



US COMPLIANCE

Working High: Navigating Safety with the New Marijuana Laws

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OUTLINE:

- **INTRO: WHO ARE WE?**
- **MARIJUANA BASICS**
- **REGULATORY STATUS**
- **DRUG TESTING**
- **DRUG POLICY OPTIONS**
- **RISK MANAGEMENT**
- **FACILITY SAFETY REQUIREMENTS**





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OUTLINE:

- **INTRO: WHO ARE WE?**
- **HISTORY OF MARIJUANA LEGALIZATION**
- **DRUG TESTING**
- **TESTING METHODS THAT ARE AVAILABLE**
- **WHAT IS MARIJUANA?**
 - How are we exposed?
 - What are we exposed to?
 - PEL?
 - Signs and Symptoms
- **RISK ANALYSIS**
 - Dangers of Working Impaired
 - Safety Sensitive Jobs?
- **DRUG POLICY OPTIONS (PROS AND CONS OF EACH):**
 - No drug policy in conjunction with federal law
 - Singling out safety-sensitive positions
 - Accommodating where necessary
 - Taking refuge in ignorance

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INTRO: DISCLAIMER

THE PURPOSE OF THIS TRAINING IS TO COMMUNICATE BEST MANAGEMENT PRACTICES WHEN DEALING WITH THE POTENTIAL OF MARIJUANA AND OTHER POSSIBLE SUBSTANCE ABUSE IN THE WORKPLACE. THIS SESSION DOES NOT REPLACE LEGAL COUNSEL FOR CURRENT LAWS.

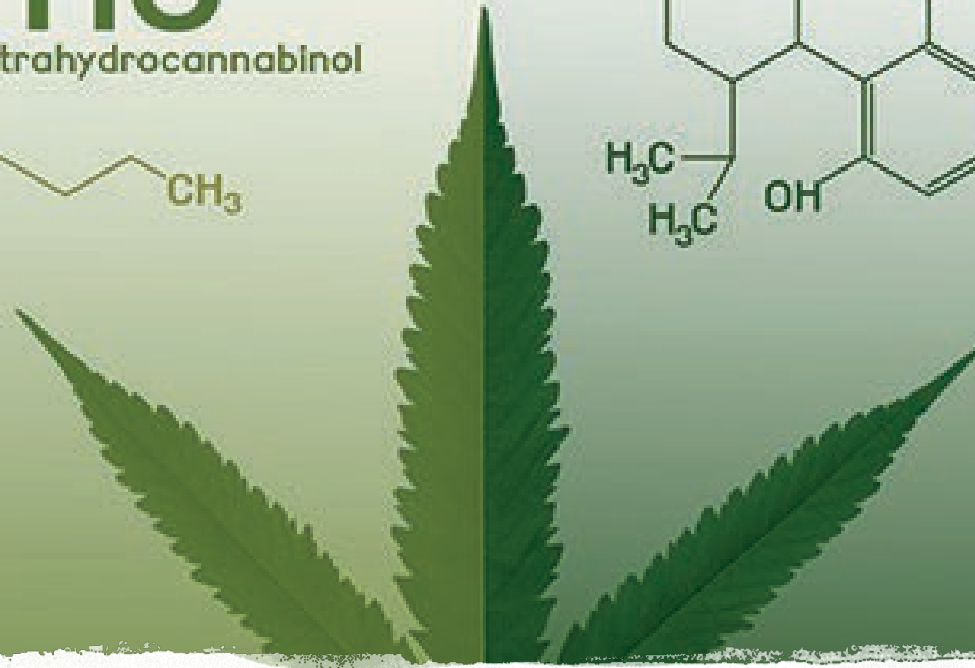
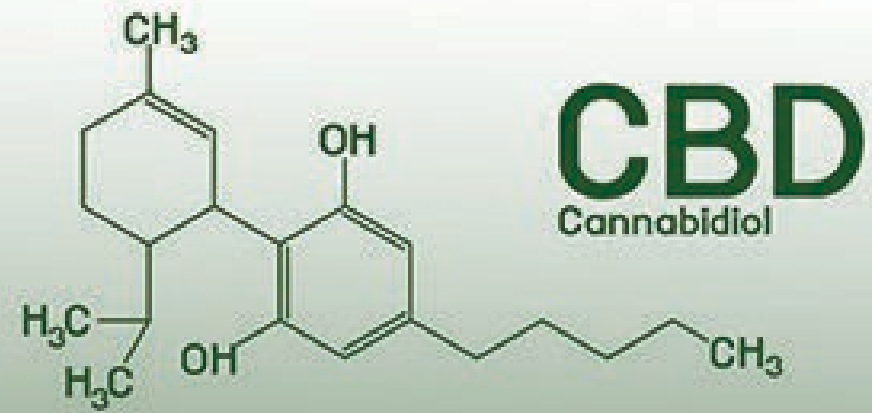
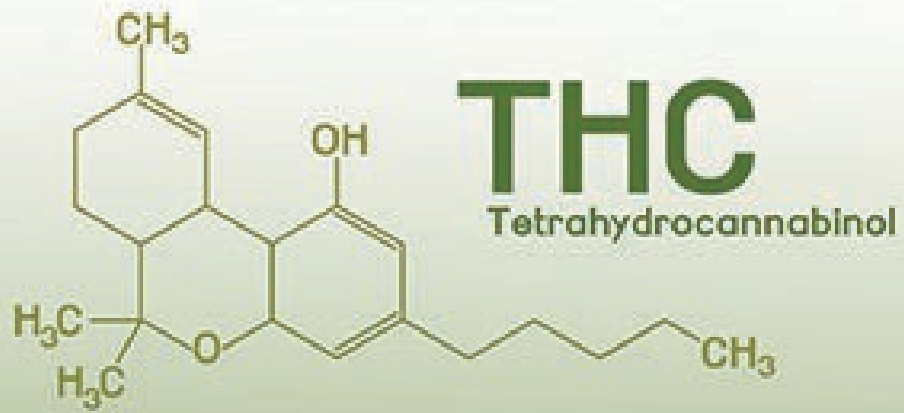
PLEASE CHECK THE LATEST LAWS FOR YOUR STATE AS THE MAY VARY.

