

October 26, 2022

Ms. Ann Carlson
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Notice and Request for Comment; Strategies to Improve DRE Officers' Performance and Law Enforcement Agencies' DRE Programs

Dear Acting Administrator Carlson:

On August 31, 2022, the National Highway Traffic Safety Administration (“NHTSA”) published in the Federal Register a Notice and request for comments on new information collection to study ways to help improve Officers' performance and Law Enforcement programs for Drug Recognition Experts (DRE) (the “Notice”). The National Association of Mutual Insurance Companies (“NAMIC”) welcomes the opportunity to respond to this request for comments.

NAMIC is the largest property/casualty insurance trade group with a diverse membership of more than 1,500 local, regional, and national member companies, including seven of the top ten property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 55 percent of the auto market. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

As detailed in the Notice, impaired driving resulting from cannabis or other drug use poses challenges for our nation's law enforcement officers, prosecutors, toxicologists, highway safety offices, and others. The recreational use of cannabis has been legalized in nineteen states, Guam, the Northern Mariana Islands, and D.C. Another twelve states and the U.S. Virgin Islands have decriminalized its use. As the number of States legalizing marijuana continues to increase, the need for effective strategies to address the growing concerns about impaired driving is imperative, and law enforcement agencies would welcome the ability improve their efficiency, consistency, and completeness of their DRE programs.

Drug impaired driving is a serious problem and law enforcement professionals do not have the appropriate means to measure or determine a driver's level of cannabis-related impairment. Perhaps more importantly, there is no widely accepted, professional consensus of the appropriate legal limit or threshold for cannabis impairment. Unlike the standard .08 blood alcohol content measurement system for alcohol intoxication, such a metric does not exist for cannabis in all but one state in the context of driving impairment. Colorado has a reasonable inference law in the case that THC is found in a driver's bloodstream in quantities of 5ng/ml or higher when it is permissible to assume the driver was under the influence.

According to the [National Conference of State Legislatures](#), there are six states that have "per se limits" for THC from one to five nanograms that "establish that once a person is shown to have reached or surpassed the legal limit, that person will be considered impaired by law." Companies such as Hound Labs and Cannabix Technologies are among a select few entities currently developing THC detection technology that will mimic the standard alcohol breathalyzer rather than using blood, saliva, or a urine sample. Similarly, Alcohol Countermeasure Systems, a group of more than forty international companies, has been spearheading the development of a non-intrusive artificial intelligence technology that uses eye tracking as a means of determining THC presence with 95 percent accuracy. While technology could be key in systematizing and determining cannabis impairment, its distribution and real-time application will face challenges in adhering to local, state, and federal laws. Extensive training of law enforcement will be required before successful deployment; implementation will also demand substantial financial resources and commitment by numerous levels of government.

Drug Recognition Experts are law enforcement officers trained and certified through the [International Drug Evaluation and Classification](#) program to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol. DRE's use a standardized, systematic way to examine a driver to determine if the driver is impaired, why the driver is impaired if impaired by drugs, and what category of drugs or combination of drugs. The Drug Influence Evaluation process is standardized and systematic, based on observable indications that are proven, reliable signs of impairment by drugs. But there are differences in how each State DRE program, as well as local DREs, collect evidence, record data, and determine who will respond when a DRE is needed.

The Notice proposes to request information about existing DRE processes and procedures, tools and strategies used, and how the agencies plan to implement new or enhance existing processes and procedures. This information will be used by NHTSA to develop best practices for DREs to help improve all DRE officers' performance and enforcement programs overall. This demonstration project can develop process outcomes that law enforcement agencies at all levels could use to replicate and improve their programs.

The Notice requests comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility. NAMIC's response to each is an enthusiastic "Yes, this work is critical for the proper performance of the functions of NHTSA and there is every reason to believe that the results

of the study will have great practical utility.” NAMIC is supportive of the Notice as another positive step in the possible range of safety data collection and reporting, and we commend this particular proposal’s potential for enhancing the training and tools available to the law enforcement communities who are physically engaging with and assessing potentially drugged drivers. NAMIC applauds the Notice as worthwhile action by NHTSA, and strongly urges NHTSA to consider proposing even more wide and extensive work in this area.

If you have any questions or require further information, please contact me at tkarol@namic.org. Thank you for your time and consideration.



Thomas J. Karol

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National Association of Mutual Insurance Companies