



Commission on Criminal and Juvenile Justice
SUPPORT HB 1114

Inferences for Marijuana and Driving Offenses
Rep. Waller and Rep. Fields

Bill Summary

This bill establishes a rebuttable presumption or permissible inference of intoxication for driving under the influence of marijuana and states that it shall be an unclassified misdemeanor traffic offense for any person to drive a motor vehicle when the person has a level of 5 nanograms of Delta-9 THC/mL whole blood or more at the time of driving or within two hours after driving. The bill creates a permissible inference for all allegations of DUID, vehicular assault, and vehicular homicide.

Discussion

The Colorado Department of Transportation reports an increase in the number of drivers involved in fatal vehicle accidents that tested positive for marijuana. The science is clear that use of cannabis leads to immediate behavioral impairment which can negatively affect driving abilities. Having a per se law sends a message that driving while impaired will not be tolerated. Experts agree that chronic use, such as that by medical marijuana patients, can lead to drug tolerance but impairment may still be present when chronic users consume THC and drive.

The controversy about establishing a defined intoxication level, similar to that used for alcohol, in large part involves the fact that, whereas Blood Alcohol Content (BAC) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble; cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure. High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas driving impairment that would negatively affect driving occurs closer to the time the THC was consumed. There is a lack of consensus among experts about the duration of impairment and the appropriate per se limit. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test and it may not necessarily imply driving impairment, especially for chronic users.

MEMBERS OF THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

James Davis, Commission Chair

Executive Director, Department of Public Safety

Tom Clements

Executive Director Department of Corrections

Kate Horn-Murphy, Victim Representative, 17th
Judicial District

Debbie Rose, Juvenile Parole Board

Regina M. Huerter, Denver Crime Prevention and
Control Commission

Julie Krow, Department of Human Services

Claire Levy, State Representative,
House District 13

John P. Morse, State Senator, Senate District 11

Donald S. Quick, DA, 17th Judicial District

J. Grayson Robinson

Arapahoe County Sheriff

Alaurice M. Tafoya-Modi

Criminal Defense Attorney

Norm Mueller, Criminal Defense Attorney

Doug Wilson, Commission Vice-Chair

State Public Defender

Michael Dougherty

Deputy Attorney General

Charles Garcia

Former Denver Manager of Safety

Peter G. Hautzinger, DA, 21st Judicial District

William C. Kilpatrick,

Golden Police Chief

Evelyn Leslie, Colorado School for Family Therapy

Henry Jackson, Dept. of Higher Education

Kelly Friesen, SB94 Coordinator, Grand County

Eric Philp, Director of Probation Services

Steve King, State Senator, Senate District 7

Mark Waller

State Representative, House District 15

Theresa Cisneros, Judge 4th Judicial District

Jeanne M. Smith

Director, Division of Criminal Justice

Anthony Young, State Board of Parole

The Colorado Commission on Criminal and Juvenile Justice is a multidisciplinary 26-member entity that was established in 2007 by C.R.S. 16-11.3-101 to improve "the effective administration of justice" by undertaking a comprehensive examination of the criminal and juvenile justice systems and making recommendations for reform. For more information about the Commission and its activities, please see the Commission's website at www.cdps.state.co.us/ccji.

To speak to a Commissioner about this bill, please call Jeanne Smith, Director, Colorado Division of Criminal Justice at 303-239-4451.
