



**STATEMENT OF THE OHIO STATE BAR ASSOCIATION
IN SUPPORT OF SENATE BILL 55**

Submitted by D. Tim Huey, Esq.
Before the Ohio House Judiciary Committee
Wednesday, Feb. 18, 2026

Chairman Thomas, Vice-Chair Swearingen, and Ranking Member Synenberg, I am honored to provide written testimony regarding the well-considered marijuana OVI legislation encompassed in Senate Bill 55 and look forward to an opportunity to testify in person at a future hearing.

The Ohio State Bar Association (Ohio Bar) supports this bill and has been pleased to work with Senator Manning on these reforms that are not only long overdue, but the need for which have become even more urgent following the legalization of marijuana in Ohio.

My Background

My name is Tim Huey, and I have practiced as a defense attorney in Columbus, Ohio for over 35 years. During that time, the nature of my practice and my professional activities have provided me an opportunity to study and learn a great deal about OVI laws, not just in Ohio but throughout the country, as well as about the science underlying drug and alcohol impairment. I authored a manual/textbook on Ohio OVI Law, have participated as a member of the Traffic Law Committee of the Ohio Bar (which worked with Sen. Manning to develop this legislation) and have served as president of both the Ohio Association of Criminal Defense Lawyers and of the national DUI Defense Lawyers Association. In addition, I have given more than one hundred CLE presentations to judges, lawyers and even members of this body on these OVI related topics. I also have experience working with the General Assembly over the years, having been appointed to serve as a member on the Criminal Justice Recodification Committee, as well as having testified on numerous occasions to legislative committees related to OVI and traffic law matters.

Reforms in SB 55 Are Long Overdue

It should go without saying that no one wants impaired drivers on our roads or endangering the lives of fellow motorists. However, our current laws make criminals out of completely sober and responsible drivers, in that a person who legally consumed marijuana days,

weeks and even months prior to getting behind the wheel of a car could be found guilty of OVI in Ohio even if there is no evidence of impairment.

This is because of the faulty way in which Ohio tests for and legally assumes impairment based on the presence of an inactive residual substance that can be detected in a marijuana user's system well after any danger of impairment has passed. That is why we need the well-reasoned approach to Ohio OVI law, as proposed via SB55. It is rooted in science and fairness where our current laws are not.

The Science of Marijuana Impairment

When marijuana is consumed, the psychoactive ingredient that produces an impairing effect is called Delta-9 THC. The Delta-9 THC then quickly metabolizes, or breaks down, into what is called Hydroxy-THC. Hydroxy-THC has only minor psychoactive ability and only has a slight effect on the human body. Hydroxy-THC then further breaks down into Carboxy-THC. It is unanimously understood by every scientific expert on the subject that Carboxy-THC is completely inactive. It has no psychoactive properties whatsoever.

During my time across the nation teaching lawyers, scientists and judges about this, I have found that a visual aid helps to emphasize this point as well as anything. As you see in the following images, I use an active, burning fire to represent the psychoactive Delta-9 THC, the active ingredient in marijuana. I use hot embers to illustrate the Hydroxy THC. Finally, Carboxy-THC is like the cold ash that is left in the fireplace, long after any psychoactive component is extinguished.



THC
 Δ^9 tetrahydrocannabinol
Main Isomer & principal
psychoactive constituent



Hydroxy-THC
a.k.a. 11-OH-THC
Main metabolite of THC
Minor psychoactive potential



Carboxy-THC
a.k.a. THC-COOH
a.k.a. 11-nor-9-Carboxy-THC
Inactive metabolite of THC

It may surprise you to learn that Ohio currently only tests for the inactive Carboxy-THC, which we know can lay dormant in a person's body for weeks or even months after use.

Further, it is an incontrovertible fact that drugs interact with the body in a different way than with alcohol. It is extremely difficult, if not impossible, to come up with a standard, scientifically valid concentration of drugs that could automatically define impairment as we have done with alcohol. In other words, try as we might, there is no comparable number for THC in marijuana that equates to the .08 limit for alcohol in current law. Scientists, experts and even the National Highway Traffic Safety Administration, in a report to Congress, agree on this point.

So, when you combine the fact that Ohio tests for the inactive residual substance vs. the active substance, and that we continue to have a per se standard, automatically deeming an individual impaired based on concentrations of that inactive substance, you can see that current law is unworkable and must be changed.

How We Got Here

Historically, I was very much a part of the discussions that eventually led a previous General Assembly to pass the current per se law based upon Carboxy THC. At the time, the discussion centered around the idea that since marijuana was already illegal, there was no reason that a person should be driving with any residual portion of the drug in the person's system.

While that was a poor justification even then to completely ignore the science, that justification does not begin to hold scrutiny in today's world. Ohio has now joined numerous other states in permitting both medical and recreational marijuana use. As a result, this now legal behavior can have drastic consequences under our current per se laws, to the point that no marijuana user in Ohio, even if it has been prescribed by a doctor, can legally drive at any time in Ohio.

Why the Approach in SB55 Is Superior

SB55 has been carefully crafted to make sure that first, it does not disturb the roadside investigations and determinations law enforcement must make when deciding whether to arrest someone. Arrest is governed by the probable cause standard and nothing in SB55 changes that. Officers would still have the full battery of roadside tests and all their current training and tools to make a determination of probable cause that a person is impaired, to arrest and charge the person with OVI and to request a chemical sample.

This bill only addresses what comes next — how can a person defend themselves in court that they were not impaired or unsafe to drive.

Though we maintain that there is no scientifically accepted THC concentration level that can accurately define impairment for all people, we have worked with Senator Manning and other interested parties in good faith on a compromise that would still be a vast improvement over current law. SB55 would establish a new per se limit for blood tests that would now be based upon concentrations of Delta-9 THC — the active metabolite vs. the inactive metabolite — of five nanograms per milliliter of a person’s whole blood. There would be no per se limit for urine or oral fluid tests.

Instead, the bill establishes a new evidentiary standard which would say that if a toxicology test shows a specified concentration of marijuana or metabolite in the person’s system, the trier of fact could infer that the individual is under the influence of marijuana without need for expert testimony.

While not perfect, we prefer this inference approach because the focus in a trial would go back to the critical issue of whether or not the person was impaired. Then, the jury could consider the chemical tests alongside other evidence of impairment, or lack thereof. It would allow the defense to present a case, evidence and experts to argue that the person was not impaired. And it would leave the ultimate decision of that question in the capable hands of a jury.

We Look Forward To Working With This Committee

We have worked with the sponsor and interested parties over many years and there are a wide variety of factors that have been considered in refining these threshold limits to make the bill as strong as possible.

We now stand ready to work with the chair and members of the committee to ensure the dual aims of this bill: to give law enforcement and prosecutors the tools they need to combat and convict persons who are under the influence of marijuana, while safeguarding truly innocent people who are not impaired or unsafe to drive.