

Marijuana Impaired Driving Testimony
Secretary of the Vermont Agency of Transportation

Current Levels of Impairment in Vermont Highway Fatalities

VTrans recently created the Office of Highway Safety within the Highway Division which includes the Highway safety and Design section, the Highway Data Analysis section and the Governor's Highway Safety Program which moved from the Department of Public Safety to VTrans. I believe the SOV is well positioned to improve highway safety by having the infrastructure group, the data collection group and the behavior change group all working in a coordinated fashion to improve highway safety outcomes.

Vermont participates in the collection of highway fatality data through a program called the Fatality Analysis Reporting System or FARS for short. This is a program funded and managed through the National Highway Traffic Safety Administration. It tracks highway fatalities by State and maintains a national database. Nationally, the percent of alcohol-impaired driving fatalities has declined from 48 percent in 1982 to 31 percent in 2012, while there are more vehicles on America's highways.

For Vermont in 2015, there were a total of 68 drivers involved crashed that resulted in fatalities. Of that number, 21 of those drivers were considered impaired which represents 30% of the total number of drivers involved in fatalities. Impaired driving is an important focus area for our Governor's Highway Safety Program and for the Vermont Highway Safety Alliance.

- 68 total drivers involved in crashes that resulted in fatalities
- 21 drivers were considered "impaired"
 - o 5 Alcohol Only
 - o 5 Alcohol & Delta-9 THC
 - o 1 Alcohol & Narcotic Analgesics
 - o 4 Delta-9 THC
 - o 1 Delta-9 THC & Narcotic Analgesics

- o 1 Delta-9 THC & Central Nervous System Depressant
- o 1 Central Nervous System Depressant
- o 3 Narcotic Analgesics Only

As I mentioned, 30% of the fatalities on our State and Municipal highways are the result of impaired drivers. Of this group of impaired driver fatalities four drivers or 20% were strictly marijuana impairment only and 50% were marijuana or marijuana and another substance combined. In 2005, Vermont had 28 fatalities due to alcohol impaired driving 38% of the total fatalities for that year and in 2015 we had 11 drivers with alcohol related impairments or 19% of the total but when you add back in total impairments we are back to 30%.

The rate of all impaired drivers in Vermont is consistent with national averages for driving under the influence of just alcohol nationally. Nationally, thirty percent of all fatal crashes in 2013 involved alcohol-impaired driving, where the highest blood alcohol concentration (BAC) among drivers involved in the crash was .08 grams per deciliter (g/dL) or higher. For fatal crashes occurring from midnight to 3 a.m., 65 percent involved alcohol-impaired driving. [Crashes : 2013] Alcohol related impairment for fatal crashes in VT for 2015 was 16% of the total fatal crashes, roughly half the national average for 2013.

Delta-9 THC – Is the psychoactive metabolite of Cannabis that produces euphoria / impairment and is eliminated from the body usually within 3-4 hours of consumption.

Carboxy or THC-COOH is the inactive metabolite of cannabis that is fat soluble and can be detected days after use.

The Highway Data Unit only reports the Delta-9 THC in the Fatality Analysis Reporting System.

Potential Changes in Driver Impairment as a Result of Legalization

In a regulated economy, I break the population of potential marijuana users into three categories:

- Those Vermonters that currently use marijuana and either driver impaired or they restrict their use to not operate a vehicle while impaired. Legalization is not likely to alter the behavior of this user group which is estimated to be approximately 80,000 people. It will be the same number who drive impaired now.

- Those Vermonters of legal age who will be trying the drug for the first time. A predictor of whether these Vermonters will choose to drive impaired under the influence of Marijuana could probably be found in the rates of behavior of the total population that choose to drive impaired from alcohol. Similar behavior, different drug.
- The third group of people is those that choose to travel here from out of state to purchase marijuana that is legal. They would be traveling here to buy legal marijuana, although they currently can purchase marijuana illegally in their home state. So the two reasons that someone would intentionally travel to Vermont to buy marijuana is if they don't know any drug dealers in their home state or the price of marijuana in Vermont is significantly below the black market price in their home state, to justify the time and expense to travel to Vermont. And again, the underlying behavior of these individuals, whether they drive impaired or not, is more about individual behavior and less about the drug itself.

Most of you have heard the Governor's story about out of state beer hunters getting up early in the morning, driving to Vermont in the dark, waiting hours in line to purchase beer made by Vermont brewers and then taking these tasty intoxicating beverages back home. The great majority of these people do not imbibe in their vehicles when traveling home, they wait until they get home to try these world class brews. Why would purchasers of VT legal marijuana behave any differently?

From the Oxford Journal of Legal Studies, Vol 24, No. 2 (2004) pp. 173-205 entitled

“Does criminal law deter? A Behavioral Science Investigation” states...Does criminal law deter. Given available behavioral science data, the short answer is: generally, no...Allocation of police resources or the use of enforcement methods that dramatically increase the capture rate can deter.” It is the likelihood that someone believes that they will get caught that will deter human behavior not the penalty that will be imposed if they get caught. For this reason, the expenditures that the GHSP makes annually to law enforcement agencies for targeted enforcement will be a critical tool against impaired driving. There needs to be a visible law enforcement presence on our highways with the public understanding that law enforcement is targeting impaired drivers. The additional positions in S.249 for the VSP should assist in this effort.

GHSP Impaired Driving Investments

It is for this reason that VTrans through the Governor's Highway Safety Program, invests significant resources towards changing driving behavior over \$4 million annually. And as I mentioned earlier behavior change in the focus area of impaired driving is a top priority. In FFY16, the State of Vermont through the Governor's Highway Safety Program is funding \$3.5 million towards efforts to reduce and effectively prosecute impaired driving. Included in this funding is a contracted position for an Impaired Driving Program Coordinator that will spearhead the coordination of all aspects on the state impaired driving projects and programs including the Drug Recognition Expert program, the Standard Field Sobriety Testing and the Advanced Roadside Impaired Driving Enforcement (ARIDE). Another significant investment from the GHSP will be the technology and equipment necessary to conduct evidentiary testing of driving impaired cases. Scott Davidson, Director of the Governor's Highway Safety Program will discuss all of these investments more thoroughly in his testimony.

I think to truly change behavior in the area of impaired driving, Vermonters and visitors to our state need to believe they stand a good chance of being caught if they drive impaired. We will achieve reduced numbers of driving impaired if we make the investments and tools for law enforcement to conduct targeted enforcement. I believe with the investments we have made this year in the Governor's Highway Safety Program coupled with the additional trooper positions contained in S.241, we will have the tools necessary to continue to reduce impaired driving in Vermont.

The Bill

S.24 of the bill –It would seem to me that since VTrans collects this data and has the funding for various enforcement efforts through the GHSP, that the annual report to the House and Senate committees on the Judiciary and Transportation should be conducted by both the Commissioner of Public Safety and the Secretary of the Agency of Transportation.

Sec 25 of the bill. I believe we are providing funding for this activity through the GHSP so the appropriation from the GF may not be necessary. I think subsection b should be reworded to read “The Department and the Governor's Highway Safety Program shall jointly develop a process for approving funding for drug recognition expert training for law enforcement agencies in the State. In awarding funding, consideration shall be given to achieving sufficient geographic

distribution of drug recognition experts to provide adequate statewide coverage.” Subsection (c) could then be deleted.

Sec 27 of the bill. I think some of these appropriations are duplicative as discussed.