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February 27, 2018

VIA: ELECTRONIC MAIL

Member
House Committee on Judiciary
Vermont State House
115 State Street
Montpelier, VT 05633

Re: H.237 Saliva Testing

Dear House Judiciary Committee Member:

I write you as an attorney who over the past 35 years has defended persons accused of driving under the influence of alcohol, and of drugs. *I urge you to reject H.237, the saliva testing bill.* I was a member of a 2016 Legislative Study Committee which reviewed whether saliva testing for drivers suspected of operating under the influence of a controlled substance should be adopted. I was the only member of the committee with criminal defense experience, and issued a 12 page dissent from the excerpted Committee Report which I am attaching. I ask that you read it carefully as you weigh whether Vermont should adopt saliva testing.

Summarizing, the reasons why roadside saliva testing should not become law in Vermont are as follows:

- **There is insufficient proof that drivers impaired by drugs are a threat to public safety sufficient to justify saliva testing;**
- **In DUI/Marijuana cases, there is much research showing there is little correlation, if any, between the level of THC in a person's blood and actual impairment;**
- **Saliva testing would punish drivers who have any amount of THC in their system without regard to impairment;**
- **There are grave personal privacy concerns generated by saliva testing, such that I believe that the Vermont Supreme Court would invalidate a roadside saliva testing statute under Chapter 1, Article 11 of the Vermont Constitution;**

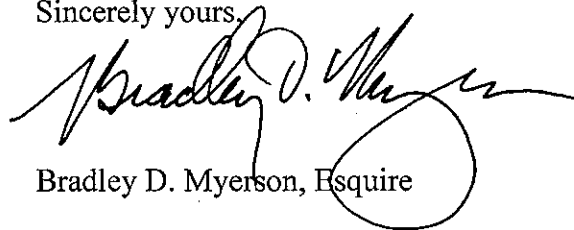
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- **Police already have enough "tools" to determine whether a driver is under the influence of a controlled substance, they simply need to do a better job with how they process drug impaired drivers, i.e. how police administer the Drug Recognition Evaluation protocols;**
- **According to NHTSA, it has not been clearly established that saliva testing devices are reliable or accurate;**
- **Saliva testing gives police unreasonable and overbroad authority to seize and process motorists suspected of operating under the influence, on the basis of consumption only.**

Thank you for carefully considering my views. I would be happy to provide further information or testimony if desired.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Bradley D. Myerson". The signature is fluid and cursive, with a large loop at the end. It is positioned above the typed name.

Bradley D. Myerson, Esquire

BDM/dam
enclosures

cc: Matthew Valerio, Defender General
Chloe White, ACLU-VT