MARIJUANA IS STILL CONSIDERED AN ILLEGAL SUBSTANCE IN FEDERAL COURTS AND THUS MAY BE PROSECUTED BY THOSE STATES WHERE MEDICINAL AND RECREATIONAL LAWS ARE NOT IN PLACE.

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MARIJUANA 101

THC AND CBD



WHAT IS MARIJUANA

- TWO MAJOR COMPONENTS
 - CBD
 - THC



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MARIJUANA 101

Indica



Description:

- dark green
- short and dense
- short, wide fan leaves

Effects:

- Has a relaxing effect
- Experience a "body buzz"
- Preferred for night use

Sativa



Description:

- light green
- tall and lean
- long, narrow fan leaves

Effects:

- People feel more energetic
- Hallucinogenic
- Preferred for day use



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INHALATION

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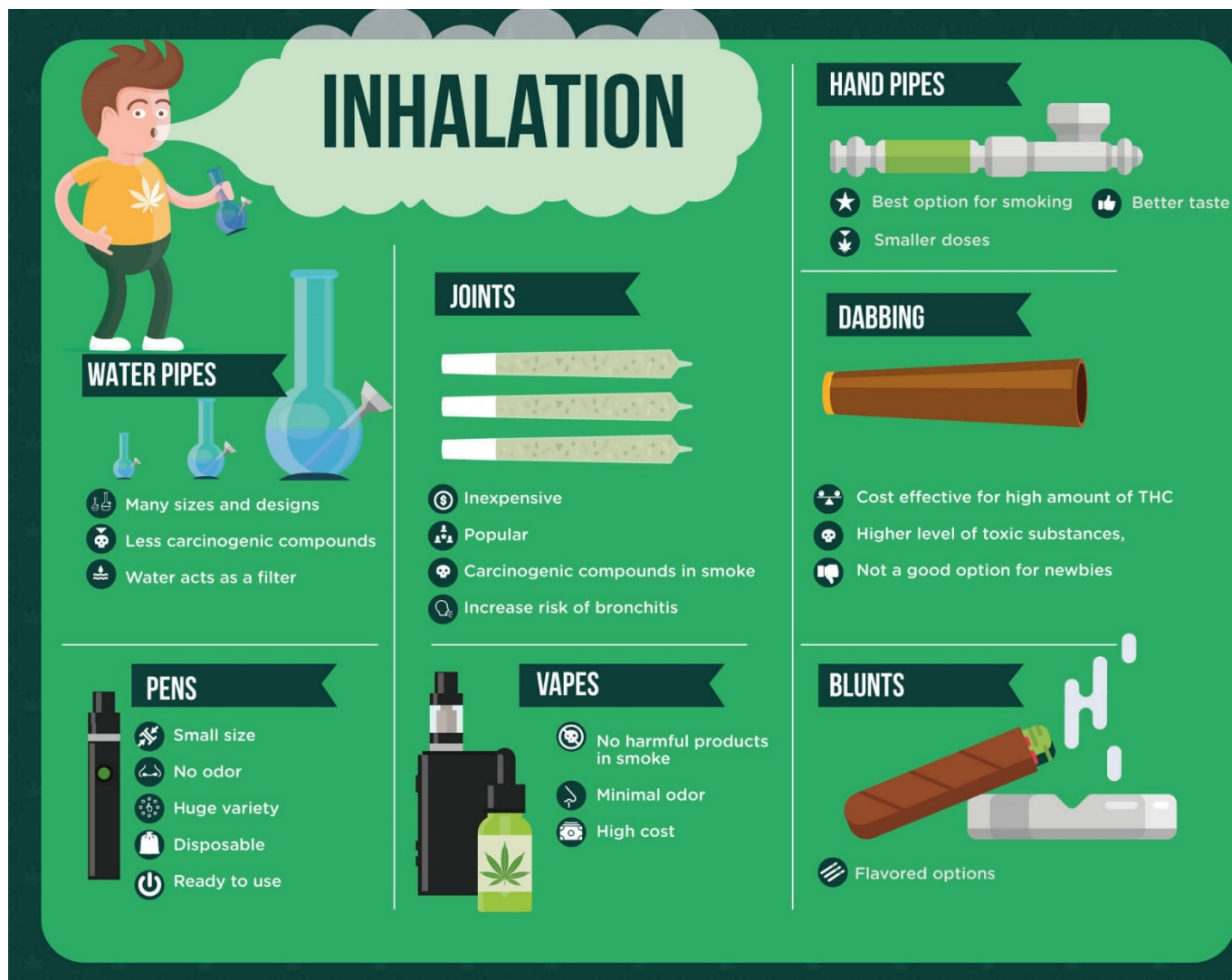




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INHALATION

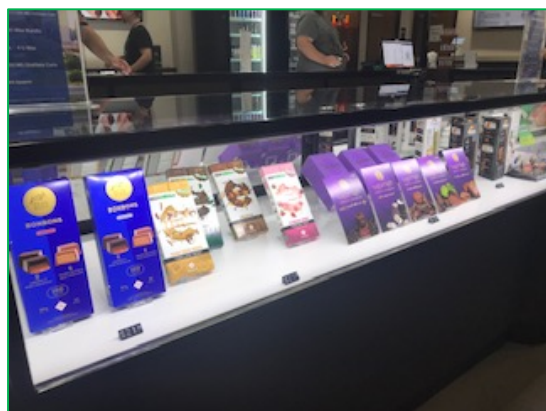
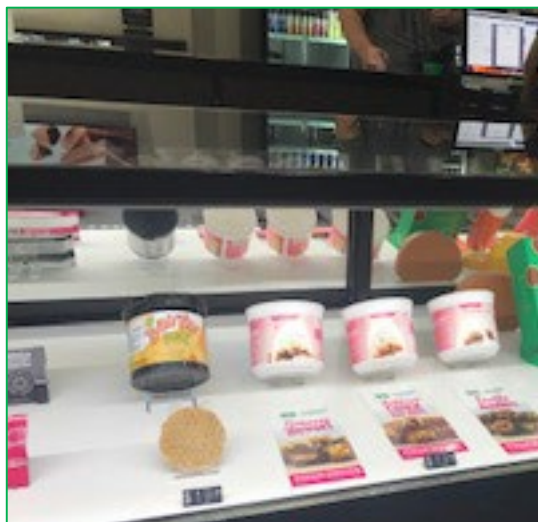


