

CANNABIS & THE WORKPLACE - WHAT YOU NEED TO KNOW

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- (1) OUTLINE OF CANNABIS LEGISLATIVE FRAMEWORK
- (2) EMPLOYER'S POLICIES & DRUG TESTING
- (3) EMPLOYER'S DUTY TO ACCOMMODATE

LEGISLATIVE FRAMEWORK

- FEDERAL
 - *CANNABIS ACT*
 - *CRIMINAL CODE*
- PROVINCIAL
 - *GAMING LIQUOR & CANNABIS ACT AND REGULATIONS*
- MUNICIPAL
 - DEVELOPMENT PERMITS & ZONING
 - BYLAWS

AGE & POSSESSION LIMITS

- OVER 18
- 30 GRAMS OF DRIED MARIJUANA
 - ONE (1) GRAM OF DRIED CANNABIS IS EQUIVALENT TO:
 - 5 G OF FRESH CANNABIS,
 - 15 G OF EDIBLE PRODUCT,
 - 70 G OF LIQUID PRODUCT,
 - 0.25 G OF CONCENTRATES (SOLID OR LIQUID), OR
 - 1 CANNABIS PLANT SEED.
- 4 PLANTS / RESIDENCE
- EDIBLES & DRINKS



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YOUTH

- *CANNABIS ACT*
 - PROHIBITS PROVIDING OR SELLING CANNABIS TO YOUTH;
 - OFFENCE OF USING A MINOR TO COMMIT AN OFFENCE RELATING TO THE DISTRIBUTION, SALE, IMPORT, EXPORT, OR PRODUCTION OF CANNABIS;
 - PROHIBITS SELLING, PACKAGING, AND LABELLING OF CANNABIS PRODUCTS APPEALING TO YOUTH;
 - SAME ADVERTISING RESTRICTIONS AS EXIST FOR TOBACCO PRODUCTS

MARKETING

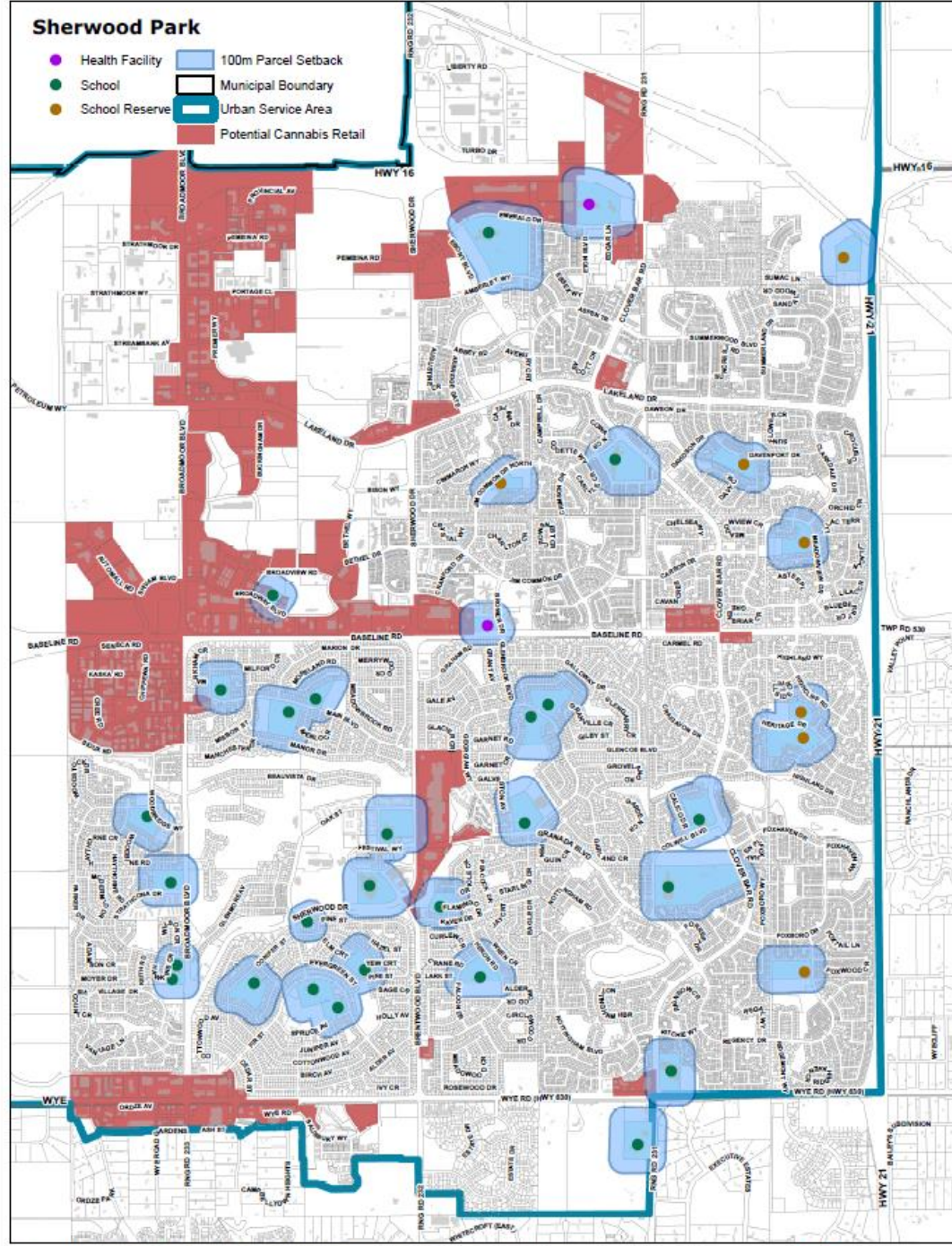
- APPEALING TO YOUTH;
- FALSE, MISLEADING OR DECEPTIVE INFORMATION
- SPONSORSHIPS, TESTIMONIALS, OR ENDORSEMENTS
- DEPICTIONS OF PERSONS, CELEBRITIES, CHARACTERS, OR ANIMALS
- TERMS COMMONLY ASSOCIATED WITH MEDICINE, HEALTH OR PHARMACEUTICALS (GLCA)

