

June 20, 2024

The Honorable Pete Buttigieg  
U.S. Department of Transportation  
1200 New Jersey Ave S.E.  
Washington, D.C. 20590

Dear Secretary Buttigieg:

In light of the U.S. Department of Justice's (DOJ) May 21<sup>st</sup>, 2024, proposal to transfer marijuana from a Schedule I to a Schedule III drug under the Controlled Substances Act (CSA), I write on behalf of the American Trucking Associations (ATA)<sup>1</sup> to request information regarding whether the U.S. Department of Transportation (DOT) will maintain the authority and means to conduct testing of marijuana use by commercial motor vehicle (CMV) drivers and other safety-sensitive transportation workers. As stressed in ATA's May 15<sup>th</sup> letter to DOJ, DOT, and the Department of Health and Human Services (HHS), it is critical for transportation safety that we maintain the scope and scrutiny of testing that currently exists for individuals engaged in safety-sensitive industries, including commercial trucking, bussing, airlines, and rail. This is imperative given the current absence of a proven impairment standard.

While ATA does not maintain a formal position on marijuana legalization or the ongoing testing of non-safety sensitive employees under HHS's Federal Workplace Drug Testing Programs, we remain concerned about the broad public health and safety consequences of reclassification on the national highway system and its users. ATA commends the DOT's focused efforts to combat drug- and alcohol-impaired driving as part of its robust national roadway and transportation system safety initiatives, specifically through effective programs like its DOT Drug & Alcohol Testing Program and the Federal Motor Carrier Safety Administration's (FMCSA) Drug & Alcohol Clearinghouse. Though ATA understands that the process and content of DOJ's rulemaking falls outside the purview of DOT, we believe DOT and ATA share the goals of achieving zero highway fatalities and ensuring the commercial driving workforce is qualified to safely operate on our nation's roadways.

Last year, the National Transportation Safety Board (NTSB) released a study showing that marijuana and alcohol remain the most detected drugs in impaired driving crashes resulting in serious or fatal injuries.<sup>2</sup> Similarly, researchers at the National Institute on Alcohol Abuse and Alcoholism found that, between 2000 and 2018, crash deaths involving marijuana more than doubled, from 9% to 21.5%.<sup>3</sup> Separate studies revealed that state-level marijuana legalization "was associated with a 6.5% increase in injury crash rates and a 2.3% increase in fatal crash rates,"<sup>4</sup> while immediately following Canada's 2018 legalization of marijuana, the country's emergency rooms saw a 94% increase in the rate of marijuana-involved traffic injuries.<sup>5</sup> In light of such statistics, ATA is confident DOT shares our urgency in preventing a dramatic increase in crashes and deaths involving impaired driving.

<sup>1</sup> ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry, with more than 37,000 members. Directly and through its affiliated organizations, ATA represents motor carriers in the United States encompassing every type and class of motor carrier operation.

<sup>2</sup> "Alcohol, Other Drug, and Multiple Drug Use among Drivers," The National Traffic Safety Board, January 12, 2023, <https://www.nts.gov/safety/safety-studies/Documents/SRR2202.pdf>.

<sup>3</sup> Lira, Marlene C, et al. "Trends in Cannabis Involvement and Risk of Alcohol Involvement in Motor Vehicle Crash Fatalities in the United States, 2000–2018," American Journal of Public Health, November 2021, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8630490/>.

<sup>4</sup> Farmer, Charles M, et al. "Changes in Traffic Crash Rates after Legalization of Marijuana: Results by Crash Severity," Journal of Studies on Alcohol and Drugs, <https://pubmed.ncbi.nlm.nih.gov/35838426/>.

<sup>5</sup> Myran, Daniel T, et al., "Cannabis-Involved Traffic Injury Emergency Department Visits after Cannabis Legalization and Commercialization," JAMA network open, September 5, 2023, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10483310/>.

While ATA stresses the importance of continued marijuana testing across all transportation modes, within the CMV industry alone, marijuana continues to lead as the drug most frequently used by drivers. As of May 2024, marijuana ( $\Delta^9$ -THCA) represented around 60 percent – 150,647 total – of all positive employer drug tests of regulated CMV drivers since the January 2020 implementation of the FMCSA Drug and Alcohol Clearinghouse. Given the ongoing prevalence of marijuana use among commercial drivers and the preventability of tragedies caused by marijuana-impaired driving, like those cited in our May 15<sup>th</sup>, 2024 correspondence, ATA respectfully seeks additional information on DOT's efforts to engage DOJ, HHS, and other federal partners to ensure that any change in the law regarding the status and legality of marijuana use is accompanied by an explicit allowance for the testing of marijuana use by DOT-regulated safety-sensitive workers.

As you are aware, DOT is required by statute to rely on the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs for the certification of laboratories to carry out its DOT Drug and Alcohol Testing Programs.<sup>6</sup> ATA remains concerned about the ensuing impact that rescheduling may have on HHS's laboratory certification process and promulgation of testing procedures, specifically for marijuana. While ATA recognizes that scientific and laboratory certification processes intrinsic to employee drug testing fall outside DOT's scope, we nevertheless urge you to work with HHS and relevant lawmakers to ensure ongoing marijuana testing, guidance, and laboratory certification for the DOT programs.

The safety of our drivers and the motoring public is a chief priority to ATA, and we again applaud the DOT's focus on drug- and alcohol-impaired driving prevention and, more broadly, national transportation system safety. Given the seemingly inevitable increase in marijuana-impaired driving following a federal rescheduling, ATA is committed to working with DOT and other stakeholders to prevent marijuana-related crashes and fatalities.

Thank you for your consideration of this vital safety issue, and we look forward to continued dialogue and partnership together in addressing it.

Sincerely,



Dan Horvath  
Senior Vice President, Regulatory Affairs and Safety Policy  
American Trucking Associations

cc: The Honorable Polly Trottenberg, Deputy Secretary, U.S. Department of Transportation  
Sue Lawless, Acting Deputy Administrator, Federal Motor Carrier Safety Administration

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<sup>6</sup> 49 U.S.C. §31306(c)(2).