

# THE MAINE LIAISON



Edition 2

Maine Bureau of Highway Safety

December 2015

## Don't Wreck the Holidays

In 2013, NHTSA said 1,180 people were killed in crashes on our nation's roads during the holiday period (Dec. 18-31), and almost one-third of those fatalities (30%) were recorded in drunk-driving crashes.

Since holiday celebrations often involve alcohol, NHTSA offers this recommendation: Give yourself the gift of a designated driver.

One more idea: Try NHTSA's SaferRide mobile app, which allows users to call a taxi or a friend by identifying their location so they can be picked up.

Remember, it's the most wonderful time of the year, but one poor decision to drink and drive could bring a devastating end to holiday celebrations.

[Website link: Safety.nsc.org](http://Safety.nsc.org)

In this issue I would like to provide information to officers for safe traffic enforcement but also for officers to advocate what they do on a daily basis. We all know there is no good time to lose a loved one. But the holidays would be a particularly tough time. Start at home. Share the message and encourage your friends and families to do the same.

### NLELP Webinar: The 7 Deadly Sins of Impaired Driving Cases

Driving sober is a virtue, yet impaired drivers continue to plague our nation's highways. National arrest statistics reveal more than 10,000 people died in alcohol impaired driving crashes in 2013 – one every **51 minutes**. This webinar explored lessons learned in the trenches from 7 real impaired driving prosecutions from the beginning of the investigation to the end of the courtroom trial. Wisdom will be imparted regarding the 7 deadly sins committed by impaired drivers and what we can do as law enforcement officers and prosecutors to better hold these offenders accountable. You will have to register but there is no cost. Its simple. <https://attendee.gotowebinar.com/recording/8163662001460623361>

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**TSRP Corner**

Stay up to date with your impaired driving skills, courtroom knowledge and latest trends. Join the Maine OUI Enforcement list serve. The list serve is only for police, prosecutors and anyone else interested in the latest enforcement news. To join contact Scot Mattox at

**TSRP**

Your *ride's* here!



"Drive Sober Maine!"

A sovereign citizen awareness video for all law enforcement.

Thanks to the Florida Sheriff's Association



## York RIDE Team Strikes First

A note from the York RIDE Team leader:

I wanted to send out a huge thank you to all my team members for your continued professionalism, drive, and enthusiasm! This Saturday we were in Kennebunk for a saturation patrol. The team stopped 62 cars, had 3-OUI's, 2-class e suspended registrations, and 1-poss. of useable amount of marijuana.

We received great feedback from Kennebunk, they are excited to have the team back, and even possibly hire reserves the next time to assist the team by sitting on cars that are waiting for tows etc.

Thank you and I appreciate all of your efforts! Amazing job!

Rachel



Editor's Note: Sanford PD has asked for a saturation patrol to help them remove impaired drivers during the holiday season

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## Under the Influence

An article from Police: The Law Enforcement Magazine discusses the issue of drug driving becoming more of a concern, and making OUI stops more complicated for police officers. It talks about the training available for police officers and the challenges of legalized marijuana on highway safety along with using saturation patrols, checkpoints, and public information campaigns in California, Arizona, and Michigan. Available at: <http://www.policemag.com/channel/patrol/articles/2015/11/under-the-influence.aspx>

## Another A.R.I.D.E. Program

If you missed the recent ARIDE class in Farmington, don't despair. We have another class in Gorham in January. Maine citizens will be voting whether or not to legalize marijuana use next fall. Stay ahead of the enforcement curve by learning advanced roadside enforcement techniques. Don't let the buzzed motorist make a chump of you for your lack of knowledge. Attend the training! It's free!

**Date:** January 14-15, 2016  
**Location:** Nappi Distributors 615 Main Street Gorham.  
**Time:** 9:00 am - 5:00 pm  
**Fee:** Sponsored by the Gorham PD and the Me BHS at no cost to your agency.  
**Contact:** James Lyman at 877-8009

### Program Description:

The Maine Bureau of Highway Safety and the Maine Criminal Justice Academy are pleased to offer The National Highway Traffic Safety Administrations' A.R.I.D.E. course. The course provides officers a better understanding of the elements surrounding the enforcement of impaired driver laws. The course is designed to help officers become more proficient at detecting, apprehending, testing and prosecuting impaired drivers. The course includes elements of both the Standardized Field Sobriety Testing (SFST) and Drug Recognition Expert (DRE) curriculum. **This course is not intended to certify you as a Drug Recognition Expert, although it is being considered as a prerequisite for future DRE candidates.** Attendees must be proficient in the SFST battery with emphasis on HGN procedures.

The candidate who successfully completes the training will be able to recognize that an individual may be under the influence of a drug or drugs other than alcohol, or under the combined influence of alcohol and other drugs, or suffering from some injury or illness that produces signs similar to alcohol/drug impairment.

