

VSS Testimony on Pilot Program.pdf

Uploaded by: Daniel Smith

Position: FAV

Submitted to:

Maryland Senate Judicial Proceedings Committee

Annapolis, MD – March 8, 2023

Testimony from VS Strategies

Daniel Smith, Vice President

Support: Cannabis-Impaired Driving Test Pilot Program (SB 676)

Introduction

[VS Strategies](#) (“VSS”) is a policy and public affairs consulting firm specializing in cannabis policy. We are experts in cannabis policy whose clients include government bodies, trade associations, businesses, and other organizations seeking to shape public opinion and implement the most effective cannabis laws and regulations. For more than a decade, our team members have been changing minds and changing laws, rolling back prohibition policies, and advancing cannabis policy in a dynamic and responsible manner.

VS Strategies submits this statement in support of SB 676 as written.

Statement of Support

The issue of how to detect and prevent cannabis-impaired driving is one of the most pressing and difficult debates that states have when implementing adult-use cannabis. There are a variety of scientific reasons why blood, breath, and other biological tests are not apt to measure cannabis impairment. Actual cannabis impairment is based on a variety of factors like frequency, method, and amount. For example, consuming cannabis edibles will often cause delayed psychoactive effects beginning approximately thirty to sixty minutes after consumption. There is no consensus on what THC level results in actual impairment, so using biological samples to measure THC concentration is counter to providing objective ways to determine driver impairment.

Even states with mature cannabis markets are still attempting to tackle the issue. For example, Colorado passed [HB22-1321](#) titled “Study Of Devices Assessing Motorist Impairment,” in the 2022 legislative session which established a study to investigate devices that are capable of assessing cognitive and physical impairment of motorists. Other states have convened committees or task forces to look at solutions.

Thankfully, technology may finally be catching up to the problem in the form of tests that measure impairment, rather than just cannabis levels in a person’s body. SB 676 would allow local police departments who are interested in exploring how these new technologies could work in the field to utilize pilot programs to test them out. As part of the pilot program, the use of the technology would be voluntary and results would not be admissible in court. The results would be compared against the evaluations from Drug Recognition Experts and other currently used evaluations to show accuracy and benefits.

Some of these technologies are very impressive. One, created by Cognivue, an applied science company, adapts their FDA-cleared technology that detects cognitive decline and dementia to help local law enforcement objectively measure whether a driver is cognitively impaired. Their test is a self-administered, personalized, non-invasive tool to assess cognition in only five minutes. Their technology is the most promising we have seen thus far that would immensely help law enforcement keep our roads safe.

These new technologies that directly measure impairment rather than cannabis levels in drivers would also be applicable to other substances. It would solve a decade-old problem in having a unified test for impairment regardless of what drug is consumed by the driver, which will save the state time and money.

Overall, we are extremely supportive of SB 676 and believe that if Maryland develops a local pilot program to explore and study cannabis-impaired driving tests, they can make their roads safer for all drivers.

Cognivue Pilot Program Written Testimony.pdf

Uploaded by: Kristin Weber

Position: FAV



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Testimony from Cognivue

Kristin Weber, Director of Strategic Accounts

Support: Cannabis-Impaired Driving Test Pilot Program (SB 676)

Introduction

Cognivue is an applied science company based in New York that develops cognitive health assessment technology. The company's mission is to elevate the gold standard of cognitive health assessment, reduce the stigma of cognitive issues, and empower action with early detection.

Cognivue has pursued this mission by creating the world's first FDA-cleared computerized test of cognitive function. The Cognivue technology is a self-administered, reliable, non-invasive tool to assess cognition in five minutes. The technology is based on more than 15 years of research at the National Eye Institute and the University of Rochester. Cognivue eliminates most common biases associated with other testing modalities and is independent of educational or socio-demographic-economic level. Our devices are currently used by neurologists and other physicians across the U.S. in screening for early detection of cognitive decline and dementia. We believe there is a very positive role our technology can play within the public safety and law enforcement community to help keep our roads and highways safe from drug-impaired drivers.

