Weber, Davis, Salt Lake and Utah Counties accounting for nearly 68 percent (10,601) of the total. Salt Lake County had the highest number of arrests with 5,748 (37%), while Wayne County had the fewest arrests with six (0.0%). The table below also compares the percentage of DUI arrests to the percentage of both total population and vehicle miles traveled in each county.

| County | DUI Arrests FY 2009 | | Population Estimate July 1, 2008 | | Vehicle Miles Traveled Calendar Year 2008 | |
|--|------------------------|---------------|-------------------------------------|---------------|--|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Beaver | 85 | 0.5% | 6,523 | 0.2% | 239,081,054 | 0.9% |
| Box Elder | 209 | 1.3% | 48,712 | 1.8% | 888,141,329 | 3.4% |
| Cache | 529 | 3.4% | 111,841 | 4.1% | 933,581,410 | 3.6% |
| Carbon | 250 | 1.6% | 19,841 | 0.7% | 298,870,342 | 1.2% |
| Daggett | 7 | 0.0% | 964 | 0.0% | 31,755,181 | 0.1% |
| Davis | 1,597 | 10.2% | 301,915 | 10.9% | 2,508,173,288 | 9.7% |
| Duchesne | 151 | 1.0% | 16,765 | 0.6% | 235,574,934 | 0.9% |
| Emery | 89 | 0.6% | 10,610 | 0.4% | 332,648,360 | 1.3% |
| Garfield | 34 | 0.2% | 5,044 | 0.2% | 112,698,473 | 0.4% |
| Grand | 129 | 0.8% | 9,326 | 0.3% | 319,209,905 | 1.2% |
| Iron | 424 | 2.7% | 46,341 | 1.7% | 678,994,624 | 2.6% |
| Juab | 155 | 1.0% | 10,039 | 0.4% | 393,948,954 | 1.5% |
| Kane | 131 | 0.8% | 6,663 | 0.2% | 139,478,070 | 0.5% |
| Millard | 93 | 0.6% | 13,550 | 0.5% | 432,624,553 | 1.7% |
| Morgan | 42 | 0.3% | 9,645 | 0.3% | 137,006,302 | 0.5% |
| Piute | 9 | 0.1% | 1,447 | 0.0% | 29,968,350 | 0.1% |
| Rich | 16 | 0.1% | 2,278 | 0.1% | 49,070,396 | 0.2% |
| Salt Lake | 5,748 | 36.6% | 1,030,519 | 37.5% | 8,529,679,693 | 33.0% |
| San Juan | 92 | 0.6% | 15,206 | 0.5% | 270,382,962 | 1.0% |
| Sanpete | 142 | 0.9% | 26,960 | 1.0% | 217,429,239 | 0.8% |
| Sevier | 172 | 1.1% | 20,619 | 0.7% | 330,620,440 | 1.4% |
| Summit | 378 | 2.4% | 39,951 | 1.5% | 734,516,203 | 2.8% |
| Tooele | 506 | 3.2% | 58,214 | 2.1% | 836,524,946 | 3.2% |
| Uintah | 464 | 3.0% | 30,446 | 1.1% | 356,307,584 | 1.5% |
| Utah | 1,872 | 12.0% | 519,632 | 19.0% | 3,596,652,175 | 13.9% |
| Wasatch | 159 | 1.0% | 22,845 | 0.8% | 302,992,521 | 1.2% |
| Washington | 810 | 5.2% | 144,710 | 5.2% | 1,328,955,907 | 5.1% |
| Wayne | 6 | 0.0% | 2,637 | 0.1% | 39,762,678 | 0.2% |
| Weber | 1,384 | 8.8% | 224,536 | 8.1% | 1,578,817,470 | 6.1% |
| TOTAL | 15,683 | 100.0% | 2,757,779 | 100.0% | 25,883,467,343 | 100.0% |
| Source for DUI Arrest Data: Utah Department of Public Safety, Driver License Division Source for Population Data: Governor's Office of Planning and Budget, Demographic and Economic Analysis Section Source for Vehicle Miles Traveled: Utah Department of Transportation | | | | | | |

DUI Arrests by Blood/Breath Alcohol Concentration (BAC)

The average BAC remained at .14 during FY 2009, with the highest BAC recorded at .43, over five times the legal limit!

| DUI Arrests by BAC | FY 2007 | | FY 2008 | | FY 2009 | |
|--------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| BAC Results Not Reported | 3,428 | 23.4% | 3,536 | 23.1% | 3,712 | 23.7% |
| .01 - .07 | 924 | 6.3% | 982 | 6.4% | 1,064 | 6.8% |
| .08 - .10 | 1,569 | 10.7% | 1,617 | 10.6% | 1,600 | 10.2% |
| .11 - .15 | 2,854 | 19.5% | 3,072 | 20.1% | 3,100 | 19.8% |
| .16 - .20 | 2,127 | 14.5% | 2,129 | 13.9% | 2,240 | 14.3% |
| .21 - .25 | 873 | 6.0% | 935 | 6.1% | 931 | 5.9% |
| .26 - .43 | 382 | 2.6% | 357 | 2.3% | 363 | 2.3% |
| Refused BAC Test | 1,808 | 12.3% | 1,815 | 11.9% | 1,875 | 11.9% |
| No Test/Unknown | 470 | 3.2% | 607 | 4.0% | 519 | 3.3% |
| Drug Only | 223 | 1.5% | 247 | 1.6% | 279 | 1.8% |
| TOTAL | 14,658 | 100.0% | 15,297 | 100.0% | 15,683 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

