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VIA ELECTRONIC MAIL

May 3, 2012

The Honorable Bob Gardner
Colorado House Judiciary Committee
Colorado State Capitol
Denver, Colorado 80202
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Re: Senate Bill 12—117, Penalties for DUI Offenses

Dear Chairman Gardner and Members:

There are many reasons to oppose Senate Bill 12-117, which would create a per se Driving Under the Influence ("DUI") criminal offense for drivers with over five nanograms of tetrahydrocannabinol ("THC") in their blood. You have already received, and will receive at the committee hearing this afternoon, mountains of evidence and testimony that the bill is not warranted from a scientific, logical, or factual standpoint, evidence which need not be repeated here in this letter.

From the standpoint of a courtroom litigator who has represented Coloradoans charged with criminal DUI offenses, my clients and I are strongly opposed to this bill and urge a "no" vote, because if passed, the Legislature would be substituting its judgment for the reasoned judgment of Colorado citizens who serve on juries and of judges.

One case I tried to a jury last year illustrates the point. In People v. Solimeo,

Gunnison County Court Case No. 10T288, the driver had ten nanograms of THC in his blood after a blood test conducted by the Colorado Bureau of Investigation, which came into evidence. There was no accident or victim whatsoever in the case. Mr. Solimeo's performance on voluntary roadside tests was not perfect, but easily attributed to high winds frequent in Gunnison (even the sober State Patrol Trooper could not perform physically-demanding roadside tests perfectly in the courtroom when I asked him to do).Despite the ten nanograms, all evidence in the case showed that Mr. Solimeo was perfectly sober, driving well, and not a danger to anyone on the road that night. Mr. Solimeo was not a medical marijuana patient and did not claim a defense related to this status, but he was aware of the effects of THC on him and could easily compensate for them. Accordingly, the jury acquitted Mr. Solimeo of all charges, and even declined to find him guilty of the lesser included offense of Driving While Ability Impaired ("DWAI").

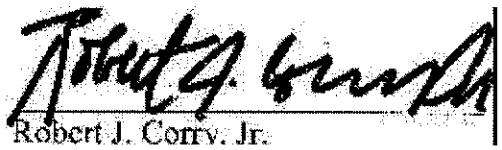
If SB 12-117 and its "one size fits all" standard had been law, in this and many other cases it would have deprived the jurors and judges of the ability to weigh the evidence and evaluate the facts and testimony in front of them. This was hardly a pro-marijuana community in Gunnison County, but the evidence was compelling that there was no law violation.

And the reverse is also true as well: there may be other drivers who are, in fact, impaired with THC levels under five nanograms, but this bill would suggest that these drivers get off with no consequences. That is the problem with a "one size fits all" standard; it takes away the reasonable discretion and common sense of Coloradoans who serve on juries and of judges appointed and elected for this purpose.

If the bill cannot be voted down at this stage, at the very least, there should be an amendment that makes the five nanogram level a rebuttable presumption, and gives drivers an affirmative defense to demonstrate to a jury or judge that they were not impaired.

I am happy to answer any questions you may have. Please feel free to call me at 303-634-2244 or email at Robert.Corry@comcast.net. Thank you very much for your consideration.

Sincerely,



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