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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
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December 29, 2025

DEPT. COMM. NO. 244

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IN REPLY REFER TO:

HWY-V 9.7832

The Honorable Ronald D. Kouchi
Hawaii State Senator
President and Members of the Senate
Hawaii State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Nadine K. Nakamura
Hawaii State Representative
Speaker and Members of the
House of Representatives
Hawaii State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

Subject: Report to Legislature

In accordance with Senate Resolution 151 SD1, I am submitting the Report on the Working Group on Lowering the Legal Limit of Blood Alcohol Concentration to 0.05 Grams of Alcohol Per 100 Milliliters of Blood with the Intent of Prioritizing Safety and Saving Lives on Hawaii's Roads.

In accordance with the Hawaii Revised Statutes 93-16, I am also informing you that the report may be viewed electronically at: <https://hidot.hawaii.gov/library/reports-to-the-legislature/> .

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Sniffen".

EDWIN H. SNIFFEN
Director of Transportation

Attachment

Report to the Hawaii Legislature

Findings and Recommendations

from the

Hawaii Department of Transportation Working Group

On lowering the legal limit of blood alcohol concentration
to 0.05 grams of alcohol per one hundred milliliters of blood
with the intent of prioritizing safety and saving lives on Hawaii's roads

As established by

Senate Resolution 151 S.D. 1
Thirty-third Legislature, 2025
State of Hawaii

Report date: December 31, 2025

Background

During the first year of the 2025-26 Hawaii legislative biennium, several bills were introduced in the House of Representatives and Senate proposing to lower the statutorily prohibited breath and blood alcohol concentration from .08 to .05 grams of alcohol per one hundred milliliters of blood. Ultimately, none survived the legislative process.

The Hawaii Senate offered Senate Resolution (SR) 151 on March 7, 2025. The resolution was amended by the Committee on Transportation and Culture and the Arts and adopted by the full Senate on April 3, 2025.

In its adopted form, SR 151 S.D. 1 urged the Hawaii Department of Transportation (HDOT) to establish a Working Group comprised of members of county, state, and federal government as well as community stakeholders, data experts, and business representatives to discuss six key data points regarding lowering the legal limit of blood alcohol concentration.

The HDOT invited representatives of each of the required organizations and businesses to participate in the Working Group. The following representatives participated and met in October and November to discuss SR 151 S.D. 1, collect and analyze data, and summarize their findings in this report.

Working Group Members

Kari Arincorayan	Hawaii Department of Transportation
Hayley Cheng	Office of the Public Defender
Rick Collins	Hawaii Alcohol Policy Alliance
Dr. James Fell	Traffic Safety Research Expert in Alcohol-Impaired Driving
Andy Huang	Hawaii Restaurant Association
Karen Kahikina	Hawaii Department of Transportation
Arkie Koehl	Mothers Against Drunk Driving
Tara Leystra	National Transportation Safety Board
Andrew H. Martin	Department of the Prosecuting Attorney – County of Maui
Benae McFarland	Department of the Prosecuting Attorney – City and County Honolulu
Julie Mejia	Hawaii Alcohol Policy Alliance
Benjamin Moszkowicz	Safer Roads Hawaii
Lee Nagano	Hawaii Department of Transportation
Salvador Petilos	Honolulu Liquor Commission
Kelden Waltjen	Office of the Prosecuting Attorney – County of Hawaii
Leah Walton	National Transportation Safety Board

Throughout this report, the term .05 Blood Alcohol Concentration (BAC) is used for consistency. It is worth noting that when reviewing research data and other references,

the scientifically accepted terminology for a '.05 BAC' is .05 grams of alcohol per deciliter of blood (g/dL).

Introduction

Between 1982 and 2000, several dozen states lowered their statutorily prohibited (legal limit) BAC from .10 to .08 grams of alcohol per one hundred milliliters of blood. By 2002, 28 states had lowered their legal limit to .08, and researchers found that this reduction resulted in an average of a 7 percent decrease in alcohol-related crashes.¹ By 2005, all 50 states, the District of Columbia and Puerto Rico had lowered their legal limit to .08.

