



# Oregon

John A. Kitzhaber, M.D., Governor

## Governor's Advisory Committee on DUII

Transportation Safety Division, MS-3

4040 Fairview Industrial Drive SE

Salem, OR 97302-1142

Phone: (503) 986-4190

Fax: (503) 986-3143

January 27, 2014

Ms. Heidi Mowad  
Senior Policy Advisor – Public Safety  
Office of the Governor  
Oregon State Capitol  
900 Court Street NE  
Salem, Oregon 97301

Dear Ms. Mowad:

As the Chair of the Governor's Advisory Committee (GAC) on DUII, I am writing this letter to voice the committee's concerns about possible legalization of marijuana in Oregon and in particular the effects such action may have on highway safety in Oregon. For that reason, we want to encourage preemptive and pragmatic discussions about ways to minimize those risks in the event either a referendum or initiative petition for legalization should pass.

Data regarding the risks of marijuana and crash potential vary depending on the source and position of the researchers. However, a great deal of reliable research shows that drivers with marijuana in their systems are at least two times more likely to be involved in an automobile crash. Epidemiology data from road traffic arrests and fatalities indicate that after alcohol, marijuana is the most frequently detected psychoactive substance among driving populations. And, according to the National Highway Traffic Safety Administration (NHTSA), marijuana has been shown to impair performance on driving simulator tasks and on open and closed driving courses for up to approximately three hours after ingestion. Other studies have shown the effects of marijuana lasting even longer.

Oregon has the benefit of seeing the initial impact that marijuana legalization has had in both Colorado and Washington. In less than one year after the legalization, Washington has experienced a marked increase in impaired driving incidents involving marijuana. According to the Washington State Toxicology Laboratory, in the first six months of 2013, 745 drivers stopped by police and arrested for DUI tested positive for marijuana, a 150% increase over the previous year.

Data from the Colorado Department of Transportation indicates that Colorado has seen an upward trend in the number of drivers responsible for fatal crashes that have drugs, and more specifically marijuana, in their systems. That number has increased from 15.9 percent in 2006 to 23.7 percent in 2011. Expectations are that those numbers will again increase.

In Oregon, as well as nationally, there has been an increase in drugged driving incidents. The Oregon State Police Crime Laboratory tests urine samples obtained from drugged driving suspects. Data from the Crime Lab from January 2012 to November 2013 indicated that there were 4,645 toxicology requests analyzed (almost exclusively DUI related). Marijuana, either alone or in combination with another substance, was found in 2,321 of the samples (50 percent). This number is expected to rise dramatically as marijuana-related DUII arrests will inevitably increase as seen in Washington and Colorado.

In 2010, President Obama outlined as one the top goals of his National Drug Control Strategy the reduction of drugged driving by 10% over the next five years. Without carefully crafted and effective laws that address marijuana use and driving, combined with public education regarding the dangers of marijuana and driving, the President's goal will be difficult if not impossible to attain. The GAC on DUII strongly believes that we must address the shifting attitudes toward recreational marijuana use and how such use will impact highway safety. The public must understand the need to refrain from any drug use that impairs driver ability to responsibly operate a vehicle, whether that drug is alcohol or other impairing drugs, such as marijuana. This requires targeted enforcement, access to effective substance treatment, and prevention through education.

Any effort or proposal to legalize marijuana in the State of Oregon must be debated thoroughly. The public policy questions are vast and controversial, touching almost every aspect of state and local government, including budgets. Regardless of personal opinions on the issue of marijuana legalization, the GAC on DUII firmly believes that we must prepare for the possibility of legalization and the effects it will have on highway safety.

One of most important changes that must be made in Oregon is to adopt blood testing rather than urine testing in order to confirm that drugs are psychoactive in the system rather than just taken some time in the past (this is the practice in the vast majority of the country). In addition, the GAC on DUII strongly believes that driver impairment should not be based solely on a set toxicology level as has been adopted for marijuana in Washington (five nanograms in the blood) but based upon whether a driver is adversely affected to a noticeable and perceptible degree as is the current standard in Oregon. Without adopting blood as the method to confirm the presence of drugs, the number of cases that will go to trial will put a significant and costly burden on law enforcement, prosecutor, and judicial resources.

Due to the concerns discussed above, we are requesting to constructively participate in any pending policy discussions related to the impact that legalized or recreational marijuana may have on impaired driving in Oregon.

Sincerely,

A handwritten signature in black ink that reads "Chuck Hayes". The signature is written in a cursive, flowing style.

