

**Consultation on Impairment in the Workplace**  
**Submission: Saskatchewan Construction Safety Association**



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The Saskatchewan Construction Safety Association (SCSA) is an industry-funded, non-profit organization that provides cost-effective, accessible safety training and advice to employers and their employees throughout the province. Each year, the SCSA equips nearly 10,000 workers with the education and training they need to achieve their organization's safety goals.

Given the approaching legalization of recreational cannabis, the Government of Saskatchewan seeks input from various stakeholders on possible legislative changes to Part III (Occupational Health and Safety) of *The Saskatchewan Employment Act* (the "Act") and/or *The Occupational Health and Safety Regulations, 1996* (the "Regulations") to address impairment in the workplace. In light of the Government's request for input, the SCSA sought feedback from its members, on issues related to cannabis legalization and workplace impairment. We are pleased to provide an overview of our results to the Government as it considers potential next steps.

In providing this material, we highlight that this is more of a 'temperature check' than a statistically vigorous poll, and we note that our methodology does not incorporate the usual safeguards associated with polling. Still, we considered the responses instructive.

From a total of 198 responses, the top three issues identified by our members as being important for consideration in any legislative proposals are as follows (see 'Appendix A: SCSA Cannabis Survey Results' for complete survey results):

1. The right of employers to perform drug and alcohol tests where there is reasonable cause to believe the employee is impaired on duty or when the worker was involved in a workplace accident or near-miss.
2. Identifying a definitive threshold amount for legal sources of impairment that would indicate a pass or fail on a drug test.
3. Clarifications of the duties imposed on employees to be fit for work and to disclose any impairment (e.g. taking prescribed medication).

In addition to asking our members to rate the issue most important to them, we sought feedback in the form of comments. Common themes emerged, and we provide a sampling of comments to reflect those themes:

*I believe that employers need to know the facts on testing for impairment regarding cannabis, as to date no definitive tests have been developed to positively identify impairment with this substance.*

*The problem with putting all the liability and responsibility on the employer instead of the employee. Why doesn't an employer have the right to dismiss an employee that doesn't care what happens to your business, or your bottom line. If they don't show some responsibility for their actions it might be nice to have an employee that does.*

*How to define impairment. As THC sticks to fat cells, it could be in your system long after the "high" is gone. Our research shows that an employee may not be impaired in the traditional sense but the worker's urine or blood test may show positive. What is fair to worker/company? Employers and supervisors cannot be drug detection experts.*

Thank you for providing our association with the opportunity to participate in this consultation. The SCSA is committed to ensuring construction employers and their employees in Saskatchewan have the knowledge and tools to ensure their individual workplaces are free from injury and workers are able make it home safely at the end of each work day.

The SCSA does not advocate for any specific legislative or policy change, and provide the above information with a goal of contributing to the government's knowledge and consideration of possible legislative amendments to the Act and/or the Regulations.

## Appendix A: SCSA Cannabis Survey Results

### Constant Contact Survey Results

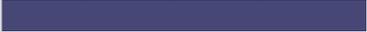
**Survey Name:** Seeking Member Input on Cannabis Legalization

**Response Status:** Partial & Completed

Given the approaching legalization of recreational cannabis, the Government of Saskatchewan is looking for input on possible legislative changes to the occupational health and safety portions of The Saskatchewan Employment Act and/or The Occupational Health and Safety Regulations, 1996 to address impairment in the workplace. The Saskatchewan Construction Safety Association is considering preparing and submitting a document that outlines its members' concerns about impairment in the workplace. With respect to your concerns about impairment in the workplace, please rank your concerns about the issues that you think should be included or addressed in any legislative proposal or changes.

**Top number is the count of respondents selecting the option. Bottom % is percent of the total respondents selecting the option.**

1 = Least

Answer	1	2	3	4	5	6	7	8	Number of Response(s)	Ranking Score*
The right of employers to preform drug or alcohol test on employees when requested by a general or prime contractor or owner									174	4.3
The right of employers to perform drug and alcohol tests where there is reasonable cause to believe the employee is impaired on duty or when the worker was involved in a workplace accident or near miss									174	5.9
The right of employers to perform random drug and alcohol tests on employees working in safety sensitive positions									174	4.4
A definitive threshold amount for legal sources of impairment that would indicate a pass or fail on a drug test									174	5.7
Clarification of an employer's duty to develop an impairment policy and/or drug and alcohol testing policy, including what is required									174	4.2
Clarifications of the duties imposed on employees to be fit for work and to disclose any impairment (e.g. taking prescribed medication)									174	4.5
Clarification of an employer's obligation to accommodate an employee with an addiction or substance abuse dependency, where that employee works in a safety sensitive position									174	4.0
Other (please specify)									174	3.0

\*The Ranking Score is the weighted average calculated by dividing the sum of all weighted rankings by the number of total responses.