On December 30, 2018, Utah became the first state in the country to further lower its legal limit for BAC to .05. Since then, legislation has been introduced in seven states (Michigan, Oregon, California, New York, Connecticut, Washington, and Hawaii) to lower those states' legal limit to .05. Thus far, none has been successful.

This Working Group report is designed to respond as specifically as possible to the request for information from the Hawaii Senate. Each section is meant to answer a specific request for data and analysis, except for sections 3 and 4, which have been combined due to their extremely similar nature. Where possible, specific data have been cited using footnotes, and hyperlinks to available reports have been included.

The report is organized into the following six sections:

Section 1: The number of alcohol-related fatalities and injuries per year in Hawaii

Section 2: The number of expected fatalities and injuries per year involving drivers with a BAC of .05 grams, based on real world results in other places

Sections 3 and 4: How alcohol and food revenues are affected in other jurisdictions that require drivers to have a BAC of .05 and how much revenue could be expected to be gained or lost by decreasing the legal BAC to .05 in Hawaii

Section 5: Mitigating steps to help bars and restaurants adapt to any potential loss of revenue or options that might be recommended to address any loss

Section 6: Any recommendations to increase public awareness and phase-in legislation to decrease the legal BAC for driving to .05

¹ Fell, J.C. & Voas, R.B. (2006, July 7). The effectiveness of reducing illegal blood alcohol concentration (BAC) limits for driving: Evidence for lowering the limit to .05 BAC. Journal of Safety Research. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0022437506000478>

While the Working Group did its best to locate and analyze data specific to Utah and other states, in conducting its analysis, the group felt it was important to realize that several factors may have influenced the data reviewed for this report including:

- Since 2020, there has been a perceived decrease in proactive policing including less traffic enforcement and a lower number of impaired driver checkpoints.
- While alcohol sales continued to increase nationwide during and after the COVID-19 pandemic, alcohol industry outlets report total beverage alcohol sales are down 3 percent year-over-year for the first half of 2025.²
- There have been changes to traffic patterns and driver behaviors during and after the COVID-19 pandemic.

Section 1

The number of alcohol-related fatalities and injuries per year in Hawaii

Driving under the influence of alcohol continues to be a primary contributing factor in Hawaii's fatal crashes. According to Fatality Analysis Reporting System (FARS) data collected by the state and transmitted to the US Department of Transportation³, in 2023, 39 of the 93 traffic fatalities in Hawaii (42 percent) involved drivers who tested positive for having a BAC of .08 or above. It is worth noting there have been 126 traffic fatalities thus far in 2025. This marks a significant increase in the 102 fatalities in 2024 and 93 fatalities in 2023.

Because of the intricacies of criminal investigations, and the lag time in updating and aggregating forensic toxicology data, more current data is difficult to come by. As they are investigated so thoroughly, toxicological data is eventually available in nearly all fatal crashes. While the blood alcohol levels of deceased drivers are routinely tested during autopsy, not all surviving drivers are tested. Hawaii courts have ruled that drivers have a constitutional right to refuse breath or blood testing for the purposes of determining alcohol concentration. When law enforcement is unable to obtain a search warrant to compel a blood sample, drivers who refuse go untested. In addition, many surviving drivers in fatal crashes are seriously injured and taken to a hospital immediately after the crash. Police investigators do not have an opportunity to conduct

² Jacobsen, J. (2025, July 16). NielsenIQ report find total beverage alcohol sales -3% for 2025 first half. Beverage Industry. Retrieved from <https://www.bevindustry.com/articles/97649-nielseni-q-report-find-total-beverage-alcohol-sales-3-for-2025-first-half>

³ US DOT. (2025). National Highway Traffic Safety Administration Traffic Safety Facts. 2023 Data. Retrieved from <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813726.pdf>

a breath test on these drivers. While hospitals most likely get a BAC on these injured drivers, that BAC may not be shared with law enforcement.

