



Working to Reform Marijuana Laws

Michigan (2023): Testimony in support of change to drug and alcohol testing regulation 2.07, § 4.B.1.b and in favor of the adoption of new rule 2-7.4(c)

My name is Paul Armentano and for the better part of the past three decades I have worked professionally in the field of cannabis policy. I have authored several books on this topic, and my writing has been featured in over two-dozen academic anthologies. I have testified before numerous state legislatures and federal agencies, as well as at various academic and legal symposiums. Last November, I testified¹ before members of the United States House of Representatives, Subcommittee on Civil Rights and Civil Liberties at a hearing entitled, “Developments in State Cannabis Laws and Bipartisan Cannabis Reforms at the Federal Level.”

I am also the author of multiple peer-reviewed papers specific to issues surrounding cannabis and drug testing, and I have testified as an expert witness in federal court on these matters. I have also provided testimony before several municipal legislatures in support of amending their cannabis-specific drug testing regulations.

I currently serve as the Deputy Director for the National Organization for the Reform of Marijuana Laws (NORML). NORML is the nation’s oldest and largest non-profit advocacy organization advocating on behalf of the interests of responsible adult cannabis consumers.

I am providing these comments in support of the cannabis-specific proposed amendments to Michigan’s drug and alcohol testing regulations. Specifically, I am providing these comments in support of the proposed change to regulation 2.07, § 4.B.1.b and in favor of the adoption of new rule 2-7.4(c).²

Policies that mandate would-be hires to undergo urine screens for past cannabis exposure are invasive, discriminatory, and ineffective. They neither identify workers who may be under the influence, nor do they contribute to a safe work environment.

Conventional urinalysis tests, even when confirmed, only identify the presence of inert drug metabolites – non-psychoactive by-products that linger in the body’s blood and urine well after a substance’s mood-altering effects have subsided. That is why the U.S. Department of Justice acknowledges: “A positive test result, even when confirmed, only indicates that a particular substance is present in the test subject’s body tissue. It does not indicate abuse or addiction; recency, frequency, or amount of use; or impairment.”³

A positive test result for carboxy THC, marijuana’s primary metabolite, provides little if any substantive information to employers. That is because carboxy THC, unlike many other drug metabolites, is fat-soluble. Therefore, it may remain detectable in urine for days, weeks or, in

¹ <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115185>

² <https://www.michigan.gov/mdcs/-/media/Project/Websites/mdcs/SPDOC/2023/SPDOC-23-06.pdf?rev=d1e44fabd6e04a10b1c42f8acead20ea>

³ United States Department of Justice. *Drugs, Crime, and the Justice System*. Page 119.





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some cases, months⁴ after a person has ceased using cannabis. Most other common drug metabolites are water soluble and are undetectable within hours after ingestion.

In short, a positive cannabis test result does not provide any definitive information regarding an employee's frequency of cannabis use, when they last consumed it, or whether they were under the influence of the substance at the time the drug screening was administered.

Aside from these practical limitations, there are larger philosophical questions raised by these practices. Studies⁵ indicate that employees who consume cannabis during their off hours are little different from their peers. Their workplace performance seldom differs from their co-workers, many of whom consume alcohol, and they do not pose an increased occupational safety risk.⁶ According to an exhaustive review by the US National Academy of Sciences, "There is no evidence to support a statistical association between cannabis use and occupational accidents or injuries."⁷

That is why NORML supports the proposed amendment to regulation 2.07, § 4.B.1.b to no longer require pre-employment testing for cannabis for certain new hires.

If enacted, Michigan would not be alone in amending its drug testing regulations for public employees in this manner. Nevada⁸ and Washington⁹ have similarly adopted legislation limiting pre-employment cannabis testing for new hires, as have numerous municipalities, including Atlanta,¹⁰ Baltimore,¹¹ Kansas City,¹² Philadelphia,¹³ and St. Louis.¹⁴ (Several other jurisdictions, including California, Connecticut, the District of Columbia, Montana, New Jersey, New York, and Rhode Island have expanded these policies to limit cannabis testing for both new hires *and* existing employees.¹⁵)

⁴ Musshoff and Madea. 2006. Review of biological matrices (urine, blood, hair) as indicators of recent or ongoing cannabis use. *Therapeutic Drug Monitoring* 28: 165-163. <https://pubmed.ncbi.nlm.nih.gov/16628124>

⁵ See relevant citations and excerpts from the NORML Fact Sheet: <https://norml.org/marijuana/factsheets/marijuana-legalization-and-impact-on-the-workplace>

⁶ Zhang et al. 2020. Cannabis use and work-related injuries: A cross sectional analysis. *Occupational Medicine* 70: 570-577. <https://pubmed.ncbi.nlm.nih.gov/33108459>

⁷ https://nap.nationalacademies.org/resource/24625/Cannabis_committee_conclusions.pdf

⁸ <https://www.govdocs.com/nevada-passes-pre-employment-marijuana-testing-law>

⁹ <https://www.jdsupra.com/legalnews/washington-imposes-new-limits-on-pre-5593069>

¹⁰ <https://www.ajc.com/news/atlanta-news/bottoms-removes-physical-exams-drug-testing-mandates-for-some-city-job-applicants/T7VLWF2SPJG6LMRZH3PD2TV0V4>

¹¹ <https://www.cbsnews.com/baltimore/news/mayor-scott-removes-pre-employment-drug-and-alcohol-screening-for-city-jobs>

¹² <https://hollislawfirm.com/employment-law/drug-testing-policies>

¹³ <https://phila.legistar.com/LegislationDetail.aspx?ID=4694094&GUID=5FE67F42-4DE4-4BAA-8605-A47C3F6EF3CF&Options=ID%7CText%7C&Search=200625&FullText=1>

¹⁴ <https://www.stltoday.com/news/local/marijuana/page-to-sign-bill-ending-marijuana-screening-for-many-st-louis-county-job-candidates>

¹⁵ Summaries of these jurisdictions' statutory language is available from NORML: <https://norml.org/laws/legalization>





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Those who consume alcohol legally and responsibly while away from their jobs do not suffer sanctions from their employers unless their work performance is adversely impacted. Those who legally consume cannabis should be held to a similar standard.

For these reasons, I urge regulators to adopt both the proposed amendments and the new rule limiting cannabis-specific drug screening for new hires and lifting sanctions for those who previously failed a pre-employment drug test for cannabis, thus allowing them to reapply for employment.

