

# Trends in Cannabis Use & Continued Impacts on Transit Operations

Sean K. Oswald, Director of Drug & Alcohol Initiatives  
RLS & Associates, Inc.

---

FTA Drug and Alcohol Program National Conference

April 14-16, 2026



# Disclaimer

*This guidance document is not legally binding in its own right and the Federal Transit Administration will not rely upon it as a separate basis for affirmative enforcement actions or other administrative penalty. Conformity with this document (as distinct from existing statutes and regulations) is voluntary only, and nonconformity will not affect rights and obligations under existing statutes and regulations.*



---

# Basic Information



U.S. Department of Transportation  
Federal Transit Administration



# Basic Information – Common Names

## Cannabis, Marijuana, Weed

- On and on and on and on ... many names for the same thing
- Commercial industry continues to lean toward “Cannabis”

## Names Differ

- Demographic Differences
- Geographic Differences
- Product Type(s)

# Hemp vs Marijuana – A Legal Distinction

## 2018 Farm Bill

- Hemp removed from definition of “Marijuana”
- Hemp removed from CSA Schedule I

## FY26 Agriculture Appropriations Act

- Revised definition of hemp

## Hemp - 2018 Farm Bill Definition

- Any cannabis plant, or derivative thereof that:
  - Does not contain more than 0.3% delta-9 THC
- Federally legal ONLY if produced consistent with 2018 Farm Bill  
Trending Example:
  - “Hemp derived” THC Delta 9 Drinks

## Marijuana

- Anything that isn’t “hemp”
- Federally illegal
- CSA Schedule I

# Cannabidiol (CBD) – What Is It?

## Derived from cannabis plant

- Hemp derived to meet 2018 Farm Bill
- Can still be derived from non-hemp plant

## It is not THC

- But may still contain THC



## Many forms

- Oil is most popular

Often touted as “non-intoxicating/non-psychoactive”

## Medical Uses

- Heavily studied
- Most significant and reliable research showing effectiveness for epilepsy
- But evidence shows many medical uses beyond epilepsy
- “Treat the symptoms” vs. “treat the issue”

# CBD – “Will a USDOT Drug Test Find CBD?”

Technical Answer = NO

- USDOT tests for THC, not CBD

Perhaps a better question is....

“If I use CBD, will I test positive for THC?”

- Possible – Likelihood varies
- Some CBD products have high levels of THC.
- Other products have 0.3% THC.
- ... How much CBD product do you use?
- ... for how LONG

## **Bottom Line**

- Use of marijuana is prohibited at ALL times under USDOT – FTA.
- If THC is found at/above cutoff levels, USDOT test will always be POSITIVE.
- The source of THC is 100% irrelevant.