Repeat DUI Offenders by Type of Arrest

The following table shows repeat offender data by type of DUI-related arrest. Data were calculated by selecting offenders arrested in FY 2009 as a starting point, then counting back ten years to determine previous arrests. Each offender was placed in a column determined by the type of the most recent arrest. Finally, the total number of arrests reflected in this table is fewer than the total arrests for FY 2009 because each offender was counted only once, although the offender may have been arrested more than one time during the fiscal year. About 67 percent of arrests were for a first offense, 21 percent were for a second offense, eight percent were for a third offense, and four percent were for a fourth or subsequent offense.

| FY 2009 Arrest Type | Per se Alcohol (.08) | Refusal of Chemical Test | Not a Drop (< 21) | Drug or Metabolite | Commercial Driver (.04) | TOTAL | |
|-------------------------------------|----------------------|--------------------------|-------------------|--------------------|-------------------------|---------------|---------------|
| | | | | | | Number | Percent |
| Offense | | | | | | | |
| 1 st | 8,174 | 960 | 426 | 156 | 19 | 9,735 | 66.8% |
| 2 nd | 2,209 | 427 | 373 | 25 | 3 | 3,037 | 20.8% |
| 3 rd | 868 | 215 | 39 | 11 | 0 | 1,133 | 7.8% |
| 4 th | 320 | 87 | 10 | 2 | 0 | 419 | 2.9% |
| 5 th | 96 | 57 | 2 | 0 | 0 | 155 | 1.1% |
| 6 th | 38 | 21 | 1 | 0 | 0 | 60 | 0.4% |
| 7 th | 17 | 8 | 0 | 0 | 0 | 25 | 0.2% |
| 8 th | 4 | 1 | 0 | 0 | 0 | 5 | 0.0% |
| 9 th | 6 | 1 | 0 | 0 | 0 | 7 | 0.0% |
| 10 th - 14 th | 2 | 2 | 0 | 0 | 0 | 4 | 0.0% |
| TOTAL | 11,734 | 1,779 | 851 | 194 | 22 | 14,580 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI-Related Crashes, Injuries and Fatalities

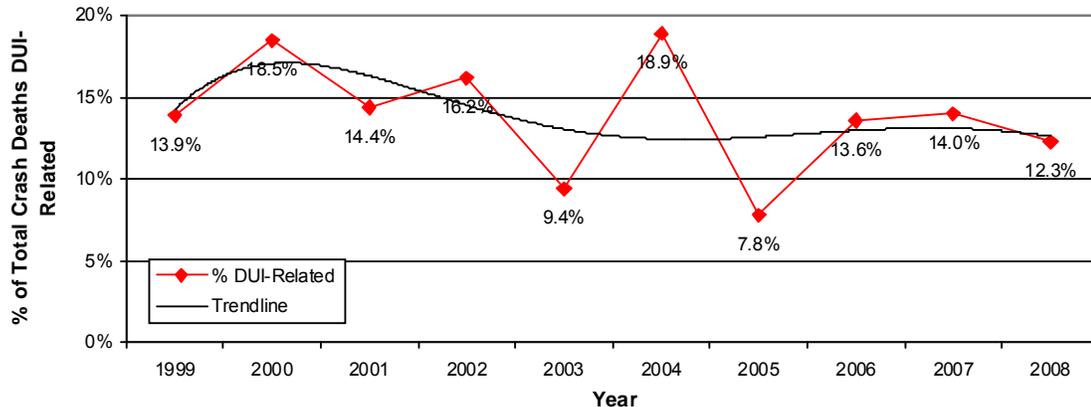
The following table shows the total number of DUI-related vehicle crashes for each calendar year from 1999 to 2008, including the number of persons injured and the number of persons killed as a result of the crashes. The number of DUI-related fatalities in Utah decreased from 42 in CY 2007 to 34 in CY 2008. According to the National Highway Traffic Safety Administration (NHTSA), whose figures differ somewhat from Utah's because they utilize imputations in their calculations when the driver's BAC is unknown, in CY 2008 Utah had the second lowest rate of DUI-related fatalities in the nation at 16.7 percent. Vermont had the lowest at 16.4 percent. The national average was 32 percent.

| Calendar Year | DUI-Related Crashes, Injuries and Fatalities in Utah, 1999-2008 | | | | | | |
|---------------|---|-----------------------|-----------------------------|---------------------|------------------------|-------------------------|---------------------|
| | Total DUI-Related Crashes* | Injuries | | | Fatalities | | |
| | | Total Injured Persons | DUI-Related Injured Persons | Percent DUI-Related | Total Crash Fatalities | DUI-Related Fatalities* | Percent DUI-Related |
| 1999 | 2,026 | 29,959 | 1,849 | 6.2% | 360 | 50 | 13.9% |
| 2000 | 2,162 | 30,086 | 1,846 | 6.1% | 373 | 69 | 18.5% |
| 2001 | 2,122 | 29,375 | 1,764 | 6.0% | 291 | 42 | 14.4% |
| 2002 | 2,088 | 30,433 | 1,685 | 5.5% | 328 | 53 | 16.2% |
| 2003 | 1,952 | 28,352 | 1,360 | 4.8% | 309 | 29 | 9.4% |
| 2004 | 1,948 | 29,638 | 1,570 | 5.3% | 296 | 56 | 18.9% |
| 2005 | 1,977 | 29,221 | 1,398 | 4.8% | 282 | 22 | 7.8% |
| 2006 | 2,488 | 27,433 | 1,844 | 6.7% | 287 | 39 | 13.6% |
| 2007 | 2,718 | 27,420 | 1,900 | 6.9% | 299 | 42 | 14.0% |
| 2008 | Not Available | Not Available | | | 276 | 34 | 12.3% |

