



Opinion

How Canada can ensure workplaces remain safe before marijuana becomes legal

By introducing regulatory tools to allow those in safety-sensitive industries to enforce zero-tolerance policies, the government would demonstrate a proactive approach to ensuring workplaces in Canada remain safe.



Gérald Gauthier

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Senators will vote next week on Bill C-45, the government's proposed cannabis law. If the bill receives royal assent, recreational marijuana use will be legalized by this summer.

When the government introduced Bill C-45 and Bill C-46—a companion piece of legislation aimed at cracking down on impaired driving—some industries raised concerns that the laws fail to recognize the impact that cannabis legalization could have on workplaces, especially ones with employees operating in safety-sensitive positions. To ensure safety isn't compromised by legalizing marijuana, employers have been raising awareness of the need to amend those bills to implement preventive drug-



The government should introduce regulatory tools to allow for random drug testing to keep workplaces safe, writes the Railway Association of Canada's acting president, Gérald Gauthier. *Photo courtesy of Pixabay*

and alcohol-screening measures in the workplace. Such measures should include randomly testing employees holding highly safety-sensitive positions, such as train conductors. While many companies in these fields have zero-tolerance policies for workplace impairment, Canada lacks an effective legislative framework to enforce them effectively. By introducing regulatory tools to allow random testing, the government would demonstrate a proactive approach to ensuring workplaces in Canada remain safe.

But with just a few days until the vote, the government risks missing this opportunity.

Random testing works. In the U.S., alcohol and drug testing of safety-sensitive railway employees found a significantly higher level of substance abuse prior to the introduction of random testing. In 1988, industry-positive rates were 4.7 per cent for drugs and 4.5 per cent for alcohol. After the introduction of random testing in 1989, these rates declined to 2.02 per cent and 1.32 per cent, respectively.

Drug impairment poses a danger to all employees. In its November 2016 report, the task force on cannabis legalization highlighted the importance of

addressing safety implications of workplace impairment arising from marijuana consumption. In safety-sensitive industries, such as rail, impairment can increase the risks of serious injury and death. In 2013, Health Canada warned health-care professionals about the impacts of marijuana exposure on psychomotor performance, and implored them to caution patients not to operate complex machinery after consuming the substance.

As currently drafted, bills C-45 and C-46 address drug and alcohol testing for a driver operating a car on our roads, but say nothing about the working conditions of a train conductor operating a locomotive at the front of a train carrying hundreds of people or dozens of carloads of dangerous goods. The fitness for duty of that conductor can impact his or her own life, as well as the lives of colleagues and the public, along with the environment and the integrity of our national transportation infrastructure.

We believe that workplace and public safety are the most important factors in this discussion. To ensure workplaces and the public remain safe, we believe it is reasonable that those who choose to work in

safety-sensitive industries be required to show—on a random basis—that they are not impaired at the controls of a train.

Our courts have repeatedly recognized that modern drug-testing technology currently used in Canadian workplaces is effective, reliable, and non-invasive. In the most-often cited case on this subject, involving Irving Pulp & Paper, former Supreme Court chief justice Beverley McLachlin and fellow judges favoured legislative action on drug and alcohol testing in the workplace. In its decision, the judges pointed to the fact that some courts had already legislated testing in certain contexts, and that similar outcomes would ensure “consistency, uniformity of meaning, and predictability for all workplace stakeholders.”

The federal government has taken some steps to address the safety implications of legalizing recreational marijuana. For instance, it announced research funding on drug impairment, including its impact on the workplace, and said that it is studying technologies used to measure cannabis levels in the body.

But these measures are just a starting point. Legislation and regulations allowing those in safety-sensitive industries to enforce zero-tolerance policies would be the most impactful action to ensure safety. In addition, the government should establish maximum, permissible evidence-based levels of impairment, and develop an acceptable standard for instruments used to measure cannabis in the body. National leadership will give provinces a model for protecting safety. This holistic approach would be a major step forward in ensuring Canada's workplaces remains safe.

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