---

# Trends

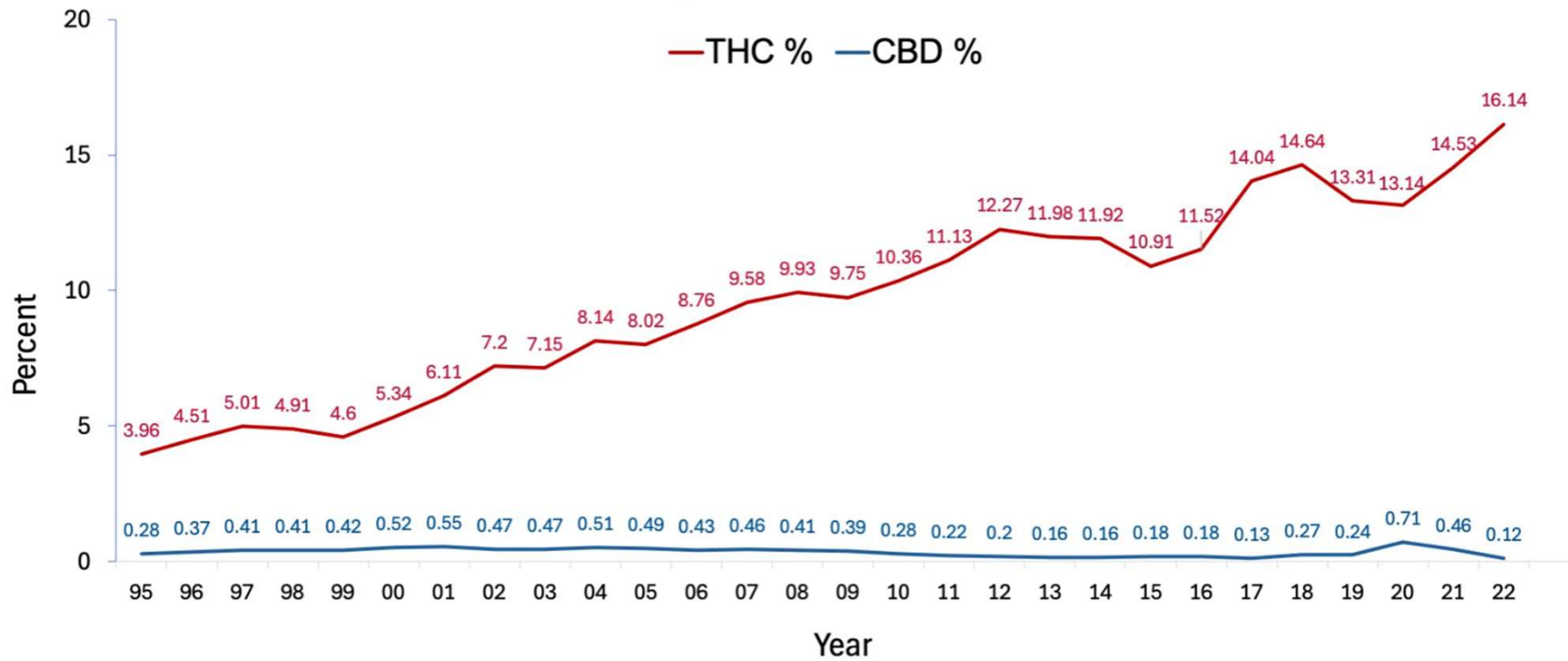


U.S. Department of Transportation  
Federal Transit Administration



# Illicit THC Potency Over Time

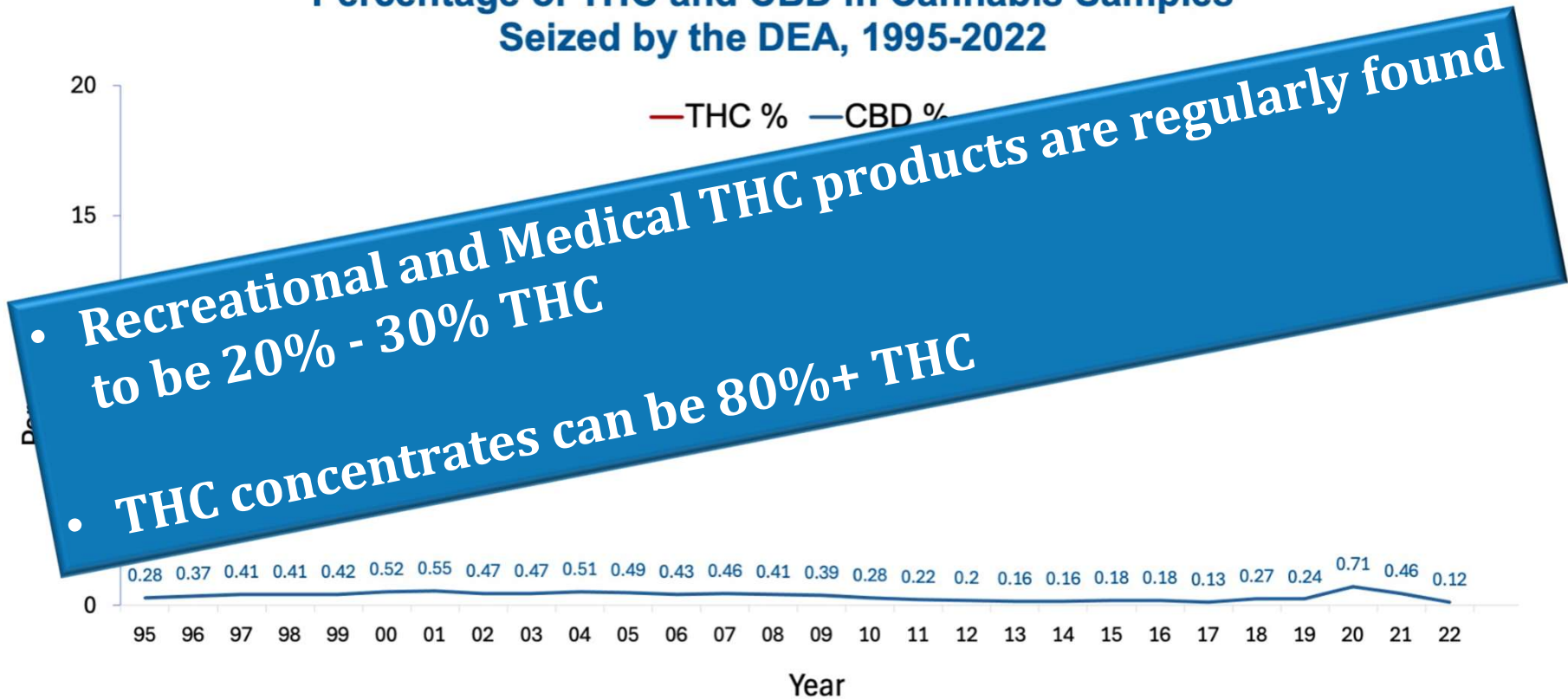
## Percentage of THC and CBD in Cannabis Samples Seized by the DEA, 1995-2022