Information Compiled by: Utah Department of Public Safety, Highway Safety Office
 Data Source: 1999-2007 Utah Crash Data and 1999-2008 Fatality Analysis Reporting System (FARS) Data
 *DUI-related crashes and fatalities include only those incidents that involved alcohol and where the driver had a BAC of ≥ .08.

The figure below illustrates the DUI-related crash fatality data in the table above for Utah, from 1999 to 2008.

Percentage of Total Crash Fatalities That Were DUI-Related in Utah, 1999-2008



Source: Utah Department of Public Safety, Highway Safety Office

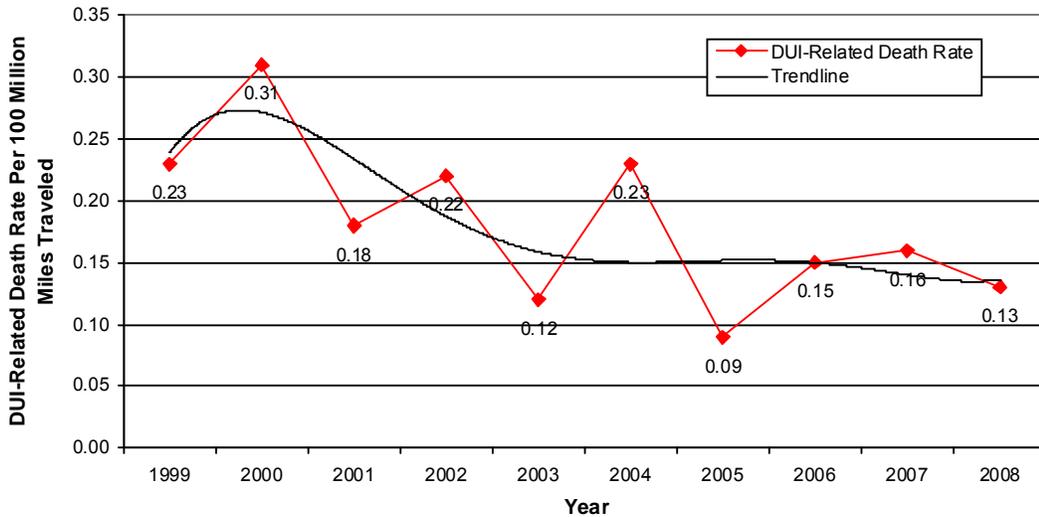
Rates of DUI-Related Fatalities by Population and Vehicle Miles Traveled
 The following table shows the rates of DUI-related fatalities per 10,000 population and per 100 million vehicle miles traveled in Utah, from 1999 to 2008.

| Calendar Year | Rates of DUI-Related Fatalities per 10,000 Population and 100 Million Vehicle Miles Traveled in Utah, 1999-2008 | | | | |
|---------------|---|--|------|---|------|
| | DUI-Related Fatalities* | DUI-Related Fatality Rates per 10,000 Population | | DUI-Related Fatality Rates per 100 Million Vehicle Miles Traveled | |
| | | Population | Rate | Vehicle Miles Traveled | Rate |
| 1999 | 50 | 2,193,014 | 0.23 | 21,858,840,775 | 0.23 |
| 2000 | 69 | 2,246,553 | 0.31 | 22,501,719,290 | 0.31 |
| 2001 | 42 | 2,305,652 | 0.18 | 23,382,719,060 | 0.18 |
| 2002 | 53 | 2,358,330 | 0.22 | 24,422,264,975 | 0.22 |
| 2003 | 29 | 2,413,618 | 0.12 | 23,946,840,430 | 0.12 |
| 2004 | 56 | 2,469,230 | 0.23 | 24,624,791,795 | 0.23 |
| 2005 | 22 | 2,547,389 | 0.09 | 25,129,538,952 | 0.09 |
| 2006 | 39 | 2,615,129 | 0.15 | 26,166,885,473 | 0.15 |
| 2007 | 42 | 2,699,554 | 0.15 | 26,824,244,333 | 0.16 |
| 2008 | 34 | 2,757,779 | 0.12 | 25,883,467,343 | 0.13 |

Information Compiled by: Utah Department of Public Safety, Highway Safety Office
 Data Source: Fatality Analysis Reporting System (FARS) Data, 1999-2008
 *DUI-related fatalities include only those incidents that involved alcohol and where the driver had a BAC of $\geq .08$.

The figure below illustrates the rate of DUI-related fatalities in Utah from 1999 to 2008, per 100 million vehicle miles traveled.

