

INFORMATION BULLETIN



June 1, 2023

CANNABIS USE AND POSSESSION BY DRIVERS OF COMMERCIAL MOTOR VEHICLES

The Commercial Vehicle Section (CVS) has received numerous inquiries related to cannabis (marijuana) use and possession by drivers of commercial motor vehicles (CMV). This Information Bulletin (IB) provides information regarding use and possession restrictions placed upon operators of CMVs.

Section 34520 of the California Vehicle Code (CVC) requires motor carriers and drivers to comply with the controlled substances and alcohol use and testing requirements contained in Part 382 of Title 49 of the Code of Federal Regulations (CFR). Additionally, California has adopted Title 49, CFR, Section 392.4, via Section 1239 of Title 13 of the California Code of Regulations (CCR). Title 49, CFR, Section 392.4, states in part, no driver shall be on duty and possess, use, or be under the influence of any Schedule I substance, as defined by Title 21, CFR, Section 1308.11, which includes cannabis. Further, Title 49, CFR, Section 392.4, prohibits a motor carrier from allowing or permitting a driver to violate the drug possession, use, or under the influence restrictions.

NOTE: Title 13, CCR, Section 1239, is applicable to the operation of any vehicle listed in CVC Section 34500.

The following guidance has been provided by the Federal Motor Carrier Safety Administration:

“Does the legalization of the use and possession of marijuana by a State, or other country that has drivers who operate in the United States, change the treatment of marijuana use under federal regulations applicable to drivers operating a commercial motor vehicle?”

“No. Marijuana, including a mixture or preparation containing marijuana, continues to be classified as a Schedule I controlled substance by the Drug Enforcement Administration (DEA) in 21 CFR §1308.11. Under the Federal Motor Carrier Safety Regulations (FMCSRs), a person is not physically qualified to drive a CMV if he or



she uses any Schedule I controlled substance such as marijuana. (See 49 CFR §§ 391.11[b][4] and 391.41[b][12]). In addition to the physical qualification requirements, the FMCSRs prohibit a driver from being in possession of or under the influence of any Schedule I controlled substance, including marijuana, while on duty, and prohibit motor carriers from permitting a driver to be on duty if he or she possesses, is under the influence of, or uses a Schedule I controlled substance. (See 49 CFR §§ 392.2 and 392.4). Legalization of marijuana use by States and other jurisdictions also has not modified the application of U.S. Department of Transportation drug testing regulations in 49 CFR parts 40 and 382.”

As a result of the requirement for CMV drivers and motor carriers to comply with federal cannabis restrictions, probable cause searches may be conducted in accordance with departmental policy when an officer possesses enough facts, training, and knowledge to reasonably believe there is a fair probability cannabis will be found in the cab of the CMV.

Enforcement personnel should use sound, professional judgment when encountering a licensed cannabis transporter. In general, the possession prohibitions should not be applied to the **intrastate** transportation of cannabis which is being transported as cargo, in accordance with the rules and regulations of the California Department of Consumer Affairs, Bureau of Cannabis Control.

Questions regarding this IB may be directed to CVS, at (916) 843-3400.

OFFICE OF THE COMMISSIONER

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