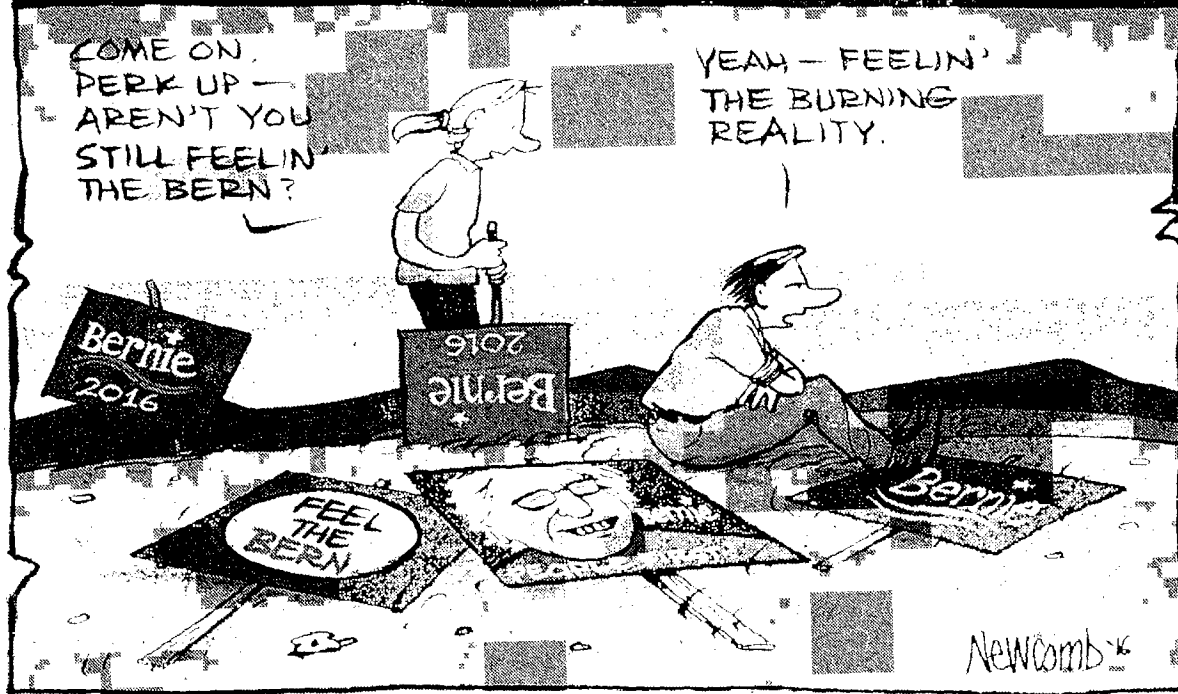


BERNIE'S PATH FORWARD INCREASINGLY NARROW



COMMENTARY

Why we back saliva testing

More and more fatal driving crashes are involving drugs other than alcohol, or drugs in combination with alcohol. Last year, there were 50 Vermont fatal driving crashes, killing 57 people. Twenty-four of them involved impaired drivers, 19 of which had some form of drugged driving involvement other than alcohol alone.

This biennium, the House Transportation Committee attempted to help Vermont law enforcement better identify and process suspected drugged drivers, getting them off the road before they harm themselves or others. To accomplish this, proposed changes to the Vermont DUI statutes involved adding saliva to the current breath and blood tests as a means to show the presence of drugs in a person's system.

Two new types of saliva screening tests were proposed. Neither can be used for DNA purposes. Fourteen states and several European countries already use saliva testing technology. The first, a preliminary roadside test, detects only the presence of six broad classes of drugs (amphetamines, methamphetamines, benzodiazepines, opiates, cocaine and cannabinoids). Its accuracy has been piloted in both national and Vermont state

studies to overall accuracy of 94-98 percent. Only the active form of marijuana, delta 9 THC, which lasts 3-4 hours, is tested for the cannabinoid class. Optional for any defendant, it tests a swab with extracted saliva from the subject's mouth which cannot be used in court. Its purpose is analogous to that of the Alcosensor roadside test for alcohol impairment, to accomplish preliminary screening.

The second proposed saliva test would be evidentiary and normally used in conjunction with a specially trained law enforcement officer called a DRE (Drug

Recognition Expert). There are currently 42 DREs statewide, and one is generally called to a suspected impaired drug driving situation following a roadside stop. Using a 12-step, 45- to 75-minute cognitive and psychomotor evaluation, the DRE identifies any specific driving impairment and drug presence. The DRE may then request an evidentiary breath, blood or proposed new saliva test. Under current law, the evidentiary test may be refused, but only with penalty. The evidentiary saliva test replaces the blood test as more convenient, taking three minutes, and is a less intrusive option. One would not need to go to a distant hospital for a blood draw. Like

any evidentiary blood sample, the saliva sample would be sent to a certified forensic lab for gas chromatography and mass spectrometry processing.

There is no reason to accuse saliva testing science of inflicting personal harm. No one is required to use it. The preliminary saliva roadside test is optional and nonadmissible. The evidentiary saliva test may be bypassed with a blood test. Should saliva testing be employed, it will help law enforcement separate operators with legitimate medical emergencies from suspected drugged driving offenders. It clearly saves time while preserving drug evidence, and offers less invasive options for offenders desiring to avoid a blood draw. Funding would come from federal safety grant money and in-kind state efforts.

On an 11-0 vote, the House Transportation Committee felt these new DUI statutory initiatives would help law enforcement remove drugged drivers from our highways, and make travelling safer for all of us.

Reps. Dave Potter, Herb Russell, Loren Shaw, Mark Huntley, Pat Brennan, Clem Bissonnette and Barbara Murphy

The writers are members of the House Transportation Committee.