



Legal Impacts to Airports from State Legalization of Cannabis

2:00 PM (Eastern Time)

April 21, 2026

TRB Webinar based on ACRP Legal Research Digest 49:
Legal Impacts to Airports from State Legalization of Cannabis

Today's Learning Objectives

At the end of this webinar, participants will be able to:

- **Understand guidance and analysis on the conflict between federal and state laws related to the use of cannabis, and**
- **Navigate overlapping laws to maintain compliance, manage risk, and address operational issues that arise from the federal-state divide.**

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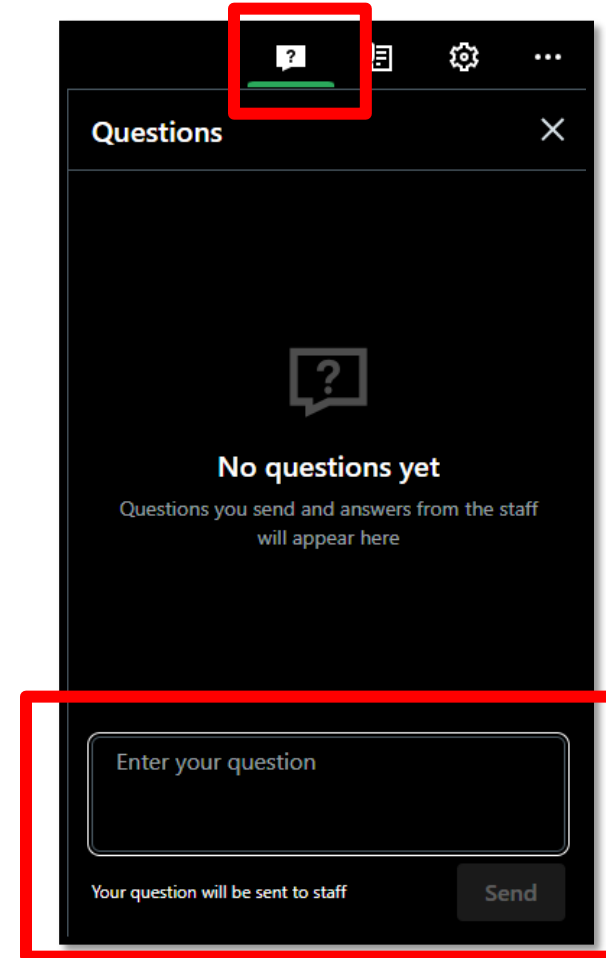
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Questions and Answers

Please type your questions into
your webinar control panel

We will read your questions out
loud, and answer as many as
time allows

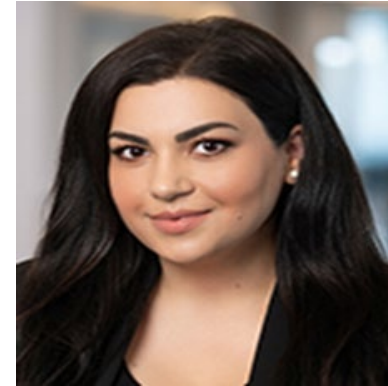
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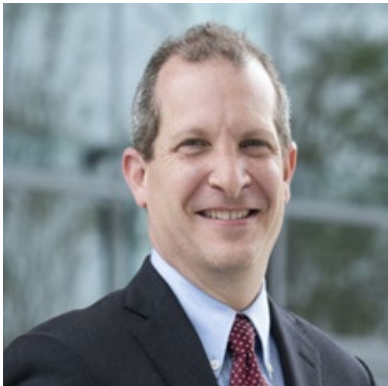
Today's Presenters



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A photograph of an airport terminal at night, viewed through a large window. An airplane is silhouetted against a warm, orange-hued sky. The foreground shows rows of empty airport chairs. The background is filled with out-of-focus lights, creating a bokeh effect. A semi-transparent purple shape is overlaid on the left side of the image, containing the title text.

ACRP – Legal Impacts to Airports from State Legalization of Cannabis

April 21, 2026

The background image shows an airport terminal interior. In the foreground, there are several rows of empty airport-style chairs with attached tables. The floor is highly reflective, mirroring the chairs and the lights. In the background, a large window looks out onto an airport tarmac where an airplane is visible in flight. The scene is filled with a bokeh effect of colorful lights, likely from the airport's lighting or city lights at night. The overall color palette is dominated by purples, pinks, and oranges.