Rate Per 100 Million Vehicle Miles Traveled of DUI-Related Fatalities in Utah, 1999-2008



Source: Utah Department of Public Safety, Highway Safety Office

Day and Hour of Alcohol-Impaired Driver Crashes

The Highway Safety Office reports in calendar year 2007 the highest percentage of alcohol-impaired driver total crashes (23%) and fatal crashes (38%) occurred on Saturday. Alcohol-impaired driver total crashes peaked in the evening and early morning hours, between 5:00 p.m. and 2:59 a.m. Fatal alcohol-impaired driver crashes varied by hour and peaked at midnight.

Use of State Beer Tax Funds for DUI Law Enforcement

The state's beer tax funds are used to support DUI enforcement, as well as other alcohol-related enforcement, education/prevention and treatment activities. For FY 2009, the Legislature appropriated \$5,425,600 to be distributed from the *Alcoholic Beverage Enforcement and Treatment Restricted Account* (§32A-1-115) to municipalities and counties statewide on a formula basis.¹ Funds may be spent in one or more of six general categories: (1) DUI law enforcement, (2) general alcohol-related law enforcement, (3) prosecution/court costs for alcohol-related cases, (4) treatment of alcohol problems, (5) alcohol-related education/prevention, and (6) confinement of alcohol law offenders. Communities receiving more than \$1,000 in beer tax revenues are required to submit an Annual Report to the Utah Substance Abuse and Anti-Violence Coordinating Council by October 1st of each year, outlining how funds were utilized, whether the programs or projects funded were effective, and certifying the funds were used in accordance with the law. Municipalities and counties that do not submit their reports by the deadline forfeit their alcohol funds for the current fiscal year and these funds are then allocated to other entities, in accordance with the statute.

The following table shows how FY 2009 funds were utilized, as reported in the Alcohol Funds Annual Reports received to date.

| FY 2009 Alcohol Funds Reports How Funds Were Used - As of 10/15/09 | Number of Communities (N = 163) | Percent² |
|---|--|----------------------------|
| DUI Law Enforcement | 87 | 53.4% |
| General Alcohol-Related Law Enforcement | 88 | 54.0% |
| Prosecution/Court Costs for Alcohol-Related Cases | 41 | 25.1% |
| Treatment of Alcohol Problems | 6 | 3.7% |
| Alcohol-Related Education/Prevention | 66 | 40.5% |
| Confinement of Alcohol Law Offenders | 15 | 9.2% |

Source: Utah Substance Abuse and Anti-Violence Coordinating Council, FY 2009 Alcohol Funds Annual Reports

¹ In accordance with §32A-1-115 (UCA), the State Tax Commission distributes funds to municipalities and counties in December of each year based upon the following formula: percentage of state population (25%); percentage of statewide convictions for all alcohol-related offenses (30%); percentage of all state stores, package agencies, liquor licensees, and beer licensees (20%); and for confinement and treatment purposes (for alcohol-related offenses) based upon the percentage of the state population (25% to counties only).

² Communities may use alcohol funds for more than one of the six categories outlined in the statute.

Adjudications
& Sanctions

3

Adjudications and Sanctions

DUI offenses are classified either as misdemeanors or felonies, depending on the type of offense and whether it is a repeat offense. Misdemeanor cases are handled in Justice Courts, which are sponsored by municipalities and counties. Felony cases and cases not referred to the Justice Courts are handled in state District Courts. Of the 14,268 DUI cases that went to court during FY 2009, District Courts handled 2,266 (16 percent) and Justice Courts handled 12,002 (84 percent). The number of DUI cases disposed in the state's District Courts and the number of DUI cases charged in the Justice Courts both increased from FY 2008 to FY 2009.

| DUI Cases in Utah's Courts | FY 2007 | FY 2008 | FY 2009 | % Change FY 08 – FY 09 |
|-------------------------------|---------|---------|---------|---------------------------|
| District Court Cases Disposed | 2,025 | 2,052 | 2,266 | +10.4% |
| Justice Court Charges | 11,074 | 11,229 | 12,002 | +6.9% |
| Total DUI Cases | 13,099 | 13,281 | 14,268 | +7.4% |

Source: Utah Administrative Office of the Courts

Justice Court DUI Data

Justice Court DUI Charges and Outcomes

During FY 2009, Utah's Justice Courts handled 12,002 DUI cases, 773 more than in FY 2008. The following table details the DUI cases filed in Justice Courts and their outcomes. This table does not represent the actual DUI conviction rate for the Justice Courts, however, as it includes cases filed in FY 2008 that were not resolved until FY 2009. In addition, 2,497 cases were still pending resolution at the close of FY 2009.

| Justice Court DUI Charges and Outcomes | FY 2007 | | FY 2008 | | FY 2009 | | % Change FY 08 – FY 09 |
|--|---------|---------|---------|---------|---------|---------|---------------------------|
| | Number | Percent | Number | Percent | Number | Percent | |
| Total DUI Charges Filed | 11,074 | 100.0% | 11,229 | 100.0% | 12,002 | 100.0% | +6.9% |
| Guilty | 6,875 | 62.1% | 6,681 | 59.5% | 7,121 | 59.3% | +6.6% |
| Dismissed or Not Guilty | 2,649 | 23.9% | 2,587 | 23.0% | 2,384 | 19.9% | -7.8% |
| Cases Pending | 1,550 | 14.0% | 1,961 | 17.5% | 2,497 | 20.8% | +27.3% |

