

TESTIMONY OF
Trooper Tarek Chase

Good morning, Chairman Ruby and members of the Transportation Committee. My name is Tarek Chase, and I'm a State Trooper with the North Dakota Highway Patrol. I have worked as a State Trooper for 16 years. Currently, I serve as North Dakota's Drug Recognition Expert and Standardized Field Sobriety Testing State Coordinator. My duties include overseeing the training, certification, and recertification for all Drug Recognition Expert (DRE) officers in North Dakota. I also oversee the training of Standardized Field Sobriety Testing Instructors and assist in coordinating impaired driving-related training across the state.

I am testifying on behalf of the North Dakota Highway Patrol in support of House Bill 1370.

Brief overview:

Drinking and driving is a problem that has been plaguing our nation for many years. Unfortunately, North Dakota is no different. According to the 2023 North Dakota Department of Transportation Crash Summary, 191 people have died in alcohol-related crashes over the last five years and alcohol is a factor in approximately 35% of all fatal crashes annually.

The effects of alcohol on driving are well known and well documented, including how alcohol is metabolized and eliminated from the body. However, many other drugs do not act the same way, making it crucial to have specialized training and tools for law enforcement officers to identify impairment caused by substances other than alcohol.

To provide more context, all licensed law enforcement officers in North Dakota attend a Standardized Field Sobriety Testing (SFST) Course which provides them with a basic foundation to administer field sobriety tests on suspected impaired drivers. The standardized field sobriety tests are scientifically validated to provide officers with criteria to establish probable cause for the arrest of an impaired driver. This impairment could be caused by alcohol or drugs. In order to effectively provide this training, The SFST Program requires highly trained officers to instruct and mentor other law enforcement. The goal of SFST Instructors is to teach law enforcement students the knowledge and skills necessary to administer field sobriety tests on suspected impaired drivers and to interpret the results of the tests.

Drug Recognition Expert (DRE) is a title given to law enforcement officers that have completed a rigorous and demanding training course focused on identifying the cause of impairment in an individual as the result of a Driving Under the Influence arrest. The DRE administers a series of

standardized and systematic tests, in a controlled environment, to determine:

- Is the person impaired?
- Is the impairment due to an injury, illness, or other medical condition?
- Is the impairment drug-related?
 - If so, which category or combination of categories of drugs is the cause?

This means, the DRE is trained to identify impairment in the human body as it relates to ingesting specific drug categories. For example: if an individual were to ingest methamphetamine and deemed to be impaired based on officer's observations and field sobriety tests, the DRE, through their series of tests, could identify the cause of impairment to be a Central Nervous System Stimulant, a category under which methamphetamine falls under.

Looking deeper into the problem:

Anecdotal information shows an increase in drugged driving. I have seen this firsthand. Prior to transitioning to my current position, approximately half of the DUI arrests I made over the course of several years were due to impairment by a drug or drugs. And since I have contact with all the Drug Recognition Experts in the state, I receive similar reports from them as well.

Another concerning factor is the legalization of Cannabis across the country, providing citizens, including North Dakotans, with easier access to Cannabis products. Our neighboring states, Minnesota and Montana, as well as Canada, have all legalized the use of Cannabis for medicinal and recreational purposes.

Oral fluid testing technology:

In 2022, North Dakota participated in an oral fluid testing pilot project to determine the feasibility of a roadside oral fluid testing device during drugged driving investigations. An Oral Fluid Technical Advisory Committee was formed to identify an acceptable oral fluid screening device and to create proper protocols and procedures to operate this device. This committee was made up of members from the North Dakota Department of Transportation, North Dakota Crime Laboratory, North Dakota Highway Patrol, Upper Great Plains Transportation Institute, Drug Recognition Experts, the North Dakota Traffic Safety Resource Prosecutor, and myself.

Through the initial research, the Oral Fluid Technical Advisory Committee selected the SoToxa Device based on several factors including, but not limited to, portability, digital display, on-board heater, battery life, and the ability to provide results in five minutes or less. We also reviewed pilot projects and recommendations from several other states including a very large project that was conducted in Michigan. This device was well researched and found to be the best tool on the market at the time.

As part of the Oral Fluid Pilot Program, trained DREs administered the SoToxa device to volunteer subjects following a DUI arrest but only with the subject's consent. From January of 2022 to July of 2023, 57 samples were collected, with 52 of the samples tested through the North Dakota State Toxicology Laboratory or third-party testing laboratory for confirmation. Of

the 52 samples, at least one drug was detected in 82% of the cases. In the cases where a drug or drugs were detected, Cannabis was identified in approximately one third of the samples (29%). Furthermore, and possibly the most concerning, the results showed that 55% of the samples had polysubstance use identified. Meaning, cases where two or more drugs are found in the subject's system, including alcohol and/or other drugs.

Other benefits to testing oral fluid samples include: fast and easy collection, minimally invasive (similar to a breath test), gender neutral collection, no medical personnel required for collection, and it detects recent drug use. One other thing I'd like to mention is that oral fluid testing could also assist in the detection of a medical emergency being experienced by the driver. If the SoToxa device does not detect any drugs in the subject's system, but the officer's observations indicate the subject is not safe to operate a vehicle, the officer can look to medical emergencies that can mimic drug impairment; potentially saving the subject's life.

The results of this pilot program confirm the presence of drug-impaired drivers on North Dakota's roadways and highlights the need to provide law enforcement with additional tools to detect drug impairment. The committee found the device to be a viable and beneficial tool for law enforcement officers.

It's important to clarify that the oral fluid testing device does not determine impairment. It is a screening tool, not an evidentiary test. The results of the field sobriety tests determine impairment. The oral fluid testing device provides additional confirmation to the officer for the arrest of DUI and to continue with chemical testing. This aligns with current procedures for alcohol-related DUIs, where officers use roadside breath screening devices to confirm the results of the field sobriety tests.

Because drugs are becoming common place in society, the revisions in this bill are to recognize that change. By including the terms "oral fluid", "presence of other drugs", and "alcohol or other drugs", law enforcement can better identify the potential cause of impairment with the use of tools and technology during roadside testing with the goal of keeping North Dakota roadways safe.

Please consider these changes and I will stand for any questions. Thank you, Chairman Ruby and the committee.