SOURCE: U Miss, Potency Monitoring Project

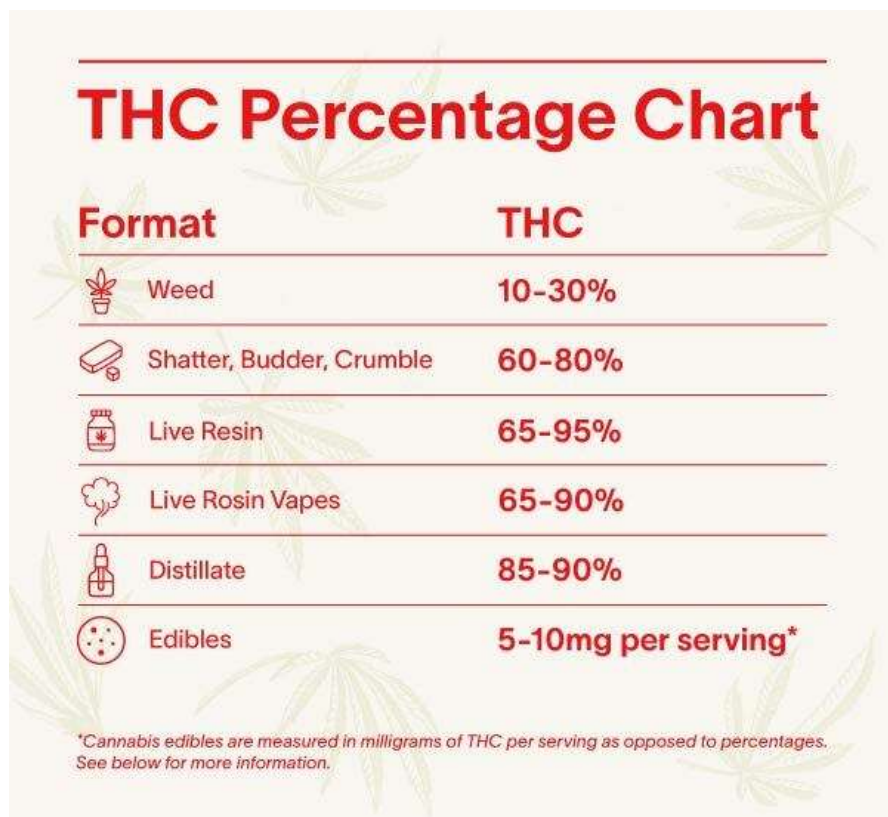
# Illicit THC Potency Over Time

Percentage of THC and CBD in Cannabis Samples Seized by the DEA, 1995-2022









SOURCE: U Miss, Potency Monitoring Project

# THC Potency in Marketing



The chart is titled "THC Percentage Chart" in red text. It features a table with two columns: "Format" and "THC". Each row includes a small icon representing the format, the format name, and the THC percentage range. The background of the chart has faint green cannabis leaves. At the bottom, there is a note in italics: "\*Cannabis edibles are measured in milligrams of THC per serving as opposed to percentages. See below for more information."