Cognivue thanks Senator Waldstreicher for his time and effort in drafting this important piece of legislation and for taking the lead on this issue. Cognivue submits this statement in support of SB 676 as written.

Statement in Support

Cannabis-impaired driving is one of the most pressing outstanding cannabis policy matters in states with legalization laws. Current standards and screening methods, such as using breathalyzers or blood samples, are effective for alcohol and other drugs, but they are inadequate and problematic when applied to cannabis. Substances like THC, the intoxicating component of cannabis, affect the body differently than alcohol, and their presence in the body does not directly correlate with impairment. This is because THC can remain in the body for weeks, and THC concentration will rapidly drop after use despite an individual still being impaired. These methodologies are also harmful to consistent, legal users of cannabis because they can have up to 5 nanograms per milliliter (ng/ml) of THC in their system and not be impaired. For these reasons, it is not possible to regulate cannabis impairment based on THC levels as we regulate alcohol impairment based on a driver's blood alcohol level measured by a breathalyzer, as this creates a variety of false-positives and false-negatives.

Due to the scientific shortcomings in measuring cannabis levels directly, Cognivue has opted to take a unique approach by directly measuring cognitive impairment. Unlike blood tests, the Cognivue technology is non-invasive and requires minimal police resources. While blood tests typically require transportation to a facility, at which time a driver's THC level can decrease, the technology Cognivue is developing can provide clear results in five minutes and would be portable for roadside use.

With cannabis legalization being implemented by the Maryland legislature, there has never been a more important time to find new tools for police to use to help keep our roads safe while maintaining fundamental fairness for those who may be using cannabis legally. SB 676 allows for Maryland to gain valuable data on the effectiveness of new and emerging technology to detect impairment. The data that would be collected through the pilot program is important to fine-tune the technology and adapt it to better assist law enforcement roadside. For example, Cognivue has been working with Colorado state, county, and city law enforcement to see if our technology can help keep our roads and highways safe from drug-impaired drivers. The development of our technology would not be possible without partnership with state, county, and city officials.

SB 676 will allow for Maryland to tackle the issue of drug-impaired driving at a critical time of expansion in access to cannabis. Maryland has an opportunity to make their roads safer while also being a leader on an issue that many other states are dealing with. We wholeheartedly support SB 676.

SB 676 APCIA SUPPORT Cannabs Testing 03082023.p

Uploaded by: Nancy Egan

Position: FAV



Testimony of

American Property Casualty Insurance Association (APCIA)

Senate Judicial Proceedings Committee

SB 676 Drugged Driving - Cannabis-Impaired Driving Test Pilot Program - Establishment

March 8, 2023

Support

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. Our members write approximately 55.7 percent of all private passenger auto insurance sold in Maryland and 82.7% of all commercial auto insurance sold in Maryland. APCIA respectfully supports Senate Bill 676.

Senate Bill 676 will establish a pilot program to examine the effectiveness of cannabis-impaired driving tests in enforcing the prohibition against driving while impaired by drugs and authorize a police officer in a participating jurisdiction to administer voluntary cannabis-impaired driving tests if the officer has reasonable grounds to believe an individual is or has been driving or attempting to drive a motor vehicle while the individual is impaired by cannabis. APCIA strongly supports increased scientific research to develop objective marijuana impairment standards for auto and workplace safety and medical efficacy. APCIA has partnered with the Insurance Bureau of Canada to compare laws and standards given that the country legalized marijuana in October of 2018. Their impairment standards are a combination of Colorado and Oregon with alcohol use supplements integrated. We continue to support strong law enforcement standards for marijuana safety, including law enforcement training. Without a reliable impairment standard, the best method of detecting and prosecuting impaired drivers is a well-trained law officer able to identify the signs of impairment. Programs such as Advanced Roadside Impairment Training (ARIDE) and Drug Recognition Expert (DRE) training provides key support for law enforcement. APCIA also continues to support the promotion of increased awareness and education for the public and policymakers on the dangers of marijuana impaired driving or working.

For all these reasons, the APCIA urges the Committee to provide a favorable report on Senate Bill 676.

