

Workplace Impairment and Cannabis Legalization

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Outline

- 1 Impairment at work
- 2 Regulatory framework around workplace health and safety
- 3 Worker obligations
- 4 Employer obligations
- 5 Resources

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
- Workplace impairment has been regulated for some time!



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.

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.

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 defense to a general duty order or administrative penalty

Have you take all reasonable care to protect the well-being of workers?

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

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?

More information...

The screenshot shows the WorkSafe BC website. The header includes the WorkSafe BC logo and navigation links: Home & Resources, Law & Policy, About Us, Contact Us, Log In, and Create an account. Below the header is a secondary navigation bar with links for Health & Safety, Insurance, Claims, and I Am a... followed by a search bar. The main content area is titled 'Substance use & impairment in the workplace'. It includes a sidebar with links for 'Substance use & impairment in the workplace' and 'Reduced law & safety'. The main text explains that workplace impairment is an occupational health and safety issue of increasing concern in British Columbia. It defines physical or mental impairment as a significant risk of injury and death. It lists common causes of impairment: the use of alcohol or legal drugs (including cannabis as of October 17, 2018), the use of illegal drugs, the use of prescription drugs to treat medical conditions, and the use of over-the-counter medications. It then discusses the effects of substance use on the workplace, such as impaired judgment, perception, and decision-making, decreased motor coordination, reaction time, and sensory perception, and psychological or stress-related effects. Finally, it outlines responsibilities for managing impairment, stating that workers and employers share responsibility. As a worker, one must tell their supervisor or employer if their ability to safely perform assigned work is impaired for any reason. If you have a physical or mental impairment, you must not do work if the impairment may create a risk to yourself or anyone else.

Available now

- Cannabis and the workplace
- Workplace impairment: A primer on preparing for cannabis legalization”
- Video: A Deadly Silence: Substance Abuse & Accidents
- Toolbox Meeting Guide: Substance use and workplace impairment
- Guide to managing workplace impairment and developing an impairment policy
- CCOHS: White Paper, e-learning

More to come: CAN/CSA Z1008