

# Committee to Conduct an Interim Study of Issues Relating to Driving Under the Influence of Marijuana

(ACR 7 [File 48, *Statutes of Nevada 2019*])



## BULLETIN 21-4



**COMMITTEE TO CONDUCT AN INTERIM STUDY OF  
ISSUES RELATING TO DRIVING UNDER THE  
INFLUENCE OF MARIJUANA**

Assembly Concurrent Resolution 7  
(File 48, *Statutes of Nevada 2019*)

**Members**

Assemblyman Steve Yeager, Chair  
Senator Yvanna D. Cancela, Vice Chair  
Senator Scott T. Hammond  
Senator Dallas Harris  
Assemblyman Edgar Flores  
Assemblyman Gregory T. Hafen II

**Staff Contacts**

Research Division:

Diane C. Thornton, Principal Policy Analyst  
Lisa Gardner, Research Policy Assistant  
(775) 684-6825

Legal Division:

Asher A. Killian, Senior Principal Deputy Legislative Counsel  
Samuel J. Quast, Deputy Legislative Counsel  
Tyler J. Sherman, Deputy Legislative Counsel  
(775) 684-6830

This report was prepared by the Research Division of the Legislative Counsel Bureau. For additional copies of this report, please contact the Research Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

The Research Division provides objective policy analysis, research, and assistance to the Nevada Legislature—its members, committees, and constituents.



**TABLE OF CONTENTS**

	<u>Page</u>
Assembly Concurrent Resolution 7 (File 48, <i>Statutes of Nevada 2019</i> ) .....	iii
Introduction.....	1
Background.....	2
A. Existing Nevada Law .....	2
B. January 17, 2020, Meeting .....	2
Discussion of Testimony and Recommendations .....	3



**ASSEMBLY CONCURRENT RESOLUTION 7**  
**(FILE 48, STATUTES OF NEVADA 2019)**

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to appoint a committee to conduct an interim study of issues relating to driving under the influence of marijuana.

WHEREAS, It is unlawful for a person to drive while under the influence of marijuana in the State of Nevada; and

WHEREAS, The State of Nevada legalized the medical use of marijuana in 2001 and the recreational use of marijuana in 2016; and

WHEREAS, The legal marijuana industry in the State of Nevada is growing; now, therefore, be it RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a committee composed of three members of the Assembly and three members of the Senate, one of whom must be appointed by the Legislative Commission as Chair of the committee, to conduct an interim study of issues relating to driving under the influence of marijuana within the State of Nevada; and be it further RESOLVED, That the interim study must include, without limitation, an examination of:

1. Scientific evidence relating to driving under the influence of marijuana;
2. Data from Nevada and any other state that has legalized the use of marijuana in any capacity on the number of arrests and convictions for driving under the influence of marijuana, including, without limitation, any change in such number after the legalization of the use of marijuana;
3. The approaches other states that have legalized the use of marijuana have taken to address the issue of driving under the influence of marijuana;
4. Any new and existing products, tests and methods to observe or determine a person's level of impairment caused by the use of marijuana at the scene of a vehicle crash or where a police officer stops a vehicle or a convenient place for the administration of an evidentiary test;
5. The existing laws of this State regarding driving under the influence of marijuana and an evaluation of whether those laws should be changed to address issues relating to driving under the influence of marijuana, including, without limitation, whether such laws should differentiate between holders of a valid registration identification card and recreational users of marijuana;
6. How a change in laws regarding driving under the influence of marijuana may impact other laws of this State, including, without limitation, workers' compensation and employment and labor laws; and
7. Any other matters which are deemed relevant to the issue of driving under the influence of marijuana in this State; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the committee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommended legislation to the 81st Session of the Nevada Legislature; and be it further

RESOLVED, That this resolution becomes effective upon passage.



## INTRODUCTION

[Assembly Concurrent Resolution 7](#) (2019) directed the Legislative Commission to appoint an interim committee to conduct a study relating to driving under the influence (DUI) of marijuana.

