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OVERVIEW OF MONTANA'S IMPAIRED DRIVING PROBLEM

In 2010, with an alcohol-impaired fatality rate of 0.66 per 100 million vehicle miles traveled, Montana had the second highest alcohol-impaired fatality rate in the nation (South Carolina was higher with a rate of 0.73). This is almost double the national rate of 0.34[1]. Preliminary 2011 results show that the alcohol-*related* fatality rate is 0.75 per 100 million vehicle miles traveled, matching the rate from the previous year[2]. (Preliminary 2011 alcohol-*impaired* fatality information is not available.)

It is important to note the difference between the terms alcohol-*impaired* and alcohol-*related*. Alcohol-*impaired* crashes or fatalities are defined as crashes or fatalities that involve at least one driver or motorcycle operator with a blood alcohol content (BAC) of 0.08 grams per deciliter (g/dL) or higher. A crash, fatality or injury is alcohol-*related* if at least one driver or motorcycle operator involved in the crash is determined to have a BAC of 0.01 g/dL or higher OR if police indicate on the accident report that there is evidence of alcohol present. This does not necessarily mean that a driver was tested for alcohol, nor does it indicate that a crash, fatality or injury was caused by the presence of alcohol.

Results of a study conducted by the University of Montana's Bureau of Business and Economic Research, released in 2009[3], show that alcohol abuse costs Montana's economy more than half a billion dollars per year in lost wages and productivity, alcohol treatment costs, medical costs, and other public and private spending. Of that number, $49.1 million was spent on "extra police, judges and prison cells needed to protect citizens and enforce the laws that are broken because of the impairing impacts of alcohol." A subsequent study, released in January 2010[4], noted that the addition of alcohol related crashes with injuries represent an additional $131 million, bringing the total economic cost of alcohol abuse to $642 million.

The Montana Supreme Court provided the following misdemeanor and felony case filing data for 2011:

STATUTE	STATUTE DESCRIPTION	2011 CHARGES FILED
45-5-624	Possessing Intoxicating Substances While Under Age of 21 Years	1
45-5-624(1) [1]	Possessing Intoxicating Substances While Under The Age Of 21 (Under Age 18) - 1st Offense	1705
45-5-624(1) [2]	Possessing Intoxicating Substances While Under The Age Of 21 (Under Age 18) - 2nd Offense	196
45-5-624(1) [3]	Possessing Intoxicating Substances While Under The Age Of 21 (Under Age 18) - 3rd Offense	123
45-5-624(1) [4]	Possessing Intoxicating Substances While Under The Age Of 21 (Over Age 18) - 1st Offense	2074
45-5-624(1) [5]	Possessing Intoxicating Substances While Under The Age Of 21 (Over Age 18) - 2nd Offense	299
45-5-624(1) [6]	Possessing Intoxicating Substances While Under Age Of 21 (Over Age 18) - 3rd Or Subsequent Offense	272
45-5-624(2)(a)(i)	Possessing Intoxicating Substances While Under The Age Of 21 (Under Age 18) - 1st Offense	284
45-5-624(2)(a)(ii)	Possessing Intoxicating Substances While Under The Age Of 21 (Under Age 18) - 2nd Offense	25

[1] NHTSA's NCSA Data Resource Website, 2010 FARS Data Tables.

[2] *Montana Traffic Safety Problem Identification Overview*. Montana Department of Transportation, State Highway Traffic Safety Office, June 2012. Online at http://www.mdt.mt.gov/safety/docs/chsp/2012_A1_CHSP-CRASH_DATA_DMURPHY.PDF

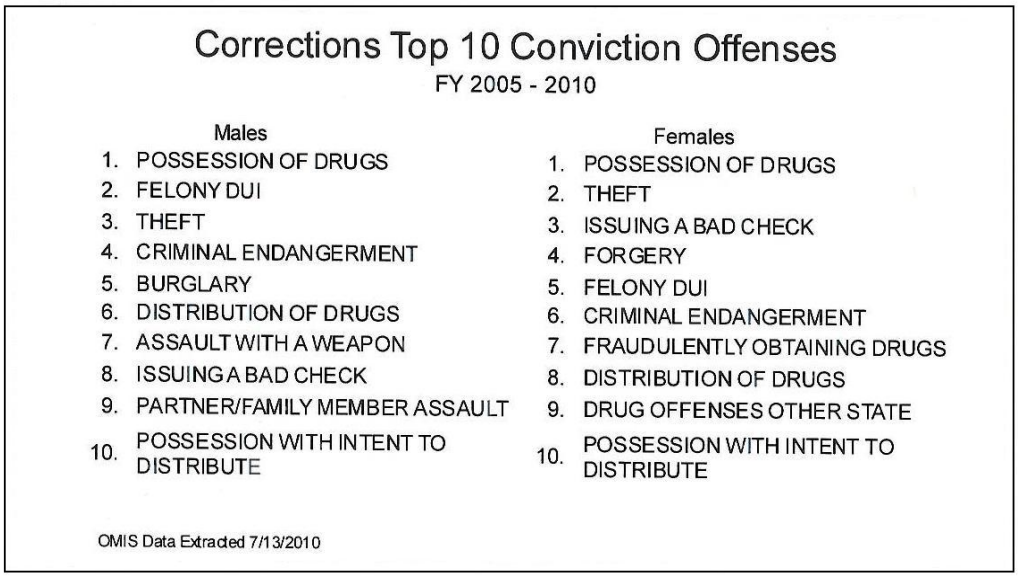
[3] *Economic Impact of Alcohol Abuse,* March 2009, by Dr. Patrick Barkey, Director, Bureau of Business and Economic Research, University of Montana – Missoula. Online at http://www.bber.umt.edu/health/papers.asp

[4] *Economic Costs of Alcohol-Related Vehicle Crashes in Montana,* January 2010, by Steve Seninger, Ph.D. Senior Research Professor, Bureau of Business and Economic Research, University of Montana – Missoula. Online at http://www.bber.umt.edu/pubs/health/CostAlcoholCrashes2010.pdf.

45-5-624(2)(iii)	Possessing Intoxicating Substances While Under The Age Of 21 (Under Age 18) - 3rd Offense	26
45-5-624(3)(a)	Possessing Intoxicating Substances While Under The Age Of 21 (Over Age 18) - 1st Offense	372
45-5-624(3)(b)	Possessing Intoxicating Substances While Under The Age Of 21 (Over Age 18) - 2nd Offense	47
45-5-624(3)(c)	Possessing Intoxicating Substances While Under The Age Of 21 (Over Age 18) - 3rd+ Offense	63
45-5-624(4)	Attempting To Purchase An Intoxicating Substance Under The Age Of 21	7
61-8-401(1)(a) [1st]	Driving Under The Influence Of Alcohol - 1st Offense	5389
61-8-401(1)(a) [2nd]	Driving Under The Influence Of Alcohol - 2nd Offense	1033
61-8-401(1)(a) [3rd]	Driving Under The Influence Of Alcohol - 3rd Offense	279
61-8-401(1)(a) [4th+]	Driving Under The Influence Of Alcohol - 4th Or Subsequent Offense	1046
61-8-401(1)(a).2	Driving Under The Influence Of Alcohol - Second Offense	1
61-8-401(1)(b) [1st]	Driving Under The Influence Of Any Drug (Narcotic, Etc.) - 1st Offense	215
61-8-401(1)(b) [2nd]	Driving Under The Influence Of Any Drug (Narcotic, Etc.) - 2nd Offense	12
61-8-401(1)(b) [4th+]	Driving Under the Influence of Any Drug (Narcotic, Etc.) - 4th or Subsequent Offense	10
61-8-401(1)(c) [1st]	Driving Under The Influence Of Non-Narcotic Drugs - 1st Offense	24
61-8-401(1)(c) [2nd]	Driving Under The Influence Of Non-Narcotic Drugs - 2nd Offense	5
61-8-401(1)(c) [3rd]	Driving Under The Influence Of Non-Narcotic Drugs - 3rd Offense	3
61-8-401(1)(c) [4th+]	Driving Under the Influence of Non-Narcotic Drugs - 4th Offense	2
61-8-401(1)(d) [1st]	Driving Under The Influence Of Alcohol And Drugs - 1st Offense	140
61-8-401(1)(d) [2nd]	Driving Under The Influence Of Alcohol And Drugs - 2nd Offense	50
61-8-401(1)(d) [3rd]	Driving Under The Influence Of Alcohol And Drugs - 3rd Offense	4
61-8-401(1)(d) [4th+]	Driving Under The Influence Of Alcohol And Drugs - 4th Or Subsequent Offense	59
61-8-406(1)(a) [1st]	Operating With Alcohol Concentration Of 0.08% BAC Or Greater - 1st Offense	1234
61-8-406(1)(a) [2nd]	Operating With Alcohol Concentration Of 0.08% BAC Or Greater - 2nd Offense	116
61-8-406(1)(a) [3rd]	Operating With Alcohol Concentration Of 0.08% BAC Or Greater - 3rd Offense	24
61-8-406(1)(a) [4th]	Operating With Alcohol Concentration Of 0.08% BAC Or Greater - 4th Offense	71
61-8-406(1)(b) [1st]	Operating With Alcohol Concentration Of 0.04% BAC Commercial - 1st Offense	14
61-8-406(1)(b) [3rd]	Operating With Alcohol Concentration Of 0.04% BAC Commercial - 3rd Offense	1
61-8-410(1) [1st]	Operating With Alcohol Concentration Of 0.02% BAC Under 21 Years Of Age - 1st Offense	206
61-8-410(1) [2nd < 18]	Operating With Alcohol Concentration Of 0.02% BAC Under 21 Years Of Age - 2nd Offense (Under 18)	4
61-8-410(1) [2nd > 18]	Operating With Alcohol Concentration Of 0.02% BAC Under 21 Years Of Age - 2nd Offense (Over 18)	3
61-8-410(1) [2nd]	Operating With Alcohol Concentration Of 0.02% BAC Under 21 Years Of Age - Second Offense	1
61-8-410(1) [3rd+ > 18]	Operating With Alcohol Concentration Of 0.02% BAC Under 21 Years Of Age - 3rd+ (Over 18)	2
61-8-465	Aggravated Driving Under The Influence	556
	TOTAL	15998

The total number of impaired driving charges filed, including those given to drivers under age 21 and commercial drivers, totals 10,504. There were 5,494 Minor in Possession (MIP) charges filed. The Office of the Court Administrator notes that Minor in Possession (MIP) counts may be underreported in the table above because Youth Court has concurrent jurisdiction with the Courts of Limited Jurisdiction on MIPs where the defendant is less than 18 years of age.

According to the Department of Corrections' 2011 Biennial Report, driving under the influence (DUI) is also one of the top ten felony conviction offenses in Montana, as shown in the table below.



Corrections Top 10 Conviction Offenses
FY 2005 - 2010

	Males	Females
1.	POSSESSION OF DRUGS	POSSESSION OF DRUGS
2.	FELONY DUI	THEFT
3.	THEFT	ISSUING A BAD CHECK
4.	CRIMINAL ENDANGERMENT	FORGERY
5.	BURGLARY	FELONY DUI
6.	DISTRIBUTION OF DRUGS	CRIMINAL ENDANGERMENT
7.	ASSAULT WITH A WEAPON	FRAUDULENTLY OBTAINING DRUGS
8.	ISSUING A BAD CHECK	DISTRIBUTION OF DRUGS
9.	PARTNER/FAMILY MEMBER ASSAULT	DRUG OFFENSES OTHER STATE
10.	POSSESSION WITH INTENT TO DISTRIBUTE	POSSESSION WITH INTENT TO DISTRIBUTE

OMIS Data Extracted 7/13/2010

Source: http://cor.mt.gov/content/Resources/Reports/2011BiennialReport.pdf

Impaired driving prevention goals

The Montana Department of Transportation (MDT) along with its partner safety stakeholders across the state are working diligently implementing a wide range of programs to address impaired driving in an effort to reduce all effects of alcohol related driving. Previously, MDT established four goals addressing alcohol that it aims to meet by 2013:

GOAL: REDUCE ALCOHOL-IMPAIRED FATALITIES

Reduce the three-year average number of fatalities in crashes involving an alcohol-impaired driver or motorcycle operator (BAC 0.08+) from 105 in 2007 to 99 by 2013.

2007	2008	2009	2010	2011	2012	2013
105 (*baseline)*	100	93	80	76		99 *(goal)*

Note: 2011 data is preliminary until numbers are officially published by NHTSA.

GOAL: REDUCE THE ALCOHOL-IMPAIRED FATALITY RATE

Reduce the three-year average alcohol-impaired (involving a driver or motorcycle operator with BAC 0.08+) fatality rate per 100 million vehicle miles traveled from 0.93 in 2007 to 0.88 by 2013.

