

**Exhibit Number: 5**

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**This exhibit exceeds 10-page maximum; therefore only a small portion of the exhibit is scanned for your research. The original exhibit is on file at the Montana Historical Society and may be viewed there**

Jim Lynch, Director, Department of Transportation  
Testimony in Support of SB80

Exhibit No. 5  
Date 1-20-03  
Bill No. SB 80

Mr. Chairman and Members of the Committee: My name is Jim Lynch and I am the Director of the Department of Transportation.

I want to thank Senator Perry for bringing Senate Bill 80 before you for consideration.

I am aware of the complexities, issues and varied opinions on the subject of alcohol and its relation to crashes on our roads.

As the past Chairman of Flathead County's DUI task force, I have seen the devastation to families and friends of loved ones either injured or killed in an alcohol related crash. Some of these were innocent victims of an impaired driver. I would suggest that each one of you in this room participate in a drive-along as an independent observer with your community's DUI enforcement team. You will see the need first-hand for tough drinking and driving laws.

The Department of Transportation is home to the State Highway Traffic Safety Program. As Director of the Department, I am charged with carrying out the Department's Highway Traffic Safety Program, through education and related counter-measures. This includes funding many safety related organizations such as county DUI task forces, Healthy Mothers Healthy Babies, and stepped-up DUI enforcement programs in many cities. It also includes local and state-wide media campaigns encouraging designated drivers and discouraging impaired driving.

The Department works with the State Department of Justice and the National Highway Traffic Safety Administration (NHTSA), a part of the United States Department of Transportation (USDOT).

As a part of the Transportation Equity Act for the 21st century (TEA 21), the United States Department of Transportation, and our elected congressional delegations representing many states, chose to encourage states to adopt the open container ban in front of you today.

As of today, 36 states have adopted open container bans into law in an effort to protect the traveling public.

The NHTSA arm of USDOT engaged the National Center for Statistics and Analysis to develop background information for alcohol related crash data. According to their research, as of 2002, Montana had the highest number of alcohol related crash fatalities in the country. In 2002, there were 1.22 fatalities for every 100 million-vehicle miles in Montana compared to a national average of half that rate. That translates into 127 lives lost in alcohol related crashes in our state.

A study completed by the National Safety Council estimated that alcohol related crashes cost Montanans over \$400 million dollars from 2001 to 2003.

In addition, results of studies by NHTSA indicate that states without open container laws had approximately 10% more alcohol involved fatal crashes than states with open container laws.

An April 2004 bulletin from NHTSA concluded that 41% of fatal crashes in Montana involve alcohol.

If Montana could see a 10% reduction in the fatality rate of crashes as shown by NHTSA, perhaps 13 of the 127 alcohol related fatalities of 2002 could be avoided. Some of those lives could include the innocent victims of impaired drivers.

Since 1982, Montana has seen a reduction of alcohol related fatalities per 100 million vehicle miles traveled of 52% -- compared to the national average of 63%. However, in the last three years, Montana's fatality rate has increased 10%. In 2002, Montana's fatality rate increased 17%, while the national rate decreased by 2%.

We have shown great improvement over the last ten years. The rest of the country has shown us that we still have room to improve.

The Department's Highway Traffic Safety Program is committed to supporting any effort to reduce the death toll on our highways. Senate Bill 80 is another opportunity to improve the safety of all of us who travel these roads.

We are grateful to Senator Perry for taking the lead in this effort and we urge your support.



# STATE LEGISLATIVE FACT SHEETS

January 2001

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## Open Container Laws

### Key Facts

Motor vehicle crashes are the leading cause of death for Americans ages 6 through 33 and motor vehicle crash injuries are a major health care problem in the U.S. Alcohol-related crashes are a substantial portion of this problem.



U.S. Department of Transportation  
National Highway Traffic Safety  
Administration



- Alcohol involvement remains the leading factor in motor vehicle deaths.
- Impaired driving is the most frequently committed violent crime in the United States.
- One million people are injured in alcohol-related crashes annually.
- Only 7 percent of all police reported crashes involve alcohol compared to 38 percent of fatal crashes.
- Every 33 minutes, someone is killed in the United States in an alcohol-related crash.
- Alcohol-related crashes in the United States cost the public more than \$110 billion in 1998, including more than \$40 billion in monetary costs and almost \$70 billion in quality of life costs.