The interim study was required to include, without limitation, an examination of:

1. Scientific evidence relating to driving under the influence of marijuana;
2. Data from Nevada and any other state that has legalized the use of marijuana in any capacity on the number of arrests and convictions for driving under the influence of marijuana including, without limitation, any change in such number after the legalization of the use of marijuana;
3. The approaches other states that have legalized the use of marijuana have taken to address the issue of driving under the influence of marijuana;
4. Any new and existing products, tests, and methods to observe or determine a person's level of impairment caused by the use of marijuana at the scene of a vehicle crash or where a police officer stops a vehicle or a convenient place for the administration of an evidentiary test;
5. The existing laws of this state regarding driving under the influence of marijuana and an evaluation of whether those laws should be changed to address issues relating to driving under the influence of marijuana including, without limitation, whether such laws should differentiate between holders of a valid registration identification card and recreational users of marijuana;
6. How a change in laws regarding driving under the influence of marijuana may impact other laws of this state including, without limitation, workers' compensation and employment and labor laws; and
7. Any other matters that are deemed relevant to the issue of driving under the influence of marijuana in this state.

The Committee, consisting of three members of the Senate and three members of the Assembly, must submit a report to the 2021 Session of the Legislature. The interim study was authorized to meet beginning November 1, 2019, through June 30, 2020, ([Senate Bill 552 \[2019\]](#)) and request five bill draft requests on or before September 1, 2020 ([Nevada Revised Statutes \[NRS\] 218D.160](#)).

Due to the extraordinary circumstances associated with the Coronavirus Disease of 2019 (COVID-19), the Committee held its first and only meeting on [January 17, 2020](#). Several other meeting dates were set, but were ultimately cancelled, either due to COVID-19 or the 31<sup>st</sup> or 32<sup>nd</sup> Special Sessions of the Nevada Legislature. Despite the cancelled meetings, the Committee did solicit recommendations from interested parties and posted information that was to be presented at the second meeting on the [Committee's overview page](#). However, because there was

no final meeting or work session, the Committee did not make any recommendations or propose any legislation for the 2021 Session of the Nevada Legislature.

## **BACKGROUND**

### **A. Existing Nevada Law**

Driving under the influence is a dangerous crime and a major threat to public safety. In every state, it is illegal to drive with a blood alcohol concentration (BAC) of 0.08 percent or higher. However, many other substances besides alcohol impair driving. Additionally, Nevada law does not differentiate between a DUI for alcohol, a DUI for cannabis, and a DUI for prohibited substances.

#### *Alcohol*

Alcohol level is measured by the weight of the alcohol in a certain volume of blood, or BAC. At a BAC of 0.08 grams of alcohol per deciliter of blood, crash risk increases. Because of this risk, it is illegal in all 50 states to drive with a BAC of 0.08 percent or higher. Blood alcohol content is measured with a breathalyzer—a device that measures the amount of alcohol in a driver’s breath—or by a blood test.

#### *Cannabis*

Although Nevada voters approved medical cannabis in 2000 and recreational cannabis in 2016, it is still illegal to drive under the influence of cannabis ([NRS 484C.110](#)). Nevada currently uses a per se (presumed illegal) standard for those arrested for DUI with cannabis or cannabis metabolites in their system. Under the per se standard, a driver commits an offense if his or her blood contains 2 nanograms (ng) per milliliter (ml) or more of delta-9-tetrahydrocannabinol, or 5 ng/ml or more of 11-OH-tetrahydrocannabinol.

#### *Other Prohibited Substances*

A driver can also be arrested if he or she is under the influence of other substances, including controlled substances, certain prohibited substances, chemicals, poison or organic solvent, or any compound or combination of any of these ([NRS 484C.110](#)). Illegal drugs—such as cocaine, heroin, and methamphetamines—are classified as prohibited substances in statute.

### **B. January 17, 2020, Meeting**

The Committee’s January 17, 2020, meeting was conducted through simultaneous videoconferencing between legislative hearing rooms in the Grant Sawyer State Office Building in Las Vegas, Nevada, and the Legislative Building in Carson City, Nevada. At the meeting, the Committee heard public testimony and received presentations from subject matter experts in the following areas:

- Nevada’s law on impaired driving and the per se standard;
- Impaired driving prosecution, defense, investigation, and enforcement;
- Presentations and review of relevant research;
- A proposal to establish a state-level toxicology lab for the purpose of identifying, collecting, and reporting DUI toxicology data;
- Traffic safety data, research, and analysis; and
- Pharmacology and toxicology.

More information about the Committee’s activities—including minutes, the recording of the meeting, and copies of presentations and other exhibits—may be accessed on the Legislature’s website for the [2019–2020 Interim](#).

### **DISCUSSION OF TESTIMONY AND RECOMMENDATIONS**

The Committee did not make any recommendations for the 81<sup>st</sup> Session of the Legislature.