I-502

Legalization of Recreational Marijuana and Per Se Levels of THC

Recreational marijuana sales to the public began *July 8, 2014.*
Lessons Learned

• Background on Drug DUIs

• Importance of updated forms

• Accessibility of Evidence
• Prior to I-502, WA had no per se drug levels for DUIs.
• Criminal sanctions- if effective prong was proven but there was no administrative license sanction unless the driver refused to take breath or blood test
• I-502 created a per se 5 ng/ml THC level which would lead to a *90 day license suspension* for a first time offender

• We anticipated seeing an increase in blood draws and suspensions based on the new per se level for THC
• *Missouri v. McNeely* 133 S. Ct. 1552, 569 US __ (2013)

• WA stopped giving implied consent warnings for blood draws and moved to search warrants in the majority of circumstances.
DUI Arrest Report

WASHINGTON STATE
DUI ARREST REPORT
REPORT OF BREATH / BLOOD TEST FOR ALCOHOL AND/OR THC OR
REFUSAL TO SUBMIT TO BREATH TEST FOR ALCOHOL

<table>
<thead>
<tr>
<th>SUBJECT'S NAME (LAST, FIRST, MI)</th>
<th>SEX</th>
<th>DATE OF BIRTH</th>
<th>DATE / TIME OF ARREST</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STREET ADDRESS</th>
<th>CITY / STATE / ZIP CODE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DRIVER'S LICENSE NUMBER</th>
<th>CDL ENDORSED?</th>
<th>STATE</th>
<th>COUNTY OF ARREST</th>
<th>CASE / CITATION NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BAC Readings - DataMaster</th>
<th>1st Sample</th>
<th>2nd Sample</th>
<th>Refused Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>BAC Readings - Draeger</td>
<td>1st Sample (IR)</td>
<td>2nd Sample (IR)</td>
<td>Blood Alcohol</td>
</tr>
<tr>
<td></td>
<td>1st Sample (EC)</td>
<td>2nd Sample (EC)</td>
<td>Blood THC</td>
</tr>
</tbody>
</table>

The subject was lawfully arrested. At that time, there were reasonable grounds to believe that the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503.

After receipt of any applicable warnings required, the person refused to submit to a test of his or her breath, or a test was administered and the results indicated that the alcohol concentration of the person’s breath or blood was 0.08 or more, or the THC concentration of the person’s blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person’s breath or blood was 0.02 or more, or the THC concentration of the person’s blood was above 0.00, if the person is under the age of twenty-one.
Who drew the blood?

WASHINGTON STATE
DUI ARREST REPORT

BLOOD DRAWN PURSUANT TO SEARCH WARRANT OR EXIGENT CIRCUMSTANCES

NOTE: READ THIS FORM WHEN THERE ARE EXIGENT CIRCUMSTANCES OR WHEN A SEARCH WARRANT AUTHORIZES THE BLOOD DRAW.

WARNING! YOU ARE UNDER ARREST FOR:

☐ RCW 46.61.502 OR RCW 46.61.504: DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND/OR DRUGS.
☐ RCW 46.61.502 OR RCW 46.61.504: FELONY DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND/OR DRUGS.
☐ RCW 46.61.503: BEING UNDER 21 YEARS OF AGE AND DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE AFTER CONSUMING ALCOHOL OR MARIJUANA.
☐ RCW 46.25.110: DRIVING A COMMERCIAL MOTOR VEHICLE WHILE HAVING ALCOHOL OR THC IN YOUR SYSTEM.
☐ RCW 46.61.520: VEHICULAR HOMICIDE
☐ RCW 46.61.522: VEHICULAR ASSAULT

A TEST OF YOUR BLOOD WILL BE ADMINISTERED TO DETERMINE THE CONCENTRATION OF ALCOHOL AND/OR ANY DRUG IN YOUR BLOOD.

Name of Person who extracted the blood: ____________________________

Title of Person who extracted the blood: ____________________________

Signature of Person who extracted the blood: _________________________

Date: ___________ Time of Blood Draw: ____________________________

Safe Drivers · Safe Vehicles · Secure Identities · Saving Lives
What’s in the vial?
CERTIFICATE OF COMPLIANCE

BD Diagnostics
Preanalytical Systems
150 South 1st Avenue
Broken Bow NE 68822-2203 US

Product Name: TUBE GLU GC 16X100 10.0 PLBL GR NAF/KOX
Catalog Number: 367001
Batch Number: 4267726
Expiration Date: 2016/08/31

CERTIFICATION OF COMPLIANCE
This material number is a (TUBE GLU GC 16X100 10.0 PLBL GR NAF/KOX) BD Diagnostics Preanalytical Systems Blood Collection Tube reorder #367001. Manufacturing specification for this tube requires the following amounts of powdered additives in each tube:
- Potassium Oxalate 18.0mg. to 23.0mg. (Nominal 20.0mg.)
- Sodium Fluoride 90.0mg. to 115.0mg. (Nominal 100.0mg.)

This tube is manufactured specifically for blood alcohol determination. The chemicals added to this tube will not disturb the integrity of the blood sample relative to the alcohol content.

