

# Workplace Impairment and Cannabis Legalization

# Outline

- 1 Legalization of recreational cannabis
- 2 Impairment at work
- 3 Regulatory framework around workplace health and safety
- 4 Employer obligations
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- 6 Discussion

# What's new?

## Legalization of recreational cannabis

- The sky fell some time ago...
- 61% increase in daily/weekly cannabis use among 25- to 44-year-olds in past decade
- Use at workplaces:
  - 78% not at all
  - 10% less than once a month
  - 4% monthly
  - 8% weekly or daily
- Unclear what the trend will be

# What's not new?

## Impairment at work

- Physical or mental impairment, including impairment by alcohol, drugs, or other substances, can all affect a person's ability to work safely
- Impairment in the workplace is not a new issue
- Impairment is not limited to cannabis



# Regulatory framework

## Workplace impairment

### ***4.20 Impairment by alcohol, drug or other substance***

(1) A person must not enter or remain at any workplace while the person's ability to work is affected by alcohol, a drug or other substance so as to endanger the person or anyone else.

(2) The employer must not knowingly permit a person to remain at any workplace while the person's ability to work is affected by alcohol, a drug or other substance so as to endanger the person or anyone else.

(3) A person must not remain at a workplace if the person's behaviour is affected by alcohol, a drug or other substance so as to create an undue risk to workers, except where such a workplace has as one of its purposes the treatment or confinement of such persons.

# Regulatory framework

## Workplace impairment

### ***4.19 Physical or mental impairment***

- (1) A worker with a physical or mental impairment which may affect the worker's ability to safely perform assigned work must inform his or her supervisor or employer of the impairment, and must not knowingly do work where the impairment may create an undue risk to the worker or anyone else.
- (2) A worker must not be assigned to activities where a reported or observed impairment may create an undue risk to the worker or anyone else.

# Employer obligations

## General duty obligations and due diligence

- General obligation for employers to ensure the health and safety of workers
  - Make workers aware of hazards
  - Remedy any hazardous conditions
  - Establish policies and programs
  - Provide information, instruction, training, and supervision
- “Due diligence” as defence to a general duty order or administrative penalty

# Worker obligations

## General duty obligations

- General obligation of workers to take reasonable care to protect their health and safety and that of other persons
- Comply with the *Workers Compensation Act* and the Occupational Health and Safety Regulation
  - This includes ensuring that a worker's ability to work is not impaired by alcohol, drugs, or other substances



# What about testing?

- Not required by WorkSafeBC, but can form part of an impairment management program
- Limited application for cannabis
- No impairment standard for cannabis
- Testing cannot replace effective oversight, supervision, and management
- Limitations related to human rights and privacy legislation

# Employer obligations

## Identifying and assessing impairment

What are the tests to be met?

- “affect the worker's ability to safely perform assigned work”
- “ability to work is affected by alcohol, a drug or other substance so as to endanger the person or anyone else”

Functional impairment testing:

- Motor control
- Cognition — capacity to think and reason
- Behaviour
- Judgment — decision making

# Employer obligations

## What does compliance look like?

- WorkSafeBC will take signs pointing to impairment issues as a way to start the conversation
- Hazard identification
  - How aware is the employer of impairment issues?
- Policy
  - Is there an active policy? What does it look like? Is it enforced?
- Training and supervision
  - Are workers trained on the policy?
  - Are supervisors trained on identifying signs of impairment?
  - Are supervisors trained on a procedure to follow if they do?
  - How actively are workers being managed?
  - Is the employer turning a blind eye to workplace impairment?

# Employer obligations

## Now would be a good time to...

- Take a critical look at impairment in your workplace
- Talk to workers about workplace impairment
- Review your impairment policies:
  - Reinforce fitness for duty
  - Emphasize the worker's duty to inform of impairment
  - Address legitimate and documented medical cannabis use
- Train supervisors how to identify signs of functional impairment and what to do when they identify those signs
- Evaluate the need for formal drug and alcohol testing, and seek advice where needed

# Resources

## **Available now**

- “Cannabis and the workplace” media backgrounder
- “Workplace impairment: A primer on preparing for cannabis legalization”

## **Under development**

- “Workplace impairment and cannabis” page on [worksafebc.com](https://worksafebc.com)

# More information...

Government of Canada / Gouvernement du Canada | Canada.ca | Services | Departments | Français

## CCOHS

Canadian Centre for Occupational Health and Safety

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# Risk of Impairment from Cannabis

*what workplaces need to know*

Download the free white paper

Risk of impairment from cannabis: download the free white paper

Item 2 of 6 | Pause

### I WANT TO

- Take a course
- Develop a health and safety program
- Find what laws apply to me and my workplace
- See all products and services
- Login to my database

### WHAT'S NEW

- Impairment and Cannabis in the Workplace [e-course]
- Business Case for Workplace Wellness [e-course]
- Taking Action on Workplace Stress [infographic]
- Bullying and Harassment in the Workplace [test facts card]

### FEATURED CONTENT

- WHMIS 2015
- Focus on Safety Youth Video Contest
- Violence in the Workplace
- Risk Assessment
- Musculoskeletal Disorders
- Workplace Stress

Got a question? GET THE ANSWER

Youth VIDEO 2015

Day of Mourning

# More to come?



- Proposed new standard CAN/CSA Z1008
- **Occupational health and safety management of impairment in the workplace**

# Key points

- Impairment is not a new issue
- Existing workplace health and safety regulations require the following:
  - A worker's ability to work safely must not be impaired by alcohol, drugs, or other causes
  - A worker must advise the employer if the worker's ability to work safely is impaired
  - An employer must not assign an impaired worker to activities where it may create an undue risk
- Employers should actively monitor the workplace, supervise workers, and develop and enforce policies and procedures for their workplace



Discussion

# Contact us

## **General health and safety**

Prevention information line

Phone: **604.276.3100**

Toll-free (Canada): **1.888.621.7233 (1.888.621.SAFE)**

**Anne Dobson-Mack** - Prevention Practices and Quality

[Anne.Dobson-Mack@worksafebc.com](mailto:Anne.Dobson-Mack@worksafebc.com)