



# Cannabis Trends & Legalization

Idaho Public Transportation Summit

Sean K. Oswald

Chief of Operations | Director of Drug & Alcohol Initiatives

RLS & Associates, Inc.

September 2024

# Basic Information

## Marijuana



### Newly\* popular concentrates

- Shatter, Wax, Budder, Crumble
- THC “extract” or distillation
- Shatter – Amber/Glass-like
- Wax/Budder – Soft Solid



### Vaping

- Wide range of shapes, sizes, designs
- Can be used with liquid, butter, or “dry herb”
- Lower\*\* odor



### Dab

- Inhaling concentrated cannabis
- Not the dance
- Dab rigs
- Dab pens

# Basic Information

## Marijuana Concentrates



Honeycomb/Crumble



THC-A Diamonds in Live Resin Sauce



Sugar



Shatter/BHO



THCA / Diamonds



Badder/Budder



Sauce



Hash



# Basic Information

## A legal Distinction: Hemp vs. Marijuana

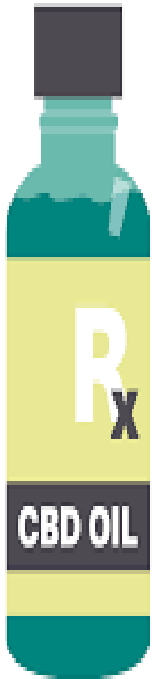
- ◆ “Hemp” vs “Marijuana”
  - 2018 Farm Bill redefined “Marijuana”
    - “Hemp” removed from definition of “marijuana”
    - “Hemp” = any cannabis plant, or derivative thereof, that contains not more than 0.3 percent delta-9 tetrahydrocannabinol (“THC”)
    - Hemp removed from CSA Schedule I
  - Hemp-derived CBD is only legal if cultivated consistent with 2018 Farm Bill

# Basic Information

## What is CBD?

### ◆ Cannabidiol (CBD):

- Derived from Cannabis plant
- Many forms, oil is most popular
- Touted as “non-intoxicating/non-psychoactive”
- Medical Uses
  - Heavily studied for its use in wide variety of health issues
  - Most significant and reliable evidence showing effectiveness for epilepsy







# Basic Information

## What is CBD? (continued)

- ◆ “Research CBD” vs “Commercial CBD”
  - Lots of claims from marketers, but lack of consistent oversight/quality Control
    - i.e., Does the product label ACCURATELY reflect nature/content of product? Were the levels accurately and reliably tested?
  - Who verifies the veracity?
    - FDA mainly focused on unsubstantiated claims of “curing” serious disease
  - May still contain THC



# Basic Information

## What is CBD? (continued)

- ◆ ***“Will a USDOT drug test find CBD?”***
  - Technical answer is **NO**
    - USDOT tests for THC, not CBD
  - **However**, many CBD products have varying levels of remnant THC ... so maybe a better question to ask is....



# Basic Information

## What is CBD? (continued)

- ◆ So, ***“If I use CBD, will I test positive for THC?”***
  - Possible (likelihood varies). Some CBD products under state laws have high levels of THC, other CBD products have 0-0.3% THC
  - How much CBD product do you use? How LONG have you consistently used that product?
  - Bottom Line:
    - Use of marijuana is prohibited at ALL times under USDOT-FTA
    - If THC is found at/above cut-off levels, USDOT test will always be POSITIVE (source of THC is 100% irrelevant)