### Open Container

Open container laws prohibit the possession of any open alcoholic beverage container and the consumption of any alcoholic beverage in the passenger area of a motor vehicle. Since every state has laws to prevent and punish impaired driving, open container laws can serve as an important tool in the fight against impaired driving.

*Section 154 of 23 U.S.C.*

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21) Restoration Act, a new Federal program was established to encourage state adoption of open container laws.

Section 154 of 23 U.S.C. requires that states have an open container law in place by October 1, 2000. States without this law will have a portion of their Federal-aid highway construction funds redirected into other state safety activities each year, beginning in Fiscal Year 2001. The redirected monies will go to the state's Section 402 highway safety program to be used for alcohol-impaired driving countermeasures or for enforcement of anti-drunk driving laws. Alternatively, the state may elect to use the monies for the state's hazard elimination program under Section 152.

To comply with Section 154, a state's open container law must:

- prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
- cover the passenger area of any motor vehicle, including unlocked glove compartments and any other areas of the vehicle that are readily accessible to the driver or passengers while in their seating positions;
- apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain one-half of one percent or more of alcohol by volume (including 3.2% beer);
- apply to all vehicle occupants except for passengers of vehicles designed, maintained, and used primarily for the transportation of persons for compensation (such as buses, taxi cabs, and limousines) and motor homes;
- apply to vehicles on a public highway or the right-of-way (i.e. on the shoulder) of a public highway; and
- require primary enforcement of the law, rather than requiring probable cause that another violation had been committed before allowing enforcement of the open container law.

To avoid the transfer of funds, states must certify that their open container law complies with these elements, that the law is in effect and that they are enforcing the law.

The redirection amount for states not in compliance in Fiscal Years 2001 and 2002 will be 1.5 percent of certain state Federal-aid highway construction funds. The redirection amount for Fiscal Year

2003 and subsequent years is 3 percent.

By the end of Fiscal Year 2000, 30 states and the District of Columbia complied with the terms of this law. These states are: Alabama, Arizona, California, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Washington and Wisconsin.

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*Additional information is available from your State Highway Safety Office, the NHTSA Regional Office serving your state, or from NHTSA Headquarters, Traffic Safety Programs, ATTN: NTS-11, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-9588; or NHTSA's website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)*

# Traffic Safety Facts

## Laws

April 2004

## Open Container Laws

### Key Facts

Motor vehicle crashes are the leading cause of death for Americans aged 2 through 33 and motor vehicle crash injuries are a major health care problem in the United States. Alcohol-related crashes are a substantial portion of this problem.

- Alcohol involvement remains the leading factor in motor vehicle deaths.
- Impaired driving is the most frequently committed violent crime in the United States.
- While only 6 percent of all police reported crashes involve alcohol use, 41 percent of all fatal crashes involve the use of alcohol.
- Every 30 minutes, someone is killed in the United States in an alcohol-related crash.
- It is estimated that alcohol-related crashes in the United States have an annual cost of more than \$50 billion.

### Section 154 of 23 U.S.C.

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21).

Restoration Act, a new Federal program was established to encourage States to adopt laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of a motor vehicle (23 USC 154).

Commonly referred to as "open container laws," if a State does not achieve compliance with the Federal program requirements, a portion of that State's federal-aid highway construction funds will be redirected to the State's Section 402 appropriation. Transferred funds may be used only for alcohol-impaired driving countermeasures, enforcement of drunk driving laws or the State's hazard elimination program under Section 152.

To comply with the Federal program under Section 154, a State's open container law must:

- Prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
- Cover the passenger area of any motor vehicle, including unlocked glove compartments and any other areas of the vehicle that are readily accessible to the driver or passengers while in their seats;

- Apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain one-half of one percent or more of alcohol by volume (including 3.2 percent beer);
- Apply to all vehicle occupants except for passengers of vehicles designed, maintained or used primarily for the transportation of people for compensation (such as buses, taxi cabs, and limousines) or the living quarters of motor homes;
- Apply to all vehicles on a public highway or the right-of-way (i.e. on the shoulder) of a public highway; and
- Require primary enforcement of the law, rather than requiring probable cause that another violation had been committed before allowing enforcement of the open container law.

To avoid the transfer of funds, States must certify that its open container law complies with the above elements, that the law is in effect, and that the State is enforcing the law.

