



March 1, 2023

Chair Moller and Members of the House Public Safety Finance and Policy Committee:

The Minnesota DWI Task Force's mission statement is to eliminate impaired driving and keep Minnesota's roads safe. As cannabis has been legalized to various degrees nationwide, our nation has seen an increase in impaired drivers and crashes. The National Highway Traffic Safety Administration (NHTSA) reports that there are many misconceptions about cannabis not impairing a person or making a person safer to drive, yet research and studies show that cannabis does impair motor skills, lane tracking, cognitive functions, and a driver's ability to multitask.<sup>1</sup> From 2008 – 2016, the number of drivers involved in fatal crashes who tested positive for cannabis more than doubled from 8% to 18%, and in 2017, 38% of Drug Recognition Expert (DRE) evaluations tested positive for cannabis alone.<sup>2</sup> A study from AAA released in December 2022 noted that only 65% of drivers felt that driving within an hour of using cannabis to be very or extremely dangerous, with 5% admitting to doing it within the past month.<sup>3</sup> As a result, NHTSA recommends robust public education, expanding law enforcement's training and resources, improving drug testing capabilities, strengthening impaired driving laws, and increasing coordination in the criminal justice system.

Concerns are not limited to use of cannabis alone and driving, but polydrug use. In 2015, Alcohol: Clinical and Experimental Research published a study indicating that individuals who use both cannabis and alcohol tend to use them at the same time, and simultaneous use approximately doubled the odds of impaired driving.<sup>4</sup> In 2017, Injury Epidemiology published a study which concluded that cannabis is associated with significantly increased risks of fatal crashes, and when combined with alcohol, possesses a synergistic effect on fatal crash risk on the additive scale.<sup>5</sup> Similarly, in July 2022, Addiction Journal published a study which concluded that cannabis impairs a person's ability to operate a motor vehicle, and the combination of the cannabis and alcohol is more detrimental to driving performance than either in isolation.<sup>6</sup>

States that have legalized cannabis have seen an increase in DWIs and traffic fatalities. For example, Colorado has reported that, after cannabis was legalized, the number of drivers involved in fatal crashes increased by 145%.<sup>7</sup> In January 2020, the American Automobile Association (AAA) reported that in Washington state, the percentage of drivers in fatal crashes who tested positive for cannabis increased significantly from 8-9% between 2008-2012

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<sup>1</sup> <https://www.nhtsa.gov/risky-driving/drug-impaired-driving>

<sup>2</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/13839-drugged\\_facts\\_flyer\\_101918\\_v8\\_002.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/13839-drugged_facts_flyer_101918_v8_002.pdf)

<sup>3</sup> <https://newsroom.aaa.com/wp-content/uploads/2022/12/2021-Traffic-Safety-Culture-Index-Technical-Report-FINAL.pdf>

<sup>4</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4399000/>

<sup>5</sup> <https://injepijournal.biomedcentral.com/articles/10.1186/s40621-017-0105-z>

<sup>6</sup> <https://pubmed.ncbi.nlm.nih.gov/35083810/>

<sup>7</sup> <https://www.denverpost.com/2017/08/25/colorado-marijuana-traffic-fatalities/>



to 21.4% in 2017.<sup>8</sup> The Washington Safety Traffic Commission has also indicated a large rise in incidents of polydrug drivers in fatal crashes, especially including the combination of alcohol and cannabis.<sup>9</sup>

Some legislators have referenced a report by the CATO Institute suggesting that traffic fatalities held steady in states that legalized cannabis.<sup>10</sup> However, this suggestion should be scrutinized carefully. The road safety section, which consists of two paragraphs within a larger report about a variety of aspects of cannabis legalization, explicitly states: “We focus on total traffic fatalities because there is some substitution between driving under the influence of alcohol and under the influence of cannabis. The relevant measure for public safety is the net effect; the concern is not whether cannabis-related fatalities increase but rather whether any increase is offset by fewer fatalities under the influence of alcohol.”<sup>11</sup> Therefore, the CATO Institute seems to believe that fatalities from driving under the influence of cannabis will increase while believing, without substantiation, that driving under the influence of alcohol cases will decrease and considers that a null effect. The DWI Task Force believes that the focus should be on the total number of fatalities and agrees with Minnesota’s Toward Zero Deaths program’s mission of zero fatalities on Minnesota’s roads.

