



February 20, 2020

The Honorable Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

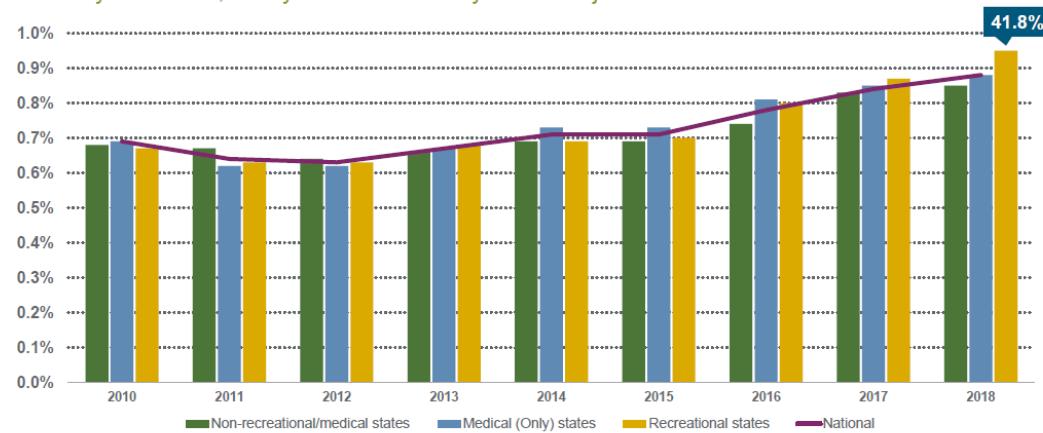
Dear Governor Cuomo:

The National Safety Council (NSC) encourages you to prioritize the safety, health and wellbeing of your constituents as you consider legalization of cannabis as outlined in SB 7509/A9509. It is imperative to keep public safety at the forefront of policy decisions. NSC is a 100-year-old nonprofit organization with the mission of eliminating preventable deaths at work, in homes and communities, and on the road through leadership, research, education and advocacy. Our more than 15,500 member companies represent employees at nearly 50,000 U.S. worksites, including nearly 2,100 in New York, and we have 50 employees in Syracuse.

NSC is concerned that safety is not being prioritized in policy discussions around cannabis legalization. Cannabis is the most widely consumed illicit substance worldwide, and nearly 55 million Americans 18 or older currently use cannabis.ⁱ This use affects safety on the roadways, in workplaces and elsewhere. Even in some occupations governed by federal oversight (for example, those governed by U.S. Department of Transportation drug testing requirements), cannabis use has increased recently as state laws have changed. In other occupations, cannabis positivity has increased in states with recreational use.ⁱⁱ

Marijuana positivity

Federally mandated, safety-sensitive urine by state marijuana law status



Source: Quest Diagnostics Drug Testing Index Full Year 2018

32 NSC Cannabis Symposium | June 28, 2019



NSC believes that all forms of impairment present a serious threat to safety at work and on the road by increasing the risk of preventable injury and death. Workers who are under the influence of alcohol and/or other impairing drugs (legal or illegal) endanger themselves and those around them. In addition, driving while under the influence of any impairing substance like cannabis or alcohol endangers all



roadway users. In 2018, New York lost 943 lives in motor vehicle crashes, and NSC is concerned this number could grow if cannabis is legalized without proper preparation.ⁱⁱⁱ This has been realized in Washington State with a doubling of THC positive tests for those involved in fatal crashes since decriminalization.^{iv} Lastly, with no scientific test for cannabis impairment, there is no way to determine if someone is impaired with the drug tests available today. Therefore, NSC offers the following recommendations to ensure you prioritize safety as you consider cannabis legalization:

- NSC believes there is no level of cannabis use that is safe or acceptable for employees who work in safety-sensitive positions.^v Therefore, NSC supports ensuring people in safety sensitive jobs, as identified by the employer, are ready to work impairment-free and this can be verified.
- NSC supports employer efforts to maintain a substance-free workplace, regardless of the legal status of the impairing substance and regardless of whether it was used on or off the job.^{vi} This includes allowing employer drug testing to ensure employers can make decisions to manage their risk. We are pleased that SB7509/A9509 includes language allowing employers to implement written workplace policies prohibiting the use or possession of cannabis.
- Because there is no scientific test for cannabis impairment, law enforcement relies on drug recognition experts (DREs) to evaluate the signs of impairment from drugs. NSC thanks you for recognizing the importance of DREs in identifying and prosecuting impaired driving cases, and supports providing appropriate funding to increase and enhance DRE training of law enforcement.
- Currently, there is no scientific basis for the adoption of THC per se laws, and NSC recommends against establishing these limits as a means to identify cannabis impairment.^{vii}
- NSC encourages you to ensure your impaired driving surveillance systems are updated and have the ability to monitor drug impaired driving. This includes guaranteeing data linkage (between police records and hospital data, for example) and standardizing the drug testing panel among all state labs.^{viii}

There is a great deal to consider during discussions about changing New York's laws dealing with cannabis. NSC appreciates the thoughtful time and effort in evaluating proposed policy changes. NSC looks forward to working with you to prioritize safety.

Sincerely,

A handwritten signature in black ink that reads "Lorraine M. Martin".

Lorraine M. Martin
President and CEO

Copy: Speaker Carl Heastie, Senate Majority Leader Andrea Stewart-Cousins

ⁱ http://maristpoll.marist.edu/wp-content/misc/Yahoo%20News/20170417_Summary%20Yahoo%20News-Marist%20Poll_Weed%20and%20The%20American%20Family.pdf

ⁱⁱ <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2464591>

ⁱⁱⁱ The National Highway Traffic Safety Administration (NHTSA) FARS 2014 - 2017 Final and FARS 2018 ARF

^{iv} <https://newsroom.aaa.com/2020/01/fatal-crashes-involving-drivers-who-test-positive-for-marijuana-increase-after-state-legalizes-drug/>

^v "Safety Sensitive" refers to jobs that impact safety of the employee and the safety of others as a result of performing that job. For example, 49 CFR §382.107 defines safety sensitive for commercial motor vehicle operators.

^{vi} https://www.nsc.org/Portals/0/Documents/NSCDocuments_Corporate/Policy-Positions/Workplace/W-Substance-Free%20Workplace-140.pdf

^{vii} https://www.nsc.org/Portals/0/Documents/NSCDocuments_Advocacy/Divisions/ADID/Position-on-Cannabis-and-Driving.pdf

^{viii} <https://www.nsc.org/Portals/0/Documents/NewsDocuments/2019/NSC-Model-Guidelines-for-Toxicological-Investigation-of-Drug-Impaired-Driving.pdf?ver=2019-12-02-172252-037>