Format	THC
 Weed	10-30%
 Shatter, Budder, Crumble	60-80%
 Live Resin	65-95%
 Live Rosin Vapes	65-90%
 Distillate	85-90%
 Edibles	5-10mg per serving*

- This is a screen capture from a commercial dispensary to illustrate marketing
- These levels may or may not be accurate as advertised

# Recreational vs. Medical Vs. Decriminalized

## Recreational

- What does “recreational” marijuana mean?
- How many states have passed recreational marijuana laws?
  - 24, plus D.C., Guam, Northern Mariana Islands, USVI\*

## Medical

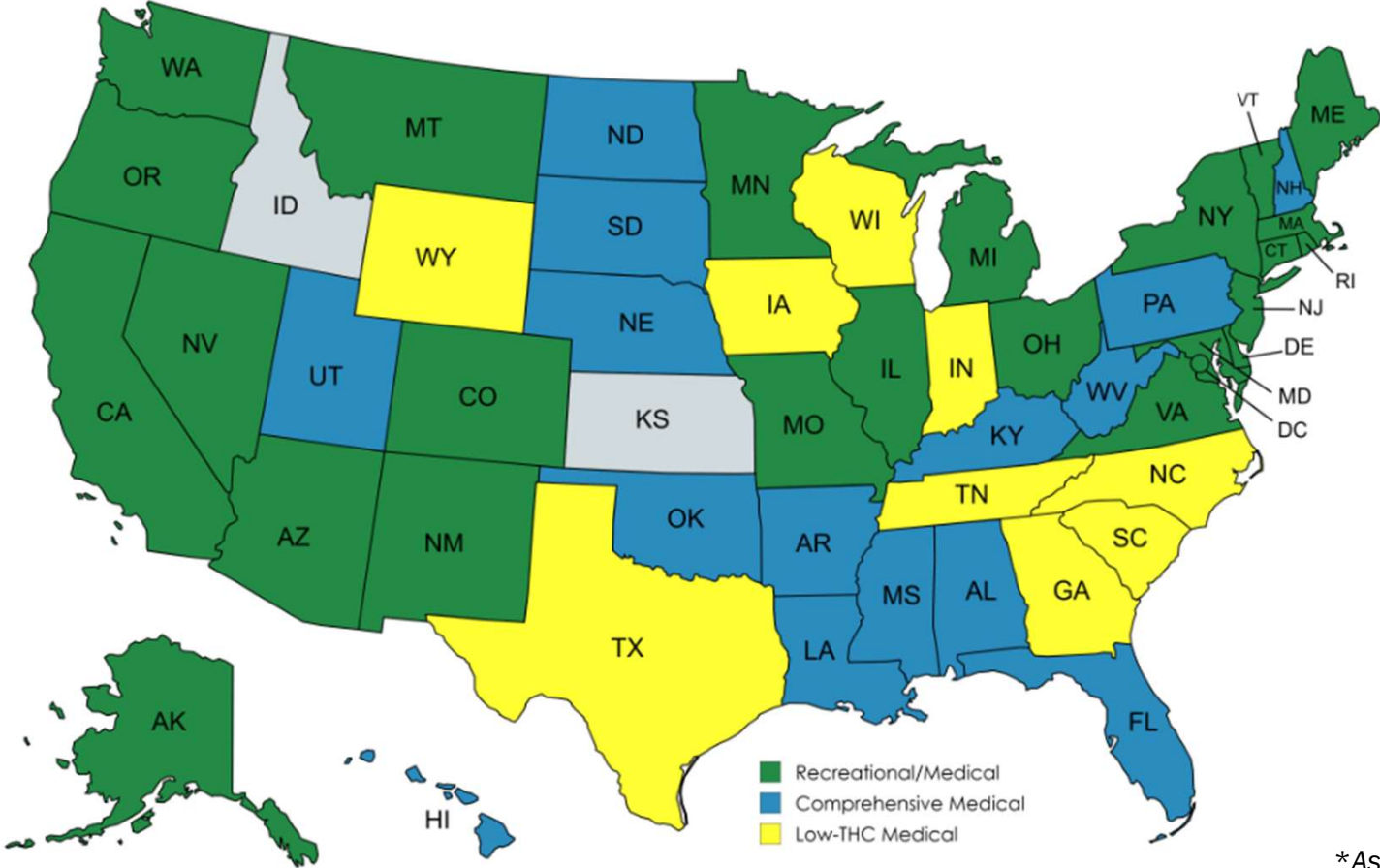
- What does “medical” marijuana mean?
- How many states have passed medical marijuana laws?
  - 39, plus Puerto Rico\*

