



Marijuana in the Workplace:

Risk Considerations for Employers

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President: National Drug Screening



Marijuana in the Workplace: Risk Considerations for Employers

- Risk Management Perspective
- Changing State Laws
- Marijuana is a drug, state laws are:
 - Confusing & Complex
- Connecticut Primary Focus
- Importance of Policy
- Regional, National, Federal, DOT Context



Impairs your memory.

Using marijuana can affect your memory, learning, concentration, and attention. Other effects include difficulty with thinking and problem solving.

Lowers brain power.

Marijuana affects your brain development. Use by adolescents has been linked to a decline in IQ scores — up to 8 points! Those are points you don't get back, even if you stop using.



Affects your performance.



Using marijuana can lead to worse educational outcomes. Compared with teens who don't use, students who use marijuana are more likely not to finish high school or get a college degree.

Driving danger.

People who drive under the influence of marijuana can experience dangerous effects: slower reactions, lane weaving, decreased coordination, and difficulty reacting to signals and sounds on the road.



**64.2 million Americans used marijuana in the past year
That's roughly 1 in 4 adults (about 23–25% of the population 12+)**

- Is your employee able to safely perform their job?
- Are there any specific signs of impairment?
- Document
- Get statements from any witnesses
- Verify with a drug test





RISKS FOR EMPLOYERS



Increased Workplace Incidents Risk



Evolving Legal Exposure



Insurance and Liability Impacts



Policy Inconsistency Risks



Connecticut & Employer Drug Testing

- Connecticut is generally a drug testing friendly state
- Pre-employment – post offer and notification of policy
- Restrictions on random testing (safety sensitive)
- Requires reasonable suspicion for all other types of testing
- Adverse action should be based on impairment
- Before termination of employment, employers should engage in an interactive dialogue with employees who test positive for marijuana, particularly regarding medicinal use or potential disability accommodations.

Connecticut

Medical Marijuana Protections

- Protected class of employees
- No discrimination without valid reason
- Employers **cannot discriminate** based solely on status
- Accommodation considerations
- Adverse action should be only if:
 - Employee is **impaired at work**, or
 - Conflict with **federal law or contracts**

Connecticut

Recreational Marijuana Law

- Legal for individuals **21+**
- Employers may:
 - Prohibit use, possession, and impairment at work
 - Maintain drug-free workplace policies
- **Limitations:**
 - Positive test alone may not justify discipline in all roles
 - Restrictions on **pre-employment testing**
- **Address in company policy**
 - Employers can lawfully discipline or terminate an employee for violating policy

CT Testing Limitations

- Pre-employment testing restrictions
 - Advance notice, policy, safety-sensitive
- Only urine for drug testing
- Allowed for safety-sensitive roles
- Allowed under federal requirements
- Policy clarity critical

Case Example – Connecticut

- Employee tests positive (off-duty use)
- Non-safety-sensitive role
- Termination challenged
- Employer faces discrimination claim

Northeast Trends

- Strong employee protections
- Restrictions on adverse action
- Impairment focus increasing
- Multi-state policy complexity

Northeast Overview

- NY: strong employee protections
- NJ: impairment recognition required
- MA: accommodation considerations
- Trend: protecting off-duty use

National Landscape

- Majority of states legalizing
- Patchwork compliance requirements
- Shift away from zero-tolerance
- Shift away from testing for Non-psychoactive cannabis metabolites (urine – THC, CBD); off the job usage
 - California
 - Washington

Federal Law Conflict

- Rescheduling from I to III
 - Has not happened
 - Effects to be determined
 - Does not make it legal
- Marijuana illegal federally
- Drug-Free Workplace Act
- Federal contractors impacted

DOT Requirements

- Zero tolerance for marijuana
- No medical exceptions
- Mandatory testing programs
- Immediate consequences for positives

FEDERAL & DOT REGULATIONS

FEDERAL LAW SUPERCEDES STATE LAW



⚠️ MARIJUANA REMAINS ILLEGAL FEDERALLY

- ✔️ Applies to Federal Contractors
- ✔️ Drug-Free Workplace Act
- ✔️ No Medical Marijuana Exception