Source: Utah Administrative Office of the Courts

Justice Court DUI Sanctions

The Justice Courts also track other DUI-related case information such as blood/breath alcohol content (BAC) reported; screening, assessment and treatment ordered; and ignition interlock ordered. The table below includes data for those Justice Courts reporting to the Department of Public Safety's Bureau of Criminal Identification. The numbers reflect only those dispositions loaded into the Criminal History Repository, and do not include those in the suspense file. The data indicate in 2,708 cases the blood/breath alcohol content was known. The table further shows judges ordered offenders to participate in an educational series in 1,782 cases, substance abuse treatment in 1,291 cases, and that ignition interlock devices were ordered in 853 cases.

| Justice Court DUI Sanctions | FY 2007 | FY 2008 | FY 2009 |
|--|----------------|----------------|----------------|
| Number of Justice Courts Providing Data | 60 | 88 | 113 |
| Blood/Breath Alcohol Content Known | 803 | 1,672 | 2,708 |
| Substance Abuse Screening and Assessment Ordered | 796 | 1,104 | 1,953 |
| Substance Abuse Treatment Ordered | 580 | 819 | 1,291 |
| Educational Series Ordered | 652 | 1,058 | 1,782 |
| Ignition Interlock Ordered | 338 | 358 | 853 |
| Supervised (Non-Court) Probation | 329 | 1,244 | 2,312 |
| Electronic Monitoring | 29 | 36 | 131 |
| Enhancement Notification | 777 | 1,278 | 2,184 |

Source: Utah Department of Public Safety, Bureau of Criminal Identification

District Court DUI Data

District Court DUI Case Outcomes

The table below shows case outcomes by Judicial District for the 2,266 DUI cases processed by Utah's eight District Courts during FY 2009.

| FY 2009 District Court DUI Case Outcomes | | | | | | | | | | |
|---|--------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|--------------|----------------|
| DUI Case Outcomes | Judicial District | | | | | | | | Total | Percent |
| | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | | |
| Deceased | 1 | 0 | 2 | 1 | 0 | 0 | 1 | 0 | 5 | 0.2% |
| Declined Prosecution | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 2 | 5 | 0.2% |
| Dismissed | 84 | 96 | 82 | 51 | 18 | 23 | 9 | 14 | 377 | 16.6% |
| Diversion | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.0% |
| Guilty | 122 | 347 | 402 | 464 | 120 | 75 | 61 | 119 | 1,710 | 75.5% |
| No Contest | 1 | 4 | 3 | 23 | 4 | 3 | 1 | 1 | 40 | 1.9% |
| Not Guilty | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0.0% |
| Plea in Abeyance | 2 | 3 | 0 | 6 | 2 | 4 | 0 | 3 | 20 | 0.9% |
| Remanded | 1 | 1 | 43 | 2 | 6 | 1 | 0 | 1 | 55 | 2.4% |
| Transferred | 0 | 1 | 7 | 43 | 0 | 0 | 1 | 1 | 53 | 2.3% |
| TOTAL | 211 | 453 | 539 | 590 | 153 | 106 | 73 | 141 | 2,266 | 100.0% |

Source: Utah Administrative Office of the Courts

Seventy-five percent of the cases resulted in a guilty plea or verdict. The defendant was found not guilty in only one case. In nearly 17 percent of the cases, the case was either dismissed or declined for prosecution. It should be noted that this table is not a depiction of the District Courts' actual DUI conviction rates, as it only examined cases that were disposed of during FY 2009. Pending cases were not included in the data analysis.

District Court Repeat Offender Data

The District Courts also track how repeat DUI offenders are handled. In the table below, which includes data for Fiscal Year 2007 through Fiscal Year 2009, the first column shows if the offender was charged as a first-time offender or a repeat offender. The second column indicates how many of those in the first column actually met that criterion. The last column shows how the offender was sentenced.

In FY 2009 for example, 26 percent of DUI offenders were charged with a third offense, while 17 percent were actually third-time offenders, and 22 percent were sentenced as third-time offenders. Discrepancies between charges and sentencing are not unusual. An offender's sentence is dependent upon the conviction, which may or may not be the same as the offense charged due to plea bargains or court procedural issues.

| District Court Repeat DUI Offender Data for Fiscal Years 2007-2009³ | | | | | | | | | |
|---|-------------------------------|--------------|--------------|-----------------------------|--------------|--------------|---------------------------------|--------------|--------------|
| Offense | Offense Was Charged As | | | Offense Was Actually | | | Offense Was Sentenced As | | |
| | FY 07 | FY 08 | FY 09 | FY 07 | FY 08 | FY 09 | FY 07 | FY 08 | FY 09 |
| 1 st Offense | 51% | 48% | 53% | 49% | 46% | 53% | 54% | 50% | 54% |
| 2 nd Offense | 16% | 18% | 18% | 17% | 23% | 23% | 17% | 21% | 20% |
| 3 rd Offense | 28% | 30% | 26% | 26% | 22% | 17% | 24% | 24% | 22% |
| 4 th Offense | 3% | 2% | 2% | 3% | 4% | 3% | 3% | 3% | 2% |
| 5 th to 10 th Offense | 2% | 2% | 1% | 5% | 5% | 4% | 2% | 2% | 2% |
| TOTAL | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Utah Administrative Office of the Courts

District Court DUI Sanctions

The District Courts track DUI-related case information regarding sanctions ordered as well. The table on the following page includes the FY 2009 data and shows in 590 cases the blood/breath alcohol content was known. The table further shows judges ordered offenders to participate in an educational series in 44 percent of cases, substance abuse treatment in 66 percent of cases, and that ignition interlock devices were ordered in 312 cases. DUI offenders were notified 100 percent of the time that they may be subject to enhancements.