ALBERTA GAMING, LIQUOR AND CANNABIS ACT

- ALBERTA GAMING, LIQUOR AND CANNABIS COMMISSION
 - LICENSING
 - LOCATIONS
 - RETAILERS

Sherwood Park

- Health Facility
- School
- School Reserve
- 100m Parcel Setback
- Municipal Boundary
- Urban Service Area
- Potential Cannabis Retail



Every effort has been made to ensure the accuracy of this information however, Strathcona County assumes no responsibility for anyone relying solely on this information. Please contact Planning & Development Services at 780-464-8080 to speak with a Development Officer.

CONSUMPTION

- AT HOME
 - LANDLORD TENANT AGREEMENTS
 - CONDOMINIUMS
- NOT IN:
 - HOSPITAL
 - SCHOOL
 - CHILD CARE FACILITY
 - WHEREVER TOBACCO IS ALREADY PROHIBITED
- NOT WITHIN 5 METERS OF:
 - PLAYGROUND
 - SPORTS OR PLAYING FIELD
 - SKATEPARK
 - ZOO
 - OUTDOOR THEATER
 - OUTDOOR POOL

DRIVING

- EDUCATION
- EXISTING IMPAIRED DRIVING PENALTIES
- BLOOD CONTENT
 - 2 NANOGRAMS (NG) BUT LESS THAN 5 NG OF THC
 - 5 NG OR MORE OF THC
 - COMBINED THC OVER 2.5 NG AND ALCOHOL OVER 50 MG (0.5%)

ARE EMPLOYERS IN CANADA READY?