PANELISTS

Amy Rubenstein, Partner, Dentons LLP (Moderator)

Chris Fernando, Regional Aviation Director, VHB

Emma Moralyan, Senior Managing Associate, Dentons LLP

Timothy Ravich, Senior Counsel, Tressler LLP

AGENDA



- Cannabis & Airports – The Challenge
- Cannabis and Its Complex Legal Status
- Airport Considerations
- International Perspective
- Federalism: State Cannabis Laws vs. Federal Law
- Employment Impacts
- Concluding Thoughts

A photograph of an airport terminal at night. The scene is viewed through large glass windows. In the foreground, several rows of empty, dark-colored airport-style chairs are arranged on a polished floor that reflects the ambient light. Outside the window, a large airplane is silhouetted against a dark sky, with its wings and tail visible. The background is filled with a dense field of out-of-focus, colorful bokeh lights in shades of yellow, orange, red, and blue, suggesting city lights or airport lights at night. A semi-transparent purple graphic element, resembling a large arrow pointing to the right, is overlaid on the right side of the image, partially covering the text.

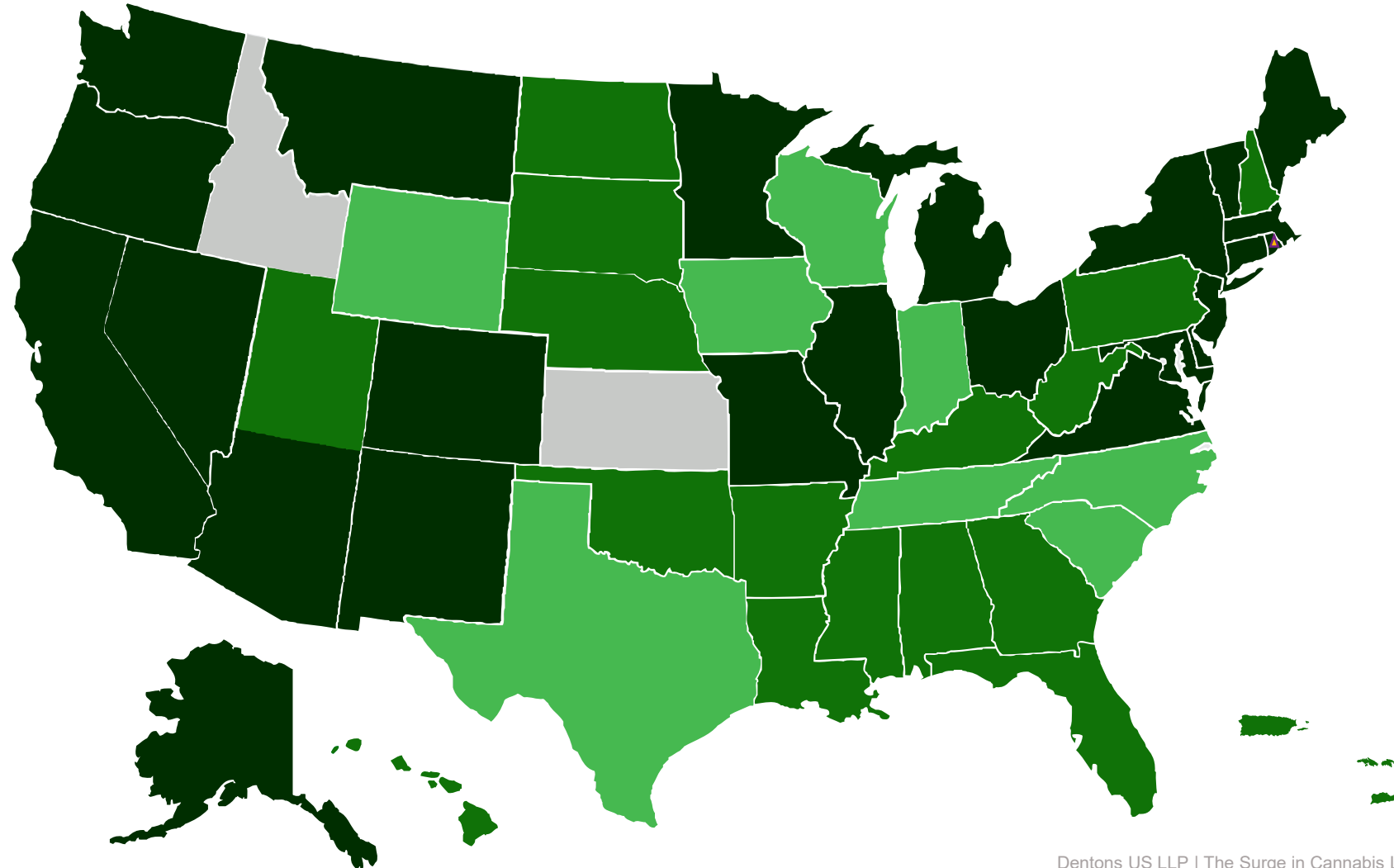
I. Introduction: Cannabis & Airports— The Challenge

