

Our Meeting Will Begin Shortly

WELCOME TO THE CANNABIS INSURANCE (C) WORKING GROUP

VIRTUAL ATTENDEES

- Audio will be muted upon entry
- If virtual attendees would like to speak, please use the "Raise Hand" feature
- Enter with video on or off (your choice)
- Use the "Chat" feature for questions, comments, or assistance
- If you have joined by phone, to mute and unmute your line, press *6
- For additional help, please contact NAIC Technical Support team at MeetingTechHelp



Date: 6/12/23

Virtual Interim Meeting

CANNABIS INSURANCE (C) WORKING GROUP

Tuesday, April 20, 2023

12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 am – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

ROLL CALL

Ricardo Lara, Chair	California	Victoria Baca/	
Michael Conway, Vice Chair	Colorado	Melissa Robertson	New Mexico
Nathan Hall	Alaska	Glen Mulready	Oklahoma
Jimmy Harris	Arkansas	Andrew R. Stolfi	Oregon
Christina Miller	Delaware	Michael Humphreys/	
Angela King	District of Columbia	Sebastian Conforto	Pennsylvania
C.J. Metcalf	Illinois	Carlos Vallés	Puerto Rico
Ryan Blakeney	Mississippi	Beth Vollucci	Rhode Island
Gennady Stolyarov	Nevada	Karla Nuissl	Vermont
Marlene Caride	New Jersey	Michael Walker	Washington

NAIC Support Staff: Anne Obersteadt/Aaron Brandenburg

1. Consider Adoption of its April 11, 2023, Meeting Minutes — *Peg Brown (CO)* Attachment A
2. Update on the Exposed *Understanding the Market for Cannabis Insurance 2.0* White Paper—*Peg Brown (CO)*
3. Hear a Presentation on the Impact of Cannabis in the Personal Lines — *Tony Cotto (National Association of Mutual Insurance Companies —NAMIC)* Attachment B
4. Hear a Presentation on the Unique Risks of Social Consumption Lounges—*Ian Stewart (Wilson Elser)* Attachment C

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2023 Summer/Cannabis/6-20-23/Cannabis Agenda

Consider Adoption of its April 11, 2023 Meeting Minutes

—*Peg Brown (CO)*

Draft: 4/13/23

Cannabis Insurance (C) Working Group
Virtual Meeting
April 11, 2023

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met April 11, 2023. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael (CA); Michael Conway, Vice Chair, represented by Peg Brown and Bobbie Baca (CO); Jimmy Harris (AR); Christina Miller (DE); Ryan Blakeney (MS); Randall Currier (NJ); Melissa Robertson (NM); Erin Summers (NV); Michael Drummonds (OR); Sebastian Conforto (PA); Beth Vollucci (RI); Karla Nuisl (VT); and Michael Walker (WA).

1. Adopted its Nov. 29, 2022, Minutes

Currier made a motion, seconded by Brown, to adopt the Working Group's Nov. 29, 2022, minutes (*see NAIC Proceedings – Fall 2022, Property and Casualty Insurance (C) Committee, Attachment One*). The motion passed unanimously.

2. Discussed the Final Draft of the *Understanding the Market for Cannabis Insurance 2.0* White Paper

Michael stated that the drafting group has been meeting several times a month since mid-2021. The white paper content was heavily informed by the many presentations and panels received and the two-day hearing held by the Working Group over the last two years. The introduction explains that the updated white paper was needed, as the cannabis industry rapidly evolves and expands in structure and geography. The maturation of the cannabis market since the adoption of the previous white paper is driving new product development, infrastructure changes, and the need for businesses to provide ancillary services. It is in these areas where insurance gaps most persist now. As such, the updated white paper includes a discussion on emerging insurance issues in these areas of the cannabis industry. Additionally, the white paper outlines the different operating structures and designs of cannabis businesses, jurisdictional variations, current insurance types and offerings, and differences presented by insuring hemp versus cannabis. It also covers cannabis policy trends, current landscapes of cannabis regulation, and licensing and education. It concludes with a brief discussion on the future state of cannabis insurance, including possible next steps for all affected parties.

Walker stated that there is a vast array of lingo, concepts, and scientific terms when discussing cannabis. Overlaying this with all the insurance lingo adds to the complexity. Knowing how these intersect is important to interpreting related regulations, legislation, products, and research. As such, the second section is dedicated to providing this information. The third section delves into the expansion of states legalizing cannabis. It covers the varied approaches to cannabis regulation across the states and U.S. jurisdictions and the role of growing public opinion support. Some states have joined the list of those that have legalized cannabis, while others have chosen not to.

Drummonds stated that the fourth section discusses the impact of conflicting state and federal laws on insurers' willingness to provide coverage for cannabis businesses. It also discusses recent federal legislative efforts, including the Secure and Fair Enforcement (SAFE) Banking Act, the Clarifying Law Around Insurance of Marijuana (CLAIM) Act, the Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2021, the Cannabis Administration and Opportunity Act (CAOA), and the States Reform Act of 2021. The SAFE Banking Act would remove constraints on depository institutions to provide banking services to legitimate, cannabis-related businesses. The CLAIM Act would provide a safe harbor from penalties or other adverse agency action for insurance companies that provide services to cannabis-related, legitimate businesses in jurisdictions where such

activity is legal. The MORE Act would decriminalize cannabis by removing it from the list of scheduled substances under the Controlled Substances Act (CSA). The CAO A would allow states to lead on cannabis regulation and establish a federal regulatory paradigm similar to that of alcohol and tobacco. The States Reform Act of 2021 would remove the legal obstacles preventing U.S. cannabis companies from accessing the financial system and allow for the interstate commerce of cannabis. Additionally, there is a discussion on President Joe Biden's request that the Secretary of the U.S. Department of Health and Human Services (HHS) and the Attorney General review how marijuana is categorized under federal law. The section concludes by noting that President Biden signed the Medical Marijuana and Cannabidiol Research Expansion Act in December 2022 to increase access to the scientific study of cannabis.