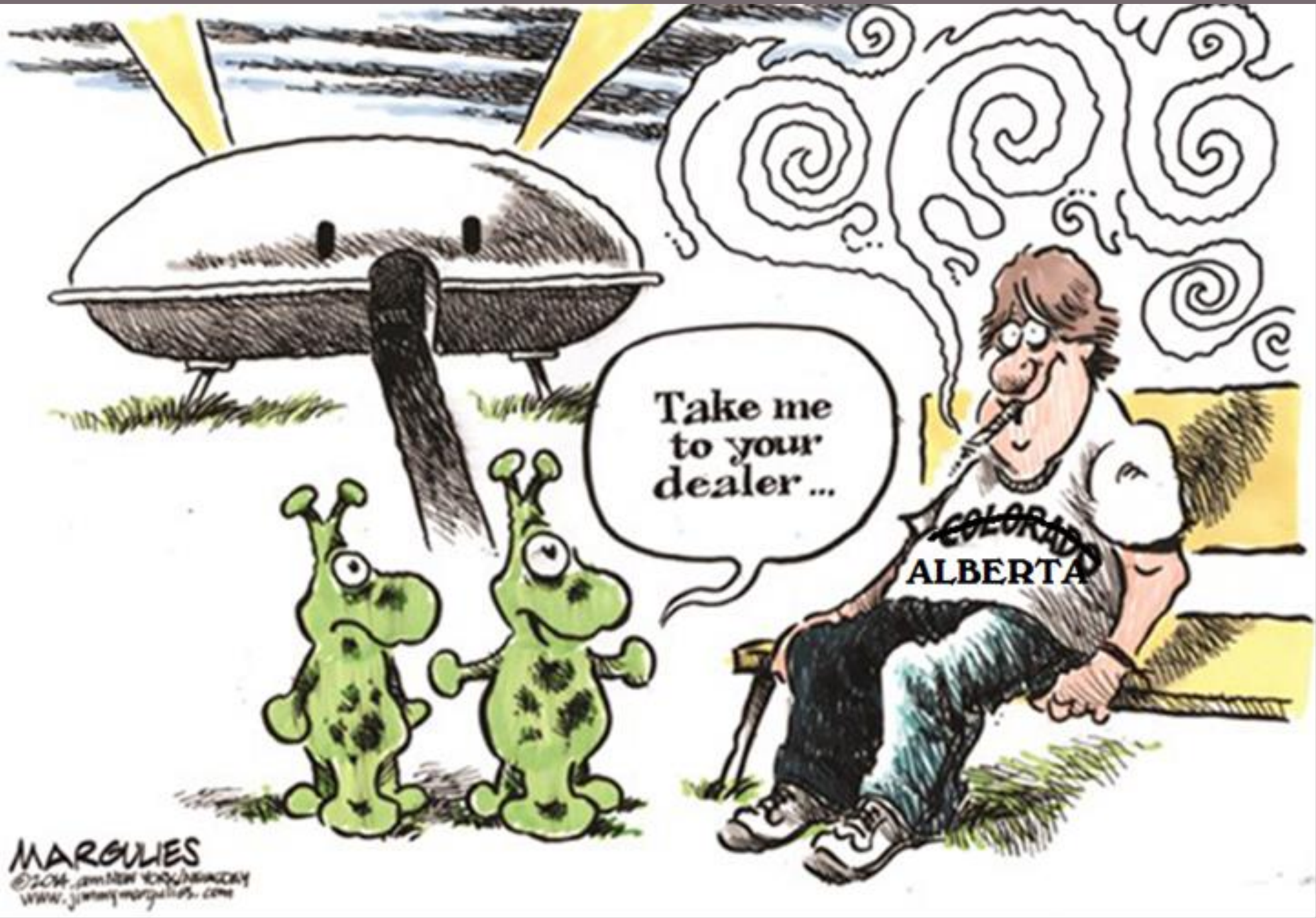
- HOW IS IMPAIRMENT DETECTED?
- HOW LONG DOES THC STAY IN THE SYSTEM?
- WHAT DO WE DO IN WORKPLACES WHERE WE SUSPECT IMPAIRMENT?
- CAN WE BAN THE CONSUMPTION OF MARIJUANA ON THE SITE?
- CAN WE BAN THE CONSUMPTION OF MARIJUANA DURING OFF WORK HOURS?

UNCERTAINTY....

- THERE IS NO “BREATHALYZER” EQUIVALENT FOR MARIJUANA.
- THERE IS NO CONSENSUS ON HOW LONG THC REMAINS IN THE SYSTEM OR HOW TO MEASURE THC LEVELS.
- THERE IS NO CONSENSUS ON HOW MUCH THC INDICATES IMPAIRMENT.
- ARE POLICIES UNDER MEDICAL MARIJUANA ENFORCEABLE NOW THAT MARIJUANA IS LEGAL?
- HOW DO BUSINESSES CHANGE THEIR POLICIES WHEN THEY ARE BASED ON POSSESSION BEING ILLEGAL?
- IF I OPERATE IN MORE THAN ONE LOCATION, ARE THE RULES THE SAME IN BOTH LOCATIONS?

UNCERTAINTY CONTINUED...

- LEGALIZATION DOES NOT CHANGE THE EMPLOYER'S RIGHT TO INSIST THAT EMPLOYEES ARE FREE FROM IMPAIRMENT WHEN THEY SHOW UP TO WORK, OR THEIR ABILITY TO CONTROL DRUG USE WHEN IT EFFECTS THE WORKPLACE.
- WHEN DOES IT EFFECT THE WORKPLACE?



