



ADVOCATES  
FOR HIGHWAY  
& AUTO SAFETY



April 1, 2022

The Honorable Timothy M. Kennedy, Chair  
Senate Transportation Committee  
New York State Legislature  
Legislative Office Building, Room 829  
Albany, New York 12248

Dear Chair Kennedy:

As representatives of leading public health and safety organizations working to pass highway and auto safety laws that prevent unnecessary deaths and injuries and contain crash costs, we urge you to support Senate Bill (S.) 131 and Assembly Bill (A.) 7197. This legislation will lower the limit of alcohol-impaired driving to .05 percent blood alcohol concentration (BAC), deter drunk driving and save lives.

According to the National Highway Traffic Safety Administration (NHTSA), traffic fatalities in New York increased 12 percent (1,046 people were killed) in 2020. During first nine months of 2021, 811 people were killed on New York roads, a six percent increase over the same period in 2020. During the last two years, deadly driving behaviors including impairment, lack of seat belt use and speeding have been cited as the primary factors contributing to steep increases in traffic fatalities. Traffic crashes also cost New York taxpayers nearly \$18.5 billion annually when adjusted for inflation. Traffic crashes are a deadly and costly threat to New York families and visitors that requires urgent attention and action. Advancing .05 percent BAC legislation will dissuade drinking and driving and curb needless highway deaths and injuries.<sup>i</sup>

A new [study](#), *Evaluation of Utah's .05 BAC Per Se Law*, released by NHTSA provides critical data on the success of Utah's .05 percent BAC law which was enacted in 2017. The study finds that Utah experienced a nearly 20 percent drop in traffic fatalities in 2019 (248), the first year the law was in effect, compared to 2016 (281), the last year before the law was enacted.<sup>ii</sup> This improvement occurred despite an increase in vehicle miles traveled (VMT). The fatality reduction also outpaced neighboring states as well as the nation as a whole.

Opponents may state that lowering the BAC while driving will increase arrests, but studies show that when states lowered their BAC limits from .10 to .08 percent, there were no adverse impacts on the operation of the criminal justice system. The new Utah study provides clear data which shows that following the .05 percent BAC law going into effect, arrests due to drunk driving did not spike nor was the criminal justice system overwhelmed. Some opponents also claim .05 BAC laws will reduce alcohol sales and endanger certain businesses but reducing BAC limits does not discourage alcohol consumption.<sup>iii</sup> In fact, the new Utah study found that state revenues from taxes related to the hospitality industry continued to rise, and tourism increased. Moreover, more than 90 countries have already adopted .05 percent BAC or lower limits and affirmed the safety benefits of the policy.<sup>iv</sup>

Research and laboratory evidence finds that most adults are significantly impaired at .05 percent BAC.<sup>v</sup> When behind the wheel of a car, driving skills are degraded resulting in reduced coordination, decreased ability to track moving objects, difficulty steering and diminished response to emergency driving situations.<sup>vi</sup> The risk of being killed in a single-vehicle crash with BACs of .05 to .079 percent is seven to 21 times higher than for drivers without measurable alcohol.<sup>vii</sup>

Approximately 30 percent of all traffic fatalities nationwide involve an alcohol-impaired driver indicating progress on curbing drunk driving must be accelerated. If all states adopted a .05 percent BAC or lower law, our nation would experience an 11 percent decline in fatal alcohol crashes and 1,790 lives would be saved.<sup>viii</sup> A national poll

by the Texas Medical Center Health Policy Institute found 55 percent of Americans approve lowering the BAC limit while driving to .05 percent.<sup>ix</sup>

Growing concern regarding polysubstance use, or polyuse, should be considered as well. Polyuse refers to the use of multiple drugs such as alcohol and marijuana. After alcohol, marijuana is the drug most often found in the blood of drivers involved in crashes according to the National Institute on Drug Abuse. Small amounts of more than one drug can result in an amplification of impairment and raise risk behind the wheel.

