

WESTERN STATES MARIJUANA SUMMIT



Darrin T. Grondel
Director

Washington Traffic Safety Commission
November 4, 2019
San Diego, California

Disclaimer – presentation is for historical and instructional purposes and is not intended to be pro or con on the issue of legalization.

You can't hide driving under the influence of cannabis.

Drug Recognition Experts are trained to spot the signs.

DRUGGED DRIVING IS IMPAIRED DRIVING.



 www.HeadsOnColorado.com



WASHINGTON
Traffic Safety
COMMISSION

Washington Traffic Safety Commissioners



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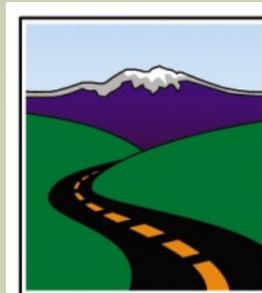


Jim Johnson
Washington State
Association of Counties



Rosemary Brinson Siipola
Association of Washington
Cities

PROFESSIONAL



WASHINGTON
Traffic Safety
COMMISSION

First Comes “Medical”



- Approved by voter Initiative 692 in **1998**
 - Granted:
 - Affirmative defense to criminal prosecution for:
 - Qualifying patients and primary caregivers who possess no more than a “sixty-day supply”
 - **(what is a 60 day supply?)**
- Key events:
 - 2007 - Definition of sixty-day supply SB 6032 - 24 oz. and **15 plants**
 - 2009 - Change in federal government’s enforcement policy
 - 2010 - Physician assistants, advanced registered nurse practitioners and naturopaths added as authorizers
 - 2011 - SB 5073 passes but is partially vetoed by Gov. Gregoire
 - Made it legal if participant registered in data base – vetoed

Recreational Vs. Medical Cannabis



Recreational:

- Amount limits, up to either:
 - 1 oz “useable” MJ (bud)
 - 16 oz infused product (brownies)
 - 72 oz liquid (soda pop)
 - 7 grams concentrate (hash oil)
- Illegal to grow your own
- Lab tested, controlled pesticide use
- Age 21+
- Taxed

Provide cannabis to a minor: felony

Medical **pre-2015**:

- Up to 24 oz “useable” Cannabis
- Can grow up to 15 plants
- Double that if you are a cannabis provider and patient
- No dispensaries, but “cooperatives”
- No lab test, pesticide controls
- Age 18+ (even providers)
- Not taxed (1/3 – 1/4 the cost)
- Need MJ card (not prescription) – tamper resistant
- Doctor, naturopath, PA, nurse practitioner, osteopath



DUI – 5 ng/ml -- Penalties for illegal grows, quantities

Revenue Projections



Initial excise tax forecast projections (2013)

FY 2015 \$36.3 million

FY 2016 \$80.0 million

FY 2017 \$119.8 million

FY 2018 \$160.2 million

FY 2019 \$193.5 million

Current excise tax forecast projections (Feb 2018)

FY 2015 \$64.9 million (actual)

FY 2016 \$185.7 million (actual)

FY 2017 \$314.8 million (actual)

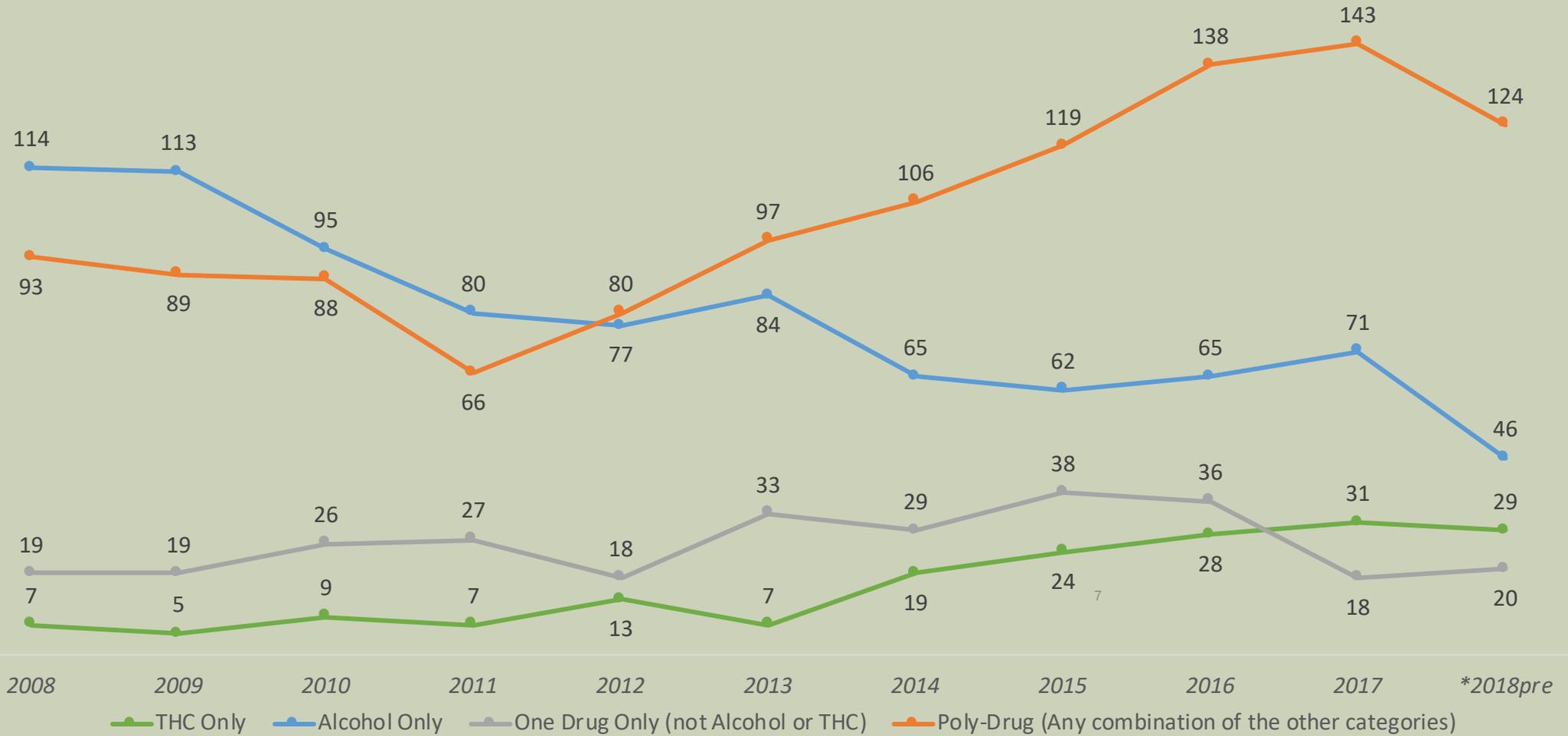
FY 2018 \$361.4 million

FY 2019 \$378.9 million

FY 2020 \$394.3 million

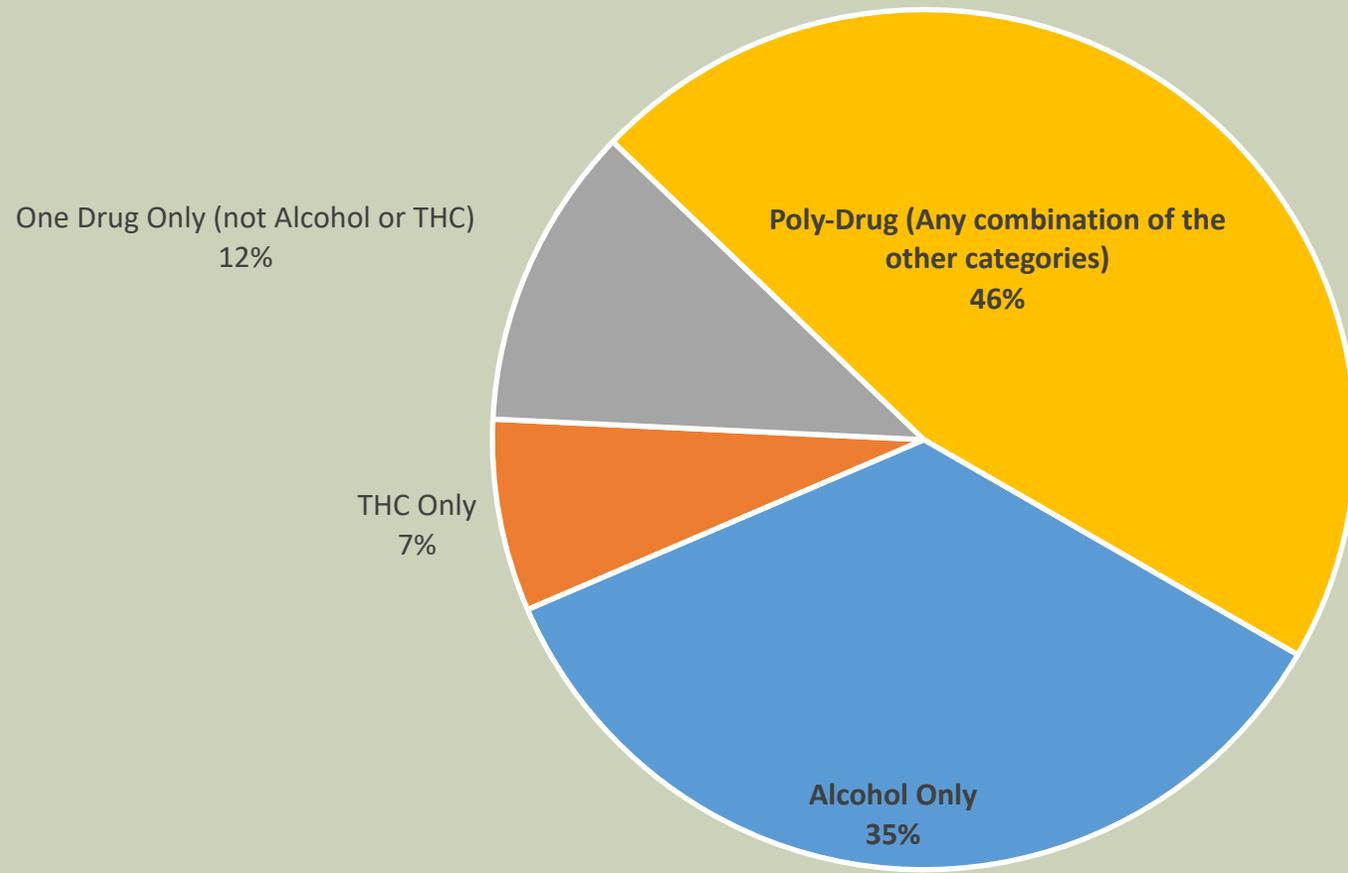
FY 2021 \$406.9 million

Frequency of Poly-Drug Drivers in Fatal Crashes



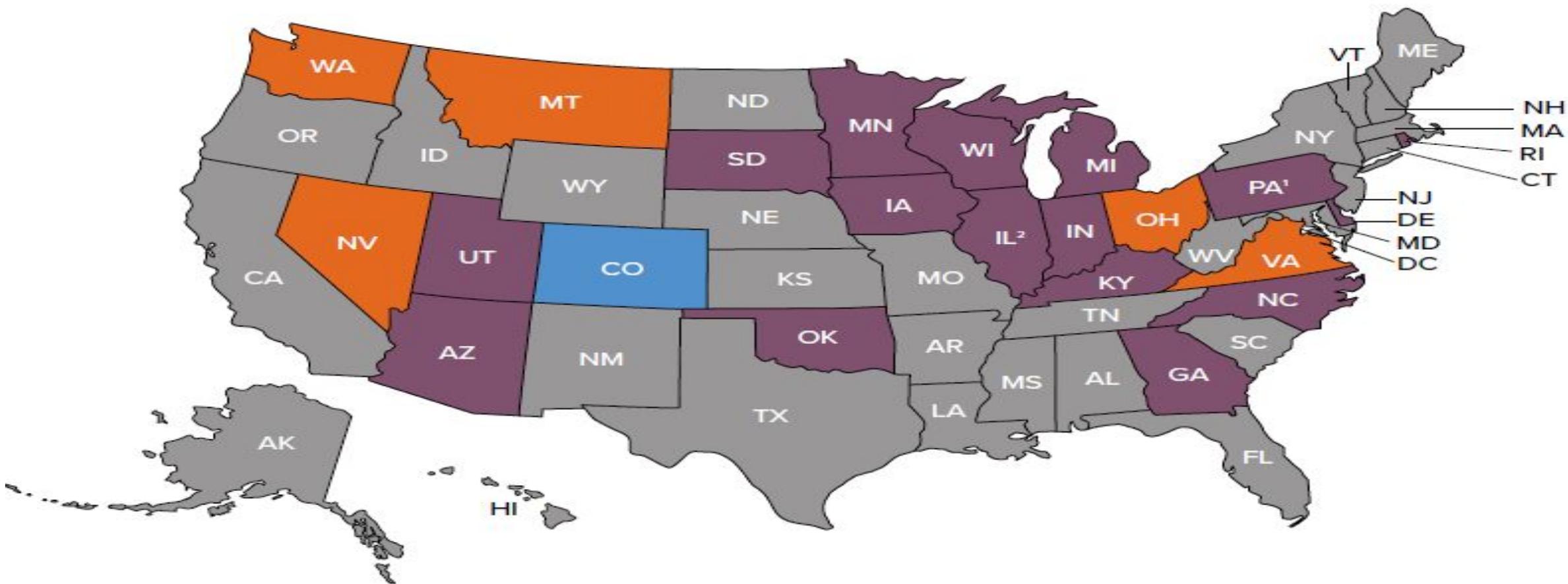
*Preliminary 2018 - there are 27 driver toxicology results pending.