MARGULIES

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IT WAS BOUND TO HAPPEN.

CANNABIS

NEED TO KNOW

Buddy wants you to know that cannabis **is not** for children. You must be 18+ to buy, use or grow.

Learn more at
Leduc.ca/Cannabis



CITY OF
Leduc



THE EXISTING LAW:

- EMPLOYERS CAN USE DRUG TESTING FOLLOWING AN INCIDENT OR NEAR MISS AT THE JOB SITE, OR WHERE THERE ARE SIGNS OF IMPAIRMENT ON THE JOB.
- SOME EMPLOYERS ARE PERMITTED TO IMPOSE DRUG TESTING AS A CONDITION OF HIRE, WHEN IT IS A SAFETY SENSITIVE POSITION.

WILL THIS CHANGE?

- PROBABLY NOT. MARIJUANA CAN BE TREATED SIMILARLY TO ALCOHOL ON THE JOB SITE. EMPLOYERS WILL CONTINUE TO HAVE AN OBLIGATION UNDER OHS RULES TO MAINTAIN A SAFE WORK SITE.
- THIS MEANS TESTING SOMEONE WHO OPERATES HEAVY EQUIPMENT WILL BE PERMITTED, AND TESTING SOMEONE WITH ADMINISTRATIVE TASKS IN AN OFFICE WILL NOT.
- EMPLOYERS WILL CONTINUE TO HAVE TO BALANCE WORKPLACE SAFETY AND PRIVACY RIGHTS.
- FEDERAL LEGISLATION ALLOWING RANDOM DRUG TESTING IS UNLIKELY, AND WOULD NOT WITHSTAND CONSTITUTIONAL CHALLENGE.

WILL THE RULES AROUND ACCOMMODATING ADDICTION CHANGE?

- AGAIN, PROBABLY NOT. EMPLOYERS WILL CONTINUE TO HAVE AN OBLIGATION TO ACCOMMODATE AN EMPLOYEE WITH AN ADDICTION TO THE POINT OF UNDUE HARDSHIP. IT WON'T MATTER WHETHER THAT ADDICTION IS TO ALCOHOL, PRESCRIPTION DRUGS, OR LEGAL MARIJUANA.
- EMPLOYERS WILL NEED TO STRIKE A BALANCE BETWEEN WORKPLACE SAFETY ON ONE HAND AND ACCOMMODATION ON THE OTHER.
- THIS IS NOT A NEW PROBLEM.

OCCUPATIONAL HEALTH AND SAFETY ACT, SA 2017, C O-2.1

OBLIGATIONS OF EMPLOYERS

3(1) EVERY EMPLOYER SHALL ENSURE, AS FAR AS IT IS REASONABLY PRACTICABLE FOR THE EMPLOYER TO DO SO,

- (A) THE HEALTH AND SAFETY AND WELFARE OF
 - (I) WORKERS ENGAGED IN THE WORK OF THAT EMPLOYER,
 - (II) THOSE WORKERS NOT ENGAGED IN THE WORK OF THAT EMPLOYER BUT PRESENT AT THE WORK SITE AT WHICH THAT WORK IS BEING CARRIED OUT, AND
 - (III) OTHER PERSONS AT OR IN THE VICINITY OF THE WORK SITE WHO MAY BE AFFECTED BY HAZARDS ORIGINATING FROM THE WORK SITE,
- (B) THAT THE EMPLOYER'S WORKERS ARE AWARE OF THEIR RIGHTS AND DUTIES UNDER THIS ACT, THE REGULATIONS AND THE OHS CODE AND OF ANY HEALTH AND SAFETY ISSUES ARISING FROM THE WORK BEING CONDUCTED AT THE WORK SITE,
- (C) THAT NONE OF THE EMPLOYER'S WORKERS ARE SUBJECTED TO OR PARTICIPATE IN HARASSMENT OR VIOLENCE AT THE WORK SITE,

OCCUPATIONAL HEALTH AND SAFETY ACT, SA 2017, C O-2.1 CONTINUED...

OBLIGATIONS OF EMPLOYERS CONTINUED...

