



## K11 Driving Under the Influence (DUI) in the United States and Brazil

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**Learning Overview:** The focus of this research is a comparative investigation of the forensic science and criminal justice aspects of DUI between the United States and Brazil.

**Impact on the Forensic Science Community:** With globalization, it is essential to know the practical realities within legal traditions and forensic science in different countries. This presentation will impact the forensic science community by increasing familiarization of similarities and differences between two countries in the application of forensic science and the law.

This study focused on comparisons of institutional structures, laws, and forensic evaluations. This study performed literature-based research from several databases: institutional information, gray literature, jurisprudence, and other enlightening sources. The comparisons were mainly overextending of forensic evidence, law definitions included the category of offenses, types, and limits of each drug, classes of tests, and other weighty information. Regarding institutional aspects, in the United States, DUI is mainly a state law offense. A federal DUI charge arises for crimes that occur on federally owned land or another location that is considered federal property. In Brazil, there is a single Code, Law 9.305/1997, which is applied to the entire country with no difference among the states.

In respect to variations in law, in the United States, some states' laws differentiate between the terms DUI and Driving While Intoxicated (DWI), but in most, the terms are interchangeable. In Brazil, there is no difference between DUI and DWI. For all states in the United States, a person is deemed to be intoxicated when the Blood Alcohol Concentration (BAC) is equal to or above 0.08% (0.08g dL<sup>-1</sup>). The penalties are also different for each state. In Brazil, there are the following situations: (1) Article 165 of the Brazilian Traffic Code considers as a misdemeanor driving under the influence of alcohol. Any amount of alcohol detected in the breathalyzer subjects the driver to the penalties foreseen in Article 165—a fine and a suspended license for 12 months, and (2) Article 306 establishes as a crime a BAC above 0.6g L<sup>-1</sup> or 0.3mg L<sup>-1</sup> exhaled air, and the punishment involves a prison sentence. In the United States, the extension of drug testing is different in each state and even in a different part of one state. Sometimes no drug gets tested if the level of alcohol at the time of driving was more than 0.08 mg L<sup>-1</sup>. In Brazil, the Nacional Transit Council (Conselho Nacional De Trânsito (CONTRAN)) states that some tests shall be performed to confirm the alteration in psychomotor ability. The influence of alcohol can be verified through a blood test or regulated breathalyzers. Other laboratory examinations will confirm the influence of other psychoactive substances. The transit agencies or the judicial police are responsible for indicating the laboratories permitted to perform the exams (Resolution 432/2013). The laws of both countries also provide punishment consequences for a refusal to take a breathalyzer test. A comparison of forensic aspects revealed that, although there are significant differences between the United States and Brazil regarding the types and amounts of substances and the relative penalties, there are also similarities such as: (1) chemical tests related to detecting the type and quantity of the substances; and (2) the police officer's testimony about the behavior of the driver is considered as evidence for DUI.

In conclusion, comparative research can be useful for disseminating the laws of other countries, which reflects differences in cultures, history, and societies between countries, in this case, between the United States and Brazil.

### Driving Under Influence, Comparative Research, United States and Brazil