In New York, a BAC of .05 to .079 percent is already evidence of impairment or driving while ability impaired (DWAI). Utah undertook a review of other states with a law that addresses impairment at .05 to .079 percent BAC but retains a .08 percent BAC limit for driving while impaired (DWI). They concluded that a .05 percent BAC limit for DWI is more effective in deterring impaired driving. Changing New York's law to lower the DWI limit to .05 percent simply unifies the DWAI and DWI laws and reinforces what the state has already noted, measurable impairment is evidenced at .05 percent BAC and presents a danger on the state's roads.

Each person killed in a preventable alcohol-related crash on New York roads forever changes the lives of families and communities. These tragedies are preventable. The data are clear, the lifesaving benefits are certain, the support is documented and the justification for action is compelling. We urge you to seriously address the death and injury toll of alcohol-impaired driving by advancing S. 131 / A. 7197. Thank you for consideration of this urgent public safety issue.

Sincerely,

Catherine Chase, President  
Advocates for Highway and Auto Safety

Amy Cohen, Co-Founder  
Families for Safe Streets

Natalie A. Draisin, Director  
North American Office & United Nations  
Representative  
FIA Foundation

Janette Fennell, Founder and President  
Kids and Car Safety

Marcus Kowal and Mishel Eder, Co-Founders  
Liam's Life Foundation  
Parents of Liam Mikael Kowal

Alex Otte, National President  
Mothers Against Drunk Driving (MADD)

Lorraine Martin, President & CEO  
National Safety Council

Tim Seeley, Executive Director  
Northeastern NY Safety & Health Council

William Aiken, President  
Remove Intoxicated Drivers (RID-USA, Inc.)

Elizabeth Adams  
Senior Director of Advocacy & Organizing  
Transportation Alternatives

Leah Shahum, Founder and Director  
Vision Zero Network

Honorable T. Bella Dinh-Zarr, Former Vice Chair  
National Transportation Safety Board  
Co-founder, *.05 Saves Lives* Coalition

Thomas M. Louizou, Former Regional Administrator  
National Highway Traffic Safety Administration  
Co-founder, *.05 Saves Lives* Coalition

Additional organizations that are not signers but recommend or support .05 percent BAC policy:

American Medical Association (AMA)  
American Public Health Association (APHA)  
Association for the Advancement of Automotive  
Medicine (AAAM)  
National Academies of Sciences, Engineering and  
Medicine (NASEM)

National Road Safety Foundation  
National Transportation Safety Board (NTSB)  
Safe States Alliance  
Society for Public Health Education  
World Health Organization (WHO)

cc: Senate Transportation Committee Members

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- <sup>i</sup> NTSB, *.05 BAC Safety Briefing Facts*, February 2017.
- <sup>ii</sup> United States Department of Transportation, NHTSA, Office of Behavioral Safety Research, *Evaluation of Utah's .05 BAC Per Se Law [Traffic Tech]*, DOT HS 813 234; February 2022.
- <sup>iii</sup> NTSB, *.05 BAC Safety Briefing Facts*, February 2017.
- <sup>iv</sup> Fell, James C., *The Merits of Adopting a 0.05 Administrative Blood Alcohol Concentration Limit for Driving*, [Am J Public Health](#). 2016 June; 106(6): 977–978.
- <sup>v</sup> *Ibid.*
- <sup>vi</sup> MADD, *What is .08?* Available at: <http://www.madd.org/drunk-driving/about/understanding-08.html>
- <sup>vii</sup> Fell, Jim C., Voas, Robert B, *The effectiveness of a 0.05 blood alcohol concentration (BAC) limit for driving in the United States*, PIRE. June 2014.
- <sup>viii</sup> NORC: Fell JC & Scherer M, *Estimation of the Potential Effectiveness of Lowering the Blood Alcohol Concentration (BAC) Limit for Driving from 0.08 to 0.05 Grams per Deciliter in the United States*, 2017. Available at: <https://bit.ly/2E5p1iq>
- <sup>ix</sup> Governing.com, *How Drunk Is Too Drunk to Drive?* October 2018. Available at: <https://bit.ly/2Et1r6C>.