

# Alcohol Use and Traffic Offenses

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## SUMMARY

In the present work we carried out a bibliographical research on the connection between the consumption of alcoholic beverages by people who drive motor vehicles in Brazil, and how this behavior correlates with the high traffic fatality rates experienced in the national reality. Furthermore, we compared the evolution of the response that Brazilian legislators have given to this type of conduct. In the end, we analyzed the effects of such legal measures that aim to combat violence in traffic and what measures would be recommended to be more assertive in responding to this type of behavior with the aim of reducing traffic crime rates.

**Keywords:** Alcohol, Traffic Violence, Legislation, Traffic Crimes.

## INTRODUCTION

The search for a correlation between the use of psychoactive substances and the commission of crimes is common in criminological studies, and research has already indicated the link between the use of some substances and certain types of violence, especially those of a reactive or unpremeditated nature, such as injuries. Bodily harm in public places and domestic violence.

Despite the use of alcoholic beverages being legalized in most Western countries, studies have indicated that the consumption of this substance is capable of causing various social losses, such as high expenses for the public health system, loss of economic capacity and increased in some violent behaviors.

Regarding the Brazilian reality, the numbers of traffic violence are worrying, and among the factors that make Brazilian roads so lethal is the driving of vehicles by people who have used alcohol.

In this article, a bibliographical research will be carried out with a view to understanding the dimension of violence in traffic resulting from the use of alcoholic beverages by vehicle drivers, as well as carrying out a retrospective comparative analysis of the evolution of legal responses in Brazil in the face of this type of violence. Behavior; the empirical results of these legal reactions and how it would be possible to act more assertively

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to face this problem that has cost many lives every year in Brazil.

### ALCOHOL USE AND TRAFFIC OFFENSES

The use of drugs, whether legal or illegal, has always been of great interest to criminal scientists, in an attempt to establish links between the use of psychoactive substances and the commission of crimes [1].

Brazilian legislation prohibits the consumption of various narcotic substances provided for in Ordinance No. 344/1998, including substances popularly known as marijuana, cocaine, and crack, LSD, among others.

Even though the use of this type of substance is more of a public health issue, criminal legislation in Brazil continues to criminalize the crime of possession of a narcotic substance for personal consumption (as provided for in article 28 of Law 11,343/2006), and although the legislation has decriminalized the aforementioned crime, culminating in non-freedom-restricting penalties, including “warning about the effects of drugs”, “providing services to the community”, or “educational measure of attendance at an educational program or course”, which proves to be a good measure to minimize the stigmatizing effects of the criminalization of drug users, the persistence of the criminalization of this behavior still makes it common for people caught with drugs for personal consumption to be arrested and taken to the police station, further generating the stigmatization of these users .

Regarding alcohol consumption, although it also has a psychoactive effect [2], and is linked to various criminal behaviors, such as domestic and family violence, where alcohol consumption is a risk factor in crimes committed. In the family environment [3], for reasons of criminal policy, alcohol consumption in Brazil is not criminalized.

The use of alcohol only gains criminal legal relevance in Brazil when this consumption is carried out by someone who, after use, drives a motor vehicle, as a result of the consumption of alcohol by vehicle drivers being one of the major factors in the country has one of the most violent traffic in the world.

For decades, Brazilian traffic violence statistics have been extremely serious, just as an example in 2017 more than 40 thousand people lost their lives in traffic accidents in Brazil, and among the biggest factors for these disturbing numbers is the consumption of alcohol by vehicle drivers, as 25.6% of drivers admit that they drive after using alcohol [4].

Traffic accidents are one of the main causes of death among

young people in Brazil, with the main risk factor in this type of accident being the association of alcohol consumption and driving a motor vehicle [5], this occurs because the use of alcoholic beverages, even in small quantities, is capable of causing loss of the user’s reflexes, which could be a causal factor in a serious traffic accident [6].

If we consider the gender of victims of traffic accidents, we realize that 77% of fatal victims of accidents on our roads are men, with a large disparity regarding alcohol consumption between genders, given that around 11.7% of men say who drive after drinking alcohol versus 2.5% of women who drive after drinking [6], which shows that the use of alcoholic beverages is a major risk factor for traffic deaths.

Faced with this alarming reality, the Brazilian legislator, in recent years, has gradually modified traffic legislation, with a view to repressing the conduct of those who use alcohol and drive motor vehicles. Firstly, in 2008, the tolerable alcohol limit for vehicle drivers was reduced to just 0.1 milligram per liter of blood, a limit that was reduced again in 2012 to 0.05 milligram per liter of blood, and In 2016, zero tolerance was established for any alcohol consumption [6].

Currently, administrative and criminal penalties for those who use alcoholic beverages and drive motor vehicles are extremely strict, with such measures being [7]:

- a). the provision of driving a vehicle under the influence of alcohol as a very serious traffic infraction regardless of the amount consumed (tolerance in these cases is zero, as already explained), with the administrative fine for this infraction being R\$ 2,934.70 (two thousand nine hundred and thirty-eight four reais and seventy cents), the driver has his driver’s license withdrawn and his right to drive may be suspended for 12 months, and in case of repeat offense within a period of one year the fine reaches R\$ 5,869.40 (five thousand eight hundred and sixty-nine reais and forty cents) and your driver’s license may be revoked, and the vehicle will be detained until a qualified driver removes it.
- b). Furthermore, a driver caught under the influence of alcohol may be arrested for violating article 306 of the Brazilian Traffic Code (it is a crime to drive a vehicle under the influence of a psychoactive substance), and if that driver causes a traffic accident with a fatal victim or who is injured, he or she will be charged in the act without the right to bail in the police sphere, since the limits of penalties in the crimes of bodily injury and traffic manslaughter have been exasperated, no longer

authorizing bail in the police sphere.

