

7/22/2024

DOCKET # DEA-1362

To Whom It May Concern:

We, the undersigned organizations, write to urge you to address projected safety implications due to the Department of Justice (DOJ) and Drug Enforcement Agency's (DEA) May 21, 2024, proposal to reschedule marijuana from a Schedule I to a Schedule III drug under the Controlled Substances Act (CSA). The undersigned organizations represent various segments of the transportation industry, including but not limited to the commercial motor vehicle industry, aviation, rail, transit, and highway. While the rescheduling of marijuana may provide societal benefits, we are deeply concerned with the impacts this rescheduling will have on the safety of users of our nation's entire transportation system.

The industries that we represent have a vested commitment to ensuring our workforce is not impaired while actively working within the transportation network. Because we currently lack a scientifically proven method to detect marijuana impairment, as we do for alcohol impairment, we rely on controlled substance testing to detect the use of all types of marijuana products. The move by the DOJ and DEA to reschedule marijuana may ultimately prevent certain employers from testing for marijuana use. For instance, the Department of Transportation (DOT), which promulgates drug and alcohol testing rules for the transportation workforce, may be directly impacted by this rescheduling. We are concerned that the rescheduling could prohibit DOT from continued testing of workers engaged in safety-sensitive functions, such as pilots and railroad engineers, or impair DOT's ability to do so if testing guidelines and laboratory certifications are hampered.

We believe it is critical to the safety of our nation's traveling public and all transportation industry members that any change in the law must be accompanied by an explicit allowance for the testing of marijuana use for those individuals in safety-sensitive groups. Currently, marijuana ranks as the top drug type detected in positive drug tests within the transportation industry. In the trucking industry alone, based on data provided by the Federal Motor Carrier Safety Administration, 60% of all positive drug tests were positive for marijuana. The rail industry sees virtually identical drug testing outcomes, with approximately 59% of all positive drug tests attributable to marijuana. Fortunately, due to the protocols within the trucking and rail industry, these individuals are detected and prevented from obtaining safety-sensitive work until they have gone through the proper return-to-duty process. If the DEA moves forward to reschedule marijuana, we are concerned that the federally regulated entities may lose their ability to continue testing.

Beyond those employees that are federally regulated, we also draw concern to the safety implications for the general public and transportation system users. Marijuana use continues to increase across our nation, and false information regarding its impairment effects has led to an increase in crashes on our nation's roadways. One study revealed that state-level marijuana legalization "was associated with a 6.5% increase in injury crash rates and a 2.3% increase in fatal crash rates,"¹ While rescheduling will not outright legalize marijuana, we are concerned that it will ultimately lead to an increase in impaired driving incidents, with no plan of action to address the increase.

¹ Farmer, Charles M, et al. "Changes in Traffic Crash Rates after Legalization of Marijuana: Results by Crash Severity," Journal of Studies on Alcohol and Drugs, <https://pubmed.ncbi.nlm.nih.gov/35838426/>.

The undersigned groups remain committed to transportation safety, and welcome engagement with your respective organizations to address these concerns.

Sincerely,

Advocates for Highway and Auto Safety

American Bus Association

American Short Line and Railroad Association

American Trucking Associations

Association of American Railroads

Citizens for Reliable and Safe Highways

Commercial Vehicle Safety Alliance

Dangerous Goods Advisory Council (DGAC)

Gases and Welding Distributors Association

Institute for Safer Trucking (IST)

National Energy & Fuels Institute

National Private Truck Council

Parents Against Tired Truckers

Reusable Industrial Packaging Association (RIPA)

The Alliance for Chemical Distribution

The Fertilizer Institute

Truck Safety Coalition

Parents Against Tired Truckers

Intermodal Association of North America (IANA)

Truckload Carriers Association