The fifth section of the paper provides an overview of the cannabis business regulatory, licensing, and education landscape. It begins by explaining that many states that legalized cannabis designed their regulated cannabis systems to carefully consider the priorities of the U.S. Department of Justice (DOJ) and federal government outlined in the Cole Memorandum. It then discusses how the Cannabis Regulators Association (CANNRA) provides policymakers and regulatory agencies with the resources to make informed decisions when considering whether and how to legalize and regulate cannabis. It then takes a deeper dive into insurance considerations around cannabis impairment, including research limitations, driving impairment testing, workplace considerations, and potency variances in newer products. It also discusses the need for education and the impact of vaping regulations on cannabis. It concludes with a discussion on social and economic equality provisions and licensing. The sixth section looks at the implications of evolving cannabis operating and organizational structures. Consolidation and sales growth were the dominant trends of 2021. This section discusses how this consolidation results in ownership changes and business structure modifications that lead to a more sophisticated industry.

Brown stated that the seventh section examines cannabis insurance needs and coverage availability. This section discusses the difficulty state insurance regulators have in assessing availability and affordability, given that the majority of cannabis business coverage is written through excess and surplus carriers. There are some admitted forms, such as through the Insurance Services Office (ISO) and the American Association of Insurance Services (AAIS). However, in most states, admitted carriers are not widely using these avenues to provide coverage. This section also examines how access to commercial insurance for cannabis businesses significantly varies by the market segment of the seed-to-sale continuum. In many cases, coverage for cannabis businesses is more expensive than for other sectors, and limits can be constrained. The eighth section explores market considerations for commercial cannabis insurance. It points out that a cannabis business as an insurance client may need some help with insurance terms and coverage options, as the client may not know what options are suitable for their needs. It also discusses leveraging data on similarly situated businesses to overcome difficulties evaluating risks given the lack of data specific to cannabis businesses. Additionally, cannabis business coverage forms offered by the ISO and the AAIS are discussed. The discussion includes the process the advisory organizations go through to adopt and file the forms.

Nuissl stated that in the ninth section, the paper provides an overview of emerging trends in the cannabis industry. Product innovations are moving past edibles to infuse cannabis into beverages, baking staples, crafts, and luxury products. Additionally, demand is growing for ancillary services and infrastructure. A few states have started issuing on-site social consumption lounges. All of these emerging trends create new insurance needs and risks to be addressed in policy and regulation.

Michael stated that the white paper's conclusion emphasizes the importance of federal safe harbor provisions. It notes growing interest among admitted carriers in entering the cannabis space. It also discusses the use of state-based commercial insurance programs, risk retention groups (RRGs), captives, and joint underwriting associations (JUAs) as potential structures to facilitate cannabis-related business coverage. Additionally, it notes the need for

states to address black market operations.

3. Exposed the *Understanding the Market for Cannabis Insurance 2.0* White Paper

Brown made a motion, seconded by Nuisl, to expose the *Understanding the Market for Cannabis Insurance 2.0* white paper to NAIC staff for a 45-day public comment period ending May 26. The motion passed unanimously.

4. Discussed the Working Group's Work Plan

Michael stated that the work plan essentials include items specifically identified in the Working Group's charges and presentations or panel discussions needed to inform those items. This includes exposing and adopting the *Understanding the Market for Cannabis Insurance 2.0* white paper by the Summer National Meeting. Once that is accomplished, the Working Group can begin drafting its outline for the addendum to the white paper that will cover emerging issues. Drafting on the addendum can be done as information is gained through presentations to the Working Group throughout the year. Presentations on emerging areas will include cannabis-infused food and beverages and its oversight by the U.S. Food and Drug Administration (FDA), cannabis intoxication, delivery and social equity, and social consumption lounges. There is also a presentation anticipated from the National Underwriter Company on its launch of the first certification on cannabis insurance coverage for insurance agents and brokers, risk managers, and other professionals who advise cannabis-related businesses. The final essential work plan item is to continue receiving reports on cannabis-related legislative activities from the NAIC Government Relations (EX) Leadership Council staff and other legal experts.

Feedback is needed on items the Working Group could potentially include in its work plan. Cannabis regulations are state specific. Additionally, there are emerging areas like social consumption lounges that some states are already involved in, and others may want to know about for the future. For these reasons, feedback is needed regarding whether members want to hold an educational roundtable where states could share and learn from each other. Additionally, it has been hard to get something beyond anecdotal or second-hand information on what issues insureds are having in obtaining insurance coverage for cannabis-related exposures. It could also be helpful to understand what experiences insurers or prospective insurers are having as they approach state insurance regulators about writing cannabis-related coverages in the admitted market. For these reasons, feedback is needed on whether it would be beneficial to host hearings or panels to hear from insurers and prospective insurers and/or insureds. In a similar vein, feedback is needed on whether the Working Group should host a hearing or a series of panels on the unique structures being created to address cannabis insurance needs. This would include things such as RRGs, captives, and surplus lines-specialty programs. It would also include things like hearing from the Specialty Agriculture Risk and Financial Association (SARFA), a member-driven association designed to meet the insurance regulatory requirements of Michigan. Another idea is to compile a list of those writing cannabis coverage by surveying managing general agents (MGAs) and/or inquiring with the Surplus Lines Association about surveying their members for this information. If the Working Group surveys MGAs, it would need to find a list of MGAs and their contact information. Finally, the drafting group could leverage the research it compiled and wrote while drafting the white paper to develop issue papers that would be used for background information and not officially adopted.