- CHEAPER
- POTENTIALLY MORE HARMFUL
- SMELL IS OBVIOUS
- RED EYES
- IMMEDIATE HIGH
- CAN BE MORE HIGH TECH USING VAPES AND WAX



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INGESTION



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- SLOWER TO ABSORB INTO THE SYSTEM
- DELAYED HIGH AND EFFECTS
- NEUROLOGICAL SIGNS ARE PRESENT STILL PRESENT

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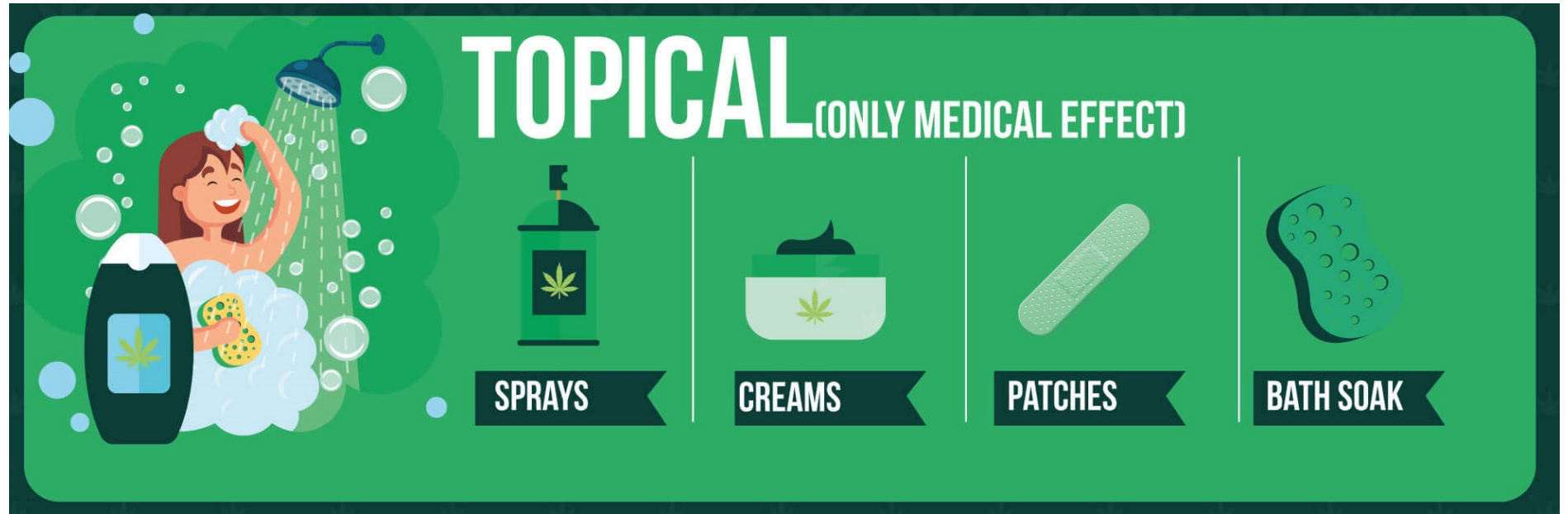
INGESTION





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TOPICAL



- **TEND TO BE HIGHER IN CBD**
- **SLOWER TO ABSORB AND FEEL HIGH**
- **USED IN PAIN MANAGEMENT**

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SIGNS AND SYMPTOMS

- BLOODSHOT EYES
- INCREASED APPETITE
- LACK OF MOTIVATION
- WEIGHT GAIN
- NERVOUS OR PARANOID BEHAVIOR
- IMPAIRED COORDINATION
- SLOWED REACTION TIME
- DRY MOUTH
- DIZZINESS
- MEMORY IMPAIRMENT
- LACK OF MOTIVATION
- ANXIETY
- IMPAIRED JUDGMENT
- DISTORTED PERCEPTION
- RELAXED STATE, SLEEPINESS
- FEELING “HIGH” OR EUPHORIA
- SLOWED OR POOR COORDINATION