³ The cases in the table represent only those for which the number of the offense was known; in FY 2007, FY 2008 and FY 2009, the number was unknown in a large number of cases (50–72 percent). In addition, the following cases were not included: bail forfeiture, deceased, declined, dismissed, not guilty, remanded, and transferred.

| District Court DUI Sanctions | FY 2007 | FY 2008 | FY 2009 |
|--|----------------|----------------|----------------|
| Blood/Breath Alcohol Content Known | 607 | 603 | 590 |
| Substance Abuse Screening and Assessment Ordered | 620 (63.7%) | 646 (61.9%) | 693 (65.6%) |
| Substance Abuse Treatment Ordered | 626 (64.3%) | 633 (62.0%) | 698 (66.3) |
| Educational Series Ordered | 444 (45.7%) | 417 (40.2%) | 459 (44.5%) |
| Ignition Interlock Ordered | 288 | 353 | 312 |
| Supervised (Non-Court) Probation | 516 | 711 | 851 |
| Electronic Monitoring | 119 | 174 | 128 |
| Enhancement Notification | 100% | 100% | 100% |
| Source: Utah Administrative Office of the Courts | | | |

Other DUI Sanctions

The Driver License Division tracks other DUI sanctions. The following table lists the average sanctions applied against DUI offenders. Not all offenders are ordered to serve a jail sentence or perform community service hours, however, all convicted DUI offenders are assessed a fine and a surcharge. For a first offense the minimum fine is \$700, for a second offense within 10 years the minimum fine is \$800, and for a third or subsequent offense the minimum fine is \$1,500.

| Average Jail Sentence, Community Service Hours and Fines | FY 2007 | FY 2008 | FY 2009 |
|---|----------------|----------------|----------------|
| Average Jail Sentence | 171.2 days | 145.9 days | 150.9 days |
| Average Community Service Hours | 79 hours | 96 hours | 144 hours |
| Average Fine for DUI Convictions | \$1,528.52 | \$1,488.50 | \$1,467.63 |
| Average Fine for Other Alcohol/ Drug Related Convictions | \$1,321.93 | \$1,213.52 | \$1,280.12 |
| Source: Utah Department of Public Safety, Driver License Division | | | |

Driver License
Control

4

Driver License Control

The Department of Public Safety's Driver License Division is required to suspend or revoke the license of a person who has been convicted or sanctioned for the following:

- Driving under the influence
- Driving with any measurable controlled substance or metabolite in the body
- Refusal to submit to a chemical test
- Automobile homicide
- "No-alcohol" conditional license
- Alcohol restricted driver (ARD) violation
- Interlock restricted driver (IRD) conviction

Alcohol Hearing Statistics

When a driver is arrested for DUI, the license is taken and a 30-day temporary license is issued. Drivers may request a license hearing within 10 days, and the Driver License Division must schedule the hearing within the 30-day period of the temporary license.

As shown in the table below, there were 5,159 alcohol hearings held in FY 2009. The Division is unable to take any action against a driver if the arresting officer does not appear at the hearing. To improve appearance rates, the Division offers a telephonic option whereby officers or offenders can phone in for the hearing. In 2,388 cases, one of the parties called in for the hearing.

| FY 2009 Alcohol Hearing Statistics | | | | | | |
|------------------------------------|---------------------|--------------|-----------------------|-----------------|-----------------|------------------|
| ACD Code | Total # of Hearings | No Officer | No Officer Telephonic | Other No Action | Total No Action | Total Telephonic |
| Per Se | 4,393 | 913 | 140 | 637 | 1,690 | 2,007 |
| Not a Drop | 214 | 25 | 7 | 13 | 45 | 104 |
| Refusal | 552 | 92 | 22 | 40 | 154 | 277 |
| TOTAL | 5,159 | 1,030 | 169 | 690 | 1,889 | 2,388 |

Source: Utah Department of Public Safety, Driver License Division

Screening, Assessment, Education and Treatment

Screening and Assessment

As part of any sentence for a DUI offense, Utah law requires offenders to participate in a screening and, if indicated by the screening, an assessment. A screening involves gathering information that is used to determine if an individual has a problem with alcohol and/or other drug abuse, and if so, whether an in-depth clinical assessment is appropriate. An assessment is a collection of detailed information concerning the individual's alcohol and/or other drug abuse, emotional and physical health, social roles, and other relevant areas of the individual's life. The assessment is used to determine the need for substance abuse treatment.⁴

Education

For a first offense and for a second offense within 10 years, the sentence must include participation in an educational series if the court does not order treatment. The purpose of DUI education is to “address any problems or risk factors that appear to be related to use of alcohol and other drugs and attempt to help the individual recognize the harmful consequences of inappropriate use, with special emphasis placed on the dangers of drinking and driving.”⁵ Utah DUI offenders sentenced to an educational series attend the PRIME for Life program developed by the Prevention Research Institute (PRI). The 16-hour curriculum presents research-based information about the risks associated with

⁴ Center for Substance Abuse Treatment, *Screening and Assessment for Alcohol and Other Drug Abuse Among Adults in the Criminal Justice System*, Treatment Improvement Protocol (TIP) Series, #7.