2007	2008	2009	2010	2011	2012	2013
0.93 (*baseline)*	0.84	0.84	0.74	0.67		0.88 *(goal)*

Note: 2011 data is preliminary until numbers are officially published by NHTSA.

Goal: Reduce Alcohol-Related Fatalities, Total

Reduce the three-year average number of fatalities in crashes involving a driver or motorcycle operator with BAC 0.01+ from 125 in 2007 to 110 by 2013.

2007	2008	2009	2010	2011	2012	2013
125 (*baseline)*	118	106	93	88		110 *(goal)*

Note: 2011 data is preliminary until numbers are officially published by NHTSA.

Goal: Reduce Alcohol-Related Fatalities, Percent

Reduce the three-year average number of fatalities in crashes involving a driver or motorcycle operator with BAC 0.01+ as a percent of all fatalities from 47.4% in 2007 to 42% by 2013.

2007	2008	2009	2010	2011	2012	2013
47.4% (*baseline)*	45.9%	43.8%	43.7%	42.6%		42.0% *(goal)*

Note: 2011 data is preliminary until numbers are officially published by NHTSA.

In 2012, work continued to unify all highway safety goals in Montana. To that end, new performance measures have been identified that allowed for involvement from interested safety stakeholders and aligns with Montana's Highway Safety Goal – to reduce the total number of fatalities and serious injuries from a baseline of 1,704 in 2007 to 852 in 2030. At the 2012 Comprehensive Highway Safety Planning meeting, the audience identified an appropriate target for each measure applied to each emphasis area, including alcohol and drug-impaired driving. The following performance measures are based on five-year rolling averages and assume a five percent improvement in the level each year.

Alcohol Impaired Driving Fatalities

Reduce the five-year average number of fatalities in crashes involving an alcohol-impaired driver or motorcycle operator (BAC 0.08+) from 90 in 2010 to 70 in 2015.

2010	2011	2012	2013	2014	2015
90 (*baseline)*	85				70 *(goal)*

Note: 2011 data is preliminary until numbers are officially published by NHTSA.

Alcohol and Drug-Related Driving Fatalities and Incapacitating Injuries

Reduce the five-year average number of fatalities and incapacitating injuries in crashes involving a driver or motorcycle operator with a BAC 0.01+ or evidence of alcohol and/or drugs being involved from 484 in 2010 to 375 in 2015.

2010	2011	2012	2013	2014	2015
484 (*baseline)*	434				375 *(goal)*

General traffic safety data

Due to the size and population density of Montana, very few of Montana's vehicle miles travelled occur in an urban environment. A large percentage of traffic is at high speeds and trips tend to involve more time spent on mostly rural roads. Compared to the more urban states, a high percentage of miles travelled in Montana are at rural speeds, thus increasing the likelihood of fatal crashes. In 2009 (the most current NHSTA data available), the national urban fatality rate was less than half of the rural fatality rate. When broken down by fatality location, Montana's 2009 urban and rural fatality rates are closer to the national urban fatality rate than the total fatality rate. Since Montana has the highest percentage of rural vehicle miles travelled in the nation, it should be no surprise that Montana has the highest fatality rate in the nation.

Table 1: Fatalities per 100 Million Vehicle Miles Traveled by Location

Location	Montana	National
Urban	0.67	0.73
Rural	2.44	1.96
Total	2.01	1.14

Source: NHTSA Traffic Safety Facts, Rural/Urban Comparison, 2009 Data (DOT HS 811 395), Montana Fatality Rates – NHTSA State Traffic Safety Info, 2009 Data

The Insurance Institute for Highway Safety (IIHS) released a study during March 2006, ***Use and Misuse of Motor Vehicle Crash Death Rates in Assessing Highway Safety Performance***, in which they normalized various factors including rural versus urban fatality rates. *They found that Montana moved from #50 to #27 in fatality rate when normalized on urban vs. rural.* So even though NHTSA considered Montana the worst state in 2009 due to our fatality rate, the states are not playing on a level playing field. The IIHS paper notes, "For example, 100 million vehicle miles travelled in the U.S. state of New Jersey, which is relatively urban, do not indicate the same exposure to risk of crash deaths as the same number of miles travelled in Montana, a very rural state."

According to the study, fatality rates are also affected by demographics such as median incomes, school spending per pupil and percentage of population with college degrees. Because median incomes are low and school spending is low, fatality rates would be higher than average in Montana. Seventy percent of the variability in state fatality rates results from urbanization and demographics.

Exposure statistics

There are several exposure statistics in the area of traffic safety. These include number and type of vehicles, number of licensed drivers by age and gender, physical road miles, population, and the number of vehicle miles travelled (VMT), which is the estimated number of total miles driven by all vehicles on Montana public roads. Table 2 displays three of the main factors that are used to measure exposure and develop rates for showing crash or injury trends.

Table 2: Crash Exposure by Factors

Year	VMT (100 Million Miles) Calendar Year	Licensed Drivers State Fiscal Year	Registered Motor Vehicles (plus trailers) State Fiscal Year
2002	104.86	694,743	1,108,236
2003	108.97	704,509	1,327,909
2004	111.77	712,880	1,351,804
2005	111.27	715,512	1,985,139
2006	112.65	723,976	1,550,713
2007	113.06	735,753	1,560,464
2008	107.82	738,982	1,620,064
2009	110.10	737,964	1,603,332
2010	111.85	743,611	1,576,824
2011	116.66	752,483	1,802,271
Chg 1 Yr	+4.3%	+1.2%	+14.3%
Chg 5 Yr Ave	+5.0%	+2.2%	+13.9%

Source: VMT - Montana Department of Transportation - Traffic Data Collection;
Licensed Drivers & Registered Motor Vehicles - Montana Department of Justice - Motor Vehicle Division

Note: The historical (2002-2009) number of registered motor vehicles has been updated to reflect the total number of active vehicle registrations as provided to MDT by DOJ MVD as part of federal reporting.

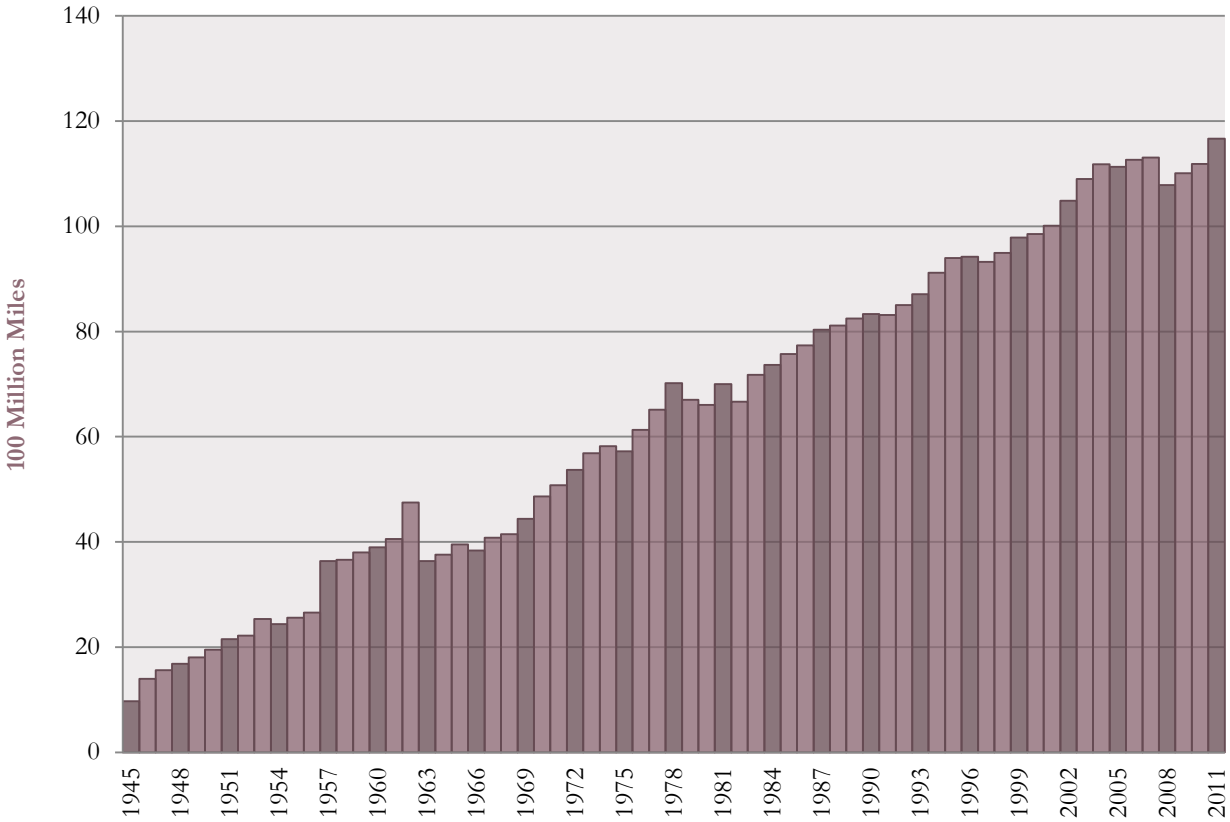
While the number of registered motor vehicles is included in this table, this information is no longer particularly useful since there are several vehicle types that require only a one time registration. Subsequently, vehicles that are no longer used could appear in the counts.

VMT is the exposure number that appears to have the greatest influence on the amount of traffic crashes that occur in Montana. The annual vehicle miles travelled are shown in Figure 1. These numbers increase almost every year, though there was a decline in 2008. During 1972, the VMT for Montana was 5.4 billion and 395 fatalities occurred. Now in 2011, the VMT has more than doubled to 11.7 billion miles travelled while fatalities have decreased to 209. Even when crash numbers, injuries and fatalities are held stable, gains in rates are made because of increases in exposure.

The 2011 VMT is currently the highest seen in Montana. Part of this increase is due to the inclusion of 1,400+ off-system AADTs (data for non-MDT-maintained roads). Historically, only a handful of off-system

AADTs were included in the yearly counts and then an estimate was derived for the off-system. This year, due to program and database modifications, all the off-system AADTs were loaded in the database for inclusion in the VMT calculation.

Figure 1: Vehicle Miles Travelled



Source: Montana Department of Transportation - Traffic Data Collection; Fatality Analysis Reporting System

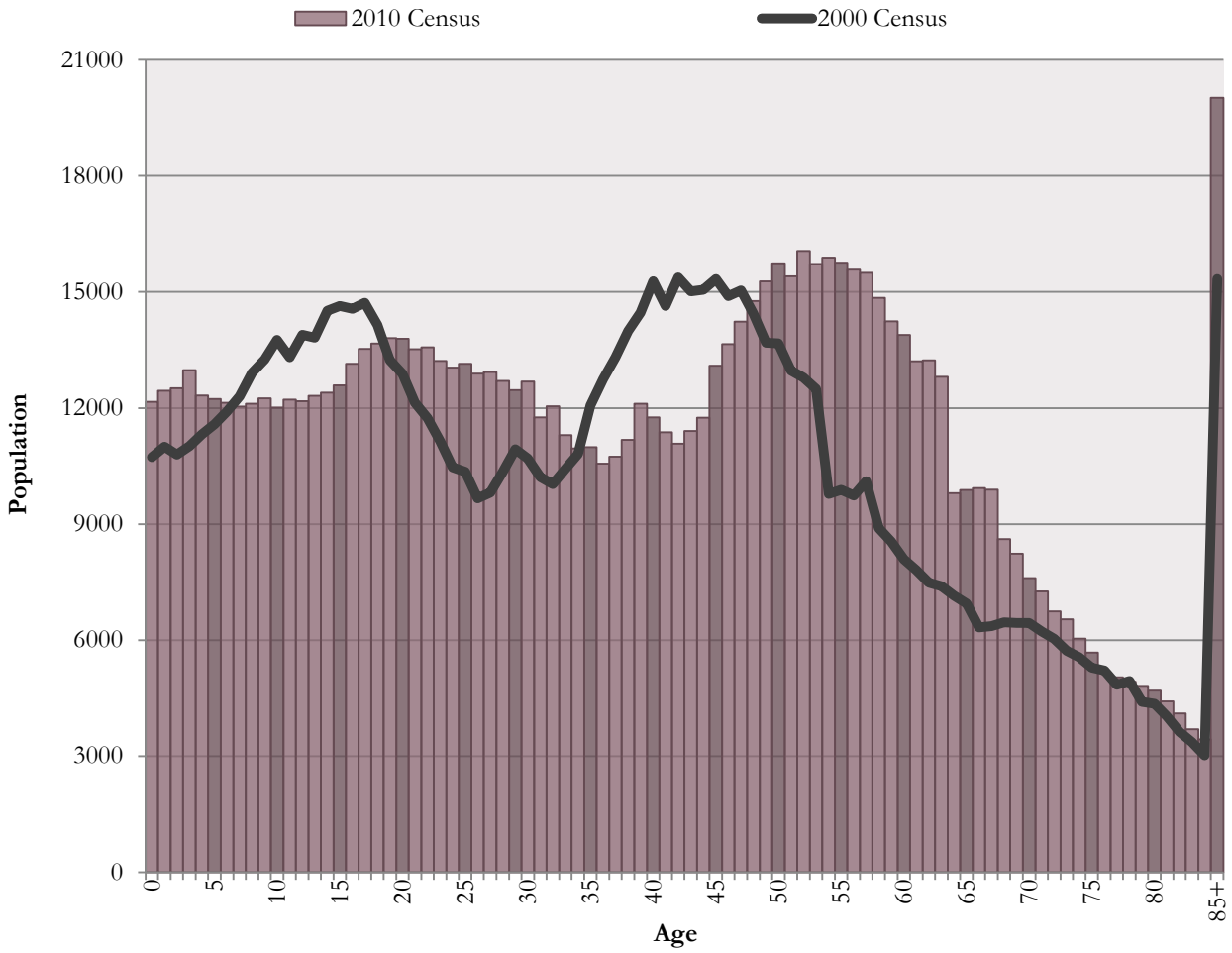
In order to envision the challenges before Montana's citizens in the traffic safety area, the population by age based on the 2010 census is presented on the following page paired with the 2000 census to demonstrate the progression and aging of Montana's population. During 2011, the baby boom population in Montana spanned the ages of 46-64. There is a second, smaller boom in Montana for ages 16 to 30. The variation in population for some ages is noteworthy. It is interesting to note that there are more than 15,000 Montana citizens for most of the original baby boom; but there are barely even 10,000 thirty-six year olds. Also, there are over 20,000 people aged eighty-five and above in Montana.

