

Date of Hearing: April 9, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2058 (Chau) – As Amended April 2, 2018

**SUBJECT:** Vehicles: driving under the influence: statistics

**SUMMARY:** Requires the Department of Motor Vehicles (DMV) to include in a yearly report to the legislature the number of arrests made involving driving under the influence of cannabis. Specifically, **this bill:**

- 1) Requires each law enforcement agency having traffic law enforcement responsibility to report to the Department of Justice (DOJ) the number of arrests made during the preceding calendar month for a violation of driving under the influence (DUI) of cannabis, beginning on July 15, 2022.
- 2) Requires DOJ to develop a form to give to law enforcement to report the above information.
- 3) Requires DOJ, beginning on or before July 1, 2023, to transmit a summary of the arrest data to DMV in a format and a frequency agreed upon by the departments.
- 4) Requires DMV, beginning on or after January 1, 2024, to include in a report to the legislature the summary of the arrest data for DUI of cannabis or a combination of cannabis and alcohol or another drug.

**EXISTING LAW:**

- 1) Requires DMV to maintain a data and monitoring system to evaluate the efficacy of intervention programs for persons convicted of DUI.
- 2) Specifies that the system may include jail sentencing, license restriction, license suspension, alcohol and drug education and treatment program assignment or treatment program dropout rates from the treatment program.
- 3) Requires DMV to submit an annual report of its evaluations to the Legislature, including a ranking of the relative efficacy of criminal penalties, other sanctions and intervention programs.
- 4) Makes it unlawful to drive under the influence of drugs, including cannabis.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Purpose:* According to the author: “Currently, law enforcement entities from across the state track and store their data related to cannabis DUIs differently, making it virtually impossible to be able to pinpoint the exact number of drivers who have been arrested and cited for driving under the influence of cannabis. With the legalization of cannabis rolling out in our state recently, it is reasonable to assume that more individuals will be

using cannabis, and operating a car while impaired, however, there is currently no way for the state to gauge how serious of a problem cannabis drugged driving is.”

*The Difficulty in Getting an Accurate Number For Cannabis Related DUI Arrests:* Unlike alcohol, driving under the influence of cannabis is not a separate offense under the states DUI laws. As a result, it is not readily apparent for statistical purposes how many DUI arrests are cannabis related. This bill attempts to remedy that problem by requiring law enforcement agencies to report to the DOJ the number of cannabis related DUI arrests made in the calendar month. The DOJ will then, beginning in 2023, submit that data to DMV, which will then begin publishing the data in 2024 in an existing annual report to the legislature.

*Has Legalized Cannabis Increased Traffic Accidents?* As of January 1, 2018, cannabis has become legal to sell for recreational purposes in California. This has multiple concerns from law enforcement regarding the use of cannabis while driving. Recent studies have had conflicting reports about the effect of legalization and an increase of accidents on the road. The author cites an article from the Denver Post that found that the number of drivers involved in fatal crashes who tested positive for cannabis in Colorado jumped from 47 in 2013 to 115 in 2016, a 145% increase. Recreational cannabis became legal in Colorado in 2014. Similarly, according to the Washington State Patrol, the number of drivers involved in fatal crashes who tested positive for cannabis in Washington rose from 64 in 2013 to 116 in 2017. Recreational cannabis became legal in Washington in December of 2012.

The California Police Chiefs Association, writing in support of the bill, state that the total number of drivers who were found to be intoxicated with cannabis and involved in a fatal traffic accident increased 88% from 2013 to 2015. They believe collecting this arrest data will allow them to work collectively with local governments and major stakeholders to reduce the number of cannabis related DUIs.

However, other studies have contradicted these numbers. A study published in the American Journal for Public Health entitled *Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado* looked at traffic fatalities in both states and concluded that “three years after recreational legalization, changes in motor vehicle crash fatality rates for Washington and Colorado were not statistically different from those in similar states without recreational marijuana legalization.”

Studies on cannabis’s effect on driving have been difficult because of the federal government’s classification of the drug as a Schedule I narcotic, which limits the ability for controlled tests. A more recent study from the National Institute on Drug Abuse, the National Highway Traffic Safety Administration (NHTSA) and the Office of National Drug Control Policy used the National Advanced Driving Simulator at the University of Iowa to test the effects of cannabis, alcohol and both cannabis and alcohol. Cannabis was found to cause an increase in the variability of the driver’s lane position. However, only alcohol increased lane departures. Cannabis drivers were found to have reduced mean speeds, increased time driving below the speed limit and increased following distance during a car following task. Alcohol, however, resulted in greater variability in speed and a greater percent of time driving above the speed limit. In fact, combining the drugs resulted in mitigating some of the effects found with alcohol by reducing the time spent above the speed limit.

The lack of relative data on the subject suggests it is prudent to collect more data to determine the extent of the problem of cannabis-related DUIs.

*Are You High?* Another difficulty in accurately accounting for cannabis impairment while driving is the inability to accurately test if a person is under the influence of cannabis. As noted in a 2017 report to Congress from NHTSA, while alcohol is readily soluble in water, and hence blood, the active ingredient in cannabis that causes psychoactive affects (delta-9-Tetrahydrocannabinol, or THC) is fat soluble. This means that once ingested, THC is stored in fatty tissues and can be released back into the blood sometimes long after ingestion. NHTSA noted that some studies have detected THC in the blood at 30 days post ingestion, much longer than the psychoactive effects of cannabis lasts. This is one of the reasons why NHTSA found that it is difficult, though not impossible, to obtain a conviction for drug-impaired driving without evidence of drug use by the suspect.

*Related legislation:* SB 1273 (Hill) makes cannabis-related DUIs and other drugs a separate offense and requires the suspension of a driver's license for anyone under the age of 21 who had any trace of cannabis in their system. SB 1273 is set to be heard by the Senate Public Safety Committee on April 10, 2018.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

AAA Northern California, Nevada and Utah  
Automobile Club of Southern California  
California Police Chiefs Association

##### **Opposition**

None on file

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