Brown stated that the intersection of insurance and the cannabis industry is very complex. The commercial cannabis market is not available in all states. It is extensively regulated in states where it is available, but those state regulations differ, which creates a somewhat unique situation. It is important for state-based insurance regulators to work closely with the state marijuana or cannabis regulatory entities in each member's respective state. Doing so ensures that state-based insurance regulators understand that not every state is alike and collaboration is needed on interstate issues of insurance coverage.

Walker stated that he also supports the potential work plan idea of holding educational roundtables with states sharing how cannabis is regulated in their jurisdictions and any related issues. For instance, some states have prohibited vertical integration, and others allow it. Additionally, variances between jurisdictions could become more complex as new concepts, such as social consumption lounges, launch.

Nuissl stated that she also supports the potential work plan idea of holding educational roundtables. It is important to examine issues with different sizes of companies in different segments. For instance, a very small grower might have very different issues from a larger one.

Michael requested that any additional feedback on the work plan be sent to NAIC staff.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2023_Summer/Cannabis/4-CannabisWG.docx

Update on the Exposed *Understanding the Market for Cannabis Insurance 2.0* White Paper

—*Peg Brown (CO)*

Hear a Presentation on the Impact of Cannabis in the Personal Lines

*—Tony Cotto (National Association of Mutual Insurance
Companies —NAMIC)*



NAIC CANNABIS INSURANCE (C) WORKING GROUP

JUNE 2023



NAMIC OVERVIEW

- Largest P/C insurance trade association in the U.S. with more than 1,500 local, regional, and national mutual insurers and related member companies.
- Seven of the Top 10 property/casualty companies in the U.S.

Profile:

- **\$38** million in revenue, including affiliates and its insurance company, NAMICO.
- **25** advocates and policy experts in Washington D.C. and across U.S.
- Largest insurance company trade PAC in America -- **\$1.2M for the 2020 election cycle.**





NAMIC AT A GLANCE



1500

More than 1500
Member Companies



\$323B

Represented in
Annual Premiums



67%

Of the U.S. Auto
insurance market



55%

Of the U.S. home
insurance market



32%

Of the U.S. business
insurance market



CANNABIS CONSIDERATIONS ACROSS PERSONAL LINES

- Private Passenger Auto Insurance
 - Driving under the influence
 - Toxicology challenges
 - Driver risk analysis
- Homeowners Insurance
 - Self-grow implications
 - Goods / dwelling coverages
 - Risk of fire / theft
- Life and Health
 - Prescription coverages
 - Treatment of smoking
- [More research is needed across all personal and commercial lines.](#)





RATING FACTOR PRINCIPLES ACROSS PERSONAL LINES

- Property/Casualty insurers' primary objective is to match rate to risk as closely as possible
- Accurate, data-based underwriting and pricing fuel competition and healthy markets
- Competition and healthy markets:
 - Increase availability of insurance and innovation
 - Improve consumer choices and service
 - Reduce consumer cost
- The best rating factors focus on:
 - Accuracy – Statistically significant correlation to losses
 - Homogeneity – Similar expectations of losses
 - Credibility – Sufficiently large observations
- Insurers must also consider:
 - Expense of administering factors
 - Objectivity of data
 - Accuracy of Data
- Discrimination on the basis of risk is not unfair discrimination





AUTO INSURANCE FUNDAMENTALS

- Auto insurance is mandatory under state law in 49 states
- Auto insurance is a highly regulated product
- The underwriting and rating of policies is a complex, sophisticated, time-consuming exercise that aims to use credible data to correlate prices as closely as possible to the ***likely*** cost of claims
 - Rates are prospective and already designed to be sensitive to claims frequency and severity
 - The more accurately a company estimates actual costs, the better they are able to serve their policyholders
- Auto insurance rates respond to systemic changes and behavioral patterns over periods of **years**, not weeks or months



CONTEXT: CURRENT STATE OF U.S. DRIVING

- **283 million** vehicles on U.S. Roads
- **230 million** licensed drivers
- **76%** of American commuters use their car to move between home and work
- **51 minutes** per day behind the wheel for average American in 2023 – 13 days!

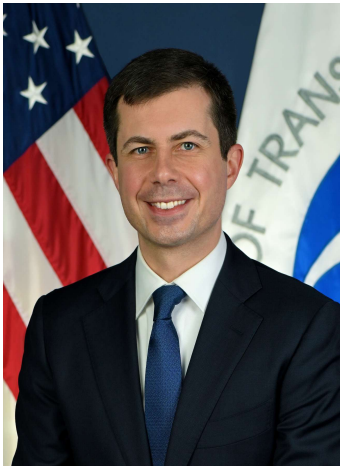


- **10,000 lives** lost to impaired driving per year
- NHTSA has confirmed that COVID contributed to spikes in impaired driving that have not abated
- **30 million** drivers are stopped by police for potential traffic violations every year



CONTEXT: ROAD SAFETY CRISIS

- Overall VMT across the country was down 13% for 2020, but:
 - Despite the decrease, in 2020 traffic fatalities were UP 7% - 38,680 deaths according to NHTSA
 - Fatality rate per 100 million VMT was UP 24% in 2020
 - Record numbers of citations for 100+ mph traffic violations
- 2021 was similarly grim – 42,939 deaths
- 2022 may have us turning a corner – 0.2% decrease over first 9 months



“This is a crisis. We cannot and should not accept these fatalities simply as part of everyday life in America. It will take all levels of government, industries, advocates, engineers, and communities across the country working together toward the day when family members no longer have to say goodbye to loved ones because of a traffic crash.”