## Decriminalized

- What does “decriminalized” marijuana mean?

*\*As of January 2026*

# Recreational vs. Medical Vs. Decriminalized



\*As of January 2026

# Recreational vs. Medical Vs. Decriminalized

## What Is Coming Down the Pipeline?

- Some states attempting partial legalization “rollbacks” in 2026
  - Maine?
  - Massachusetts?
  - Arizona?
  - ...others
- States with proposed bills to legalize
  - FL – SB1398
  - HI – HB1246 & SB1613
  - IN – SB0286
  - KS – HB2405
  - KY – HB198 & HB199
  - MS – SB2220 & HB1267
  - NH – Several bills
  - NC – HB413 & SB350
  - PA – Several bills
  - TN – SB809, SB923 and HB981
  - WA – SB6204
  - WV – SJR5

# Controlled Substances & Schedules

“Schedule?” ... Whose Schedule? ...

## What is a Schedule?

- Controlled Substances Act (CSA) of 1970.
- Establishes 5 categories of Controlled Substances.
- Schedules dictate amount of legal restrictions & penalties.
- Schedule I = Illegal Under Federal Law
  - Abuse Potential High & No Currently Accepted Medical Use



# Controlled Substances & Schedules

	Abuse Potential	Medical Use	Safety/Dependence	Examples
Schedule I	High	Not currently accepted	Lack of accepted safety under medical supervision	Marijuana; Heroin; LSD; MDMA; Peyote
Schedule II	High	Currently accepted	May lead to severe psychological/physical dependence	Cocaine; Meth; Oxycodone; Fentanyl; Adderall
Schedule III	<b>Less than</b> Schedule I & II	Currently accepted	May lead to moderate/low physical or high psychological dependence	Ketamine; anabolic steroids; testosterone, Tylenol w/Codeine
Schedule IV	<b>Low potential</b> relative to Schedule III	Currently accepted	May lead to limited physical or psychological dependence	Xanax, Valium, Ambien
Schedule V	<b>Low potential</b> relative to Schedule IV	Currently accepted	May lead to limited physical or psychological dependence	Cough medicines w/codeine; FDA-approved drugs w/ CBD

# Marijuana “Rescheduling” .....

- Marijuana (THC) Rescheduling Timeline
  - 1970: CSA Schedule I
  - **2023** (August): HHS recommendation to reschedule THC to Schedule III
  - **2024** (May): DEA announces proposal to reschedule THC to Schedule III (NPRM)
  - **2025** (December): E.O. directs Attorney General of U.S. to expedite completion of rescheduling process
- What Happens Next?
  - Unknown. Some possibilities may include:
    - *Legislation*: Congress could pass law or amend CSA to directly reschedule marijuana
    - *Federal Rulemaking*: Current DEA NPRM process

# Marijuana “Rescheduling” .....

- Where Do Things Stand AS WE SPEAK?
  - Dec. 2025 Executive Order DID NOT legalize or reschedule marijuana
  - Marijuana is STILL a SCHEDULE I substance (Fully Illegal on a Federal Level)
    - Can USDOT covered employers still test for Marijuana
      - YES!!! (required)
    - Can USDOT covered employees use Marijuana?
      - NO!!!
- **To Be Determined:**
  - Next steps for USDOT covered testing programs if Marijuana is rescheduled
  - Upcoming TCRP Project

