

**HB19-1230 Testimony      March 27, 2019**

My name is Ed Wood, the founder of DUID Victim Voices.

I'm concerned about the impact HB 1230 would have on drug-impaired driving and our ability to successfully prosecute DUID offenders. Let me explain why you too should be concerned.

Patrons driving home after consuming marijuana at a hospitality establishment could be impaired. If that impairment is caused by inhaled THC, those drivers can be arrested, prosecuted and convicted of DUI. But if their impairment was caused by THC edibles, their conviction is very unlikely under Colorado's 5 ng permissible inference law. Here's why.

Blood levels of THC spike very quickly after starting to smoke pot and decline almost as quickly, leaving only marijuana's non-psychoactive metabolite detectable in blood after a couple hours or so. This is shown by the red THC line and the dashed red metabolite line in Figure 1. But blood THC levels from edibles as shown by the blue line do not behave that way at all.

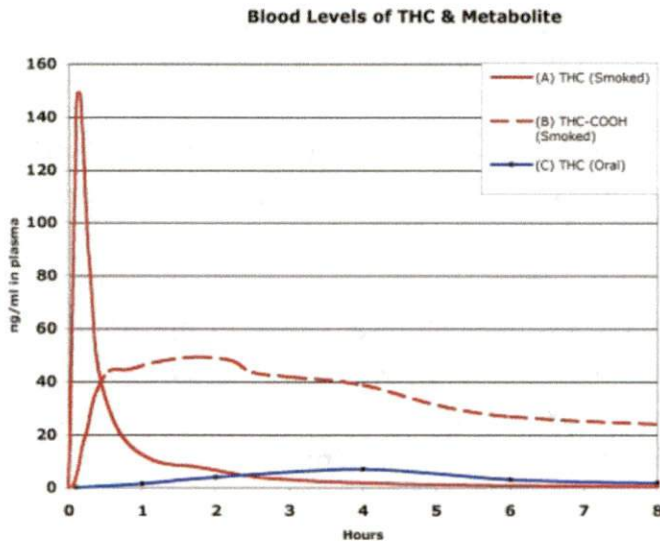
A 2017 study showed that blood THC levels didn't rise above 1 ng after consuming the 10 mg dose permitted by this bill, and didn't even rise above 3 ng after consuming five times that dose, as shown in Figure 2. Would these people be successfully prosecuted after a DUI arrest? The answer is no. Not under current Colorado law.

DCJ's 2018 report looks at drivers arrested for and charged with DUI who had either *only* alcohol or *only* THC found in their blood. DUI convictions were uniformly higher for alcohol than for THC as shown in Table 1. Drivers testing below Colorado's 5 ng limit were rarely convicted of DUI (14.1% conviction rate). Now lest you think that was because these drivers were not impaired, I call your attention to the fact that over 90% of drivers under 5 ng were found guilty of DWAI, so they were indeed impaired. Officers can and do identify THC impairment. Prosecutors are doing their job. The law isn't.

These data should convince you that until Colorado changes its scientifically-invalid, prosecutorially-ineffective and judicially unsound 5 ng THC permissible inference law, it is premature to pass HB 1230. As a DUID victim, I submit it is even irresponsible and immoral to do so.

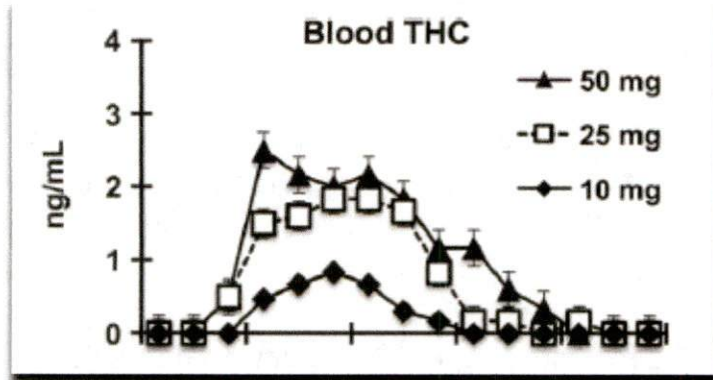
Please reject HB 1230.

**Figure 1**



Grotenhermen F, Leson G, Gerghaus G et al. Developing Science-Based Per Se Limits for Driving under the Influence of Cannabis (DUIC). Sept 2005

**Figure 2**



Vandry R, Herrmann ES, Mitchell JM. Pharmacokinetic profile of oral cannabis in humans: blood and oral fluid disposition and relation to pharmacodynamic outcomes. J Anal Tox 2017 41 83-99

**Table 1**

	Convictions by drug		Case Count
	DUI	DWAI	
<b>Alcohol only</b>			13,323
≥ BAC .08	92.5%	99.9%	11,857
BAC .05 - .079	23.6%	85.0%	1,189
<b>THC only</b>			878
≥ 5 ng/ml	59.8%	99.7%	621
1.0-4.9 ng/ml	14.1%	91.4%	241

Bui B, Reed J. Driving Under the Influence of Alcohol and Drugs. A Report Pursuant to HB 17-1315. July 2018. Colorado Division of Criminal Justice. Additional data provided by Bui August 23, 2018