



Assembly Bill (AB) 397 – Cannabis: Driving Under the Influence

Sponsor: Author

SUMMARY

AB 397 would recast existing provisions of DUI law to make driving under the influence of cannabis a separate offense.

BACKGROUND

Proposition 215 (The Compassionate Use Act of 1996) made it legal in the state of California for seriously ill patients to obtain a prescription from their doctor for medicinal use of cannabis. In November of 2016, Proposition 64 (The Adult Use of Marijuana Act) passed to make adult use of cannabis legal to cultivate and consume in the state.

In 2012, Colorado and Washington became the first states in the nation to fully legalize marijuana for recreational purposes. Since that time, these two states have shared a very similar experience, as it pertains to drugged driving involving cannabis.

According to the Denver Post, the number of drivers involved in fatal crashes who tested positive for cannabis in Colorado jumped from 47 in 2013 to 115 in 2016 – an increase of 145%. Similarly, according to the Washington State Patrol, the number of drivers involved in fatal crashes who tested for cannabis in Washington rose from 64 in 2013 to 116 in 2017.

Since 1973, the National Highway Traffic Safety Administration and the Insurance Institute for Highway Safety have conducted five national roadside surveys to estimate the prevalence of drinking and driving in the United States. In 2007, for the first time since 1973, the roadside survey included procedures to estimate the use of potentially impairing drugs by drivers. In the 2007 and 2013 surveys, “THC was by far the most prevalent drug detected in the representative sample of drivers”. Further, the survey’s noted a 48% increase in drivers testing positive for THC between the 2007 and 2013 studies.

Additionally, the National Highway Traffic Safety Administration, noted in its July 2017 report to Congress on cannabis impaired driving, that “there is little State level data about the prevalence of use of marijuana by drivers being collected. As States continue to change their laws regarding marijuana use in general and as it relates to driving, this lack of State level data prevents evaluation of the effect of policy changes on driver behavior, including willingness to drive while under the influence of marijuana, as well as the effect of marijuana on crashes, deaths and injuries”.

Currently, existing law provides that any person who is found to be driving under the influence of cannabis must be charged under section (f) of Vehicle Code section 23152 which states that “It is unlawful for a person who is under the influence of any drug to drive a vehicle.” While this statute works as it pertains to charging someone with a cannabis DUI, it makes it impossible for the state to track how many Cannabis related DUIs occur annually, which is problematic considering it is a newly legalized substance that many adults in the state are expected to consume recreationally.

By establishing cannabis as its own subsection within DUI code, we will give officers and drug recognition experts the ability to spot and arrest someone strictly for cannabis drugged driving, as opposed to the broad “driving under the influence of drugs” that is provided by existing law .

Additionally, establishing cannabis as its own subsection of DUI code gives the state the ability to effectively track how many DUI arrests occur annually, which will assist the legislature in understanding how serious of a problem cannabis drugged driving is, and what policies are needed to address this dangerous behavior.



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PROPOSAL

Specifically, AB 397 would separate “cannabis” from other drugs as it pertains to charges for driving under the influence.

The bill would create two new subsections within DUI law, 1) stating that it is unlawful to operate a vehicle while under the influence of cannabis, and 2) stating that it is unlawful to operate a vehicle while under the combined influence of any alcoholic beverage and cannabis.

Finally, the bill would take effect on July 1, 2021 in order to give the Department of Motor Vehicles the time needed to update their internal forms and procedures to comply with the bill.

SUPPORT

None on File

BILL STATUS

Introduced on February 6, 2019.

FOR MORE INFORMATION

Garret Bzurto
Office of Assembly Member Ed Chau
(916) 319-2049; Garret.Bzurto@asm.ca.gov