

Notice

The U.S. Court of Appeal for the D.C. Circuit has temporarily delayed the November 1st Direct Observation (DO) requirement for DOT return-to-duty and follow-up tests. This is an "administrative stay" until the Court completes its review on the matter.

Therefore, DOT for return-to-duty and follow-up testing will continue to be an employer option, rather than mandatory.

Cognition and Motor Control as a Function of Δ^9 - THC

Concentration in Serum - J.G. Ramaekers, M.R. Moeller, E.L. Theunissen, G. Kauert

Cannabis use has been associated with increased risk of becoming involved in traffic accidents; however, the relation between THC concentration and driver impairment is relatively obscure.

The present study was designed to define performance impairment as a function of THC in serum and oral fluid in order to provide a scientific framework to the development of per se limits for driving under the influence of cannabis.

Twenty recreational users of cannabis participated in a double-blind, placebo-controlled, three-way cross-over study. Subjects were administered single doses of 0, 250 and 500 μ g/kg THC by smoking. Performance tests measuring skills related to driving were conducted at regular intervals between 15min and 6h post smoking and included measures of perceptual-motor control (Critical tracking task), motor impulsivity (Stop signal task) and cognitive function (Tower of London).

Blood and oral fluid were collected throughout testing. Results showed a strong and linear relation between THC in serum and oral fluid. Linear relations

between magnitude of performance impairment and THC in oral fluid and serum, however, were low.

A more promising way to define threshold levels of impairment was found by comparing the proportion of observations showing impairment or no impairment as a function of THC concentration.

The proportion of observations showing impairment progressively increased as a function of serum THC in every task. Binomial tests showed an initial and significant shift toward impairment in the Critical tracking task for serum THC concentrations between 2 and 5ng/ml. At concentrations between 5 and 10ng/ml approximately 75-90% of the observations were indicative of significant impairment in every performance test. At THC concentrations >30ng/ml the proportion of observations indicative of significant impairment increased to a full 100% in every performance tests.

It is concluded that serum THC concentrations between 2 and 5ng/ml establish the lower and upper range of a THC limit for impairment.

Q & A: Admitting to a Positive Test Result without Seeing a Substance Abuse Professional While Interviewing

Scenario: During an interview, an applicant states they tested positive on a DOT test two years ago. She acknowledged that she was terminated and never saw an SAP.

Question: What does the employer have to do to hire her as a DOT driver.

Answer: The applicant must comply with the DOT return to duty process as outlined in 49 CFR Part 40 Subpart O. This includes the SAP initial evaluation, satisfactory compliance with recommended treatment/rehabilitation, and follow-up

interview with SAP.

Once the SAP provides the written reports to the prospective employer, including a program of follow-up testing, the employer can conduct a return to duty test. If negative, then conduct a pre-employment drug test. If that is negative, the employer may hire the individual.

Again, note that the individual will be subject to the follow-up testing prescribed by the SAP once hired into the safety-sensitive position. The follow-up testing is in addition to being in the random testing pool.



Senate Bailout Bill Includes Parity Amendment and Addiction Act

The U.S. Senate passed the Wall Street Bailout Bill on October 1 of this year by a 74-25 margin. This bill was recently "amended to include addiction and mental health parity legislation and [will now] head to the House of Representatives for consideration." Earlier introduced as a separate act (The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Act of 2008), a Wellstone Bill was passed by the Senate but the House of Representatives approved only "a stand-alone version of the parity measure." If passed, the parity legislation would keep insurers from placing "restrictions on mental health and addiction care that don't apply to other health conditions."

Q & A: Omission of a Signature Following a BAT

Scenario: A BAT did not get signature at step 2, prior to a donor screening and confirming positive for breath alcohol. The BAT notices the omission, asks the donor to sign. The donor refuses to sign.

Question: Can the employer terminate the employee for cause outside of the DOT policy, but not report it as a DOT positive?

Answer: This is a DOT refusal to test, under 40.261. Even though the test was administered without the employee having signed at Step 2 of the ATF, the BAT correctly required the employee to sign the form when the BAT discovered the omission. Since the employee refused to sign Step 2, it is a refusal to test and thus a violation of DOT regulations.