



FY2011 RECOMMENDATION/FY11-D05 AMEND ADMINISTRATIVE LAWS REGARDING REINSTATEMENT OF A LICENSE

Status: Cannot Implement

Actions/Updates

2013 UPDATE

No action on this recommendation. Statute addresses marijuana as any other non-alcohol, drug for these purposes.

No further action on this recommendation.

2012 UPDATE

No action on this recommendation.

2011 UPDATE

This recommendation requires legislation to implement.

Description

Amend the administrative laws where necessary to establish that a violation or conviction for driving under the influence of marijuana per se shall mirror the consequences of conviction for a DUI per se violation regarding the administrative penalties and procedures for reinstatement of a license, insurance via SR-22, and court ordered treatment programs as reasonably necessary to effect the purpose of treating a DUI marijuana as seriously as a DUI alcohol offense.

Agencies Responsible

Division of Motor Vehicle

Discussion

Approximately 15 states have statutes that identify a specific limit for the amount of THC/ml at which point driving is considered (per se) to be impaired (see footnote). High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas impairment that would negatively affect driving occurs closer to the time the THC was consumed. While BAC (Blood Alcohol Content) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble whereas cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure. Science is clear that the use of cannabis leads to immediate behavioral impairment which can negatively affect driving. However, there is a lack of consensus among experts about the

duration of impairment (approximately 2-4 hours for smoking, 8 hours for edibles). Expert opinions about “per se” limits related to driving impairment range from 1-2 ng/ml to 15 ng/ml. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test. Also, a low threshold may not necessarily imply driving impairment, especially for chronic users. However, a high threshold may make prosecution for nanogram levels below the designated number very difficult, possibly resulting in dismissed cases. The proportion of drivers, especially chronic users, whose behavior may not be impaired while testing positive at, for example, 5 ng/ml is unknown. In addition, the Commission finds that administrative sanctions (such as revocation of a driver’s license) for impaired driving due to active THC in the blood are a critical ingredient for a successful “per se” law but will likely result in a fiscal impact.

Footnotes

Note: The information contained in this discussion is from testimony provided by multiple experts to the Marijuana/DUID per se Working Group of the Drug Policy Task Force.