DOT DEGULATED EMPLOYEES - STRICT RULES



REQUIRED TESTING:

- ✔️ Pre-Employment
- ✔️ Random
- ✔️ Post-Accident
- ✔️ Reasonable Suspicion

⚠️ POSITIVE TEST = DOT VIOLATION

NO EXCEPTIONS FOR MEDICAL MARIJUANA

Risk: Employee Marijuana Use

- Impairment and accidents
- Reduced productivity
- Increased workers' comp claims
- Negligent retention risk



Risk: Eliminating Marijuana Testing

- Loss of deterrence
- Higher incident frequency
- Insurance premium impact
- Weakened legal defense

RISKS FOR EMPLOYERS

EMPLOYEES USING MARIJUANA

VS. EMPLOYERS NOT TESTING



Workplace
Accidents

Productivity Loss

Workers' Comp
Claims

Liability
Exposure



Reduced
Deterrence

Increased
Safety Incidents

Higher Insurance
Costs

RISK MANAGER'S CHALLENGE

Balancing Safety, Compliance, & Cost

Case Example – Safety Incident

- Employee not tested for marijuana
- Workplace accident occurs
- Post-incident impairment suspected
 - Increased liability and claim costs

Case Example: Discrimination Claim

- Employee uses medical marijuana off-duty
- Positive test → termination
- Role not safety-sensitive
 - **Potential legal exposure under CT law**



PRACTICAL DECISION FRAMEWORK



CONNECTICUT FOCUS | REGIONAL | FEDERAL | DOT

SITUATION

RECOMMENDED APPROACH



Safety-sensitive role



Continue marijuana testing



Non-safety-sensitive (CT)



Evaluate policy + legal limits



DOT-regulated



Follow DOT – zero tolerance



Medical marijuana user



Focus on impairment, not status

PRACTICAL DECISION FRAMEWORK

Balancing Safety, Compliance, & Cost

Risk Management Best Practices

- Maintain **clear written drug & alcohol policy**
- Define **safety-sensitive positions**
- Continue testing where appropriate:
 - Safety-sensitive roles
 - DOT-regulated positions
- Train supervisors on:
 - **Reasonable suspicion**
 - Documentation
- Stay current with **state-specific laws**

Summary Questions

- **Can we still test for marijuana in Connecticut?**
- **A:** Yes — but with limitations.
 - Restricted for many **pre-employment situations**
 - Allowed for **safety-sensitive roles**
 - Always allowed for **DOT and federally regulated positions**
- **Can we terminate an employee for a positive marijuana test?**
- **A:** It depends.
 - **Not always permitted** for non-safety-sensitive roles
 - Must consider:
 - State law protections
 - Job type
 - Evidence of **impairment**

Summary Questions

- **Do we have to accommodate medical marijuana use?**
- **A:** In many cases, yes.
- Employees are a **protected class in CT**
- **Exception:**
 - Workplace impairment
 - Safety Sensitive
 - Federal law conflict
- **What is our biggest risk—testing or not testing?**
- **A:** Not testing often creates greater risk.
 - Increased accidents and claims
 - Reduced deterrence
 - Weaker legal defense

Summary Questions

- **How does DOT impact our policy?**
- **A:** DOT overrides state law.
 - **Zero tolerance for marijuana**
 - No medical marijuana exceptions
 - Mandatory testing programs
- **What should risk managers focus on right now?**
- **A:**
- **Define safety-sensitive roles**
- **Ensure policy clarity and consistency**
- **Train supervisors on reasonable suspicion**
- **Align with CT + federal requirements**

Key Takeaways

- CT law = protection + employer rights
- Safety risks remain significant
- Marijuana legalization ≠ reduced workplace risk
- Federal/DOT override state laws
- Employers must balance:
 - **Safety**
 - **Compliance**
 - **Cost**

“The goal is not just compliance—
it’s reducing risk while maintaining a safe workplace.”



QUESTIONS & ANSWERS



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