Cannabis & Airports – The Challenge



- 39 states + D.C. legalized medical cannabis; 24 + D.C. also allow adult use
- Cannabis remains Schedule I under the federal Controlled Substances Act (CSA)
- 2018 Farm Bill removed "hemp" ($\leq 0.3\%$ THC) from the CSA, creating two categories for cannabis (marijuana and hemp)
- Airports are federally regulated but physically within individual states
- Mix of federal, state, and local laws creates complex issues for airports:
 - Every state program facilitates activities still illegal under the CSA
 - Federal government may criminalize cannabis even where states approve medical use

State Cannabis Legalization Landscape



- Adult & medical use regulated program (24 states)
- Comprehensive medical cannabis program (40 states)
- CBD/low THC program (8 states)
- No public cannabis access program (2 states)

A photograph of an airport terminal at night. The scene is viewed through large glass windows. In the foreground, several rows of empty, dark-colored airport-style chairs are arranged on a polished floor that reflects the ambient light. Outside the window, a large airplane is silhouetted against a dark sky, with its wings spread. The background is filled with a dense field of colorful bokeh lights in shades of yellow, orange, red, and blue, suggesting city lights or airport ground lights. A semi-transparent purple graphic element, consisting of a large arrow pointing to the right, is overlaid on the middle of the image, containing the text.

II. Cannabis and Its Complex Legal Status

Cannabis and Its Complex Legal Status



The Plant: The plant *Cannabis sativa* L. + extracts from glands on flowers & leaves containing:

- Cannabinoids (THC, CBD, etc.)
- Terpenes
- Flavonoids¹

The Products:

- Flower
- Pre-rolls
- Vapes
- Concentrates
- Edibles
- Drinks
- Topicals

History of Cannabis Prohibition



Legal through
1930s until the
Marihuana Tax Act
of 1937

Comprehensive Drug Abuse
Prevention and Control Act of 1970
(Controlled Substances Act or
CSA) enacted further limitations

Reform starting
in late 1990s

- Cannabis readily available at most pharmacies
- Prohibited at the time based on xenophobia/racism

- Also based on racism, anti-hippie sentiment
- Following CSA, disparities in arrests/convictions by race

- Goals: safe, legal, affordable, and accessible
- State legalization
- Prompted by social justice, science, and changing norms

Cannabis Reform – 1990s to Present



1996: California begins state reform movement

2013 Cole Memo: DOJ focused enforcement on minors, violence, interstate distribution

2022: AG Garland – prosecuting possession "not an efficient use" of federal resources

2004: Ninth Circuit ruled certain plant parts not prohibited under CSA

2018 Sessions Memo rescinded Cole Memo; no enforcement against state-compliant entities

Joyce Amendment (renewed annually since 2014) blocks federal funds from impeding state medical cannabis laws

