

A Presentation to Wyoming Legislature's Joint Judiciary Committee

Zero Tolerance



A CLEAR AND SIMPLE SOLUTION TO SAVE LIVES

WHILE REDUCING THE DIFFICULTY OF PROSECUTING DRUG-IMPAIRED DRIVERS

Crash risk associated with drug use in European studies

Risk Level	Relative Risk	Drug Category
Slightly Increased Risk	1-3x	Marijuana
Medium Increased Risk	2-10 x	Benzodiazepines Cocaine Opioids
Highly Increased Risk	5-30x	Amphetamines Multiple drugs
Extremely Increased Risk	20-200x	Alcohol together with drugs

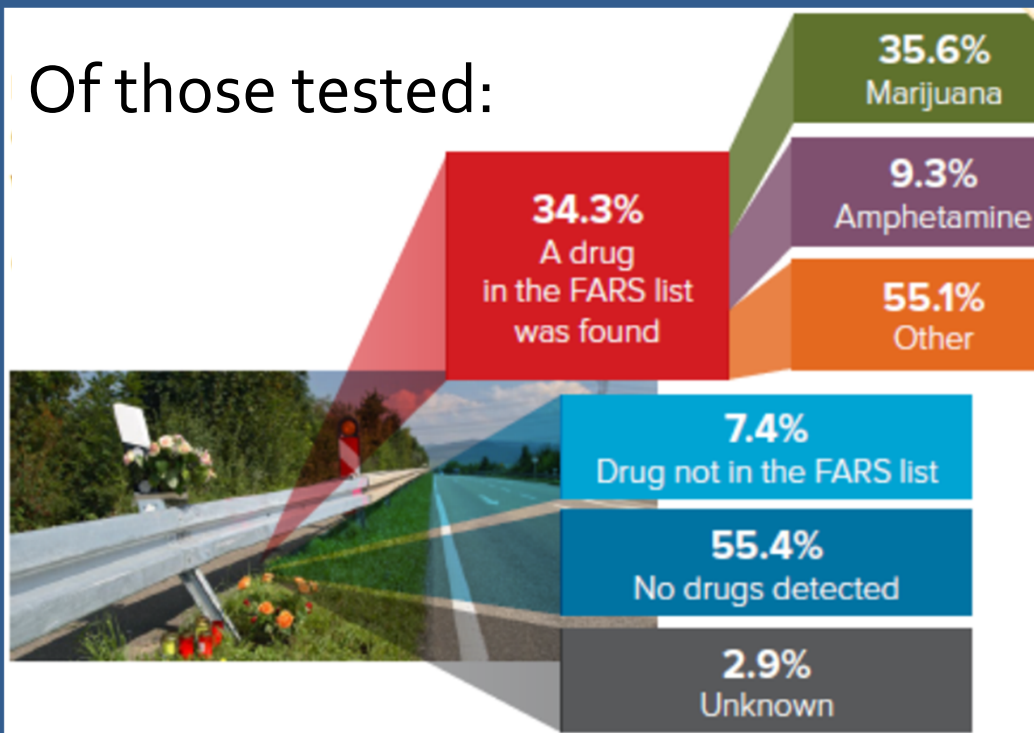
Shulze et al., 2012; Griffiths, 2014



Source of Table: 2017 Governors
Highway Safety Association Pg. 6

In 2015 nationwide, **57%** of fatally-injured drivers were tested for drugs.

Of those tested:



Source: 2017 GHSA Pg. 7.
FARS is NHTSA Fatality Analysis Reporting System

LAWS, ENFORCEMENT, PROSECUTION, ADJUDICATION, AND SANCTION

WHAT ARE THE LAWS REGARDING DRIVING UNDER THE INFLUENCE OF DRUGS?



There are three types of state laws regarding driving under the influence of drugs.

- Driving Under Influence of Drugs (DUID): illegal to drive while impaired by any drug.
- Zero Tolerance: illegal to drive with any amount of specified drugs in the body.
- *Per se*: illegal to drive with amounts of specified drugs in the body exceeding set limits.

Source: StopDUID.org

ZERO TOLERANCE LAWS

Under a **zero tolerance** law, it is illegal to drive with any measurable amount of specified drugs in the body.

As of April 2017, 16 states had **zero tolerance** laws in effect (GHSA,2017; NCSL, 2017b).

