

## Getting Ready for Legal Marijuana in Minnesota

On August 1, Minnesota will join the long list of states making recreational use of marijuana legal. But with legalization comes questions around education and enforcement.

We're dedicating this issue to things we know are on your mind and to providing resources that can help you educate workers and others on what the new law means to them on the job and behind the wheel. Minnesota NETS Coordinator Lisa Kons shares her perspective in this month's [blog](#).



### Resources

Looking for tools to help your team understand the implications of this new law?

**VISIT DRIVESAFEMN.ORG FOR THESE RESOURCES:**

- [Fact Sheet](#)
- [Myths and Facts](#)
- [5-minute Safety Talk](#)
- [Video](#) from Colorado
- [Marijuana IQ Quiz](#) from the US Substance Abuse and Mental Health Services Administration



### Free Webinars

**June 27 | Clearing The Smoke — The New Marijuana Law**

[Click here to view recorded program.](#)

**Presenters:** Don Marose, retired law enforcement and president/CEO CD Training Consultants; Craig W. Trepanier, shareholder attorney, Trepanier MacGillis Battina, P.A. How will the newly legalized marijuana law impact the workplace? Learn about the new law, testing procedures, recognition techniques and employer responsibilities.

**July 10 | 11:00 a.m. | What Is a Safety-Sensitive Position Anyway?**

[Click here to view recorded program.](#)

**Presenter:** Craig W. Trepanier, shareholder attorney, Trepanier MacGillis Battina, P.A. Marijuana will be legal in Minnesota on August 1, 2023. Many organizations have taken to updating their drug and alcohol policies and have two major questions — What is a safety-sensitive position? And how is the new law going to impact drug and alcohol testing within our organization?

**July 11 | 8:30 a.m. | The Blunt Truth — Navigating Marijuana and Reasonable Suspicion in the Workplace**

[Click here to view recorded program.](#)

**Presenter:** Don Marose, retired law enforcement and president/CEO CD Training Consultants

This session covers the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. General confrontational techniques for when drug/alcohol use is suspected also discussed.

## Understanding Legalized Marijuana in Minnesota: August 1 and Beyond

### What does the new recreational marijuana law do?

The new law legalizes the possession and use of marijuana for Minnesotans 21 and older. It also creates a new state agency, called the Office of Cannabis Management, to manage commercial aspects of the law. The law mandates the expungement of all misdemeanor marijuana and imposes new rules and requirements for hemp-based THC drinks and edibles.

### When does the new law take effect?

While there are some variations, the majority of the law takes effect August 1.

### What will be legal?

The law authorizes the production and retail sale of marijuana flower, concentrates, topicals and edible products, such as candy and beverages. It also permits the sale of immature cannabis plants and seeds, as well as hemp-derived THC products.

### Can you be charged with driving under the influence of marijuana?

Driving while under the influence of this drug is illegal. A person can receive a driving while impaired charge if he or she drives under the influence of marijuana or another controlled substance that can impact his or her brain, muscles, or nervous system.

### How will law enforcement officials know someone is driving under the influence of marijuana? Will they be able to issue citations when they pull someone over?

As we approach the effective date of this new law, there is no reliable test for marijuana/THC similar to a breathalyzer for alcohol. The bill legalizing marijuana in Minnesota included funding for drug recognition training for law enforcement. It also establishes a pilot project to study oral fluid roadside tests to determine if someone is high. But it will take some time before we have definitive answers that can be used in enforcement.



### What does the law do about driving while impaired?

The bill legalizing marijuana also allocates \$15 million over the next two years to fund drug recognition training for law enforcement to help officers better identify impaired drivers. The law also requires the state's public safety commissioner to launch a pilot project studying the creation of an oral fluid roadside test to detect cannabis impairment.

Also, the Office of Cannabis Management must conduct a study on impaired driving to determine how many crashes involve drivers who use cannabis, how many arrests of cannabis-impaired drivers are made and the number of convictions for driving under the influence of cannabis. Driver education programs will also be required to include information on the effects of cannabis use.

### Where will the consumption of cannabis products be explicitly prohibited?

Anywhere not explicitly authorized by the law. Consuming marijuana products in any form would also be prohibited in motor vehicles, on school property and in state correctional facilities.

### What driving-related actions remain a crime under the law?

Driving under the influence of cannabis will be a crime. And like the state's open container law for alcohol, it will also be illegal to have an open cannabis product in a vehicle, except in the trunk or a similar area of the vehicle that can't be accessed while driving.

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## What happens to pre-employment drug tests and workplace consumption bans?

Except where required by federal law or for a handful of job categories specified in Minnesota statutes, applicants for jobs cannot be screened for marijuana as a condition for employment. Ongoing or random cannabis tests for many employees would also be banned.

Companies can ban the possession and use of cannabis during work hours and when an employee is on-site or in a company vehicle. Businesses can also require cannabis testing if on-the-job cannabis use is suspected to be the cause of a violation of company policy or law.

## What types of jobs could still require testing for cannabis to be hired or employed under the new law?

Cannabis is considered a drug and could be subject to drug and alcohol testing for to be hired or hold specific jobs. This includes:

- Positions that require a commercial driver's license or involve the operation of a motor vehicle and are subject to drug or alcohol testing under state or federal law.
- A "safety-sensitive" job, which Minnesota law defines as a supervisory or management position in which impairment by drugs or alcohol would threaten the health or safety of any person.

## Can employees use cannabis at work?

Employers are not required to permit employee use, possession, or distribution of cannabis products at the workplace. Employers may also prohibit being under the influence at work. These requirements should be in the employer's policies and the policy should specifically state that being under the influence of cannabis is not permitted. Simply prohibiting "drugs" or referring to "drug testing" will no longer suffice, because the new law removes cannabis products from the definition of "drug" in certain portions of the statute.

## Has Legalizing Marijuana Impacted Trucking Safety? Study Says No

Although initial data suggests that marijuana legalization has "negatively impacted highway safety," it's still "too soon to calculate" an overall relationship between the two, according to a [new report](#). The American Transportation Research Institute (the research arm of the American Trucking Associations) analyzed data from the [Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse](#), existing research, and ATRI surveys of truck drivers and motor carriers on the effect of marijuana legalization on driving and industry operations.

Keep in mind that marijuana, including a mixture or preparation containing marijuana, continues to be classified as a Schedule I controlled substance by the Drug Enforcement Administration. Under the Federal Motor Carrier Safety Regulations (FMCSRs), a person is not physically qualified to drive a commercial motor vehicle if he or she uses any Schedule I controlled substance such as marijuana. In addition to the physical qualification requirements, the FMCSRs prohibit a driver from being in possession of or under the influence of any Schedule I controlled substance, including marijuana, while on duty, and prohibit motor carriers from permitting a driver to be on duty if he or she possesses, is under the influence of, or uses a Schedule I controlled substance.

Legalization of marijuana use by states and other jurisdictions also has not modified the application of U.S. Department of Transportation (DOT) drug testing regulations related to [medical](#) or [recreational](#) marijuana. Read more in the National Safety Council's [Safety+Health Magazine](#).



**NETWORK OF  
EMPLOYERS FOR  
TRAFFIC SAFETY**  
MINNESOTA

Lisa Kons, NETS Coordinator  
651-228-7330/800-444-9150  
lisa.kons@mns.org  
474 Concordia Ave, St. Paul, MN 55103

Connect With Us!  
[drivesafemn.org](https://drivesafemn.org)



MN NETS is a partnership with the MN Safety Council, funded by the MN Department of Public Safety/Office of Traffic Safety.