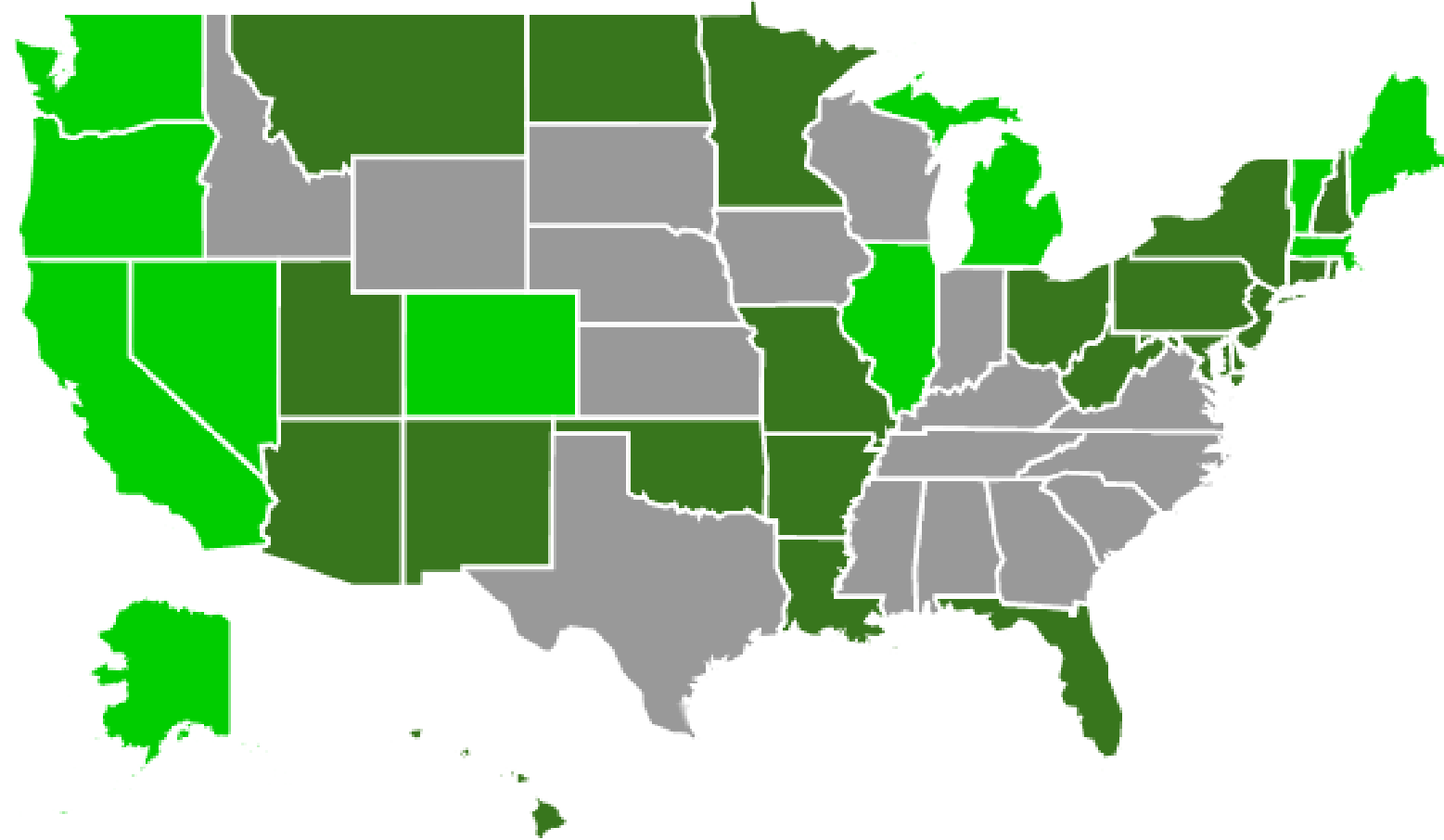
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CURRENT REGULATORY STATUS




Information is current as of June 25, 2019.



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Marijuana Legalization Status

-  Medical marijuana broadly legalized
-  Marijuana legalized for recreational use
-  No broad laws legalizing marijuana

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EMPLOYER RIGHTS

- SUMMARY OF LAWS:
- THE EMPLOYER CAN ADOPT A REASONABLE ZERO TOLERANCE OR DRUG FREE WORKPLACE POLICIES,
- THE EMPLOYER CAN STILL PROHIBIT THE USE OF MARIJUANA WHILE AT WORK OR WHILE ON CALL
- EMPLOYERS MAY STILL DISCIPLINE AND/OR TERMINATE EMPLOYEES FOR VIOLATING THE CURRENT PROGRAM

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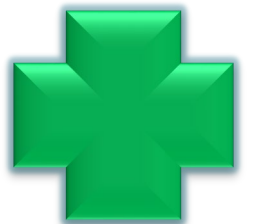


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CURRENT LEGAL STATUS

- OUTLAWED IN 1937
- CALIFORNIA WAS THE FIRST STATE TO LEGALIZE IN 1996
- MEDICINAL USE: 33 STATES AND FOR RECREATIONAL USE IN 11 STATES, PLUS THE DISTRICT OF COLUMBIA, GUAM AND PUERTO RICO.
- RECREATIONAL USE: ALASKA, CALIFORNIA, COLORADO, ILLINOIS, MAINE, MASSACHUSETTS, MICHIGAN, NEVADA, OREGON, VERMONT AND WASHINGTON.

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WHO CAN SELL?

- **EVERY STOREFRONT THAT SELLS RECREATIONAL MARIJUANA MUST BE LICENSED AS A MARIJUANA DISPENSARY**
- **MEDICAL DISPENSARY LICENSE WILL BE GRANTED RECREATIONAL LICENSE WITH UPCOMING LEGAL CHANGE**
 - Not all medical marijuana dispensaries will sell recreational marijuana.
- **MID 2020 NEW LICENSES WILL BE RELEASED**
- **BY 2022 UP TO 295 STORES WILL BE LOCATED IN ILLINOIS**
- **ALL MARIJUANA SALES WILL BE TAXED BY THE STATE:**
 - **10%- LESS THEN 35% THC**
 - **20%- CANNABIS INFUSED PRODUCTS**
 - **25% - GREATER 35% THC**



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Who can Buy?

