

# Traffic Safety Milestones in New Mexico:

## A Short History of Traffic Safety Legislation and Public Policy in New Mexico

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- 1913: First State Legislature passes anti-DWI law: Penalties: Fines between \$25 and \$100; jail between 30 and 90 days.
- 1919: DWI penalties raised to \$1000 and one year in jail. The legislature also made it a crime for a passenger to knowingly and willfully ride with an intoxicated driver. The passenger was subject to the same penalties as the driver – \$1000 fine and a year in jail. (Note: this is the year prohibition was passed).
- 1929: Legislature repeals the statute making it unlawful to ride with an intoxicated driver.
- 1967: NHTSA issues Federal Motor Vehicle Safety Standard 208, requiring auto manufacturers to install lap and shoulder belts in outboard positions (next to windows) and lap belts in all other positions. This law became effective in 1968.
- 1969: Implied Consent Law Passed. Contained the following presumptions: under .05 it is presumed that person is not intoxicated; .05 to .09: no presumption is made as to intoxication; .10 and over it is presumed that the person is intoxicated. These presumptions could be overcome by competent evidence as to the intoxication or sobriety of the driver. They did not apply to the criminal portion of the law, but rather to license revocation.
- 1971: Implied Consent Act is taken out of the courts and made an entirely administrative (noncriminal) proceeding.
- 1983: The *per se* standard of .10 is added to the *criminal* portion of the law (66-8-102C). Under this section of the law, a person can be convicted of DWI for driving with a blood alcohol concentration of .10 or more. New Mexico enacts child safety restraint law, which applies only to children under 5, with secondary enforcement.
- 1984: The *per se* standard of .10 is added to the Implied Consent Act, which now defines driving with a BAC over .10 as both a *criminal* violation and an administrative (noncriminal) violation. The administrative *per se* violation replaces the portion of the law which provided that at .10 BAC or over, the driver was presumed to be intoxicated. Under this new law, (66-8-110C) the driver with a .10 or higher BAC has his license administratively revoked and is charged with the crime of DWI.
- 1985: New Mexico's mandatory child restraint law amended to include children under 11, with primary enforcement.
- 1986: New Mexico's mandatory adult safety belt law goes into effect (passed in 1985) with primary enforcement.
- 1987: New Mexico Court of Appeals holds sobriety checkpoints constitutional in New Mexico (*City of*

*Las Cruces v. Betancourt*) as long as certain guidelines are followed.

- 1988: The cars of second and third time offenders impounded for 30 and 60 days, respectively. Fourth or subsequent offenders will receive mandatory six-month jail sentences. Mandatory 96 hours in jail for driving with a license revoked for DWI. Law clarifies that DWI convictions will be recorded against offenders even if their sentence is suspended, deferred or taken under advisement.
- 1989: Legislature passes open container law. McKinley County passes local tax on alcohol of 5%, to fund drug abuse education, prevention and treatment programs. The enabling legislation for this law only applies to McKinley County. Mandatory safety belt law changed to apply to pickup trucks as well as passenger cars.
- 1990: Farmington enacts ordinance providing for mandatory three days in jail for ALL DWI offenders. US Supreme Court approves sobriety checkpoints, as long as police agencies comply with certain procedures.
- 1992: Albuquerque passes state's first DWI forfeiture ordinance for driving while revoked for DWI. The penalty is entirely civil and will eventually include DWI as well as driving while revoked.
- 1993: Legislature creates new crimes of felony DWI for a fourth or subsequent offense and aggravated DWI for .16+, refusal or causing bodily injury while DWI. BAC per se standard is lowered from .10 to .08. Created DWI Local Grant Fund for communities to apply for grants to fight DWI at local level; mandatory alcohol evaluation for all DWI offenders and mandatory penalties for second or subsequent offense. Most of the laws went into effect in 1994.
- 1997: Legislature requires fingerprinting of all convicted DWI offenders.
- 1998: Service to drive-up alcohol windows is outlawed statewide by state legislature.
- 1999: Limited licenses for convicted offenders become available to offenders who install ignition interlocks on their cars (among other requirements)— vehicles may be driven only to work or school. Graduated driver's license legislation passed, pertaining to youth under age 18.
- 2001: Law passed requiring all adults to be in a safety belt in all positions of a vehicle.
- 2002: Legislature requires ignition interlocks to be installed on the vehicles of all convicted repeat DWI offenders and aggravated DWI offenders.
- 2003: Ignition Interlock License Act passed, allowing DWI offenders to obtain a license to drive anywhere at any time, unless they have been convicted of vehicular homicide or great bodily injury by vehicle while DWI. Law now allows tribal convictions to be counted as prior offenses in New Mexico, and allows tribes to submit records to statewide MVD DWI database, at tribes' option. Doña Aña County's vehicle forfeiture ordinance goes into effect.
- 2004: Legislature raises DWI from a fourth degree felony to a third degree felony on a sixth or subsequent offense. Makes substance abuse counseling and treatment mandatory on every subsequent offense and for all persons incarcerated for DWI. Law was changed to include tribal convictions as priors for purposes of sentence enhancement. Law changed to make it a fourth degree felony for a person to sell, serve, give, buy, or deliver alcohol to a minor, or assist a minor to buy, procure or be served alcohol, effective July . This includes getting someone else to give alcohol to minors by deceptive practices. Las Cruces and Torrance County vehicle forfeiture ordinances go into effect.

2005: Legislature increases period of license revocation for a conviction for DWI, as follows: 1 year revocation on a first, 2 years on a second, 3 years on a third and lifetime for a 4<sup>th</sup>— subject to a five-year review in the district court. Law now requires any convicted offender to obtain an ignition interlock license and have interlock installed and operating on all cars driven by offender, according to the same timetable as the revocation. Made juveniles subject to the interlock indigency fund. Added mandatory community service for first and third time offenders. Standardized law enforcement arrest records and procedures. Expanded definition of ignition interlock device as one that “prevents the operation of a motor vehicle by and intoxicated or impaired person.”

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