

Marijuana in the Workplace Ruling

There have been many conversations with regards to accommodations to marijuana usage in safety-sensitive positions. A recent ruling, where the courts ruled in favor of the employer, could provide answers to some of these concern. [The Ruling](#) [A Legal Interpretation](#)

Background

Harold Tizzard, applied for a labourer position with a job at Valard Construction in 2016 and was accepted, subject to a satisfactory drug and alcohol test. Tizzard - who suffers from osteoarthritis and Crohn's disease - revealed he took medical cannabis, and later presented a note confirming his authorized use of the drug, but the employer requested more information. While waiting several months to sort out the issue, Tizzard ended up applying for another position, that of an assembler. Ultimately, he was not accepted for employment, despite his physician saying the impairment from his evening consumption of medical marijuana only lasted about four hours, so it would not impact him reporting to work the next morning.

Valard said the two positions involved were safety-sensitive ones, so it was essential to determine a person's ability to work without impairment, and the company had an obligation under legislation to all workers to ensure a safe workplace. Valard also claimed it met its obligation to individually assess Tizzard's case to the extent possible because of the limited information from his physician. In addition, the safety risks added to the workplace by Tizzard's use of medical cannabis brought Valard to the point of undue hardship.

The Ruling

The courts concluded the regular use of medically authorized cannabis products can cause impairment of a worker in a workplace, and the length of cognitive impairment can exceed four hours after ingestion - sometimes up to 24 hours.

In addition, a general practicing physician is not in a position to adequately determine the daily safety issues in a hazardous workplace. "Specialized training in understanding workplace hazards is necessary to fully understand the interaction between cannabis impairment and appropriate work restrictions in a given fact situation, and, more importantly, "there is currently no effective or practical means to accurately measure impairment in the workplace from evening cannabis use."

The courts decided that since employers can't measure residual impairment caused by cannabis use, they can't manage the safety risk - and in a safety-sensitive position, that amounts to undue hardship on the employer.



Test Yourself

Can an inspector order an employer to use a third party to investigate a harassment complaint and get a copy of the report? If so where does it say that in the Act?

First Correct answer wins a prize - answer to be published on the web site.

Send your answer by email to: newsletter@safetyscope.net

This Months Tip

A circle check is a visual, and sometimes physical, inspection of a piece of equipment (e.g., truck, scissor lift, forklift, etc.). It involves walking all the way around the equipment to ensure there are no safety concerns.

Are you verifying this is done properly or just relying on a completed checklist as proof.

Think about it.

Safetyscope Upcoming courses

Oct 5, 19
Working at Heights

Sept 28, Oct 12, 26
Working at Heights Refresher

Oct 15-16
Confined Space Training

Contact Us with your training needs training@safetyscope.net

Message from Ministry of Labour

In anticipation of an upcoming mail strike, the MOL mailing service will be holding and securely storing all outgoing mail starting today, September 18th 2018. This means that effective today the Ministry will not be mailing out Chief Prevention Officer (CPO) record of training cards.

In order to ensure continued client services, they asked that we inform our learners of the potential delay in receiving their record of training from the Ministry of Labour. The records you have received from us upon successful completion of your course(s) is equally valid to the record issued by the ministry.

It's not Like Alcohol

Marijuana use affects the brain far longer than 24 hours after initial ingestion. It is not like alcohol.

Dan Demers (Senior Manager of Strategic Business Development) says the “big problem with cannabis is that it opens a bunch of doors all over the brain. Some are experienced as being high but others are completely unknown to the user.”

“Cannabis is more than just THC. There's complexity in cannabis in its whole form that makes it really, really challenging to safely and reliably know if you can use cannabis and be 100 per cent safe a few hours later, maybe a day later, maybe 10 days later,” Demers said. “Just because you aren't aware of it doesn't mean it isn't going on, doesn't mean the hangover doesn't exist and it is affecting areas of the brain that you have no idea about.”

After the initial high, the neocortex ends up being disrupted for a long time, far longer than 24 hours after initial ingestion. It controls the ability to think, interpret what is about to happen and take into account more than one piece of information at a time.

“How fast am I going? What's going on around me? What's about to come? It may not matter for someone at a desk pushing paper, but if you're operating equipment or vehicles other safety-sensitive positions it does matter. The lingering effects of cannabis impair alertness, complex reasoning and the ability to judge distance, time and speed.

Because of the potential for such long-term negative effects, Demers said safety managers have to say to staff: “What you do on your own time is actually our business.” You need to make it clear that cannabis and certain occupations simply can't co-exist, such as within transportation, aviation, railways and policing or other safety-sensitive positions,

What are your safety standards for your workplace or industry with regards to marijuana?

Where can workers Smoke e-Cigarettes?

The government is reviewing previously planned changes to the rules around vaping to make sure any changes reflect the best available evidence. The new Smoke Free Ontario Act, 2017 was paused before it came into force on July 1, 2018. That said, it is still an excellent resource when setting your organizations policies.

