



January 24, 2023

Chair Latz and Members of the Senate Judiciary Committee:

The Minnesota DWI Task Force's mission statement is to eliminate impaired driving and keep Minnesota's roads safe. As cannabis has been legalized to various degrees nationwide, our nation has seen an increase in impaired drivers and crashes. The National Highway Traffic Safety Administration (NHTSA) reports that there are many misconceptions about cannabis not impairing a person or making a person safer to drive, yet research and studies show that cannabis does impair motor skills, lane tracking, cognitive functions, and a driver's ability to multitask.¹ From 2008 – 2016, the number of drivers involved in fatal crashes who tested positive for cannabis more than doubled from 8% to 18%, and in 2017, 38% of Drug Recognition Expert (DRE) evaluations tested positive for cannabis alone.² A study from AAA released in December 2022 noted that only 65% of drivers felt that driving within an hour of using cannabis to be very or extremely dangerous, with 5% admitting to doing it within the past month.³ As a result, NHTSA recommends robust public education, expanding law enforcement's training and resources, improving drug testing capabilities, strengthening impaired driving laws, and increasing coordination in the criminal justice system.

The DWI Task Force remains neutral on S.F. 73, the scope of which is broader than our purview. However, S.F. 73 needs additional highway safety considerations that are not currently included in the bill. There are only cross-references to Chapter 169A, Driving While Impaired laws, without any specific provisions addressing DWI laws. The DWI Task Force has drafted proposals and discussed them with Rep. Stephenson and Sen. Latz, and both were generally receptive to the proposals. The DWI Task Force urges Sen. Port, this Committee, and the Senate to discuss and adopt these proposals for inclusion in the bill.

Please note that driving under the influence of cannabis is currently prohibited by Minnesota laws. The DWI Task Force's goals are to align DWI-Cannabis laws with DWI-Alcohol laws, with a few necessary differences. Our proposals are meant to address impairment by cannabis; prevent possible impairment by cannabis while driving; increase public education about the impairment effects of cannabis and dangers of driving while impaired; and ensure that penalty provisions are commensurate with the crime. The following are summaries of the proposals:

¹ <https://www.nhtsa.gov/risky-driving/drug-impaired-driving>

² https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/13839-drugged_facts_flyer_101918_v8_002.pdf

³ <https://newsroom.aaa.com/wp-content/uploads/2022/12/2021-Traffic-Safety-Culture-Index-Technical-Report-FINAL.pdf>



- Move DWI-cannabis offenses from the controlled substance provision to its own provision. For public policy reasons, this change is meant to increase awareness and education on the dangers of driving while under the influence of cannabis. In that same vein, the proposal explicitly notes that impairment derived from hemp, edible cannabinoid products, or medical cannabis are not defenses to a DWI. Impairment is impairment and, regardless of the source, endangers Minnesota’s roadways.
- Align prohibitions for school bus, Head Start bus, and commercial vehicle drivers with state laws for alcohol and federal regulations for cannabis. Minn. Stat. § 169A.31 criminalizes driving a school bus, Head Start bus, or commercial vehicle with any amount of alcohol present in the driver’s body, and federal regulations prohibit the same of commercial vehicle drivers. This provision similarly prohibits the presence of the psychoactive metabolite of cannabis in the driver’s body.
- Align the prohibition of underage drinking and driving with underage use of cannabis and driving. This provision mirrors Minn. Stat. § 169A.33 and prohibits the presence of the psychoactive metabolite of cannabis in the driver’s body.
- Align prohibitions in the transportation of containers of alcohol and cannabis. Minn. Stat. § 169A.35, currently allows for the transportation of alcohol in an unopened container anywhere in the vehicle, but if it is opened, it must be placed in the trunk or trunk-like area. This provision would provide the same restrictions for cannabis. It is good public policy to ensure that the transportation of cannabis, medical cannabis, or edible cannabinoid products remain in a closed container or in a trunk or trunk-like area while being transported in a motor vehicle, which reduces the likelihood of use or consumption while driving.
- Create a necessary alternative of random urine analyses for those charged with any drug-based DWI. Currently, certain DWI offenders are required to submit to electronic alcohol monitoring even if their impairment or charges were unrelated to alcohol. This alternative would more directly address the crime charged and protect public safety.
- Create a requirement for driver education programs to include information on the effects of cannabis and cannabinoid products. This is currently required of alcohol, illegal drugs, and prescription and nonprescription drugs. Explicitly listing cannabis and cannabinoid products will result in curriculum specific to these substances, which is important for new drivers to learn. This proposal is consistent with a law recently passed in the state of Massachusetts.⁴

⁴ <https://www.nbcoston.com/news/local/mass-teens-will-soon-be-required-to-learn-the-blunt-truth-about-marijuana-and-driving/2922589/>



The DWI Task Force encourages the legislature to use a consistent term when referring to cannabis, cannabinoids, or marijuana. If the term “cannabis,” is chosen, it needs to be explicitly defined. S.F. 73 currently contains many definitions of various forms of cannabis but does not contain a definition of cannabis itself.

The DWI Task Force recommends against a *per se* limit for marijuana similar to .08 for alcohol. The National Safety Council released a report in 2017 concluding that, while driving under the influence of cannabis is an important public safety concern, a threshold for blood THC concentration based *per se* laws cannot be scientifically supported.⁵ However, it is important to invest in education and enforcement of policies, as recommended by the Governor’s Highway Safety Administration (GHSA).⁶ Therefore, consistent with the GHSA’s recommendations, the DWI Task Force recommends providing increased funding, including dedicated funds derived from cannabis sales tax revenue, to the Minnesota Department of Public Safety – Office of Traffic Safety for education and awareness campaigns; law enforcement agencies for increased training and resources; and the Minnesota Bureau of Criminal Apprehension to increase and improve testing capabilities.

The Minnesota DWI Task Force is a volunteer, nonprofit, unfunded, unaffiliated group comprised of individuals working to promote highway safety. The DWI Task Force prides itself on its diversity of perspectives, which is comprised of professionals across the state of Minnesota. We thank you for your consideration of these proposals and welcome any questions, input, and/or further discussion.

Sincerely

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⁵ <https://www.nsc.org/getmedia/8840b317-9960-48b9-a3ae-3fec77a9448b/position-on-cannabis-and-driving.pdf>

⁶ <https://www.ghsa.org/sites/default/files/2022-07/Cannabis%20Consumers%20and%20Safe%20Driving%20-%20Responsible%20Use%20Messaging.pdf>