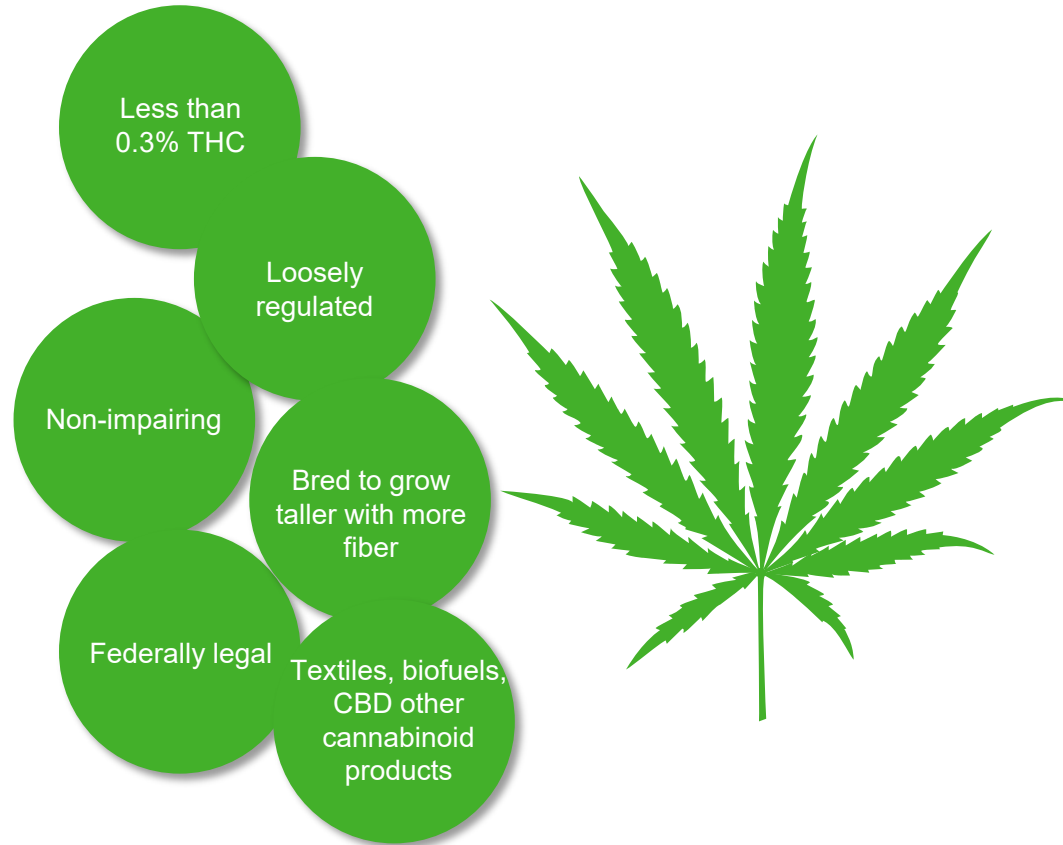
Federal Law – Hemp & The Farm Bill



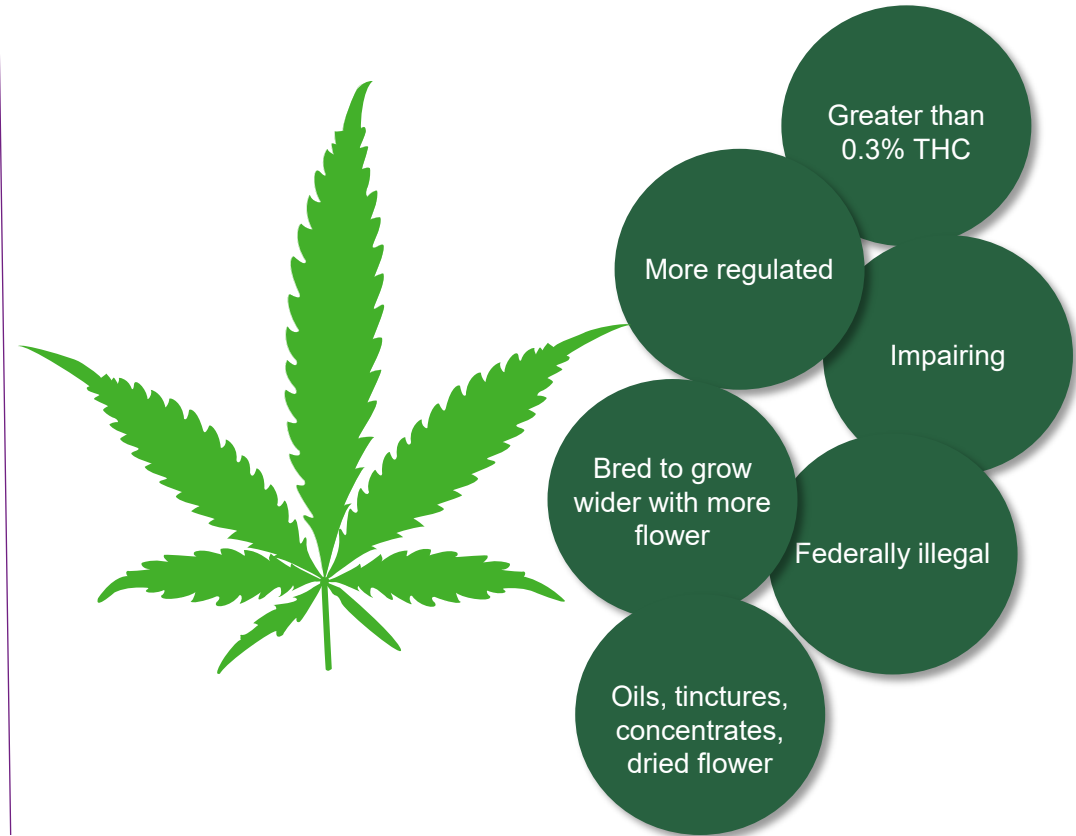
- 2018 Farm Bill: hemp production, sale, and possession no longer a CSA violation
- DEA: naturally occurring cannabinoids generally legal; synthetic may remain controlled
- Delta-8-THC federal status unresolved; DEA may consider converted delta-8 illegal
- Hemp products (ingestible, inhalable, topical) flooding the market, including intoxicating cannabinoids

