

Crash, Boom, Bang



Prosecuting Attorneys Institute
Traffic Safety Resource Prosecutor
Volume 2 Issue 2 May 2008

90 MacCorkle Ave. SW
Suite 202
South Charleston, WV
25303
304-558-3348

Resources

Brian J. Lanham
Traffic Safety Resource
Prosecutor
brian.j.lanham@wv.gov

Philip W. Morrison, II
Executive Director
philip.w.morrison@wv.gov

In This Issue:

New DUI Law

Click It or Ticket

CELEBRATING

OUR 34th

YEAR!

WV Has New DUI Law

The West Virginia Legislature passed and the Governor signed a new Driving Under the Influence law this spring. Besides changing some administrative responsibilities regarding the Department of Motor Vehicles and the process by which the defendant loses his/her license, the law changed mandatory jail times and created a new offense of driving under the influence with a B.A.C. of more than .15.

Here is a summary of the criminal changes.

17B-4-3

(a) Driving on a suspended license for non-DUI offense.

1st offense

was: Fine of \$100-500.

now: no change.

2nd offense

was: 10 days in jail plus fine of \$100-500.

now: **no jail**, only fine of \$100-500.

3rd + offense

was: 6 months in jail plus fine of \$150-500.

now: **30-90 days in jail** plus fine of \$150-500.

According to the Worcester Telegram, in Tampa a 41-year-old woman, arrested for DUI, was wearing a T-shirt that read, "I'm not an alcoholic, I'm a drunk. Alcoholics go to meetings."



Nationwide, an estimated 30.5 million people aged 12 or older drove under the influence of alcohol at least once in the past year according to the report by the Substance Abuse and Mental Health Services Administration (SAMHSA).

(b) Driving on a revoked license for DUI conviction.

1st offense

was: 6 months in jail plus fine of \$100-500.

now: **30 days – 6 months in jail** plus \$100-500.

2nd offense

was: 1 year in jail plus fine of \$1,000-3,000.

now: **6 months – 1 year in jail**, plus fine of \$1,000-3,000.

3rd + offense

was: Felony, 1-3 years in prison plus fine of \$3,000-5,000.

now: no change.

(d) Driving on a revoked license for a DUI under the age 21 with .02-.08 BAC.

was: 24 hours in jail or fine of \$50-500, or both.

now: no change.

17C-5-2

(a) DUI with reckless disregard causing death.

was: Felony, 2-10 years in prison plus fine \$1,000-3,000.

now: no change.

(b) DUI causing death.

was: 90 days to 1 year in jail plus fine \$500-1,000.

now: no change.

(c) DUI causing bodily injury.

was: 1 day – 1 year in jail plus fine \$200-1,000.

now: no change.

(d) DUI with a B.A.C. of .08 - .14.

was: .08 and higher.

now: .08 - **.14 B.A.C.**

was: 24 hours – 6 months in jail plus fine \$100-500.

now: **0 hours** up to 6 months in jail plus fine \$100-500.

(e) **DUI with a B.A.C. of .15 or more.**

New offense. 2 days – 6 months in jail, including actual confinement of at least 24 hours plus fine \$200-1,000.

(f) - (q) No change.

America's Seat Belt Campaign: *Click It or Ticket*

Begay v. United States,
128 S. Ct. 1581 (2008).

The United States Supreme Court ruled that a felony level DUI does not qualify as a “violent” felony for purposes of the federal Armed Career Criminal Act. The Court found that the New Mexico felony DUI statute which, like West Virginia’s statute, provides that “felony” status is based upon the number of prior convictions, does not make the act of DUI “violent” under the federal statute.

Click It or Ticket (CIOT) is the most successful seat belt enforcement campaign ever, helping create the highest national seat belt usage rate of 82 percent. Coast to coast, day or night, the message is simple - *Click It or Ticket*. The cornerstone of NHTSA's seat belt communications program is the national *Click It or Ticket* May Mobilization. The primary audience continues to be men ages 18 to 34, which research shows are less likely to wear seat belts.

Seat belt use in 2007 stood at 82 percent, a slight gain from 81 percent use in 2006. This result is from the National Occupant Protection Use Survey (NOPUS), which provides the only nationwide probability-



-based observed data on seat belt use in the United States. The NOPUS is conducted annually by the National Center for Statistics and Analysis of the National Highway Traffic Safety Administration.

The 2007 survey also found the following:

- Seat belt use in States in which motorists can be pulled over solely for not using seat belts (primary offense) rose 2 percentage points to 87 percent in 2007.
- There is now a 14-percentage-point difference between use in these States and those with weaker enforcement laws. (West Virginia is not a primary offense state.)
- Seat belt use has risen steadily since NOPUS began collecting data in 1994, and this has been accompanied by a steady decline in passenger vehicle occupant fatalities per mile traveled.





Save the Date

Summer Prosecuting Attorneys Conference

June 25-27, 2008

Wheeling, WV

Drunk Driving: Over the Limit, Under Arrest.

National Crackdown

August 15—September 1, 2008



90 MacCorkle Ave SW
Suite 202
South Charleston, WV 2303