- **AS OF JANUARY 1ST, 2020 PEOPLE CAN BUY RECREATIONAL MARIJUANA IF:**
 - You must be 21 or older
 - You must present a government-issued ID for proof of age.
 - If you are between the ages of 18 and 21 and would like to purchase marijuana, you will need to apply for a medical card.
 - While you do not have to be a resident to buy recreational marijuana, only residents can acquire a medical marijuana card.
 - It is illegal to buy marijuana from an unlicensed source



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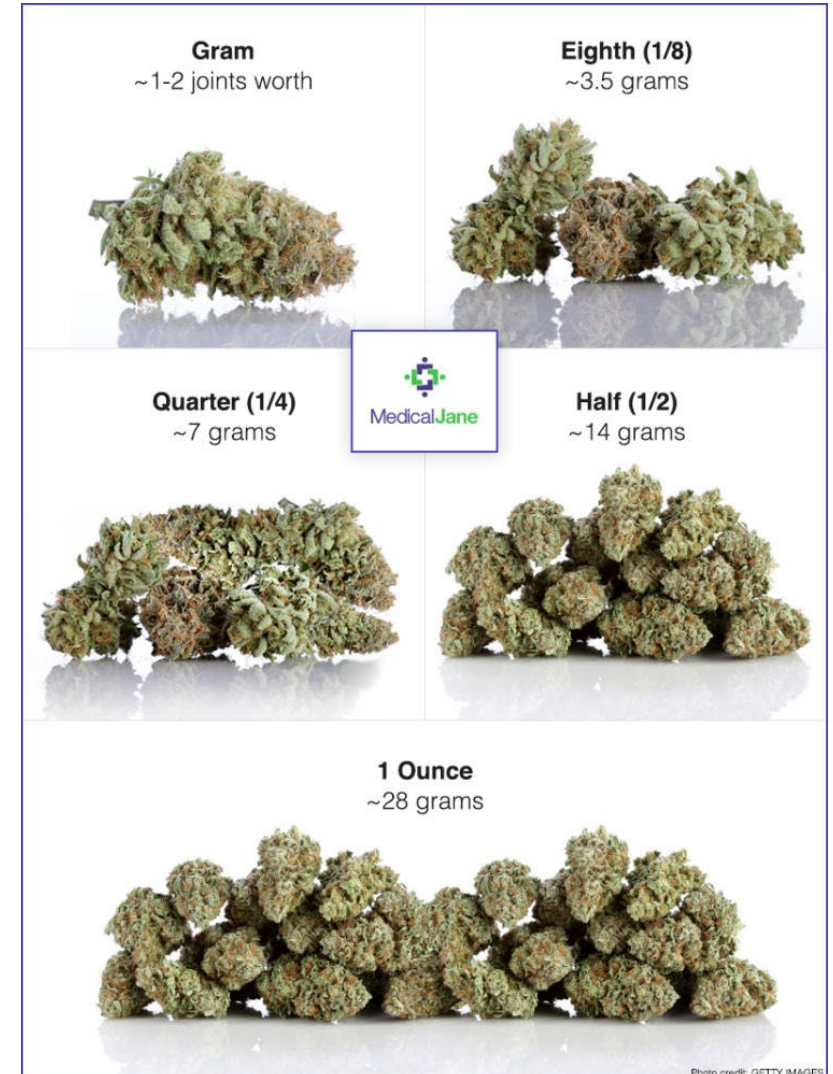
HOW MUCH CAN BE PURCHASED

- **HOW MUCH CAN SOMEONE POSSESS:**

- 30 GRAMS ~ 1 OZ IN BUD
- 5 GRAMS IN CONCENTRATE: WAXES, OILS,
- 500MG IN INFUSIONS: EDIBLES, DROPS ETC.

- **VISITORS CAN ONLY PURCHASE HALF OF LISTED AMOUNTS**

- **CANNOT BE TAKEN ACROSS STATE LINES**



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WHERE CAN IT BE USED?

- **MARIJUANA MAY NOT BE CONSUMED OPENLY OR PUBLICLY**
 - Under the law, that includes:
 - Transportation facilities (train and bus stations), schools, music, sports or amusement venues, parks and playgrounds and rooftop cafes.
 - Indoors in any public areas, including restaurants, theaters or office buildings
 - Near someone under the age of 21
 - Near Police Officers, Fire Fighters, Bus Drivers, and Corrections officers
- **CAN SMOKE IN THE COMFORT OF THEIR OWN HOMES**
 - Assuming they own their home or their lease does not have any smoking restrictions.
 - Landlords can prohibit use on their property

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CURRENT NUMBERS

- **GOV. STAY AT HOME ORDER DEEMED DISPENSARIES AN ESSENTIAL BUSINESS**
 - Medical cannabis dispensaries and cultivators was grouped under healthcare and public health operations
 - Recreational cannabis was grouped under Food, beverage and cannabis production and agriculture.
- **MARIJUANA SALES IN MARCH 2020 TOTALED MORE THAN \$36 MILLION**
- **Q1 2020 SALES TOTALED MORE THAN \$100 MILLION**

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CANNABIS IN COVID TIMES

- DISPENSARIES ARE ALLOWED TO SELL CANNABIS ON ADJACENT SIDEWALKS AND CURBS TO PATIENTS OR THEIR AUTHORIZED CAREGIVERS AS LONG AS CERTAIN SECURITY MEASURES ARE FOLLOWED.
- SOME RECREATIONAL CANNABIS SALES HAVE BEEN SUSPENDED
- DELIVERY IS STILL ILLEGAL
- COVID-19 GUIDELINES ARE STILL REQUIRED

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TEST OR NOT





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DRUG TESTING POLICIES

- EMPLOYERS MAY TEST AS PART OF THE APPLICATION PROCESS AND PRIOR TO MAKING AN EMPLOYMENT OFFER
- EMPLOYEES MAY BE TESTED FOR DRUGS OR ALCOHOL IN THE WORKPLACE, WHERE PERMITTED BY STATE LAW.
- TESTING CRITERIA IS APPLIED CONSISTENTLY AND IN A NON-DISCRIMINATORY MANNER
- CHECK WITH YOUR LABOR LAWYER ON STATE SPECIFIC LAWS:
 - <https://www.aclu.org/other/state-state-workplace-drug-testing-laws>

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REQUIRED DRUG TESTING

- THE DEPARTMENT OF DEFENSE (DOD) CONTRACTORS
- DOT REQUIRES THE INDUSTRIES IT REGULATES TO CONDUCT RANDOM DRUG AND ALCOHOL TESTING FOR:
 - Workers in safety sensitive jobs,
 - After accidents
 - When there is "reasonable suspicion" of employee substance abuse.
- THE FEDERAL OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT (OTETA) REQUIRES TESTS FOR ALL OPERATORS OF AIRCRAFT, RAILROAD EQUIPMENT, MASS TRANSPORTATION VEHICLES, AND COMMERCIAL MOTOR VEHICLES.

