**2019 DOT Random Testing Rates**

| The following chart outlines the annual minimum drug and alcohol random testing ratesestablished within DOT Agencies and the USCG for 2019. |
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| **DOT Agency** | **2019 Random Drug Testing Rate** | **2019 Random Alcohol Testing Rate** |
| Federal Motor Carrier Safety Administration[FMCSA] | 25% | 10% |
| Federal Aviation Administration[FAA] | 25% | 10% |
| Federal Railroad Administration[FRA] | 25% - Covered Service | 10% - Covered Service |
| 50% - Maintenance of Way \* | 25% - Maintenance of Way \* |
| Federal Transit Administration[FTA] | 50% | 10% |
| Pipeline & Hazardous Materials Safety Administration[PHMSA] | 50% | N/A |
| United States Coast Guard[USCG]*(with the Dept. of Homeland Security)* | 50% | N/A |

**“\*”:  Random testing began on 06/12/2017 - For more info see** [**e-CFR**](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=8ce69f7bb9a74836043f00afda76fd08&rgn=div5&view=text&node=49:4.1.1.1.14&idno=49)

**NOTE:** Employers (and C/TPAs) subject to more than one DOT Agency drug and alcohol testing rule may continue to combine covered employees into a single random selection pool.

USCG covered employees may be combined with DOT covered employees in drug testing pools even though the USCG is now part of the Department of Homeland Security.

Updated: Monday, April 29, 2019

# Does the legalization of the use and possession of marijuana by a State, or other country that has drivers who operate in the United States, change the treatment of marijuana use under federal regulations applicable to drivers operating a commercial motor vehicle (CMV) (as defined in 49 CFR § 390.5)?

No. Marijuana, including a mixture or preparation containing marijuana, continues to be classified as a Schedule I controlled substance by the Drug Enforcement Administration (DEA) in 21 CFR § 1308.11. Under the Federal Motor Carrier Safety Regulations (FMCSRs), a person is not physically qualified to drive a CMV if he or she uses any Schedule I controlled substance such as marijuana. (See 49 CFR §§ 391.11(b)(4) and 391.41(b)(12)). In addition to the physical qualification requirements, the FMCSRs prohibit a driver from being in possession of or under the influence of any Schedule I controlled substance, including marijuana, while on duty, and prohibit motor carriers from permitting a driver to be on duty if he or she possesses, is under the influence of, or uses a Schedule I controlled substance. (See 49 CFR §§ 392.2 and 392.4). Legalization of marijuana use by States and other jurisdictions also has not modified the application of U.S. Department of Transportation (DOT) drug testing regulations in 49 CFR parts 40 and 382. (See <https://www.transportation.gov/odapc/medical-marijuana-notice> and <https://www.transportation.gov/sites/dot.gov/files/docs/odapc-notice-recreational-mj.pdf>.)

Last Updated : October 23, 2017



# Medical Marijuana: How It Affects Our Industry

Posted by [ebirmingham](https://www.buses.org/news/author/23) on October 14, 2018

By: Glenn R. Every

The role of marijuana in America is rapidly evolving, and its decriminalization and legalization has strong public support. Up to 90 percent of adults in America are in favor of the legal use of marijuana for medicinal purposes or some other form of legalization, according to some polls. Support is found even in states such as Oklahoma and Texas, where there has traditionally been strong opposition to legal cannabis. For example, Forbes magazine recently reported that the Texas Republican Party endorsed the decriminalization of marijuana.

All but four states now recognize some form of legalized marijuana; the only states where pot is completely illegal are Idaho, Kansas, Nebraska, and South Dakota. The recreational use of marijuana is legal in nine states (Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Vermont, and Washington) and the District of Columbia.

It’s important to remember that even though marijuana may be legal at the state level, the federal government still considers it a Schedule I substance under the Controlled Substances Act and, thus, it is illegal. Accordingly, because motorcoach operators are subject to federal regulation, our drivers and safety-sensitive employees are strictly prohibited from using marijuana in any form, even if it is legal under state law.

Legalization can take several forms. Recreational legalization typically means the legal use, possession, and growing of small amounts of pot. Medical marijuana laws typically make a distinction between the two main chemicals in marijuana—THC (tetrahydrocannabinol), the psychoactive ingredient which causes the “high”); and CBD (cannabidiol), which is not intoxicating but can be used in many forms for anxiety relief and other purposes. What’s more, both types of cannabis may be found in smokable and non-smokable forms, such as oils, edibles, tinctures, and pills, which can be difficult to detect.

Perhaps the biggest impact on operators is in the area of employment law and our obligations as employers. Laws such as the Americans with Disabilities Act and the Family Medical Leave Act (and their state law counterparts) place requirements on employers that become complicated when state-legal marijuana is involved. For example, what do we do when an employee with a qualifying condition requests an accommodation that involves medical marijuana? What should we do if, in the course of reviewing workers’ compensation medical records, we discover that our driver has been using medical marijuana as part of a prescribed treatment? In addition, those of us with zero-tolerance policies or drug-free workplace requirements may run afoul of state laws that protect medical marijuana users.

We also owe a legal duty to our customers and the public to ensure that our drivers are not driving with marijuana in their system. THC is not as easily detected as alcohol, particularly in roadside tests, and THC content may be so low it doesn’t show up in drug tests at all, yet it can remain in a person’s system for up to 30 days after its last use.

Regarding your passengers who may be legally using marijuana, if your driver knows or has reason to believe someone is intoxicated or impaired, legal liability may arise if that passenger is left in a situation where they can cause harm to themselves or other people.

Because different states have different marijuana laws, you should be aware of the consequences of passengers carrying marijuana over state lines from a legal jurisdiction to a jurisdiction where it is not legal. This is largely a matter for local law enforcement and can lead to searches, seizures, and lengthy delays.

It is safe to say that the FMCSA is more concerned about the THC in your driver’s blood than it will be about marijuana in a passenger’s luggage, but at the same time local law enforcement agencies will be watchful to its use and possession by both drivers and passengers.

What are the basic steps motorcoach operators can take in this complex and changing legal environment?

* Educate your drivers and other safety-sensitive employees that just because marijuana may be legal at the state level for medical purposes, it is not legal for them to drive or perform other safety-sensitive functions if they are using it.
* If you have knowledge or reasonable suspicion that a driver has taken medical or some other form of state-legal marijuana, do not allow them to drive.
* Adopt a policy that prevents your drivers from accepting food or drink from passengers, because marijuana is now sold in forms that are difficult to detect.
* Familiarize yourself with state laws where you are located and where your buses travel.
* Be attentive to rapid changes in state and local laws.
* The most important consideration of all is the safe transportation of our passengers.