Alcohol and Poly-Drug Use in Fatal Crash Involved Drivers, 2008-2018 preliminary



*Preliminary 2018 - there are 27 driver toxicology results pending.

STATE BY STATE:
DUID ZT or *Per se* for Some Drugs
AS OF APRIL 2017



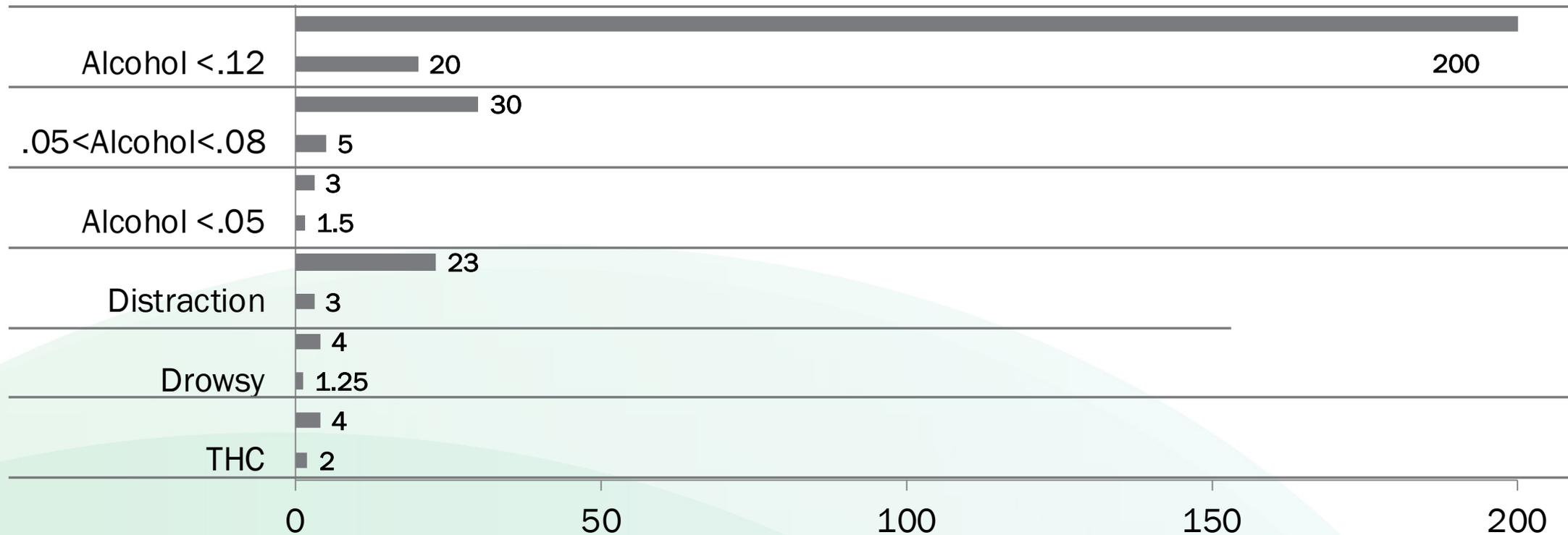
1 Pennsylvania has both a zero tolerance law for some drugs and a 1 ng *per se* law for THC. Pennsylvania's 1 ng *per se* law is in effect a zero tolerance law*.

2 Illinois has both a zero tolerance law for some drugs and a 5 ng *per se* law for THC.

Click on a color to highlight the states in that category

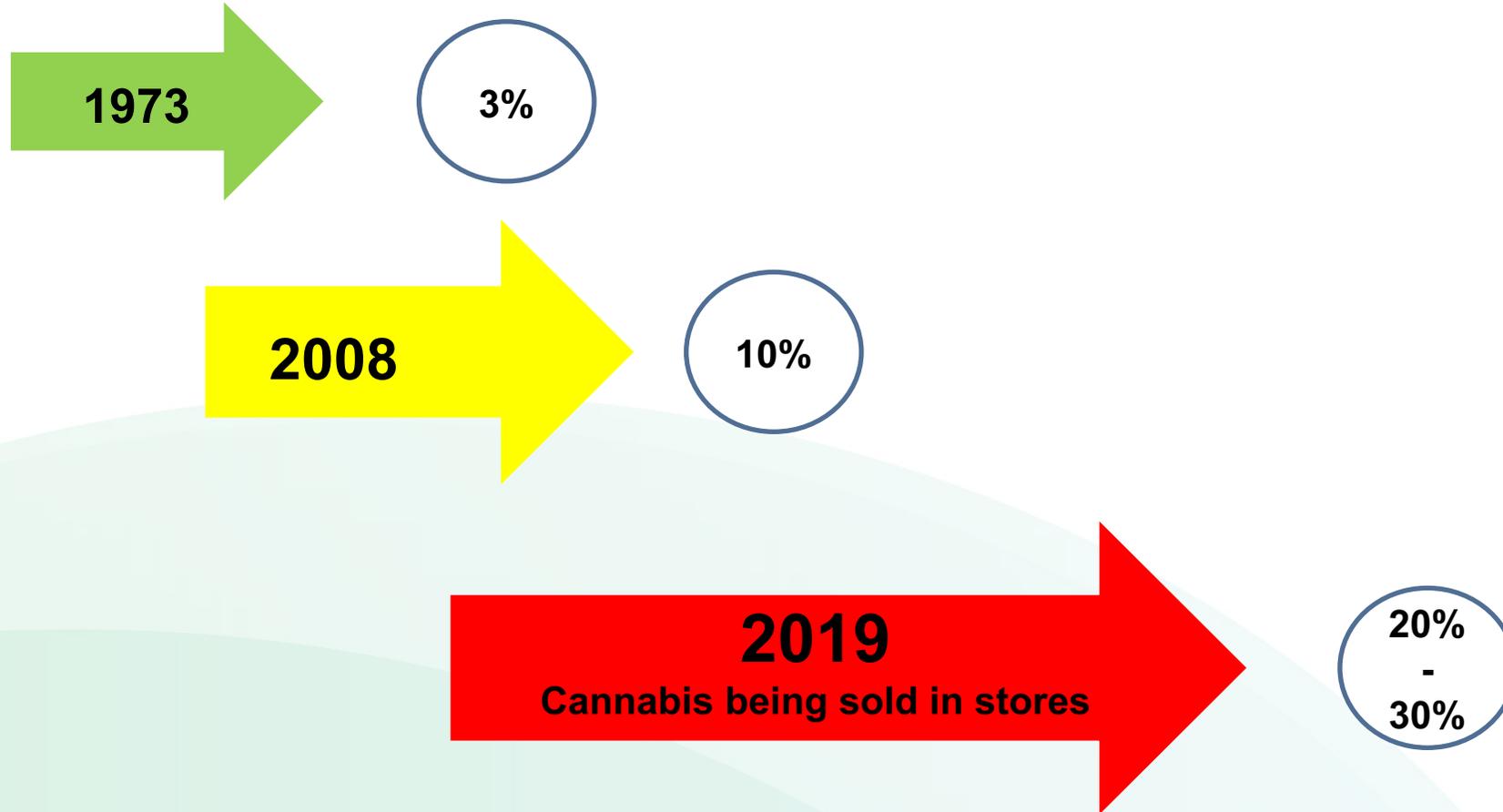
-  *Per se* limit greater than zero for some drugs
-  Zero tolerance for some drugs
-  Reasonable inference law with a limit greater than zero for THC

Does Cannabis Use Increase Crash Risk?



Review of literature revealed varying crash risk and difficult with THC and impairment

“Not Your Daddy’s Woodstock Weed”

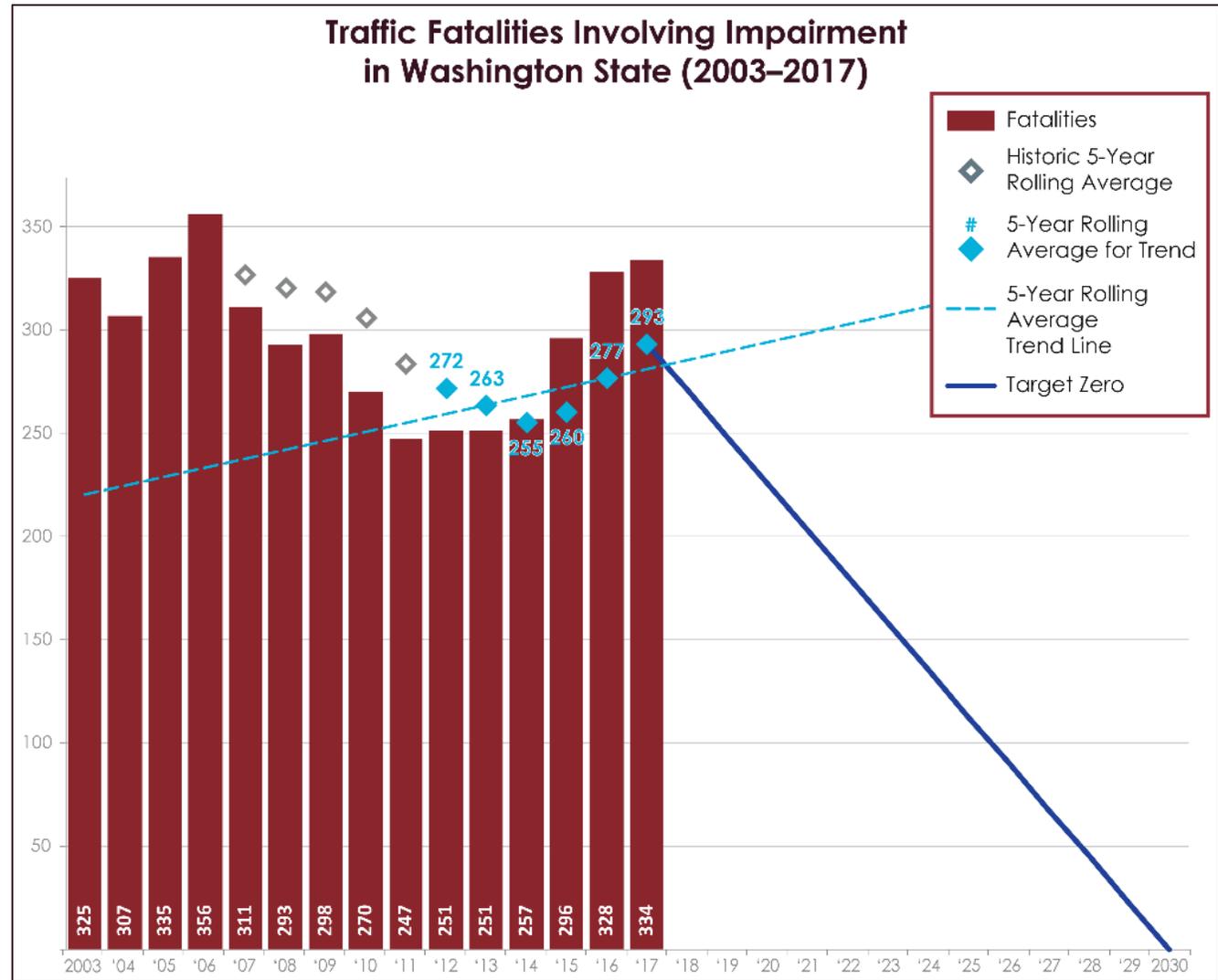


THC Potency Used In Most Government Studies



58% of traffic deaths involve impairment

One quarter of all deadly crashes involve a poly-drug driver.



