The Washington Post Democracy Dies in Darkness

Utah bucked alcohol industry with its tougher DUI law. A new study shows it made roads safer.

After dropping legal driving limit to .05, the state's rate of deadly crashes fell faster than in neighboring states, the study shows

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By Michael Laris

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When Utah passed a law lowering its blood-alcohol limit for driving to .05 percent, the alcohol industry responded with a sarcastic, full-page "Thank you" advertisement in a local newspaper, complete with pink and purple flowers.

It was signed "Sincerely, Colorado," a rival ski destination, depicting gratitude from the neighboring state for the "competitive advantage."

"This new law won't save lives, but it will make criminals out of moderate and responsible social drinkers and hurt Utah's tourism and hospitality

drinkers and hurt Utah's tourism and hospitality industries," read the ad from the American Beverage Institute, a D.C.-based trade group.

But a new federal study that examined what happened after the law was passed in 2017 found Utah's rate of deadly crashes dropped more quickly than in neighboring states and the nation as a whole. The National Highway Traffic Safety Administration analysis also found alcohol was less often a factor in crashes. And the changes came without cutting into Utah's tourism industry, according to the study.

The National Transportation Safety Board, an independent agency responsible for transportation-related accident investigations, including those on roads, issued a call nearly a decade ago for states to lower their blood alcohol concentration, or BAC, limit from .08 percent to .05 percent or lower. Utah was the only state that did so. The new federal report released earlier this month has government and outside safety advocates sensing an opportunity.

"The whole point of a policy like that is to save lives, and what [the] NHTSA study shows is that Utah was able to save lives without hurting its state economy," said David H. Jernigan, a professor at Boston University's School of Public Health who has worked on alcohol policy issues for 35 years. The .05 percent standard is used in some other countries, and Utah's experience shows "it can work in this country" too, Jernigan said.

NTSB board chair Jennifer Homendy noted in an interview that Utah was the first state to establish a .08 percent limit, in 1983, at a time when many

states had BAC limits of 0.1. “If history repeats itself, we’ll see a move across the U.S.” to follow Utah again, Homendy said. “At least that’s our hope.”

The safety board has worked with proponents of stricter limits in New York, California, Michigan and elsewhere, Homendy said, adding that Utah’s success should help to convince other states to address the nation’s more than 38,000 annual road deaths. At least 10,000 of those typically involve alcohol, according to federal statistics.

“For so long, we’ve relied on education efforts and enforcement efforts” to try to cut fatalities, Homendy said, adding that the effort in Utah goes beyond that and “resulted in a culture change, a change in decision-making, which then reveals itself in the lower crash rates.”

To compare fatal crash rates across states and over time, NHTSA study looked at the number of deadly crashes per 100 million miles traveled on roads across the country. Researchers compared the figures for 2016 — the year before Utah passed its .05 percent law — and 2019, since the law took effect at the end of 2018.

The law allows police to arrest a driver whose blood (or breath) alcohol concentration hits .05 percent, even if they show no outward signs of intoxication.

The fatal crash rate in Utah fell 19.8 percent from 2016 to 2019. For the rest of the country, it went down 5.6 percent during that period, according to NHTSA. Among neighboring states, Colorado’s rate of fatal crashes fell 3.8 percent, Nevada’s dropped 9.7 percent and Arizona’s rate rose 3.1 percent, the agency found.

“The crash analyses highlighted reliable reductions in crash rates and alcohol involvement in crashes associated with the new law that were consistent with, or greater than, those observed or predicted by prior research,” the study concluded.

Although people in Utah drove more in 2019, the number of deaths on the road fell to 248 that year, compared with 281 fatalities in 2016. Researchers said they didn’t include crash data from 2020 “given the extreme non-normalcy” of the first year of the coronavirus pandemic.

Steven Cliff, NHTSA’s deputy administrator, said Utah generally has one of the lowest drunk-driving fatality rates in the country, but still recorded significant improvement. He said the study would be useful to states looking at lowering legal BAC levels.