Nancy J. Egan,

State Government Relations Counsel, DC, DE, MD, VA, WV

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FWA SB676.pdf

Uploaded by: vince mcavoy

Position: FWA

FAVORABLE with AMENDMENT HB0676

Dear Senators,

We have increased motor vehicle crimes including manslaughter/hit-and-run events due to driving while using marijuana. This is exacerbated by use of marijuana with other drugs, some of which have no roadside test.

I strongly urge you to vote to put strong, punitive measures in place to stop the malignant death and crime we're seeing on Maryland roads, even prior to "legalization" of a substance which remains illegal at the Federal level and a Class 1 controlled dangerous substance.

To affect this change, I would find this bill helpful if the following lines are removed from the bill::

22 (F) (1) THE RESULTS OF CANNABIS-IMPAIRED DRIVING TESTS MAY NOT
23 BE USED AS:

24 (I) A GUIDE FOR THE POLICE OFFICER IN DECIDING WHETHER
25 TO INVESTIGATE FURTHER OR FILE CHARGES; OR

26 (II) EVIDENCE IN ANY CIVIL OR CRIMINAL COURT ACTION.

There is a tendency amongst some on JPR to try to be the "cool parents" because "black people smoke dope"; in fact, seem addicted to dope.

Resist this.

Lives are being lost.

It will be worse the day after *Sine Die*.

You've created no framework to protect Marylanders from HB0001/HB0837 or this year's HB556, said framework being a reasonable *parens patriae* obligation of your esteemed positions. Ignoring this obligation by claiming that "Maryland addicts voted for dope" is not a defense.

Thanks for your consideration and time.

Humbly

~vince

vince mcavoy po 41075 baltimore md

Marijuana Use Causes Car Crashes

<https://www.thefreedomcenter.com/can-marijuana-use-cause-car-crashes/>

sb676_unf.pdf

Uploaded by: Rusty Carr

Position: UNF

SB676 Unfavorable
Warren (Rusty) Carr
4391 Moletton Drive
Mount Airy, MD 21771

A pilot program for testing cannabis impaired drivers is a great idea. We already have one called Green Labs. This program should be expanded.

Conducting a driving test as result of a traffic stop would be impractical and not provide results as accurate as the Green Labs programs does where a non-impaired baseline state can be established, and the level of consumption can be verified.

I urge this committee to report unfavorably on this bill.

Thank you,
Rusty Carr

MOPD Informational SB676 written.pdf

Uploaded by: Andrew Northrup

Position: INFO



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POSITION ON PROPOSED LEGISLATION

BILL: SB 676 Drugged Driving - Cannabis-Impaired Driving Test Pilot Program - Establishment

FROM: Maryland Office of the Public Defender

POSITION: Informational

DATE: 3/7/23

The Maryland Office of the Public Defender provides the following testimony in an informational capacity on Senate Bill 676. My name is Andrew Northrup, and I am an attorney in the Forensics Division and MOPD strongly supports the goal of generating data on the effects of marijuana on drivers in order to ensure that impaired drivers are not on the road. However, the data generated in by the process set forth in this bill would not assist us in this endeavor.

As an attorney in the Forensics Division, it is my job to evaluate the reliability of scientific evidence in many disciplines, from DNA to digital evidence to many things in between. The goal of these analyses is to ensure that scientifically unreliable evidence is not admitted into court.

When determining if a method or process generates reliable evidence, one looks to see if it has been scientifically tested. This involves generating a hypothesis and testing it with controlled experiments of the method on samples or subjects where the ground truth is known, and preferably, these experiments are double-blind. Once data is generated, it is interpreted and conclusions are drawn, and the results are published in a peer-reviewed journal where both the data and the conclusions are subject to scrutiny. In a substance abuse experiment, one needs to allot out the same amount of a controlled substance to a group of carefully screened subjects and allotting nothing to a control group of carefully screened subjects. Such subjects should have no medical conditions or any other attribute that might skew the result. The purpose of this is so that you know the ground truth of the ingestion of the substance with no confounding factors.

