

TO: House Judiciary Committee

FROM: Gary Daniels, Legislative Director, ACLU of Ohio

DATE: February 18, 2026

RE: Substitute Senate Bill 55 – Proponent Testimony (written only)

To Chairman Thomas, Vice Chair Swearingen, Ranking Member Synenberg, and members of the House Judiciary Committee, thank you for this opportunity to provide written testimony in support of Substitute Senate Bill 55.



As this committee has heard in past hearings, Ohio currently utilizes a “per se” law with regard to cannabis and driving. That is, drivers in Ohio are presumed to be in violation of our state’s OVI laws if designated amounts of THC metabolites are found and surpass legal limits in their blood or urine. “Per se” laws are fundamentally unscientific and unfair.

Cannabis is absorbed differently than alcohol and its presence in blood can be detected weeks after use, long after any impairment. In addition, tolerance levels of moderate and heavier marijuana users may mean they are not impaired even when their THC levels exceed those permitted under current law. Yet, these drivers are still treated by Ohio’s legal system as intoxicated. That is why states have worked to change their laws in favor of those that measure actual impairment.

To be clear, the ACLU of Ohio is not suggesting people should drive while impaired by cannabis or law enforcement should be unconcerned about such actions. Instead of laws that rely on an essentially arbitrary threshold of THC metabolites, our laws should focus on one’s ability to safely operate a motor vehicle.

At the conclusion of this testimony are links to information and publications from such entities as the Congressional Research Service, the National Highway Traffic Safety Administration (NHTSA), and the AAA Foundation for Traffic Safety, all advocating for the abandonment of per se cannabis OVI laws.

SB 55 wisely and thankfully abandons this per se system and finally allows defense attorneys to challenge in court evidence and allegations of cannabis impairment while driving. For that, the ACLU of Ohio is extremely grateful to SB 55 sponsor, Sen. Manning, and the various stakeholders who have diligently worked to bring Ohio’s laws in this regard into the 21<sup>st</sup> century.

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However, while SB 55 requires the court to consider all relevant evidence, it also allows the court to “give the evidence whatever weight” the court “considers to be appropriate.” (Lines #218-220). This begs the question of what happens in courtrooms where judges may perhaps use discretion afforded them via SB 55 to maintain the current status quo of sole reliance on THC levels in one’s body.

Because measuring the level of THC in one’s system is so often not an accurate indication or measure of impairment via cannabis, the ACLU of Ohio maintains replacing Ohio’s current *per se* law with a permissible inference law reduces, but does not eliminate, our and others’ concerns about reliance on outdated methods to tackle the pesky problem of cannabis impairment and driving.

Instead, the ACLU of Ohio advocates for what others have determined is the most effective way to combat this issue. That is, a) traditional or revised impairment test(s), b) increased training for law enforcement to detect impairment, and c) education campaigns for drivers regarding the risks and results of driving impaired.

Finally, while allowing defendants and their attorneys to challenge accusations of impairment is a wholesale and much welcome improvement over current law, it still does burden defendants, who may ultimately succeed in avoiding conviction, with finding, retaining, and paying for an attorney as well as the various stress and worries that result from being entangled in our criminal legal system.

Still, Substitute Senate Bill 55 is such a noticeable improvement over current law, the ACLU of Ohio is compelled to support this bill and urge its passage. But, again, we do encourage this committee and the various stakeholders involved to further improve this legislation in the ways mentioned earlier.

#### ADDITIONAL SOURCES:

##### **Marijuana-Impaired Driving: A Report to Congress**

U.S. Dept. of Transportation, National Highway Traffic Safety Administration, July 2017  
<https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812440-marijuana-impaired-driving-report-to-congress.pdf>

##### **Marijuana Use and Highway Safety**

Congressional Research Service, May 2019  
<https://www.congress.gov/crs-product/R45719>

##### **An Evaluation of Data from Drivers Arrested for Driving Under the Influence in Relation to *Per se* Limits for Cannabis**

AAA Foundation for Traffic Safety, May 2016  
<https://aaafoundation.org/wp-content/uploads/2017/12/EvaluationOfDriversInRelationToPerSeReport.pdf>