# Marijuana “Rescheduling” .....

- What Can You Do Right Now?
  - Educate employees
    - Marijuana still controlled substance
    - Marijuana use still prohibited
    - Testing is unchanged
  - Stay Informed
    - Engage with industry groups, TPAs, MROs, etc.
    - Look for upcoming TCRP Research Report on the topic

---

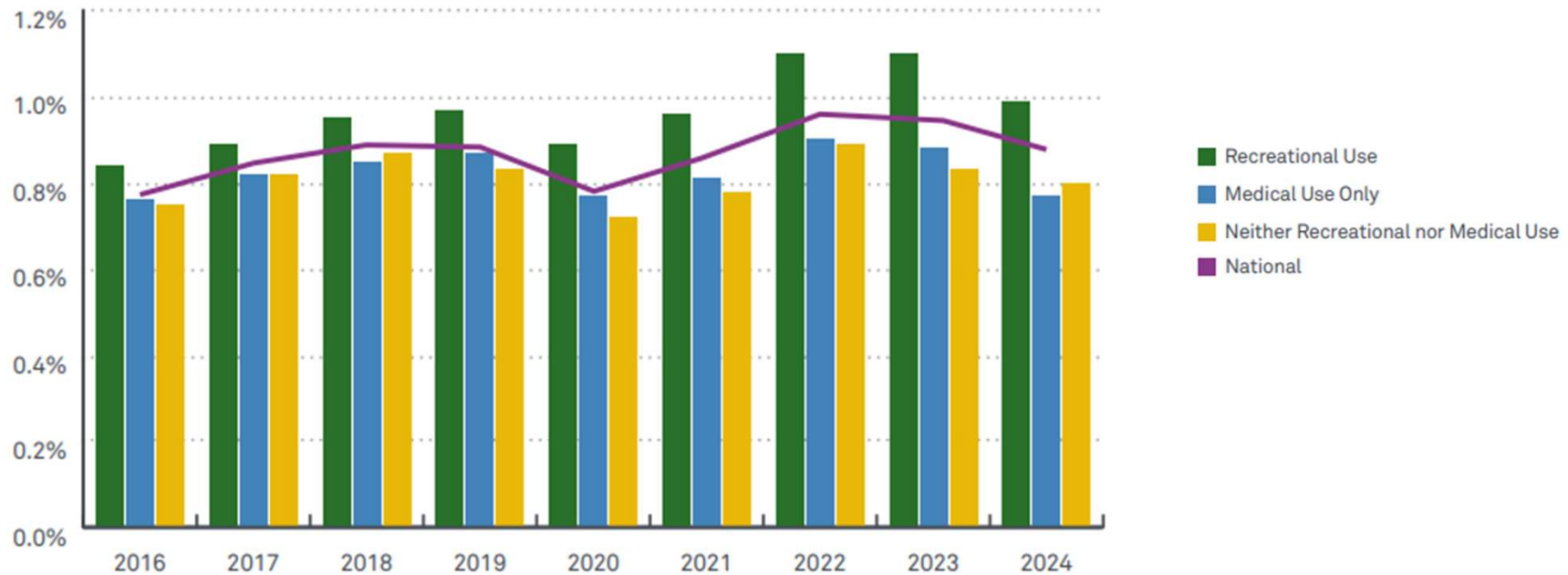
# Workplace Impacts



# Marijuana Positivity by 2024 State Legal Use Status

## Marijuana Positivity by 2024 State Legalized Use Status – Urine Drug Tests | *Annual Report*

For Federally Mandated, Safety-Sensitive Workforce, as a percentage of all tests for Marijuana Metabolite



Source: [Quest 2025 DTI](#)

# Presence vs. Impairment

	ALCOHOL TEST	DRUG TEST
Presence	✓	✓
Impairment	✓	✗

# Presence vs. Impairment

USDOT tests for presence of drugs

- NOT IMPAIRMENT
- Make this ABUNDANTLY clear in your policies and in your employee training
- Employees have a responsibility to avoid inadvertent ingestion