Legislation sets the minimum standards and your own company policies and procedures in many cases can exceed these standards if health and safety of workers is a concern. Don't wait until the legislation is enforced before you start reviewing your own.

Given the long list of harmful and toxic chemicals in cigarettes, vaping is almost certainly less dangerous to your health. But experts are saying that vaping is not without risks. E-cigarettes, sometimes called vapes, run on batteries and heat up nicotine, flavorings, and other chemicals. They turn them into a vapor you can breathe in. Many chemicals that cause cancer are in this vapor.

The Smoke-Free Ontario Act, 2017 is to address this issue among other concerns. Section 12 (2) (2) in the draft act is available on line and is pretty clear that vaping is not allowed in an enclosed workplaces.

For more information [click to access the information](#).

In the Courts [Click for more Information](#)



August 23, 2018 Ikea Canada fined \$55,000

A worker was critically injured while moving shopping trolleys into a "cart corral," directing the row of trolleys from the front while a co-worker pushed from the rear. The worker had to walk directly in front of the row of the trolleys as it went down a narrow hallway. While doing so, the trolleys accelerated and struck the worker who was jammed against a wall. The worker suffered a critical injury.

The worker had not been provided with sufficient precautions, safeguards or protective clothing to ensure that the moving of trolleys did not pose a danger.

IKEA failed to ensure that the measures and procedures prescribed by section 45(a) of the regulation were complied with at the workplace, contrary to section 25(1)(c) of the OHSA. This is an offence pursuant to section 66(1) of the act.

September 7, 2018 FNX Mining Company Inc. fined \$70,000

Background:

A worker suffered critical injury while riding in the bucket of a scooptram (similar to a front-end loader) to repair damaged ventilation tubing. A supervisor directed a second worker to help with the repair even though the operator's guide for the scooptram states that riders should not be allowed in the bucket.

It was agreed that the first worker would work from the bucket to carry out the repairs, while the second worker would operate the scooptram. As the bucket rotated back and up, the worker in the bucket was pinched between the bucket and the frame of the machine as the hydraulic cylinder was closing. The worker suffered crushing injuries requiring surgery.

This is an offence under section 66(1) of the act.

Penalties for Dangerous Driving now in Effect.

As of September 1, tougher penalties for careless driving and endangering pedestrians are now in effect.

Drivers convicted of careless driving causing bodily harm or death will face:

- Fines from \$2,000 to \$50,000
- Six demerit points
- A driver's license suspension of up to five years
- Up to two years in jail

Penalties also increased for drivers who fail to yield to pedestrians at crossovers, school crossings and crosswalks. The maximum penalty increase to \$1,000 and four demerit points.

Drivers are also reminded that they must yield the entire roadway at pedestrian crossovers, school crossings, and other locations where there is a crossing guard, and cannot continue driving until pedestrians have finished crossing the road completely.

MOL Consultations

In October the Ministry of Labour Operations Division and the Prevention Office are hosting back to back consultations. These discussions will provide you with an opportunity to be heard with regards to the future direction of the Safe at Work Ontario strategy for 2019/20.

The CPO is also developing Ontario's H&S strategy for the next 5 years. You can register for the sessions of your choosing at sawo.evenbrite.com or contact the ministry at sawoconsultations@ontario.ca for more information.

MOL Blitzes

Construction: Reversing equipment on construction projects

Sept 1 - Sept 30 - Phase 1: Compliance support and prevention education (MOL and IHSA)

Oct 1 - Oct 31 - Phase 2: Ministry of Labour enforcement campaign

Industrial

Oct 1 – Nov 23 - Health and safety in warehouses and “big box” retail

February 1 – March 29, 2019 - Machine guarding

Mining: Mobile equipment

Sept 17 – Oct 1 - Phase 1: compliance support and prevention education (MOL and WSN)

Oct 2 - Nov 30 - Phase 2: Ministry of Labour enforcement campaign

Safetyscope is a OWWCO Training Provider

These courses meet the criteria in subsection 29(4) of O.Reg. 128, Certification of Drinking Water System Operators and Water Quality Analysts. On Completion of training all participants will receive a certificate of completion with corresponding CEU Value.

1. Working at Heights	.7 CEU
2. WHMIS 2015	.4 CEU
3. TDG	.4 CEU
4. Working in Confined Spaces Rescue Level	2.8 CEU
5. Confined Spaces Attendant Non Entry	1.3 CEU
6. Confined Spaces Advanced Awareness	.7 CEU
7. Confined Spaces Attendant Refresher	.7 CEU
8. Confined Spaces Rescue Refresher	.7 CEU
9. Standard First Aid	1.4 CEU
10. Self Contained Breathing Apparatus	.4 CEU
11. Spill Response	.7 CEU
12. Trenching Hazards	.4 CEU



Safetyscope is a TSSA Approved Training Provider

Safetyscope is an approved training provider for CH-02 construction heaters under 4000,000 btu and tiger torch under the TSSA Authorization Number 000287944.