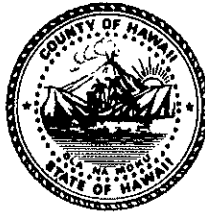


Harry Kim
Mayor

Roy Takemoto
Managing Director



Darren J. Rosario
Fire Chief

Lance S. Uchida
Deputy Fire Chief

County of Hawai'i
HAWAI'I FIRE DEPARTMENT
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720
(808) 932-2900 • Fax (808) 932-2928

February 24, 2020

CHIEF'S MEMORANDUM

NO. 2020-011

TO: ALL PERSONNEL

FROM: DARREN J. ROSARIO, FIRE CHIEF

SUBJECT: **U.S. DEPARTMENT OF TRANSPORTATION NOTICE – CANNABIDIOL (CBD) PRODUCTS**

Attached is an InterOffice Memo dated February 21, 2020 from the Department of Human Resources regarding a notice issued by the U.S. Department of Transportation Notice regarding Drug and Alcohol Policy and Compliance on the matter of Cannabidiol (CBD) Products.

Under the DOT regulations, a positive test results in your removal from safety sensitive duties and any employee who tests positive for a controlled substance is also subject to disciplinary action as provided in your bargaining unit agreement.

Please be aware that this applies to non-DOT drug testing as well, such as permitted under applicable collective bargaining agreements.

This will be assigned to you via Target Solutions for your acknowledgement.

DARREN J. ROSARIO
Fire Chief

DJR/lc



InterOffice Memo

TO: Darren J. Rosario, Fire Chief
William A. Kucharski, Director of Environmental Management
Deanna Sako, Finance Director
Keith Okamoto, Manager-Chief Engineer Department of Water Supply
Roxcie L. Waljen, Director of Parks & Recreation
David Yamamoto, P.E., Director of Public Works
Brenda L. Carreira, Mass Transit Administrator

ATTN: Departmental Human Resources Representatives

FROM: William V. Brilhante, Jr., Director of Human Resources 

DATE: February 21, 2020

SUBJECT: U.S. Department of Transportation Notice – Cannabidiol (CBD) Products

Enclosed for your information and action is a Memorandum to all employees subject to Federal DOT drug and alcohol testing along with a notice from the U.S. Department of Transportation (DOT), Office of Drug and Alcohol Policy and Compliance.

The enclosed document cautions DOT-covered employees of the possibility of receiving a positive marijuana drug test result related to use of Cannabidiol (CBD) products. Please circulate and/or distribute to all employees who are subject to DOT drug testing. We also ask that you distribute the enclosed to all new hires subject to DOT drug and alcohol testing.

If you have any questions, please contact Lee Botelho at 961-8361.

Enclosure

LB/WVB

County of Hawai'i - Department of Human Resources

InterOffice Memo

TO: All Employees Subject to Federal DOT Drug & Alcohol Testing

FROM: William V. Brilhante, Jr., Director of Human Resources 

DATE: February 21, 2020

SUBJECT: U.S. Department of Transportation Notice - Cannabidiol (CBD) Products

Enclosed is a notice issued by the United States Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance on the matter of Cannabidiol (CBD) products.

The DOT notice cautions safety sensitive employees who are subject to drug testing under 49 CFR, part 40 about the use of CBD. CBD products are not regulated by the Food and Drug Administration (FDA), thus labeling on CBD products may not accurately reflect the percentage of tetrahydrocannabinol (THC) in the product. Products, with a concentration of more than 0.3% THC are still classified as marijuana, and listed as a Schedule I drug. Under DOT regulations, use of CBD is not considered a legitimate medical explanation for a confirmed positive marijuana drug test result.

Under the DOT regulations, a positive test results in your removal from safety sensitive duties. Any employee who tests positive for a controlled substance is also subject to disciplinary action as provided in your bargaining unit agreement.

DOT safety sensitive employees include employees who are required to hold a valid Commercial Driver's License (CDL) for their position, employees who are required to hold a valid CDL to be temporarily assigned (TA) or temporarily perform duties that require a CDL, employees participating in a CDL Driver-Training program, and Mass Transit maintenance personnel.

Enclosure

Cc: Dayton M. Nakanelua
Radford Hirai
Randy Perreira
Scott Collins

DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



The Agricultural Improvement Act of 2018, Pub. L. 115-334, (Farm Bill) removed hemp from the definition of marijuana under the Controlled Substances Act. Under the Farm Bill, hemp-derived products containing a concentration of up to 0.3% tetrahydrocannabinol (THC) are not controlled substances. THC is the primary psychoactive component of marijuana. Any product, including "Cannabidiol" (CBD) products, with a concentration of more than 0.3% THC remains classified as marijuana, a Schedule I drug under the Controlled Substances Act.

We have had inquiries about whether the Department of Transportation-regulated safety-sensitive employees can use CBD products. Safety-sensitive employees who are subject to drug testing specified under 49 CFR part 40 (Part 40) include: pilots, school bus drivers, truck drivers, train engineers, transit vehicle operators, aircraft maintenance personnel, fire-armed transit security personnel, ship captains, and pipeline emergency response personnel, among others.

It is important for all employers and safety-sensitive employees to know:

1. The Department of Transportation requires testing for marijuana and not CBD.
2. The labeling of many CBD products may be misleading because the products could contain higher levels of THC than what the product label states. The Food and Drug Administration (FDA) does not currently certify the levels of THC in CBD products, so there is no Federal oversight to ensure that the labels are accurate. The FDA has cautioned the public that: "Consumers should beware purchasing and using any [CBD] products." The FDA has stated: "It is currently illegal to market CBD by adding it to a food or labeling it as a dietary supplement."* Also, the FDA has issued several warning letters to companies because their products contained more CBD than indicated on the product label. **i
3. The Department of Transportation's Drug and Alcohol Testing Regulation, Part 40, does not authorize the use of Schedule I drugs, including marijuana, for any reason. Furthermore, CBD use is not a legitimate medical explanation for a laboratory-confirmed marijuana positive result. Therefore, Medical Review Officers will verify a drug test confirmed at the appropriate cutoffs as positive, even if an employee claims they only used a CBD product.

It remains unacceptable for any safety-sensitive employee subject to the Department of Transportation's drug testing regulations to use marijuana. Since the use of CBD products could lead to a positive drug test result, Department of Transportation-regulated safety-sensitive employees should exercise caution when considering whether to use CBD products.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. This policy and compliance

notice is not legally binding in its own right and will not be relied upon by the Department as a separate basis for affirmative enforcement action or other administrative penalty. Conformity with this policy and compliance notice is voluntary only and nonconformity will not affect rights and obligations under existing statutes and regulations. Safety-sensitive employees must continue to comply with the underlying regulatory requirements for drug testing, specified at 49 CFR part 40.

February 18, 2020

¹* What You Need to Know (And What We're Working to Find Out) About Products Containing Cannabis or Cannabis-derived Compounds, Including CBD: *The FDA is working to answer questions about the science, safety, and quality of products containing cannabis and cannabis-derived compounds, particularly CBD.* <https://www.fda.gov/consumers/consumer-updates/what-you-need-know-and-what-were-working-find-out-about-products-containing-cannabis-or-cannabis>

²* <https://www.fda.gov/news-events/public-health-focus/warning-letters-and-test-results-cannabidiol-related-products>