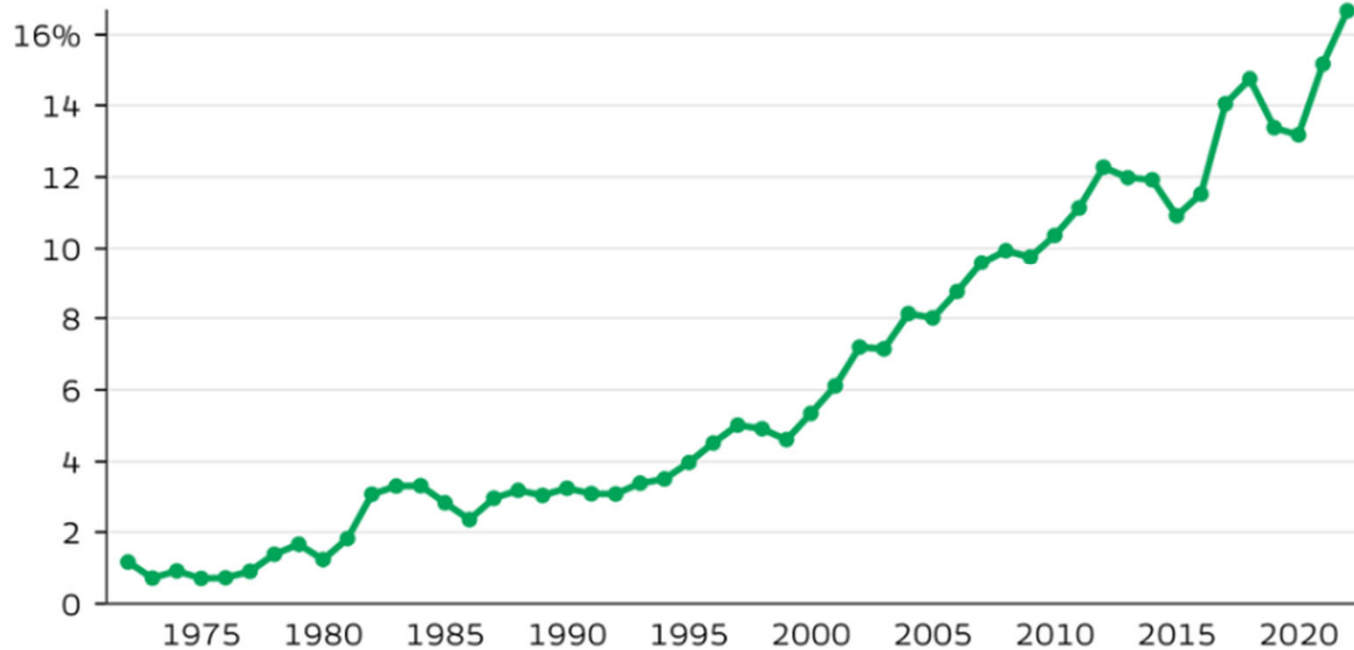


# Basic Information

## Illicit THC Potency Over Time

**Today's cannabis is a lot stronger than its predecessors**

Cannabis available today contains more than 10 times as much **THC**, on average, than it did in the 1970s