- Hon. Pete Buttigieg, U.S. Secretary of Transportation



CONTEXT: MARIJUANA LAW GENERALLY

- Schedule 1 controlled substance under Federal law (Controlled Substances Act)
- However, as of June 2023:
 - 23 states and District of Columbia have law legalizing recreational marijuana
 - 15 states have law legalizing medical marijuana
 - 10 states have law legalizing “limited” medical marijuana for specific designated medical conditions
 - 2 states have no marijuana law
- 49.8% of the general population now lives in states where recreational marijuana use is legal
- Development has created patchwork of laws and regulations about:
 - Cultivation
 - Manufacture
 - Distribution
 - Food Safety
 - Sales
 - Storage
 - Use
- **No patchwork necessary for this: Driving while impaired remains illegal in all jurisdictions.**



MARIJUANA-IMPAIRED DRIVING LAWS

- 12 states have “zero tolerance” laws for THC driving
 - AZ, DE, GA, IN, IA, MI, OK, PA, RI, SD, UT, WI
 - SD for drivers under age of 21
- 5 states have specific per se limits for THC to establish “impairment” while driving
 - IL, MT, NV, OH, WA
 - NV only for felony violations
- CO has a unique “permissible inference law”
 - Applies if THC is identified in driver’s blood in quantities of 5ng/ml or higher
- Remaining 37 states and territories include marijuana under “driving under the influence of drug” (DUID) laws



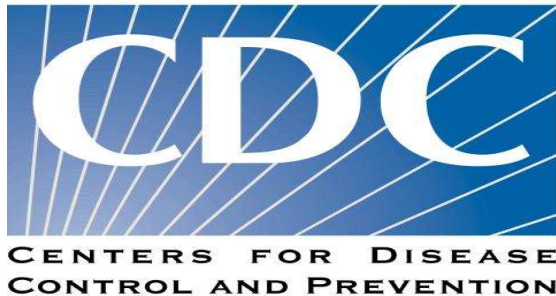


MARIJUANA AND AUTO RISKS

- NHTSA found that cannabis is the illicit drug **most frequently** found in the blood of drivers involved in motor vehicle crashes.
- The National Academies of Science, Engineering, and Medicine found risk of being involved in a crash increased after cannabis



The National Academies of
SCIENCES • ENGINEERING • MEDICINE



- Centers for Disease Control and Prevention finds that marijuana affects the areas of the brain that control movements, balance, coordination, memory, and judgment. This impairs skills required for safe driving by:
 - Slowing reaction time
 - Reducing ability to **make decisions** or multitask
 - Impairing coordination (lane positioning)
 - Distorting perception and memory



MULTIPLE IMPAIRMENTS STUDIES

Crash Risk Associated with Drug Use In European Studies

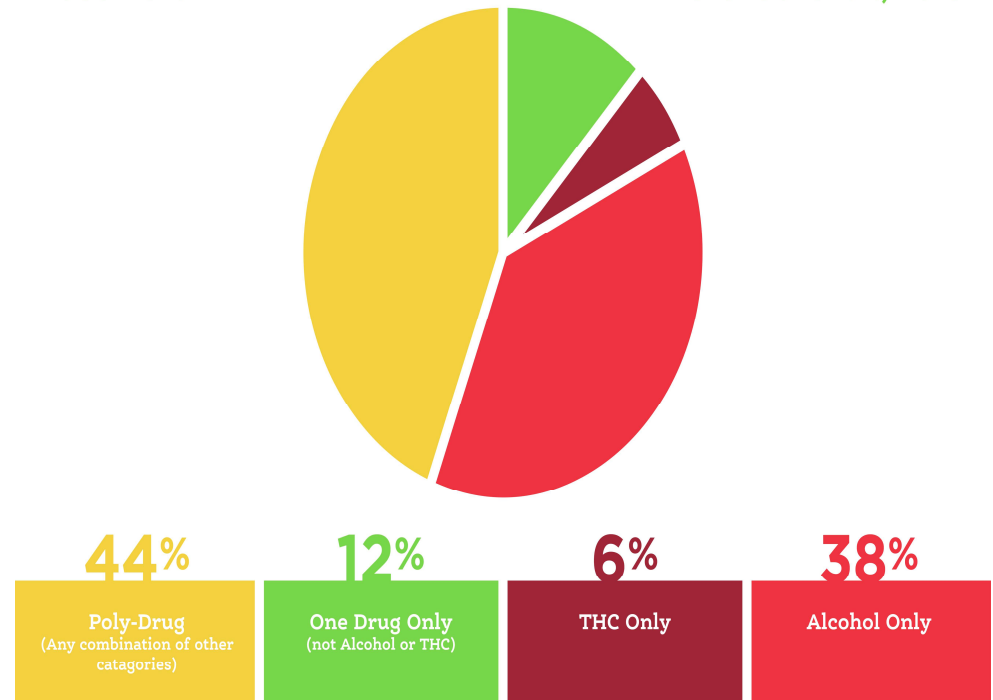
Shulze et al., 2012 Griffiths, 2014

Risk Level	Relative Risk	Drug Category
Slightly Increased Risk	1-3	Marijuana
Medium Increased Risk	2-10	Benzodiazepines Cocaine Opioids
Highly Increased Risk	5-30	Amphetamines Multiple drugs
Extremely Increased Risk	20-200	Alcohol together with drugs

