

7 February 2022



Select Committee into Cannabis and Hemp
Legislative Council
Telephone: 9222 7400

Sent via email: scch@parliament.wa.gov.au

To Whom it May Concern

SELECT COMMITTEE INTO CANNABIS & HEMP – INQUIRY INTO CANNABIS & HEMP

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for more than 89 per cent of the State's mineral and energy workforce employment,¹ ranging from mining (mineral and petroleum commodities), manufacturing (alumina, basic inorganic chemicals and explosives) and supporting services.

The value of royalties received from the sector totalled \$12.7 billion in 2020-21, accounting for 31.7 per cent of general government revenue.² Commodity exports from the sector are a major contributor to Australia's economic recovery from its largest global contraction since the 1940s.³

Summary of Recommendations

CME appreciates the opportunity to provide feedback to the Select Committee into Cannabis and Hemp's (the Committee) Inquiry into Cannabis and Hemp (the Inquiry). Industry acknowledges that it is not in the position to provide feedback on all areas provided in the Inquiry terms of reference, notably the current barriers to pharmaceutical nutraceutical use of cannabinoid products or the prescription, availability, and affordability of medicinal cannabis. Due to the high-risk nature of work performed within the sector, CME wishes to present the potential risks of permitting industrial hemp for human consumption. These risks are presented for the Inquiry's consideration and are not intended to provide a moral stance or commentary on drug use.

A summary of recommendations is included below, with further supporting detail outlined in the following submission. In summary, CME:

- recommends that the Committee consider the available testing methods used for cannabis, and their inability to distinguish between medicinal and recreational cannabis use.
- considers individuals under the influence of THC cannabinoid products as unfit for high-risk work, as they present a significant risk to workplace health and safety.
- recommends that the Committee consider the health and safety implications of cannabis use in high-risk industries, such as the resources sector.

In addition to the recommendations made in this submission, CME would also like to endorse the submission being lodged by the Chamber of Commerce and Industry Western Australia (CCIWA) which CME has reviewed as part of our own submission process. CME notes the positions collectively across our two organisations is representative of a significant proportion of industry in this state.

Context

Medicinal cannabis, or medicinal marijuana has received increased international attention in recent years. Discussion surrounding the legal, ethical, and societal implications that are associated with its use, dispensation, and safe administration are just a few of the complexities that are to be considered. However, in this letter, CME will focus on the potential consequences attributed to marijuana intoxication in the workplace and high-risk work environments.

¹ Government of Western Australia, [2020-21 Economic indicators resources data](#), onsite employment under State legislation, Department of Mines, Industry Regulation and Safety, 10 October 2021.

² Government of Western Australia, [2020-21 Annual report on State finances](#), Department of Treasury, 24 September 2021, pp. 167-168.

³ Commonwealth of Australia, *Resources and Energy Quarterly: September 2020*, Office of the Chief Economist, Department of Industry, Science, Energy and Resources, 29 September 2020.

In Western Australia (WA), cannabis is an illicit drug, meaning that it is illegal to possess, use, manufacture, cultivate, or supply. However, the Australian Federal Government has legalised access to medicinal cannabis as of 2016. Medicinal cannabis prescriptions are mostly for chronic non-cancer pain, anxiety, cancer-related symptoms, epilepsy, and other neurological disorders. The recreational use of cannabis stems from its main psychoactive ingredient, delta-9-tetrahydrocannabinol (THC), which activate neurons responsible for pleasure, coordination, time-perception, memory, and thinking.

Medicinal cannabis comes in different cannabinoid formulations and therefore, the amount of THC varies between products. Medicinal cannabis products, even those labelled primarily as Cannabidiol (CBD), may contain some level of THC.

1. Testing

Unlike alcohol, there is no clear consensus on how much THC in a person's system is indicative of impairment. For example, a blood alcohol concentration (BAC) that exceeds 0.05% means that the risk of being involved in a traffic accident is double that of a person with a BAC of 0 – no similar measurement is available for THC. Additionally, alcohol remains in a person's system at the general rate of one standard drink per hour, the rate of cannabis can vary based on frequency of use, diet, and body type. Due to this, companies generally take a zero-tolerance approach to cannabis use, aligning with the approach taken by WA police in relation to drug driving.

There are several methods available to test for the presence of marijuana in a person's system. Each test requires a different sample and have varied timeframes, with the most common methods being:

- Urine testing – Generally utilized by employers and during pre-employment medicals. The window of detection can range from 2 – 30 days, with multiple factors contributing to how long marijuana is detectable. For example, diet, body type, and THC content can all impact the test results.
- Hair follicle testing – Can be used in pre-employment medicals. The window of detection can range from a week to several months.
- Oral fluid testing – Less commonly used. The window of detection is generally 24 – 48 hours.
- Blood testing – Can be used to verify a positive result to the above listed tests. The window of detection is typically 24 – 48 hours, but can be greater in chronic users.