These laws differ across the states. In general, they prohibit driving with any amount of any specified drug or metabolite. South Dakota's law applies only to drivers under 21. State laws typically allow drivers to use medications for which the driver has a prescription.

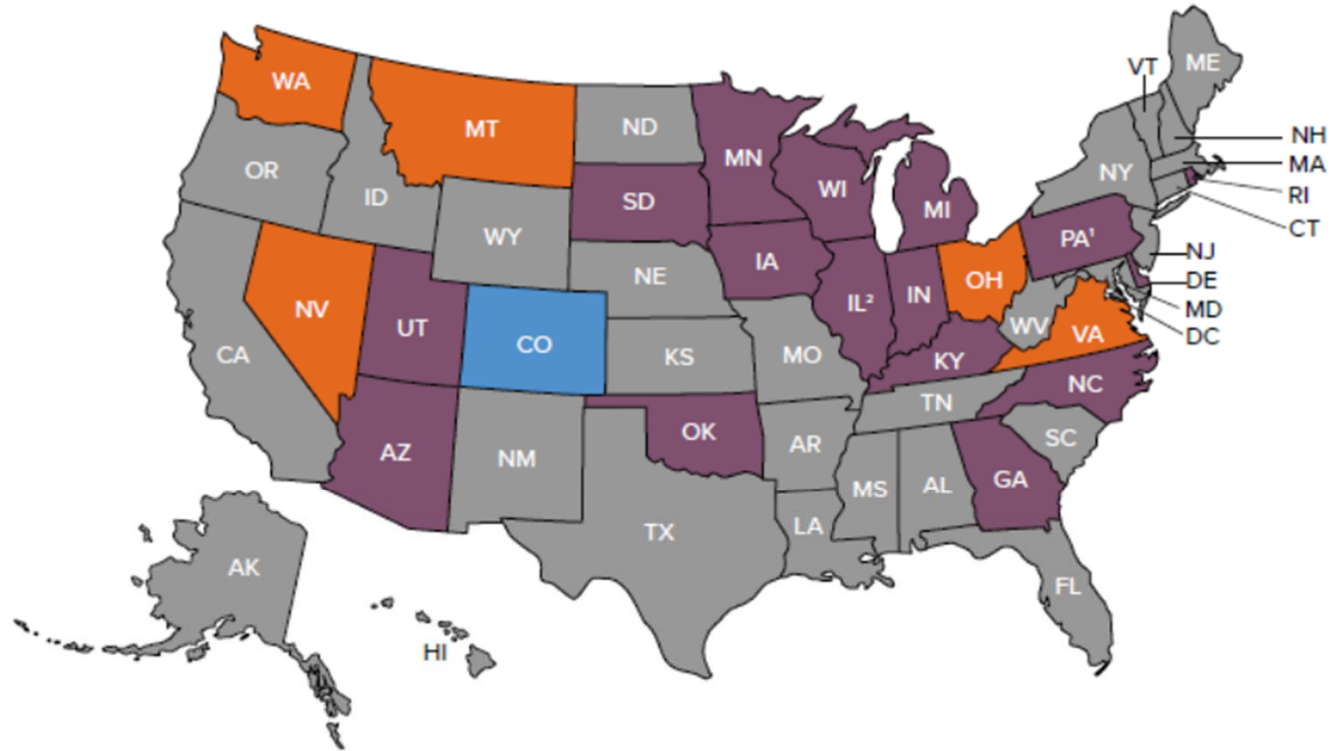
Zero tolerance laws also are easy to understand. They send drivers a strong and clear message. They are modeled after the current **zero tolerance** alcohol laws for drivers under the legal drinking age of 21. "Any amount" of a drug usually means the least amount that can be detected by laboratory equipment to guarantee a valid and reliable result without false positives, in the same way that the alcohol **zero tolerance** limit typically is set at 0.02 BAC. Most states do not specify **zero tolerance** drug levels for blood and urine drug testing (Dupont et al.,2012).



Source: 2017 GHSA pg.21

STATE BY STATE:

DUID ZT OR *Per se* for Some Drugs as of April 2017



- 1 Pennsylvania has both a zero tolerance law for some drugs and a 1 ng *per se* law for THC. Pennsylvania's 1 ng *per se* law is in effect a zero tolerance law*.
- 2 Illinois has both a zero tolerance law for some drugs and a 5 ng *per se* law for THC.