Alcohol & Multiple Substance Use in Fatal Crash Involved Drivers

2008-2016

Grondel et al., 2018





INSURANCE INDUSTRY ANALYSES

- Insurers remain data driven; limited data and experience presents challenges
- 2018 IIHS study of 3 recreational use states (CO, OR, WA) compared to 4 neighboring states (ID, MT, UT, WY)
 - Collision claim frequencies were higher than control states: CO (+12.5%), WA (+9.7%), OR (+0.9%)
 - Study acknowledges limitation – “marijuana’s role in crashes isn’t as clear as the link between alcohol and crashes.”
- 2019 I.I.I. study suggests “crash risk increased 22% while under the influence of marijuana”
 - Major gap: the presence of THC does not equal impairment
 - Medical cannabis may contain either or both CBD and THC – cognition effects need much further study

NAMIC ISSUE ANALYSIS



CANNABIS CONUNDRUM:
THE INTERSECTION OF PROPERTY/CASUALTY
INSURANCE AND CANNABIS-IMPAIRED DRIVING

TONY COTTO
Director of Auto and Underwriting Policy
National Association of Mutual Insurance Companies

ANDREW MALIN
Federal Affairs Coordinator
National Association of Mutual Insurance Companies

www.namic.org



ENFORCEMENT CHALLENGES

- Unlike alcohol, there is no “breathalyzer” for THC
 - Stays in the body for varying lengths of time depending on:
 - Metabolism
 - Product type
 - Potency
 - Quantity
 - Frequency of use
 - Biological screenings and field sobriety tests
 - Saliva, urine, and blood testing all take time
- Drug Recognition Experts (DRE’s)
 - Standardized, systematic evaluations
 - 72-hour training programs + 12 practical evaluations; support from International Association of Chiefs of Police and NHTSA
- Advanced Roadside Impaired Driving Enforcement (ARIDE)





FUNDING AND TECHNOLOGY ARE ON THE WAY

- Funding for marijuana and road safety research has grown from \$30 million in 2000 to \$143 million in 2018
- Infrastructure Investment and Jobs Act contains directive to U.S. DOT to produce a report about scientific research and associated research barriers on marijuana impairment while operating a vehicle
- Medical Marijuana and Cannabidiol Research Expansion Act removes some restrictions on research and allows for FDA development and approval of CBD/THC
- Improved and faster oral fluid tests
- Ocular data systems to test eye movements
- Mobile fingerprinting devices for officers to use during stops
- DRE Tablet app to assist with Drug Influence Evaluation
- Prosecutor training
- Computerized assessment and referral systems to reduce recidivism



ATTITUDE AND OPINION CHALLENGES

- AAA Traffic Culture Safety Index (2021)
 - While 94% of drivers believe driving after drinking alcohol is dangerous, only 65% believe driving within an hour of using marijuana is dangerous, although 91% say people important to them would not approve
 - Only 31% of drivers believe police will apprehend a driver for marijuana use
 - 79% support making it illegal to drive with more than a certain amount of marijuana in your system

- Surveys reveal low perceived risks
 - VA Cannabis Control Authority (2022)
 - 33% believe marijuana makes them a safer driver
 - 26% believe marijuana impairment “extremely dangerous”
 - False sense of safety
 - Seen as low danger relative to texting/alcohol





WHAT DOES THIS MEAN FOR INSURANCE?

- **More research is needed**
- Specific influence on frequency/severity of crashes?
 - Injuries vs. fatalities
 - Kinds of cars/roads matter
- Need for new contract language?
- Claims, fraud, and litigation related issues?
- Criminal history for DUID?
- Road safety across lines:
 - Private Passenger Auto
 - Commercial trucking
 - Workers' compensation
- **Workforce issue**





WHAT IS NEEDED?

- **More research** → Better data
 - Medical
 - Behavioral
 - Countermeasures
- **More education and outreach**
 - NHTSA
 - State agencies
- **More training**
 - Law enforcement
 - Prosecutors
 - Legislators
 - Regulators





NAMIC ROAD SAFETY COMMITMENTS

- Recent High-Profile Partnerships
 - Governors Highway Safety Association – www.ghsa.org
 - National Alliance to Stop Impaired Driving – www.nasid.org
- Enhanced Participation in existing Industry Efforts
 - Advocates for Highway & Auto Safety – www.saferoads.org
 - Coalition Against Insurance Fraud – www.insurancefraud.org
 - Insurance Industry Committee on Motor Vehicle Administration – www.iicmva.amplivity.com
 - Insurance Institute for Highway Safety / Highway Loss Data Institute – www.iihs.org
 - National Insurance Crime Bureau – <https://www.nicb.org/>
- Outreach to Establish Relationships with additional Stakeholders beyond Insurance
 - American Association of Motor Vehicle Administrators – www.aamva.org
 - National Association of City Transportation Officials – www.nacto.org
 - National Safety Council – www.nsc.org
 - Partnership for Autonomous Vehicle Education – www.pavecampaign.org



