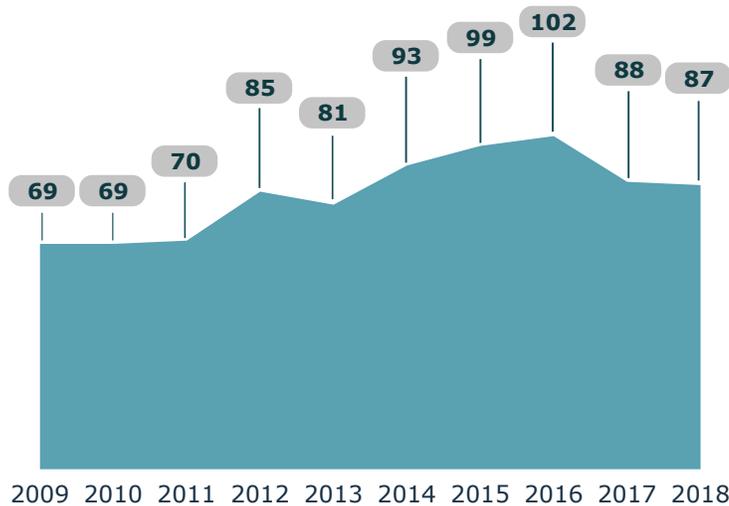


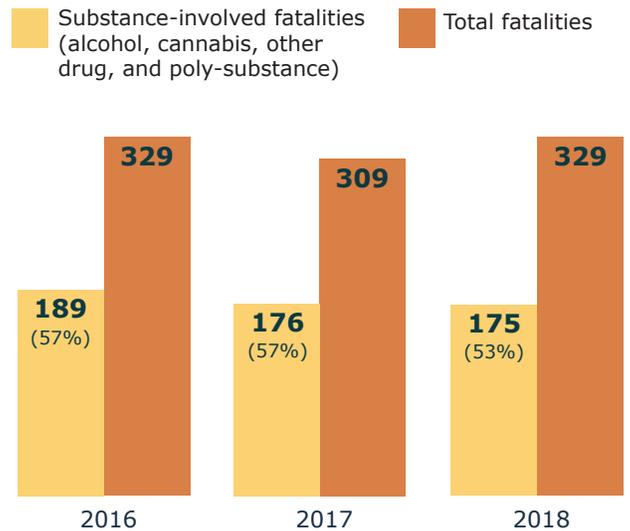
Driving under the influence (DUI) is a dangerous crime and a major threat to public safety. In every state, it is illegal to drive with a blood alcohol concentration (BAC) of 0.08 percent or higher. However, many other substances besides alcohol also impair driving, including cannabis, antidepressants, opioids, over-the-counter medications, and illegal drugs. These substances can cause side effects that put drivers at risk, such as drowsiness, loss of coordination, nausea, and blurred vision. Poly-drug drivers—those who have consumed a combination or multiple combinations of drugs and alcohol—are now the most common type of impaired drivers in fatal crashes.

ALCOHOL-IMPAIRED DRIVING FATALITIES IN NEVADA, 2009–2018



Source: [National Highway Traffic Safety Administration, United States Department of Transportation](#)

DRIVING FATALITIES IN NEVADA, 2016–2018



Source: [Nevada's Office of Traffic Safety, Department of Public Safety](#)

In 2018, drunk-driving crashes in the U.S. caused:

10,511 fatalities

1 death every 50 minutes

1 in 3 traffic-crash deaths

Source: [National Highway Traffic Safety Administration, U.S. Department of Transportation](#)

NEVADA LAW

DRIVING UNDER THE INFLUENCE OF:

ALCOHOL

Alcohol level is measured by the weight of the alcohol in a certain volume of blood, or BAC. At a BAC of 0.08 grams of alcohol per deciliter (g/dL) of blood, crash risk increases. Because of this risk, it is illegal in all 50 states to drive with a BAC of 0.08 percent or higher. Blood alcohol concentration is measured by a breathalyzer—a device that measures the amount of alcohol in a driver's breath—or by a blood test.

CANNABIS

Although Nevada voters approved medical cannabis in 2000 and recreational cannabis in 2016, it is still illegal to drive under the influence of marijuana ([Nevada Revised Statutes \[NRS\] 484C.110](#)). Nevada currently uses a *per se* (presumed illegal) standard for those arrested for DUI with cannabis or cannabis metabolites in their system. Under the *per se* standard, a driver commits an offense if his or her blood contains 2 nanograms per milliliter (ng/mL) or more of delta-9-tetrahydrocannabinol (THC), or 5ng/mL or more of 11-OH-tetrahydrocannabinol (11-hydroxy-THC).

OTHER SUBSTANCES

A driver can also be arrested if he or she is under the influence of other substances, including controlled substances, certain prohibited substances, chemicals, poison or organic solvent, or any compound or combination of any of these ([NRS 484C.110](#)). Illegal drugs—such as cocaine, heroin, and methamphetamines—are classified as prohibited substances in statute.

Nevada is one of at least five states that have specific per se limits for cannabis and driving.



Sources: [National Conference of State Legislatures](#); [AAA Foundation for Traffic Safety](#)

Amounts reflect ng/mL of delta-9-tetrahydrocannabinol.