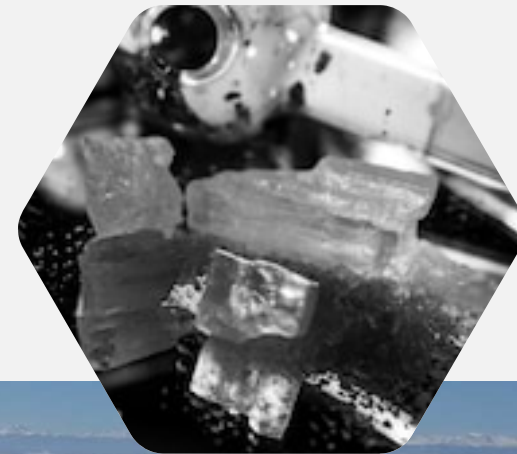
- *Per se* limit greater than zero for some drugs
- Zero tolerance for some drugs
- Reasonable inference law with a limit greater than zero for THC

Methamphetamine

Methamphetamine and amphetamine may impair the ability to engage in potentially hazardous activities such as driving a motor vehicle.

In epidemiology studies, drive-off the-road type accidents, high speed, failing to stop, diminished/divided attention, inattentive driving, impatience, and high risk driving have been reported.

Significant impairment of driving performance would also be expected during drug withdrawal.



Source: NHTSA Drugs & Human Performance Fact Sheets (2004) Pg. 64.

Wyo. Stat. Ann. § 31-5-233. Driving or having control of vehicle while under influence of intoxicating liquor or controlled substances; penalties

(a) As used in this section:

(i) "Alcohol concentration" means:

- (A) The number of grams of alcohol per one hundred (100) milliliters of blood;
- (B) The number of grams of alcohol per two hundred ten (210) liters of breath; or
- (C) The number of grams of alcohol per seventy-five (75) milliliters of urine.

(ii) "Controlled substance" includes:

- (A) Any drug or substance defined by [W.S. 35-7-1002\(a\)\(iv\)](#);
- (B) Any glue, aerosol or other toxic vapor which when intentionally inhaled or sniffed results in impairment of an individual's ability to drive safely;
- (C) Any drug or psychoactive substance, or any combination of these substances, capable of impairing a person's physical or mental faculties.

(iii) "Conviction" means as defined in [W.S. 31-7-102\(a\)\(xi\)](#);

(iv) "Driver's license" means as defined in [W.S. 31-7-102\(a\)\(xxv\)](#) and includes nonresident operating privileges as defined in [W.S. 31-7-102\(a\)\(xxx\)](#);

(v) "Other law prohibiting driving while under the influence" means a statute of another state, the United States or a territory or district of the United States or an ordinance of a governmental entity of this or another state or of an Indian tribe which prohibits driving while under the influence of intoxicating liquor, alcohol, controlled substances or drugs;

(vi) "Child passenger" means a person traveling in a vehicle who is under sixteen (16) years of age;

(vii) "Alcohol" means any substance or substances containing any form of alcohol;

(viii) "Chemical test" means a test which analyzes an individual's breath, blood, urine, saliva or other bodily fluids or tissues for evidence of drug or alcohol use.

