



NEW MEXICO STATE PROFILE

DEFINITIONS: Hardcore drunk drivers can be defined as those who drive with a high blood alcohol concentration of .15 or above, who do so repeatedly, as demonstrated by having more than one drunk driving arrest, and who are highly resistant to changing their behavior despite previous sanctions, treatment or education.



Terms used in New Mexico that could identify hardcore drunk drivers are:

- **Repeat offender** — *3rd or subsequent offenses within 10 years.*
- **Felony DWI** — *4th or subsequent offenses.*
- **Aggravated DWI** — *Includes DWI with any of the following aggravating factors:*
 - Driving with a BAC level of .16 or greater.
 - Causing bodily injury while DWI.
 - Refusing to submit to a chemical test with a DWI.

DWI RECORDKEEPING & REPORTING: Driving records are a primary means of tracking the problem of hardcore drunk drivers.

The following are key aspects of New Mexico's records:

- New licensees are reviewed for prior DWI offenses in their previous states prior to license issuance.
- DWI convictions from other states are considered prior offenses in New Mexico.
- New Mexico utilizes a statewide DWI reporting system.
- Offenders are tracked through arrest, conviction, and fine amount paid.
- There are approximately 1.2 million licensed drivers in New Mexico.
- The average BAC level of arrested offenders is .16 and the median BAC level of convicted offenders is .16.
- There were 19,565 arrests among 18,501 drivers arrested for DWI in 2001. Of those arrests, 7,812 were for driving at BAC levels of .15 and above and 8,310 drivers were arrested as repeat drunk drivers. There were 3,601 drivers who refused to take a BAC test. Of those refusals, 3,385 (94%) resulted in license revocation.
- There were 13,684 DWI convictions among 13,107 drivers convicted of DWI in 2001. Of those convictions, 5,964 were convicted of drunk driving at a high BAC level of .15 or above. Of the drivers, 5,615 were repeat offenders.
- The number of people arrested for driving with a suspended license in 2001 is not available.

SWIFT IDENTIFICATION: The quick detection, identification, and assessment of those who repeatedly drive drunk are essential to keeping the hardcore drunk driver off the road.

In New Mexico:

- The following enforcement techniques are used to detect and apprehend drunk drivers: Sobriety checkpoints, blanket patrols, publicized enforcement campaigns, hot sheets, standardized field sobriety testing, preliminary breath tests, mobile videotaping, and BAT Mobiles.
- BAC test refusal carries a mandatory administrative license suspension penalty of one year in New Mexico. The administrative license



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suspension penalty for chemical/BAC test refusal is less than the penalty for a drunk driving conviction.

- When a person refuses to submit to a chemical test, that fact is admissible as evidence in court.
- Hardcore drunk drivers are identified at the time of the trial.
- Although New Mexico does not use diversion programs and deferred sentencing for DWI offenses has been prohibited since 1994, information from NHTSA indicates that first-time aggravated DWI charges can be dismissed following the successful completion of probation and alcohol education or rehabilitation.
- When drunk driving offenses are plea-bargained to non-alcohol related offenses, it makes it difficult to identify hardcore drunk driving offenders. New Mexico does have an anti-plea bargaining statute that requires a guilty plea, if entered, to be to one of subsections of the DWI statute.
- Alcohol assessment is conducted post-trial but pre-sentencing. *See Effective Treatment section.*

CERTAIN PUNISHMENT: The application of swift and certain penalties that restrict the offender from driving, punish the offense and rehabilitate the offender must be imposed consistently to change hardcore behavior.

The following sanctions may be ordered by the court or by the licensing authority:

- Licensing actions:
 - Suspension/revocation: New Mexico has both pre-conviction and post-conviction licensing actions. Pre-conviction revocation penalties are 90 days (30 days mandatory with restricted driving privileges) for a 1st offense and 1 year (30 days mandatory) for subsequent offenses. Post-conviction revocation penalties are a mandatory 30 days for any offense.
 - Conditional licensing: Allowed on 1st offenses for education purposes provided the driver is enrolled in a drunk driving school and alcohol screening program. Allowed on 2nd or subsequent offenses after 30 days if the vehicle is equipped with an ignition interlock device.

In the state of New Mexico, the following sanctions may only be ordered by the court:

- Fines — Mandatory minimums:
 - 1st offense = None.
 - 2nd offense = \$500.
 - 3rd offense = \$750
 - 4th or subsequent offenses = None.
- Incarceration — Mandatory minimums:
 - 1st offense = None.
 - 2nd offense within 10 years = 72 consecutive hours.
 - 3rd offense within 10 years = 30 consecutive days.
 - 4th or subsequent offenses within 10 years = Six months.
- Enhanced penalties for convicted offenders with BAC levels of .16 or above (Aggravated DWI offense):
 - 1st offense = Fine of up to \$500, 48 hours imprisonment (mandatory), 48 hours of community service, 1 year license revocation, and ignition interlock usage following license restoration.
 - 2nd offense = Fine of up to \$1,000, 96 consecutive hours in prison (mandatory), 48 hours of community service (mandatory), and 1 year license revocation.



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- Community service — On a 1st offense, 48 hours of community service can be used in lieu of a fine. For subsequent offenses, 48 hours is mandatory.
- Victim impact panel — At the discretion of the court.
- Vehicle actions:
 - Ignition interlock — New Mexico has mandatory post-conviction court-ordered ignition interlock for 2nd offenders and aggravated 1st offenders.
- Treatment — According to alcohol assessment. The cost varies and the offender must pay.
- Driving safety course — A DWI offender may be required to participate in a driving safety course at the court's discretion.
- Other special assessments/surcharges — \$65 BAC test fee, \$75 assessment to fund comprehensive DWI community programs, and victim restitution.
- Driving while suspended — Penalties for driving on a suspended license as a result of a DWI conviction include a fine of \$300-\$1,000, a minimum of 7 consecutive days in prison, an extension of the original license suspension period, and possible vehicle immobilization for 30 days.

In New Mexico, previous arrest and conviction records are available at the time of sentencing.

EFFECTIVE TREATMENT: Treatment and rehabilitation programs that change hardcore drunk driver behavior and lifestyles play an important role in reducing recidivism.

In New Mexico:

- Following conviction, all offenders receive a mandatory alcohol assessment to determine the nature and extent of their alcohol problems.
- The assessment is conducted post-trial but pre-sentencing. The court takes the results of the assessment into consideration in final sentencing.
- Assessments are conducted by a private agency at the direction of the court and are paid for by the offender.
- For first-time aggravated DWI offenders, the court must order the offender to attend a DWI school or other rehabilitative services. At the court's discretion, the offender can be placed on probation and ordered to attend alcohol education or rehabilitation. Successful completion can result in the dismissal of DWI charges.
- Treatment is not mandatory for repeat and high BAC offenders.
- Offenders failing to comply with the terms of their program are not eligible for license reinstatement and may be returned to the court for further action.
- New Mexico does not have dedicated detention and treatment facilities that target the hardcore drunk driver.

INNOVATIVE TACTICS:

Operation DWI: Sobriety checkpoints and blanket patrols are part of a state program called Operation DWI which has been in place for almost 10 years now. This well-funded and well-staffed program draws positive reviews from state officials. The state has made DWI enforcement a top priority and has seen dramatic improvements over the past 10 years in alcohol-related fatality statistics.