SOURCE: NIDA POTENCY MONITORING PROGRAM, UNIVERSITY OF MISSISSIPPI

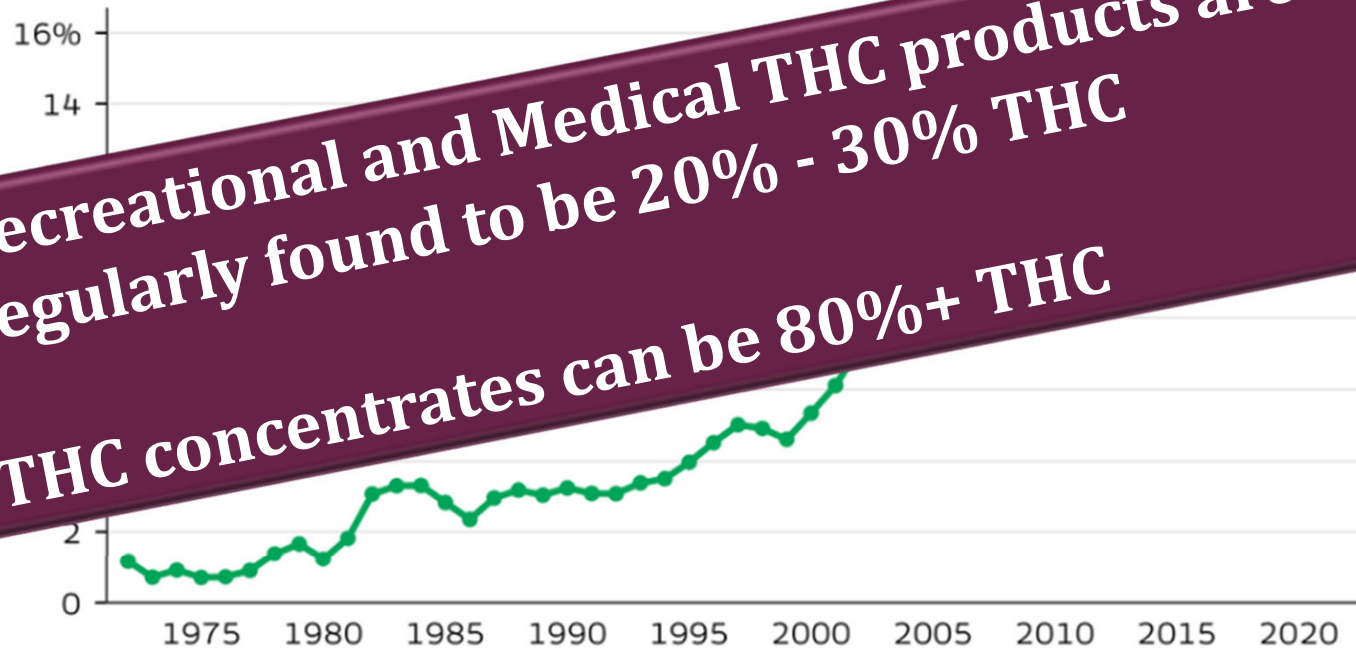


# Basic Information

## Illicit THC Potency Over Time

**Today's cannabis is a lot stronger than its predecessors**

Cannabis available today contains more than 10 times as much **THC**, on average, than it did in the 1970s



- Recreational and Medical THC products are regularly found to be 20% - 30% THC
- THC concentrates can be 80%+ THC

SOURCE: NIDA POTENCY MONITORING PROGRAM, UNIVERSITY OF MISSISSIPPI



# Basic Information

## THC Percentages in Commercial Product

### THC Percentage Chart

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*

\*Cannabis edibles are measured in milligrams of THC per serving as opposed to percentages. See below for more information.



# Basic Information

## Recreational vs. Medical vs. Decriminalized

- ◆ What does “Recreational” Marijuana mean?
  - How many states have passed “Recreational”?
    - 24, plus D.C., Guam, Northern Mariana Islands, USVI
  
- ◆ What does “Medical” Marijuana mean?
  - How many states have passed “Medical”?
    - 38, plus Puerto Rico
  
- ◆ What does “Decriminalized” Marijuana mean?

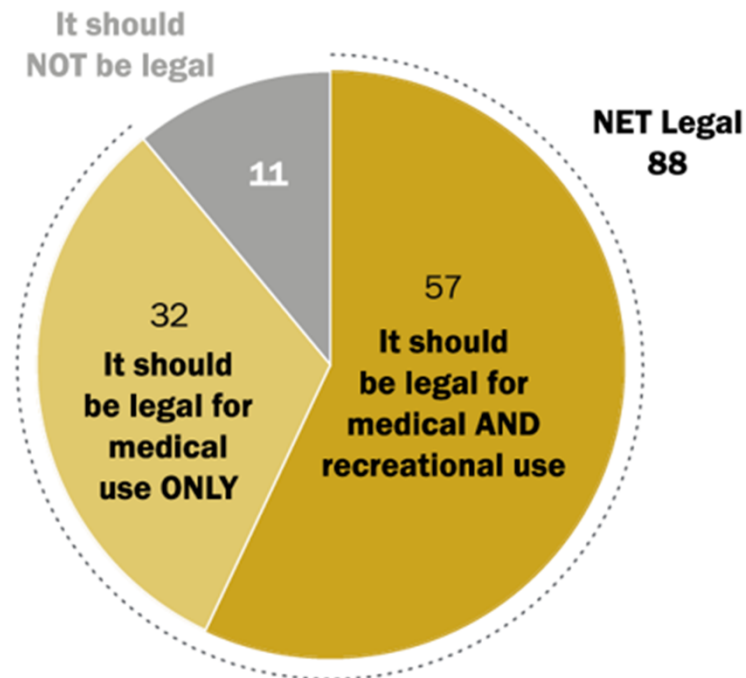




## Public Opinion on Legalizing Marijuana

**Only about 1 in 10 U.S. adults say marijuana should not be legal at all**

*% of U.S. adults who say the following about marijuana*



Note: Fewer than 1% of respondents did not answer the question.

Source: Survey of U.S. adults conducted Jan. 16-21, 2024.

