

Frequently Asked Questions

Workplace Safety and Legalization of Cannabis

What are the concerns of the effect of cannabis legalization on workplace safety?

Ingesting or smoking cannabis has short-term effects that influence a person's mental and physical abilities. Short-term effects of cannabis use will vary:

- If smoked, effects are felt within seconds or minutes, and can last 6 hours or longer.
- If ingested, effects are felt within 30 minutes to 2 hours, and can last 12 hours or longer.

Short-term effects:

- Confusion
- Fatigue
- Reduced ability to remember, concentrate, and pay attention
- Reduced ability to act quickly
- Anxiety, fear, or panic
- May result in psychotic episodes

The effects of cannabis can last for up to 24 hours or more after use. The workplace safety concern is that workers could be impaired during the course of performing their work, which could affect their ability to perform work safely.

Impairment caused by short-term effects may include:

- Coordination
- Reaction time
- Ability to pay attention
- Decision-making ability
- Ability to judge distances

How is impairment handled when it concerns workplace safety?

Employers have a duty to ensure a worker whose ability to function is impaired as a result of fatigue, illness, alcohol, drugs, or any other condition that may be hazardous to the safety and health of any employee in the workplace does not perform any tasks they may not be able to perform safely.

The level of impairment determines if a person is fit to work, where "fit to work" means a worker can safely do a specific job or task. Establishing the level of impairment will determine if a person is fit to work, not fit to work, or fit to work with modifications.

Will there be any changes to the *Safety Act* and the *Occupational Health and Safety Regulations*?

Currently, the *Safety Act* states that “every employer shall take all reasonable precautions and adopt and carry out all reasonable techniques and procedures to ensure the health and safety of every person in his or her establishment”. **(Section 4.1(b))**

The *Safety Act* also states that “every worker employed on or in connection with an establishment shall, in the course of his or her employment, take all reasonable precautions to ensure his or her own safety and the safety of other persons in the establishment”. **(Section 5(a))**

Known as “general duty”, these clauses include the responsibilities of employer and worker to ensure a safe workplace and safe work practices. This would include an employer ensuring workers who are impaired do not perform any tasks they may not be able to perform safely, and workers taking steps to ensure they are not impaired or otherwise unable to safely perform their work.

The WSCC is reviewing possible amendments to the legislation that would include a “fit to work” clause to specifically address impairment and the ability of a worker to safely carry out tasks.

Will there be any changes to the *Mine Health and Safety Act* and *Mine Health and Safety Regulations*?

Currently under the *Mine Health and Safety Act*, “the owner of a mine shall take every reasonable measure and precaution to protect the health and safety of employees and other persons at the mine.” **(Section 2.1)**

With regards to the use of alcohol and drugs, the *Mine Health and Safety Regulations* states that “an employee shall not be impaired by alcohol or drugs while at work”. **(Section 18.01(f))**

The WSCC is reviewing whether any amendment to the legislation is necessary as a result of the legalization of cannabis.

What are the specific requirements and duties of employers and workers?

For example:

- Do workers have to tell their employers that they have smoked or ingested cannabis, but not at work?
- What if an employee tells his or her supervisor they are under the influence of cannabis?
- When can employers conduct drug tests?
- Will there be exemptions for medical marijuana users?
- If a supervisor suspects that a worker is under the influence of cannabis at work, what do they do?

The answers to these questions will depend on the type of work and the worksite. Employers should determine what steps need to be reasonably taken to meet their general duty requirement to ensure the health and safety of persons in their establishment. Workers should inform their employers of known physical or mental impairments or limitations where these impairments or limitations may endanger themselves or others in the workplace.

The WSCC recommends that employers develop drug and alcohol policy and procedures, and educate all employees on the policy and procedures. The policy and procedures should:

- Outline Employer, Supervisor, and Worker responsibilities;
- Include a definition of impairment;
- Include a commitment that the employer will not permit workers who are impaired to work if their impairment poses a hazard to themselves or other workers;
- Detail how the employer will manage use of prescribed medications, including medical marijuana;
- Explain the circumstances where an employer will use testing to determine if an employee is fit to work;
- Detail preventive measures;
- Include a commitment from the employer to take corrective action regarding any worker who knowingly works while impaired;
- Include an implementation plan, employee education, and a program evaluation; and
- Have each employee sign that they have reviewed, understand, and will work according to the policy and procedures.

