

Marijuana on the road | Higher Ground

By Larry Gabriel

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One of the burning questions about cannabis use is: How high is too high when operating a motor vehicle? It's befuddling to the legal system, as driving law is not moving as quickly as marijuana law.

Many want to establish a "per se" level of THC in someone's blood that indicates being under the influence. That comes from loosely equating alcohol and marijuana intoxication. In Michigan, the per se blood alcohol content for driving under the influence is .08. Regardless of a person's behavior, if his or her blood alcohol level is .08 or above, they are legally under the influence. With marijuana, it's not clear what that level is.

HB 5204, now working its way through the state legislature, would set up the Impaired Driving Safety Commission to "research and recommend a scientifically supported threshold of THC bodily content to provide evidence of a per se impaired driving in this state."

That sounds pretty straightforward. THC, one of the active chemicals in marijuana, is an intoxicant, and pretty much nobody wants intoxicated people behind the wheel of a car. It's dangerous. And taking a science-based approach to marijuana in general is how government should be approaching the laws that regulate it.

"This does seem like a progressive step if the goal is to set a per se amount of THC in the driver's blood," says Todd Berg, an attorney at Michigan Auto Law. "It needs to be set for people who are lawfully using marijuana right now, because right now they're driving around at extreme legal risk to themselves ... If a per se level was established for marijuana concentrations in a driver's body, it would help law enforcement and it would help people in general to know when and if consumption is running afoul of the law."

The commission would be appointed by the governor and would include the Michigan State Police director, a medical doctor, a forensic toxicologist, a medical marijuana patient, and two university professors. This is where the will of those involved matters. Are they willing to take an impartial look at the science? If that were the case back in 1970, marijuana wouldn't have been listed as a Schedule I drug in the first place. Information can be cherry-picked from either side of the debate.

Even if commission members are of good will, it's still a tough subject. For one thing, even though efforts to regulate "marijuana like alcohol" have been a hallmark of legalization efforts, alcohol and cannabis affect people very differently. When it comes to driving while stoned, studies have found that alcohol users drive in a more risky manner while marijuana users tend to compensate for being high by

being more careful. The conclusion of a 1997 study reported in Accident Analysis and Prevention, was the same as numerous others.

"Based on alcohol and drug testing of the full range of patients ... alcohol is clearly the major drug associated with serious crashes and greater injury. Patients testing positive for illicit drugs (marijuana, opiates, and cocaine), in the absence of alcohol, were in crashes very similar to those of patients with neither alcohol nor drugs. When other relevant variables were considered, these drugs were not associated with more severe crashes or greater injury."

That doesn't mean that you can't get severely impaired from marijuana. But it's different from alcohol, and that needs to be parsed as part of the discussion. So how much is too much? Some states have set limits.

"Colorado has set 5 nanograms per milliliter (ng/m) as a reasonable inference that you are impaired," Berg says.

Montana and Washington state each set a 5 ng/m limit; Nevada and Ohio set it at 2, while Pennsylvania is set at 1. A 2015 study conducted at the University of Iowa National Advanced Driving Simulator, however, says that a 13.1 ng/m level is equivalent to the .08 blood alcohol content for impairment.

If the Iowa study is true, then every state that has a ng/m limit has set it artificially low and put people in danger of prosecution when they are not impaired.

"To establish law when there is no science-based foundation for that law is just a bad move; it's not smart," says Neil Franklin, executive director of Law Enforcement Against Prohibition (LEAP), a national group of mostly former police officers. "The science is still early in this area."

LEAP endorses a system where Drug Recognition Experts, trained to evaluate a person's ability to operate a motor vehicle safely, are used rather than a per se level to determine intoxication. This is especially important because THC lingers in the blood long after a person no longer feels high — sometimes for weeks.

"This is probably a way for the legislature to make the roads safer and reconcile the law with marijuana and other aspects of the law in Michigan," says Michigan Auto Law's Berg.

Regardless, this is something that has to be done right. Some might look at this as just a bit of housekeeping that needs to be done to keep the driving laws up to date with reality on the ground. In addition to medical marijuana, there are some 17 Michigan municipalities that have decriminalized or legalized possession of small amounts of marijuana for adults.

The war on drugs has never been conducted equally, and some might see this as an opportunity to get back at marijuana users by setting the threshold artificially low.

As marijuana prohibition is pushed back, there are a lot of other areas that will be impacted. Driving law is important, but it's just one adjustment of many that will come.

Prince and pain

Prince was considered a guitar wizard on par with Jimi Hendrix when he first hit the pop charts. In stark contrast to Hendrix, Prince was known to follow a no drugs or alcohol policy in his band, and reportedly did not personally indulge or allow anyone in his touring bands to use.

Prince seemed to sneer at those who indulged in marijuana and other mood-enhancing substances. In addition, he was a vegan, following a diet free of meat, fish, poultry, dairy products, eggs, or honey. His membership in the Jehovah's Witness religion seemed to double down on his rejection of the rock 'n' roll lifestyle.

So it's a surprise to me that discussions of his untimely death at 57 have centered on possible painkiller abuse or addiction. One report attributed to his late half brother claims that the brother used to obtain Percocet for Prince and he had witnessed the entertainer taking them. News reports also claim some of Prince's close associates had arranged an intervention that came one day too late. The representative from a rehab center was among those who found him dead in an elevator at Paisley Park.

There are two points to make here. One is that opioid painkiller addiction is at an epidemic level in the United States, even though pill users often don't consider themselves addicts because painkillers are legal. Many pill users turn to heroin when their supply of pills is cut off.

My second point is that maybe Prince would still be alive if he had used marijuana. Here's a headline from *Newsweek* to consider: "In states with medical marijuana, painkiller deaths drop by 25 percent."

The 2014 study published in *JAMA Internal Medicine* was funded by the National Institutes of Health and concludes: "Medical cannabis laws are associated with significantly lower state-level opioid overdose mortality rates."

Reports claim that Prince used opioids for hip pain brought on by his athletic performances. He had some kind of surgery on his hip about 10 years back and had ceased doing splits as part of the show.

Had Prince not sneered at cannabis as part of his pain management, he may well still be alive.