



Michigan is one of 13 states that have enacted a law that legalized medical marijuana, and one of 11 states that have enacted a law that legalized the personal possession and use of marijuana for adults over the age of twenty-one.

Several inquiries have been made regarding how this impacts the MUST Safety Program in regards to drug testing when an individual is in lawful possession of marijuana, whether for recreational or medicinal purposes.

This safety bulletin will address the main points and hopefully answer questions you may have regarding this issue. It should be stated clearly that the MUST Safety/Drug Testing Policy has NOT changed due to the legalization of medical or recreational marijuana.

Below is a brief discussion on Medical Marijuana and Marinol, as prepared by the MRO for the MUST Safety Program.

### **Medical Marijuana**

Medical marijuana is currently legal in 13 states throughout the United States. It is often used for patients with chronic pain and other medical ailments. The Department of Transportation's Drug and Alcohol Testing Regulation - 49 CFR Part 40, at 40.151(e) states that "As an MRO, you must not verify a test negative based on information that a physician recommended that the employee use a drug listed in Schedule I of the Controlled Substances Act (e.g., under a state law that purports to authorize such recommendations, such as the "medical marijuana" laws that some states have adopted). Therefore, it remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation's drug testing regulations to use "medical marijuana." The registration form for The Michigan Medical Marijuana Program clearly states that being a member of the program does not constitute a prescription for marijuana. If it is determined that your drug screen results were positive due to the use of marijuana from "medical marijuana", you will be considered "Ineligible" and your status will be marked as "Ineligible" on your report card.

### **Recreational Marijuana**

The Michigan Regulation and Taxation of Marijuana Act (the "Act") is soon to be enacted in Michigan, making it the 11th state in the United States to permit the personal possession and use of marijuana for recreational use amongst adults twenty-one (21) years of age or older ("recreational use"). Notwithstanding the legalization of marijuana for recreational use, Section 3 of the Act specifically states that: "This Act does not require an employer to permit or accommodate conduct otherwise allowed by this Act in any workplace or on the employer's property. This Act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marijuana. This act does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working under the influence of marijuana." Therefore, if it is determined that your drug screen results were positive due to the recreational use of marijuana, you will be considered "Ineligible" and your status will be marked as "Ineligible" on your report card.



### Marinol

Marinol is a synthetically made drug containing THC, the active ingredient in marijuana.

Marinol is commonly prescribed to suppress nausea in cancer patients during chemotherapy or in AIDS patients during AZT therapy. Marinol is a Schedule II compound that is distributed in pill form. The use of Marinol will result in a positive confirmed THC urine drug test result. If an employee has a valid prescription for Marinol the MRO will request information from the employee's doctor that they are currently being treated using Marinol, as well as a printout from the pharmacy showing the prescription has been filled. The MRO will then contact the company DER to determine if the employee has a safety sensitive position or if they are capable of performing their job duties while using Marinol. If their job requirements do not involve any safety sensitive duties, the employee's drug screen will be considered "Negative" and they will be marked as "Current" on their report cards. After consulting with the company DER, if it is determined that the employee does in fact perform safety sensitive duties he/she will be disqualified from such duties while taking the prescribed drug, and will be considered "Ineligible" and their status will be marked as "Ineligible" on their report card.