**QUESTIONS?
COMMENTS?
RECOMMENDATIONS?
ADVICE?**

Hear a Presentation on the Unique Risks of Social Consumption Lounges

—*Ian Stewart (Wilson Elser)*

Ian A. Stewart
June 20, 2023

Cannabis On-Site Consumption:

A Unique Risk Management Challenge

Presented to: NAIC Cannabis Insurance Working Group

States with Consumption Lounges



Alaska
California
Colorado

Illinois
Massachusetts
Michigan

New Jersey
New Mexico
New York
Nevada



Lowell Farms, West Hollywood



The Artist Tree Studio Lounge, West Hollywood



Ganja Giggle Garden, West Hollywood



Sessions by the Bay, National City / San Diego



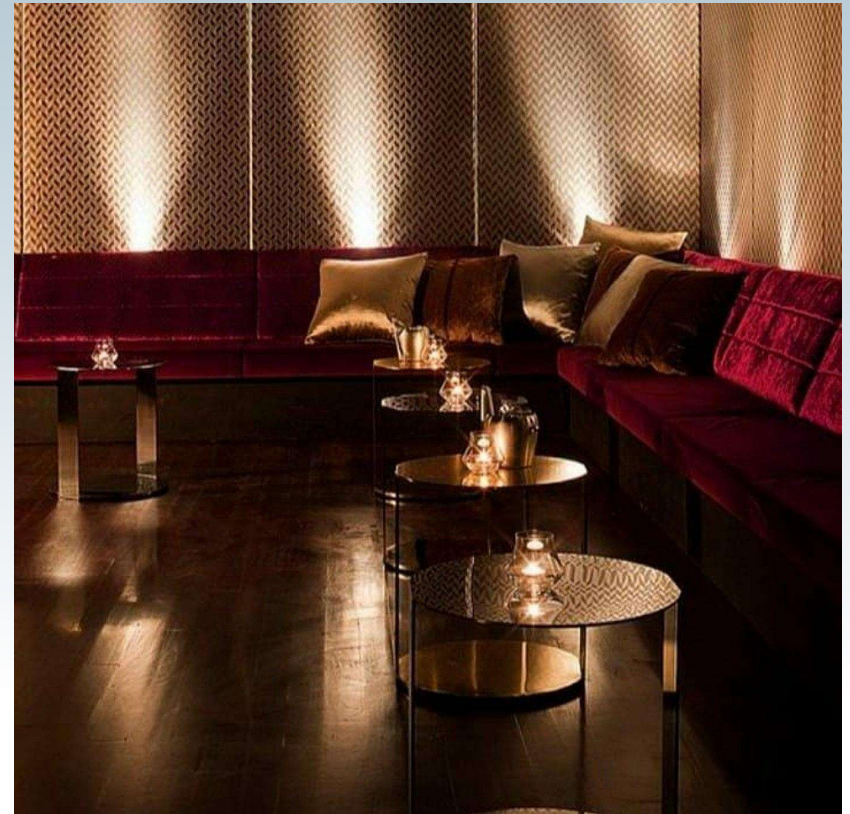
NuWu Cannabis, Las Vegas



Moe Greens, San Francisco



The Luna Lounge, Sasser IL



Three Mile Hideaway, Harrisburg IL



Michigan

Hot Box Social, Hazel Park MI
(Detroit area)



Kalkushka Lounge, Kalkaska MI
(Traverse City area)



The Summit Lounge, Worcester MA



Cannabis Events



Licensing / Permitting

- Highly varied by state and locality
- But there are certain license restrictions in all states:
 - No one under age of 21 is allowed in consumption lounges
 - Consumption areas must be properly ventilated
 - Cannabis consumption cannot be visible from the street
 - Alcohol and tobacco cannot be sold
 - Games that encourage consumption are prohibited
 - Facilities are subject to approval at the municipal level, which opt-in

What is the Allowed Business Model?

- Attached to cannabis sales facility?
 - Standalone facility?
- May sell cannabis in facility?
 - Limits? Single-serving size?
 - Packaging, label and warning requirements?
 - Are customers allowed to leave with purchased but unused cannabis?
- May customer bring his/her own cannabis?
 - Controls?
- Is food sold at facility?
 - Pre-packaged/no preparation?
- Are warnings or instructions given to patrons?
- Are there strict occupancy limits?

Policies and Procedures

- Limitation on sales
 - Amount that is “reasonable” for on-site consumption?
 - Defined limits?
- Consumer identification cards
 - Inform consumer about the impairment effects of different forms of consumption
 - Orally affirm receipt and understanding
- Prevention of consumer bringing illicit marijuana onto the premises
- Help impaired consumers find transportation
 - Rideshare partnership
 - 24 hour no-tow policy?

Issue – Taking Unused Cannabis Off-Site

- Doesn't exceed possession limits
- Packaged in compliant manner
- Does this encourage public intoxication?
- Does prohibiting it encourage over-consumption before leaving?

Issue – Procurement of Cannabis Product and Limits

- Is the lounge attached to a retail facility or is it standalone?
- May the lounge procure multi-serving items and resell individual pieces to consumers with 10 mg THC per portion limit?
- Is METRC modification needed to allow selling of fractional units?
- Serving limitations
 - e.g., 2 grams of flower/0.5 gram concentrate/20 mg total active THC?
 - Limit up to possession limit?
 - Do serving-size limitations deter customers who have a higher tolerance or require more potent product?
- Pre-packaged items only or is cannabis-infused food allowed?
- Storage and disposal practices for cannabis waste

Issue – Last Sale Before Close of Business

- Nevada prohibits the sale of any cannabis/cannabis product within two hours of the close of business
 - Unappealing experience for customers?
 - Impact on revenue?