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POST-INCIDENT DRUG TESTING

- **THIS CHANGE IS LAW DOES NOT CHANGE OSHA DRUG TESTING POLICY**
 - OSHA would view requiring a drug test after an employee reported a repetitive strain injury, musculoskeletal disorder, bee sting or an injury caused by another employee to be punitive. In these types of cases, OSHA claims that there is no “reasonable possibility” to believe that the employee’s injury or condition arose because the employee was drug-impaired.
- **POST ACCIDENT DRUG TESTING CONDUCTED UNDER A STATE WORKERS’ COMPENSATION LAW’S (I.E. STATE DRUG FREE PROGRAMS) OR OTHER STATE OR FEDERAL LAWS (I.E. DOT TESTING) IS STILL CONSIDERED ACCEPTABLE.**

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REASONABLE SUSPICION

RECOGNIZING SIGNS AND SYMPTOMS

1. SPEECH,
2. PHYSICAL DEXTERITY,
3. AGILITY,
4. COORDINATION,
5. DEMEANOR,
6. IRRATIONAL OR UNUSUAL BEHAVIOR,
7. NEGLIGENCE OR CARELESSNESS IN OPERATING EQUIPMENT OR MACHINERY,
8. DISREGARD FOR THE SAFETY OF THE EMPLOYEE OR OTHERS, OR
9. INVOLVEMENT IN AN ACCIDENT OR OTHER CARELESSNESS THAT RESULTS IN AN INJURY TO THE EMPLOYEE OR OTHERS

DRUG TESTING METHODS



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DRUG TESTING PROCEDURES

- **URINE**

- Urine screens are the most common method of drug testing. They are painless, easy, quick and cost effective.
- The person provides a urine sample, and a doctor or technician analyzes it.
- Urine drug screens use cut-off levels. This means that a result will only be positive if the amount of the drug is above a certain level.
- Tests can produce false-negative results. These fail to indicate that a person has recently done drugs. A false-negative result can occur if the urine is very diluted.



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DRUG TESTING PROCEDURES

- URINE DETECTION TIME

Frequency of marijuana use	Detection times after use
Single use	3 days
Moderate use, or 4 times per week	5–7 days
Daily use	10–15 days
Heavy use	more than 30 days

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DRUG TESTING PROCEDURES

- **SALIVA**

- Saliva is good for measuring if you consumed THC
 - Only applies if you smoked it or ingested it (held in mouth).
- Real time testing
- Oral testing is when your mouth is swabbed. Saliva holds traces of chemicals that indicate drug use.
- It's not as popular as blood or urine tests as it only detects drug and alcohol use for a few days. It's helpful for recent drug use detection.
- Cheaper and Quicker and can be done onsite

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DRUG TESTING PROCEDURES

- **HAIR**

- Hair drug testing is effective for determining drug use over a longer time.
- By analyzing hair follicles for chemical traces of addictive substances, drugs like marijuana can be detected.
- As hair grows slowly, drugs can be detected for months or even years after it was ingested.
- The processing time for this type of testing is longer than urine or blood testing, but it's the best long-term method.

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DRUG TESTING PROCEDURES

- **BLOOD**

- Blood tests are the most effective way to detect concentration levels of alcohol and drugs in the body.
- Only method that can indicate the legal impairment limit
 - **5ng/ML of blood** is considered for a driver to be under the influence
 - **10ng/ML** of other bodily substance, or trace of other drugs
 - California, Colorado, Illinois and Canada
- Blood tests also indicate the identification of the parent compound of the drug you've taken.
- It does take longer to develop than urine testing, but it can determine how intoxicated you are.
- One of the most expensive and intrusive methods of drug testing

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MANAGEMENT OF WORKSITE DRUG POLICY



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FEDERAL LAW

- **PROS:**

- The Controlled Substances Act is federal law, and the notion that one federal law would permit employees to use a substance that is prohibited by another federal law is pretty much untenable.

- **CONS:**

- The risk here is that employers may be required to make accommodations for employees' medical use.
- Even for federal contractors required to maintain drug-free workplaces under the Drug-Free Workplace Act, some uncertainty exists as to whether these requirements cover off-duty use
- Talent Management Issue

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ACCOMMODATING WHERE NECESSARY

- **EMPLOYERS WITH MULTISTATE OPERATIONS MIGHT REQUIRE MULTIPLE DRUG POLICIES. MANY AVOID THIS BY BUILDING FLEXIBILITY INTO THEIR POLICY.**
 - ‘But in the event of a conflict with state or local law, the state or local law will apply.’
- **PROS:**
 - The policy does make room for accommodation of medical marijuana if required by state or local law.
- **CONS:**
 - Needs to be consistent across the entire company
 - The question remains, if you are using medical marijuana in some way, does that preclude you from all jobs that are available?”

