

Workplace Impairment and Cannabis Legalization

WORK SAFE BC

Outline

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

2

Legalization framework in BC

Cannabis Control and Licensing Act (CCLA)

- Sets 19 as the provincial minimum age to purchase sell or consume cannabis;
- Allows adults to possess up to 30 grams of cannabis in a public place;
- Prohibits cannabis smoking and vaping everywhere tobacco smoking and vaping are prohibited;
- Prohibits cannabis smoking or vaping in enclosed workplaces and closer than 6m from their doorway, window or air intake;
- Prohibits cannabis consumption on school properties and in vehicles;
- Authorizes adults to grow up to four cannabis plants per household,

3

Legalization framework in BC

Cannabis Control and Licensing Act (CCLA) (cont'd)

- Establishes a cannabis retail licensing regime similar to the current licensing regime for liquor;
- Provides enforcement authority to deal with illegal sales;
- Creates a number of provincial cannabis offences which may result in a fine ranging from \$2,000 to \$100,000, imprisonment of three to 12 months, or both; and

Cannabis Distribution Act (CDA)

- Establishes a public wholesale distribution monopoly; and
- Establishes public (government-run) retail sales, both in stores and online.

4

Cannabis use - what's new?

Legalization of recreational cannabis

- 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

5

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
- Workplace impairment has been regulated for some time!



6

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.

7

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.

8

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” defence to a general duty order or administrative penalty

9

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, including:
 - Ensuring worker’s ability to work is not impaired by alcohol, drugs, or other substances
 - Telling worker’s supervisor or employer if worker’s own ability to work safely is impaired for any reason
 - Telling worker’s supervisor or employer if worker is aware that anyone else is impaired

10

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

11

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, reaction time and sensory perception
- Judgment, thinking, decision-making and focus
- Psychological or stress-related effects on behaviour, such as mood swings or personality changes

12

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?

13

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

14

Go to the WorkSafeBC webpage on substance use impairment


The screenshot shows the WorkSafeBC website. The main navigation bar includes 'Health & Safety', 'Insurance', 'Claims', and 'I Am a...'. The breadcrumb trail is 'Home > Health & Safety > Hazards & exposures > Substance use and impairment in the workplace'. The page title is 'Substance use and impairment in the workplace'. The content includes a brief description of workplace impairment as an occupational health and safety issue, a list of common causes (alcohol, illegal drugs, prescription drugs, over-the-counter medications), and a section on 'Effects in the workplace from substance-use impairment' which lists physical and behavioral changes like impaired judgment, decreased motor coordination, and psychological effects.

Resources

Available now

- The “Substance use & impairment in the workplace” webpage on www.worksafebc.com provides:
 - Brief description of BC’s OHS regulatory framework re impairment
 - Guide to managing workplace impairment and developing an impairment policy
 - Toolbox Meeting Guide on substance use and workplace impairment
 - Workplace impairment: A primer on preparing for cannabis legalization”
 - Videos on Substance Abuse & Accidents and on Impairment at Work
 - Links to other resources
- “Cannabis and the workplace” media backgrounder on www.worksafebc.com

More information...



The screenshot shows the Canadian Centre for Occupational Health and Safety (CCOHS) website. The main navigation bar includes 'Government of Canada' and 'Canada.ca | Services | Departments | Français'. The CCOHS logo is prominently displayed. Below the logo, there is a search bar and a navigation menu with categories: 'Legislation', 'Hazards', 'Workers', 'Health and Wellness', and 'Programs'. The main content area features a large banner for 'Risk of Impairment from Cannabis' with the subtitle 'what workplaces need to know' and a 'Download the free white paper' button. Below the banner, there is a 'Pause' button and a '2 of 6' indicator. The page is divided into three columns: 'I WANT TO' (with links like 'Take a course', 'Develop a health and safety program'), 'WHAT'S NEW' (with links like 'Impairment and Cannabis in the Workplace'), and 'FEATURED CONTENT' (with links like 'WHSES 2015', 'Focus on Safety Youth Video Content'). A 'Got a question?' section with a 'GET THE ANSWER' button is also visible.

17

More to come?



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

18

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, communicate, provide training, and enforce policies and procedures for their workplace

19

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