What does this mean to traffic safety? The number of teens in Montana is decreasing, so the number of new drivers may also decrease. This is one of the highest risk groups in traffic safety. Also, the number of elderly drivers is increasing. While older drivers tend to be safer drivers than new or young drivers, their frailty can lead to a higher severity of injury when they are involved in a crash.

Some of the gains and challenges seen in traffic safety during recent years were related to demographics. Drivers most likely to be in fatal crashes are between ages fifteen and thirty-five. Over the last decade, the number of people age fifteen to thirty-five have been increasing, so there have been minimal gains over the last ten years. Five to ten years from now, Montana may realize greater improvement as this age group begins moving into their thirties.

These population figures are being noted because of the special challenges that they present to traffic safety. It will be doubly difficult in the near future to show improvement in traffic safety while the number of drivers in the high-risk age groups increases. Some rate improvements may be realized in traffic safety, but it will be much more difficult to decrease the number of incidents relating to these age groups. Population by age, using both 2000 and 2010 census, is shown in Figure 2.

Figure 2: Montana Population by Age

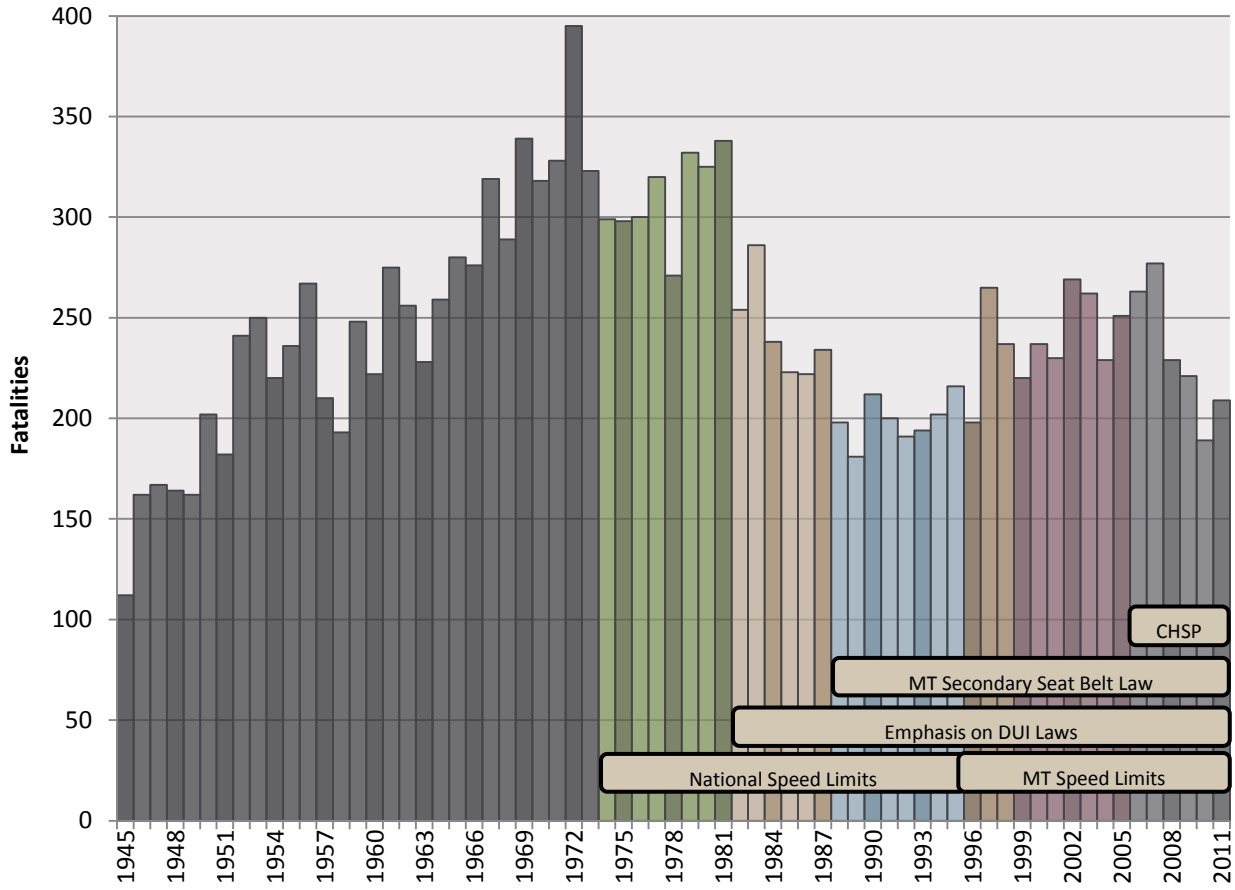


Source: U.S. Census Bureau

Fatalities

A Montana history of fatality numbers on public roads is presented in Figure 3, as well as some of the historical milestones that have impacted the numbers. Fatalities reached an all-time high of 395 during 1972. The lowest number of fatalities since 1950 was 181, which occurred during 1989, the second year of Montana's seat belt law. Once again 2010 saw a decrease in the number of fatalities from previous years with 189 fatalities being the lowest number of fatalities since the national speed limit was lifted in 1996.

Figure 3: Montana Traffic Fatalities



Source: Fatality Analysis Reporting System

There are a number of events that show a clear impact on Montana fatalities:

1945-1974 – general increase that somewhat corresponds to the increase in VMT.

1974-1981 – Emergency Highway Energy Conservation Act (January 2, 1974): 55mph national speed limit in effect.

1982-1987 – Tougher DUI laws and the changes in perception brought on by MADD and other prevention advocates (beginning in 1982/1983).

1988-1995 – MCA 61-13-103 (January 1, 1988): MT secondary seat belt law.

Surface Transportation & Uniform Relocation Assistance Act (April 2, 1987): national speed limit increased to 65mph on rural interstate highways.

1996-1998 – National Highway Designation Act (November 28, 1995): end of the national speed limit; beginning of MT daytime "reasonable & prudent" on interstate highways, night 65mph.

1999-2005 – MCA 61-8-303: end of "reasonable & prudent", increased MT statutory speed limit, MT interstate highways 75mph.

2006-Present – Comprehensive Highway Safety Plan (CHSP) began, traffic safety stakeholders brought together to begin actively collaborating toward a common goal.

Crashes and injuries

The number of injuries in Montana crashes continues to decline and is lower than any time during the last fifteen years. Ten years of reportable crash and injury data appear in Table 3. Injury crashes, especially severe injury crash counts, tend to be more accurate indicators of safety trends in Montana than do crashes and fatalities. Severe injury crashes are defined as those crashes involving a fatality or an incapacitating injury. These injury crashes can represent change without as much of the variation caused by the small number associated with fatalities. Total crashes tend to have variation that is strongly associated with weather conditions throughout the year (especially the amount of icy roads).

Table 3: Crashes by Severity

Year	All Crashes	Fatal Crashes	Injury Crashes	Property Damage Crashes	Fatalities	Injuries
2002	23,527	232	6,479	16,816	269	10,086
2003	23,160	239	6,229	16,681	262	9,632
2004	21,783	209	6,000	15,570	229	9,263
2005	22,376	224	6,066	16,086	251	9,211
2006	22,186	226	6,245	15,712	263	9,470
2007	21,829	249	5,990	15,582	277	9,067
2008	21,971	208	5,793	15,926	229	8,465
2009	20,967	198	5,227	15,538	221	7,351
2010	20,146	161	4,972	15,013	189	7,032
2011	20,275	187	4,920	15,168	209	6,823
Chg 1 Yr	+0.6%	+16.1%	-1.0%	+1.0%	+10.6%	-3.0%
Chg 5 Yr Ave	-5.3%	-10.3%	-12.8%	-2.5%	-11.4%	-17.6%

Source: Montana Department of Transportation - Safety Management System

Injury severity

Table 4 displays the distribution of injury severity to persons involved in motor vehicle crashes for the last ten years. Analyzing injury severity may aid in determining whether advances in traffic safety are saving lives and reducing the level of injury severity. Traffic safety is influenced by many factors including increased restraint use, better road engineering and safer vehicles.

Also displayed are severe injuries (fatalities plus incapacitating injuries), which may be the best true overall indicator for traffic crash trends in Montana.

Table 4: Injury Severity

Year	Fatalities	Incapacitating Injury	Non Incapacitating Injury	Possible & Other Injury	Severe Injuries (Fatalities plus Incapacitating Injuries)
2002	269	1,738	2,876	5,472	2,007
2003	262	1,634	2,812	5,186	1,896
2004	229	1,557	2,692	5,013	1,786
2005	251	1,541	2,509	5,161	1,792
2006	263	1,607	2,859	5,004	1,870
2007	277	1,427	2,593	5,047	1,704
2008	229	1,336	2,414	4,715	1,565
2009	221	1,110	2,714	3,527	1,331
2010	189	996	2,965	3,071	1,185
2011	209	953	3,002	2,868	1,162
Chg 1 Yr	+10.6%	-4.3%	+1.2%	-6.6%	-1.9%
Chg 5 Yr Ave	-11.4%	-26.4%	+10.8%	-32.9%	-24.1%

Source: Montana Department of Transportation - Safety Management System

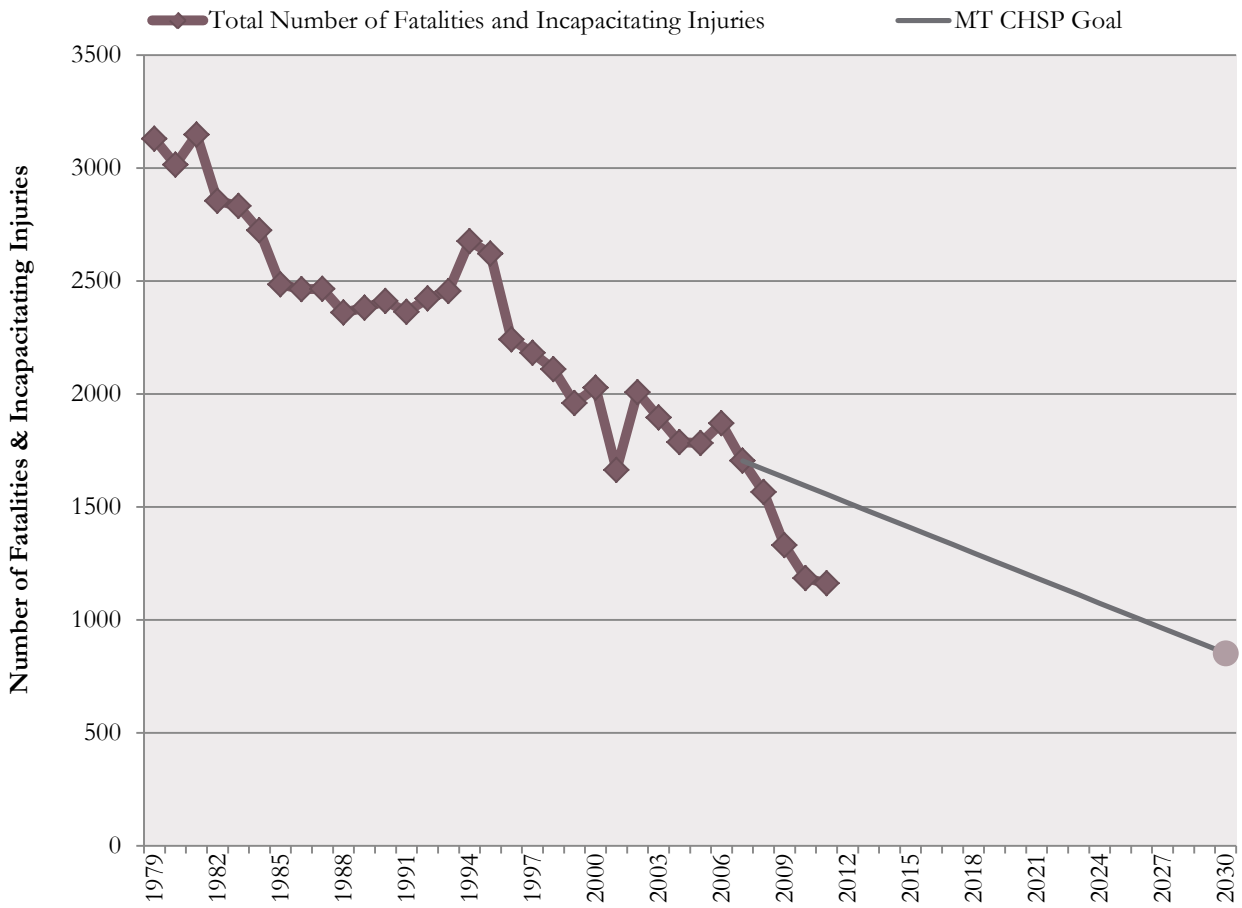
Severe injuries have decreased over fifty-five percent since 1994, which was the high point in recent years with 2,676 severe injuries. The downward change in the number of severe injuries would appear to be the most significant change in crash data within Montana during the last few years. Incapacitating injuries were lower during 2011 than in any year since 1960 and have decreased by almost 60% since the 2,474 seen in 1994.