Less is known about the prevalence of alcohol-impaired driving in serious injury crashes in Hawaii and across the nation. HDOT⁴ reports 524 serious injury crashes statewide in 2023. Presuming a similar ratio to fatal crashes, over 150 of these serious injury crashes may have involved alcohol-impaired drivers. According to the U.S. Center for Disease Control and Prevention (CDC)⁵, in 2023 the total average cost (including medical, work loss, and quality of life costs) from a transportation-related hospitalization was over two hundred seventy-five thousand dollars and no cents (\$275,000.00) per patient. While a serious injury crash may not result in the loss of life, the financial impact of these crashes easily reaches into the hundreds of millions of dollars.

Section 2

The number of expected fatalities and injuries per year involving drivers with a blood alcohol concentration of .05 grams of alcohol per one hundred milliliters of blood, based on real world results in other places

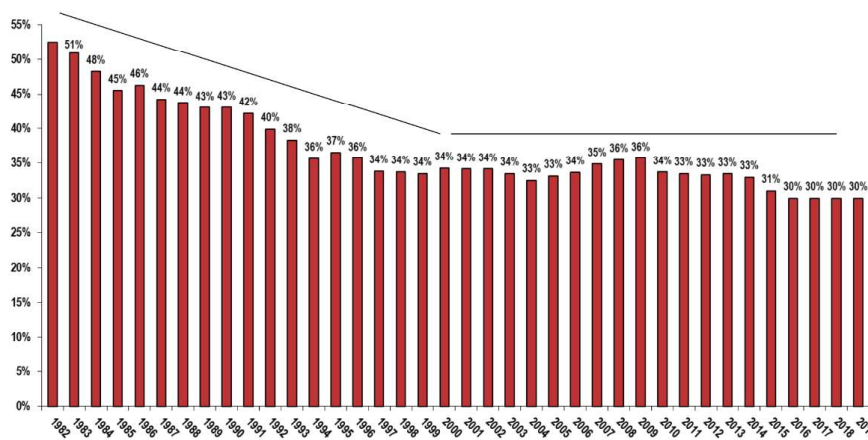
Dr. James Fell, an internationally recognized researcher in alcohol-impaired driving and a Working Group member, has published several studies on the effects of alcohol impairment on different BACs as well as the potential effectiveness of lowering the legal limit to .05.⁶ He found that despite significant improvements from 1982-2000 as legislatures across the country lowered their legal limits from .10 to .08, the proportion of all fatally injured drivers estimated to have a BAC at or above .05 has leveled off in the years since.

⁴ HDOT. (2024, November). Hawaii Strategic Highway Safety Plan 2025-2029. Retrieved from https://hidot.hawaii.gov/highways/files/2024/11/241113-Final-SHSP-with-Appendices-508-Compliant_reduced.pdf

⁵ Data obtained from the CDC Web-based Injury Statistics Query and Reporting System (WISQARS). Retrieved from <https://wisqars.cdc.gov/>

⁶ Fell, J. & Scherer, M. (2024, October). Estimation of the potential effectiveness of lowering the blood alcohol concentration (BAC) limit for driving from .08 to .05 grams per deciliter in the United States. Alcohol Clinical & Experimental Research 41(12) p.2128-2139. Retrieved from <https://pmc.ncbi.nlm.nih.gov/articles/PMC5790204/>

Proportion of All *Fatally* Injured Drivers Estimated to Have Impairing Alcohol (BAC $\geq$.05), 1982-2019 [-35%]



While Utah is the only state in the United States to have lowered its BAC to .05, there is data from around the world from many countries who have lowered their BAC to .05 or lower. Based on a meta-analysis of qualifying international studies, Dr. Fell's research found a 5 percent decrease in non-fatal alcohol-related crashes, and an 11.1 percent decline in fatal alcohol-related crashes from lowering the BAC to .05 or lower.

