

Workplace Impairment and Cannabis Legalization

BC Municipal Safety Association
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Outline

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- 2 Impairment at work
- 3 Regulatory framework around workplace health and safety
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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 the use of cannabis on school properties and in vehicles;
- Authorizes adults to grow up to four cannabis plants per household,

Legalization framework in BC

Cannabis Control and Licensing Act (CCLA) (con't)

- 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.

Cannabis use – what's new?

- The sky fell some time ago...
- 61% increase in daily/weekly cannabis use among 25- to 44-year-olds in past decade
- 14% of British Columbians over 15 used cannabis in past 12 months
- 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
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- Workplace impairment has been regulated for some time!



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 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 sees someone who appears to be impaired

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:

- Decreased motor control, reaction time and sensory perception
- Impaired judgment, thinking, decision-making and focus
- Psychological or stress-related effects, such as mood swings or personality changes

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

More information...

The screenshot shows a web browser window with the URL <https://www.worksafebc.com/en/health-safety>. The page features the WorkSafeBC logo and navigation links for Forms & Resources, Law & Policy, About Us, and Contact Us. A search bar is present with the text "Search worksafebc.com". The breadcrumb trail reads: Home > Health & Safety > Hazards & exposures > Substance use and impairment in the workplace. The main content area is titled "Substance use and impairment in the workplace" and includes a sub-section for "Related law & policy".

Substance use and impairment in the workplace

Workplace impairment as an occupational health and safety issue is of increasing concern to British Columbia employers, workers, and other stakeholders.

Physical or mental impairment in the workplace can create a significant risk of injury and death to the impaired worker, co-workers, and members of the public.

Impairment can have many causes, but the most common substance-related causes of impairment in the workplace are:

- The use of alcohol or legal drugs (which will include cannabis as of October 17, 2018)
- The use of illegal drugs
- The use of prescription drugs to treat medical conditions
- The use of over-the-counter medications

Effects in the workplace from substance-use impairment

Impairment from substance use can cause physical and behavioural changes that affect a person's ability to work safely. These changes can include:

- Impaired judgment, perception, and decision making
- Decreased motor co-ordination, reaction time, and sensory perception
- Psychological or stress-related effects, such as mood swings or personality changes

Resources

Available now

- “Substance use & impairment in the workplace” page on worksafebc.com
- “Cannabis and the workplace” media backgrounder
- “Workplace impairment: A primer on preparing for cannabis legalization”
- “A Deadly Silence: Substance Abuse & Accidents” video
- “Impairment at Work” video

Under development

- Toolbox Meeting Guide on substance use and workplace impairment
- Managing workplace impairment and developing a substance use impairment policy

More information...

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

CCOHS

Canadian Centre for Occupational Health and Safety

Legislation | Hazards | Workers | Health and Wellness | Programs | I am looking for... | HELP | LOGIN

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 or the worker observes someone who 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)**

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