

Safety Alert OF THE MONTH

PLEASE PASS THIS ON TO PEOPLE AND ORGANIZATIONS IN BC'S FOREST INDUSTRY

June 2018

Is Your Workplace Ready for Legalized Marijuana?

The date for the legalization of marijuana in Canada is set for October 17, 2018. Employers may be concerned about the upcoming legalization of marijuana and how it is going to affect their business. Will it mean a big change for how forestry businesses run their operations? Not necessarily. Let's look at some of the common questions and debunk some of the myths.

Q: Does this mean that workers can now be impaired at work?

A: No! There are strong regulations already in place that prohibit any worker from being impaired at work. Employers are required to remove impaired workers from the worksite.

Q: My business already has a workplace alcohol and drug policy and procedures. Do I have to change anything?

A: When marijuana is legalized, update your program so marijuana, including edibles, is treated the same as alcohol. For example, many policies prohibit the use, possession and transportation of alcohol on the worksite and it should be the same for marijuana. Also, like alcohol, workers should not be allowed to report for duty when "hungover" from marijuana use.

Q: What about medical marijuana? Can an employee take marijuana at work if they have a prescription?

A: No. Based on the known effect of marijuana and its ability to impair, workers in Safety Sensitive positions should not be using marijuana, in any form, while at work. A recent arbitration concluded that daily, off duty, use of medical marijuana rendered the worker unfit for safety sensitive work. While this decision is not binding law, it does provide guidance on the matter.

Q: Does removing the impaired worker mean that I can fire them?

A: No, the employer has a duty to investigate the reasons for the impairment first. If the impairment is due to a medical condition, including an addiction, the worker has to be accommodated under Human Rights legislation. The employer will need to consult with outside experts to determine how to get that employee back to work without being impaired which will almost always include some form of rehabilitation. If the worker refuses to participate in the process he or she can be terminated.

Q: Is there a requirement to test workers for alcohol or drugs?

A: There is no legal requirement to do this but testing provides proof as to whether or not the worker has used alcohol or drugs and is therefore a useful tool. Testing must be done to a high standard to produce



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reliable test results that are useful for investigations. Only lab based testing protocols should be relied upon when determining the presence of drugs and only evidential grade breath alcohol units (Breathalyzers) should be relied upon for determining the level of alcohol in a worker's system.

Q: What's the bottom line here? How do I address legal marijuana at work without going broke?

A: If you don't already have a solid drug and alcohol policy in place that includes marijuana, consult an expert and create one. You may also use the free resources listed below and consult your industry associations for support. Then, make sure everyone knows and understands the policy and procedures, especially supervisors. Focus on assessing your employees and making sure they are meeting those expectations. If an employee appears impaired at work, investigate and work with them and outside experts, if necessary, to fix the problem.

Resources

1) WorkSafeBC Information on Preparing for Cannabis Legalization

<https://www.worksafebc.com/en/about-us/news-events/announcements/2018/May/workplace-impairment-primer-preparing-cannabis-legalization>

2) Workplace Strategies: Risk of Impairment from Cannabis from the Canadian Centre for Occupational Health and Safety

http://www.ccohs.ca/products/publications/cannabis_whitepaper.pdf

3) Marijuana, Workplace Safety & Your Business from the Denning Health Group

<https://www.denninghealth.ca/marijuana-workplace-safety-your-business/>

4) Medical marijuana found to be undue hardship for employers (CANNAMM post on recent tribunal finding)

<https://www.cannamm.com/news/medical-marijuana-found-to-be-undue-hardship-for-employer/>

5) Guide to help employers in the forest industry implement an effective workplace alcohol and drug program

<https://www.bcforestsafesafe.org/node/2226>