Early research into the effects of Utah's .05 BAC law showed a 10.8 percent decrease in the number of crash injuries (including fatalities) and a 13.7 percent decrease in single-vehicle nighttime crashes per vehicle mile traveled (VMT) during the first 12 months the .05 law was in effect.⁷ The same report indicated that Utah experienced a 19.8 percent decrease in the number of fatal crashes per VMT between 2016 (the last year before the .05 law was passed) and 2019 (the first full year after implementation). The rest of the country showed a 5.6 percent reduction during that same period.

An updated report on Utah's .05 BAC law was published by the Utah Department of Public Safety in 2024.⁸ In Utah, "Alcohol-related fatalities accounted for 16 percent of all traffic fatalities from 2018 to 2022." In Hawaii that number was 31 percent.

⁷ Thomas, F.D., Blomberg, R., Darrah, J., Graham, L., Southcott, T., Dennert, R., Taylor, E., Treffers, R., Tippetts, S., McKnight, S., & Berning, A. (2022, February). Evaluation of Utah's .05 BAC per se law (Report No. DOT HS 813 233). National Highway Traffic Safety Administration. Retrieved from <https://rosap.nhtl.bts.gov/view/dot/60428>

⁸ Utah DPS. (2024, June 30). Report on Utah's 0.05 BAC law: Enforcement outcomes, arrests & alcohol-related crash data. Retrieved from <https://wtsc.wa.gov/wp-content/uploads/2024/08/JUNE-2024-Report-on-Utahs-0.05-BAC-Law.docx.pdf>

The Utah report also showed that, “calendar years 2020, 2021, and 2022 have shown increases in alcohol-related fatal crashes and fatalities, with 2023 data showing a decrease” while “the alcohol-related fatal crash and fatality rate have stayed fairly consistent with the alcohol-related crash and fatality population rates.”

Based on Hawaii’s 2022 data, a decrease of 11.1 percent in the number of alcohol-impaired crash fatalities would mean four fewer fatalities, and a decrease of 19.8 percent would mean seven fewer fatalities.

A decrease of 10.8 percent in the number of crash injuries in Hawaii would mean 56 less critical injury crashes each year (based on Hawaii’s 2023 data).

Sections 3 and 4

How alcohol and food revenues are affected in other jurisdictions that require drivers to have a blood alcohol concentration of .05 grams of alcohol per one hundred milliliters of blood

How much revenue could be expected to be gained or lost by decreasing the legal blood alcohol concentration to .05 grams of alcohol per one hundred milliliters of blood in Hawaii

Mothers Against Drunk Driving (MADD) collected data from the latest 2024 Utah Department of Alcoholic Beverage Services report.⁹ An analysis of the data shows that alcohol sales in Utah increased 28 percent from 2018-2024 despite lowering the legal limit to .05. The number of manufacturing licenses increased 32 percent and the number of on-premises retail licenses issued to restaurants and bars increased 10 percent during that same period.

In Hawaii, alcohol sales are reported annually by the Department of Business, Economic Development & Tourism (DBEDT). The latest data available for state-wide alcohol sales come from the DBEDT 2024 State of Hawaii Data Book.¹⁰ When compared with Utah alcohol sales from 2018 through 2022, Hawaii alcohol sales had a smaller overall increase in both total sales and percentage increase over the four-year period.