It would seem that occupant restraints, airbags and child restraints have accounted for at least part of this decrease, as well as other improvements in vehicle safety. The change in severity is also the result of more forgiving trafficways with engineering improvements and quicker emergency medical service response times due to cell phones.

Figure 4 shows this history of injuries over time with severe injuries clearly trending downward. Included is the long-range highway safety goal the traffic safety stakeholders agreed to at the Comprehensive Highway

Safety Plan annual meeting in 2009. Using 2007 numbers as the baseline, the goal is to cut the total number of fatalities and incapacitating injuries in half by 2030; in other words, reduce the numbers from 1,704 severe injuries to 852. The green line is a linear depiction of the needed decrease, whereas the dark line is the actual numbers.

Figure 4: Montana Severe Injuries



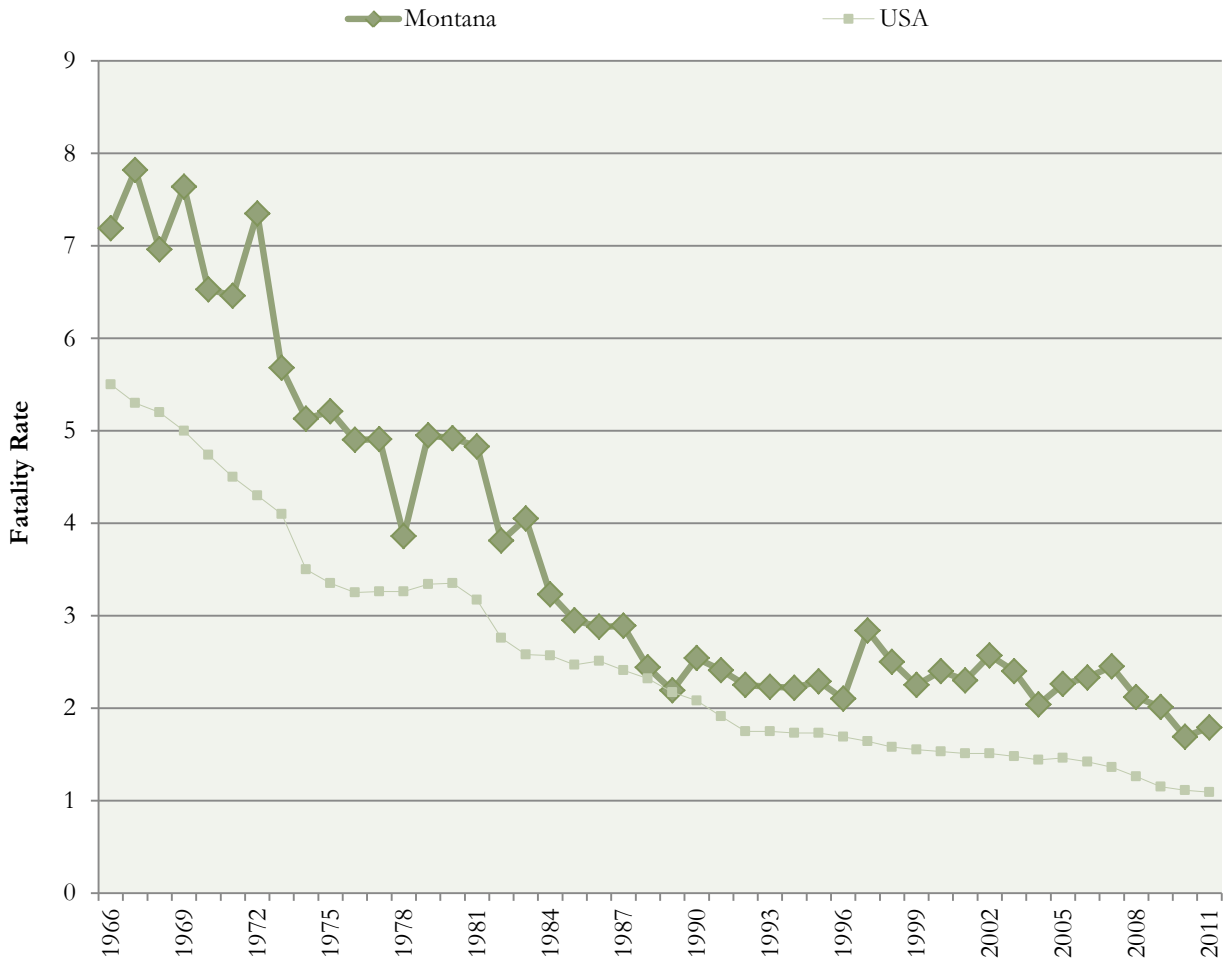
Source: Montana Department of Transportation – Safety Management System

Fatality and other rates

Historically, western rural states have tended to have rates above the national average. One of the reasons is the greater percentage of rural miles travelled which translates to higher average travel speeds. During 2009 (the most current data published by NHTSA), the United States rural fatality rate was 1.96 while the urban fatality rate was 0.73. For the nation, rural fatalities accounted for 57% of the traffic fatalities, while in Montana, 92% of the fatalities in 2009 occurred in rural settings. From this information, it stands to reason that the expected Montana fatality rate would be much closer to 1.96 than the overall national rate of 1.14.

Figure 5 compares the national fatality rate to the Montana rate.

Figure 5: Fatality Rate Comparison



Source: Fatality Analysis Reporting System

The fatality rate for Montana was 7.82 fatalities per hundred million miles travelled during 1967. This rate has been generally decreasing since then. It had decreased to 4.92 by 1980 and to 2.54 by 1990. Since that time, the fatality rate has remained fairly stagnant with rates between 2.0 and 3.0. Although there was a slight increase in the fatality rate from 2010 to 2011, the current fatality of 1.79 is still down thirty percent from the ten year high of 2.57 in 2002.

Early estimates show the crash and injury rates decreased in 2010 to 1.74 and 0.58 per one million miles travelled, respectively. These are the lowest recorded crash and injury rates in Montana history.

The rates per vehicle miles travelled for 2011, listed in Table 5, have not been officially released by NHTSA, therefore these numbers are still preliminary.

Table 5: Statewide Rates

Year	Fatality Rate (per 100 Million VMT)	Injury Rate (per 1 Million VMT)	Crash Rate (per 1 Million VMT)
2002	2.57	0.96	2.24
2003	2.40	0.88	2.13
2004	2.05	0.83	1.95
2005	2.26	0.83	2.01
2006	2.33	0.84	1.97
2007	2.45	0.80	1.93
2008	2.12	0.79	2.04
2009	2.01	0.67	1.90
2010	1.69	0.63	1.80
2011 *	1.79	0.58	1.74
Chg 1 Yr	+6.0%	-7.0%	-3.5%
Chg 5 Yr Ave	-15.5%	-21.5%	-9.9%

Source: Montana Department of Transportation - Safety Management System & Traffic Data Collection

* The 2011 rates have not been officially released by NHTSA, these numbers are still preliminary.

Montana-specific areas of interest

Native American fatalities as a percentage of all fatalities tend to be high. While Native Americans account for just over six percent of the Montana population, in the last fifteen years, eleven to twenty percent of traffic deaths are from the state's Native American population. During 2011, with 23 Native American fatalities, this percentage is 11.0%, the lowest percent in at least a decade. These fatalities also tend to have higher rates of alcohol involvement. From 2007 to 2011, over twenty-one percent of the alcohol-related fatalities in Montana were Native American.

In Montana, over sixty-six percent of all fatal crashes are single vehicle crashes (2007-2011 data). Montana has a higher rate than the national rate, where in 2009, single vehicle fatal crashes accounted for sixty-one percent of all fatal crashes (most recent data available).

Table 6 examines fatal crashes in rural Montana. Fatal crashes occur mostly on rural roads within the state where there are higher speeds than in urban crashes. During 2011, 179 fatalities occurred on rural roads from 162 different crashes. The other 29 fatalities occurred on urban roads from 25 crashes. Similarly, there were 563 incapacitating injuries on rural roads compared to 183 in an urban setting.

Table 6: Rural Fatal Crashes

Year	Fatal Crashes	Rural Fatal Crashes	Percent Rural
2002	232	209	90.1%
2003	239	214	89.5%
2004	209	184	88.0%
2005	224	194	86.6%
2006	226	209	92.5%
2007	249	230	92.4%
2008	208	175	84.1%
2009	198	180	90.9%
2010	161	149	92.5%
2011	187	162	86.6%
Chg 1 Yr	+16.1%	+8.7%	-6.4%
Chg 5 Yr Ave	-10.3%	-14.1%	-4.3%

Source: Montana Department of Transportation - Safety Management System

Alcohol- and/or drug-related driving

Alcohol/drug-related crashes accounted for 9.6% of all reported traffic crashes during 2011. Although there was a very small increase in the total number of alcohol/drug-related crashes over the 2010 numbers (an increase of 10 crashes), this is still one of the lowest total number of alcohol/drug-related crashes in at least twenty years. It is far below the 22.3% of alcohol-related crashes reported during 1983.

Alcohol/drug-related crashes tend to result in more severe injuries than do crashes with no impairment. During the early 1980's, injuries related to alcohol accounted for as much as 36% of the total. Last year, alcohol/drug-related injuries were at 18.1% of all injuries, making the percentage approximately half that seen historically. Table 7 presents the alcohol/drug-related crash and injury counts for the last ten years.

Table 7: Alcohol- and/or Drug-Related Crashes & Injuries

Year	Crashes			Injuries		
	Alcohol/Drug-Related	All	Percent of All	Alcohol/Drug-Related	All	Percent of All
2002	2,288	23,527	9.7%	1,745	10,086	17.3%
2003	2,173	23,160	9.4%	1,638	9,632	17.0%
2004	2,113	21,783	9.7%	1,767	9,263	19.1%
2005	2,182	22,373	9.8%	1,623	9,211	17.6%
2006	2,243	22,186	10.1%	1,816	9,470	19.2%
2007	2,273	21,829	10.4%	1,771	9,067	19.5%
2008	2,313	21,971	10.5%	1,645	8,465	19.4%
2009	2,138	20,967	10.2%	1,319	7,351	17.9%
2010	1,935	20,146	9.6%	1,320	7,032	18.8%
2011	1,945	20,275	9.6%	1,235	6,823	18.1%
Chg 1 Yr	+0.5%	+0.6%	-0.1%	-6.4%	-3.0%	-3.6%
Chg 5 Yr Ave	-10.8%	-5.3%	-5.7%	-21.5%	-17.6%	-4.6%

Source: Montana Department of Transportation - Safety Management System

It is important to note that much of the alcohol data in this section is derived from the Montana Highway Patrol (MHP) crash records database and references alcohol-related information. The MHP data is based upon evidence and an officer's perceptions at the scene. There may not be any recorded BAC for a crash regardless of whether it is considered alcohol-related or not, thus limiting further analysis on alcohol-impaired crashes.