### Prerequisites:

- Full Time Law Enforcement Officer
- Must have completed the SFST program and been deemed proficient by the MCJA.
- Must meet with an instructor prior to the beginning of the class and review your SFST skills at which time the instructor will sign a new proficiency exam sheet. The signed exam sheet is required on the first day of class. Students without the sheet will not participate.

**Class Limit:** 20 Students (MCJA Registration required)

New App Law Enforcement Needs to Be Aware Of - George Geisler, PA LEL, shared information about a new app that our law enforcement partners should be aware of when they stop a suspected impaired driver. The app is called the Duey Dialer. It is designed to help a person stopped for suspected DUI get immediate help from an attorney. The app button connects the driver in real time to an attorney when an individual is stopped and may be arrested for DUI / DWI. The manufacturer claims that it's like having a lawyer in your pocket. Read more about the App at: <http://www.dueydialer.com/>

## 2013 Traffic Safety Fact Sheet Rural/Urban Comparison

Please share these youtube videos on your Facebook pages.  
<https://www.youtube.com/watch?v=45oV6PssNu4>

<https://www.youtube.com/watch?v=TghB2I9XYCI>

Remember to follow your agency policies while viewing and sharing

The nation's decades-long campaign to combat drunk driving continues to make our roads safer, but use of marijuana and prescription drugs is increasingly prominent on the highways, creating new safety questions.

<http://www.nhtsa.gov/Driving+Safety/Research+&+Evaluation/Alco->

More materials to share. Keep your families safe this holiday season.

# NHTSA TSM

There were 30,057 fatal motor vehicle traffic crashes resulting in 32,719 fatalities across America.

Of these fatal traffic crashes,

- 53% occurred in **rural** areas,
- 47% occurred in **urban** areas
- 33 (<0.5%) that occurred in unknown areas.

Of the motor vehicle traffic fatalities

- 54% of the fatalities occurred in rural areas – *Only 19 percent of the population live in rural areas*
- 30% were killed in speeding-related crashes
- 85 % compliance rate with seat belt use
- 51 % of rural occupants killed were unrestrained
- 46% of the fatalities occurred in urban areas
- 28% were killed in speeding related crashes
- 87% compliance rate with seat belt use
- 46% of urban occupants killed were unrestrained
- 36 (<0.5%) that occurred in unknown areas

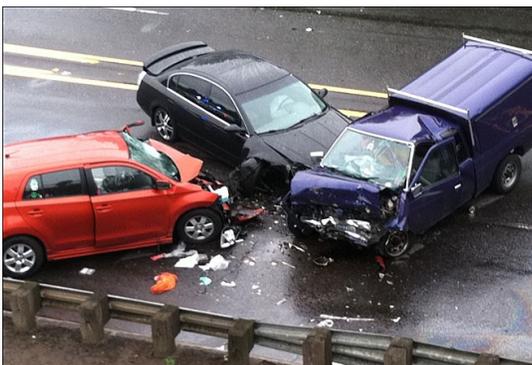
Fatality rate per 100 million vehicle miles traveled was 2.6 times higher in rural areas than in urban

- Rural areas 1.88
- Urban areas 0.73

Reductions 2004 to 2013:

- Rural traffic fatalities decreased 30 % from 25,179 to 17,696
- Urban traffic fatalities decreased 15 % from 17,581 to 14,987
- Rural alcohol-impaired-driving fatalities decreased by 29 % from 7,661 to 5,473
- Urban alcohol impaired-driving fatalities decreased by 15 % from 5,415 to 4,590

Read the full report at: <http://www-nrd.nhtsa.dot.gov/Pubs/812181.pdf>



2015 Year to Date Fatal Count: **145**

2014 Year to Date Fatal Count: **126**

# MAINE BUREAU OF HIGHWAY SAFETY

[www.maine.gov/dps/bhs](http://www.maine.gov/dps/bhs)

## National costs, projections and recommendations broken down by state

In 2013, crash deaths resulted in **\$44 billion in medical and work loss costs** in addition to the immeasurable burden on the victims' families and friends. These new CDC fact sheets highlight the cost of deaths from motor vehicle crashes and show which age groups and types of road users account for the largest portion of these costs in each state. The CDC also makes recommendations of proven strategies that could strengthen each state's motor vehicle injury prevention efforts, and save both lives and money.

The state-specific fact sheets are PDFs at this link: <http://www.cdc.gov/motorvehiclesafety/statecosts/index.html>



Law enforcement agencies across America will be actively searching for and arresting drunk drivers as part of the 2015 "Drive Sober or Get Pulled Over," Law Enforcement Crackdown from December 16, 2015 to January 1, 2016. Be sure your partners, friends, and community members participate in the Crackdown by increasing law enforcement efforts, raising public awareness, engaging the media and promoting designated drivers and other safe alternative transportation methods. Campaign materials can be found here: [www.nlelp.org/wp-content/uploads/2015/12/ID\\_Update\\_Dec.pdf](http://www.nlelp.org/wp-content/uploads/2015/12/ID_Update_Dec.pdf)

## On-line Breath Testing Device re-certification

JPMA is nearing completion of the on-line Breath Testing Device re-certification program. We hope it is up and running in January. Officers will be able to access the training class in the JPMA library. Students will take the training class on line including the written exam. When completed, the student will take the exam to an BTM instructor and complete any practicals before sending the packet to MCJA for processing.