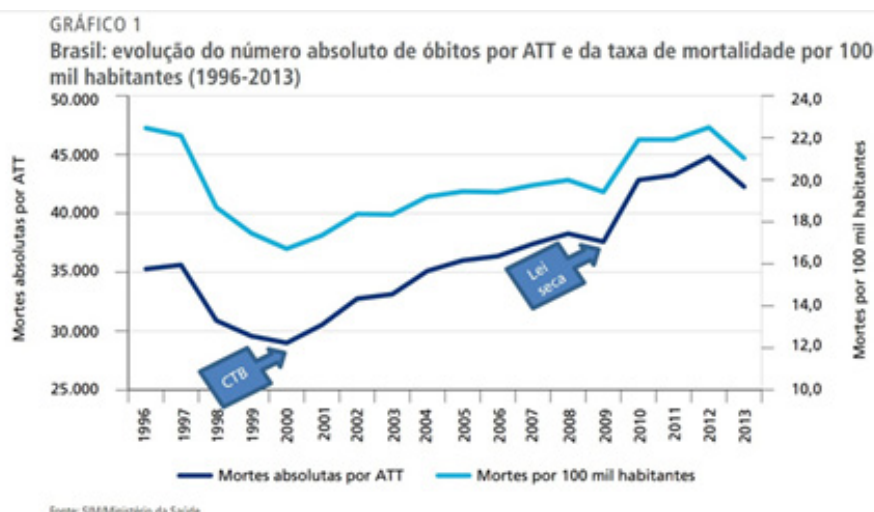
- c). Finally, procedural means were also instituted that facilitated the proof of conduct involving driving a vehicle under the influence of alcohol, both in the administrative and criminal spheres, since even if the driver refuses to submit to the breathalyzer (a device that verifies the use of alcohol on the driver; popularly known as a breathalyzer) he ends up receiving the fine as if he were drunk, and his drunkenness in the criminal sphere can be proven by other means of evidence, such as testimonial evidence or videos, these means of proof being very common in the criminal investigative reality, where drunkenness is proven through the testimony of police officers who respond to this type of incident and notice that the driver shows typical characteristics of someone who has used alcohol, such as ethyl odor, "cluttered" speech, walking staggering, among other characteristics.

This change in legislation providing for greater punishments for people who drive motor vehicles under the influence of alcohol initially proved to be extremely important in curbing this type of behavior, and it is estimated that this tightening

of administrative, criminal and criminal procedural rules has prevented the In the last decade, more than 40,000 traffic deaths resulted in a gross domestic product saving of around R\$74.5 billion [6].

Despite the importance of the measures taken and the good results presented by the aforementioned repression policy, this type of measure, notably that of a criminal nature, has its limitations, and it is also necessary to act in a preventive manner, mainly using educational and awareness measures of drivers to the risk of driving a vehicle under the influence of alcohol, with a view to avoiding damage [6].

In research carried out by IPEA [8] it was demonstrated that although legislative innovations that bring greater legal rigor to traffic laws bring an immediate reduction in traffic death rates, such as the promulgation of the Brazilian Traffic Code in 1998 and the law on zero tolerance to the use of alcohol by vehicle drivers in 2008, after a short time an upward trend in indices returned as shown in graph 1, which may indicate a relaxation of both managers and traffic monitoring bodies as well as society in the face of compliance with the new rules implemented.



We can see in the graph that between absolute and relative numbers of traffic deaths between the years 1998, when the Brazilian Traffic Code was enacted, until the year 2000, but there was an increase until 2008, when the Dry Law was enacted, which culminated in a drop in 2008/2009, followed by a new increase, demonstrating the limitations of rigid legal measures without effective monitoring of their application.

Therefore, it is necessary to have permanent policies to monitor the legislation in force, as there is no point in having

stricter legislation that is not complied with, especially when the application of this legislation, which has a national scope, ends up having different application depending on the inspection policies. implemented in each state of the federation, as well as there are differences in application in each municipality, where the practice of driving a vehicle under the influence of alcohol in small towns is still quite common due to the lack of supervision in this type of location [5].

## CONCLUSION

In view of the above, the destructive impact of the use of alcohol by drivers of motor vehicles is evident, this being one of the main causes of Brazil having such violent traffic, which led the national legislator, in the last decade, to introduce rules stricter for individuals who drive under the influence of alcohol, both in the administrative, criminal and criminal procedural spheres, with a view to repressing the aforementioned behavior.

Despite the positive effects of such measures, they would prove to be more effective if they were accompanied by preventive measures, notably with greater monitoring of the application of this type of rule, as well as the carrying out of educational and awareness campaigns, which could save many lives and build safer traffic.

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