Next, we examine alcohol related crashes by county. The final column of Table 8 displays the percentage of all crashes with alcohol and/or drug involvement in the county. There is a tendency for the larger urban

counties to have a lower percentage of alcohol involvement in crashes. It is not known whether this implies counties with higher populations truly have less alcohol involvement because of alcohol education and related activities, or whether the large number of fender benders at intersections makes the percentage of alcohol involvement lower. It is suspected that these lower percentages result from a combination of these and possibly other factors. In addition, there are some enforcement agencies that are not as precise in determining alcohol related involvement, which may cause some counties to show low percentages.

Table 8: Alcohol- and/or Drug-Related Crash Information by County (2011 Data)

County	Total Crashes	Fatal Crashes*	Fatalities*	Injuries	Percent Alcohol/Drug Crashes
Beaverhead	16	0	0	11	9.8%
Big Horn	31	3	6	31	18.2%
Blaine	18	2	2	20	25.4%
Broadwater	18	1	1	10	14.9%
Carbon	26	1	1	25	12.7%
Carter	3	0	0	0	18.8%
Cascade	148	3	3	84	6.9%
Chouteau	10	1	1	10	11.4%
Custer	13	1	1	9	6.2%
Daniels	4	0	0	6	11.4%
Dawson	28	2	2	19	9.9%
Deer Lodge	19	1	1	14	22.4%
Fallon	1	1	1	0	4.3%
Fergus	20	2	2	8	7.7%
Flathead	180	5	5	101	11.6%
Gallatin	164	4	4	67	10.5%
Garfield	1	0	0	1	6.3%
Glacier	16	1	1	19	13.1%
Golden Valley	4	1	1	4	33.3%
Granite	9	0	0	5	8.7%
Hill	27	0	0	8	6.9%
Jefferson	39	0	0	34	11.4%
Judith Basin	5	2	2	1	8.3%
Lake	55	1	1	48	13.8%
Lewis & Clark	134	3	3	57	8.4%
Liberty	2	0	0	3	25.0%
Lincoln	22	0	0	14	8.5%
Madison	21	0	0	10	15.1%
McCone	0	4	4	0	-
Meagher	1	1	1	2	4.3%

County	Total Crashes	Fatal Crashes*	Fatalities*	Injuries	Percent Alcohol/Drug Crashes
Mineral	18	1	1	13	7.5%
Missoula	195	7	7	108	8.7%
Musselshell	8	0	0	4	10.8%
Park	40	0	0	23	10.4%
Petroleum	6	1	1	4	23.1%
Phillips	14	4	4	17	14.7%
Pondera	10	1	1	10	11.1%
Powder River	2	0	0	2	4.8%
Powell	11	0	0	9	5.9%
Prairie	5	1	1	1	11.6%
Ravalli	60	2	2	45	9.7%
Richland	25	3	4	11	6.0%
Roosevelt	27	4	5	36	16.5%
Rosebud	15	0	0	17	10.6%
Sanders	17	2	2	15	9.5%
Sheridan	8	0	0	8	9.5%
Silver Bow	35	0	0	19	6.1%
Stillwater	15	0	0	12	8.6%
Sweet Grass	8	1	1	7	8.2%
Teton	14	1	1	14	15.1%
Toole	9	0	0	7	7.0%
Treasure	0	0	0	0	-
Valley	5	1	2	4	6.1%
Wheatland	3	1	1	1	9.1%
Wibaux	3	0	0	4	7.7%
Yellowstone	357	8	9	223	10.1%
Total	1,945	78	85	1,235	9.6%

Source: Montana Department of Transportation - Safety Management System; Fatality Analysis Reporting System

* 2011 alcohol-related fatality data has not been released by NHTSA, this data is preliminary.

Alcohol/drugs & driver age

Table 9 examines the age of the drivers that are involved in alcohol/drug-related traffic crashes. Crash rates per licensed driver are calculated. This information can help those in the traffic safety community make decisions on targeting specific age groups concerning the drinking and driving problem.

It should be noted that not all drivers involved in these crashes were drinking or under the influence of drugs. While most alcohol/drug-related crashes are single car crashes, when there are multiple vehicles involved, some of the drivers may not have been drinking or using drugs. This type of crash will also include drivers under the influence of prescription drugs.

Table 9: Alcohol/Drug-Related Crashes by Age of Driver (2011 Data)

Age	Licensed Drivers (State Fiscal Year 2010)	Drivers in Alcohol Crashes	Alcohol Crashes (per 10,000 Licenses)	Drivers in Fatal Alcohol Crashes	Fatal Alcohol Crashes (per 10,000 Licenses)
Under 18	17,032	84	49	1	0.6
18-20	32,823	228	69	6	1.8
Under 21	49,855	312	63	7	1.4
21-24	47,783	413	86	10	2.1
25-34	127,948	658	51	29	2.3
35-44	111,118	389	35	27	2.4
45-54	139,459	341	24	11	0.8
55-64	143,216	215	15	13	0.9
65-74	83,958	64	8	8	1.0
75 +	49,146	21	4	2	0.4

Source: Licensed Drivers - Montana Department of Justice - Motor Vehicle Division;
Drivers in Crashes - Montana Department of Transportation - Safety Management System

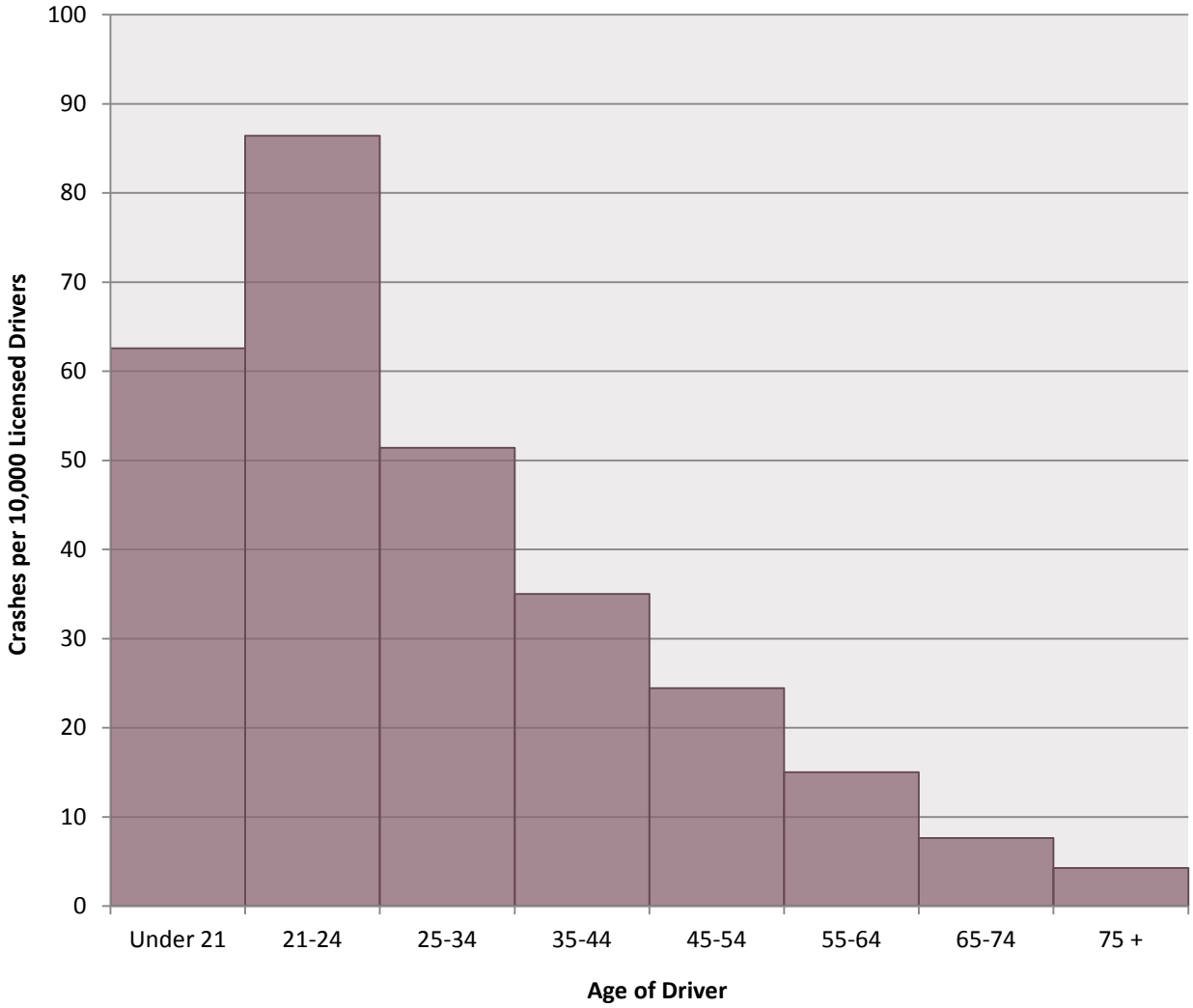
The age group with the greatest number of drivers involved in alcohol/drug-related crashes based on the number of licensed drivers is the 21 to 24 year olds, the "new" drinkers, those people just old enough to legally drink. This group only represents a four-year grouping of drivers, all of the older age categories encompass ten-year groupings.

The second highest alcohol/drug-related crash rate belongs to drivers who legally should not be drinking. Again, these drivers may not have been drinking or using drugs, they could have had the misfortune of being involved in a crash with another driver who was drinking or using drugs.

The highest number of drivers involved in alcohol/drug-related crashes is the 25 to 34 year olds. Since this age group also has a large number of drivers, the alcohol/drug-related crash rate is lower than for the young drivers and the "new" drinkers.

Figure 6 provides a picture of the alcohol-related crash rates by age.

Figure 6: Alcohol/Drug-Related Crashes by Age of Driver (2011 Data)



Source: Montana Department of Transportation – Safety Management System;

Montana Department of Justice – Motor Vehicle Division

Table 10 examines ***drivers*** under age 21 involved in crashes. Young drivers involved in all crashes and in alcohol/drug related crashes are compared. It should be emphasized that the counts are for ***drivers*** of age 20 and under (not crashes). Although most alcohol/drug-related crashes involve only one vehicle, there could be a few instances where the young driver had not been drinking, while another older driver involved in the crash had been drinking.

Underage drivers are involved in fewer alcohol/drug-related crashes (5.8%) compared to the entire population of drivers (9.6%). However, this reflects an underage population that is drinking illegally, which combined with less driving experience, results in a deadly combination.

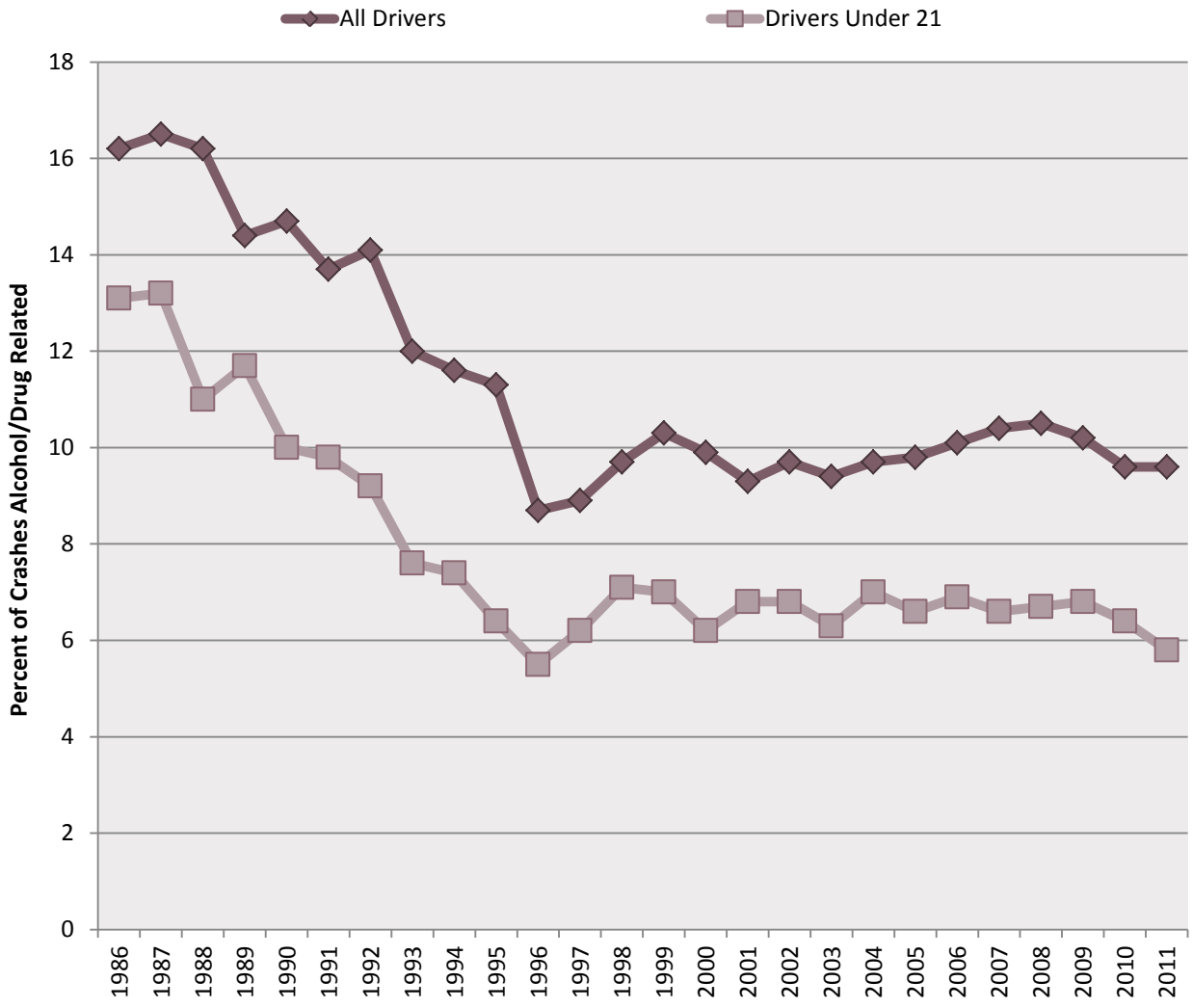
Table 10: Alcohol- and/or Drug-Related Crashes Involving Drivers Under 21