Target Zero Priorities

Washington State 2015–2017	Fatalities		Serious Injuries	
	Number	% Total	Number	% Total
	1,650	100%	6,537	100%

High Risk Behavior

1	Impairment	958	58.1%	1,215	18.6%
1	Distraction	502	30.4%	1,933	29.6%
1	Speeding	485	29.4%	1,579	24.2%
2	Unrestrained Occupants	312	18.9%	701	10.7%

Crash Type

1	Lane Departures	796	48.2%	2,458	37.6%
1	Intersections	377	22.8%	2,256	34.5%

Road Users

1	Young Drivers 16–25	512	31.0%	2,243	34.3%
2	Pedestrians and Bicyclists	329	19.9%	1,333	20.4%
2	Motorcyclists	236	14.3%	1,209	18.5%
2	Older Drivers 70+	223	13.5%	599	9.2%
2	Heavy Trucks	178	10.8%	442	6.8%



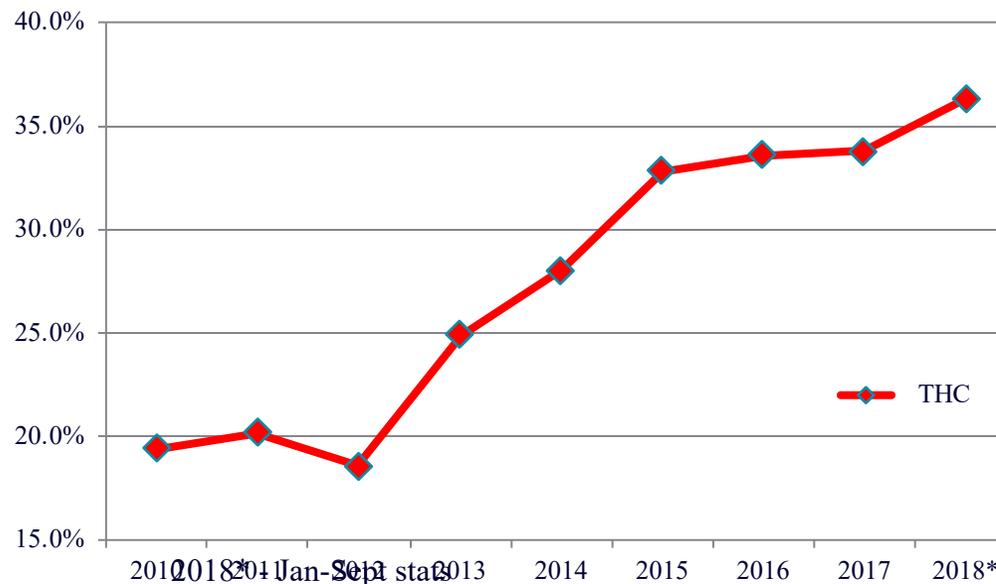
Toxicology Laboratory DIVISION

Increase in Drug Frequency

Increase of THC-positive impaired driving cases

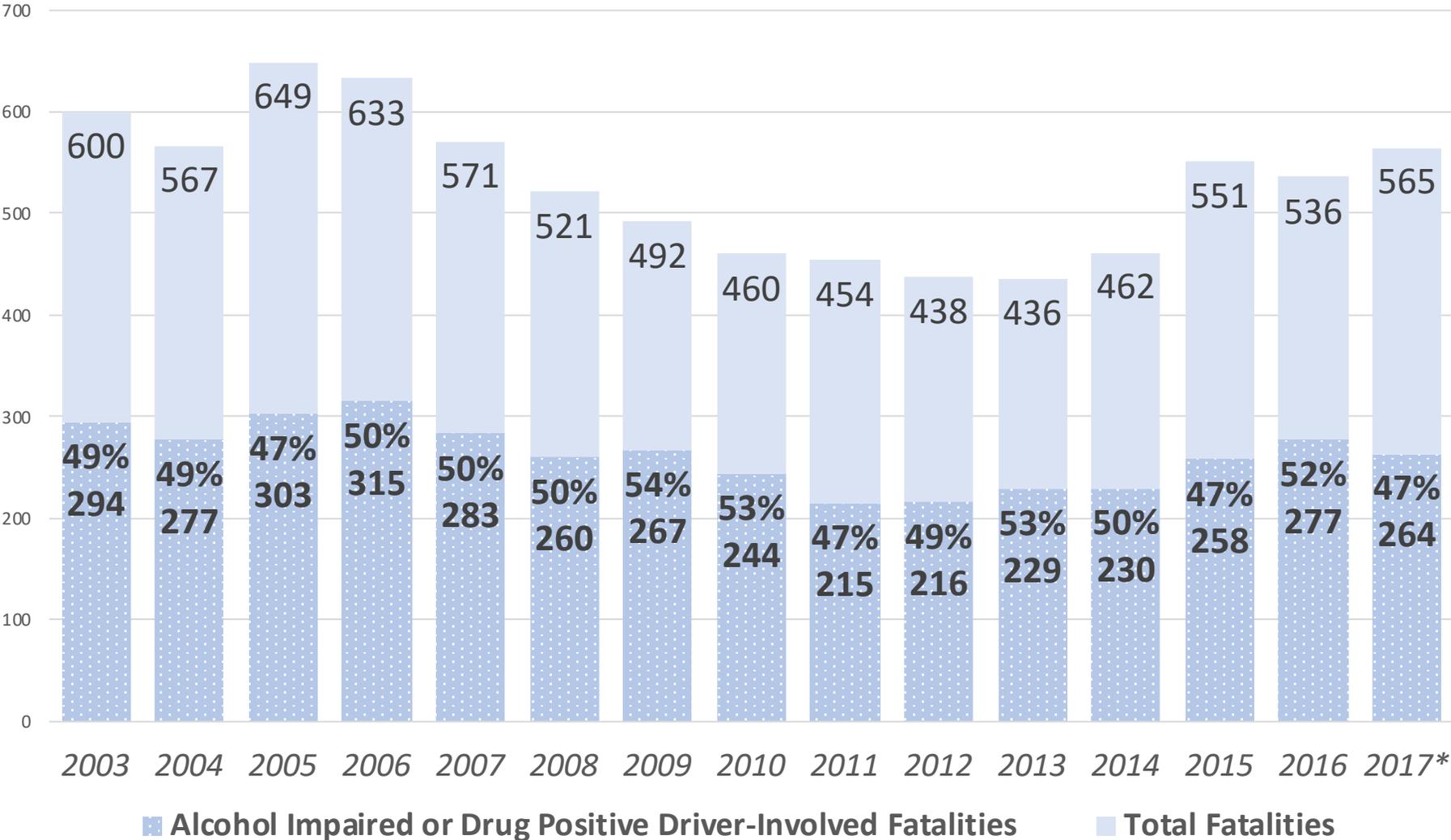
Year	# THC DUI's	% of Total DUI's
2018*	~3,700	36.5
2017	3,164	33.8
2016	2,848	33.6
2015	2,310	32.8
2014	1,754	28.0
2013	1,362	24.9
2012	988	19.6

Marijuana-related driving cases (%)



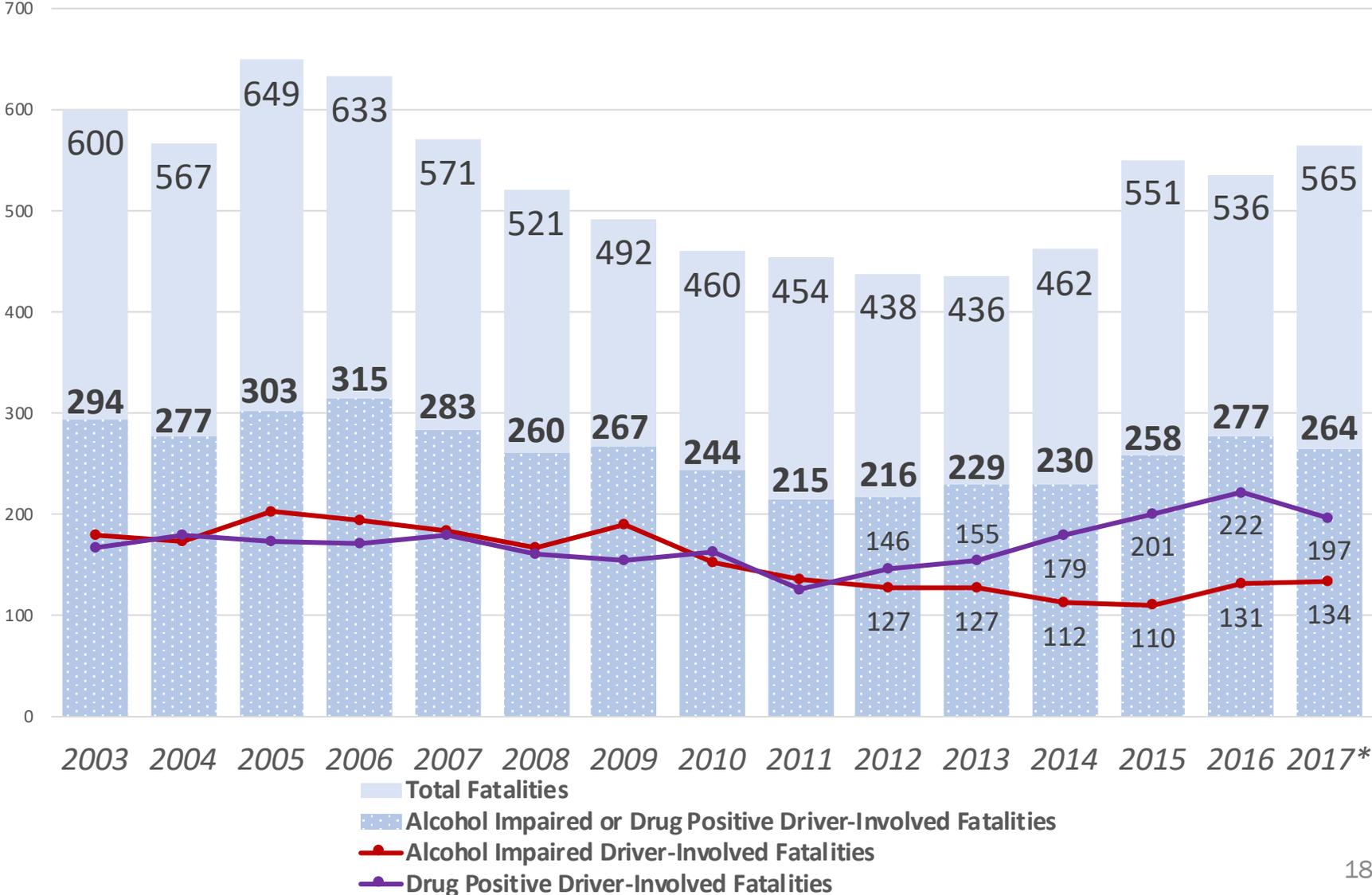
Impairment Involved in 50% of Traffic Fatalities

Alcohol Impaired and Drug Positive Driver-Involved Fatalities in Washington State

