

## LEGISLATIVE RETURN



**SUBMITTED BY: Jeanie Dendys, Minister responsible for Yukon Workers'**

### **Compensation Health and Safety Board**

1. On October 16, 2018, Member for Lake Laberge

asked the following oral question at page(s) 3002 of *Hansard*

submitted the following written question – WQ No. \_\_\_\_\_

gave notice of the following motion for the production of papers – MPP No. \_\_\_\_\_

RE:

**OR**

2. This legislative return relates to a matter outstanding from discussion related to:

The Ministerial Statement on Cannabis Legislation on October 16, 2018 at page(s) 3002  
of *Hansard*.

The response is as follows:

Please see the attached response to the question asked by the Member of Lake Laberge.

## LEGISLATIVE RETURN

**SUBMITTED BY: Jeanie Dendys, Minister responsible for the Yukon Workers' Compensation Health and Safety Board**

On October 16, 2018, Member for Lake Laberge asked the following oral question at page 3002 of *Hansard*

RE: Implementation of legalized recreational cannabis

The response is as follows:

**1. What are the responsibilities and liabilities for employers with respect to potential impairment from marijuana at the workplace?**

- Yukon has a robust workplace health and safety regulatory framework. The *Occupational Health and Safety Act* and *Regulations* have the necessary provisions in place for the regulation of workplace safety, including employers' and workers' impairment-related responsibilities.
- The issue of workplace impairment is not new. Cannabis is only one aspect of impairment, along with alcohol use and abuse, prescription and over-the-counter drug use, mental stress and even fatigue.
- Employers' responsibilities are also not new. Employers have the same legal responsibilities with regard to impairment in the workplace as they did before the legalization of recreational cannabis.
- Their legal duty is toward workplace safety. Employers must provide a safe work environment and take precautions to protect the health and safety of workers.
- This means that employers have a duty to act if they suspect or are informed that a worker is impaired.
- These actions include making sure that a worker who is impaired in any way, by cannabis or by other factors, is not assigned activities where their impairment may endanger them or anyone else. It also means not allowing the worker to continue to perform work where the impairment may create a hazard to the worker or anyone else.
- As well, employers must provide training to supervisors and workers on both the impact of impairment and on how to recognize and respond to possible signs of impairment.
- Impairment is a complex issue that may indicate an addiction or a disability. It needs to be approached with respect and compassion. If an employee has a diagnosed medical condition or disability, such as a substance addiction, the employer may have a duty to accommodate that individual.
- Employers who currently have robust workplace impairment policies in place will see little effect from the legalization of recreational cannabis. A policy update may be all that is required.
- Employers who do not, are encouraged to take steps to put a policy in place.
- Employers' workplace impairment policies will vary depending on the type of work being performed, though any good policy will include: what happens if the policy is violated, confidentiality and privacy, and training and education.
- Workers have responsibilities too, including a duty to perform their job safely and to follow regulations, training, policies and procedures.
- Workers need to show-up fit for work. They must not perform work when there is a risk of impairment that may affect the health and safety of workers themselves or anyone else. If a worker is impaired, they need to take steps to protect themselves and other workers. They should first inform their supervisor who will follow the workplace policy and procedures on impairment, if there is a policy in place.
- Workers have duties not only to themselves, their employers and their co-workers, but also to their friends and family. These are the people most affected if they pose a safety risk at work due to impairment.
- It is the shared responsibility of workers and employers to ensure workplaces are safe. Part of that is making sure that no-one is impaired at work.

**2. What help will the government provide to help employers determine impairment with regard to legal cannabis?**

- The Yukon Workers' Compensation Health and Safety Board (YWCHSB) has taken steps to help employers manage the issue of impairment in the workplace:
  - In February 2017, YWCHSB sponsored a public event at which addiction expert and advisor to the federal government on cannabis, Dr. Charl Els, delivered a talk entitled "Marijuana in the Workplace".
  - This year, YWCHSB co-sponsored an event with the Public Service Commission entitled, "Cannabis Awareness," presented by Dan Demers, Senior Manager of Strategic Business Development at CannAmm Occupational Testing Services.
  - YWCHSB has posted guidance for employers and workers on its website and emailed employers directly to address some of their concerns.
  - YWCHSB provides funding to Northern Safety Network Yukon where the one-day course for employers and supervisors called "Effectively Managing Alcohol and Drugs in the Workplace" is

delivered.

- To facilitate an ongoing dialogue, YWCHSB is planning to launch a territory-wide campaign later this year addressing workplace impairment issues aimed at workers and employers.

**3. In the case of workplace incident investigations, what tools will be used to determine whether cannabis impairment was a factor?**

- Occupational Health and Safety officers use their standard investigatory skills and practices to verify that workers and employers are both satisfying the responsibilities they have as set out in the *Occupational Health and Safety Act* and Regulations. This includes those associated with impairment.
- When substance use causing impairment may have been a factor contributing to a major workplace incident, injury or fatality, safety officers work with the RCMP, the coroner's office and other authorities to carry out their investigations.

October 22, 2018

Date



Signature