Dear Senator Huff:

On behalf of We Save Lives, we write in strong support of SB 1462 (Huff). This is a well-reasoned, balanced bill that enables the use of proven technology to assist officers in their challenging task of keeping drug-impaired drivers off our roads. We also take this opportunity to refute the misleading statements and factual errors submitted by the Drug Policy Alliance in opposition to SB 1462.

SB1462 wisely specifies that a preliminary oral fluid drug screening test indicates the presence or concentration of a drug or controlled substance. By itself, an oral fluid test does not, nor is it intended to prove impairment by any drugs that may be detected. Rather, the test is designed to and is proposed to be considered as one of many field sobriety tests that may be used by an officer to determine if the person was under the influence. The merit of an oral fluid drug screening test should therefore be judged by comparing it with other field sobriety tests in current use, including preliminary breath testing devices, and Standardized Field Sobriety Tests (SFST).

Alcohol impairment is assessed at the roadside by observing driving behavior and/or its results, using SFSTs, and using preliminary breath testers (PBTs). Drug impairment is assessed at the roadside by the first two means, and SB 1462 seeks to augment these with an analog of PBTs.

Roadside oral fluid testing devices commercially available from several companies have been evaluated by reliable third party researchers, showing accuracy ratings between 91% and 96%[i]. This is at least as good as the accuracy ratings for routinely used SFSTs that have been shown to be accurate between 86% and 95%. Although these devices are not perfect (none are), these data demonstrate that oral fluid roadside drug testing technology is suitable for routine use as proposed by SB 1462.

Let's look briefly at a few claims made by Jolene Forman, Staff Attorney for Drug Policy Alliance:

1. Oral fluid tests are unreliable. *The above data proves this is false.*
2. Oral fluid tests fail to establish that a driver is impaired. *So what? That's not their purpose.*
3. Forman lists a "host of problems" with drug testing. *These problems exist for all laboratory testing, including blood testing for alcohol. Established means have proven effective in solving these problems. Roadside oral fluid testing devices have been designed to minimize false positives, even at the expense of lowering sensitivity. For example, NMS recently reported that the Draeger DT5000 device registered a 1.5%*

false positive rate for THC, and a sensitivity rate of 58.3%, showing that false negatives are more of a problem than false positives.[ii]

4. Heavy marijuana users who abstain from marijuana use for at least a week have returned positive oral fluid THC tests. *The cited report used sensitive laboratory assays, not the less sensitive roadside oral fluid testing devices proposed in SB 1462. Moreover, heavy marijuana users who abstain from marijuana use for at least three weeks demonstrate durable impairment even when the level of THC is the body is so low that it cannot be detected in blood.[iii]*

5. NHTSA shows a poor correlation between the presence of a drug in the blood and the impairing effects of the drug. *Not true. The cited report shows a poor correlation between <u>concentration</u> of drug in the blood and the impairing effects of the drug.*

6. NHTSA showed that the mere presence of THC in a driver's blood does not demonstrate that a person is unsafe to drive. *Not true. The cited report stated, "There is no doubt that Δ9-tetrahydrocannabinol (THC) impairs its users' cognitive and psychomotor abilities to an extent largely determined by the inhaled or ingested dose. In a previous series of studies on the effects of THC alone we concluded that THC given in doses up to 300 g/kg has "slight" effects on driving performance (Robbe & O'Hanlon, 1993). The results of the present study now compel us to revise that conclusion."*

Drug Policy Alliance seems to be of the opinion that the primary drug whose use they are promoting does not impair driving. If so, their position stands in contrast to that of NORML, the National Organization to Reform Marijuana Laws. NORML's website recognizes that cannabis impairs safe driving, but it points out that it is safer to drive stoned than to drive drunk. NORML even promotes a smartphone app ("Canary") that is supposed to tell users when they are too stoned to drive.

We suggest that the legislature listen to facts and reason, rather than the false and misleading statements made by Drug Policy Alliance, statements that are not even supported by other members of the marijuana lobby.

Candace Lightner, President
Ed Wood, Director, Government Affairs

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[i] Logan, B.K. The Science of Oral Fluid Testing and its Current Applications in Drugged Driving Investigation. Presentation to Colorado's Interagency Task Force on Drunk Driving, February 2014
[ii] Logan, *op.cit.*
[iii] Bosker WM, Karschner EL, Lee D, Goodwin RS, Hirvonen J, et al. (2013) Psychomotor Function in Chronic Daily Cannabis Smokers during Sustained Abstinence. PLoS ONE 8(1): e53127. doi:10.1371/journal.pone.0053127