

Table 1.113

**Statutory provisions requiring blood alcohol concentration tests for victims of fatal traffic accidents**

By jurisdiction, as of Jan. 1, 2002

Laws requiring blood alcohol tests on persons killed in traffic accidents					Laws requiring blood alcohol tests on persons killed in traffic accidents				
Jurisdiction	Statutory requirement	Blood alcohol concentration test given to following persons (if killed in accident)			Jurisdiction	Statutory requirement	Blood alcohol concentration test given to following persons (if killed in accident)		
		Driver	Vehicle passenger	Pedestrian			Driver	Vehicle passenger	Pedestrian
Alabama	(a)				Montana				
Alaska					Nebraska	S	S <sup>k</sup>		S <sup>l</sup>
Arizona	S	S			Nevada	S	S	S	S
Arkansas	S	S <sup>b</sup>	(c)	(c)	New Hampshire	S	S	S	S
California	S	S	S	S	New Jersey	S	S		S
Colorado	S	S		S <sup>d</sup>	New Mexico	S <sup>g</sup>	S <sup>g</sup>	S <sup>g</sup>	S <sup>g</sup>
Connecticut	S	S		S	New York	S <sup>m</sup>	S		S <sup>l</sup>
Delaware					North Carolina				
District of Columbia					North Dakota	S	S	S	S
Florida					Ohio	S	S		
Georgia	(e)	(e)	(e)	(e)	Oklahoma				
Hawaii	(e)	(e)	(e)	(e)	Oregon	S	S <sup>n</sup>	S <sup>n</sup>	S <sup>n</sup>
Idaho	S	S		S	Pennsylvania	S	S <sup>o</sup>	S <sup>p</sup>	S <sup>o</sup>
Illinois	S	S		S <sup>f</sup>	Puerto Rico	S	S		S
Indiana	S	S		S <sup>d</sup>	Rhode Island				
Iowa					South Carolina	S	S		S <sup>f</sup>
Kansas	S <sup>g</sup>	S		S <sup>h</sup>	South Dakota	S	S	S	S
Kentucky	(e)	(e)	(e)	(e)	Tennessee	(q)	(q)	(q)	(q)
Louisiana	S	S	S	S	Texas	S <sup>i</sup>	S <sup>f</sup>		
Maine					Utah	S	S		S <sup>s</sup>
Maryland					Vermont				
Massachusetts	S <sup>i</sup>	S <sup>j</sup>			Virginia				
Michigan	S	S			Washington	S	S		S
Minnesota	S	S		S <sup>f</sup>	West Virginia	S	S		S <sup>s</sup>
Mississippi	S	S			Wisconsin	S	S		S <sup>h</sup>
Missouri	S	S	S	S	Wyoming				

Note: See Note, table 1.112. In the table, "S" indicates that such a provision is provided expressly by statute. Statutes should be consulted for the full text and meaning of specific provisions.

<sup>a</sup>Not specifically provided for by statute. However, case law provides that the blood alcohol concentration test law provisions were deemed to apply to dead persons.

<sup>b</sup>Based on probable cause of a driving while intoxicated offense.

<sup>c</sup>Possible.

<sup>d</sup>If the deceased is 15 years of age or older.

<sup>e</sup>Possible; at request of coroner or police officer, the medical examiner may take a blood sample.

<sup>f</sup>If the deceased is 16 years of age or older.

<sup>g</sup>Test results may only be used for statistical purposes that do not reveal the identity of deceased individuals.

<sup>h</sup>If the deceased is 14 years of age or older.

<sup>i</sup>Limited.

<sup>j</sup>If driver dies within 4 hours of accident. However, the law only applies if, at the time of the accident, (1) the driver was the only occupant of the vehicle and (2) no other individuals were involved.

<sup>k</sup>If death occurs within 4 hours of accident.

<sup>l</sup>If the deceased is 16 years of age or older and death occurs within 4 hours of accident.

<sup>m</sup>No test shall be conducted if there is reason to believe that the deceased is of a religious faith that is opposed to such a test.

<sup>n</sup>If the deceased is over 13 years of age and death occurs within 5 hours of accident.

<sup>o</sup>If the deceased is over 15 years of age and death occurs within 4 hours of accident.

<sup>p</sup>Only if the driver of the vehicle cannot be determined.

<sup>q</sup>Discretionary.

<sup>r</sup>Discretionary; a justice of the peace may order a blood test if there is evidence that the deceased was driving while intoxicated.

<sup>s</sup>Adults only.

Source: U.S. Department of Transportation, National Highway Traffic Safety Administration, *Digest of State Alcohol-Highway Safety Related Legislation, Current as of January 1, 2002* (Washington, DC: U.S. Department of Transportation, 2002), pp. 3-1--3-549. Table adapted by SOURCEBOOK staff.