- (D) THAT THE EMPLOYER'S WORKERS ARE SUPERVISED BY A PERSON WHO
 - (I) IS COMPETENT, AND
 - (II) IS FAMILIAR WITH THIS ACT, THE REGULATIONS AND THE OHS CODE THAT APPLY TO THE WORK PERFORMED AT THE WORK SITE,
- (E) THAT THE EMPLOYER CONSULTS AND COOPERATES WITH THE JOINT WORK SITE HEALTH AND SAFETY COMMITTEE OR THE HEALTH AND SAFETY REPRESENTATIVE, AS APPLICABLE, TO EXCHANGE INFORMATION ON HEALTH AND SAFETY MATTERS AND TO RESOLVE HEALTH AND SAFETY CONCERNS,
- (F) THAT HEALTH AND SAFETY CONCERNS RAISED BY WORKERS, SUPERVISORS, SELF-EMPLOYED PERSONS AND THE JOINT WORK SITE HEALTH AND SAFETY COMMITTEE OR HEALTH AND SAFETY REPRESENTATIVE ARE RESOLVED IN A TIMELY MANNER, AND
- (G) THAT ON A WORK SITE WHERE A PRIME CONTRACTOR IS REQUIRED, THE PRIME CONTRACTOR IS ADVISED OF THE NAMES OF ALL OF THE SUPERVISORS OF THE WORKERS.

CHECK YOUR WORKPLACE POLICIES

- IF YOUR POLICY DOES NOT SPECIFICALLY REQUIRE AN EMPLOYEE TO DISCLOSE WHEN THEY HAVE AN ADDICTION, CHANGE YOUR POLICY TO REFLECT THAT REQUIREMENT.
- IF YOUR POLICY SIMPLY BANS THE USE OF “ILLEGAL DRUGS”, IT NEEDS TO BE AMENDED TO REFLECT THE REALITY OF LEGALIZATION.
- SET CLEAR EXPECTATIONS AROUND THE USE OF MARIJUANA. ARE YOU BANNING THE USE ENTIRELY? ARE YOU STATING THAT AN EMPLOYEE CAN NOT COME TO WORK SMELLING OF MARIJUANA? EVEN EMPLOYERS THAT DO NOT HAVE EMPLOYEES IN SAFETY SENSITIVE POSITIONS CAN IMPOSE REASONABLE CONDITIONS TO PROTECT THEIR IMAGE. NO EMPLOYEE HAS AN ABSOLUTE RIGHT TO COME TO WORK IMPAIRED.

CHECK YOUR WORKPLACE POLICIES CONTINUED...

- YOUR POLICY SHOULD INTEGRATE PROGRESSIVE DISCIPLINE MEASURES WITH AN EMPLOYEE BREAKING THE RULES AROUND MARIJUANA USE. IN OTHER WORDS, A POLICY THAT STATES USE OF MARIJUANA WILL RESULT IN IMMEDIATE DISMISSAL IS LIKELY UNENFORCEABLE.
- YOUR POLICY SHOULD SET DIFFERENT RULES FOR MEDICAL MARIJUANA THAN IT DOES FOR RECREATIONAL MARIJUANA. THE DUTY TO ACCOMMODATE IS PRESENT FOR MEDICAL MARIJUANA, BUT NOT NECESSARILY FOR RECREATIONAL USE.
- BE PREPARED TO PROVE THAT YOU TOOK STEPS TO MAKE YOUR EMPLOYEES AWARE OF WORKPLACE POLICIES **AND** ANY CHANGE TO THE POLICIES.

IMPAIRMENT IN WORKPLACES

- WORKERS WHO ARE IMPAIRED ON THE JOB – WHETHER BY ALCOHOL OR DRUGS – ARE A DANGER TO THEIR COWORKERS AND THEMSELVES.
- ALBERTA ALREADY HAS RULES AND PROGRAMS IN PLACE TO ADDRESS IMPAIRMENT ON THE JOB AND KEEP WORKERS SAFE, BUT WE WILL CONTINUE WORKING TO IMPROVE THESE RULES AND FIND NEW WAYS TO DEAL WITH IMPAIRMENT IN THE WORKPLACE.
- THIS MAY INCLUDE DEVELOPING ADDITIONAL REGULATIONS, EDUCATION OR TRAINING PROGRAMS
- <https://www.alberta.ca/cannabis-framework.aspx#p6241s8>

FURTHER INFORMATION:

- <https://www.hrpa.ca/Documents/Public/HRPA-Clearing-The-Haze.pdf>
- <https://www.theglobeandmail.com/cannabis/article-with-cannabis-coming-to-the-workplace-what-constitutes-impairment/>
- <http://www.nationalmagazine.ca/Articles/June-2018/Legal-marijuana-and-the-challenges-of-workplace-dr.aspx>
- <https://edmontonjournal.com/business/local-business/medical-pot-a-growing-issue-in-alberta-workplaces>
- https://www.albertaquits.ca/files/AB/files/library/Marijuana_and_Tobacco_Policy_Implications_R3.pdf
- <https://www.albertahealthservices.ca/assets/healthinfo/AddictionsSubstanceAbuse/if-wrk-its-our-bus-policy-dev-employee-drug-testing.pdf>

FURTHER INFORMATION CONTINUED:

- <https://www.bonnyvilleneuve.ca/article/the-future-of-cannabis-in-the-workplace-20180206>
- <https://edmontonjournal.com/cannabis/cannabis-culture/municipal-councils-implementing-tough-cannabis-consumption-bylaws>
- <https://www.strathcona.ca/community-families/well-being-and-mental-health/cannabis-strategy/>
- <http://www.wetaskiwin.ca/821/Cannabis-Legalization>
- <https://stalbert.ca/cosa/participation/cannabis-legalization/>
- https://www.fortsask.ca/Home/Components/News/News/4866/638?cury=2019&cfty_pe=News

DUTY TO ACCOMMODATE

- USE
- EFFECTS
- MEDICAL MARIJUANA
- CANADIAN HUMAN RIGHTS ACT
- DUTY TO ACCOMMODATE

USE

- CENTRE FOR ADDICTION AND MENTAL HEALTH (2014)
 - MORE THAN 40% OF CANADIANS HAVE USED CANNABIS IN THEIR LIFETIME AND ABOUT 10% HAVE USED IT IN THE PAST YEAR.
 - NO OTHER ILLEGAL DRUG IS USED BY MORE THAN 1% OF CANADIANS EVERY YEAR.
- CANADIAN TOBACCO, ALCOHOL AND DRUGS SURVEY (2015)
 - OVER 44% HAVE USED CANNABIS IN THEIR LIFETIME, AND OVER 12% HAVE USED IT IN THE PAST YEAR

LEGALIZATION

- DECRIMINALIZED CANNABIS
- RECREATIONAL USE:
 - CANADA!
 - URUGUAY
 - US STATES
 - COLORADO, ALASKA, OREGON, WASHINGTON, MAINE, NEVADA, MASSACHUSETTS, VERMONT, CALIFORNIA, D.C.

EFFECTS

- DIZZINESS
- DROWSINESS
- FAINT OR LIGHTHEADED
- FATIGUE
- HEADACHE
- IMPAIRED MEMORY, ATTENTION, CONCENTRATION, ABILITY TO THINK AND MAKE DECISIONS
- DISORIENTATION, CONFUSION
- NERVOUSNESS, PARANOIA, SUSPICIOUSNESS
- NAUSEA, VOMITING
- IMPAIRMENT OF MOTOR SKILLS

THERAPY

- EFFECTIVE FOR:
 - CHRONIC PAIN
 - ANTIEMETIC (TO PREVENT OR TREAT NAUSEA AND VOMITING) IN CHEMOTHERAPY TREATMENT
 - MULTIPLE SCLEROSIS
 - SLEEP APNEA
 - FIBROMYALGIA
 - INCREASING APPETITE

CANADIAN HUMAN RIGHTS ACT

- S. 3(1) PROHIBITED GROUNDS OF DISCRIMINATION
 - RACE, NATIONAL OR ETHNIC ORIGIN, COLOUR, RELIGION, AGE, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, MARITAL STATUS, FAMILY STATUS, GENETIC CHARACTERISTICS, **DISABILITY** AND CONVICTION FOR AN OFFENCE FOR WHICH A PARDON HAS BEEN GRANTED OR IN RESPECT OF WHICH A RECORD SUSPENSION HAS BEEN ORDERED.
- DISABILITY
 - DEPENDENCE ON DRUGS OR ALCOHOL
 - MEDICAL MARIJUANA

UNDUE HARDSHIP

- FACTUAL
- FINANCIAL COSTS
- SIZE AND RESOURCES OF THE EMPLOYER
- DISRUPTION OF OPERATIONS
- STAFF MORALE
- INTERFERENCE WITH OTHER'S RIGHTS
- INTERCHANGEABILITY
- **HEALTH AND SAFETY**

BONA FIDE OCCUPATIONAL REQUIREMENT

- RATIONALLY CONNECTED TO JOB PERFORMANCE
- ADOPTED IN GOOD FAITH
- REASONABLY NECESSARY

QUESTIONS?