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TAKING REFUGE IN IGNORANCE

- **SOME EMPLOYERS CHOOSE TO SIMPLY IGNORE MARIJUANA; SOME COMPANIES ARE CONSIDERING IT BECAUSE THERE'S SUCH LOW UNEMPLOYMENT RIGHT NOW THAT THEY'RE HAVING A CHALLENGING TIME FINDING PEOPLE**
- **PROS:**
 - Talent Management
- **CONS:**
 - It's a high-risk position for the company to be in if a serious injury were to occur

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SINGLING OUT SAFETY-SENSITIVE POSITIONS

- **DEPENDING ON STATE LAWS, AN EMPLOYER MIGHT TAKE THE APPROACH OF PROHIBITING MARIJUANA USE FOR EMPLOYEES IN POSITIONS DESIGNATED AS SAFETY-SENSITIVE.**
- **PROS:**
 - There is a legitimate business reason for a zero-tolerance drug-use policy for any employee who is operating around heavy machinery and the like to ensure both the safety and accountability of all employees.
- **CONS:**
 - Possible violation of State laws, ADA if applicable

RISK BASED PROGRAM



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- PROGRESSIVE
- OPEN TO LEGAL CHANGES THAT BEEN PUT INTO PLACE
- THE FACILITY CAN DETERMINE WHICH POSITIONS IN THE WORKPLACE ARE SENSITIVE TO IMPAIRMENT
- CAN MANAGE TESTING AND CONSEQUENCES BASED ON THIS RISK

Qualitative Risk Analysis Matrix - Level of Risk *

Likelihood	Consequences				
	Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
A (almost certain)	M	H	H	E	E
B (likely)	M	M	H	H	E
C (possible)	L	M	M	H	E
D (unlikely)	L	M	M	M	H
E (rare)	L	L	M	M	M

* Level of risk:	(E)	Extreme risk - detailed action/plan required
	(H)	High risk - needs senior management attention
	(M)	Moderate risk - specify management responsibility
	(L)	Low risk - manage by routine procedures

Please note that this template may require revision, dependant upon the analysis of your Agency's risk exposures.

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SAFETY SENSITIVE POSITIONS

- **DETERMINED BY THE COMPANY'S RISK PROFILE**
- **OPERATIONS WHICH CAN BE DETRIMENTAL TO EMPLOYEE, PEERS AND/OR THE PUBLIC**
 - Machine operator
 - Hazardous material handler
 - Forklift/heavy equipment operator
- **EXPOSURE TESTING TOLERANCES CAN BE EASIER TO IMPLEMENT WHEN YOU CAN RECOGNIZE POTENTIAL HAZARDS**
- **TRAINING IS NEEDED TO IMPAIRMENT TESTING**

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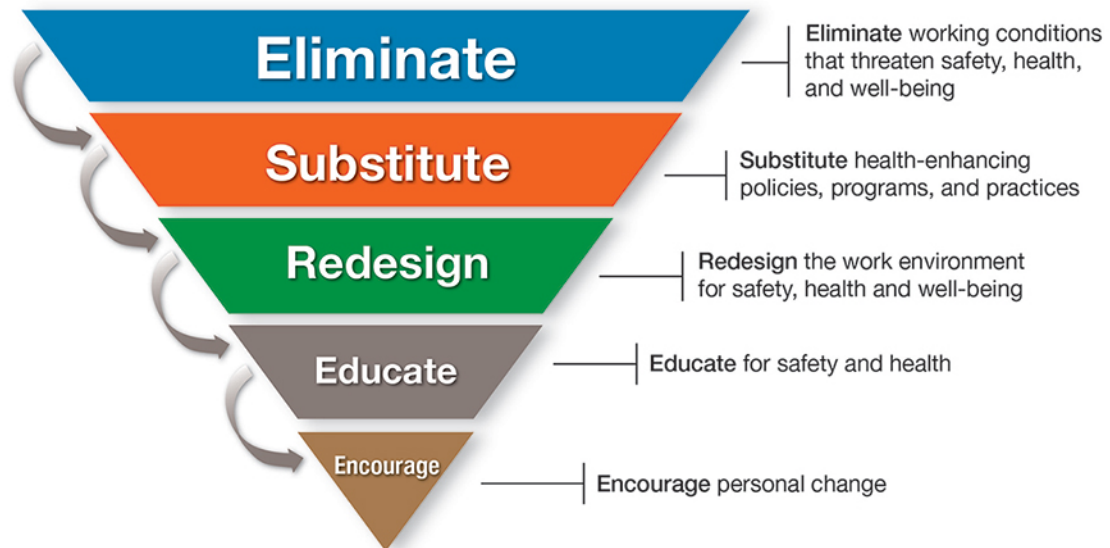
RISK?

WHO IS AT RISK?

DRIVER?

PEDESTRIAN?

AREA EMPLOYEE?