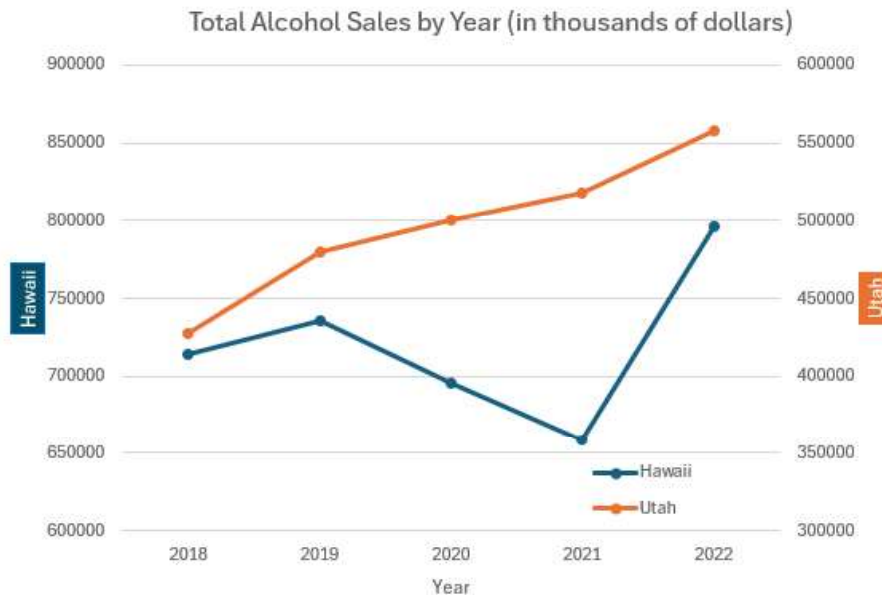
Total Alcohol Sales by Year (in thousands of dollars)

Fiscal Year	Hawaii	Utah
2018	713,642	427,606

⁹ Annual data for Utah DABS is available on their website: <https://abs.utah.gov/about-dabs/news/annual-reports/>

¹⁰ Annual data from Hawaii DBEDT is available on their website: <https://dbedt.hawaii.gov/economic/databook/>

2019	735,519	479,324
2020	696,069	500,212
2021	658,858	517,389
2022	796,123	557,451
2018-2022 Change	+82,481	+129,845
Percentage Change	+11.6%	+30.4%



It is worth noting that the numbers from both states are inclusive of sales from both on-premise (e.g., bars, restaurants) and off-premise (e.g., liquor stores, grocery stores) establishments. In its 2024 year in retail report, Utah Department of Alcoholic Beverage Services (DABS)¹¹ reported that for fiscal year 2023-24, 18 percent of alcohol sales were on-premise, while off-premise sales accounted for 82 percent.

Unfortunately, while the alcohol industry in Hawaii almost certainly has similar data for Hawaii sales, it is not publicly available. To effectively monitor any changes in consumer behavior, the Working Group recommends either developing a more robust reporting of alcohol sales based on on- and off-premise sales, or making such data publicly available if it is already being collected.

Based on the data it examined, the Working Group collectively felt that it lacked the actuarial expertise to properly predict any expected revenue increase or decrease.

Section 5

¹¹ The Utah DABS 89th Year in Retail 2024 report is available at <https://abs.utah.gov/wp-content/uploads/89th-DABS-Year-in-Retail-2024.pdf>

Mitigating steps to help bars and restaurants adapt to any potential loss of revenue or options that might be recommended to address any loss

A study by Sumpter et al.¹² looked at the evolution of a lower .05 BAC legal limit in Scotland, specifically focusing on how alcohol retailers were affected. The report contained several examples of how businesses in Scotland adapted their business models. The report found that, “Adaptations to businesses included improving the range of no/low-alcohol drinks and food offered. Changes such as these were seen as key to minimising [sic] economic impact.”

The Working Group suggested several policies and programs to help Hawaii businesses adapt to any potential loss of revenue. These include:

- Promoting no/low-alcohol beverage development. Restaurants and bars could benefit from the promotion of mocktail drinks highlighting the unique flavors of Hawaii.
- Helping pivot toward food-centric service. Businesses that serve food could effectively incentivize customers to choose a designated driver by offering promotions to patrons who choose to remain sober. They could also offer free or discounted appetizers or menu items to guests who show proof of having taken a taxi or rideshare.
- Supporting marketing and staff training. Bars and restaurants could communicate to customers they are important to the success of local businesses and economies. Focusing on a message that tells patrons, “We want you to get home safely so you can come back again and again.” HDOT grant-funded training should renew efforts to educate bar and restaurant workers (emphasizing not serving alcohol to intoxicated people) with responsible server training and responsible valet training.
- Expanding awareness of safe-ride options. One of the keys to promoting safe driving is urging people to choose ride-share or other safe-ride options before their decision making becomes impaired. Public-private partnerships can provide ride-share discounts (e.g., Uber, Lyft, SafeRide Hawaii, etc.) to reduce lost sales because of transportation concerns.

