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Judicial Proceedings Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 6th, 2024

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 1037: Courts - Impaired Operation of Vehicle or Vessel - Expert Witnesses and Evidence

Dear Chairman Smith and Members of the Committee,

Now that marijuana has been legalized in Maryland, it has become more imperative than ever to protect drivers on our roads and waterways from vehicles and vessels being driven by others who are impaired by drugs. Breathalyzer tests are effective in determining whether a driver is impaired by alcohol, but there is currently no comparable test for marijuana.

One of the core functions of law enforcement officers patrolling the State's roads and waterways is to identify, intervene, and stop drivers who are operating their vehicles or vessels while impaired by drugs. To that end, many law enforcement officers who are assigned to patrolling the State's roads and waterways are trained to recognize the signs of drug impairment and to subject vehicle and vessel operators to validated tests to determine whether they are suffering from such impairment. And for those who are using the State's roads and waterways in the expectation that other vehicle and vessel operators are not driving in an impaired condition, it is important that our law enforcement officers be able to do their work professionally and effectively.

Senate Bill 1037 is brought before you today to promote the professionalization of our law enforcement officers and to ensure that when people caught driving while impaired by drugs come into court, the testimony and evidence against them which is in accordance with current validated standards will be received by the courts.

Senate Bill 1037 has two parts. The first part provides that in order to become qualified as an expert witness in the area of drug impairment, a law enforcement officer must have successfully completed a drug recognition training program conducted by a law enforcement agency that was either held in conjunction with the National Highway Traffic Safety Administration or that involved the same requirements for successful completion as the drug recognition program developed by the National Highway Traffic Safety Administration. The bill states that any such police officer may testify on the ultimate issue of whether a driver was driving while impaired.

The second part of the bill focuses on a test to determine whether THC was present in the body of a driver. As originally drafted, the bill provided that a concentration of 5 nanograms per millimeter or more of THC in the driver's body would be prima facie evidence that the person was driving the vehicle or vessel while impaired. Several days ago, however, I met with several State experts on THC, and they informed me that because THC affects the brains of different people in different ways, the simple 5 nanogram test is not scientifically valid. Therefore, I have prepared an amendment which permits the results of a test for THC to be admitted into evidence but merely in order to show that the driver had previously used a substance containing THC. That fact would not be enough to prove impairment in and of itself but would be of assistance to the court in conjunction with the further testimony of a police officer about the results of the officer's impairment tests of the driver.

I appreciate the Committee's consideration of Senate Bill 1037 and will be happy to answer any questions the Committee may have.