Transportation Secretary Pete Buttigieg has referred to the nation’s on-road death toll as a crisis, and has called for tapping billions of dollars in the new infrastructure law to push toward a goal of zero deaths. The law also instructs NHTSA to require technology in new cars within several years to prevent drunken driving.

Some opponents of Utah’s tougher DUI law said they were unmoved by the federal study’s findings, arguing that the policy is government overreach in a heavily Mormon state where, for many, abstaining from alcohol is a matter of faith.

“It was created by people who are proud of never having had a sip of alcohol in their life,” said former state senator Jim Dabakis, who served as a Democrat.

State Rep. Norman K. Thurston, an economist who researched health markets and taught for years at

Brigham Young University, said his decision to sponsor the bill was based on data.

“People can make good policy decisions regardless of their cultural or religious or ethnic or whatever upbringing,” said Thurston, a Republican who represents the Provo area. “Making good policy decisions is above all of that.”

Dabakis had proposed a bill to delay the new legal limit until three other states lowered theirs first. He arrived at a legislative hearing in 2018 after drinking a couple mimosas, seeking to underscore his contention that having a .05 percent blood alcohol level isn’t dangerous, and enforcement would unnecessarily ruin lives.

“I feel perfectly fine. This is just a terrible, terrible policy,” Dabakis said at the time. His bid to delay the law was rejected.

Dabakis argues that people who consume a drink or two are facing the “devastating fallout” of a drunk-driving arrest, including lost jobs and high insurance rates, while it’s the heaviest drinkers who kill the most people. That’s an argument echoed by alcohol industry lobbyists.

The amount of alcohol it takes to reach a concentration of .05 percent ranges widely, depending on weight, gender, metabolism, what people have eaten and other factors. BAC calculators used in academic settings show the range of estimates: A 130-pound woman who drinks two beers in an hour might hit .05 under certain conditions, while it could take three drinks for a 180-pound man.

Sgt. Cameron Roden, spokesman for the Utah Highway Patrol, offered support for the law.

“The desired outcome of this law is not to make more arrests. Instead, it is for people to make the right choice not to drink and drive,” Roden said.

The NHTSA study found arrests did not go up sharply after the law changed, and Roden said officers base DUI arrests “on observed impairment, not for suspected blood alcohol content.” A state report showed the average alcohol concentration for a DUI arrest was .165, more than three times the legal limit, he said.

The American Beverage Institute, whose members include restaurants that sell alcohol, has sought to derail efforts to set the legal limit at .05, including a proposal in Hawaii. The group asserts that people with a BAC of .05 “are not meaningfully impaired.”

The NHTSA cites research showing a driver at .05 has a 38 percent higher risk of crashing than someone who wasn’t drinking. Drivers at that level could have trouble tracking moving objects and responding to on-road emergencies, the agency said.

Jernigan, the public health professor, said impairment stems from many factors.

“What the studies find is that the risk curve starts to rise around .04-.05,” Jernigan said. “That’s why a lot of countries have set it at .05. You’re still at low risk, but above .05 the slope of the curve starts to change,” with risks going up exponentially.

Jackson Shedelbower, communications director for the American Beverage Institute, said a law like Utah’s has “a broad, depressing effect on the restaurant experience” because customers are suddenly being “threatened with jail time … for

having a glass or two of wine with dinner."

The NHTSA study found alcohol sales and per capita consumption continued to increase after the law, as did sales tax revenue from restaurants, hotels and resorts. Flights to Salt Lake City also rose, the report said.

When Utah's legislature was debating lowering the legal limit, Nathan Rafferty, chief executive of industry marketing group Ski Utah, argued the move would undercut the tourist economy and add to the perception that visitors can't easily enjoy a drink while visiting the state for its powdery slopes. After NHTSA's research and signs that roads have gotten safer, Rafferty changed his mind.

"We're glad to see that, in this case, the right decision was made," Rafferty said. "As with anything in these circumstances, it's difficult to predict outcomes 100 percent accurately."

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By Michael Laris

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