Year	Young Drivers in All Crashes			Young Drivers in Fatal Crashes		
	Alcohol Related	All	Percent of All	Alcohol Related	All	Percent of All
2002	558	8,224	6.8%	16	47	34.0%
2003	473	7,551	6.3%	18	57	31.6%
2004	499	7,090	7.0%	17	39	43.6%
2005	468	7,096	6.6%	11	37	29.7%
2006	491	7,080	6.9%	19	37	51.4%
2007	431	6,534	6.6%	14	32	43.8%
2008	412	6,120	6.7%	14	33	42.4%
2009	387	5,721	6.8%	16	40	40.0%
2010	329	5,146	6.4%	12	30	40.0%
2011	312	5,422	5.8%	7	24	29.2%
Chg 1 Yr	-5.2%	+5.4%	-10.0%	-41.7%	-20.0%	-27.1%
Chg 5 Yr Ave	-23.9%	-11.4%	-13.9%	-53.3%	-30.2%	-33.0%

Source: Montana Department of Transportation - Safety Management System

Figure 7 shows the percent of alcohol/drug-related crashes for young drivers and for all drivers over time. The young drivers continue to be involved in fewer alcohol/drug-related crashes compared to all drivers, but both age groups are not seeing any large declines in their crash rates, as was seen in the late 1980s and early 1990s.

Figure 7: Alcohol/Drug-Related Crashes, All Drivers vs. Young Drivers



Source: Montana Department of Transportation – Safety Management System

Alcohol fatalities & fatality rates

In the past, the National Highway Traffic Safety Administration (NHTSA) has used both the percentage of fatalities that are alcohol-related and the alcohol-related fatality rate (number of alcohol-related fatalities divided by the number of vehicle miles travelled) as performance measures for the states. This data can be compiled by NHTSA through the use of the Fatal Analysis Reporting System (FARS) database and state vehicle miles travelled estimates.

Currently, NHTSA is requiring states to report the number of fatalities involving a driver with a BAC of 0.08 and above. Every state now has a law that describes impaired drivers as having a BAC of 0.08 and above

(driving with an illegal *per se* BAC level). The FARS database records the results of BAC tests from the Montana Forensics Lab. If no test is performed or received, the alcohol code is generated by NHTSA using a number of other crash factors through a mathematical procedure. The FARS data is considered the most accurate alcohol data available; however, timeliness is a problem with the FARS data since results from NHTSA are usually not available for over 9 months after the end of a calendar year.

The data in Table 24 is based upon FARS data and ***shows both alcohol-related fatality information (driver BAC = 0.01+) and alcohol-impaired fatality information (driver BAC = 0.08+)***.

Table 11: Alcohol Fatalities and Fatality Rates

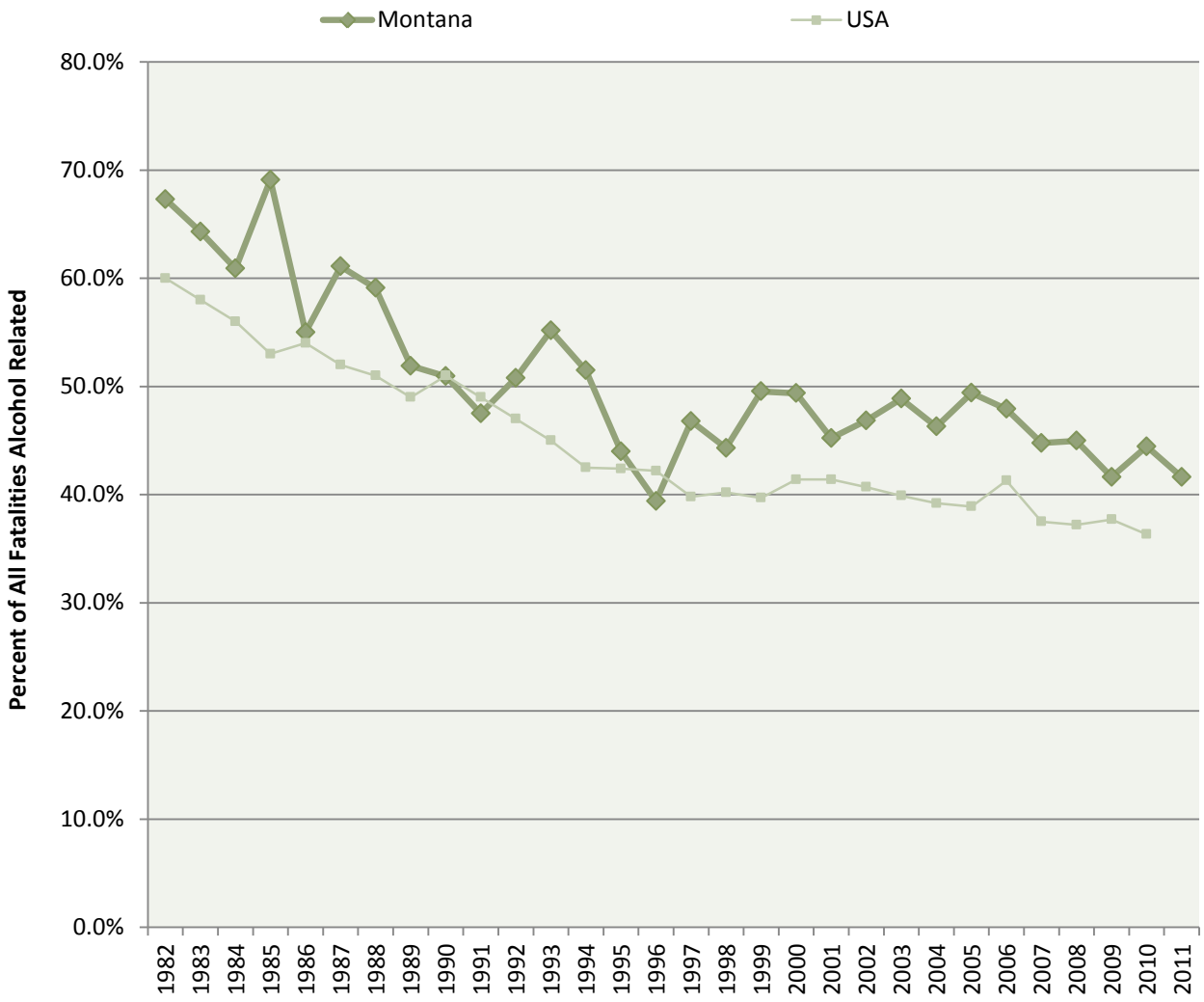
Year	Alcohol-Related Fatalities BAC = 0.01+			Alcohol-Impaired Fatalities BAC = 0.08+		
	Total Alc-Related Fatalities	Percent of All Fatalities	Alc-Related Fatality Rate	Total Impaired Fatalities	Percent of All Fatalities	Impaired Fatality Rate
2002	126	46.8%	1.20	106	39.4%	1.01
2003	128	48.9%	1.17	102	38.9%	0.94
2004	106	46.3%	0.95	97	42.4%	0.87
2005	124	49.4%	1.11	108	43.0%	0.97
2006	126	47.9%	1.12	104	39.5%	0.92
2007	124	44.8%	1.10	105	37.9%	0.93
2008	103	45.0%	0.96	90	39.3%	0.83
2009	92	41.6%	0.84	81	36.7%	0.74
2010	84	44.4%	0.75	73	38.6%	0.65
2011 *	87	41.6%	0.75	74	35.4%	0.63
Chg 1 Yr	-5.4%	-0.0%	-10.8%	-8.6%	-3.4%	-13.8%
Chg 5 Yr Ave	-23.6%	-9.0%	-27.2%	-24.2%	-9.9%	-27.8%

Source: Fatality Analysis Reporting System

* The 2011 numbers have not been officially released by NHTSA; therefore these numbers are still preliminary.

Figure 8 compares the Montana percentage of alcohol-related crashes with the national percentage. The number of alcohol-related fatalities for 2011 has not been released by NHTSA, thus the Montana percent is preliminary and the national percentage is not provided.

Figure 8: Alcohol-Related Fatalities, Percent of all Fatalities



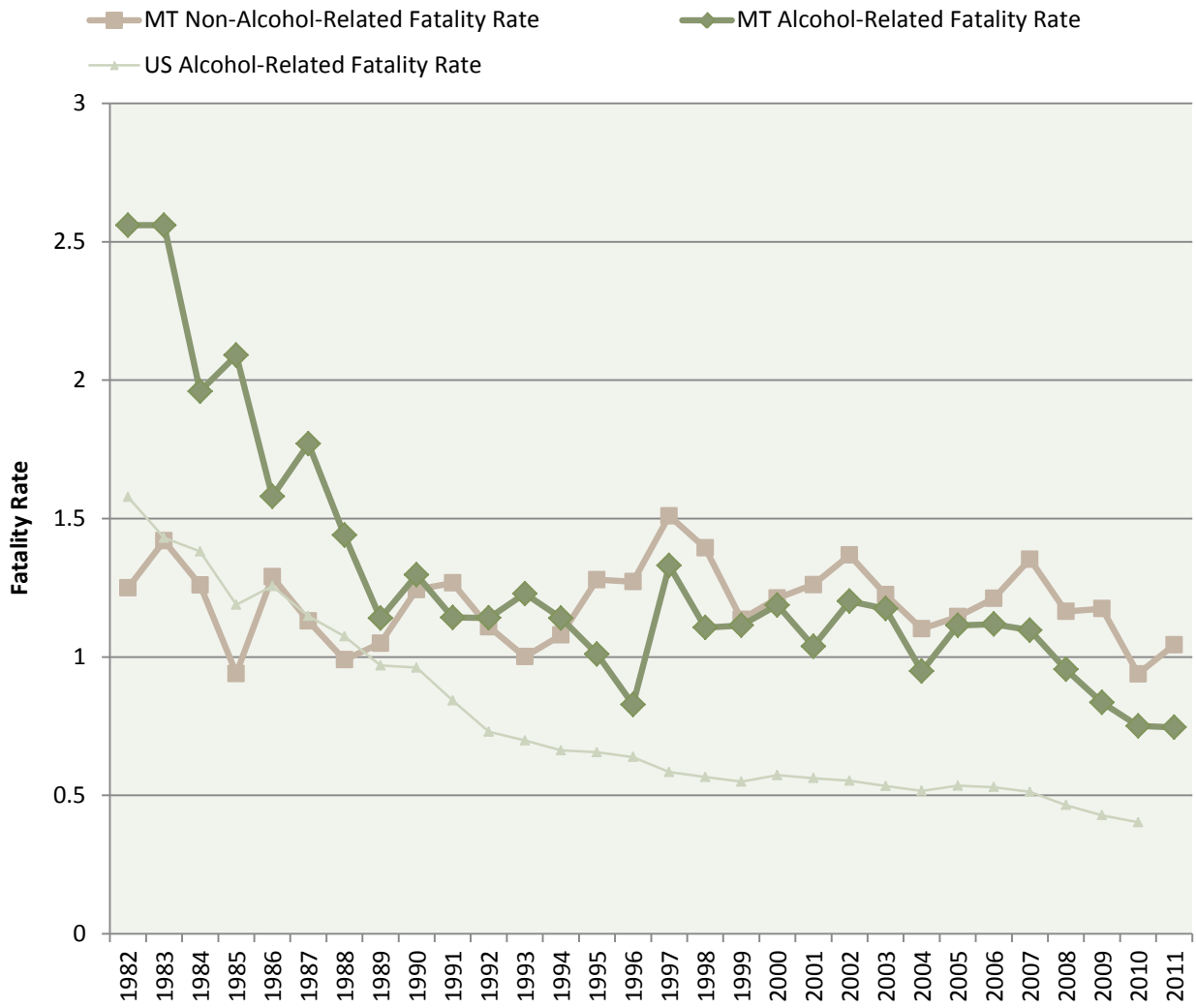
Source: Fatality Analysis Reporting System

The Montana *fatality rate* during 1983 was 3.98 and the *alcohol-related fatality rate* that year was 2.56. During the past twenty-eight years, the alcohol rate has decreased more than 67%. After a sharp decline in the 1980s, the alcohol-related fatality rate remained somewhat stagnant, until recently when the rate has seen four years of continual decline. The lowest official rate was reached in 2010 (0.75) with the preliminary 2011 rate matching it.

