

When WEED is Legal

What are employer's rights?

Presented by:

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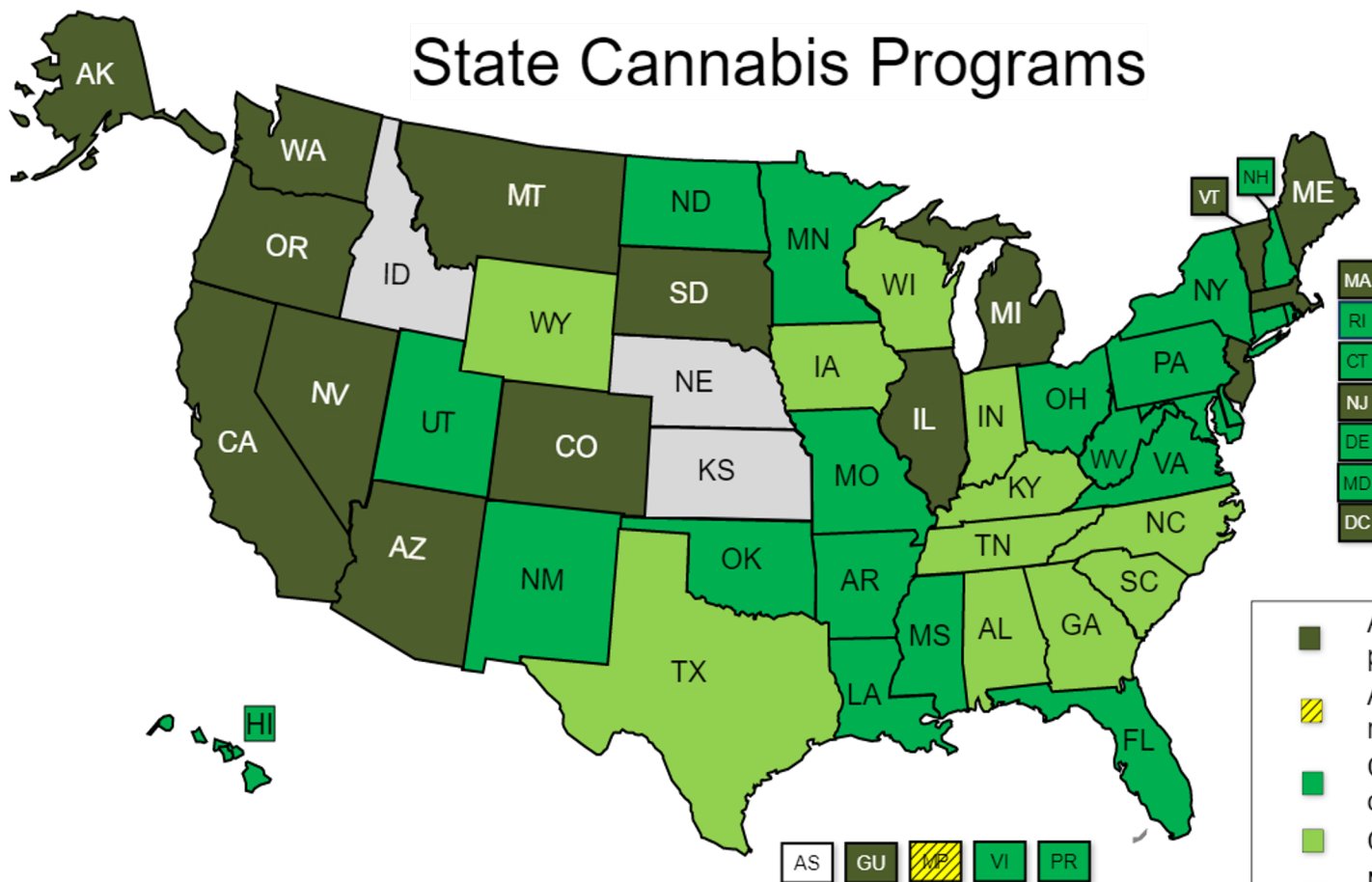
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When weed is legal...



State Cannabis Programs



Limited adult possession and growing allowed, no regulated production or sales: DC

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When Medicinal use is legal in your state...



Legally Defensible Disability Accommodations

- All accommodations require striking a balance between employers' resources and employees' needs.
- The Americans with Disabilities Act requires accommodations, except for illegal drug use. What does this mean in a state where medical marijuana is legal?
- Consider a comprehensive policy and procedure for disability accommodations that addresses state law issues.
- Many state laws do not require employers to accommodate for medical marijuana use.

It is still illegal under federal law.

You can still have
a no tolerance
policy, but is that
the best idea?



State decriminalization for recreational use

- Because marijuana remains federally scheduled, employers to test for marijuana and hiring/firing based on recreational use.
- Employers' policies should be updated to address employees working under the influence of marijuana.
- Employers that are subject to federal drug testing regulations, including safety-sensitive jobs, must still test and comply with applicable federal regulations.

What are employers doing about it?

Should we stop testing for marijuana?

Will we have ADA liability if we deny employment for someone with a medical marijuana card?

Does failure mean the person is impaired?

A photograph of two individuals wearing full-body ghillie suits, which are covered in green and brown foliage for camouflage. They are walking away from the camera on a paved sidewalk. In the background, there is a blurred street scene with parked cars and trees. The image has a meme-like quality with overlaid text.

**Do you
think we
smell like
weed?**

**Na bro,
you're just
being
paranoid**

Does it
happen
here?