Chuck Hayes  
Chair

# Marijuana and Driving Facts

## January 2014

- Data from the Oregon State Police Crime Laboratory from January 2012 to November 2013 revealed that there were 4,645 completed toxicology requests (almost exclusively DUI related) analyzed for drugs. Marijuana, either alone or in combination with another substance was found in 2,321 of the samples (50%), which was the highest drug detected. The second most detected drug was methamphetamine found in 1,159 samples (25%).
- According to the Colorado Department of Transportation traffic fatalities in Colorado decreased 16 percent, from 2006 to 2011, consistent with national trends. During the same six year period traffic fatalities involving drivers testing positive for just marijuana increased 114 percent.
- According to the Colorado Department of Transportation, in 2011, 15.8% of drivers killed in motor vehicle crashes tested positive for drugs. Of those, 8.9% tested positive for marijuana, an increase of 7% from 2006.
- According to the Washington State Toxicology Laboratory DUI arrests in Washington involving marijuana increased after the state's legalization went into effect. During the first six months of 2013, 745 drivers stopped by police tested positive for THC. For all of previous year, approximately 1,000 DUI drivers tested positive for THC. Over half of those tested were over the state's presumed legal limit of 5 nanograms of THC per milliliter of blood.
- Research shows that setting any blood-content threshold for marijuana, especially as high as 5 ng/ml for THC is not a viable option. A 10-year study of drivers suspected of driving under the influence of marijuana in Sweden showed that 61% of the drivers under the influence of the drug had THC blood concentrations less than 2 ng/ml. (K. Jones, Holmgren, Kugelberg, *Addiction*, 2008)
- According to a national survey of 2,300 eleventh and twelfth graders conducted by *Liberty Mutual Insurance and Students Against Destructive Decisions (SADD)*, more than one-third of teens who have driven after using marijuana say the drug doesn't distract them from driving. However, in the same survey, 1 in 5 teens admitted to driving while being "high".
- According to a study published by the *British Medical Journal* (2005) even small amounts of marijuana can double the chances of a driver's involvement in a motor vehicle crash and larger doses can more than triple the risk.
- According to the *Columbia University School of Public Health*, the risk of an automobile crash is almost 2.7 times higher among marijuana users than non-users. The more marijuana smoked in terms of frequency and potency, the greater likelihood of a crash.

- An article published in the *Epidemiologic Reviews* (Vol. 34, 2012) examined nine studies conducted over the past two decades on marijuana and crash risks. The researchers concluded that “Drivers who tested positive for marijuana, or self-reported using marijuana, are more than twice as likely as other drivers to be involved in motor vehicle crashes.”
- In a study published by the *National Institute of Health Public Access* (2009) showed that the effects of marijuana vary more between the individual than the effects of alcohol. The study also revealed that laboratory tests and driving studies show, “Cannabis may acutely impair several driving-related skills in a dose-related fashion but the effects between individuals varies more than they do with alcohol because of tolerance, the difference in smoking techniques and different absorption of THC.” Researchers warned that people who smoke marijuana should be counseled to have a designated driver if possible or to wait at least three hours after smoking.
- Swedish researchers (Jones, et al) concluded that many drivers impaired by recent marijuana use would not be identified at cutoffs between 3 and 5 ng/ml because THC is rapidly cleared from the blood after smoked cannabis. This study demonstrated the importance of rapid specimen collection to obtain accurate detection of recent marijuana use using standard laboratory cut-offs. However, behavioral effects of marijuana are often prolonged past the point of blood concentrations under any standard cut-off.
- A California study of involvement of marijuana in fatal motor vehicle crashes (A. Crancer, et al) revealed that a total of 1,240 persons killed in a five year period (2004-2008) in fatal motor vehicle crashes involved marijuana. Use of marijuana has steadily increased in drivers killed in California especially since the establishment of medical marijuana in 2008. In 2008, eight counties in California had 16% of deceased drivers test positive for marijuana and five of the eight counties had rates over 20%.
- A study of seriously injured drivers admitted to a Maryland Level-1 shock trauma center showed that 26.9% of all seriously injured drivers tested positive for marijuana (Walsh, Flegel, Atkins, et al., 2005). Half of the drivers aged 16 to 20 were positive for marijuana.
- Experimental and epidemiological research has shown that the combined use of marijuana and alcohol can produce severe impairment of cognitive, psychomotor, and actual driving performance and can sharply increase crash risk.
- Potency of marijuana continues to rise with present-day average levels much higher than marijuana from years past. Marijuana has been reported as high as 37% in recent years. In 1972, the average THC potency was less than 1% and has steadily risen from approximately 4% in the 1990s to approximately 13-18% today.