

Personal injury implications of weed and impaired driving

By Kirsten McMahon, Associate Editor



With cannabis legalization just around the corner, Toronto personal injury lawyer **Jasmine Daya** says impaired driving rates and social and commercial host liability will likely be impacted — at least on a short- to medium-term basis as people adjust to the new normal.

“I don't think people realize the impact that cannabis legalization is going to have on Canada as a whole,” she tells **AdvocateDaily.com**. “From a personal injury perspective, most people aren't really thinking about how this is going to play out.”

Global News reports that almost two million Ontarians have driven under the influence of cannabis at some point, and more than 700,000 have done so over the past three months, according to a new study conducted by Ipsos.

“Furthermore, the study which was commissioned by CAA, found those who've driven while impaired by cannabis were more likely to have driven while impaired by more than one substance at a time — cannabis and alcohol, for example,” Global reports.

Once cannabis is legalized on Oct. 17, Daya, managing principal with **Jasmine Daya & Co.**, says this number will likely go up.

“Prior to legalization, people were partaking behind closed doors, and I think that legalizing cannabis is going to embolden individuals to use it and then do things they may not otherwise do — like driving,” she says. “When cannabis was illegal, you may have smoked pot at home and not driven because people will smell it or see it in your eyes.”

The problem is that police agencies, government and other stakeholders have yet to find a foolproof roadside test for detecting marijuana use, according to media reports.

“As well, with a substance like alcohol, you can have a glass or two — depending on a bunch of factors — and your blood alcohol level will still be under the limit, and you're not impaired to drive. With different strains and forms of cannabis being consumed, individuals may not be able to judge their own level of impairment before driving,” Daya says.

The other area where legalized cannabis and impaired driving will have an impact is social and commercial host liability, she says.

“If you are hosting a party and people are smoking a joint or consuming edibles, and an individual gets behind the wheel and injures themselves or others, you could also be found at fault,” Daya says. “And when you combine alcohol with cannabis, the impairment level is going to multiply.”

She says from a commercial host perspective, an individual may briefly step outside to smoke cannabis then come back inside an establishment and continue to drink alcohol.

“Again, the level of impairment is increasing at a faster rate, and it may be difficult for a server to monitor if a person is intoxicated,” she says.

“I'm not suggesting that people are not doing this already, but now that cannabis will have less stigma and be easier to find, there is a whole new demographic of individuals who may try it and not know how it affects them,” Daya says.