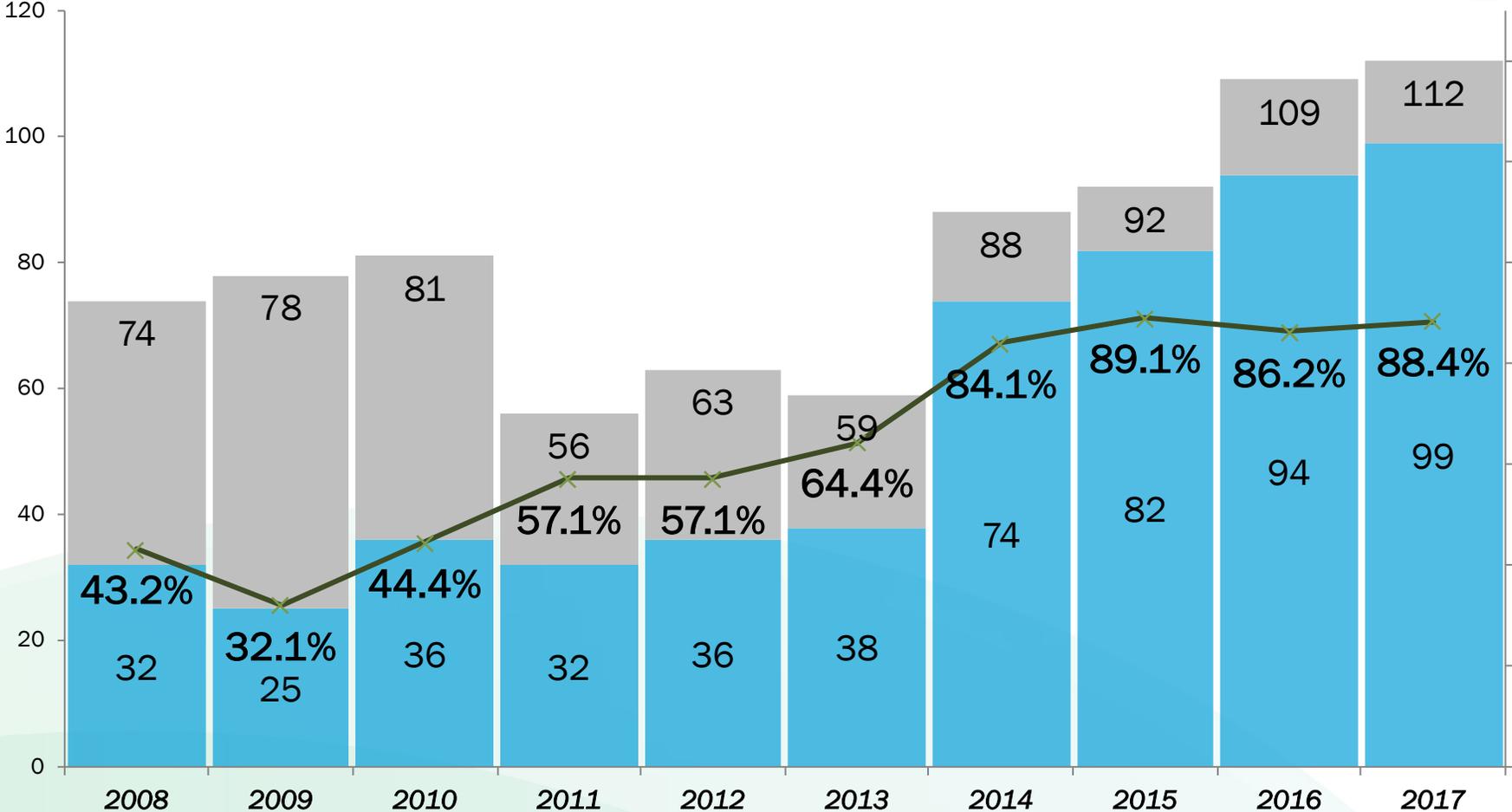


Drug Positive Drivers Increasing

Alcohol Impaired & Drug Positive Driver-Involved Fatalities in Washington State

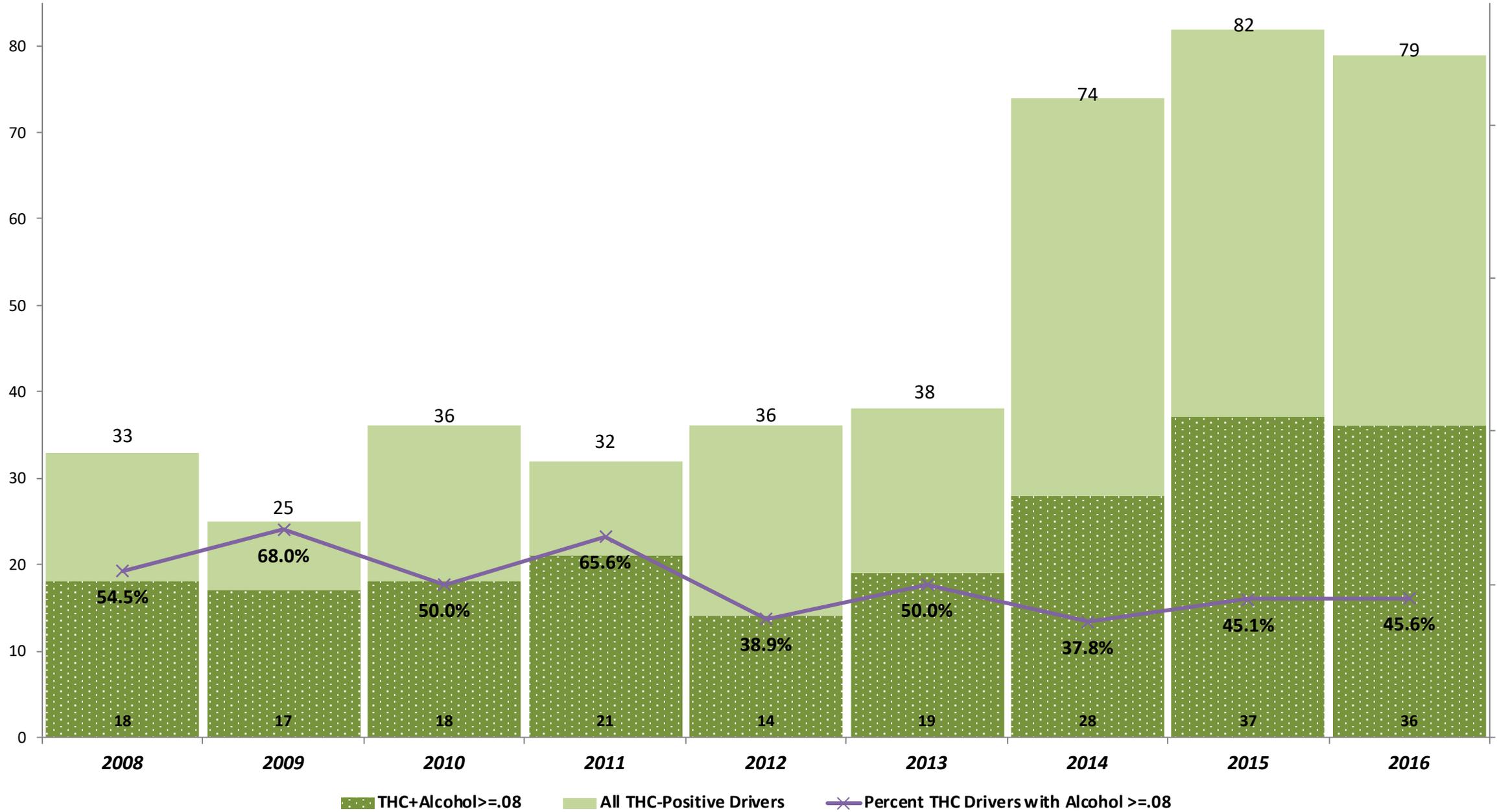


Cannabinoid-Positive Drivers Involved in Fatal Crashes



Total Cannabinoid-Positive Drivers
 Delta-9 THC Positive
 x Percent Delta-9 THC Among Cannabinoid-Positive Drivers

THC-Positive+Alcohol \geq .08 Drivers Involved in Fatal Crashes, 2008-2016



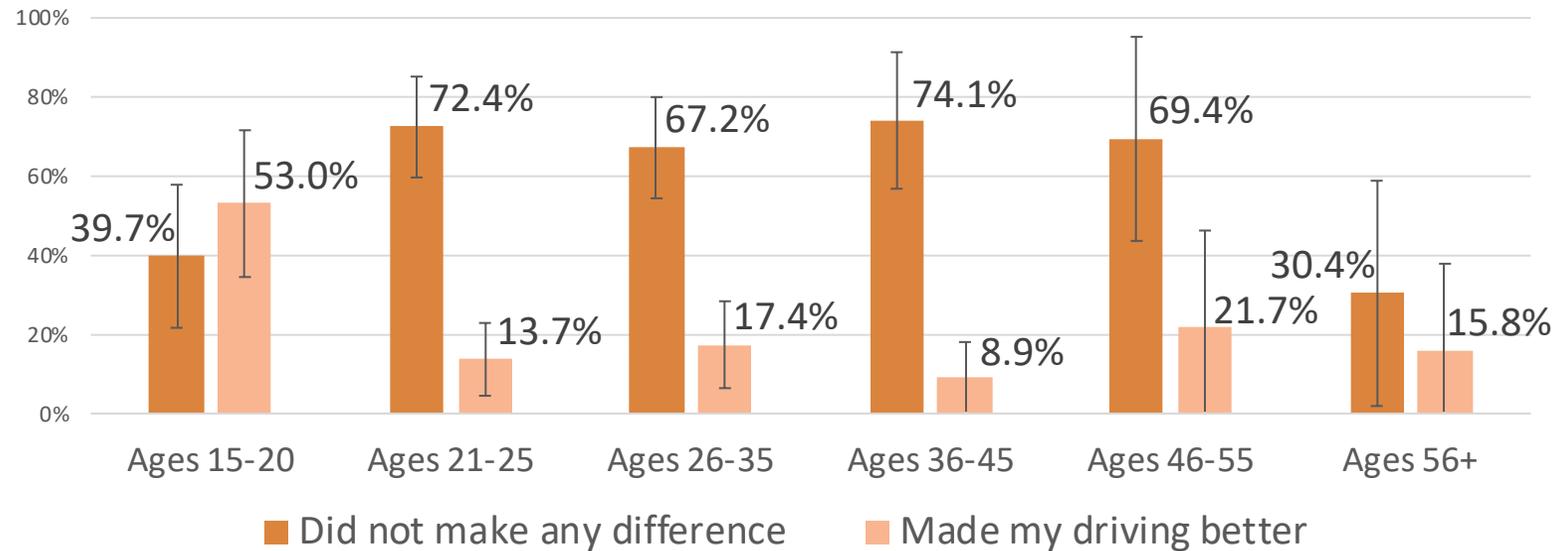
WTSC DUI-C PSA



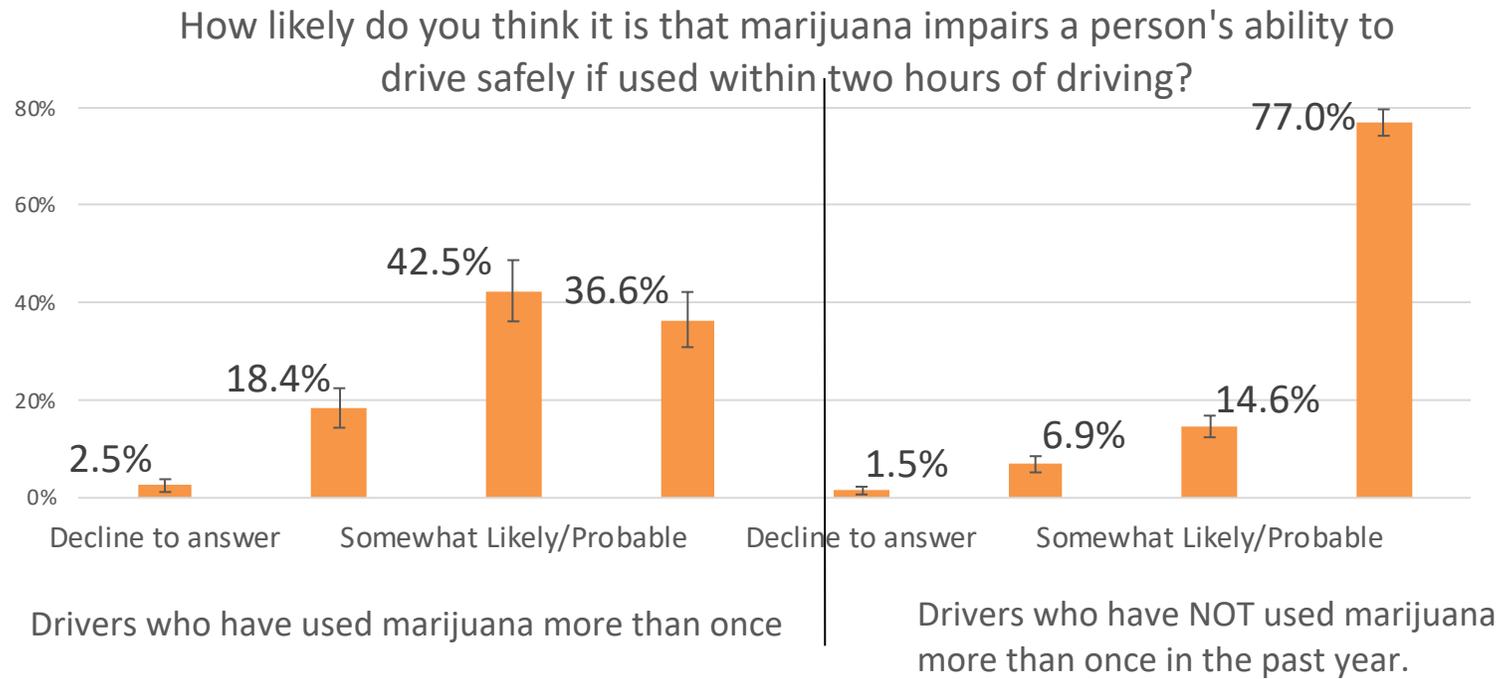
Does Marijuana Affect Your Driving? By Age Groups

