

GET COMPLIANT. STAY COMPLIANT. AVOID ENFORCEMENT

The Risk of CBD Use By Commercial Drivers

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CBD USE AMONG DRIVERS

Key Concepts

- What is CBD?
- How does it relate to marijuana?
- Legal landscape
- DOT policies



WHAT IS IT?

Cannabidiol (CBD)

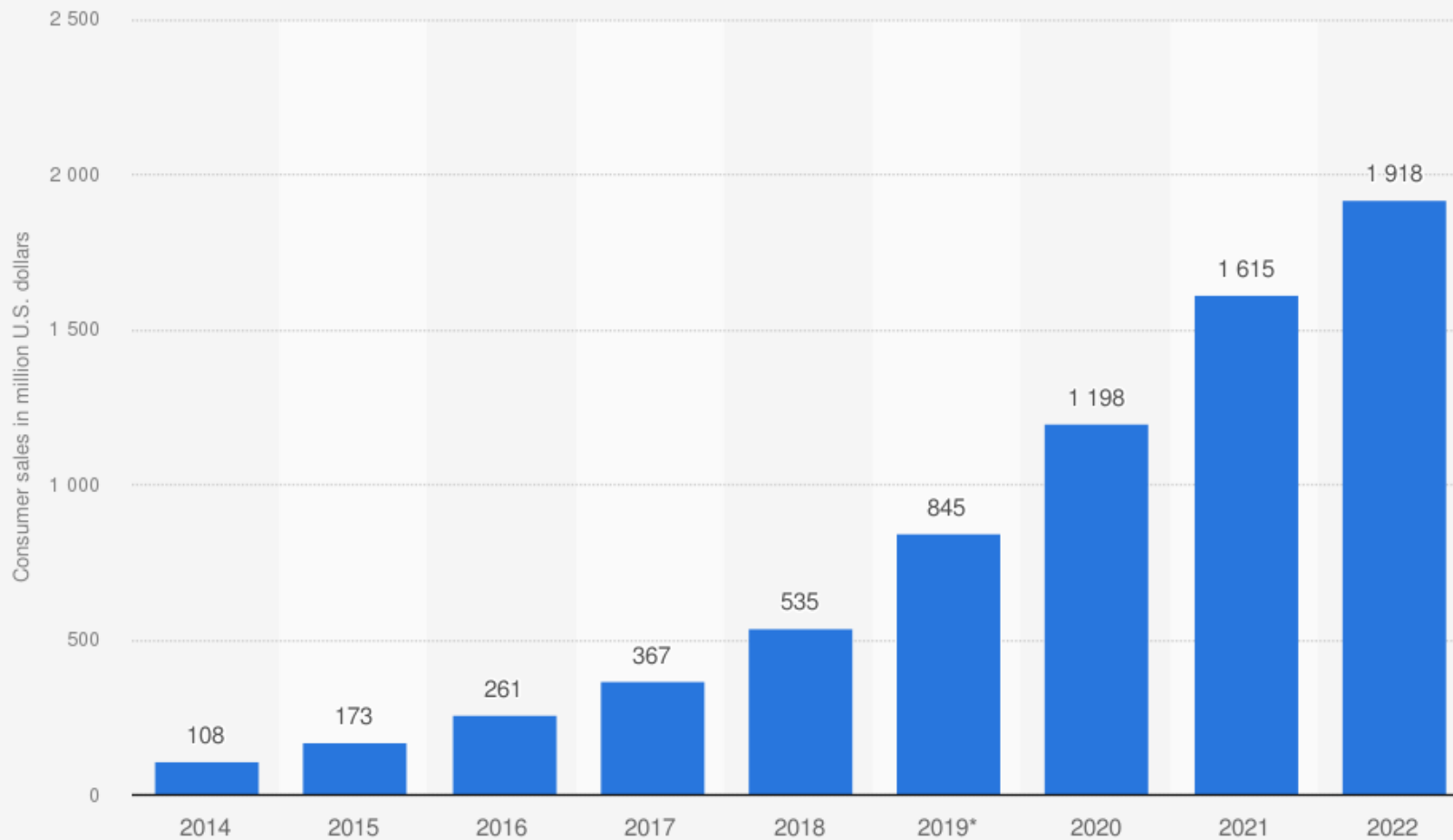
- ✓ One of two compounds of the cannabis plant (CBD & THC)
- ✓ Primarily hemp-derived vs. marijuana derived
- ✓ Lacks the psychoactive effect on the human body, unlike THC
- ✓ Generally contains little to no THC, **OR DOES IT???**



WHAT IS IT?