Vacuum in the tube is set to draw 9.3mL to 10.7mL (Nominal 10.0mL). Using a specific gravity for blood of 1.057 grams the following would be the minimum and maximum percent of additive to blood:
- Potassium Oxalate 0.16% to 0.23% (Nominal 0.19%)
- Sodium Fluoride 0.80% to 1.17% (Nominal 0.95%)

Sterility Claim:
All products which are labeled as either "Sterile" or "Sterile Interior" and released for sale by BD Diagnostics Preanalytical Systems
**CERTIFICATE OF COMPLIANCE**

This is to certify that the products listed below are in compliance with the current FDA Quality System Requirements (QSR) as stipulated in 21 CFR Part 820. Representative product was inspected and tested in accordance with current Kendall specifications and quality requirements.

<table>
<thead>
<tr>
<th>Product #</th>
<th>Description</th>
<th>Lot #</th>
</tr>
</thead>
<tbody>
<tr>
<td>8881352788</td>
<td>BCS GRA 16X100 10ML P.O+F</td>
<td>926807</td>
</tr>
</tbody>
</table>

This tube was designed for laboratory procedures requiring plasma or whole blood and chemistry procedures where glycoltic inhibition of the specimen is required. The tube was manufactured to the following specifications:

<table>
<thead>
<tr>
<th></th>
<th>Range</th>
<th>Nominal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potassium Oxalate</td>
<td>15.0-26.0mg</td>
<td>20mg</td>
</tr>
<tr>
<td>Sodium Fluoride</td>
<td>20.0-32.0mg</td>
<td>25mg</td>
</tr>
<tr>
<td>Draw volume</td>
<td>9.0-11.0ml</td>
<td>10ml</td>
</tr>
</tbody>
</table>

David A. Olson
Vice President Regulatory Affairs
CONFIRMATION OF CANNABINOIDs BY LIQUID CHROMATOGRAPHY
- TANDEM MASS SPECTROMETRY

27.1 POLICY

This test method may be used to confirm the presence of Δ9-THC (THC) and its metabolite, 11-nor-9-carboxy-Δ9-THC (THCCOOH) in biological samples and other submitted evidence. Quantitative results obtained through the use of this method will only be reported within the validated dynamic range. Reporting of results following the application of this method will be contingent upon a thorough review and acceptance of quality control data and the qualification of individual results under the criteria for acceptance.

Any adjustments or deviations from the procedures below must be approved by a member of TLD Management, and appropriately documented in the batch file.

27.2 PURPOSE

The purpose of this standard operating procedure (SOP) is to provide technical direction for the identification and quantitation of THC and THCCOOH present in biological specimens and other submitted evidence. This procedure will serve as the laboratory document describing sample preparation, instrumental analysis, data analysis and criteria for acceptance for batch data from method validation.

27.3 PRINCIPLE

The targeted compounds and internal standards are isolated from whole blood, serum, plasma, urine and other biological samples or evidence by the use of liquid-liquid extraction (LLE). Following LLE, the specimens, now termed extracts, are injected into a high performance liquid chromatograph (HPLC) where they are separated between a liquid mobile and liquid stationary phase. Each compound exits the HPLC at a reproducible time which is termed its retention time.
• As of April 2016:
  • 18 states have zero tolerance or non-zero laws
  • 9 states have zero tolerance for THC or a metabolite
  • 3 states have zero tolerance for THC, but no restriction on metabolites
  • Colorado has reasonable inference for THC (5 ng/mL)
  • 5 states have specific per se limits for THC
    • Montana: 5 ng/mL
    • Nevada: 2 ng/mL
    • Ohio: 2 ng/mL
    • Pennsylvania: 1 ng/mL
    • Washington: 5 ng/mL
## THC Results

<table>
<thead>
<tr>
<th>Year</th>
<th>Total # DUI/DRE cases received</th>
<th># of positive THC cases</th>
<th>% of positive THC cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>4,809</td>
<td>877</td>
<td>18.2%</td>
</tr>
<tr>
<td>201</td>
<td>5,012</td>
<td>974</td>
<td>19.4%</td>
</tr>
<tr>
<td>2011</td>
<td>5,132</td>
<td>1,036</td>
<td>20.2%</td>
</tr>
<tr>
<td>2012</td>
<td>5,298</td>
<td>988</td>
<td>18.6%</td>
</tr>
<tr>
<td>2013*</td>
<td>5,468</td>
<td>1,362</td>
<td>24.9%</td>
</tr>
<tr>
<td>2014</td>
<td>6,270</td>
<td>1,759</td>
<td>28.0%</td>
</tr>
<tr>
<td>2015</td>
<td>7,044</td>
<td>2,311</td>
<td>32.8%</td>
</tr>
<tr>
<td>2016 (Jan-Feb)</td>
<td>1,392</td>
<td>473</td>
<td>34.0%</td>
</tr>
</tbody>
</table>
For More Information
Contact:
Toni Hood
thood@dol.wa.gov
360-902-3613