



AAA Mid-Atlantic's Testimony - FAVORABLE WITH AMENDMENTS SB 1037 – Courts – Impaired Operation of Vehicle or Vessel – Expert Witnesses and Evidence

Sponsor: Senator West

- AAA Mid-Atlantic supports [SB 1037 - Courts – Impaired Operation of Vehicle or Vessel – Expert Witnesses and Evidence](#) with amendments.
- AAA supports the measure in SB 1037, which authorizes trained and qualified police officers or Drug Recognition Experts (DRE) to testify as an expert witness regarding the impairment of a driver (*or operator of a vessel*) while the driver is impaired by a drug, a combination of drugs, a combination of one or more drugs and alcohol, or while impaired by a controlled dangerous substance.
- AAA **opposes** “*per se*” standards for Delta-9-THC because science does **not** reliably show that drivers become impaired when specific levels of impairing chemicals found in cannabis are in the blood. This is very different from alcohol, where it is clear that crash risk increases significantly at higher BAC levels.
- Cannabis impairment varies from person to person. Depending on the person, drivers with relatively high levels of marijuana in their system might not be impaired, while others with very low levels may be unsafe behind the wheel.
- Unlike with alcohol, it is important to consider that people who use marijuana cannot accurately determine how much marijuana is in their blood or in their brain (*where impairment occurs*). The ability to consume cannabis in a number of ways (inhaling, eating, drinking) also complicates the ability of the user to estimate how much THC is entering their system.
- AAA supports the use of blood tests as **one** piece of evidence that is used to determine if a person was driving under the influence of marijuana, but believes it should be used in conjunction with other evidence, like the multi-level analysis done by a highly trained DRE to determine impairment.
- The [AAA Foundation for Traffic Safety evaluated data](#) on THC-positive drivers, comparing them to assessments made by Drug Recognition Experts to see if the data supported a limit for a *per se* driving law for cannabis. **It did not.** The study concluded that THC concentration thresholds examined would have misclassified a substantial number of drivers as impaired, who didn't demonstrate impairment on the Standard Field Sobriety Test (SFST), and would have misclassified a substantial number of drivers as unimpaired, who did demonstrate impairment at the roadside.
- THC *per se* limits do not reflect the realities of the adjudication and conviction of impaired drivers. Law enforcement is encountering many impaired drivers under the influence of cannabis with readings below the common 5ng/mL THC threshold for blood. Often, *per se* limits are interpreted as “safe limits” which explains why prosecutions of alcohol-impaired drivers with less than 0.08% BAC are rare, especially in a jury trial. We shouldn't expect a different outcome for cannabis-impaired drivers.
- AAA fears innocent drivers who are legally partaking of recreational marijuana, but who are not impaired, could be wrongfully convicted under *per se* laws that are problematic, inconsistent, and unsupported by science.

- Maryland's best resource to identify impaired driving is a Drug Recognition Expert, who is trained to accurately identify impairment in drivers under the influence of drugs other than, or in addition to, alcohol, which is why we support SB 1037 with amendments.
- While a *per se* limit for THC might appear to offer a useful tool for law enforcement to enforce Driving Under the Influence of Drugs (DUID) laws just as the 0.08% BAC statute does for alcohol, it does not. Highly sensitive and specific roadside tests are not currently available for THC, and research evidence in support of impairment at or above a cutoff of 5 ng/ml (or any other threshold) does not currently exist.
- For these reasons, we request a favorable report for SB 1037, with the caveat that the bill be amended to **remove lines 4-11 on page 3.**

Contacts:

*Ragina C. Ali, AAA Mid-Atlantic
Public and Government Affairs Manager
443.465.5020*

*Sherrie Sims, GS Proctor & Associates
Senior Associate
410.733.7171*