PEW RESEARCH CENTER





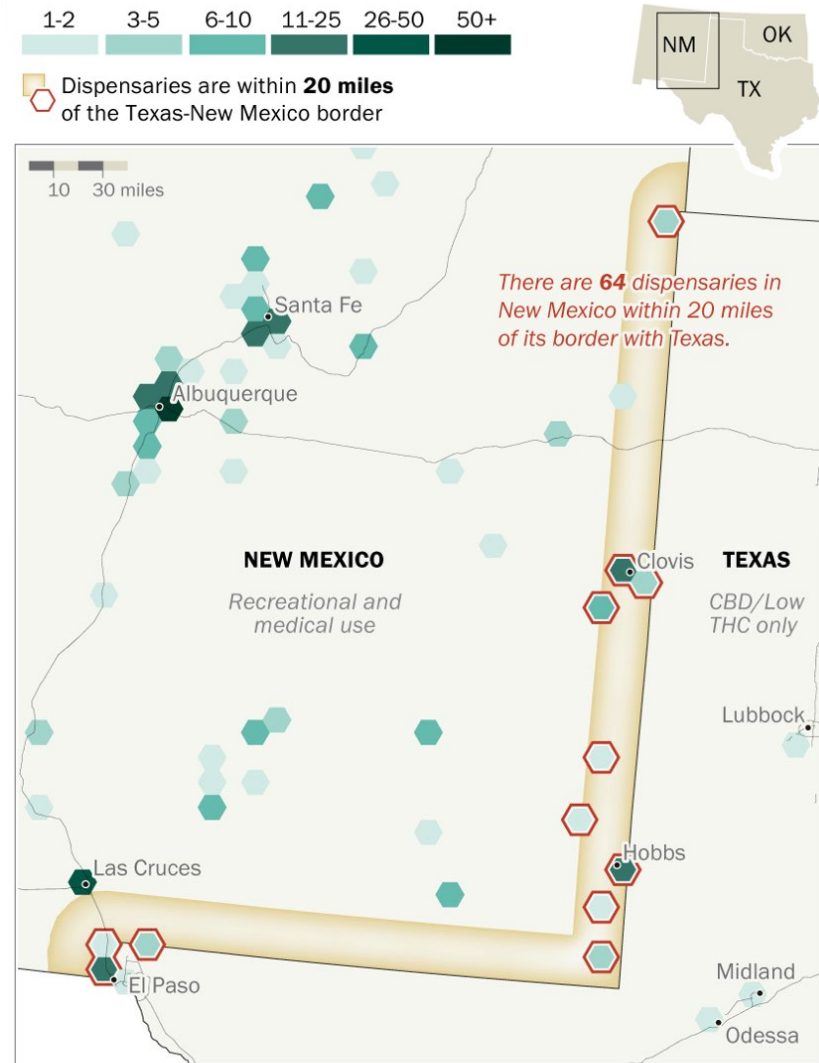
# Trends

Percentage of Americans Living in a:

<b>State w/ Recreational Marijuana Laws</b>	<b>54%</b>
<b>State w/ Recreational or Medical Marijuana Laws</b>	<b>74%</b>
<b>County w/ at least 1 cannabis dispensary</b>	<b>79%</b>

