

# S.241 & Drugged Driving

*Vermont State's Attorneys*



# Preface

- ❖ We have an existing culture of cannabis use.
- ❖ DUI-Drugs (not just cannabis) already occurs, but is poorly detected and prosecuted. We do not have the tools for the job.

# If S.241 passes as written, what will happen?

- ❖ The sky will not fall, and it will still be blue.
- ❖ We *may* reduce the size of the black market, depending upon tax rate and enforcement resources.
- ❖ Our culture will likely remain the same. (We still won't be Utah.)

# If S.241 passes as written, what will happen? (Part 2)

*BUT.....*

- ❖ We will have the only legal cannabis operation in the Eastern Time Zone, within a day's drive of 100 million people.

Hence the focus on ....



But, S.241 does not focus on:





S.241 punts the topic of highway safety to...\*

*The graveyard for unpopular ideas:  
a study and report.*

*\*Except for the obligatory “add some police” appropriation.*

# Driving Lethality: alcohol vs. cannabis

At-fault fatal crash risk (baseline sober risk = 1):

- ❖ Cannabis-only: 2.3
- ❖ Alcohol-only: 9.4
- ❖ Cannabis and alcohol: 14.1

Biecheler et al *Traffic Injury Prevention* 2008  
(French study; 727 drivers)



# Driving Lethality: alcohol vs. cannabis

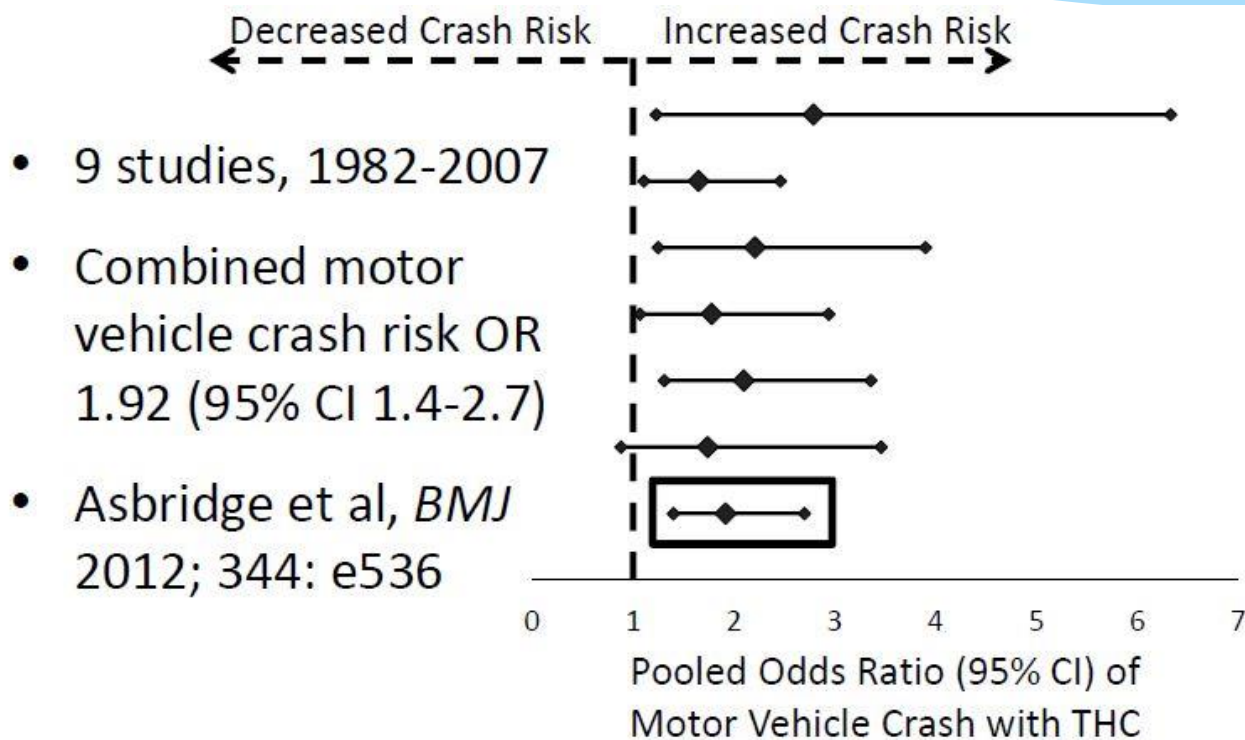
At-fault fatal crash risk (baseline sober risk = 1):