CBD Use Over Time

Total U.S. cannabidiol (CBD) product sales from 2014 to 2022 (in million U.S. dollars)





WHAT'S THE PROBLEM?

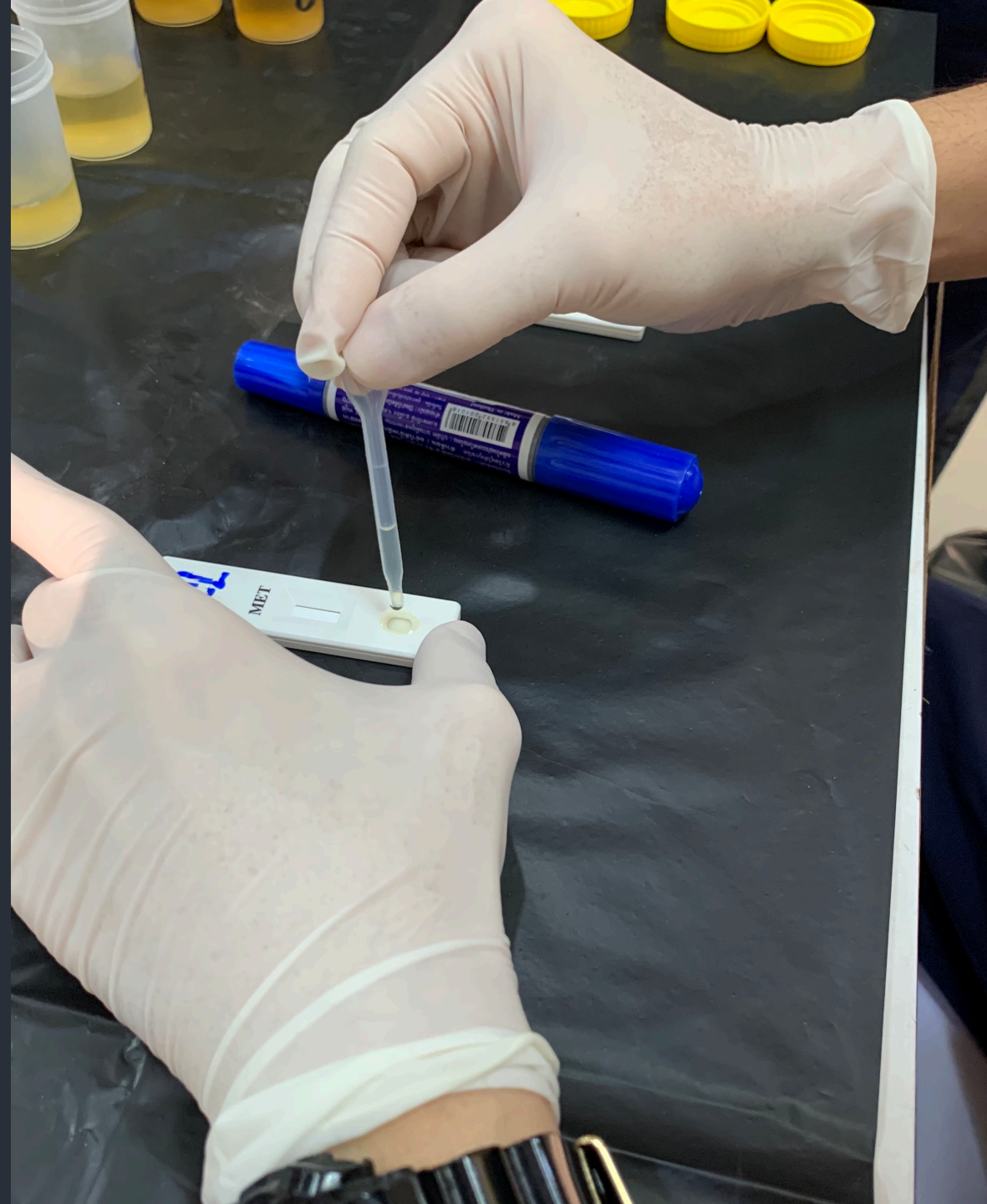
Legal Landscape

- ✓ Marijuana (THC) is a Schedule I controlled substance
 - ✓ Unlawful under federal law
 - ✓ Legal in some states
- ✓ CBD (less than 0.3% THC) is legal in every state

WHAT'S THE PROBLEM?

DOT Policies

- ✓ Medicinal Marijuana Notice
- ✓ CBD Notice



WHAT'S THE PROBLEM?

