

Good morning, Madam Chair and honorable members of the Committee on Criminal Justice and Public Safety. Thank you for the opportunity to provide testimony today at this hearing on oral fluid testing.

My name is Chuck DeWeese, and I am here today representing the Foundation for Advancing Alcohol Responsibility (Responsibility.org) and the National Alliance to Stop Impaired Driving (NASID), founded by Responsibility.org.

I have been involved with traffic safety for over 35 years and most recently served as the Assistant Commissioner for the NY State Highway Safety Office from 2007-2022. In addition, I served as Chair of the national Governor's Highway Safety Association from 2020-2022. In these roles, I led the state's efforts to address drug and multi-substance impaired driving. Now I am proud to serve as a traffic safety consultant to Responsibility.Org, a national not-for-profit organization founded over 30 years ago by the nation's leading distillers to eliminate underage drinking, drunk driving and all forms of impaired driving. In this role, I have been educating states on the benefits of roadside oral fluid testing to enhance traffic safety and have extensive experience with the technology.

I also serve as co-chair of the NASID oral fluid working group. Our team has created a host of resources available to states to help answer frequently asked questions and to provide resources to states looking to implement oral fluid testing. Some of these include scientific literature and research, implementation checklists, and an oral fluid policy position statement. The group is currently developing a national map showing state oral fluid statutes and implementation status. These can be accessed at <https://nasid.org/oral-fluid-working-group/>.

Drunk and drugged driving is a 100 percent preventable crime that claims far too many lives across the United States, and Maine is no exception. In 2022, The National Highway Traffic Safety Administration (NHTSA) found, 56% of serious or fatally injured traffic related crashes in the United States involved alcohol or drugs, with cannabis (25%) being the most frequently detected substance, followed by alcohol.

These statistics are a **glaring red flag** that something is not working, and action is needed to improve existing law regarding drunk and drugged driving. LD 1135 would move the state of Maine forward in combatting these troubling statistics and be more in line with addressing impaired drivers. These are not just random

numbers or statistics, this represents family members, friends, colleagues, and people you represent.

Roadside oral fluid screening is an investigative tool used to support probable cause for a drug-impaired driving arrest, analogous to a roadside portable breath test that detects alcohol. The sample is collected and analyzed at roadside, has a limited test panel that identifies 6 or more drug classes, provides a qualitative result in real time and is not intended to be used in court proceedings.

This differs from evidential or confirmation testing where a sample is collected post-arrest, the analysis is conducted in a forensic laboratory, tests for a significantly larger drug panel, provides a quantitative result, and is a key piece of evidence in court proceedings.

Maine should employ roadside technology, such as oral fluid field testing, as a roadside screening tool to support probable cause for arrest and would be taken proximal to the time of driving and not hours later. Oral fluid has been found to be accurate for purposes of preliminary roadside testing to assist with probable cause of impairment. Twenty-four states have some form of oral fluid statutory authorization. Approaches to policy vary from implied consent, preliminary testing, evidentiary testing, or a pilot/standalone law.

More than 25 countries and over 30 US States have taken steps to implement successful roadside oral fluid testing programs. The State of Michigan issued 2 reports in 2019 and 2021 at the conclusion of their oral fluid test pilot and concluded that oral fluid has been found to be accurate for the purposes of preliminary roadside testing. The State of Indiana rolled out a roadside oral fluid testing program in 2020 and in addition to seeing a significant uptick in lab submissions of blood to the toxicology lab, they also witnessed an increased interest in law enforcement officers desiring to be trained in drugged driving detection, and they also saw a 55% increase in their drug recognition expert evaluations. The State of Minnesota conducted a roadside oral fluid pilot in 2024 where the study found that 62% of drivers had more than one drug in their system at the time of testing, and 90% of those who tested positive for alcohol also had one or more drugs in their system. Additionally, the pilot confirmed that both the SoToxa™ and the Draeger Drug Test 5000 met the required standards for reliability, accuracy, and practicality.

Oral fluid mirrors what substances are **active** in the blood and body, it distinguishes recency of use from historical use, the collection is proximate to the stop or crash prior to the drug leaving the system, it is non-invasive, simple, and quick collection process. Statutory authority backing of this technology will make our roads safer, will create a deterrent effect on motorists and will support use by law enforcement to assist with building probable cause.

There is a misconception that law enforcement lacks the tools to detect drug impairment. While it is true that there is no magical device that can detect drug “impairment” at this time, and there is no per-se limit that indicates impairment equivalent to the Blood Alcohol Content (BAC), for substances other than alcohol, specially trained Drug Recognition Experts (DRE’s) can accurately detect drug impairment via a 12-step examination. The DRE evaluates and assesses a person’s appearance and behavior and carefully measures and records vital signs and makes precise observations of the person’s automatic responses and reactions. The DRE administers carefully designed psychophysical tests to evaluate a person’s judgment, information processing ability, coordination and various other characteristics. Law enforcement agencies rely on blood and urine tests to confirm whether a driver has consumed drugs.

Even with more officers being trained as DRE’s or the Advanced Roadside Impaired Driving Enforcement (ARIDE), we are still missing too many impaired drivers on our roadways. DRE’s represent only about 2% of all law enforcement officers in the US.

While there are no devices on the market that can detect “impairment”, there is a technology that can detect the “presence” and “recent use” of drugs and provide every law enforcement officer with the probable cause necessary to continue their investigation. Analogous to the non-evidential roadside portable breath test which indicates recent use of alcohol, scientists have created a portable, handheld, non-evidential oral fluid test that can detect the presence of six different drugs: amphetamines, benzodiazepines, cannabis (THC), cocaine, methamphetamines and opiates as these are the most prevalent in traffic crashes.

Some key benefits to a roadside drug testing instrument include:

- Portability for mobile deployment
- Easy to use and rapid results within minutes
- Minimally invasive

- Cut off levels are set to detect recent ingestion of drugs
- Provides results proximate to the time of the traffic stop or crash prior to substances leaving the body.

Oral fluid testing can help detect the presence of a drug(s) when officers observe articulable facts and circumstances of impairment, which include sobriety tests and other general indicators. However, many of these signs can be dismissed due to admissions of medical problems, sleep deprivation or inexperience. This is where roadside testing can add probable cause to determine that the impairment is substance-induced and to allow for officers to have the operator further evaluated by certified DRE's.

And we cannot overstate the potential impact on deterring drug impaired drivers from getting behind the wheel in the first place, especially if they know that law enforcement can drug test at roadside. The time is now for state leaders to allow oral fluid testing at roadside and to invest in this life-saving technology.

Car crashes resulting from impaired driving are deadly but are also heartbreakingly preventable. Not one group, organization, or leader can stop impaired driving alone. Regardless of where you stand on the issue of cannabis consumption or drinking alcohol, we can all agree that making sure our roads and highways are safe, must remain a priority.

I thank you for your time and attention on this critical traffic safety matter and I am happy to answer any questions and provide any technical assistance with the committee.

Chuck DeWeese

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