## Federal vs. State

THC is still illegal at the federal level

- USDOT Test is a Federal Test

“Prescription” / Medical recommendation for Marijuana

- Will NOT save anyone from a USDOT positive test result
- **\*\* Some MROs don’t even know this!**

“Safety-Sensitive”

- Defined by USDOT/USDOT-Agency



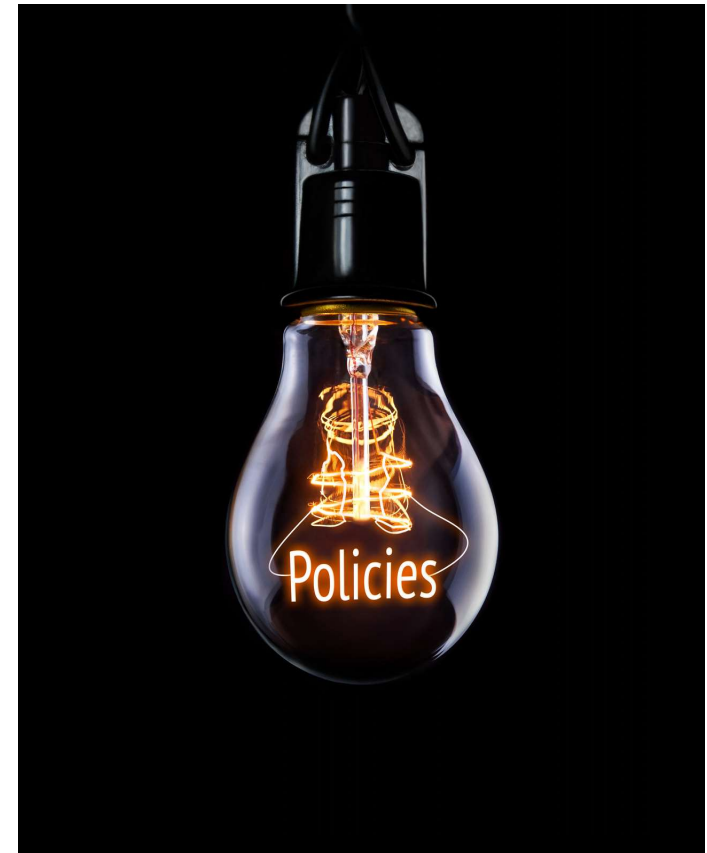
# Employer Policy Choices

## Zero Tolerance vs. 2nd Chance

- Driver shortages
- Shift in understanding of addiction issues
- State employment laws
  - CA / WA examples
- No matter what... **MUST FOLLOW YOUR POLICY!**
  - Employees cannot return to safety-sensitive duties unless they follow applicable procedures from 49 CFR 40 and 49 CFR 655, including testing negative.

## THC positive tests

- Different discipline for THC vs. other drugs?
- Medical vs. Recreational?
- Union negotiation point?



---

# FAQs & Myth busting



## Passive Exposure

“Can someone test positive for THC from secondhand smoke (aka Passive Exposure)?”

