

Is intoxication lying in the weeds?

BY STEPHEN HOFFMAN

Marijuana is legal to some extent in over 30 states and counting — some for medicinal purposes, some fully decriminalized.

What are the implications for driving (including getting a DUI for marijuana intoxication), operating machinery, and driving through states where this herbaceous substance is not legal?

Most importantly, how can you tell when you are intoxicated?

Some states have decriminalized marijuana use for all purposes, or have made it illegal only to the extent of a minor municipal violation. Others allow medicinal use. Many allow both.

Meanwhile, the other states still hold marijuana to be illegal, for both recreational use and medicinal purposes.

To cast an even larger cloud over the room, the federal government still classifies marijuana as an illegal drug.

So it may be allowable to ingest mari-

juana in a state but not legal to operate a boat, motorcycle, or car while under its influence. It may be legal to ingest it in a state like Colorado, but illegal to take it from Colorado to a state where it is illegal, even if it was legal in the state from which it came. And if you drive with it into a state where it is illegal, it may get you in trouble in multiple ways.

If you think being stoned makes it hard to make sense of things, how about the fact that there is no uniformly accepted test for determining intoxication for marijuana use. In Illinois, it is illegal to drive while intoxicated, but it is very difficult without a contemporaneous medical test to even determine what level of pot use yields intoxication. Nor is there a standard for how to test this.

Saliva tests are invasive and costly, while breath tests are being developed but are not yet reliable.

There is no scientific consensus on what constitutes intoxication or impairment due



There are plenty of people who are able to use marijuana or medical products mimicking its effects and benefits who can still drive without impairment. Yet others cannot.

to marijuana.

Making matters even foggier is that pot stays in your system in the fat cells for around 30 days, meaning you could test positive for marijuana and its active ingredient, THC, yet not be remotely impaired.

Workers' compensation in Illinois makes things even more difficult. An employer can claim that an employee who was injured was intoxicated and thus is not entitled to workers' comp benefits. But the employer has to prove actual impairment at the time of the injury, meaning they would have to test the employee contemporaneously and have someone trained to testify about levels of intoxication.

What if your car insurance company ask if you use marijuana? Auto insurers already ask insureds to voluntarily exchange personal information in exchange for lower rates. This comes in the form of personal

tracking devices placed in vehicles.

It is certainly conceivable that insurers will ask people to volunteer information about legal drug use when applying for a policy of insurance, such as:

- Do you or a member of your household currently hold a valid medical marijuana card?
- Do you currently use marijuana regularly (defined as daily? Weekly? Monthly?)?
- Do you drive within (x # hours/days) after using marijuana?

Whether you live in a state where marijuana is legal could also be analyzed algorithmically to adjust auto insurance rates.

Where does data collection, ostensibly for public safety purposes, intersect with rights of privacy? You can expect these companies will be checking social media posts and sharing information with other insurance companies too.

Responsible people can indulge in a few beers, glasses of wine, or sips of whiskey and drive later on that day without any legal or medical impairment. There are also plenty of people able to use marijuana or medical products mimicking its effects and benefits who can still drive without impairment. Yet others cannot.

In short, the effect of marijuana and its companion substances can differ widely upon different people.

How the law should handle this is still open for debate whether you are a user for medical reasons or a stoner who just wants to embrace the hash pipe?

Stephen Hoffman is a North Side Chicago area lawyer and can be reached at 773-944-9737.

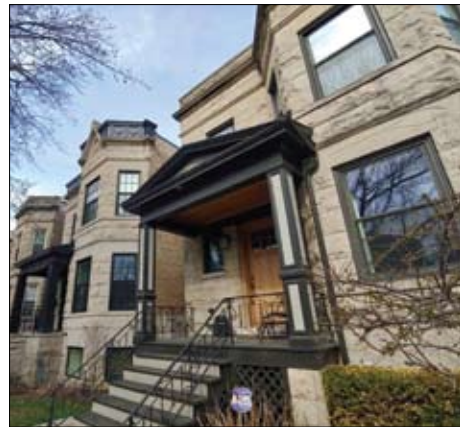
Meeting on preserving dwindling supply of two-flats, three-flats May 30 at Sulzer

How to preserve Chicago's dwindling supply of two-flat and three-flat apartment buildings will be the topic of a public forum from 6:30 to 8:30 p.m. May 30 at the Sulzer Regional Library, 4455 N. Lincoln Ave.

Two-flat and three-flat apartment buildings built between 1880 and 1970 have been identified as key sources of affordable housing in Chicago, but thousands of rental units in these buildings have been lost in the last 30 years due to a variety of factors, including neglect and abandonment, conversion to condominiums or single-family homes, or demolition for redevelopment.

Event organizers say that the idea behind this forum is to explore alternative approaches to preserving those rental units. The forum hopes to consider a range of ideas for how to achieve that goal, either through incentives or restrictions. The public meeting will feature a panel that includes: Ald. Matt Martin [47th]; Sarah Duda, Deputy Director of the Institute for Housing Studies at DePaul Univ.; Paul Shadle, of DLA Piper, with a law practice focusing on development, land use and government affairs; Steven Vance, CEO of Chicago Cityscape, a website offering detailed information about development in Chicago, and John Zachar, a Northside architect with experience in two-flat renovation and conversion.

"The importance of preserving two-flats and three-flats received considerable attention during the recent citywide elections,"



Event organizers say that the idea behind the forum is to explore alternative approaches to preserving rental units.

said Lynsey Sorrell, an architect who is one of the meeting organizers. "We want to maintain the focus on that topic and give our neighbors an opportunity to learn more about various approaches to preserving those units and the challenges involved in achieving that goal. It touches on so many important topics, such as zoning, building codes, historic preservation, sustainability and affordability. It's a citywide issue, but one with special relevance" on the North Side.

The forum will include brief presentations by the panelists, a discussion of issues and a question and answer session during which panelists will respond to written questions from audience members.



"Bravo for Theater On The Lake's restaurant, The Lakefront, helmed by Chef Cleetus Friedman."
- Crain's Chicago Business

LAKEFRONT
RESTAURANT

(312)414-1313 • 2401 N Lake Shore Drive • www.theateronthelake.com

Vintage Garage Heads North!



- May 19
- July 21
- September 15

1800 Maple, Evanston
10-5 \$6

VintageGarageChicago.com