The Cannabis Plant & A Legal Distinction

HEMP



MARIJUANA



State Legalization Landscape



- 39 states + D.C. and territories have legalized some form of medical cannabis
- 24 states + D.C. and territories also allow adult use
- 8 additional states allow low-potency cannabis for select conditions
- Only Idaho and Kansas fully criminalize cannabis
- State systems vary widely: medical-only vs. adult-use, licensing limits, local control provisions

Hemp, CBD, Delta-8 & Intoxicating Isomers



- All 50 states legalized hemp possession and cultivation post-Farm Bill
- Proliferation of hemp-derived products, including intoxicating cannabinoids under the 0.3% THC threshold
- Litigation: (1) consumer protection claims and (2) industry challenges to state restrictions
- State laws vary on cannabinoid legality, product formats, registration, and labeling

Understanding the Reclassification Process



Cannabis is Currently a Schedule I Drug

- Cannabis remains illegal at the Federal level
- Schedule I drugs are defined as drugs with no currently accepted medical use and a high potential for abuse (examples: heroin, cannabis, LSD, ecstasy)
- Schedule III drugs are defined as drugs with a moderate to low potential for physical and psychological dependence (examples: products containing less than 90 milligrams of codeine per dosage unit (Tylenol with codeine), ketamine, anabolic steroids, testosterone)

Understanding the Reclassification Process



Biden 2023 Cannabis Rescheduling Initiative

- Directed federal review of cannabis' Schedule I classification
- HHS/FDA concluded cannabis has accepted medical use
- Expected outcomes:
 - Easier medical research
 - Reduced federal restrictions
 - Alignment with state cannabis laws

Understanding the Reclassification Process



Biden 2023 Cannabis Rescheduling Initiative

- Where it stalled DEA rulemaking slowly by administrative hearings
 - Procedural disputes and regulatory delays
 - No final rescheduling decision completed
- On April 30, 2024, the DEA announced its alignment with HHS's recommendation to move cannabis to Schedule III

Understanding the Reclassification Process



Trump December 2025 Cannabis Executive Order – “Increasing Medical Marijuana & CBD Research”

What the order does:

- Signed an Executive Order directing DOJ/Attorney General to expedite rescheduling cannabis from Schedule I to Schedule III under the CSA
- Orders collaboration with Congress on cannabinoid product definitions to support appropriate full-spectrum CBD access
- Direct HHS & agencies to develop research methods/models using real-world evidence

Understanding the Reclassification Process



Trump December 2025 Cannabis EO – “Increasing Medical Marijuana & CBD Research”

Expected outcomes⁵

- Normalized Tax Treatment for Operators: Changes to the 280E Tax Exclusion
- New Market Entrants Due to Lower Risk Profile
- State-Regulated Programs Will Remain As Is



III. Airport Considerations and Key Research Findings

The Airport Workforce Ecosystem



Multiple Employer Categories at Every Airport

- Airport operator (managers, HR, marketing): directly employs a minority of the workforce
- TSA (federal government): aviation screening, security checkpoint staff
- Airlines: gate agents, flight crew, ramp/baggage handlers (DOT/FAA-regulated)
- Concessionaires, vendors, contractors: food service, retail, janitorial, ground transport

