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DOT Office of Drug and Alcohol Policy Issues Compliance Notice Regarding Marijuana

Legal Alert: Today, Jim Swart, the Director of the Office of Drug and Alcohol Policy and Compliance Office of the Department of Transportation issued a "Compliance Notice" relating to the recent initiatives passed by some states to permit the use of marijuana for "recreational purposes." The notice was issued due to recent inquiries to the DOT about whether these state initiatives will have an impact upon the DOT's longstanding regulation about the use of marijuana by safety-sensitive transportation employees – pilots, school bus drivers, truck drivers, train engineers, subway operators, aircraft maintenance personnel, transit, fire, armed security personnel, ship captains, and pipeline emergency response personnel, among others.

The Notice states:

"We [DOT] want to make it perfectly clear that the state initiatives will have no bearing on the Department of Transportation's regulated drug testing program. The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40 – does not authorize the use of Schedule I drugs, including marijuana, for any reason. Therefore, Medical Review Officers (MROs) will not verify a drug test as negative based upon learning that the employee used 'recreational marijuana' when states have passed 'recreational marijuana' initiatives. We also firmly reiterate that an MRO will not verify a drug test negative based upon information that a physician recommended that the employee use 'medical marijuana' when states have passed 'medical marijuana' initiatives. It is important to note that marijuana remains a drug listed in Schedule I of the Controlled Substances Act. It remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation's drug testing regulations to use marijuana."

For additional information on legal issues in the Trucking Industry, please contact TAMMY MEADE ENSSLIN at 859-963-9049.

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