Marijuana and employee productivity

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 Agenda

1. Who we are
2. The problem
3. The marijuana lobby & employees
4. The impact
5. Conclusions
SAM promotes an evidence-based approach to marijuana policy that prioritizes public health

- SAM takes an evidence-based, scientific approach to marijuana policy that rejects the false dichotomy that we must either lock up marijuana users OR legalize pot

- Instead, we support:
  - Alternatives to incarceration
  - FDA-approved medications derived from marijuana
  - Ending legalization and commercialization of pot

- We are non-partisan, and work with Democrats, Republicans, and independents alike
SAM’s board members and supporters

- American Society of Addiction Medicine
- American Academy of Pediatrics
- American Academy of Child and Adolescent Psychiatry
- Other leading public health authorities
- Over 30 state affiliates, including:
  - Treatment centers
  - Recovery groups
  - Prevention organizations
  - Law enforcement
  - Leading medical authorities
  - Volunteer citizens
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Surveys keep telling us...

1) The pool of **reliable unskilled labor** is way too small

2) It’s very hard to **find someone who can pass a drug screen**
Drug use is forcing CO employers to hire out-of-state employees

- “Jim Johnson [construction company GE Johnson’s CEO]...said his company has encountered so many job candidates who have failed pre-employment drug tests because of their THC use that it is actively recruiting construction workers from other states.”

The phenomenon has recently received coverage in the New York Times

Hiring Hurdle: Finding Workers Who Can Pass a Drug Test

By JACKIE CALMES  MAY 17, 2016

In Colorado, “to find a roofer or a painter that can pass a drug test is unheard-of," said Jesse Russow, owner of Avalanche Roofing & Exteriors,

But data suggest employers’ difficulties also reflect an increase in the use of drugs, especially marijuana — employers’ main gripe — and also heroin and other opioid drugs much in the news.
And on CNN...

As more Americans fail drug tests, employers turn to refugees

Story by Dan Lieberman, CNN
Video by Matt Gannon, CNN
Updated 4:40 PM ET, Wed March 29, 2017

In Colorado, where marijuana is legal, some businesses have told Fay, "they see employees smoking pot on their lunch break and then going back to work."

One oil and trucking company in Colorado did random drug screening at one of their locations last year and found 80 percent of their employees failed, Fay said. (Colorado's Supreme Court has ruled that companies may fire employees who smoke pot, even if legally.)
The current panorama

Legend:
- Red = “Recreational” use legalized
- Pink = “Medical” use legalized
Marijuana has become significantly more potent since the 1960s

Average THC and CBD levels in the United States

THC: Psychoactive Ingredient

CBD: NON-Psychoactive Ingredient

Source: Mehmedic et al., 2010
Pot edibles now account for ~50% of the Colorado market

Source: Marijuana Business Journal; other media.
Marijuana is not “just a plant” anymore – derivatives contain up to 99% THC

“Green Crack” wax

“Ear Wax”

Butane Hash Oil (BHO)

“Shatter”

Hash Oil Capsules

“Budder”
99% pure THC
99% THC is already on sale in our country
Marijuana use is rising across the board, since legalization laws became common

Percentage of population ages 12 and up who used marijuana in the past month

CAGR = 4.5%

Source: NSDUH
Use is particularly in states that have legalized pot

Last-month use, ages 12+

Legend:

- “Recreational” use legalized by mid-2016
- “Medical” use legalized by mid-2016
- Neither “medical” nor “recreational” use legalized by mid-2016

Source: NSDUH (2013-2014)
Since legalization, pot use in Colorado has steadily climbed, well outpacing the national average.

Percentage of population ages 12 and up who used marijuana in the past month:

- **U.S. average**: Avg. change per period 4.7%
- **Colorado**: Avg. change per period 10.8%

Percentage of population ages 18 to 25 who used marijuana in the past month:

- **U.S. average**: Avg. change per period 1.2%
- **Colorado**: Avg. change per period 3.9%

Source: NSDUH state estimates
Employers have reacted by tightening drug testing policies

Since Colorado legalized marijuana, have you tightened, maintained, or loosened your drug-testing policies?

Source: Mountain States Employers Council (2015 survey of 344 companies)
This trend also appears nationally—employers tighten policies where recreational pot is legal.

Source: SHRM survey (2015)
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The marijuana industry has vowed to make employee “rights” to pot use a priority

- In 2014, the Colorado Supreme Court established that employers can fire employees for off-the-job marijuana use, even within the context of a state medical marijuana program (Coats v. Dish Network, LLC, No. 13SC394, 2014 Colo. LEXIS 40 (Colo. Jan. 27, 2014))

- In response, the marijuana industry mobilized to fight for a right for employees to use pot

“[We should not] permit an employee to be fired simply because they elect to use marijuana legally under state law, without a showing of actual on-job impairment.

