



American Civil Liberties Union
of Montana

Power Block, State 3 B

PO Box 1317

Helena, Montana 59624

406-443-8590

www.aclumontana.org

SENATE JUDICIARY

EXHIBIT NO. 12

DATE 1/20/09

BILL NO. SB212

SB 212

January 20, 2008

Chairman Perry, Members of the Senate Judiciary Committee,

For the record, my name is Scott Crichton. I have been privileged to serve as Executive Director of the American Civil Liberties Union of Montana since 1988. The ACLU is a non-partisan membership based organization with some 2,000 households in Montana counted among our membership. We are an affiliate of the national ACLU which has some 550,000 members. Simply put, ACLU's mission is to defend the Constitution and the Bill of Rights.

With all due respect to the sponsor and the reasons he cites for bringing this legislation forward, this bill appears to be a thinly veiled effort to thwart the will of 62% of Montana voters who voted overwhelmingly in 2004 to pass I-148.

SB 212 singles out medical marijuana users for what may be harsher penalties than alcohol impaired drivers and certainly deprives them of certain aspects of due process. Current DUI laws should be able to provide law enforcement with all the tools they need to do their job.

Under general principles of substantive due process, there has to be a reasonable basis for the legislation. In other words, substantive due process principles prohibit the Legislature from acting arbitrarily.

Although it is not arbitrary to prohibit someone from driving while impaired, it is arbitrary to go beyond regulating the driving and regulate the type of medicine that a person might be prescribed.

The rationale for regulating impaired driving is protecting public health and human safety on the roads, but that rationale does not support the broad sweep of prohibiting the use of medical marijuana if the reason for the rule disappears-- when an individual does not drive.

In taking away the medical marijuana registration and any prospect for future use of medical marijuana, the legislation arbitrarily precludes the use of medical marijuana for all subsequent legitimate purposes and needs.

It is arbitrary to preclude an individual from using medical marijuana when he or she is not posing any threat -- when he or she is not driving. In this way, the legislation violates substantive due process principles and is only a pretext to cut inroads into the voter-approved law.

I urge you to vote "Do Not Pass" on SB 212.