Responsible Service Training

- Responsible beverage service training and food handler training can be used as base training, but employees of consumption lounges require additional training that can include:
 - Applicable state and local laws
 - Clinical effects of cannabis on the human body
 - Identifying signs of visible cannabis impairment
 - Resources to mitigate impaired driving, including safe transportation options
 - Understanding customer's varying experience with cannabis and options for lower dose products
 - Poly-substance interactions including interactions of cannabis with alcohol, prescription and over-the-counter medications
 - Risks and potential responses to adverse events such as overconsumption, dehydration or poly-substance use
 - Strategies to de-escalate interactions with intoxicated customers

Dram Shop vs Gram Shop

- 35 states have dram shop laws that allow for liability caused by serving alcohol to minors or visibly intoxicated adult patrons
- Several states limit liability to serving minors
- Several states have unique standards (e.g., California allows liability only for “obviously intoxicated minor”)
- 7 states have no dram shop law



Nevada

- NRS 41.1305: A person who serves, sells or otherwise furnishes an alcoholic beverage to another person who is 21 years of age or older is not liable in a civil action for any damages caused by the person to whom the alcoholic beverage was served, sold or furnished as a result of the consumption of the alcoholic beverage.
- The proximate cause of injury was the patron's consumption of alcohol and the vendors provision of alcohol was too remote from the loss to qualify as a legally sufficient cause of the loss.
 - Hamm v. the Carson City Nugget, 550 P.2d 358, 359 (Nev. 1969).
- Exception for knowingly serving underage person.
- AB341 (2021) extends these protections to cannabis.

Michigan

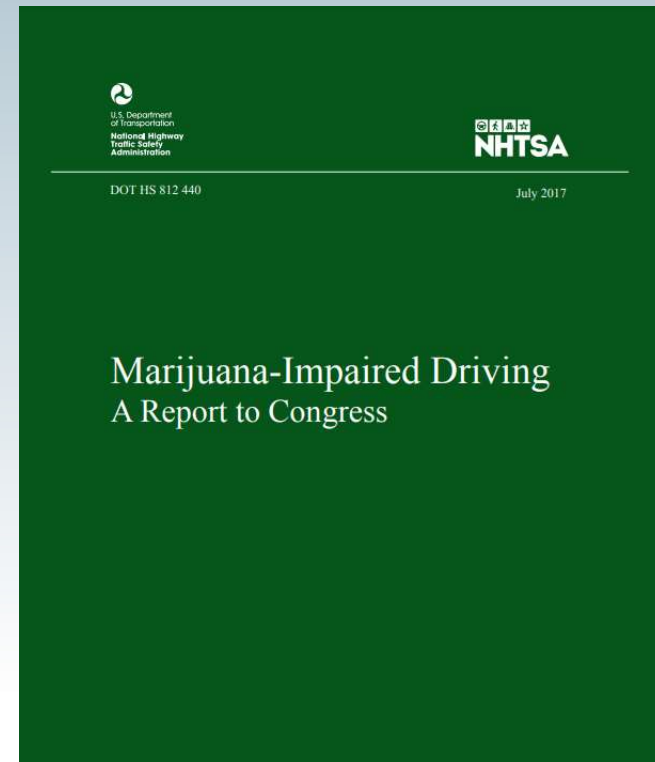
- Section 11a of the Michigan Regulation and Taxation of Marijuana Act prohibits licensees from selling or transferring marijuana to a minor or to a person who is “visibly intoxicated” at the time of sale.
 - "Visibly intoxicated" means displaying obvious, objective, and visible evidence of intoxication that would be apparent to an ordinary observer.
 - Expressly allows individuals who are injured or who suffer damage by a minor or visibly intoxicated person to take action against the licensee who sold or transferred the marijuana.
 - Requires Michigan cannabis retailers and microbusiness licensees to maintain insurance coverage provided by a licensed and admitted insurance company in Michigan in a minimum amount of \$50,000 for actions brought under section 11a.