Joint Employment Risk When Setting Cannabis Policies

- Mandating drug testing or hiring standards for vendor/tenant staff may establish joint employer control
- If deemed joint employer, airport operator can be held liable for discrimination by tenants
- DFWA does not require subcontractors to comply, and airport operators should not over-mandate

Badging, Access Control & TSA Requirements



TSA: Federal Zero-Tolerance Standard

- TSA agents perform "aviation screening duties" a federally defined safety-sensitive function under 14 C.F.R. § 120.105
- Federal law controls regardless of state legalization, state cannabis protections do not apply to TSA employees
- DOT Notice (Feb. 2020): CBD use is not a valid medical explanation for a positive drug test result

Airport ID Badge Programs & Security Clearances

- Airport access badge programs governed by 49 C.F.R. Part 1542 federal TSA security standard applies to all badge holders
- Criminal history records checks (CHRC) are required for unescorted access to secured areas cannabis offenses can be disqualifying
- International precedent: Frankfurt Airport revokes airside ID upon positive drug test; Glasgow prohibits displaying a badge while impaired

Inconsistent "Safety-Sensitive" Determinations Across Airports

- Survey data: airports report a wide range of which positions qualify as safety-sensitive, classification is not always clear
- Best practice: assess safety-sensitive status job-by-job based on actual functions, not location or environment (Iowa Supreme Court)

HR, Hiring & Drug Testing Challenges



Drug Testing: Recruiting & Workforce Pipeline Impact

- 64% of airports surveyed currently test employees for cannabis, policies vary widely even within the same state
- Pre-employment cannabis testing deters applicants and disqualifies candidates, major employers (e.g., Amazon) have eliminated pre-employment screening
- State restrictions add complexity: NV bars denial of employment on positive marijuana test; NY prohibits testing most employees; CA (2024) bars use of non-psychoactive metabolite results

Key HR Policy Considerations for Airport Operators

- ADA: no federal duty to accommodate medical marijuana (Schedule I); if rescheduled to Schedule III, reasonable accommodation obligations may arise
- OSHA General Duty Clause: tolerating marijuana use where impairment is a risk may constitute a hazardous workplace, particularly in safety-sensitive roles
- 83% of surveyed airports with cannabis policies disallow on-duty consumption; train supervisors on recognizing and documenting signs of impairment
- Collective bargaining agreements may override state off-duty cannabis protections, review CBAs carefully before setting policy

ACRP LRD 49: Key Research Findings



01 Federal–State Legal Divide

Cannabis remains Schedule I federally while 39 states have legalized medical use and 24 allow adult use. Every state program facilitates activities still illegal under the CSA. No court has found federal preemption of state cannabis laws.

02 FAA Grant Assurances & Airport Property

FAA strictly prohibits cannabis cultivation, storage, or distribution on federally obligated airport property. Hemp products ($\leq 0.3\%$ THC) occupy a different lane. FAA takes no position on federally legal hemp at airports.

03 Airports Not Engaging Cannabis/Hemp Markets

Stakeholder research shows airports broadly avoid cannabis/hemp markets due to federal concerns or incomplete legal knowledge despite federal tolerance of state-legal activity for over a decade.

04 Drug Testing & Employment: Survey Data

64% of airports test for cannabis; 91% use pre-employment tests; 83% test during employment. 83% of airports with policies disallow on-duty use. Pre-employment testing demonstrably deters applicants and narrows the hiring pool.

05 State Employment Law Patchwork

40 states offer some cannabis employment protections. 8 states protect off-duty adult use (CA, CT, MT, NV, NJ, NY, RI, WA). Several states (MA, NJ, NY, RI) require accommodation of medical use. No state mandates on-duty accommodation.

06 Recommended Actions for Airports

Engage cannabis-experienced regulatory counsel before pursuing any commercial activity. Assess safety-sensitive positions job-by-job. Train supervisors on impairment recognition. Review and align drug testing policies with applicable state law.

A photograph of an airport terminal at night. The scene is viewed through large glass windows. In the foreground, several rows of empty, modern airport-style chairs with metal frames and dark seats are arranged. The floor is highly reflective, mirroring the chairs and the lights outside. Outside the window, a large airplane is silhouetted against a dark sky, with its wings spread. The background is filled with a dense field of colorful bokeh lights in shades of yellow, orange, red, and blue, suggesting city lights or airport lights at night. A semi-transparent purple graphic element, resembling a large arrow pointing to the right, is overlaid on the middle of the image, containing the text.