## Dispensaries often cluster near the borders of states with less permissive marijuana laws

Number of dispensaries in a 10-mile area



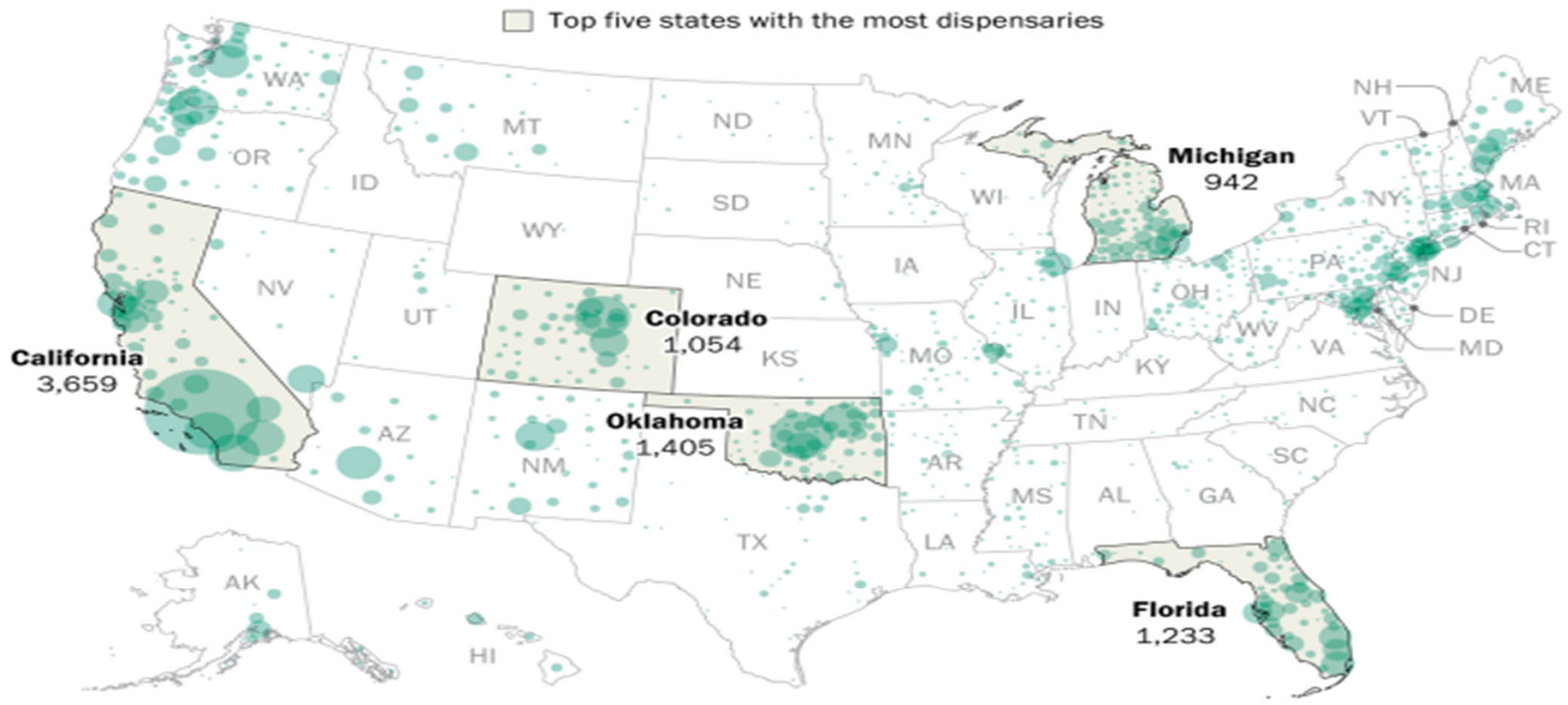
Source: Pew Research Center analysis of Safe Graph data for cannabis dispensaries in the U.S. (N=14,932) as of June 30, 2023.

PEW RESEARCH CENTER

- ◆ 1 in 5 dispensaries
  - Located within 20 miles of a state border
- ◆ 29% of these border dispensaries adjoin a neighboring state with less permissive cannabis laws
- ◆ Oklahoma has the most dispensaries in the U.S., per capita



# Top 5 States w/ Most Dispensaries



Note: Includes dispensaries that sell cannabis for both recreational and medical purposes, as well as those selling cannabis products containing low amounts of THC or CBD-only products.

Source: Pew Research Center analysis of SafeGraph data for cannabis dispensaries in the U.S. (N=14,932) as of June 23, 2023.



**Moving Public Transportation**  
Into the Future

# Cannabis - Workplace Impact

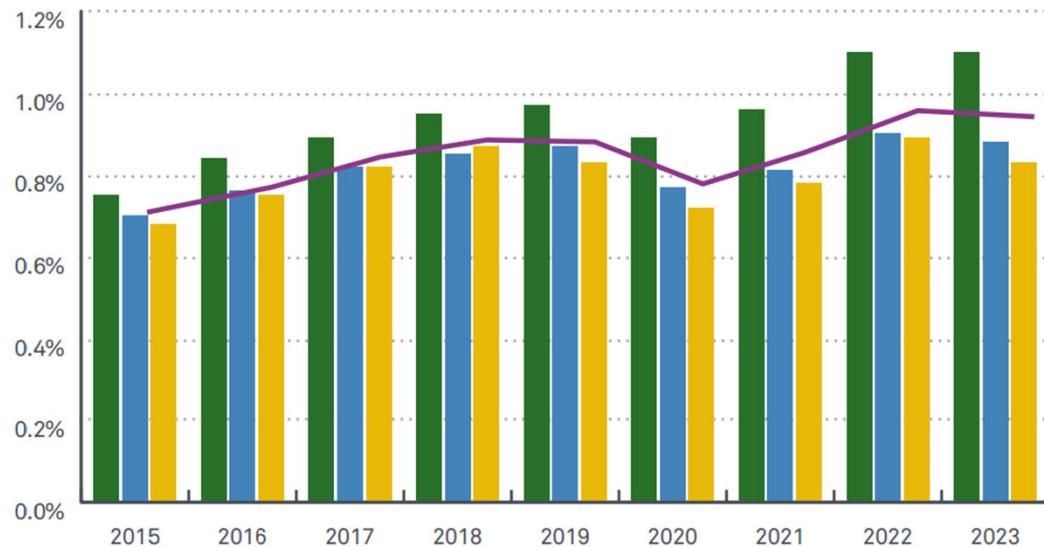


# Trends

## THC Positivity

### Marijuana Positivity by 2023 State Legalized Use Status – Urine Drug Tests

For Federally Mandated, Safety-Sensitive Workforce, as a Percentage of All Tests for Marijuana Metabolite