The Case Against Katie

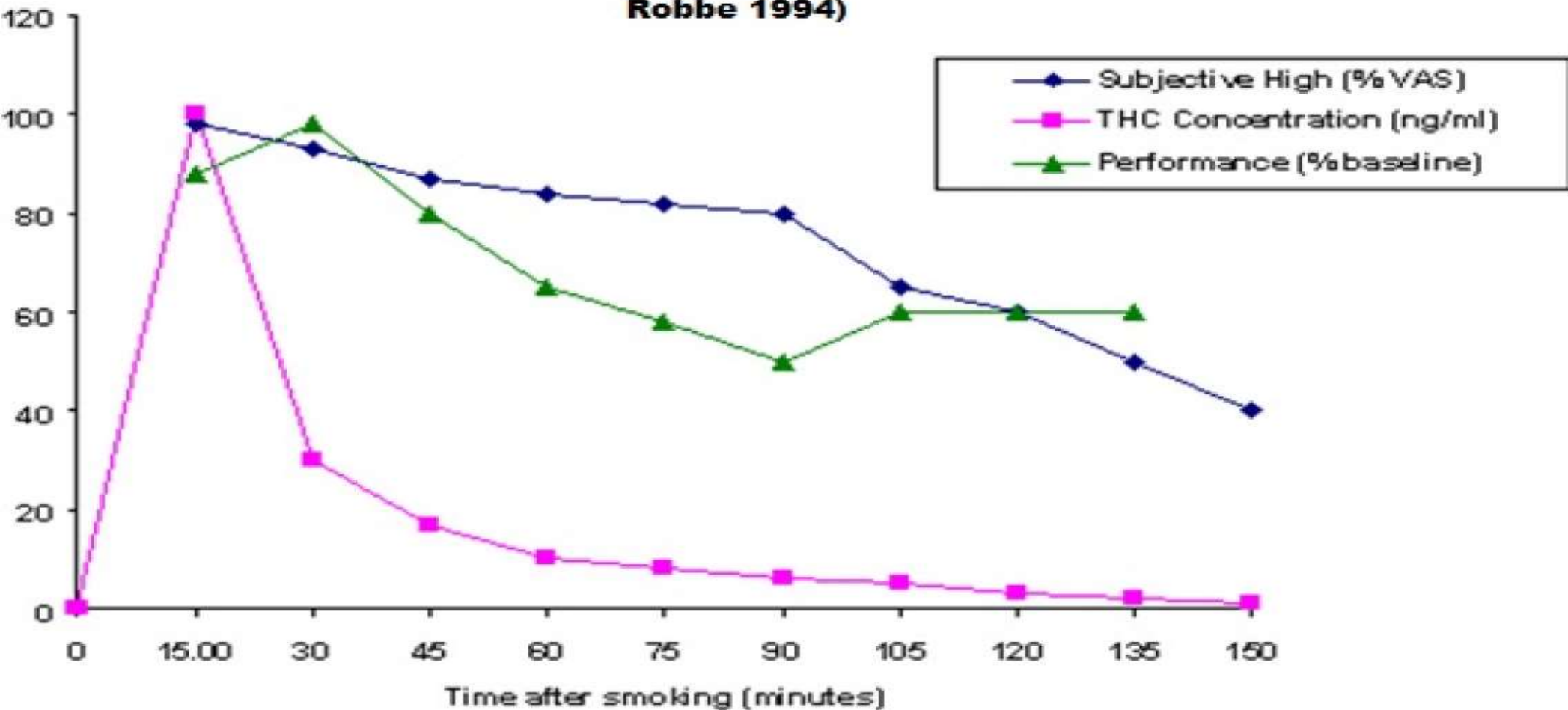


Cannabis Impairment

- THC concentration is difficult to measure
- THC concentration does not have strong correlation with subjective impairment



Time Course of Standardized THC Concentration in Plasma, Performance Deficit and Subjective High after Smoking Marijuana (Adapted from Berghaus et al. 1998, Sticht and Käferstein 1998 and Robbe 1994)



Required Notices and Warnings

- Examples of required signage include:
 - "Consumption Area – No One under 21 Years of Age Allowed"
 - "Cannabis may only be consumed in designated areas out of public view"
 - "WARNING: Pregnant or breastfeeding people should not use cannabis or cannabis products. Using cannabis during pregnancy or while breastfeeding may be harmful to your baby's development."
 - "WARNING: This is a smoking lounge. Occupants will be exposed to secondhand smoke. Secondhand smoke is hazardous to your health."
 - "Create a transportation plan ahead of time. Don't operate a vehicle impaired."
 - "Impairing effects of cannabis may be delayed."
 - "No consumption of alcohol or tobacco products on site"
 - "We reserve the right to refuse entry or service for reasons including visible intoxication"
 - "It is against the law to drive while impaired by cannabis"
 - "Firearms are prohibited"

Product Safety Warnings

- Examples include:
 - “The intoxicating effects of cannabis may be delayed by 2 hours or more. Users of cannabis products should initially ingest a small amount of the product containing no more than 10 milligrams of THC, then wait at least 2 hours before ingesting any additional amount of cannabis;”
 - “Cannabis or cannabis products may have intoxicating effects and may be habit forming. Smoking is hazardous to your health;”
 - “Ingesting cannabis or cannabis products with alcohol or other drugs, including prescription medications, may result in unpredictable levels of impairment and a person should consult with a physician before doing so;”
 - “Cannabis or cannabis products can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of cannabis or cannabis products;”
 - “Ingestion of any amount of cannabis or cannabis products before driving may result in criminal prosecution for driving under the influence.”

Product Health Warnings

- Examples include:
 - “There may be mental or physical health risks associated with consumption of cannabis products, including but not limited to cardiovascular problems, psychosis, or exacerbation of anxiety and/or depression. People with health concerns should consult with a physician before ingesting cannabis.”
 - “Overconsumption of cannabis or cannabis products may cause negative health effects such as nausea, vomiting, anxiety, agitation, paranoia, and psychosis. Individuals with symptoms of overconsumption should seek immediate medical attention.”

Incident Reporting

- Mandatory reporting to proper authority of incidents and regulatory violations
- Ceasing all consumption and other activities until law enforcement, firefighters, emergency medical service providers, or other public safety personnel have completed any investigation or services and left the cannabis consumption lounge;
- Methods for licensees to identify themselves during an interaction with law enforcement, CCB employees, or local regulators;

Occupational Health and Safety of Employees

- Ventilation/filtration to minimize:
 - Second hand smoke exposure
 - Public nuisance
- Confine cannabis smoking, vaping and dabbing to designated room separated from other areas of facility
 - Minimize need for employees to enter the space
 - Mandate wearing of PPE (e.g., KN95 masks)
 - Limit capacity
- Adopt EPA Ambient Air Quality Standards for non-smoking areas of lounge

Insurance



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