(page 24)

When you used marijuana and drove, how do you think it affected your driving? -
By age groups

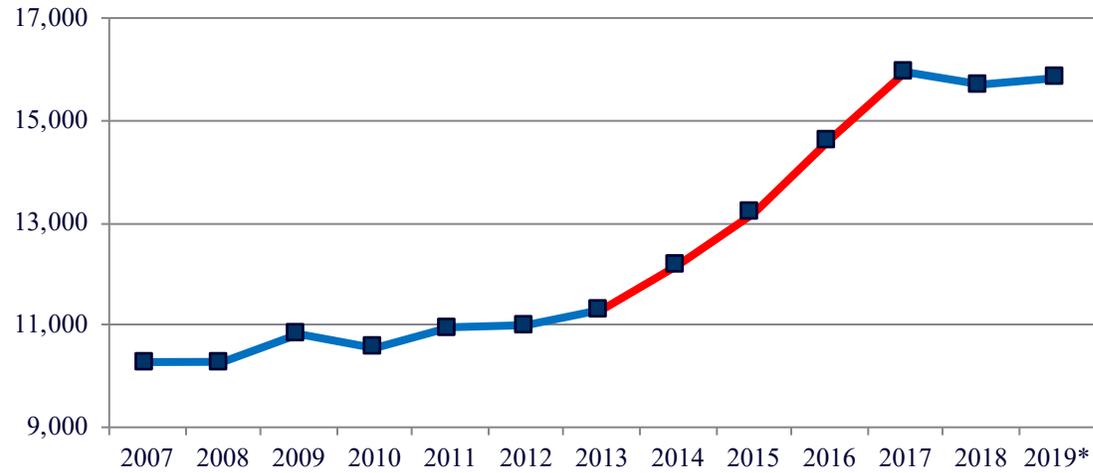


Do You Think Marijuana Impairs Driving? (page 25)



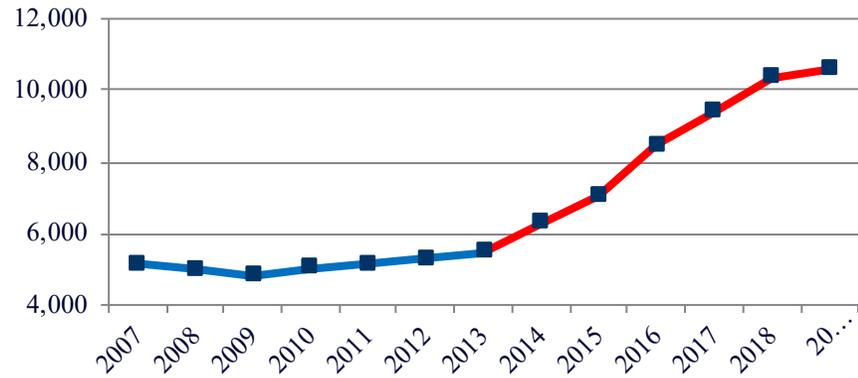
A few respondents thought if you smoke cannabis after drinking, it would reduce the alcohol impairment

Number of case submissions per year

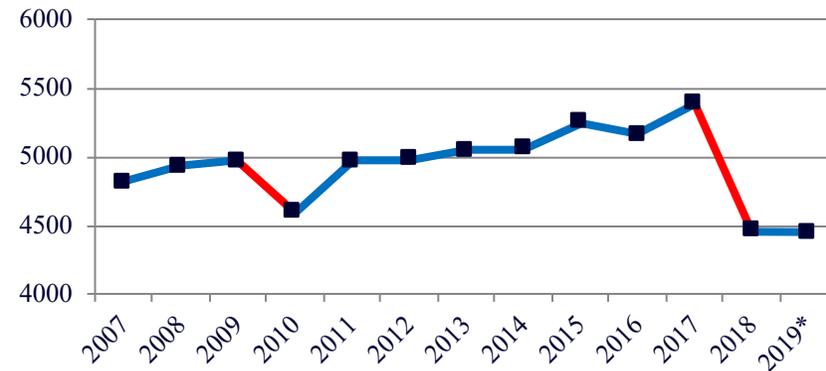


Projected 2019* - based on Jan-June 2019

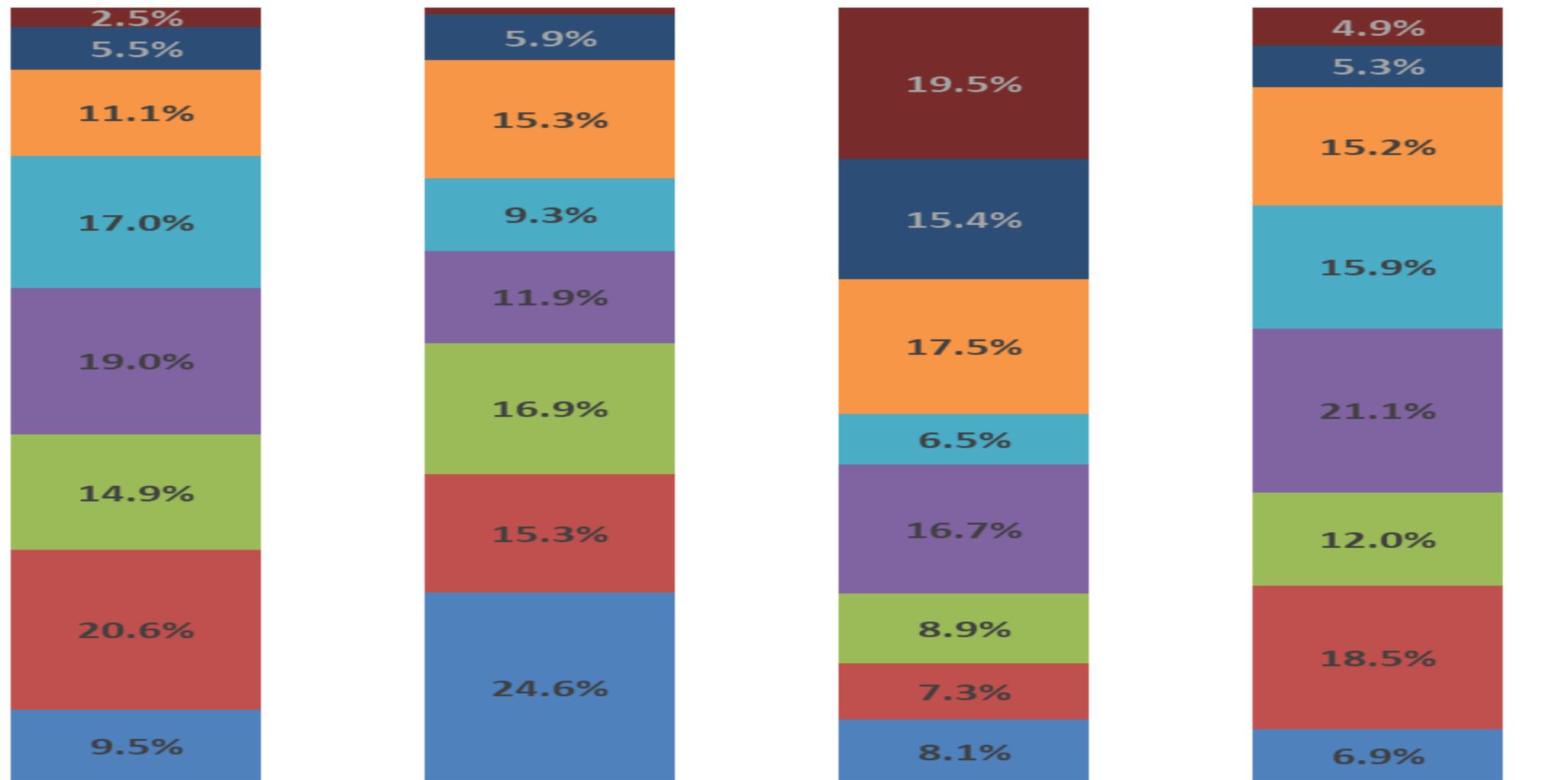
WA State DUI/DRE cases



Death Investigation cases



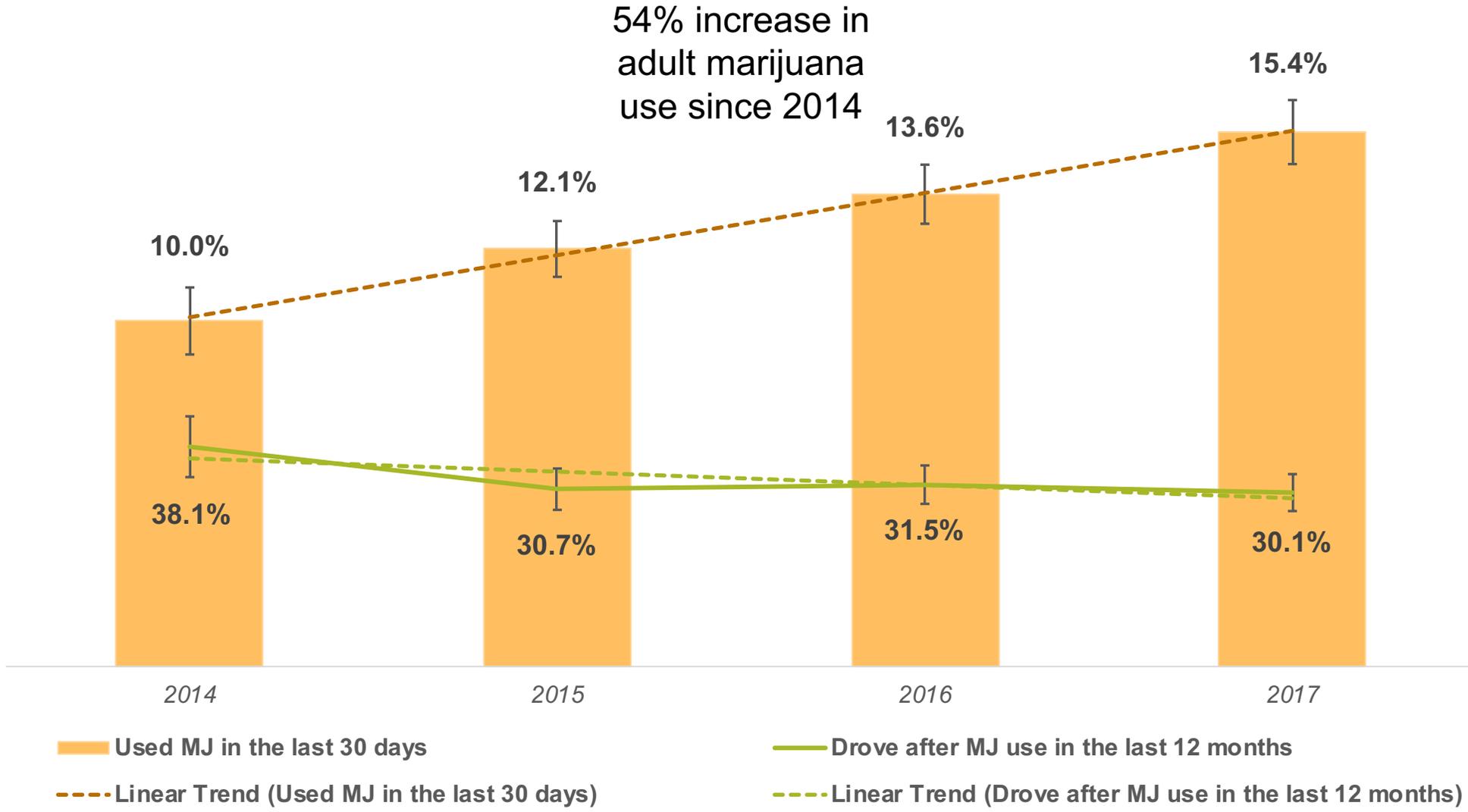
Driver Alcohol and Drug Results by Age Groups, 2008-2016



■ Ages <20
 ■ Ages 21-25
 ■ Ages 26-30
 ■ Ages 31-40
■ Ages 41-50
 ■ Ages 51-60
 ■ Ages 61-70
 ■ Ages 71+