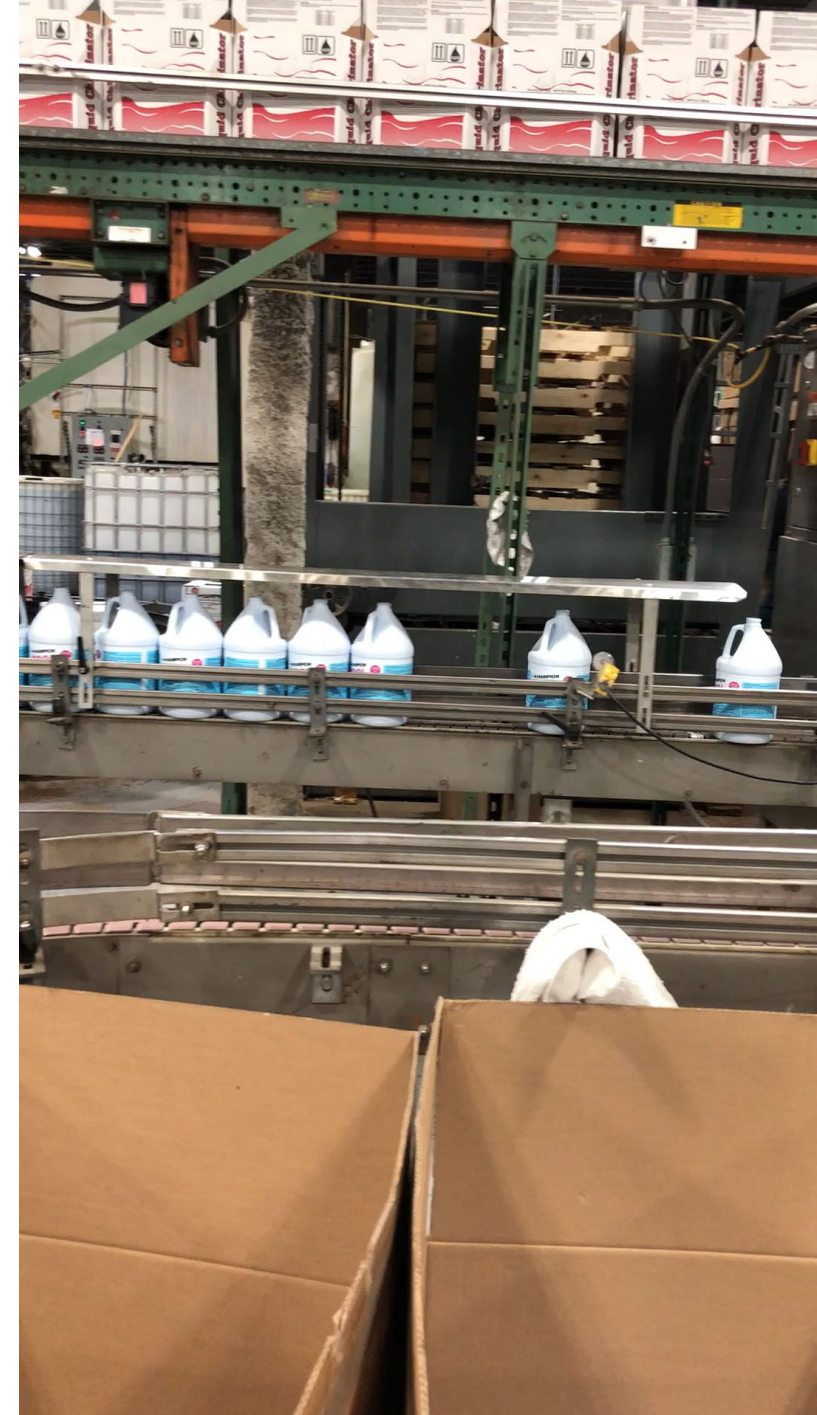
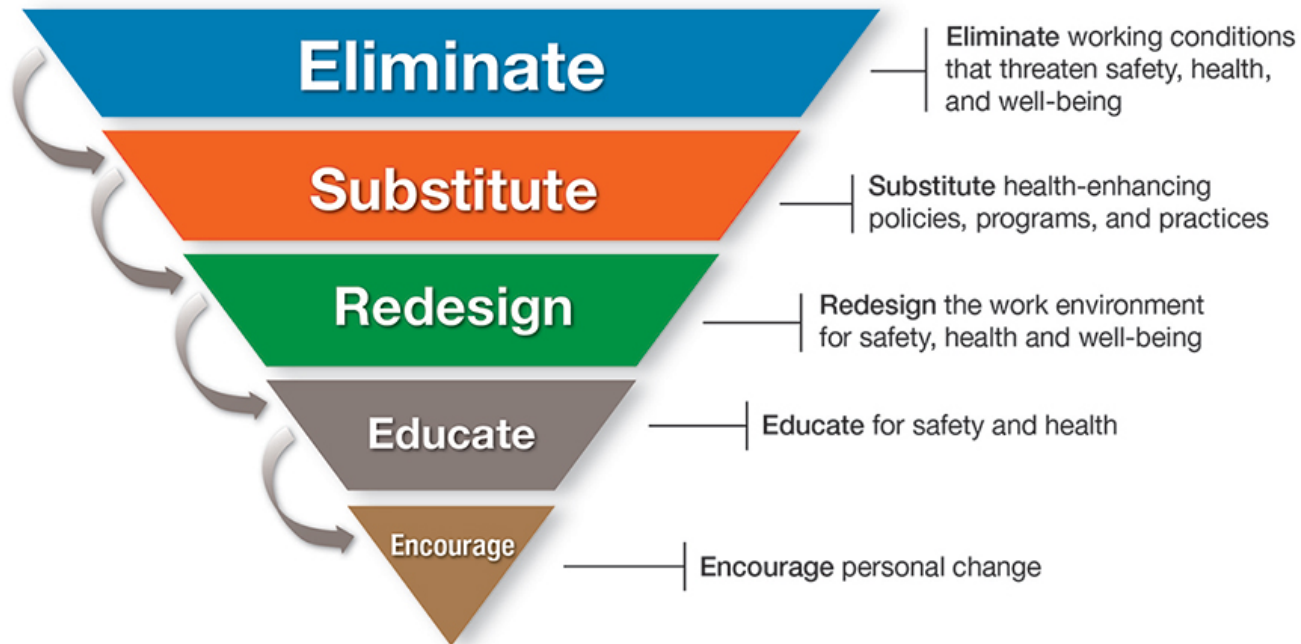
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RISK

WHAT ARE THE HAZARDS THAT
IMPAIRMENT WILL AUGMENT?

WILL/CAN MARIJUANA CREATE
ADDITIONAL HAZARDS?



ZERO TOLERANCE



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- EASIER TO DOCUMENT AND ESTABLISH
- OFTEN REQUIRED BY GOVERNMENTAL CONTRACTS
- DOT ALSO REQUIRES TESTING AND A ZERO TOLERANCE



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FUTURE

- SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA)
- ESTABLISHING AN ACTUAL THRESHOLD TO DETERMINE IMPAIRMENT

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NEXT STEPS

- **MAKE A CHOICE: ZERO TOLERANCE, RISK BASED SYSTEM OR IGNORE THE ISSUE**
- **WORK IN CONJUNCTION WITH LEGAL COUNSEL TO DETERMINE YOUR LEGAL OBLIGATIONS**
- **DETERMINE YOUR RISK PROFILE TO IDENTIFY RISK**
- **TRAIN YOUR LEADERSHIP AND SAFETY TEAM ON THE RISKS AND IMPAIRMENT IDENTIFICATION, REASONABLE SUSPICION**
- **COMMUNICATE YOUR POLICY**
- **CHANGE AS NEEDED**

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QUESTION?





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