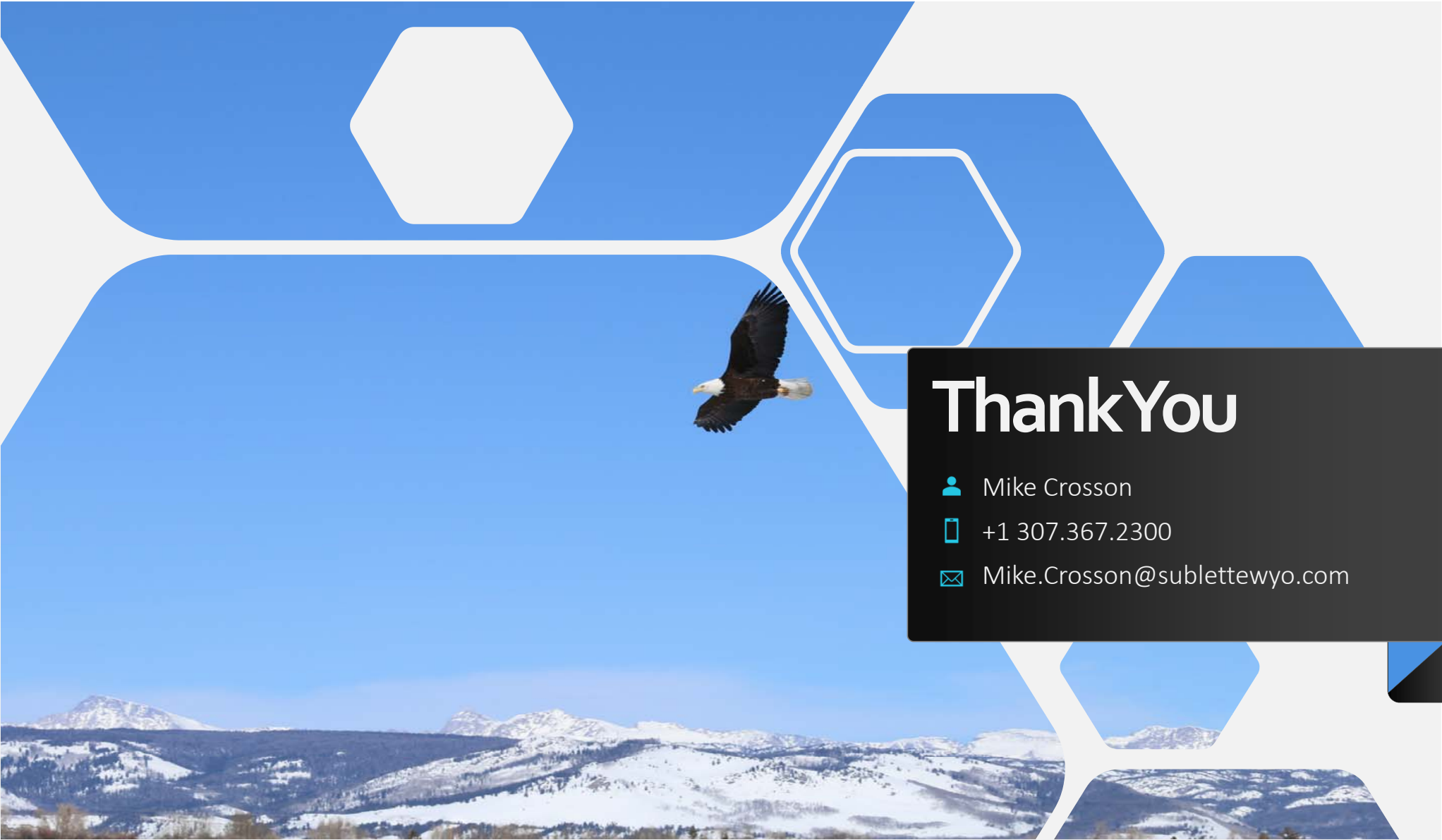
Wyo. Stat. Ann. § 31-5-233. Driving or having control of vehicle while under influence of intoxicating liquor or controlled substances; penalties *(continued)*

- (b) No person shall drive or have actual physical control of any vehicle within this state if the person:
- (i) Has an alcohol concentration of eight one-hundredths of one percent (0.08%) or more;
 - (ii) Has an alcohol concentration of eight one-hundredths of one percent (0.08%) or more, as measured within two (2) hours after the time of driving or being in actual physical control of the vehicle following a lawful arrest resulting from a valid traffic stop; or
 - (iii) To a degree which renders him incapable of safely driving:
 - (A) Is under the influence of alcohol;
 - (B) Is under the influence of a controlled substance; or
 - (C) Is under the influence of a combination of any of the elements named in subparagraphs (A) and (B) of this paragraph




Proposed Addition to Statute:

(c) Except as provided in subsection (i), in cases not amounting to a violation of W.S. 31-5-233(b), a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

- (i) Paragraph (c) does not apply to a person that has 11-nor-9 carboxy-tetrahydrocannabinol as the only controlled substance or metabolite of a controlled substance in the person's body.*
- (ii) It is an affirmative defense to prosecution under this section that the controlled substance was:*
 - (A) Involuntarily ingested by the accused;*
 - (B) Prescribed by a practitioner for use by the accused;*
 - (C) Otherwise legally ingested.*



Thank You

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