The transferred amount for States not in compliance is 1.5 percent of certain State federal-aid highway construction funds for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

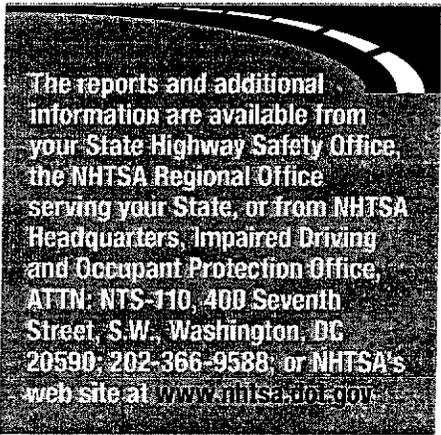
Currently, 36 States and the District of Columbia comply with the terms

### Inside This Issue

- Key Facts
- Open Container Law
- Section 154 of the TEA-21 Restoration Act

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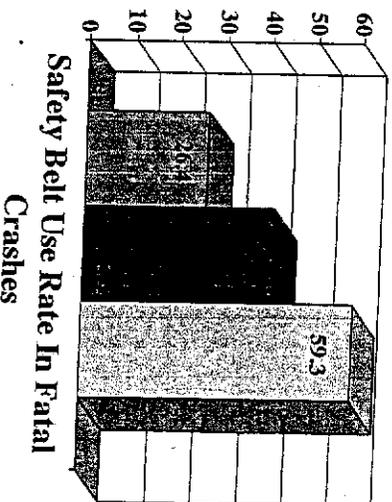
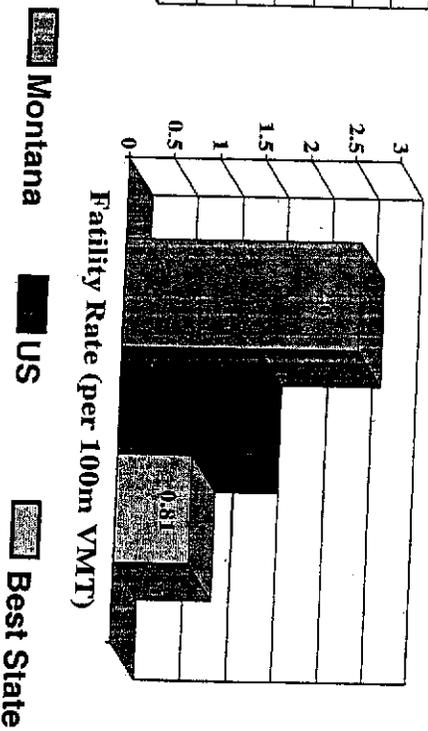
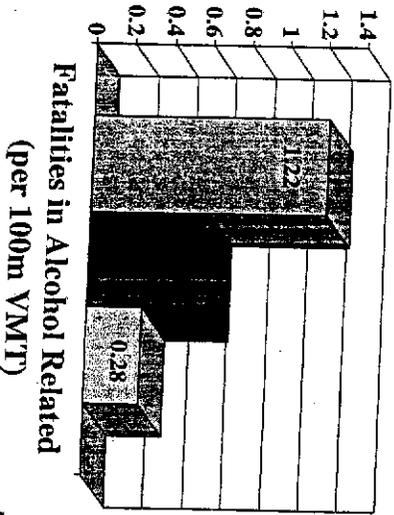
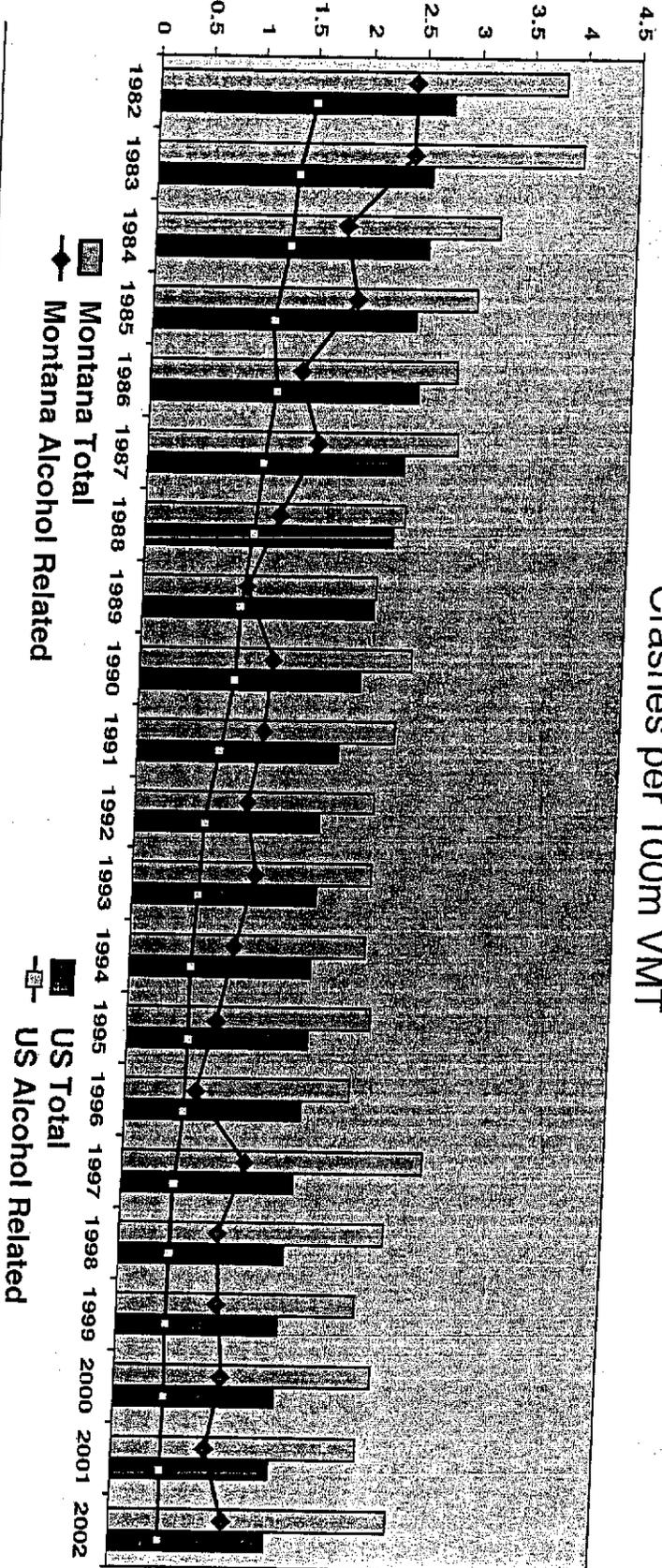
of this law. These States are: Alabama, Arizona, California, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wisconsin.



The reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Impaired Driving and Occupant Protection Office, ATTN: NTS-110, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-9588; or NHTSA's web site at [www.nhtsa.gov](http://www.nhtsa.gov).

# Fatal Crash Statistics Comparison

Crashes per 100m VMT



Fatalities and Fatality Rate per 100 Million VMT

Year	Fatalities			Fatality Rate	
	Tot	Alc-Rel	%	Tot	Alc-Rel
1982	254	171	67	3.81	2.56
1983	286	184	64	3.98	2.56
1984	238	145	61	3.22	1.96
1985	223	154	69	3.03	2.09
1986	222	122	55	2.87	1.58
1987	234	143	61	2.90	1.77
1988	198	117	59	2.43	1.44
1989	181	94	52	2.19	1.14
1990	212	119	56	2.54	1.43
1991	200	112	56	2.41	1.35
1992	192	104	54	2.25	1.22
1993	195	115	59	2.24	1.32
1994	202	104	52	2.22	1.14
1995	215	95	44	2.28	1.01
1996	200	78	39	2.12	0.83
1997	265	124	47	2.82	1.32
1998	237	105	44	2.47	1.10
1999	220	109	49	2.24	1.11
2000	237	117	49	2.40	1.18
2001	230	104	45	2.30	1.04
2002	270	127	47	2.60	1.22

Source: 1982-2001 (Final) FARS Files and 2002 FARS Annual Report File, FHWA's Highway Statistics Annual Series

**MONTANA**

Change in AR-Rates over time, Montana vs. US		
Time Period	Montana	US
1982 to 2002	-52%	-63%
Last 10 years	0%	-25%
Last 5 years	-8%	-6%
Last 3 Years	+10%	-2%
Last 1 Year	+17%	-2%

Impaired Driving Legislations*	
Law	BAC Level
Administrative Per Se BAC Level	-
Illegal Per Se BAC Level (Effective Date)	0.10 (-)
Youthful (under 21) Offenders BAC Level	0.02

\*As of October 2003

