

Reducing DUID with Cannabis Education and Regulation

Reallocation of resources currently spent on enforcement of cannabis laws will reduce impaired driving by allowing for greater funding for 1) drug recognition experts (DRE), 2) the implementation of modified field sobriety tests and methodologies for detecting cannabis impaired drivers, 3) the use of emerging technologies for roadside cannabis consumption detection, such as saliva and breath tests, and 4) fact-based public education campaigns on responsible use of cannabis, the effects of cannabis, and the dangers of driving impaired. Adding the Division of Marijuana Control and Enforcement to the Delaware Impaired Driving Prevention Task Force partnership, which includes law enforcement, administrative agencies, courts, and treatment providers will also assist in reducing impaired driving.

Cannabis Legalization, Taxation, and Regulation:

A model for reducing cannabis-related impaired driving with regulation and fact-based education

Fatalities and Fatality Rate per 100 Million VMT in Alcohol-Impaired-Driving Crashes, 2005–2014



Source: Fatalities – FARS 2005–2013 Final File, 2014 ARF; 2005–2013 VMT – Federal Highway Administration’s (FHWA) Annual Highway Statistics; 2014 VMT – FHWA’s Traffic Volume Trends (September 2015) * VMT = Vehicle Miles Traveled

In 2015 the Delaware Office of Highway Safety

funded the travel of multiple DREs to attend a training which included a “Green Lab” held by former Colorado TSRP Chris Halsor. Delaware Office of Highway Safety, *FY 2016 Annual Report*. Debuted in September 2015, Green Lab is a law enforcement training program that includes methodologies and techniques for detecting the cannabis impaired driver. The Green Lab features volunteers (not law enforcement students) who then

consume cannabis and submit to roadside maneuvers and questions from law enforcement officers to better understand impairment.

Just as regulation of the alcohol market and educational campaigns have resulted in a decrease of alcohol-related DUIs, a regulated market for cannabis, along with educating the public on responsible use and the risks associated with driving after consuming cannabis will similarly result in a decrease of cannabis related DUIs.

How Are DUID Laws Enforced?

The enforcement of DUID and DUI laws both begin with an officer’s initial observations of a driver’s operation of their vehicle and the initial approach to the vehicle after a traffic stop. An officer’s initial observations include signs such as the odor of alcohol or cannabis; bottles of alcohol or cannabis accessories; burnt cannabis cigarettes; and blood-shot or glassy eyes. Behavioral signs of impairment, which differ from drug to drug, are also observed. Behavioral signs of cannabis impairment include tremors, head movement and jerks, and incomplete thoughts.

If impairment is suspected, the officer will begin a series of Standardized Field Sobriety Tests (SFST) to screen for impairment. While designed to test for impairment of alcohol, the NHTSA SFSTs provide a reasonable initial screen for impairment from stimulants, depressants, cannabis, and/or narcotics, but fail to detect other drugs, especially amphetamines. In conjunction with field observations, the SFSTs provide law enforcement officers with an array of tools to detect driver impairment by a variety of different substances. Portable breath tests are currently available to detect alcohol. There are also several tests for the detection of other drugs, including cannabis, such as the Dräger Drug Test® 5000, which is currently being utilized in Los Angeles, New York, Arizona, and Nevada, as well as other countries such as Australia, Belgium, and Germany and the Securetec Drugwipe® 5, which has been utilized in Great Britain and Canada.

If the officer has sufficient evidence at the roadside to justify a DUID charge, the driver is arrested and taken to the police station. The officer

The 12-Step DRE Protocol

1. Breath Alcohol Test
2. Interview of the Arresting Officer
3. Preliminary Examination and First Pulse
4. Eye Examination
5. Divided Attention Psychophysical Tests
6. Vital Signs and Second Pulse
7. Dark Room Examinations
8. Examination for Muscle Tone
9. Check for Injection Sites and Third Pulse
10. Subject’s Statements and Other Observations
11. Analysis and Opinions of the Evaluator
12. Toxicological Examination

Source: International Association of Chiefs of Police

continues to make observations and note behavioral signs of impairment. The use of a DRE may be utilized; OHS funds the overtime for a DRE officer that responds to a call out. This allows DREs from across the state to assist agencies in other jurisdictions. Procedures are currently in place for the collection and testing of blood samples from drivers arrested for DUID. Blood tests can determine whether a driver's blood contains the active-metabolite of THC, 11-Hydroxy- Δ^9 -tetrahydrocannabinol (11-OH-THC).