The pilot program set forth in SB 676 is an appreciated attempt to provide metrics for evaluating drivers under the influence of cannabis, but it is not a controlled experiment. Thus, the data generated will not be subject to accurate interpretation and conclusions.

Pulling drivers over based on suspicion of their impairment by marijuana does not meet the requirements of a controlled experiment. There is no controlling for the amount of marijuana, the timing of ingestion, the presence of other substances, medical conditions or whether someone is simply tired. This also assumes that the driver is honest or even remembers what was ingested, the amount that was ingested, when it was ingested, or is willing to disclose any medical condition that they may have.

There is the additional problem of sampling bias. Since the officers are only stopping people that they believe are impaired by cannabis, that will tend to reinforce preexisting biases and they may miss individuals who do not fit their prior beliefs of how cannabis impaired drivers behave.

Our office believes that generating data on how marijuana impairs driving is a worthwhile goal. However, this should be accomplished through controlled experiments, which generate reliable data. Ultimately, any data generated from this pilot program will be suspect at best. Additionally, our Office sought the input of Doug Scott, an individual who established the Drug Recognition Expert (DRE) program in North Carolina, about this bill. He is unavailable for oral testimony, but his statement is attached.

**Submitted By: Maryland Office of the Public Defender, Government Relations Division.
Authored By: Andrew Northrup, Forensics Division, (312) 804-9343,
andrew.northrup@maryland.gov.**

SB 676 Scott Written Testimony.pdf

Uploaded by: Andrew Northrup

Position: INFO

Members of the Judicial Proceedings Committee,

Thank you for allowing me to present my testimony. My name is Doug Scott, and I am a substance abuse professional who provides consulting and training in this field. Prior to this, I was a police officer for 22 years, during which time, I effected hundreds of impaired driving arrests involving alcohol and other controlled substances. In 2000, I started the DRE program in North Carolina after being certified as a DRE and a DRE Instructor.

I was requested by the Office of the Public Defender to review SB 676. While we all have a clear interest in keeping individuals who are impaired by controlled substances off of the road, this bill does not advance this cause in the slightest.

In order to develop usable data from which one could draw conclusions, one needs to know ground truth of the subjects and have controls to the experimental data.

Ground truth means that when one studies the effects of a drug on a person, one needs to know the exact amount and the timing of ingestion of said substance. This is not accomplished by pulling people off of the road without knowing this information. In my experience, I can say that individuals who have ingested controlled substances may not be the most reliable or truthful historians of this information.

Without controls I don't see how this data will be scientific and useful. How can they determine that the person has a concentration of an impairing substance whether it is THC, or Hydroxy THC at the time of testing? How can they exclude that they aren't just seeing results for some other substance? How can they exclude that they aren't seeing skewed results due to pre-existing medical conditions or physical or mental limitations? How are they also not biasing the sample and the results by pulling over the individuals that they believe to be on marijuana?

This bill and any evaluation that results from it will be pointless without a basis from a well-designed and scientific experiment. There is no mention of any such basis for the application of these “tests”.

So what are the proposed tests? Who and how have they been identified as sensitive to cognitive and physical impairment only, and specific to the effects of cannabis? To determine the “effectiveness of cannabis-impaired driving tests (line 4-5) the proposed tests should be identified in advance. They are not.

On page 2 line 8 of the bill, it says the officers shall “receive training on the use of cannabis impaired driving tests”. Just like all other tests, their reliability depends on consistent application based on tested proficiency and understanding of those receiving the training. Who will train the trainers? Who will develop the training for the tests that haven’t even been identified?

Ultimately, the vagueness and lack of reliability of the tests to be administered, the lack of controls and of ground truth knowledge of the participants makes any data gathered from this project fundamentally unreliable.

I believe at this point a much better approach would be controlled laboratory experiments with recreational doses of THC administered after thorough screening by researchers. This would be followed by the administration of pre-selected tests, uniformly on each subject.

We know that this can be done, because these tests were conducted with the substance of alcohol. Because of this series of controlled tests, we now have extensive knowledge about how alcohol affects human beings.

I appreciate what you all are trying to do, but this is not the proper way to do this.