



# DUEY STROEBEL

STATE SENATOR • 20<sup>TH</sup> DISTRICT

## Testimony on SB 440

*September 16, 2021*

Thank you Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety for holding a public hearing on SB 440. This legislation seeks to establish a statutory distinction between the classification and penalties for traditional marijuana and high-potency butane hash oil (BHO). SB 440 creates steeper penalties for the manufacture and possession of BHO. Despite the significant differences between traditional marijuana and BHO, current law treats the two substances as one and the same.

Commonly referred to as dabs, shatter or wax, BHO is one of the most potent forms of cannabis, featuring delta-9-THC levels up to 90 percent.<sup>1</sup> BHO is a cannabis concentrate manufactured by pressurizing and washing butane over the marijuana plant and collecting the solution that results from the extraction process. The end product is often ingested through vaping or by adding it into baked goods.

For starters, the production of BHO is quite dangerous. There have been a growing number of incidents being reported in recent years that resulted in hospitalizations for severe burns.<sup>2-3</sup> This applies to both states that have and have not legalized marijuana.<sup>4</sup>

The consumption of BHO also carries its own set of harms, both for users and society as a whole. There is a strong association between the use of high-potency cannabis and the development or amplification of mental health and substance use disorders.<sup>5-7</sup> The adverse effects are even more pronounced among youth and young adults.<sup>8-9</sup> This is especially troubling given the fact that regular cannabis use has been steadily climbing to record levels in younger age groups.<sup>10-11</sup>

The societal harms stemming from more prevalent and more potent cannabis is well-established in research exploring the effects on public safety and violent crime, traffic safety and the workforce.<sup>12-14</sup> The narrative surrounding the alleged medical benefits of cannabis tends to readily dismiss the aforementioned harms.

It's in response to the aforementioned harms that states who recently legalized marijuana have implemented or considered THC potency caps in their regulated markets.<sup>15-16</sup> The UN recently called for the same.<sup>17</sup> Of course, the black market and the crime problems that come with it have not gone away in the states that have embraced the unfettered commercialization of cannabis.<sup>18-20</sup> Since it is likely to come up in the discussion on this bill, it bears mentioning that lawmakers in these states have chased the lure of increased tax revenues and ending the so-called mass incarceration of "first-time, low-level, non-violent" drug offenders. For context, drug possession was the most serious offense for 3.7% of our country's state prison population in 2018.<sup>21</sup> As of the mid-2018, only 0.3% of Wisconsin prisoners had a conviction solely for a cannabis-related offense.<sup>22</sup> In 2019, only 0.23% of Wisconsin prison admissions were for cannabis cases that did not include more serious crimes.<sup>23</sup>

Thank you again Chairman Wanggaard and members of the committee for your consideration of SB 440. I'd be happy to take questions following Representative James' testimony.<sup>1</sup>

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<sup>1</sup> Link to References (case-sensitive): <https://bit.ly/3EorGHj>

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- <sup>12</sup> Tabea Schoeler et al. (2016). Continuity of cannabis use and violent offending over the life course. *Psychological Medicine*, 46(8), 1663-1677. doi:10.1017/S0033291715003001
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STATE REPRESENTATIVE

**JESSE JAMES**

September 16, 2021:

Thank you Chairman Wangaard and other committee members for hearing Senate Bill 440, and for allowing me to testify today. My hope is to share knowledge on this topic, explain what butane hash oil is, how it is made, and why it is important to address the butane extraction of resin from marijuana plants and providing a penalty.

BHO (Butane Hash Oil or Butane Honey Oil) is a concentrated extraction of cannabis that has a THC concentration of up to 90%, making it the most potent marijuana concentrate in the world. While the THC flower may contain at most 30 percent THC, BHO extracts can contain 90 percent THC and above. BHO can also be known as butane honey oil due to its color and consistency. BHO or dabbing is the term used to refer to all concentrates that have been produced through butane hash oil extraction – this is the umbrella term for shatter wax and everything else. BHO comes in many different consumable forms but wax and shatter are two most common and popular terms in the BHO world. Wax is a soft and honey-colored concentrate that is easy to break apart and dab. Shatter is a solid, translucent, glass-like substance which breaks apart in shards. Shatter can have up to 80 percent THC. BHO budder is another form as well. It has a soft, butter-like substance and can have 90 percent THC or above. Budder is harder to come by than other BHO extracts.