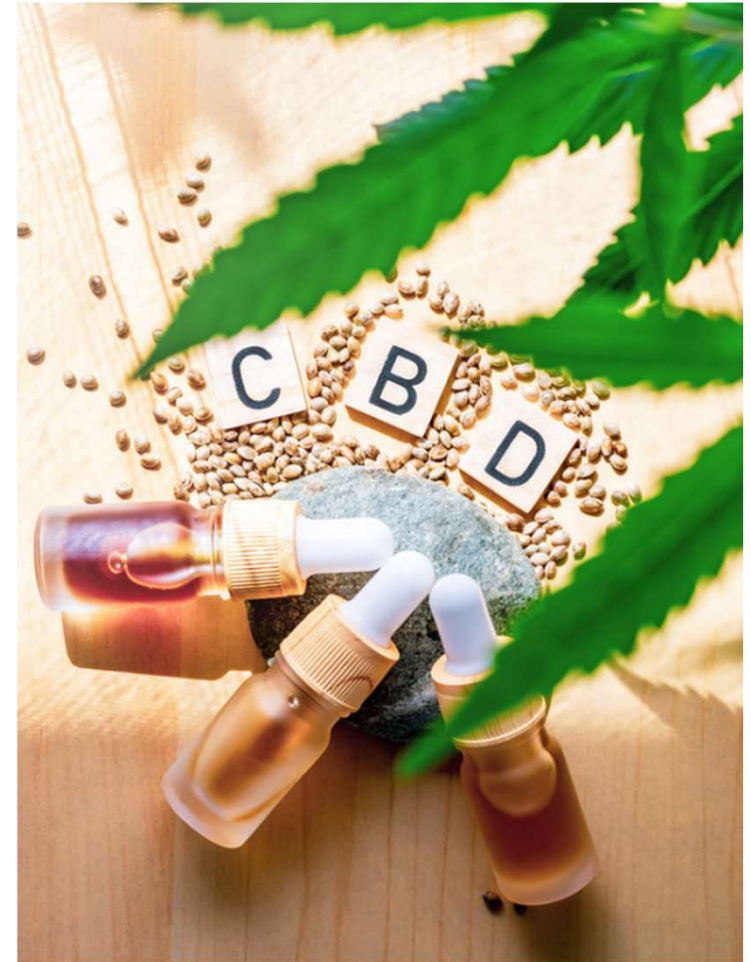
- Yes, but unlikely
- Even with today’s increased THC levels
- USDOT tests have “cutoff” levels that are established (in part) for this reason.



# CBD

“As a transit employee, can I use CBD products?”

- Can vs. Should?
- OTC vs Rx/Research
- Safety Concerns



# Hemp-Derived THC Infused Products

“As a transit employee, can I consume Hemp-Derived THC infused products (e.g. Beverages)?”

- “Marijuana” vs. “Hemp”
- State laws are RAPIDLY changing in this area
- Ultimately, despite legality of product (even if considered federally legal):
  - If there is THC in the product, it can be found in a DOT drug test.
  - Remember .... Consumption of marijuana is prohibited at all times (655.21(c)).
  - If THC levels are at/above the thresholds defined in Part 40, the drug test result will be positive.
  - [Part 40.151\(f\)](#) specifically instructs MROs that they:
    - *“must not accept an assertion of consumption or other use of a hemp or other non-prescription marijuana-related product as a basis for verifying a marijuana test negative” .... “consuming or using such a product is not a legitimate medical explanation.”*

---

# Employee Education



# Workplace Training

In addition to the information in 49 CFR 655.14, consider covering the following in your trainings:

- State marijuana laws and associated impacts
- THC vs CBD; Hemp Derived THC infused products
  - Federal, State, Employer, Personal Health
- Drug testing: Impairment vs. Presence
- Passive Exposures
- Passenger Trips/Possession on Transit Vehicles

## REASONABLE SUSPICION TRAINING

- Don't just do it for the "Check in the box"
- Seek new training for refresher classes
- Focus on "fitness for duty" & safety issues

---

# Federal Resources



U.S. Department of Transportation  
Federal Transit Administration



# Federal Resources

[DOT “Medical Marijuana” Notice](#)

[DOT “Recreational Marijuana” Notice](#)

[DOT “CBD” Notice](#)

[DOT Notice on Testing for Marijuana \(Dec 2025\)](#)

[FTA Drug & Alcohol Newsletters \(By Topic\)](#)

- Issue #77 – DOT does not authorize the use of marijuana
- Issue #75 – State/Local legislation; CBD is not regulated & may generate THC positive
- Issue #55 – Rise of use of marijuana by safety-sensitive employees
- Issue #52 – Keynote speaker stresses DOT’s position on marijuana
- Issue #51 – Marijuana Class I appeal
- Issue #49 – USDOT stance on medical marijuana



# Thank you!

**Sean K. Oswald - RLS & Associates, Inc.**

Phone 937-299-5007

Email [soswald@rlsandassoc.com](mailto:soswald@rlsandassoc.com)



U.S. Department of Transportation  
Federal Transit Administration