…

[T]hat is simply unfair, and it cannot be allowed to stand.”

- Keith Stroup, founder of NORML

15 June 2015

Note: This presentation is not intended to provide legal advice of any kind. For legal advice, please contact a lawyer in the appropriate jurisdiction.
New Mexico courts have forced companies to pay for employees’ marijuana use

- **New Mexico**: a series of appellate court decisions require companies to reimburse employees’ for “medical” marijuana use, ignoring employers’ arguments that doing so would violate federal law:

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A judge ruled Darlington Fabrics Corp. violated Rhode Island’s medical marijuana law, the Hawkins-Slater Act, when it refused to hire a medical marijuana user because she could not pass a pre-employment drug test.

The Hawkins-Slater Act states, “No school, employer, or landlord may refuse to enroll, employ, or lease to, or otherwise penalize, a person solely for his or her status as a cardholder.”

Judge Richard Licht ruled that the aforementioned portion of the state’s law would be rendered illusory if he were to rule in favor of the defendants as it would simply allow employers to refuse to hire medical marijuana users by simply implementing a facially neutral pre-employment drug testing policy.
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“Pot safer than alcohol?” Not in the workplace.

Relative frequency of problem

- **Needed to use more to get desired effect**
- **Spent a lot of time getting/using drug**
- **Caused serious problems at home, work, or school**
- **Took time from school/work/important activities**
- ** Tried to limit use but failed**
- **Caused problems with emotions, nerves, or mental health**
- **Caused problems with family or friends**
- **Using same amount had less effect**
- **Drug put you in physical danger**

Source: Jonathan Caulkins (using NSDUH data)
Accidents, injuries, absenteeism, and disciplinary problems among pot users all increase costs.

Source: Zwerling et al (1990)
Even when controlling for alcohol use, pot users are:

40% more likely to have missed at least one day of work in the last month due to illness/injury

106% more likely to have missed at least one day of work in the last month because they “just didn’t want to be there”

Source: National Survey on Drug Use and Health (2014)
Marijuana-related traffic fatalities in Washington State doubled after legalization

WA traffic fatalities where driver tested positive for marijuana

- 2010: 8.6%
- 2011: 7.9%
- 2012: 8.1%
- 2013: 8.3%
- 2014: 17.0%

Source: AAA (2016)
In almost one of every five traffic fatalities in CO, the driver has been using marijuana

CO traffic fatalities where driver tested positive for marijuana

14% average annual increase since 2009

Commercialization of “medical” marijuana
Legalization
Retail sales begin

Source: Rocky Mountain HIDTA (Sep. 2015)
One pot-using employee could cost an employer thousands of dollars/year in absenteeism alone

- Additional absenteeism due to marijuana use may cost employers up to...
  - $3,260/year for each full-time hourly employee
  - $2,407/year for each full-time salaried employee

Source: SAM analysis – Icon: Björn Andersson
The average costs to an employer for the average workplace injury can exceed $40,000.

$38,000

Estimated average direct costs of worker’s compensation claim.

Source: Left-hand chart National Safety Council; right-hand chart, OSHA.
Marijuana use can imperil favorable workers’ comp rates

“Favorable workers' compensation rates are substantiated by testing employees for drugs, and employers could lose access to those rates if workers are legally using marijuana on their personal time.”

- Associated Industries of Massachusetts
  March 2016
The state loses, too: in RI, estimates of just a few costs outweigh projected revenues by over 25%

Estimated value for 2020
(in millions of 2016 dollars)

- Workplace injuries (non-fatal) $61.2M
- Absenteeism
- Homelessness
- Drugged driving fatalities
- Extraction labs - medical costs only
- ER visits
- Serious injuries - drugged driving
- Basic administrative overhead

$48.3M

Presently quantifiable estimated costs
Projected revenues
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Conclusions (“BBQ Questions”)

- Is your business and state more or less competitive with more pot users?

- **How much will more pot use cost** your business? Your state’s economy?

- Is it good that the marijuana industry is **lobbying hard to undermine workplace drug testing laws**?

- Who will **pay for the long-term costs of marijuana use** -- if not insurance companies and the state?
Thank you!

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http://learnabouthatsam.org
To learn more...

- Come to our marijuana policy conference in Baltimore: **August 16 at the Baltimore Waterfront Marriott**

- **Download the SAM Action app** by texting “SAM” to 797-979