**Comment(s) for:**

- 1 Given the approaching legalization of recreational cannabis, the Government of Saskatchewan is looking for input on possible legislative changes to the occupational health and safety portions of The Saskatchewan Employment Act and/or The Occupational Health and Safety Regulations, 1996 to address impairment in the workplace. The Saskatchewan Construction Safety Association is considering preparing and submitting a document that outlines its members' concerns about impairment in the workplace. With respect to your concerns about impairment in the workplace, please rank your concerns about the issues that you think should be included or addressed in any legislative proposal or changes.**

**48 Responses**

**Answer**

Definition of employer responsibilities for employees on the job site when impaired.
Clarification between "recreational" and "medical" in regards to all Cannabis in the work place
How define impairment. As TCH sticks to fat cells, it could be in your system long after the "high" is gone. Our research shows that an employee may not be impaired in the traditional sense but the worker's urine or blood test may show positive. What is fair to worker/company?
N/A
To ensure that children and those with medical issues are protected from second hand marijuana smoke at all times.
There needs to be something better than urine testing if cannabis is going to be legalized.
All are equally important
Companies should be able to have a 0 tolerance for impairment where 0 is absolute 0 where it can be reinforced by random drug and alcohol testing.
I believe that it is the workers responsibility to disclose any prescription that may cause impairment. Cannabis does not impair the same way as alcohol, narcotics or even many prescription drugs. For recreational use, keep it out of work. I don't believe that recreational use will cause any problems, as long as people handle it responsibly and don't use it on a job site.
I have had to rate the above suggestions from 1 to 8 as that is how the questionnaire is setup. If I had the option I would rate a few at an 8 as they need to be addressed.
Marijuana usage testing is not accurate to be able to tell if the individual is currently high. Same as if drinking alcohol the day before does not show up because the individual is not intoxicated. Though a failed marijuana test will not necessarily mean someone is high they could have just used it a few days before the test.
How to implement changes
I do not see a reason for government to set legislation when most companies already have safe guards in place. Leave government out of this.
The rights of a worker to do whatever they want on their time off, whether or not a substance (legal or not) is detected in their system as long as they're not impaired.
Alcohol is just as much of a problem as cannabis will be
Na
all questions are very important and major concerns for our company.
The COAA (The Canadian Model) has deemed all construction work as safety sensitive. Would the Saskatchewan government do the same?
employers have right of immediate dismissal of impaired employees involved in workplace accidents
There is no safe level of impairment by thc it is a psychoactive drug that has serious consequences

that are extremely hard for the user to discern.
Having "1=least" in fine print isnt a good idea. Some responses to your survey will be opposite of what the participant is trying to say, as its natural to assume #1 would be Most important, not least.
I feel all rules and regulations need to be made perfectly clear for both employers and employees, by the time cannabis is legalized, other wise this may become a big mess.
The problem with putting all the liability and responsibility on the employer instead of the employee. Why doesn't an employer have the right to dismiss an employee that doesn't care was happens to your business, or your bottom line. If they don't show some responsibility for their actions it might be nice to have an employee that does.
x
Disciplinary procedures for workplace impairment
Random drug test, make it a must this will clear a lot of workers, that fail to follow the rules and put everyone else at risk every day
Signage to say any drugs or alcohol is an impairment and subject to dismissal.
The right of an employer to bar a worker from a site when the worker appears to be under the influence of a mood altering drug.
I believe that employers need to know the facts on testing for impairment regarding cannabis, as to date no definitive tests have been developed to positively identify impairment with this substance.
Clarification of sub-contractors right to refuse testing
Primary concern is to provide definitive tools to determine impairment. Employers and supervisors cannot all be expert drug detection experts.
Prohibit all companies conducting any business activity in Saskatchewan (whether they be a Prime Contractor, Contractor, Employer, Owner or Self employed person) from exceeding (going above) legislation that determines a threshold amount for legal sources of impairment which would indicate a pass or fail on a drug test. Exceeding the legislation includes zero tolerance rules in which any positive result (even if below the current legal threshold) results in a "fail" and disciplinary action.
n/a
Our drug and alcohol policies are set through the CODC and Building Trades Unions.
There are so many people already in the field that are preforming jobs in construction under the influence. Is there going to be drug tests done right after the new law comes out? What about people who are prescribed cannabis by a doctor for anxiety or whatever other reasons, will they lose their jobs or never get a job in the construction field?
na
If a employer wants a zero tolerance policy it should be within his or her rights as an employer. With out being treated as discriminating nor should it be there responsibility to rehabilitate some one with a problem. The government legalized it it's there problem not my duty to accommodate. Downloading has to stop@
Null
1. This needs to have parameters. The employer needs reasonable grounds to test. Employers cannot just test to test. Especially if there is no scientific way to determine the level of inebriation.
Length of time left in system
All items are of equal importance. and should be treated as such. Why would I subject my employees to an employee who comes to work stoned.
How accurate testing will be ex. Will you be able to smoke night before and pass a test in morning
No Other
Provisions or clarification on an on the spot testing method that indicates undoubted probability of impairment. Cannabis remains in the system for up to one month dependent on the user's body type, metabolism and extent of use. If legalization permits a person to go home and consume cannabis