⁵ Utah Sentencing Commission, *DUI Best Sentencing Practices Guidebook*, 2003.

alcohol and other drug use that helps participants identify lifestyle choices to reduce their personal risks⁶.

PRI conducts periodic studies of PRIME for Life participants to measure the impact on changing beliefs about alcohol use, understanding the risks associated with alcohol use, and desire to change personal drinking behavior. In previous years this study was published annually, however, because the findings have been virtually identical from year to year, PRI now publishes the study less frequently. The next study, which will provide Utah data evaluated since the last report in 2006, was not available in time for inclusion in this report.

Treatment

For a first and second DUI offense, the court *may* order treatment; for a third or subsequent offense within 10 years, the court *must* order substance abuse treatment. "Treatment involves the application of planned procedures to identify and change patterns of behavior that are maladaptive, destructive, and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning. DUI offenders assessed as meeting the diagnostic criteria for a substance use disorder should participate in a treatment program in addition to, or in lieu of, the educational course."⁷ Treatment should address both alcohol and other drug problems. The level of treatment needed (e.g., day treatment, outpatient, intensive outpatient, residential) is determined by the assessment on the basis of the severity of the substance abuse disorder.

⁶ Prevention Research Institute, PRIME for Life Utah 2004.

⁷ Utah Sentencing Commission, *DUI Best Sentencing Practices Guidebook*, 2003.

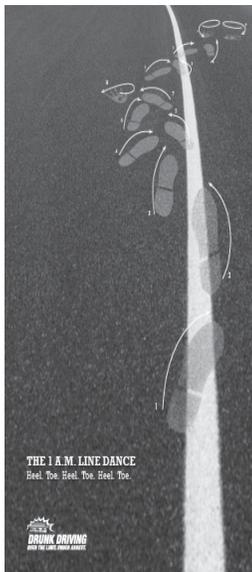
Impaired
Driving Media
Campaign
6

Utah's Impaired Driving Media Campaign



During FY 2009, the Utah Department of Public Safety's Highway Safety Office continued its statewide media and outreach campaign. The campaign messages were designed to change Utah citizens' perceptions and behaviors regarding driving under the influence of alcohol, and to reinforce the message that impaired driving is one of the most frequently committed and deadliest crimes. The campaign focused primarily on 21-34 year olds, but also targeted college students and high school seniors. Utah's multi-media campaign is funded by the National Highway Traffic Safety Administration and builds upon NHTSA's television and radio ads. Below are examples from the FY 2009 campaign.

Print Ad in College Newspapers



Billboards



Graduation Press Event



Holiday Media Event



College Press Event



UTAH DUI SENTENCING MATRIX

(Current as of October 2009)

| Court-Ordered Sentencing | MISDEMEANOR DUI | | FELONY DUI |
|---|--|--|---|
| | FIRST OFFENSE | SECOND OFFENSE WITHIN 10 YEARS | |
| CLASSIFICATION (§41-6a-503) | CLASS B MISDEMEANOR CLASS A MISDEMEANOR: <ul style="list-style-type: none"> • if bodily injury¹ • if passenger is under 16 • if passenger is under 18 and driver is 21 or older | CLASS B MISDEMEANOR CLASS A MISDEMEANOR: <ul style="list-style-type: none"> • if bodily injury¹ • if passenger under 16 • if passenger is under 18 and driver is 21 or older | THIRD DEGREE FELONY <ul style="list-style-type: none"> • if third or subsequent offense within 10 years • if serious bodily injury¹ • if any prior felony DUI conviction or automobile homicide¹ conviction |
| Jail: (§41-6a-505) | SHALL order: 48 consecutive hours OR 48 hours compensatory service OR electronic home confinement ² | SHALL order: 240 consecutive hours OR 240 hours compensatory service OR electronic home confinement ² | SHALL order: 0-5 year prison term OR 1,500 hours jail (62.5 days) MAY order: Electronic home confinement ² |
| Fine: (§41-6a-505) | SHALL order: \$700 minimum plus surcharge | SHALL order: \$800 minimum plus surcharge | SHALL order: \$1,500 minimum plus surcharge, unless 0-5 prison term is imposed |
| Screening, Assessment, Educational Series, Treatment (§41-6a-505) | SHALL order: <ul style="list-style-type: none"> • Screening • Assessment (if found appropriate by screening) • Educational series, unless treatment is ordered MAY order: <ul style="list-style-type: none"> • Treatment | SHALL order: <ul style="list-style-type: none"> • Screening • Assessment (if found appropriate by screening) • Educational series, unless treatment is ordered MAY order: <ul style="list-style-type: none"> • Treatment | SHALL order: <ul style="list-style-type: none"> • Screening • Assessment • Intensive treatment or inpatient treatment and aftercare for not less than 240 hours, unless 0-5 prison term is imposed |
| Probation: ³ (§41-6a-507) | MAY order supervised probation | SHALL order supervised probation | SHALL order supervised probation if 0-5 prison term is not imposed |
| Ignition Interlock ⁴ (§41-6a-518) (§41-6a-530) | MAY order: <ul style="list-style-type: none"> • Ignition interlock SHALL order: <ul style="list-style-type: none"> • Interlock if under 21 • Interlock for an ARD⁵ violation OR describe on the record why such order not appropriate | MAY order: <ul style="list-style-type: none"> • Ignition interlock SHALL order: <ul style="list-style-type: none"> • Interlock if under 21 • Interlock for an ARD⁵ violation OR describe on the record why such order not appropriate | MAY order: <ul style="list-style-type: none"> • Ignition interlock SHALL order: <ul style="list-style-type: none"> • Interlock if under 21 • Interlock for an ARD⁵ violation OR describe on the record why such order not appropriate |
| High BAC: (.16 or higher) (§41-6a-505) | SHALL order: <ul style="list-style-type: none"> • Supervised probation³ • Treatment and interlock⁴ and/or electronic home confinement² OR describe on the record why such order(s) not appropriate | SHALL order: <ul style="list-style-type: none"> • Supervised probation³ • Treatment and interlock⁴ and/or electronic home confinement² OR describe on the record why such order(s) not appropriate | SHALL order: <ul style="list-style-type: none"> • Supervised probation³ if 0-5 prison term is not imposed • Treatment and interlock⁴ and/or electronic home confinement² OR describe on the record why such order(s) not appropriate |
| Driver License Suspension (§41-6a-509) | Court MAY order additional 90 days, 180 days, 1 year or 2 years | Court MAY order additional 90 days, 180 days, 1 year or 2 years | Court MAY order additional 90 days, 180 days, 1 year or 2 years |

