



Legislative Testimony
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**Written Testimony Supporting
House Bill 5152, An Act Concerning a Study to Determine a Way to
Detect When a Driver is Under the Influence of Marijuana**

Senator Bradley, Representative Verrengia, and distinguished members of the Public Safety and Security Committee:

My name is David McGuire, and I am executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of House Bill 5152, An Act Concerning a Study to Determine a Way to Detect When a Driver is Under the Influence of Marijuana.

As an organization that works to protect the civil liberties of Connecticut residents, the ACLU-CT believes that the state should conduct a study to explore the efficacy of roadside marijuana tests to ensure that people's rights are not violated by the use of such tests. Before Connecticut rushes into implementing a roadside test for marijuana, it is wise for the state to study all potential options and consult experts in the area. Therefore, we support House Bill 5152.

Though public safety is a legitimate concern when there is suspicion that someone is driving under the influence of drugs, the state should not ignore drivers' civil liberties and should not open the state up to potential liability by relying on faulty and unproven methods for testing drivers' impairment. Under proposals pending in the legislature, someone who is convicted of driving under the influence of marijuana could face serious consequences, such as losing their license, spending time in prison, and living with a criminal record. The ACLU-CT does not take a position on whether these penalties are appropriate but believes it is important to understand the severity of the potential consequences. With this much potentially at stake for a person convicted of driving under the influence, it is imperative that the state rely on scientifically proven tests to determine whether someone is in fact driving

under the influence of marijuana. However, the current blood and saliva tests available for roadside testing of driving under the influence do not currently prove whether someone is impaired due to marijuana use. One complication is that marijuana use is different than alcohol use, because some tests are able to determine the presence of alcohol only within a short time frame after its consumption, whereas the chemicals in marijuana can remain in a person's body for weeks. This could result in someone who is not under the influence, who consumed marijuana weeks earlier, still receiving a positive test when they are not impaired.

The current roadside tests are also cause for concern due to their potential implications for people's constitutional rights. Roadside stops are considered seizures under the Fourth Amendment. Warrantless roadside tests raise serious due process and equal protection concerns.

Roadside tests also run the risk of disproportionately harming people living with disabilities and people of color. People who take any prescribed medication will most likely be held longer because they will test positive for these medications. As a result, people taking medication due to disabilities could be more harmed by roadside tests than those living without disabilities. Due to the fact that police in Connecticut disproportionately stop and pull over drivers of color, Black and Latino people in Connecticut will also likely be exposed to roadside stops and tests more often.

In addition, currently available roadside tests, such as saliva tests, are much more invasive of privacy and bodily integrity than a breathalyzer test due to the physical removal of oral fluids and DNA. Without very strict rules in place, these roadside tests run the risk of being funneled into unregulated databases, where law enforcement or anyone else whom law enforcement chose to provide access would have access to people's most sensitive genetic information. In addition to exposing the tested individual's DNA to serious privacy violations, DNA collection also exposes that person's family members to privacy violations. This type of "stop and spit" approach has already raised serious civil liberties concerns in Branford.

In addition to these potential civil liberties violations, the state would almost certainly open itself up to court challenges and enforcement difficulties if it chooses to institute an unproven method of marijuana impairment detection.

Though the ACLU-CT supports the state studying this issue, we have concerns about the lack of current proven methods to detect when a driver is under the influence of marijuana. It is possible that there is no good way to test whether someone is under the influence of marijuana, and we encourage the members of the study to keep this in mind.

However, conducting a thorough exploration of marijuana detection methods would be the first step to the legislature determining which, if any, tests are valid and should be used in our state. We encourage the committee to support House Bill 5152.