DOT Policies

DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



Recently, the Department of Justice (DOJ) issued guidelines for Federal prosecutors in states that have enacted laws authorizing the use of “medical marijuana.”

<http://www.justice.gov/opa/documents/medical-marijuana.pdf>.

We have had several inquiries about whether the DOJ advice to Federal prosecutors regarding pursuing criminal cases will have an impact upon the Department of Transportation’s longstanding regulation about the use of marijuana by safety-sensitive transportation employees – pilots, school bus drivers, truck drivers, train engineers, subway operators, aircraft maintenance personnel, transit fire-armed security personnel, ship captains, and pipeline emergency response personnel, among others.

We want to make it perfectly clear that the DOJ guidelines will have no bearing on the Department of Transportation's regulated drug testing program. We will not change our regulated drug testing program based upon these guidelines to Federal prosecutors.

The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e) – does not authorize “medical marijuana” under a state law to be a valid medical explanation for a transportation employee's positive drug test result.

WHAT'S THE PROBLEM?

DOT Policies

DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



The Agricultural Improvement Act of 2018, Pub. L. 115-334, (Farm Bill) removed hemp from the definition of marijuana under the Controlled Substances Act. Under the Farm Bill, hemp-derived products containing a concentration of up to 0.3% tetrahydrocannabinol (THC) are not controlled substances. THC is the primary psychoactive component of marijuana. Any product, including “Cannabidiol” (CBD) products, with a concentration of more than 0.3% THC remains classified as marijuana, a Schedule I drug under the Controlled Substances Act.

We have had inquiries about whether the Department of Transportation-regulated safety-sensitive employees can use CBD products. Safety-sensitive employees who are subject to

It is important for all employers and safety-sensitive employees to know:

1. The Department of Transportation requires testing for marijuana and not CBD.
2. The labeling of many CBD products may be misleading because the products could contain higher levels of THC than what the product label states. The Food and Drug Administration (FDA) does not currently certify the levels of THC in CBD products, so there is no Federal oversight to ensure that the labels are accurate. The FDA has cautioned the public that: “Consumers should beware purchasing and using any [CBD] products.” The FDA has stated: “It is currently illegal to market CBD by adding it to a food or labeling it as a dietary supplement.”* Also, the FDA has issued several warning letters to companies because their products contained more CBD than indicated on the product label. **i
3. The Department of Transportation’s Drug and Alcohol Testing Regulation, Part 40, does not authorize the use of Schedule I drugs, including marijuana, for any reason. Furthermore, CBD use is not a legitimate medical explanation for a laboratory-confirmed marijuana positive result. Therefore, Medical Review Officers will verify a drug test confirmed at the appropriate cutoffs as positive, even if an employee claims they only used a CBD product.

It remains unacceptable for any safety-sensitive employee subject to the Department of Transportation’s drug testing regulations to use marijuana. Since the use of CBD products could lead to a positive drug test result, Department of Transportation-regulated safety-sensitive employees should exercise caution when considering whether to use CBD products.

WATCH LIVE

Illinois trucker flunked drug test; claims fraud from CBD candy maker

ABC7 I-Team Exclusive

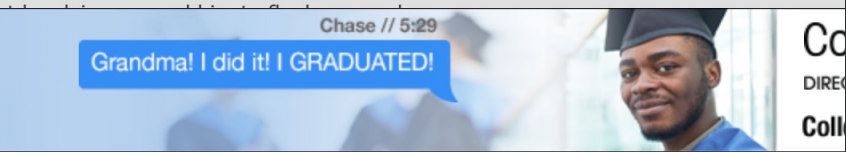
By Chuck Goudie and Christine Tressel
Tuesday, November 5, 2019



EMBED < MORE VIDEOS >

ABC7's I-Team has the exclusive story of truck driver Trevor Darrow who has filed a federal lawsuit against a candy maker whose products...

CHICAGO (WLS) now has defendin



WHAT'S THE PROBLEM?

Consequences

- ✓ No FDA oversight leads to misleading or inaccurate labeling
- ✓ Use can lead to positive drug tests
- ✓ DOT policies give no leeway for these situations
- ✓ Drivers who test positive are now prohibited from operating a CMV unless/until they complete the RTD process

CBD USE AMONG DRIVERS

Takeaways

- ✓ CBD use among drivers is and will remain risky until we have more oversight for CBD manufacturers
- ✓ Likelihood of a positive test from CBD use is uncertain
- ✓ Consequences are severe
- ✓ Carriers should educate their drivers on this topic and consider a written policy



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Thank you!

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