¹A person is guilty of a separate offense for each victim suffering bodily injury, serious bodily injury or death, whether or not the injuries arise from the same episode of driving.

²See §41-6a-506 for electronic home confinement provisions.

³Supervised probation is also required for all violations of §41-6a-517 (driving with any measurable controlled substance in the body).

⁴Adoption of the ignition interlock restricted driver (IRD) provision (§41-6a-518.2) does not change the obligation of judges to impose interlock as a condition of probation.

⁵Alcohol restricted driver

The following statutory provisions also apply to DUI offenders, although they do not require a court order. Failure to comply carries additional criminal sanctions.

| Statutory Provisions | MISDEMEANOR DUI | | FELONY DUI |
|--|---|---|--|
| | FIRST OFFENSE | SECOND OFFENSE WITHIN 10 YEARS | |
| Driver License Suspension (§41-6a-509) | If 21 or older: Suspend for 120 days If under 21: Suspend until 21 or for 120 days, whichever is longer OR If not issued a license, deny application for license or learner's permit until 21 or for 120 days, whichever is longer | If 21 or older: Revoke for 2 years If under 21: Revoke until 21 or for 2 years, whichever is longer OR If not issued a license, deny application for license or learner's permit until 21 or for 2 years, whichever is longer | If 21 or older: Revoke for 2 years If under 21: Revoke until 21 or for 2 years, whichever is longer |
| (§41-6a-521) | REFUSAL OF CHEMICAL TEST | | |
| (§41-6a-517) | 1st Offense If 21 or older: Revoke for 18 months If under 21: Revoke until 21 or for 18 months, whichever is longer 2nd and Subsequent Offenses If 21 or older: Revoke for 36 months If under 21: Revoke until 21 or for 36 months, whichever is longer | | |
| | DRIVING WITH CONTROLLED SUBSTANCE IN BODY | | |
| | 1st Offense If 21 or older: Suspend for 120 days If under 21: Suspend until 21 or for 120 days 2nd and Subsequent Offenses If 21 or older: Revoke for 2 years If under 21: Revoke until 21 or for 2 years | | |
| Interlock Restricted Driver (§41-6a-518.2) An "interlock restricted driver" may not operate a motor vehicle without an ignition interlock system as ordered by a court or the Board of Pardons and Parole, or due to a statutory provision. | Ignition interlock required for 18 months | Ignition interlock required for 3 years | Ignition interlock required for 6 years |
| | <ul style="list-style-type: none"> • Ignition interlock required for 3 years for operating a vehicle without an ignition interlock system if an interlock restricted driver • Ignition interlock required for 3 years for refusal to submit to a chemical test • Ignition interlock required for 3 years if under the age of 21 at time of DUI • Ignition interlock required for 10 years if convicted of automobile homicide | | |
| Alcohol Restricted Driver (§41-6a-529) An "alcohol restricted driver" may not operate or be in actual physical control of a vehicle with any measurable or detectable amount of alcohol in the person's body. | Alcohol restricted driver for 2 years If bodily injury, passenger under 16, or passenger under 18 if driver 21 or older, alcohol restricted driver for 5 years | Alcohol restricted driver for 10 years | Alcohol restricted driver for life |
| | Convictions for the following violations will also result in a person being an alcohol restricted driver for the time periods indicated: <ul style="list-style-type: none"> • 2 years for impaired driving (§41-6a-502.5) • 3 years for driving with measurable/detectable alcohol in body if an alcohol restricted driver OR for driving without an ignition interlock system if an interlock restricted driver (§41-6a-518.2) • 5 years for refusal of a chemical test (§41-6a-520) • 10 years for impaired driving OR refusal of a chemical test within 10 years of a prior offense • Until 21 for a person who is under 21 years of age at the time of the violation | | |



Utah Commission
on Criminal and
Juvenile Justice

CCJJ
Utah State Capitol Complex
Senate Office Building – Suite 330
P.O. Box 142330
Salt Lake City, Utah 84114-2330
Phone: 801-538-1031 • Fax: 801-538-1024
www.justice.utah.gov