Percent of Washington Adults Who Report Using Marijuana in the Past 30 Days, and Percent of Those Adults Who Report Driving After Marijuana Use in the Past 12 Months
Washington Behavioral Risk Factor Surveillance System (BRFSS), 2014-2017

54% increase in adult marijuana use since 2014



Used MJ in the last 30 days

Drove after MJ use in the last 12 months

Linear Trend (Used MJ in the last 30 days)

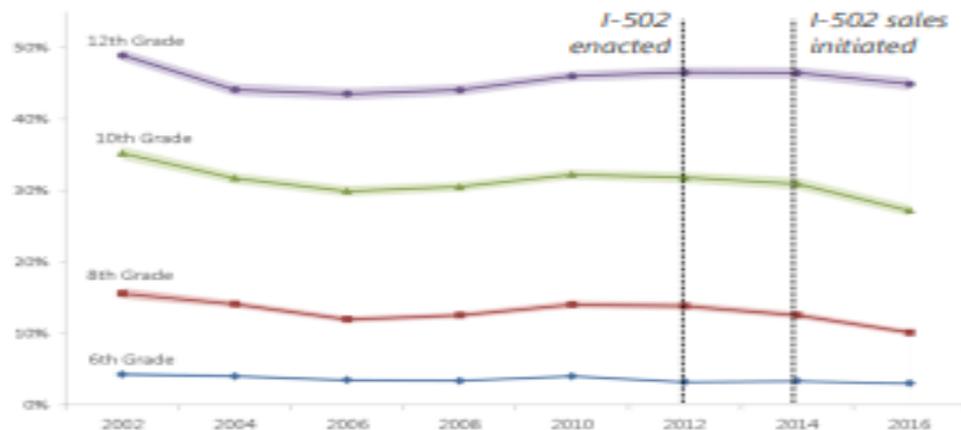
Linear Trend (Drove after MJ use in the last 12 months)



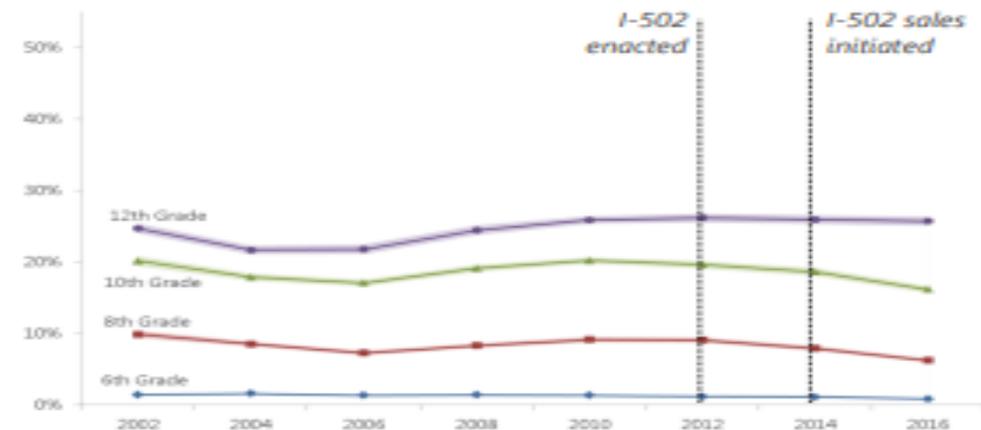
Exhibit 7

Washington Healthy Youth Survey, Selected Cannabis Items by Grade

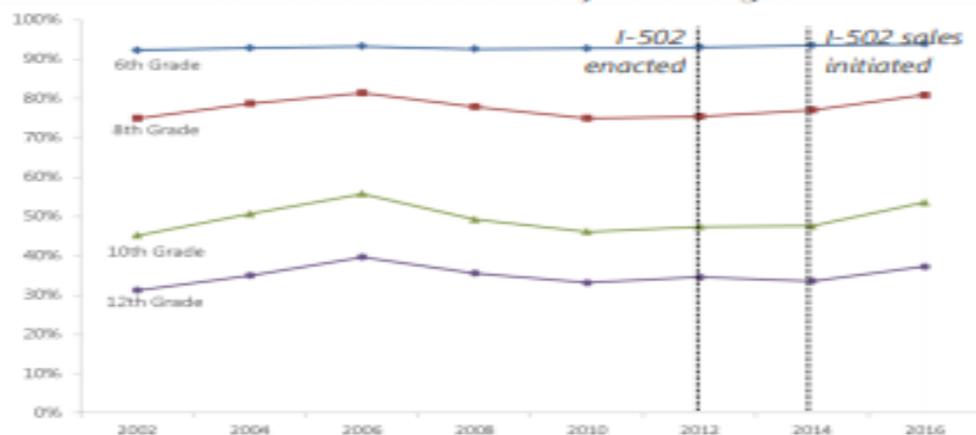
Lifetime cannabis users



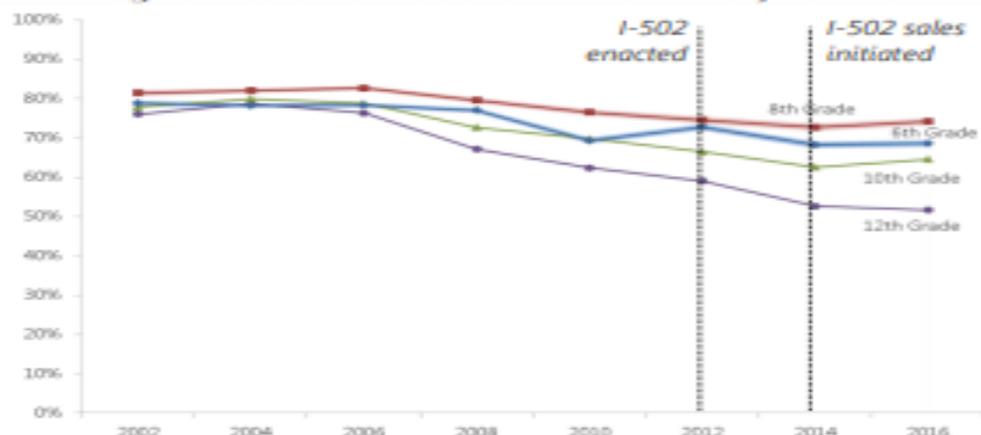
30-day cannabis users



Cannabis is hard or very hard to get



Regular use of cannabis is harmful or very harmful



Source:

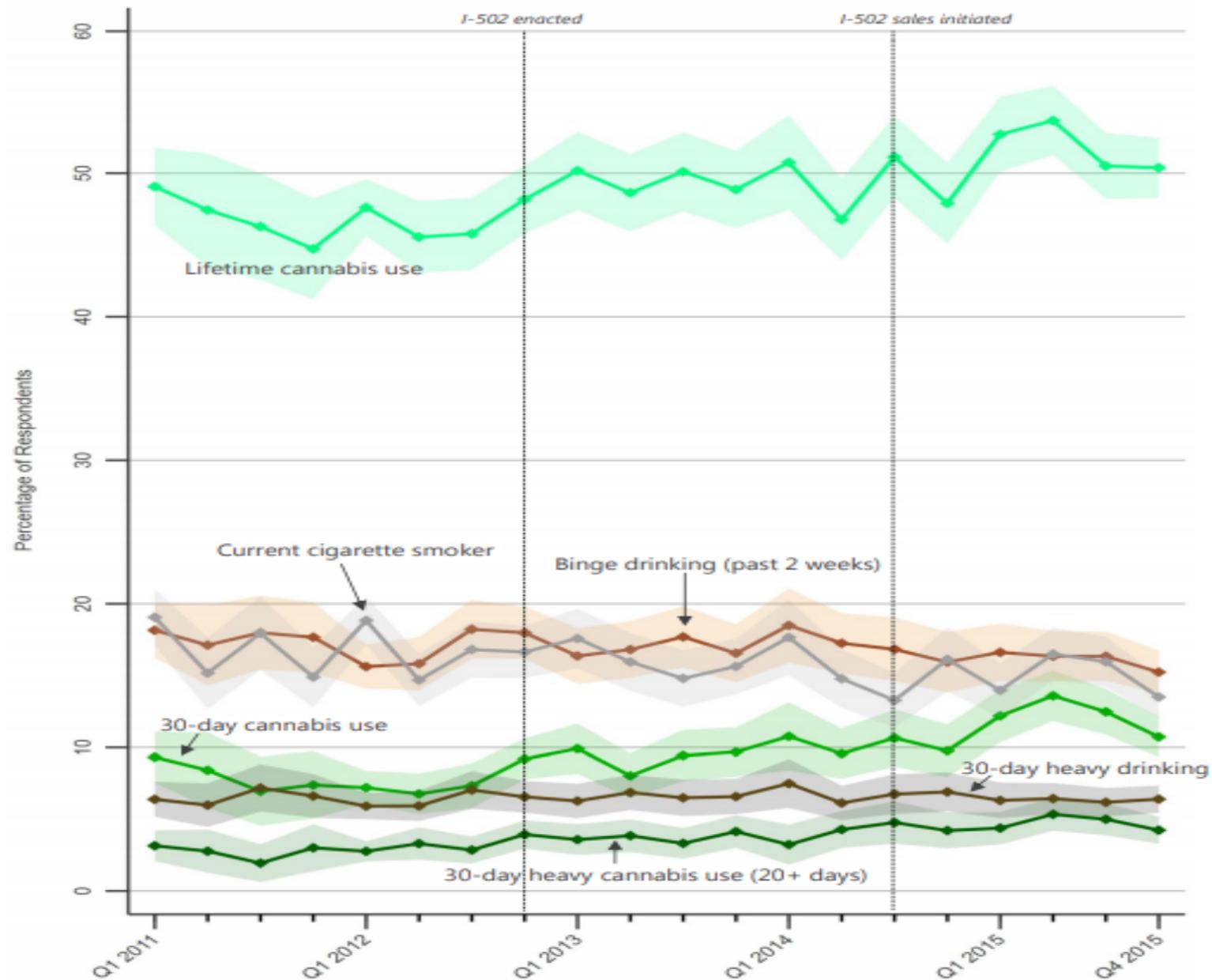
Washington Health Youth Survey, Census Data Set.

Note:

Shaded regions represent 95% confidence intervals.

Exhibit 8

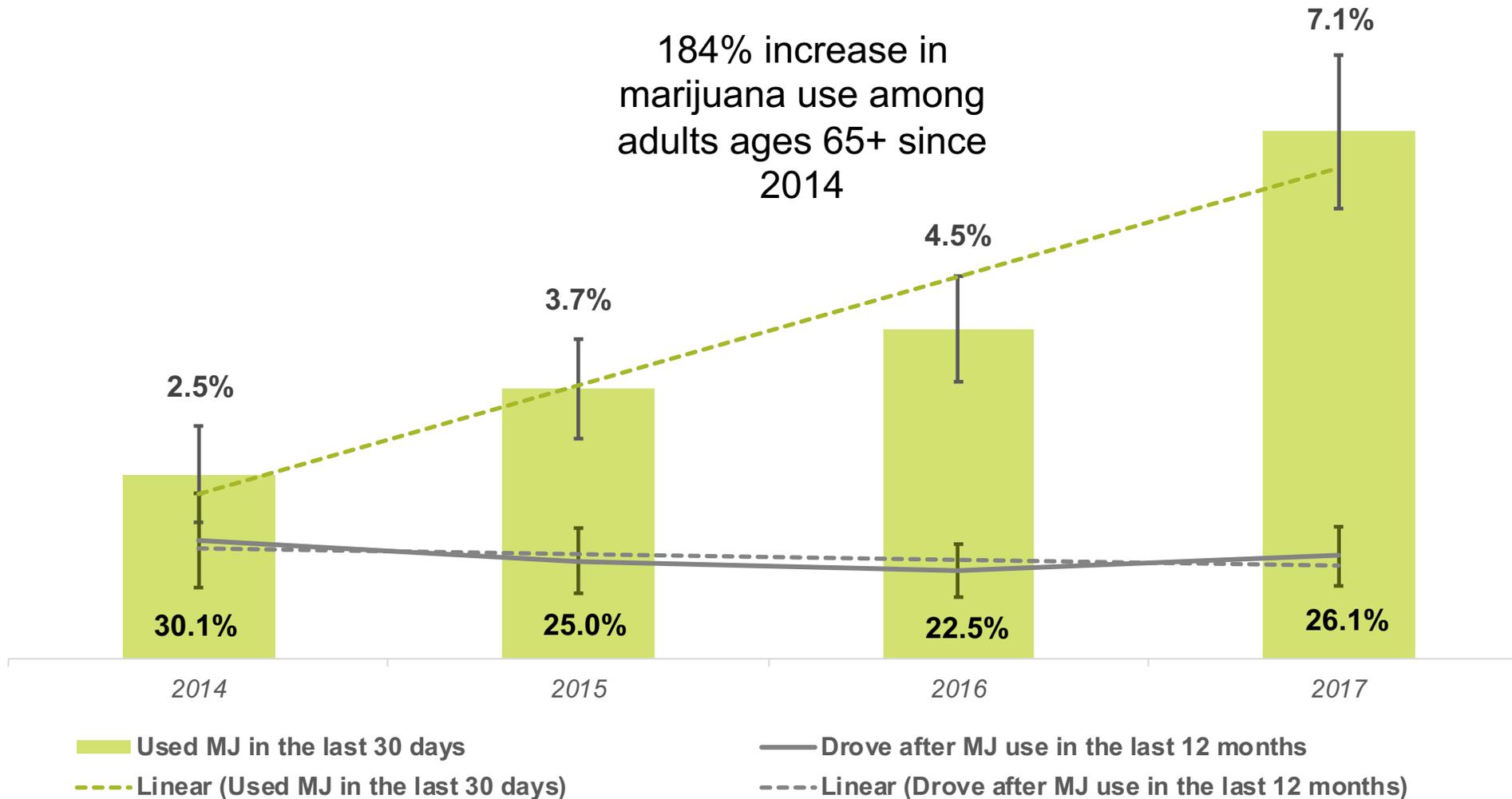
State Trends in Adult Substance Use (BRFSS), Quarterly 2011-2015



Note:
Shaded regions represent 95% confidence intervals.