❖ Cannabis-only: 2.7

❖ Active THC greater than 5ng: 6.6

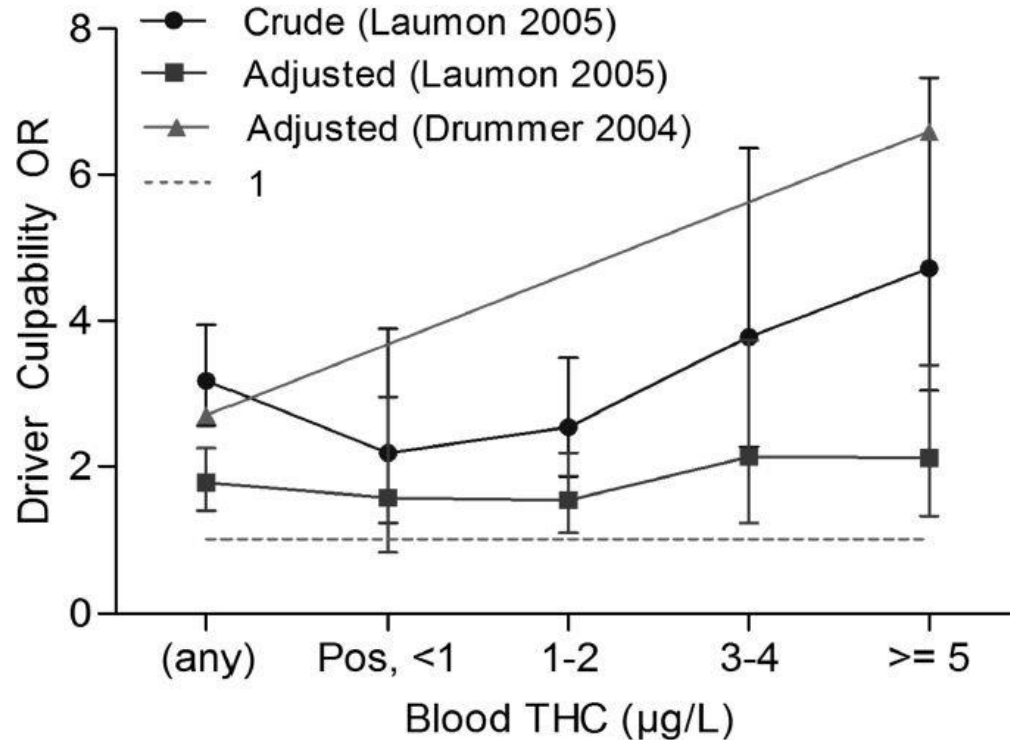
Drummer et al, 2004, *Accident Analysis & Prevention*  
(Australia; 3,398 drivers)

# Meta-Analysis: aggregation of studies re: THC impairment



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## Driver Culpability Risk—Fatal MVAs



# Can you keep it between the painted lines?

- \* **8.2 ng/mL** active THC produces the same lane departure effect (weaving) as **0.05 BAC alcohol**
- \* **13.1 ng/mL** active THC produces the same lane departure effect (weaving) as **0.08 BAC alcohol**

*National Advanced Driving Simulator, University of Iowa  
(2014; 13 participants)*

# Effects of active THC on driver

- \* Driver is aware of impairment and compensates by lowering speed / increasing following distance.
- \* Negative effect on reaction time and ability to respond to unforeseen circumstances.
- \* Some negative effect on ability to maintain lane.

# Ok, so why can't we just hire more police with cannabis tax money like S.241 says?

- \* It's a good start, but we also need:
  - \* Toxicologists
  - \* Prosecutors/Judges...and even defense attorneys
  - \* A clear legal standard (like .08 BAC)
  - \* A public education campaign regarding that standard.
  - \* Detection tools that recognize that active THC disappears quickly.

# Detection & Enforcement Requirements

- \* Active THC disappears into the fatty tissue quickly.
- \* Cannabis-impaired drivers “look and sound good” on the police video when performing standardized sobriety exercises
- \* **Requirements:**
  - \* A speedy screening tool (saliva tester)
  - \* Blood test in under 2 hours
  - \* Legal limit that recognizes that THC is rapidly disappearing from blood during those two hours

# What legal limit to choose?

- \* Don't worry: we didn't get it right on the first try with alcohol.
  - \* 0.18 BAC was the first legal limit in the USA.
- \* Keep in mind that THC is rapidly eliminated from the body, so the limit (at time of test) should be lower than the number that is indicative of impairment.
- \* Chronic users may maintain an active THC concentration of up to 3ng in bloodstream despite sustained periods of abstinence measured in weeks (*Huestsis 2015 study in Baltimore, MD; 2015*).



# Conclusion

- \* The highway safety problem is solvable, and won't be of the same magnitude as that posed by alcohol.
- \* A *per se* legal limit, saliva testing, and blood tests interpreted by toxicologists are needed.