POTENTIAL CONSEQUENCES

Nevada law does not differentiate between a DUI for alcohol, a DUI for cannabis, and a DUI for prohibited substances. The law provides several potential consequences for DUI, including:

- **Education** on alcohol or other substance abuse;
- **Community service**;
- **Fines**;
- Installation of an **ignition interlock device**;
- Assignment to a **treatment** program;
- **Suspension of driver's license and/or car registration**; and
- **Jail or imprisonment.**

A combination of these penalties is commonly imposed for a specific offense.

In Nevada, the time period for a subsequent DUI offense to be added to an earlier DUI offense is seven years ([NRS 484C.400](#)). Nevada law does not provide for enhanced penalties if the subsequent offense occurs earlier within the seven-year period, unless a person has been convicted of a felony DUI in Nevada or another state. Under this circumstance, any subsequent DUI offense is punishable as a felony regardless of the time period between offenses.

There is no differentiation between a third or subsequent DUI offense in Nevada. Courts may order a third-time DUI offender to undergo a treatment program, for a minimum of three years, based on a report from a counselor or physician who diagnoses a drug or alcohol abuse problem ([NRS 453.580](#)).

NEVADA LAW (CONT'D)

NEVADA BASIC DUI PENALTIES

| OFFENSE | DURATION OF INCARCERATION | FINE |
|---|---|--------------------|
| First without injury (misdemeanor) | 2 days to 6 months in jail or 48 to 96 hours of community service | \$400 to \$1,000 |
| Second within 7 years without injury (misdemeanor) | 10 days to 6 months in jail or residential confinement; attend a program of treatment for the abuse of alcohol or drugs | \$750 to \$1,000 |
| Third or subsequent within 7 years without injury (category B felony) | 1 to 6 years in prison | \$2,000 to \$5,000 |
| Any offense resulting in death or substantial bodily harm (category B felony) | 2 to 20 years in prison | \$2,000 to \$5,000 |
| Any subsequent offense following a felony DUI offense (category B felony) | 2 to 15 years in prison | \$2,000 to \$5,000 |

Source: [NRS 484C.400](#), [484C.410](#), and [484C.430](#)

IMPLIED CONSENT

In 2015, the Nevada Supreme Court declared unconstitutional the state's implied consent law, which permitted law enforcement officials, without a warrant, to force a motorist to submit to a blood test to determine impairment. Based on a 2013 U.S. Supreme Court decision in *Missouri v. McNeely*, the Nevada court decided unanimously that the state's law violated the Fourth Amendment prohibition against unreasonable searches.

Today, Nevada's implied consent statute provides that if a person refuses to submit to an evidentiary blood test at the request of a police officer: (1) the officer may apply for a warrant or other court order directing the use of reasonable force to obtain the blood sample; and (2) the person's driver's license must be revoked for a certain period ([NRS 484C.160](#)).

IGNITION INTERLOCKS

All states have some type of ignition interlock program, in which judges require all or some convicted drunk drivers to install interlocks in their cars to disable the engine if alcohol is detected on their breath. These devices test a person's breath and prevent the vehicle from starting if the test indicates an alcohol concentration of 0.02 percent or more.

Some states, including Nevada, have made ignition interlocks mandatory for all convictions. Nevada's law provides various exceptions, such as economic hardship or situations in which the convicted person needs to use the vehicle to commute to work; obtain medicine, food, or other necessities for himself or herself or a family member; or transport himself or herself or a family member to school ([NRS 484C.460](#)).

Nevada is 1 of 28 states that require the installation of ignition interlocks for all drunk driving convictions. All states have some type of ignition interlock program.

Source: [National Conference of State Legislatures](#)

RECENT NEVADA LEGISLATION

NEVADA 24/7 SOBRIETY AND DRUG MONITORING PROGRAM ACT

During the 2019 Session, the Nevada Legislature passed [Assembly Bill 316](#), which establishes a statewide sobriety and drug monitoring program. Local jurisdictions can participate in this program to help rehabilitate individuals convicted of driving under the influence. A court may assign an offender to the program for a specified period determined by the court if he or she is found guilty of DUI of alcohol or a prohibited substance for the second or third time within seven years.

The bill imposes numerous responsibilities on participating offenders, including abstaining from alcohol and undergoing random testing. Additionally, the Department of Motor Vehicles may adopt any regulations necessary to provide for the issuance of a restricted driver's license to a person assigned to the program.

COMMITTEE TO CONDUCT AN INTERIM STUDY OF ISSUES RELATING TO DRIVING UNDER THE INFLUENCE OF MARIJUANA

Also approved in 2019, [Assembly Concurrent Resolution 7](#) creates an [interim committee](#) to conduct a study relating to driving under the influence of cannabis. The committee must consider:

- Related scientific evidence;
- Arrest and conviction data available from Nevada and other states that have legalized the use of marijuana;
- Approaches taken by other states to address the issue;
- Products and methods used to determine impairment at the roadside;
- Existing relevant Nevada laws; and
- The impact of changes in laws that may affect employment and labor laws.

The committee, which consists of three members of the Senate and three members of the Assembly, plans to meet three times in 2020 and must submit a report to the 2021 Session of the Nevada Legislature.