¹² Sumpter C, Mohan A, McKell J, Lewsey J, Emslie C, Fitzgerald N. How did a lower drink-drive limit affect bar trade and drinking practices? A qualitative study of how alcohol retailers experienced a change in policy. *Drug Alcohol Rev.* 2020 Feb;39(2):170-179. Retrieved from <https://pmc.ncbi.nlm.nih.gov/articles/PMC7027906>.

Section 6

Any recommendations to increase public awareness and phase-in legislation to decrease the legal blood alcohol concentration for driving to .05 grams of alcohol per one hundred milliliters of blood

On March 23, 2017, Governor Herbert signed Utah's .05 BAC legal limit bill, with an effective date of December 30, 2018. During this 21-month period, a variety of media and public information campaigns were used to communicate with the public about the coming change. Most used federal and state funds. The messaging was so effective that during research in 2018, people were very aware of the upcoming law, with several reporting changes to their drinking behavior based on a mistaken belief the law had already taken effect.¹³ Should legislation consider lowering the legal limit in Hawaii to .05 BAC, similar efforts, including a survey of Hawaii residents' attitudes towards lowering the BAC pre- and post-implementation, should be made.

The Working Group recommends at least a six-month period between the approval of any legislation and its effective date. This would allow government agencies, private sector businesses, and non-profit organizations to conduct a large-scale media push. Such a campaign should focus on raising public awareness and emphasizing the safety of all roadway users.

The National Transportation Safety Board (NTSB) has made recommendations to the National Highway Traffic Safety Administration (NHTSA) to allow states to use special NHTSA funds for states who pass a .05 BAC bill. All state and county law enforcement agencies, prosecutor's offices, and liquor control agencies have existing outreach programs. Using these programs to conduct further outreach about a change to the legal BAC limit could use NHTSA grant funding to help raise public awareness, resulting in little to no additional taxpayer burden.

The Working Group also recommends the continued implementation of sobriety checkpoints. These visible enforcement efforts by law enforcement to detect and deter impaired drivers help to reinforce roadway safety messaging for all drivers, not just those who choose to drink and drive.

Other Considerations

The Working Group felt it was important to highlight a common concern among its members that unless the proper factors are considered and addressed by the

¹³ Thomas et al., Evaluation of Utah's .05 BAC per se law (Report No. DOT HS 813 233). See footnote 7.

legislature, any increase in the number of impaired driving arrests could impact the ability of the judicial system to take on more prosecutions. This includes impacts to enforcement agencies, prosecution agencies, and a recommendation for an increase in funding for the public defender's office to ensure that drivers' rights are protected.

According to a 2022 study by the NTSB¹⁴ that looked at toxicological data from fatally injured drivers and people arrested for impaired driving, "about half of drivers tested positive for more than one category of drug." Should legislation be passed lowering Hawaii's legal limit to a .05 BAC, the Working Group feels it will be important to gauge the impact such a change may have on the enforcement, prosecution, and defense of drivers who are suspected of polysubstance-impaired driving.

While the Working Group is enthusiastic about the positive deterrent effects of a .05 BAC legal limit, it urges the legislature to continue to collaborate with stakeholders in working through the details of any legislation to ensure that Hawaii avoids any unintended consequences.

Conclusion / Mahalo

The Working Group would like to extend its appreciation to the Hawaii Senate for helping foster such a robust and productive conversation around such an important topic. It urges all stakeholders and policymakers to continue to monitor and evaluate the impacts of any legislation over time using information from law enforcement, coroner's offices, and FARS data

¹⁴ NTSB. (2022, December 13). Alcohol, other drug, and multiple drug use among drivers. Safety Research Report SRR-22-02. Retrieved from <https://www.nts.gov/safety/safety-studies/Documents/SRR2202.pdf>