similar to having a beer or taking pain killers, what are the acceptable levels to unacceptable levels that "probability of impairment" look like and how is that most accurately tested?

Zero tolerance should still mean zero tolerance!

Every employee chose their line of work and should strictly adhere to the rules and legislation that they agreed to. When working with other people, and majority of the time, have effects on other people's lives, there should be no leeway for any drug levels of any kind at any time. Choose a different career if you want to partake in drugs.

The importance of the clarification of what type of "medical authorization/prescription" they received as opposed to what they actually get/take.

I've ranked my most important concern as other. That concern is one of impairment due to fatigue. Something that isn't addressed by this request for input is impairment due to fatigue. I bring this up here because I think it should be addressed at the same time. Long shifts or long shift cycles can cause impairment as bad or worse than drugs or alcohol.

Also, it's imperative that any testing looks for impairment only and not recent use. People shouldn't be judged guilty until proven innocent.

Interested in the regulations and how the will affect our workplaces.

## 2 Roughly how many people are employed at the firm you work for?:

Answer	0%	100%	Number of Response(s)	Response Ratio
0-4			20	10.0 %
5-19			53	26.6 %
20-49			40	20.1 %
50+			86	43.2 %
No Response(s)			0	0.0 %
<b>Totals</b>			<b>199</b>	<b>100%</b>

## 3 What is your level of responsibility for people?

Answer	0%	100%	Number of Response(s)	Response Ratio
Self-Employed			24	12.0 %
Construction Executive			15	7.5 %
Construction Manager			38	19.0 %
Construction Supervisor			32	16.0 %
Construction Worker			20	10.0 %
Other			69	34.6 %
No Response(s)			1	<1 %
<b>Totals</b>			<b>199</b>	<b>100%</b>

Other answer(s) for:

## 3 What is your level of responsibility for people?

69 Responses

Answer
On-site medic/drug tester
Museum

Safety professional
Administration
Safety Professional
Owner
Owner
senior employee, chargehand
Safety Administrator
Underground miner
Safety manager
safety
Project Coordinator
Safety Coordinator
Owner, Manager, Supervisor, Worker
Safety Supervisor
Caretaker
Assistant Forman
HR
Safety Manager
Office and HR Manager
Safety Manager
OHS CO-CHAIR PERSON
Occupational Health Nurse
safety officer
Employee
Waterworks Manager
health and safety manager
Safety professional
Safety Coordinator
safety
Owner of company
Safety
Safety coordinator
Security
ceo
Safety Admin
Workers Compensation
OHS Consultant
I work for the Sask Building Trades
safety officer
Construction Safety Coordinator
Health & Safety Manager

Safety Administrator
Safety
Safety
HSE
Safety Officer
non-construction manager
HSE Safety Officer
Safety Manager
Student working towards OH&S Officer
Safety Officer
Director
Human Resources
Safety Administrator
HR Manager
Administrative Assistant/Safety Coordinator
not responsible
Safety Manager
Human Resources Specialist
Safety Administrator
Reginal Safety Officer
Service manager
Union representative IBEW 2038
EH&S Coordinator
Health & Safety Administrator
Safety Officer
Safety Coordinator

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