Unlike alcohol testing, none of the above methods provide an 'immediate' reading of whether a person is impaired at the time of being tested. Industry is concerned with the present complications with workplace drug testing, as prescribed medicinal cannabis with THC is indistinguishable from illicitly consumed cannabis. Critically drug testing results will be unable to indicate if a person has consumed a medicinal cannabis product, or illicit cannabis. Employers have seen individuals attempt to hide evidence of illicit drug use through a variety of means, for example, there are a variety of products available on the market to 'flush' drug use or individuals swapping out their urine for a 'clean' sample.^{4, 5} As a result, if medicinal cannabis is more freely prescribed, there are concerns that a prescription may be used by a person as an attempt to mask improper usage of cannabis.

CME recommends that the Committee consider the available testing methods used for cannabis, and their inability to distinguish between medicinal and recreational cannabis use.

2. Workplace Health and Safety

The health and safety of our people is the number one priority of the WA resources sector. The WA resources sector is recognised as a world leader in health and safety management. Companies strive to achieve their "zero harm" ambition every single day, which drives the sector's continuous improvement approach to health and safety. This approach has seen significant improvements in safety incidents over time. The sector takes a risk-based approach to managing work health and safety (WHS) hazards. Our comprehensive and effective response to managing health risks associated with the recent COVID-19 global pandemic is a good example of the effectiveness of this approach.

Alcohol and drug use both have known effects on safety, impacting a worker's ability to exercise judgement, motor control, and concentrate. As employers are to ensure compliance with duty of care obligations under the *Occupational Safety and Health Act 1984* (WA) and the *Mines Safety and Inspection Act 1984* (WA), drug and alcohol policies are commonly implemented across the sector. These policies generally cover the use of

⁴ Note: Qcarbo and similar products marketed as a herbal cleanse.

⁵ Kim, V. et al. 2019. Can synthetic urine replace authentic urine to beat workplace drug testing? *Drug Test Analysis* 11(2).

prescription, non-prescription, and illicit drugs in order to ensure that employees are not putting themselves or others at risk.

Individuals under the influence of THC cannabinoid products are considered unfit for high-risk work, as they may present a significant risk to workplace health and safety.

3. Equal Opportunity Legislation

Recognising that our industry operatives in high risk, complex, and often remote areas, the importance of keeping employees alert to their surroundings cannot be overstated. As previously discussed, cannabis products can impair a person's ability to work safely. For example, a person's ability to operate machinery, or engage in high-risk work. Studies have found a link between marijuana use and workplace injuries.^{6, 7, 8, 9} Additionally, it is an offence to drive with THC present in your system, regardless of if it is from a legally prescribed or illicit source, due to its impact on a person's attention or concentration. As a result, drug and alcohol testing is a common practice following a safety incident to ascertain if an employee has been working under the influence, with a zero-tolerance approach generally taken. However, the increased availability and scope for use of medicinal cannabis may negatively impact the ability for the sector to continue to take a zero-tolerance approach to cannabis use.

Under the *Equal Opportunity Act 1984 (WA)* and *Disability Discrimination Act 1992 (Cth)*, it is considered unlawful for a person to discriminate against any person under the grounds of impairment. This creates the question as to if employers are able to enforce the earlier mentioned drug and alcohol policies or incident investigation procedures if a person has been prescribed medicinal cannabis. CME notes that this is currently being run through the Federal Court, where an employee of Queensland Rail was released from employment following failure of a drug and alcohol test due with a declared medicinal cannabis prescription.

CME recommends that the Committee consider the health and safety implications of cannabis use in high-risk industries, such as the resources sector.

Conclusion

Thank you again for the opportunity to provide feedback to the Inquiry. As noted above, CME considers it of high importance to industry that reforms to the availability of cannabis or hemp products do not negatively impact workplace safety and health. CME would welcome the opportunity to work with the Committee to address this important issue.

Should you have questions regarding this letter, please contact Laila Nowell, Senior Policy Adviser – People and Safety on [redacted] or via email at [redacted].

Yours sincerely,

Robert Carruthers
Director – Policy & Advocacy

⁶ Frone, M. 1998. Predictors of Work Injuries Among Employed Adolescents. *Journal of Applied Psychology* 83(4).

⁷ Kaestener R. and Grossman, M. 1995. Wages, Workers' Compensation Benefits and Drug Use: Indirect Evidence of the Effect of Drugs on Workplace Accidents. *American Economic Review* 85(2).

⁸ Shipp, E et al. 2005. Substance Use and Occupational Injuries Among High School Students in South Texas. *American Journal of Drug and Alcohol Abuse* 31(2)

⁹ Zwering, R. et al. 1990. The Efficacy of Preemployment Drug Screening for Marijuana and Cocaine in Predicting Employment Outcome. *Journal of the American Medical Association* 264(20).