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# ACC DOCKET

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## Learn Your World: Canada

### Government



To support your global practice, ACC Docket offers country-specific law facts from your peers who've been there — literally.



**Cannabis statistics**  
**Traveling**

Number of dispensaries: 133  
It's illegal to take cannabis across the Canadian border, whether you're coming into Canada or leaving. This applies to all countries, whether cannabis is legal there or not.

**Estimated revenue for Canada based on cannabis sales**

US\$6.5 billion by 2020

<b>Province</b>	<b>Legal Age to Buy</b>
Alberta	18
British Columbia	19
Manitoba	19
New Brunswick	19
Newfoundland and Labrador	19
Northwest Territories	19
Nova Scotia	19
Nunavut	19
Ontario	19
Prince Edward Island	19
Quebec	18
Saskatchewan	19
Yukon	19

In June 2018, the Canadian Senate passed the Cannabis Act, which legalized marijuana at the federal level. And with that, Canada joined Uruguay as one of only two nations that have eliminated penalties for marijuana (and the only G-20 country to do so).

For in-house counsel, the new legislation will have the greatest impact on workplace policies. There are two approaches to take when choosing to revise employee conduct policies, says Aliya Ramji, the director of legal and business strategy for Figure 1 Inc., a healthcare company based in Toronto. The first one, a “zero-tolerance” policy, indicates that no level of consumption is considered safe. This may be the most effective approach, especially in a workplace where an employee is required to use items such as vehicles, machinery, construction equipment, or chemical substances to perform their duties. However, a zero-tolerance policy could be discriminatory against employees who use cannabis to treat or relieve the symptoms of a disability. You wouldn't enforce a zero-tolerance policy for employees who use prescription drugs, which can have similar side effects to drugs and alcohol.

The second approach, establishing a “per se” limit on acceptable cannabis levels in the blood, is considered to be the most equitable. The difficulty here is how an employer would measure this. It's

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more difficult to identify cannabis ingestion, and drug testing is a contentious issue in Canada.

If the per se method is preferred, Ramji suggests your company enact a clear drug policy that includes the definition of “impairment” in a way that captures medical marijuana use and when/where it is acceptable. Policies on drug-use must define what it means to be impaired, and provide details on how the policy applies to both recreational and medical drug use. If an employee can discuss business over drinks, then with the legalization of cannabis, it is not out of the realm of possibility that business may be conducted over cannabis cookies. In your policies, identify when and if drug use at work is appropriate. Moreover, any prescription drug policies should be enforced in a uniform manner to ensure that medical marijuana is treated the same as other prescription drugs.

As mentioned, drug testing in Canada is contentious, and cannabis use will be difficult to detect. However, this is no different than the issues that have been presented by high-functioning alcoholics in the past. Once you decide on your policy, enforcing it will be the bigger challenge. Until clear detection methods are established and a per se limit can be identified, it will be up to your management team to make sure all of your employees are protected in the workplace.

Overall, with the drug's legalization in Canada, companies will need to adapt. And with increasing legalization efforts in the United States, where recreational marijuana is now legal in 20 percent of the 50 states, including Massachusetts, Michigan, and Nevada, and in Asian countries, such as South Korea, which recently passed medical marijuana laws, in-house counsel all over the world need to consider what stance works best for their workplace. Based on the newness of the regulations in Canada, it is recommended that in-house counsel stay apprised of developments and legislative updates in this area and continue to update policies accordingly.

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