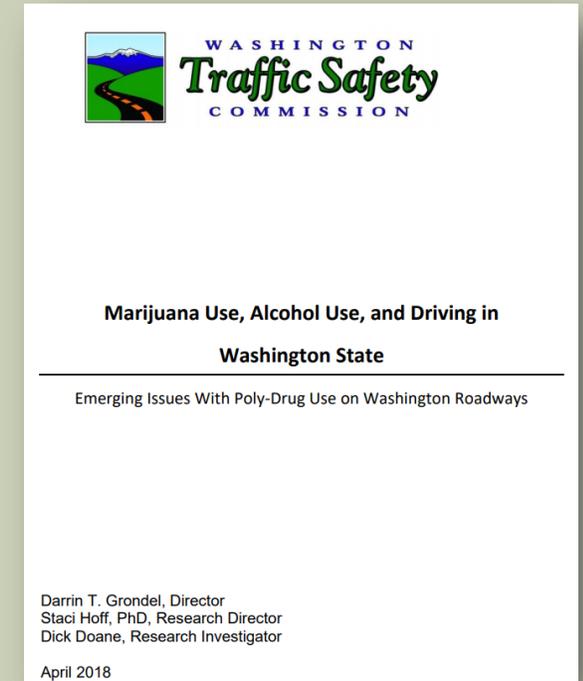
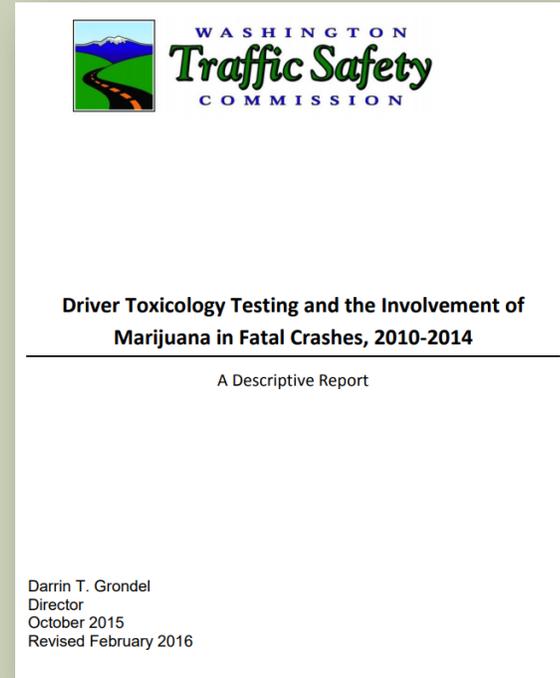
Percent of Washington Adults Ages 65+ Who Report Using Marijuana in the Past 30 Days, and Percent of Those Adults Who Report Driving After Marijuana Use in the Past 12 Months
 Washington Behavioral Risk Factor Surveillance System (BRFSS) 2014-2017

184% increase in marijuana use among adults ages 65+ since 2014



HISTORY OF WA DRUG ANALYSIS

- FARS + Detailed Toxicology (Specific Drugs AND Levels/units)
- Initial analysis has focused on specified marijuana results (THC vs Carboxy-THC) – all Carboxy-THC removed for analysis)
- Poly-drug analysis relied on specified marijuana results and FARS drug coding (minus all FARS coding relating to marijuana) = **LIMITATIONS**
 - FARS drugs “Type Unknown” and “Other” are specified in Washington’s drug abstracts, but have not yet been analyzed
 - Limited to the three drugs (minus marijuana coding) entered into FARS (through 2017)
 - Poly-drug combinations include drug-combos that are likely only ONE drug (for example methamphetamine-amphetamine, benzoylcegonine-cocaine, nordiazepam-diazepam)



<https://wtsc.wa.gov/research-data/traffic-safety-reports/>

WA DRUGS VS FARS DRUGS

- From 2008-2017, there were 134 unique drugs reported to the FARS unit from the lab (including acetaminophen, caffeine, nicotine, and ibuprofen) = 130
 - 111 drugs occur more than once
 - 52 drugs occur more than 10 times
- There are 430 unique drug codes for coding FARS
 - Washington has used 73 of these codes, only 31 more than 10 times
 - If you ignore “600’s” and 393/354 ([meth]amphetamines), then “Other” and “Depressants – Type Unk” are the most frequent codes comprising ~1/3 of the remaining drug results
 - Lots of information lost when coding only 3 drugs, in hierarchical order, including the coding of metabolites over active drugs



WA Drug Data = 5,391 drug results
FARS Drug Data = 4,158 drug results

NEXT STEPS FOR WA DRUG ANALYSIS

- COMBO CLEANUP – Develop all possible mutually exclusive polydrug instances in Washington fatal crashes
- PolyDrug Cleanup – identify combinations indicating single drug use (Methamphetamines-Amphetamines) and metabolite combinations (Benzoylecgonine-Cocaine)
- Format complete drug abstracts (do not use FARS drug coding)
 - Won't be limited to 3 drugs + Alcohol
 - In 2017, one driver involved in a fatal crash had alcohol + 11 drug results (5 metabolites and 6 active drugs)
 - Other-Other-Other is actually Trazodone (anti-depressant) and Fluoxetine-Norfluoxetine (Prozac and Prozac metabolite)
- Report 3 in our drug impaired driving series to be released in 2020

<http://wtsc.wa.gov/research-data/traffic-safety-reports/>



Currently (without 'cleanup') WA Drug data shows 741 UNIQUE combinations of drugs (NOT including alcohol).

BUT...

CURRENT DRUG CLEANUP INCLUDES...

- **Step 1:** Bring in alcohol information and separate into alcohol only and alcohol + positive drug results
- **Step 2:** Reconcile metabolites and their corresponding active drug and combine into a single drug or remove metabolites
- **Step 3:** Reconcile multiple active drugs likely to be present in a single drug use incident
- **Step 4:** For each person record, ensure drugs are ordered numerically or alphabetically.
- **Step 5:** Reconcile screening versus confirmatory results and ensure only the most accurate is represented. Include screening results only when positive and no corresponding confirmatory results are available.

Single Drugs versus Multiple Drugs

Metabolites (THC + Carboxy-THC, Cocaine + Benzoyllecgonine) – What about metabolite only?

Multiple drugs present in a single drug use incident (amphetamines + methamphetamines)

Screening and Confirmatory results – are you counting the same drug twice?

What is a drug? Caffeine, Nicotine, Ibuprofen, acetaminophen

WA Results for “Poly-Drug Drivers”

Drug Type	Count	Poly-Drug Driver?
carboxy.thc-thc	200	No – active + metabolite
thc-carboxy.thc	128	No – active + metabolite (Duplicate ordering)
amphetamines-methamphetamine	104	No – active + active
carboxy.thc-thc-cannabinoids	77	No – active + metabolite (Duplicate screening res.)
thc-carboxy.thc-cannabinoids	55	No – Duplicate ordering
carboxy.thc-cannabinoids	52	No – metabolite only + Duplicate screening res.
methamphetamine-amphetamines	38	No – likely single drug use incident + Dup Ordering
midazolam-benzodiazepines	13	No – Duplicate screening res.
amphetamines-methamphetamine-carboxy.thc-thc	11	YES!

- This short-list is 42% of WA’s “poly-drug” drivers, but only 2% of this group are actually poly-drug drivers!

CONCLUSION

- Even with a single, central toxicology lab, the drug data is subject to extensive clean-up and validation before reliable analysis can occur
- The prevalence of poly-drug drivers in WA may be inflated from earlier estimates due to the use of FARS data including counting of metabolites, multiple drug results from a single drug use incident, and duplicate reporting of screening and confirmatory results
- Even with complete drug results, be cautious of immediately attributing the crash to drug use or presence
- Other limitations will ALWAYS exist
 - Even a prescription drug within therapeutic levels does not mean it is a drug that was prescribed to THEM
 - Many drugs still have impairing effects at or even below “therapeutic levels”
 - Morphine
 - Quantification of drug interactions on driving performance

Road Side Strategies

- Electronic DUI packet
- Electronic Search Warrants
- Forensic Phlebotomy
 - Lakewood PD/Pierce County



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

SUBJECT'S NAME (LAST, FIRST, MI) _____ SEX M F DATE OF BIRTH _____ DATE / TIME OF ARREST _____
 STREET ADDRESS _____ CITY / STATE / ZIP CODE _____

DRIVER'S LICENSE NUMBER _____ COL. ENDORSED? STATE _____ COUNTY OF ARREST _____ CASE / CITATION NUMBER _____
 (CHECK IF YES)

BAC Readings - DataMaster 1st Sample _____ 2nd Sample _____ Refused Test _____
 BAC Readings - Draeger 1st Sample (IR) _____ 2nd Sample (IR) _____ Blood Alcohol _____
 1st Sample (EG) _____ 2nd Sample (EG) _____ Blood THC _____

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 drug, 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.

Driver's Hearing Request Information was given to the arrested person.

Notice of Right to Hearing: I have been given written notice of my right to a hearing, including the steps required to obtain a hearing, and understand that the notice of suspension, revocation, or denial of license will be mailed to the address of record on file with the Department of Licensing.

SIGNATURE OF DRIVER _____ DATE _____

Complete this box ONLY if the arrested person was driving a commercial motor vehicle as defined in Chapter 46.25 RCW at the time of the incident.

Operating a Vehicle Requiring a Commercial Driver's License

There were reasonable grounds to believe that the driver was driving a commercial motor vehicle while having alcohol, marijuana, or any drug in his or her system or while under the influence of alcohol, marijuana, or any drug. The driver was informed that refusing the breath test would result in disqualification from operating a commercial motor vehicle under RCW 46.25.050. A breath test was administered and the result indicated an alcohol concentration of 0.04 or more OR the person refused the breath test OR a blood test was administered pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law AND the blood test indicated an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

VEH. YEAR _____ MAKE _____ MODEL _____ LICENSE PLATE NUMBER _____ STATE _____ HAZARDOUS MATERIAL? YES NO

NOTE: If applicable, sign and date this page after toxicology report is received!

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing and the accompanying reports/copies of documents and the information contained therein are true, correct, and accurate. (RCW 9A.72.085)

LAW ENFORCEMENT AGENCY _____ OR NO. (if sign) _____ OFFICER'S SIGNATURE _____ DATE SIGNED _____
 MAILING ADDRESS _____ PRINTED NAME OF OFFICER _____ BADGE NUMBER _____
 CITY _____ STATE _____ ZIP _____ PLACE SIGNED (city / county / state) _____ CONTACT PHONE NUMBER FOR HEARING (include area code) _____

OFFICER'S E-MAIL ADDRESS _____ Department of Licensing
 Driver Records
 SwornReports@DOL.WA.GOV
 Fax: (360) 570-7026

OFFICERS: Fax or e-mail complete report, test result document, and supplemental reports to: _____ Number of pages: _____



STATE OF WASHINGTON
 COUNTY _____ COURT _____

STATE OF WASHINGTON,
 Plaintiff,
 v. _____
 Defendant.