The graph in Figure 9 displays alcohol and non-alcohol fatality rates in Montana since 1982. It is interesting to note that in 1995, the non-alcohol fatality rate surpassed the alcohol-related fatality rate for the first time, showing the first signs of an important shift in driver behavior. Although often being very close to each other, the alcohol-related fatality rate has continued to be less than the non-alcohol fatality rate since that time.

The national alcohol-related fatality rate is included as a point of reference. The 2011 national rate has not been released, thus is omitted from the graph.

Figure 9: Alcohol Fatality Rate vs. Non-Alcohol Fatality Rate



Source: Fatality Analysis Reporting System

Blood alcohol concentration (BAC)

Over an 18-month time period from October 2007 – March 2009, the average BAC of those arrested for DUI in Montana was ***0.154*** (of those who provided a sample, many refused). This average is based on BAC information recorded on the 100+ Intoxilyzer 8000 units located around the state. This average is lower than in years past, when the average BAC hovered around 0.18, however it is still twice the legal limit. *Please note: this information is the most recent data available; the Montana Crime Lab is no longer collecting this data because of legal technicalities.*

Montana has been working diligently to increase the rate of testing for drivers involved in fatal crashes. Testing blood for the presence of alcohol and/or other drugs yields valuable information about what may have contributed to the crash. With the decreasing number of fatal crashes and Montanans' ability to refuse to provide the breath or blood necessary for testing, the increases are admirable. Unfortunately, the average BAC for drivers, bicyclists, pedestrians, etc. involved in fatal crashes continues to be over twice the legal limit.

The following table provides the percent of drivers, pedestrians, bicyclists, etc. involved in fatal crashes tested for BAC, the percent of the tested drivers that test positive for alcohol and the average BAC resulting from those positive tests. This information is based on the tested results of drivers of a motor vehicle in transport, pedestrians, bicyclists, other cyclists and people on personal conveyances. Vehicle passengers are excluded. The people included were assumed to be "in control of" a vehicle or themselves at the time of the crash.

Table 12: BAC Statistics

Year	% Drivers/ Pedestrians/Bicyclists Tested	% Tested Involving Alcohol (BAC > 0.00)	Average BAC
2005	70.8%	39.9%	0.160
2006	73.7%	44.9%	0.176
2007	76.7%	41.3%	0.188
2008	76.9%	38.8%	0.174
2009	79.0%	34.8%	0.185
2010	80.5%	37.4%	0.172
2011 *	78.3%	33.2%	0.188
Chg 1 Yr	-2.7%	-11.2%	+9.3%
Chg 5 Yr Ave	+1.2%	-15.8%	+5.0%

Source: Montana Department of Transportation; Montana Department of Justice

* 2011 FARS cases are not closed, this information is preliminary.

In short, the preliminary results for 2011 show 78.3% of all drivers / pedestrians / bicyclists / etc. were tested for alcohol (220 of 281 people). Of those 220 people tested, 33.2% were noted as having a BAC greater than 0.00% (73 people) and the average BAC of those 73 people was 0.188.

Alcohol conviction information

Complete DUI arrest data is not summarized by any agency in Montana. Not all arrests result in a conviction for DUI, since some are dismissed, pled down to a non-DUI charge, or found not guilty. In lieu of arrest data for Montana, Table 13and Table 14 present conviction data reported by the courts to the Department of Justice for appropriate action against each individual's driver's record. This data includes out-of-state convictions for Montana licensed drivers.

Table 13: DUI Convictions and Rates

Year	DUI Convictions	Convictions Per 1,000 Population	Convictions Per 1 Million VMT
2002	5,295	5.84	0.50
2003	5,462	6.00	0.50
2004	5,745	6.26	0.51
2005	5,962	6.43	0.54
2006	6,491	6.94	0.58
2007	6,703	7.08	0.59
2008	6,809	7.11	0.63
2009	6,698	6.92	0.61
2010	6,372	6.54	0.57
2011	5,667	5.73	0.49
Chg 1 Yr	-15.4%	-17.3%	-20.2%
Chg 5 Yr Ave	-13.3%	-16.9%	-17.5%

Source: Convictions – Montana Department of Justice – Motor Vehicle Division – Records & Driver Control Bureau;
Population – U.S. Census Bureau – Population Division;
VMT – Montana Department of Transportation – Traffic Data Collection

Note: The table above does not include conviction data for DUIs for drivers under 21 that are convicted of driving with a BAC over 0.02. The table below shows that the number of first offense underage DUI convictions reported to the Department of Justice has generally decreased recently. The numbers of second offenses are too small to draw any specific conclusions.

Table 14: Alcohol-Related Convictions and Refusals

Conviction	2007	2008	2009	2010	2011
DUI 1st Offense	3,051	3,043	2,891	2,634	2,302
DUI 2nd or Subsequent Offense	1,129	1,135	1,161	1,227	1,078
BAC 1st Offense	2,066	2,202	2,165	1,983	1,776
BAC 2nd or Subsequent Offense	244	235	264	209	232
0.02% BAC (Under 21) 1st Offense	302	343	246	274	241
0.02% BAC (Under 21) 2nd or Subsequent Offense	22	13	10	18	9
Felony DUI	213	194	217	319	279
Total Convictions	7,027	7,165	6,954	6,664	5,917

Refusals to provide blood/breath evidence of impairment*

Refusal	2007	2008	2009	2010	2011
Implied Consent	1,236	1,382	1,379	1,378	1,257
P.A.S.T. (Preliminary Alcohol Screening Test)	1,533	1,445	1,519	1,464	1,434
Total Refusals	2,769	2,827	2,898	2,842	2,691

Source: Montana Department of Justice - Motor Vehicle Division – Records and Driver Control Bureau

* A driver suspected of DUI may have more than one opportunity to provide or refuse to provide evidence of impairment. The P.A.S.T. is provided at the location of the initial stop. The implied consent test may be breath or blood and is done at a fixed base location by law enforcement (breath test) or medical personnel (blood draw).

Under Montana law, there are two types of impaired driving offenses: driving under the influence (i.e., a DUI offense); and driving with excessive blood alcohol concentration (i.e., a BAC offense).

Under section ***61-8-401***, Montana Code Annotated (MCA), it is unlawful for a person to be in actual physical control of a vehicle while under the influence of alcohol or a drug. The statutory definition of "under the influence" is "that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished". A driver may be charged with DUI if there is sufficient evidence of diminished ability to safely operate a motor vehicle (e.g. weaving over centerline, driver smelled of alcohol, had bloodshot eyes, and slurred speech). A person's BAC may be below 0.08 and still be charged with and convicted of DUI based on the evidence above (see note below).

Under section ***61-8-406***, MCA, it is unlawful for a person to drive a noncommercial vehicle if the person's BAC is 0.08 or more. For a commercial vehicle, the limit is a 0.04 BAC. This does not require proof of impairment, only BAC > 0.08. This law is often called the per se statute because "under the influence" may be presumed.

Note: The American Medical Association recommends the "per se" limit be set at 0.04 BAC because that is the level at which judgment and reasoning is affected, affecting the safe operation of a motor vehicle. At 0.06 BAC, fine motor skills are affected. 0.08 BAC was the compromise because that is the level at which gross motor skills are affected.

A separate statute provides that the BAC limit for a person under 21 years of age is 0.02 (MCA ***61-8-410***), sometimes called a "mini DUI" or "baby DUI". The level is set at 0.02 because that is the level at which alcohol can be detected, and it is not legal for minors to drink. While a conviction under this section stays on the driver's record for life, it does not count as a prior conviction under 61-8-401 or 61-8-406 (i.e. isn't counted as a prior DUI if the individual re-offends).

However, minors can be charged under 61-8-401 (DUI) or 61-8-406 (BAC) which would count towards a felony DUI.

The penalty for a BAC violation is less than the penalties for a DUI violation, so prosecutors often used that as a plea bargaining tool on a first DUI. The first offense BAC violation carries no minimum jail time, which makes it a more attractive option for defendants.

A 2009 report by Dr. Tim Conley (*Assessing Montana's Multiple Offender Drunk Drivers for Prevention Strategy Ideas, a Preliminary Report for the Law and Justice Interim Committee, January 29, 2010*) revealed that felony offenders, on average, conservatively estimate that they have driven 369 times per conviction.

Drugs involved in DUI

The Montana Forensic Science Division compared the classifications of drugs found in the blood of drivers apprehended for driving under the influence (DUI) from 2007 to 2011. As shown in the following graphs, there has been an increase in drug-impaired driving from 2007 to 2011, especially in the number of cases involving central nervous system (CNS) depressants other than alcohol), stimulants, narcotic analgesics, and cannabis.

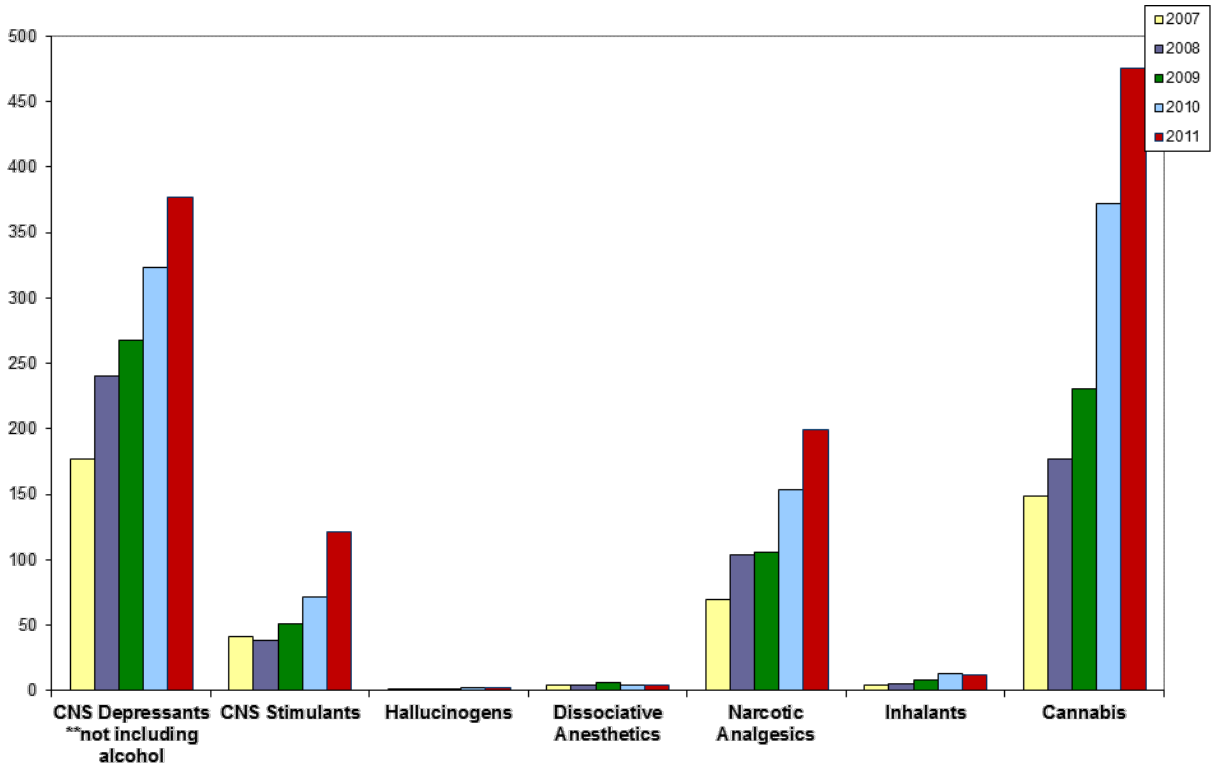
Types of drugs found in whole blood samples include tranquilizers, sleeping pills, muscle relaxants, inhalants, cough medicine, antidepressants, antihistamines, and numerous others.