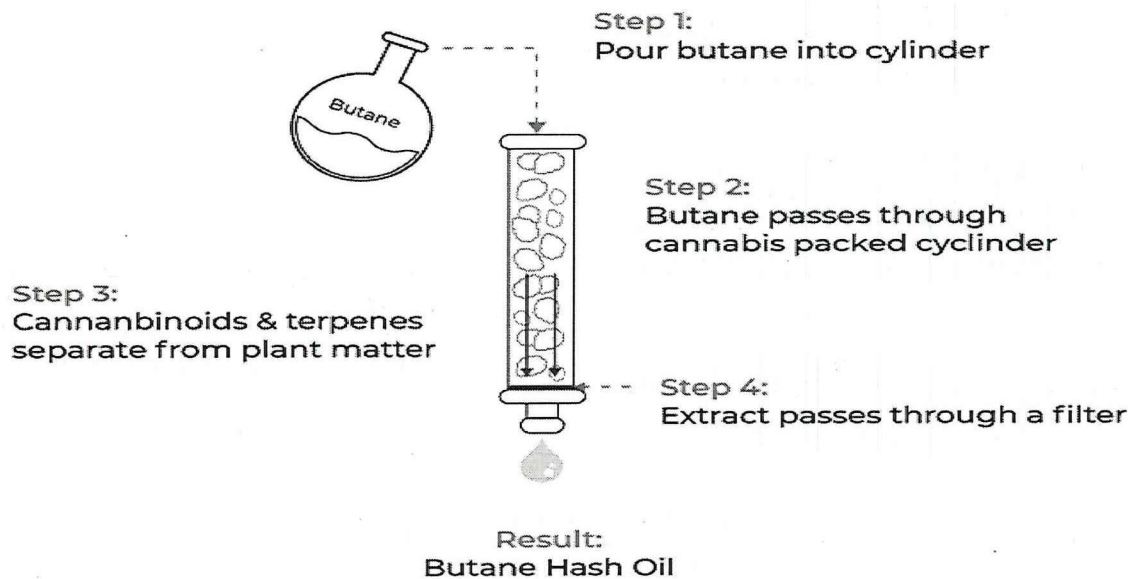
What is a BHO extraction? I wanted to find the simplest picture in an attempt to show you what the BHO extraction process looks like. Please see the attached image:

*(\*Image from website: PRECISION EXTRACTION SOLUTIONS\*)*



STATE REPRESENTATIVE  
**JESSE JAMES**

OPEN-LOOP SYSTEM



The use of butane is dangerous in this process, period, but more so if not done correctly. Butane is an odorless and highly-flammable liquid, having a low boiling point. Modern methods, using the closed-loop system remove the possibility of gas leaking, as it contains all of the flammable solvents within these closed-looped systems, but these are usually commercial-grade systems, used in a controlled environment. This process is safer, controlled, and effective compared to the open-loop system shown above.

The open-loop system is what we are seeing the most being used in homes, college dorms, hotel/motel rooms, etc. Using this method the butane used for extraction is released into the environment and atmosphere. A simple foot dragging across the carpet, creating an electro-static charge, or a simple spark from anything can easily cause a deadly explosion. If you google 'butane hash oil explosion' you will come across over 4,600,000 hits.



STATE REPRESENTATIVE

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# JESSE JAMES

My agency was involved in locating a BHO operation in the Chippewa Valley. Someone rented a room in a local hotel and left some of their product behind. The substance found looked like honey poured onto a piece of wax paper. When we asked our drug task force personnel about it, they said identified it as BHO and the value of product found was approximately \$7,000. We were able to get video, the vehicle involved, and ultimately the identity of those involved. It was a bigger operation than we initially thought and arrests were made.

So why is this bill being introduced? The criminal elements and punishments of possessing, manufacturing, and delivery of BHO is the same as marijuana. I understand marijuana is needed to make BHO, but the process is making a totally different product, with a higher potency, which sells at a higher rate, putting the lives of those who manufacture it and others at risk. Those who make BHO are intentionally doing so, knowing the dangers and risk, but are not taking it into consideration. Our drug task force partners were the ones who asked me to introduce this legislation and this is why we are here today. Thank you for your time and consideration and looking at increasing the penalties for this dangerous process.