NO.
 SEARCH WARRANT FOR EVIDENCE OF
 A CRIME, TO WIT:

VEHICULAR HOMICIDE, RCW 46.61.520
 VEHICULAR ASSAULT, RCW 46.61.522
 DRIVING WHILE UNDER THE INFLUENCE, RCW 46.61.502
 DRIVER UNDER TWENTY-ONE CONSUMING ALCOHOL OR MARIJUANA, RCW 46.61.503
 PHYSICAL CONTROL OF VEHICLE WHILE UNDER THE INFLUENCE, RCW 46.61.504

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

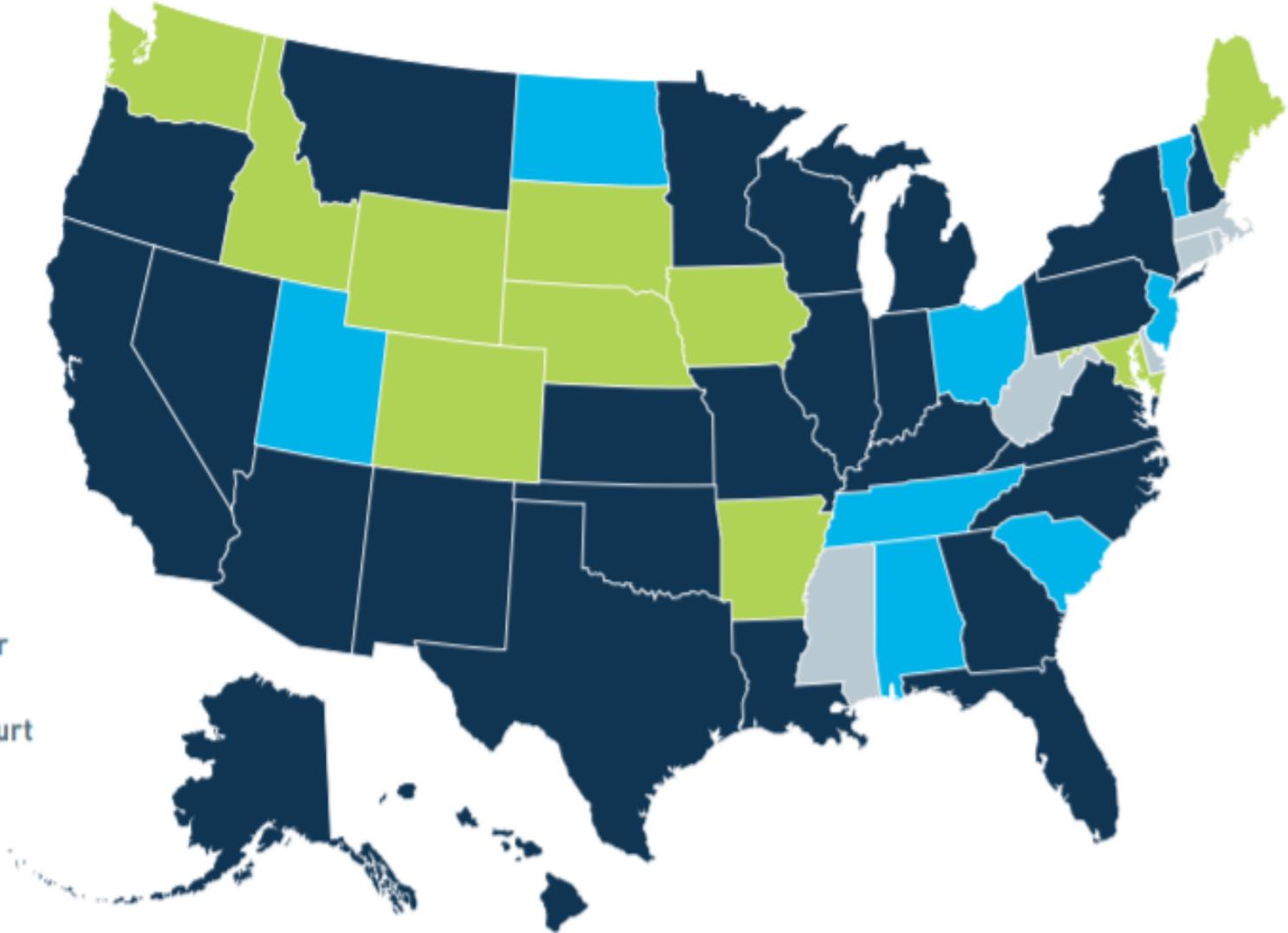
WHEREAS, upon the sworn complaint heretofore made and filed and/or the testimonial evidence given in the above-entitled Court and incorporated herein by this reference, it appears to the undersigned Judge of the above-entitled Court that there is probable cause to believe that, evidence of intoxicating liquor, marijuana, or any drug as defined by RCW 46.61.540, in violation of the laws of the State of Washington, evidence of the crime(s) of:

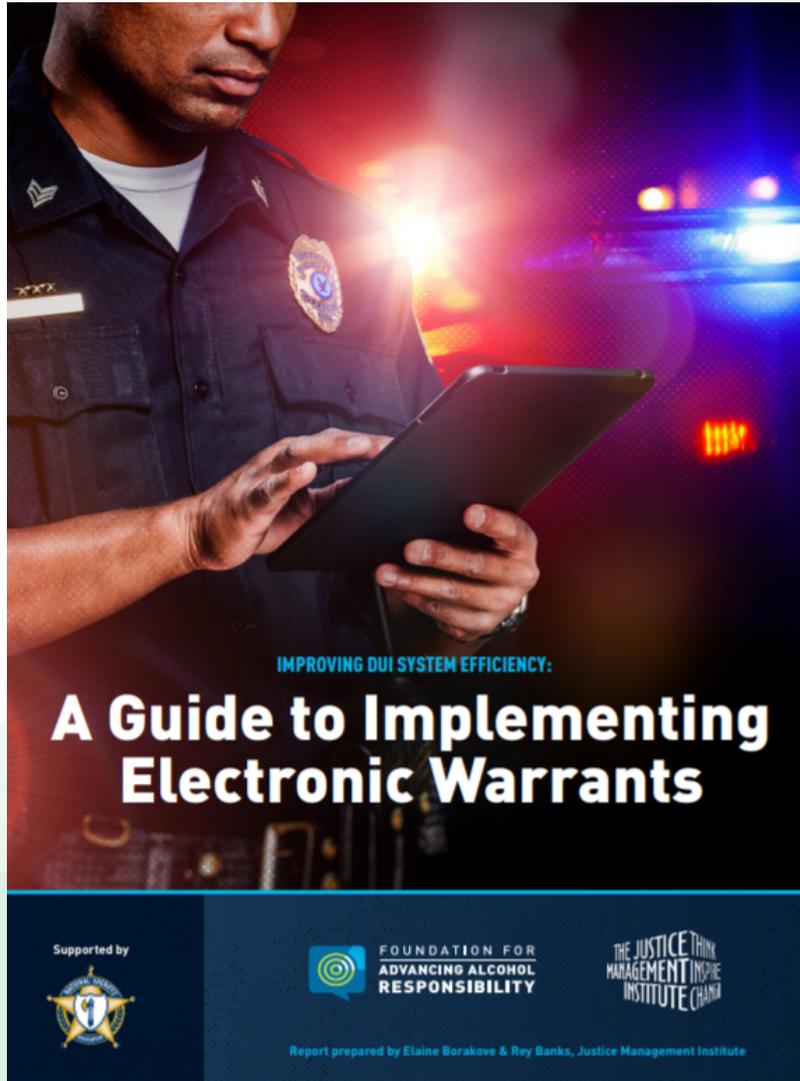
Vehicular Homicide, RCW 46.61.520
 Reckless Manner Under the Influence of Liquor or Drugs
 Disregard for the Safety of Others

FIGURE 1

Electronic Warrants (E-Warrants) Authorization

- Legislation
- Court Rule/Order
- Legislation & Court Rule/Order
- No Formal Authorization





eWarrants Report



eWarrants Implementation Guide

Read this guide to understand the importance of eWarrants.

DOWNLOAD



Executive Summary

Discover why we created this eWarrants guide and why it's needed.

DOWNLOAD



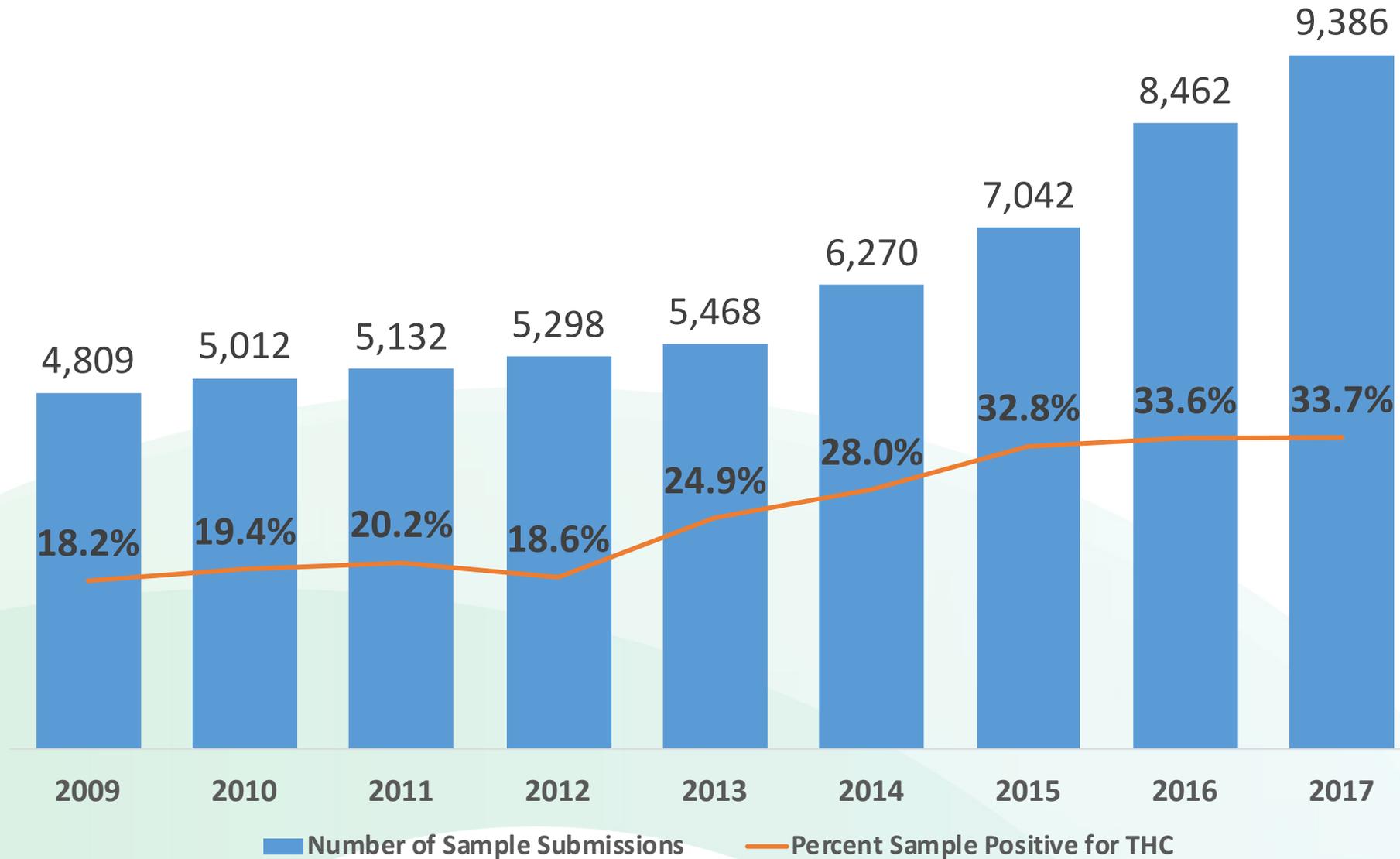
Legislative Checklist

This checklist outlines what's most critical for supporting eWarrants.

DOWNLOAD

www.responsibility.org/ewarrants

Washington State Patrol - Toxicology Lab Blood Sample Submissions for DUI Investigation



Jay Jex

June 2, 2016,
3550 So. Harrison Boulevard,
Ogden

2008 Mustang
2008 Toyota Prius
Speed 60-80 mph

Suspect: Kyle Brandon Yopez
measurable amounts of THC +
paraphernalia