Risk to your company

Marijuana users (National Safety council Oct. 2019):

- cause 85% more injuries at work;
- are absent 75% more often;
- cause 55% more industrial accidents;

than non-users.

Supporters will argue that there's no difference in risk.

Scott's advice: Keep safety sensitive positions clean.

CBD (cannabidiol)

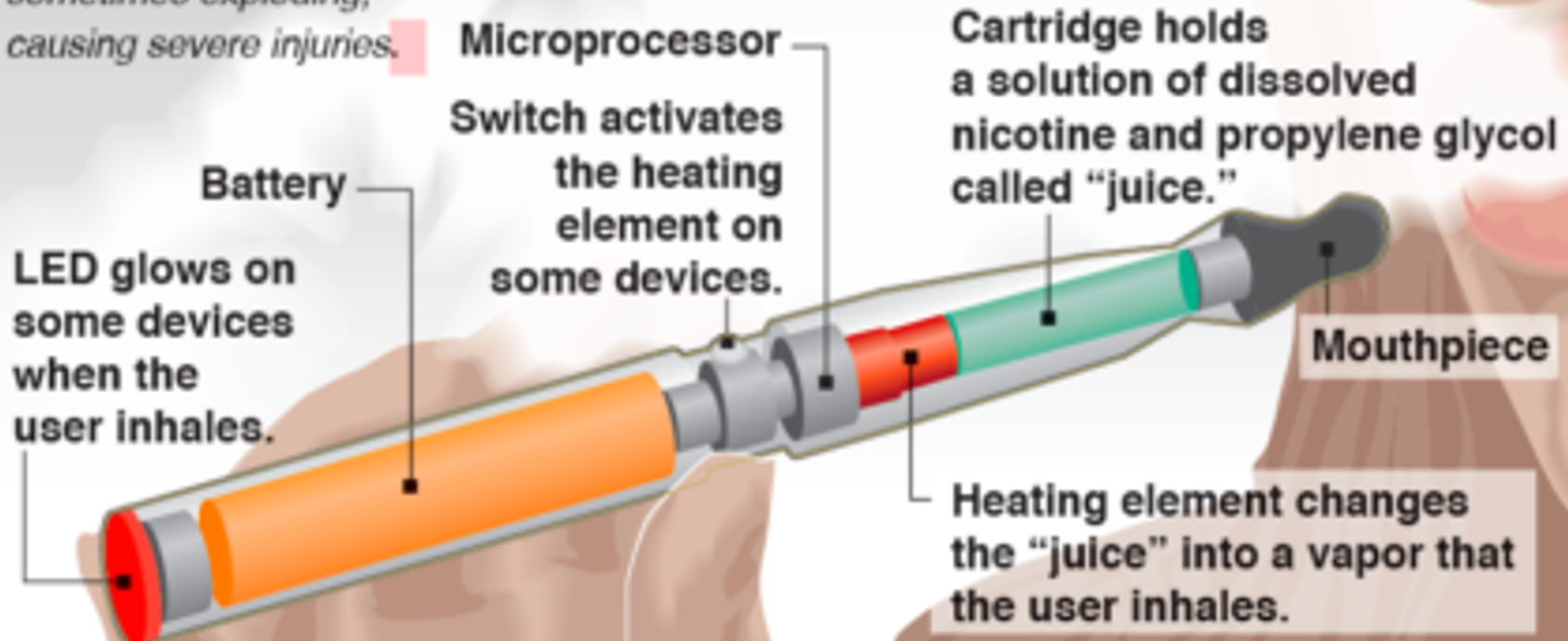
- Do CBD products have THC?
- Can they get me high?
- Should we have a special policy covering CBD?



Dangers of Vaping

How an e-cigarette works

Electronic cigarettes have been touted as a safer way to quit or cut down on smoking, but doctors say the battery-powered devices are sometimes exploding, causing severe injuries.



Source: U.S. Fire Administration

Graphic: Mark Nowlin, Seattle Times/TNS

Drug Free Workplace

Policy, Training,
Testing Required

- Pre Employment
- Post Injury
- Reasonable
Suspicion
- Random
- Return to Duty

Why?

Safety

Discount on Workers'
Comp. Premium

Productivity

Testing

Go in cup

MRO checks it

Call if anything

If illegal or no
response = failure

Refusal = failure



What is the Medical Review Officer looking for in the sample?

Temperature, acidity, dilution, masking agents (tampering)...

Cocaine, amphetamines, meth, THC, methadone, opiates, PCP, barbiturates, benzodiazepines, oxycodone

What is a refusal?

Refusing a test

Not showing up for a scheduled test

Saying, "I can't go" and not going...

Diluted samples could be...

Using another person's urine

Role of the Supervisor



Stay Clean/Safe

Uphold Policy

Be Aware

Address Issues

Refer to EAP

Ask for Help

Recognize the Signs

- red eyes
- poor muscle coordination
- delayed reaction times
- increased appetite
- sudden shift in mood from tense to relaxed
- abrupt symptoms of anxiety, panic, and/or hallucinations

Marijuana also has a distinctive smell, sometimes described as skunk-like. Catching a whiff of this scent on a person's clothing or hair could also be a sign that the person has used the drug recently.

Next Steps

Do you need an updated substance abuse policy?

Want to become certified in your state and save on worker's comp. premiums?

Do you need training for your supervisors?

Is your pre-hire process compliant?

Are your consent forms compliant?

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