BTM re-certs that were received at MCJA by 11-30-2015 are being processed and new certs will be e-mailed to agencies in the next few weeks.

Upgrades to the BTM manuals are nearing completion and an updated version will be available January 2016.



## Responsibility.Org

Drug-impaired driving is a growing problem that is often combined with alcohol-impaired driving. It's a very complex issue that is difficult to detect without specialized training. We are excited to partner with GHSA and Shaq to increase the number of law enforcement officers who can identify drug-impaired drivers and defend those arrests in the courtroom.

<http://responsibility.org/blog/drugged-driving-is-increasing-but-what-can-we-do-to-about-it/>

## Maine Law Court Rules that Minor Variations in the Administration of the SFST Battery Do Not Render the Evidence Inadmissible.

Last week in *State v. Fay* 2015 ME 160, the Maine Supreme Court clarified that a person's poor performance on the National Highway Traffic Safety Administration's (NHTSA) Standardized Field Sobriety Tests (SFST) are admissible even if the officer does not administer the tests in strict adherence to NHTSA's protocol.

The Belfast Police Department arrested Fay for OUI in July of 2012. He argued that because the officer's administration of the SFSTs varied from the NHTSA standards, the evidence obtained from those tests was not enough to show that he was impaired. The Court disagreed and ruled that when officers fail to strictly follow the NHTSA guidelines for administering the SFST Battery it does not make the evidence obtained from the field sobriety testing inadmissible or worthless:

Thus, a fact finder may consider a suspect's unsatisfactory performance of field sobriety tests as evidence of intoxication, notwithstanding variations in the administration of those tests." *Fay* at ¶ 7.

While this clarifies that even improperly administered SFSTs should be admitted as evidence to the fact-finder, the weight or importance that this evidence should be given is up for consideration. Therefore, officers who do not adhere to the NHTSA protocol for administering the SFSTs will likely continue to face scrutiny from the defense about whether or not the non-conforming tests rationally and objectively show impairment. At the very least a test done outside the parameters of the NHTSA protocol does not carry with it the years of scientific research and numerous field studies that show the test battery as quite valid and reliable.

Additionally, it is important to note that the Court took the time (as it often does in many OUI case rulings) to remind us that these cases are replete with other peripheral – but no less important – evidence that a fact-finder can use to find intoxication such as: (1) drink history; (2) odors; (3) speech patterns; (4) coordination; (5) eye and facial appearance; and (6) statements.

So what does this ruling mean to the officer on the street? In my view, *Fay* is of little practical value. Best practice in OUI investigation still demands that officers adhere strictly to the NHTSA protocol for administering the Horizontal Gaze Nystagmus, Walk and Turn, and One Leg Stand Tests. Don't give the defense an unnecessary opportunity to obscure the issues and make the prosecutor's task more challenging. Should deviation be necessary, be certain to document and explain the reasons. With *Fay*, at least the non-conforming tests get in and may be helpful in showing some evidence of impairment, but the better procedure is to conform.

Lastly, as the Court has taken the time to remind us (1-6 above), solid investigation and documentation of the basics in an OUI case is always important evidence. Stay safe out there.

Scot Mattox, Esq.  
Maine TSRP

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Next roll call ask who in the roll call has young children at home. Ask them to picture them in their minds then tell them:

- In 2013, approximately 1 in 5 child (12 and younger) passenger deaths were in drunk-driving crashes.
- Seventy-one percent of the time, it was the child's own driver who was drunk.



## Hancock County SO Making a Difference

The HCSO hosts one of the newest RIDE Teams but that's not enough. The HCSO recognizes impaired driving is a problem and will be actively participating in the MeBHS Impaired Driving Enforcement campaign. The sheriff has planned OUI checkpoints and saturation patrols for both efforts.



From the Ellsworth American

The MCJA will be hosting another DRE school in February of 2016. Twenty three DRE applicants were interviewed in December. Their applications will now be discussed with their respective prosecutors' offices. Those that are selected will be presented to the commissioner of public safety for approval. Candidates that are not selected for this class should certainly apply for the next class in February 2017.

**NOTE:** Maine typically hosts a DRE school every other year but in anticipation of this years referendum questions the MeBHS forecasts a potential need for more DREs to keep our roadways safe.

**From all of us at the Maine Bureau of Highway Safety, we wish you and your families a safe and happy holiday season.**