The DWI Task Force remains neutral on H.F. 100, the scope of which is broader than our purview. However, highway safety considerations must be addressed. H.F. 100 addresses some considerations while also omitting other important considerations. Please note that driving under the influence of cannabis is currently prohibited by Minnesota laws. The DWI Task Force’s goals are to align DWI-Cannabis laws with DWI-Alcohol laws, with a few necessary differences.

In the 6<sup>th</sup> Engrossment of H.F. 100, the DWI Task Force spoke with Rep. Stephenson regarding lines 166.23 – 168.6 and lines 169.20 – 169.32 and proposed very similar language. This additional language is important to protect public safety, and the DWI Task Force supports these provisions. The DWI Task Force also supports the oral fluid pilot project proposed in lines 179.13 – 179.25.

Regarding the A57 Author’s Amendment, the DWI Task Force spoke with Rep. Stephenson regarding lines 7.25 – 15.27 and proposed very similar language. This additional language is necessary to ensure that driving under the influence of cannabis remains enforceable, and the DWI Task Force supports these additions.

The DWI Task Force made a few other proposals that are not included in the bill but respectfully urges for their inclusion. The DWI Task Force proposed to align DWI-Cannabis laws with DWI-Alcohol laws for school bus, Head Start bus, commercial vehicle drivers, and underage drivers. The DWI Task Force also proposed an

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<sup>8</sup> <https://media.acg.aaa.com/fatal-crashes-involving-drivers-who-test-positive-for-marijuana-increase-after-state-legalizes-drug.htm>

<sup>9</sup> [http://wtsc.wa.gov/wp-content/uploads/dlm\\_uploads/2018/05/Marijuana-and-Alcohol-Involvement-in-Fatal-Crashes-in-WA\\_FINAL.pdf](http://wtsc.wa.gov/wp-content/uploads/dlm_uploads/2018/05/Marijuana-and-Alcohol-Involvement-in-Fatal-Crashes-in-WA_FINAL.pdf)

<sup>10</sup> <https://www.cato.org/policy-analysis/effect-state-marijuana-legalizations-2021-update>



alternative to mandatory electronic alcohol monitoring for those individuals charged or convicted of a non-alcohol DWI. These provisions are also important to highway safety.

H.F. does not include a *per se* limit for cannabis similar to .08 for alcohol, and the DWI Task Force advocated for and supports this intentional omission. The National Safety Council released a report in 2017 concluding that, while driving under the influence of cannabis is an important public safety concern, a threshold for blood THC concentration based *per se* laws cannot be scientifically supported.<sup>12</sup> However, it is important to invest in education and enforcement of policies, as recommended by the Governor's Highway Safety Administration (GHSA).<sup>13</sup> Therefore, consistent with the GHSA's recommendations, the DWI Task Force recommends providing increased funding, including dedicated funds derived from cannabis sales tax revenue, to the Minnesota Department of Public Safety – Office of Traffic Safety for education and awareness campaigns; law enforcement agencies for increased training and resources; and the Minnesota Bureau of Criminal Apprehension to increase and improve testing capabilities.

Some legislators have asked about how law enforcement can identify and assess impairment roadside, which remains challenging. Officers can conduct standard field sobriety tests, though they have been scrutinized as unreliable indicators of impairment in DWI-Cannabis cases.<sup>14</sup> Oral fluid testing would provide law enforcement with an additional tool, but H.F. 100 proposes a pilot project which would be effective for two years, so this tool would not be immediately available to law enforcement. A full DRE evaluation has been shown to be very effective in evaluating impairment by cannabis<sup>15</sup>, which underscores the importance of funding the DRE program.

The DWI Task Force welcomes the opportunity to continue collaborating with Rep. Stephenson and members of the House to address these highway safety considerations. The Minnesota DWI Task Force is a volunteer, nonprofit, unfunded, unaffiliated group comprised of individuals working to promote highway safety. The DWI Task Force prides itself on its diversity of perspectives, which is comprised of professionals across the state of Minnesota. We thank you for your attention to highway safety and welcome any questions, input, and/or further discussion.

Sincerely

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<sup>12</sup> <https://www.nsc.org/getmedia/8840b317-9960-48b9-a3ae-3fec77a9448b/position-on-cannabis-and-driving.pdf>

<sup>13</sup> <https://www.ghsa.org/sites/default/files/2022-07/Cannabis%20Consumers%20and%20Safe%20Driving%20-%20Responsible%20Use%20Messaging.pdf>

<sup>14</sup> <https://nij.ojp.gov/topics/articles/field-sobriety-tests-and-thc-levels-unreliable-indicators-marijuana-intoxication>

<sup>15</sup> <https://rosap.ntl.bts.gov/view/dot/55938>