More than 2.8 million tests from January to December 2023

- Recreational Use
- Medical Use Only
- Neither Recreational nor Medical Use
- National

State Legality Status	2019-2023 % of Change in Positivity
Recreational States	+ 13.4%
Medical Only States	+ 1.1%
No Legalization	0%
National	+ 7.9%

Source: 2024 Quest DTI



# Workplace Impact

## Presence vs. Impairment

	ALCOHOL TEST	DRUG TEST
Presence	✓	✓
Impairment	✓	✗



- ◆ Oral fluid drug testing will NOT change this!





# Workplace Impact

## Presence vs. Impairment

- ◆ USDOT tests for presence of drugs, NOT IMPAIRMENT
  - Make this VERY clear in your policies and **in your employee training**
- ◆ Employees have responsibility to avoid inadvertent ingestion



# Workplace Impact

## Federal vs. State

- ◆ THC is still Federally illegal... USDOT is a Federal test
  
- ◆ “Prescription” / medical recommendation for Marijuana (THC)
  - Will NOT save anyone from a USDOT positive test result
  - \*\* Some “MROs” don’t even know this!
  
- ◆ “Safety-Sensitive”
  - Defined by USDOT/USDOT-Agency only



# Workplace Impact

## Employer Policy Choices

- ◆ Zero Tolerance vs 2<sup>nd</sup> Chance
  - Driver shortages
  - Shift in understanding of addiction issues
  - Shift in public opinion of Marijuana, etc.
  
- ◆ THC positive tests
  - Different discipline for THC vs. other drugs?
  - Medical vs. Recreational?
  - Union negotiation point?



# Federal Resources

## USDOT-ODAPC Publications

- ◆ [DOT “Medical Marijuana” Notice](#)
- ◆ [DOT “Recreational Marijuana” Notice](#)
- ◆ [DOT “CBD” Notice](#)



# Federal Resources

## USDOT-FTA Publications

- ◆ FTA D&A Regulation Update Newsletter – [Issue #77](#)
  - *DOT Does Not Authorize The Use of Marijuana*
  
- ◆ FTA D&A Regulation Update Newsletter – [Issue #75](#)
  - *State/Local Legislation Prohibiting Testing for Marijuana*
  - *CBD is Not Regulated & May Generate THC Positive*
  
- ◆ FTA D&A Regulation Update Newsletter – [Issue #55](#)
  - *Rise in the use of Marijuana by Safety-Sensitive Employees*



# Federal Resources

## USDOT-FTA Publications

- ◆ FTA D&A Regulation Update Newsletter – [Issue #52](#)
  - *Keynote Speaker Swart Stresses DOT's Position on Medical Marijuana at National Conference*
  
- ◆ FTA D&A Regulation Update Newsletter – [Issue #51](#)
  
- ◆ FTA D&A Regulation Update Newsletter – [Issue #49](#)
  - *U.S. DOT's Stance on Medical Marijuana*





**Moving Public Transportation**  
Into the Future

# Cannabis: FAQs & Myth-busting



# 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



# FAQs & Myth-busting

## CBD

- ◆ “As a transit employee, can I use CBD products?”
  - Can vs Should?
  - OTC vs Rx/Research?
  - Safety Concerns (no oversight)?



**Moving Public Transportation**  
Into the Future

# Employee Education



# Workplace Training

## Employer Policies and Employee Education

- ◆ Make sure your training is covering:
  - State Marijuana laws' impact on USDOT testing programs
  - THC vs CBD
    - Federal, State, Employer, Personal Health
  - Drug testing: Impairment vs. Presence
  - Passive Exposure
  - Passenger Trips/Possession on Transit Vehicles



# Workplace Training

## Employer Policies and Employee Education

- ◆ Enhance your 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
    - New Marijuana Laws





# Questions/Follow-Up

- ◆ Sean Oswald, RLS & Associates, Inc.  
Chief of Operations | Director of Drug & Alcohol Initiatives
  - Email: [soswald@rlsandassoc.com](mailto:soswald@rlsandassoc.com)
  - Phone: 937-299-5007
  - Website: [www.rlsandassoc.com](http://www.rlsandassoc.com)