Cannabis is Safer Than Alcohol

Nationwide, in 2015, fatally injured drivers tested at a positive blood alcohol content (BAC) at over three times the rate of cannabis, 37.3% and 12.2% respectively. Governors Highway Safety Association, *Drug-Impaired Driving, A Guide for States*, April 2017.

“Many investigators have suggested that the reason why marijuana does not result in an increased crash rate in laboratory tests despite demonstrable neurophysiologic impairments is that, unlike drivers under the influence of alcohol, who tend to underestimate their degree of impairment, marijuana users tend to *overestimate* their impairment, and consequently employ compensatory strategies. Cannabis users perceive their driving under the influence as impaired and more cautious, and given a dose of 7 mg THC (about a third of a joint), drivers rated themselves as impaired even though their driving performance was not; in contrast, at a BAC 0.04% (slightly less than two “standard drinks” of a can of beer or small 5 oz. glass of wine; half the legal limit in most US states), driving performance was impaired even though drivers rated themselves as unimpaired.” Sewell, R. Andrew, James Poling, and Mehmet Sofuoglu. “The Effect of Cannabis Compared With Alcohol on Driving” *The American journal on addictions / American Academy of Psychiatrists in Alcoholism and Addictions* 18.3 (2009): 185–193. *PMC*. Web. 9 May 2017.

CRASH RISK ASSOCIATED WITH DRUG USE IN EUROPEAN STUDIES

Risk level	Relative risk	Drug category
Slightly increased risk	1-3	marijuana
Medium increased risk	2-10	benzodiazepines cocaine opioids
Highly increased risk	5-30	amphetamines multiple drugs
Extremely increased risk	20-200	alcohol together with drugs

Schulze, H., Schumacher, M., Urmeew, R., et al. (2012). DRUID Final Report: Work Performed, Main Results and Recommendations. Bergisch Gladbach, Federal Republic of Germany: Federal Highway Research Institute (BAST)

The Vocal Opposition to Taxation and Regulation of Cannabis Is Misguided

The National Institute on Drug Abuse notes that “the role played by marijuana in [traffic] accidents is often unclear, because it can remain detectable in body fluids for days or even weeks after intoxication and because users frequently combine it with alcohol.” National Institute on Drug Abuse, *Research Report Series, Marijuana*, NIH Publication Number 16-3859, Revised August 2016

AAA’s study, *Prevalence of Marijuana Use Among Drivers in Fatal Crashes: Washington 2010-2014* found a significant increase in the number of drivers involved in fatal crashes with THC in their system after cannabis legalization, but noted the “results of this study do not indicate that drivers with detectable THC in their blood at the time of the crash were necessarily impaired by THC or that they were at-fault for the crash; the data available cannot be used to assess whether a given driver was actually impaired, and examination of fault in individual crashes was beyond the scope of this study.”

Similarly, the Rocky Mountain High Intensity Drug Traffic Area report, which reported an increase in “marijuana-related” traffic deaths in Colorado after cannabis legalization prefaced the results of the study, noting that “marijuana-related” or “tested positive for marijuana” do “not necessarily prove that marijuana was the cause of the incident.” The section on “Impaired Driving” also states that, when it comes to traffic fatalities, “marijuana-related” entails “any time marijuana shows up in the toxicology report [of drivers]. It could be marijuana only or marijuana with other drugs and/or alcohol.” The statistics cited are prevalence data only, neither is evidence of causality or culpability.

A February 2015 “Drug and Alcohol Crash Risk” study by the National Highway Traffic Safety Administration did find “a statistically significant increase” in crash risk (1.25 times) for drivers who tested positive for THC. But after the researchers controlled for age, gender, ethnicity, and alcohol concentration level, increased crash risk associated with marijuana was no longer significant.



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