An analysis of the fatal vehicle crashes in 2011 revealed that:

- 34% had drugs involved (down from 38% in 2010)
- 32% had alcohol involved (down from 33% in 2010)
- 15% had a mixture of drugs and alcohol involved (up from 14% in 2010)

Categories of Drugs* Found in DUI Cases in Montana (2007 – 2011)

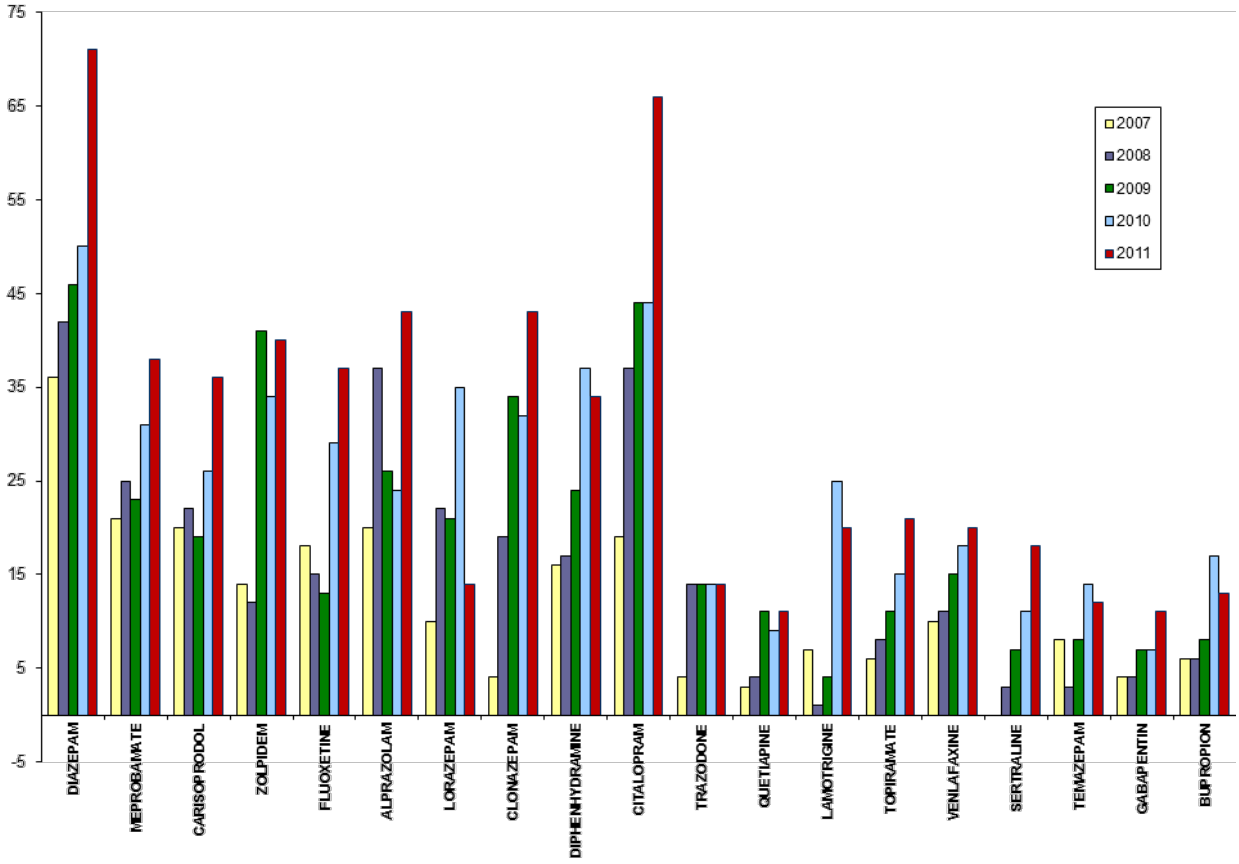
** Drugs Other Than Alcohol*



The next graph shows the amount of CNS Depressants other than alcohol being found in whole blood samples. This shows that prescription drug use and abuse is becoming more common in DUI cases.

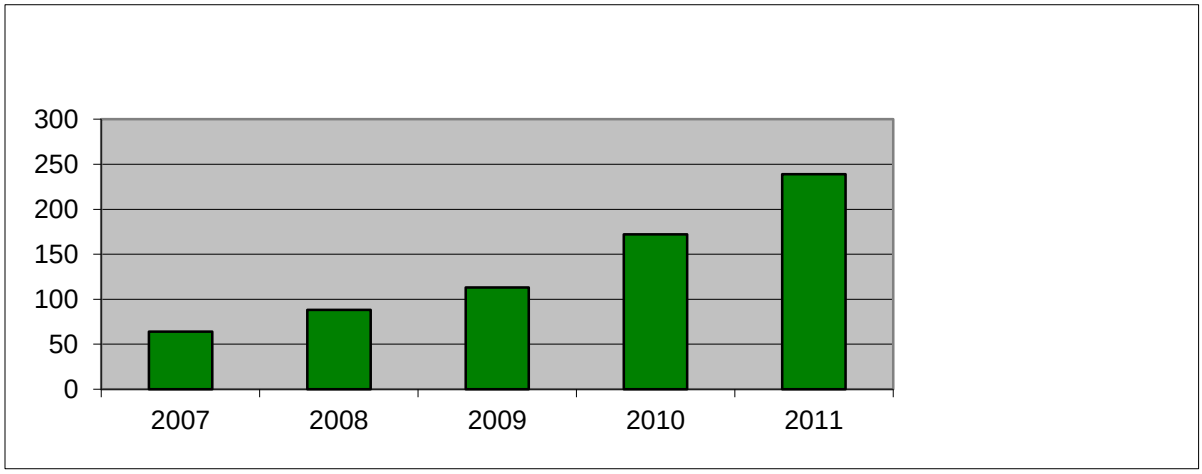
CNS Depressants in DUI Cases (2007 – 2011)

(Depressant drugs other than alcohol)

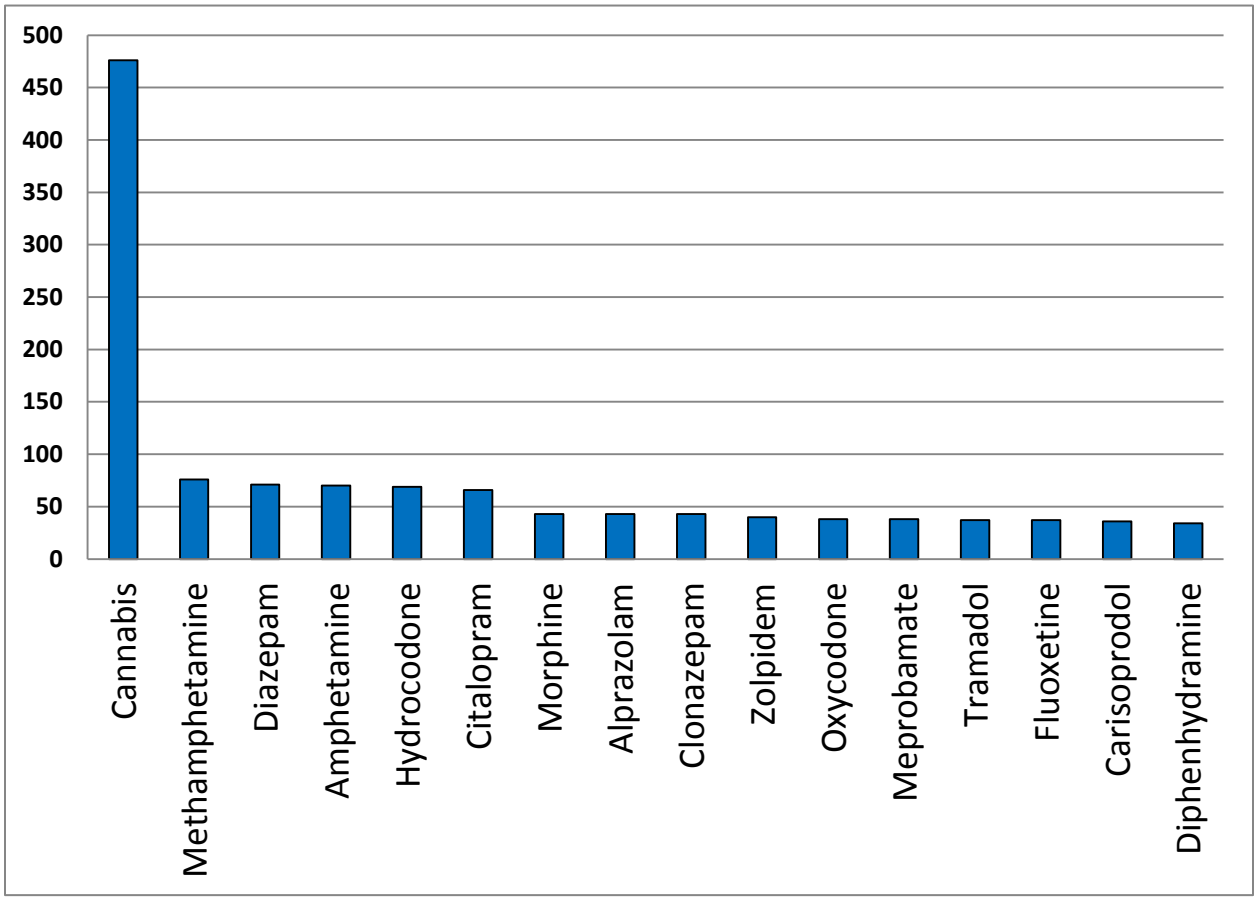


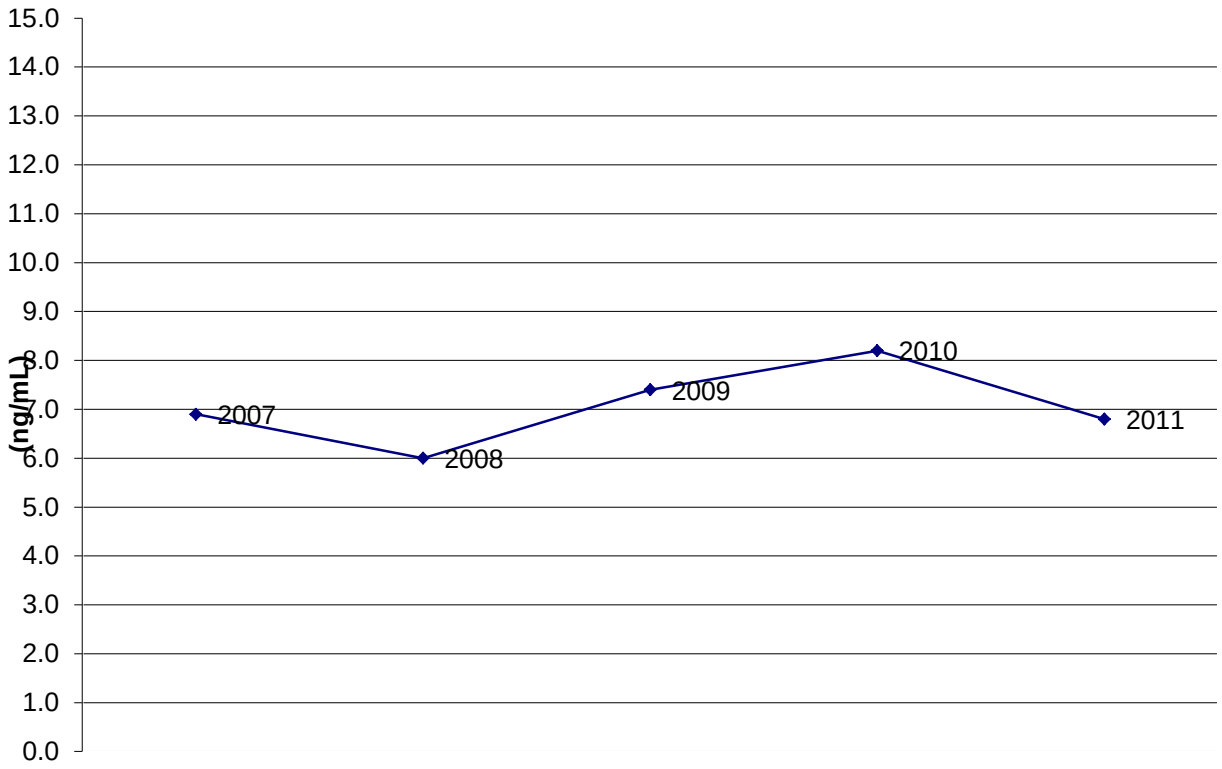
Cannabis continues to be a significant factor in impaired driving cases. Other than alcohol, it is the drug most frequently seen in DUI cases. Over the previous five years (2007 – 2011), the average THC level in Montana's drug-impaired driving cases ranged between 6 and 8 ng/ml.

DUI cases involving Cannabis + Alcohol



Top Drugs in DUI cases (2011)





Although showing some improvement, the data still shows that Montana has a substantial and costly problem in the area of impaired driving.