IV. International Perspective

International Airport Cannabis Policies



- Airports globally regulate cannabis/substances for safety-critical roles
- Heathrow: Operational Safety Instruction for all airside staff re: drug/alcohol use
- Glasgow: Zero-tolerance for employees, contractors, and temp staff on duty
- Frankfurt: EASA-aligned; random testing; positive = airside bar and ID revocation
- Australia (CASA): drug testing for safety-sensitive roles (new hires, post-incident, return-to-work)

A photograph of an airport terminal at night. In the foreground, there are several rows of empty metal airport chairs with dark seats. The floor is highly reflective, mirroring the chairs and the lights. In the background, a large window looks out onto a runway. An airplane is silhouetted against the dark sky, flying from left to right. The runway lights are visible as a series of colorful bokeh circles in shades of yellow, orange, red, and green. A semi-transparent purple banner is overlaid across the middle of the image, containing the text.

V. Federalism: State Cannabis Laws vs. Federal Law

ACRP LRD 49

Legal Impacts to Airports from State Legalization of Cannabis



LEGAL RESEARCH DIGEST

ACRP LRD 49

AUGUST 2025

AIRPORT
COOPERATIVE
RESEARCH
PROGRAM

Sponsored by
the Federal
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Legal Impacts to Airports from State Legalization of Cannabis

This digest was prepared under ACRP Project 11-01, "Legal Aspects of Airport Programs," for which the Transportation Research Board (TRB) is the agency coordinating the research. Under Topic 15-03, this digest was prepared by Timothy M. Ravich, Tressler, LLP, Chicago, IL; Erin N. Bass, Eric P. Berlin, Joanne Caceres, and Amy Rubenstein, Dentons LLP, Chicago, IL, and Chris Fernando, Radial Vector Consulting, Raleigh, NC. The opinions and conclusions expressed or implied in this digest are those of the researchers who performed the research and are not necessarily those of the Transportation Research Board; the National Academies of Sciences, Engineering, and Medicine; or the program sponsors. The senior program officer is Jordan Christensen.

Background

There are over 4,000 airports in the country and most of these airports are owned by governments. A 2003 survey conducted by Airports Council International-North America concluded that city ownership accounts for 38 percent, followed by regional airports at 25 percent, single county at 17 percent, and multi-jurisdictional at 9 percent. Primary legal services to these airports are, in most cases, provided by municipal, county, and state attorneys.

Research reports and summaries produced by the Airport Continuing Legal Studies Project and published as ACRP Legal Research Digests are developed to assist these attorneys seeking to deal with the myriad of legal problems encountered during airport development and operations. Such substantive areas as eminent domain, environmental concerns, leasing, contracting, security, insurance, civil rights, and tort liability present cutting-edge legal issues where research is useful and indeed needed. Airport legal research, when conducted through the TRB's legal studies process, either collects primary data that usually are not available elsewhere or performs analysis of existing literature.

Foreword

The federal government classifies cannabis as an illegal Schedule I substance, which the U.S. Drug Enforcement Agency categorizes as having "no currently accepted medical use." However, many states have legalized cannabis, some for just medical use and some for both medical and recreational adult-use. The difference between the federal government classification and state's legalization of cannabis requires a balance for airports located in states where cannabis has been legalized. This digest will be helpful for airports to understand the impacts of state's legalization of cannabis on their environment, including employment.

The objective of this digest was to provide airports with guidance and analysis on the impacts of the conflict between federal and state laws related to the use of cannabis. The digest includes an appendix that lists each state's legal cannabis status, and a matrix of each state's cannabis employment regulations and testing policies. Additional material, the legal intoxicating hemp status for each state and the FAA Compliance Guidance Letter 2022-02, Marijuana, Hemp, and Cannabis Extracts Cultivation, Manufacturing, and Distribution at Federally Obligated Airports, can be found on the National Academies Press website (nap.nationalacademies.org) by searching for *ACRP LRD 49: Legal Impacts to Airports from State Legalization of Cannabis* under "Resources."

The objective of this digest was to provide airports with guidance and analysis on the impacts of the conflict between federal and state laws related to the use of cannabis.

Supremacy Clause & Preemption



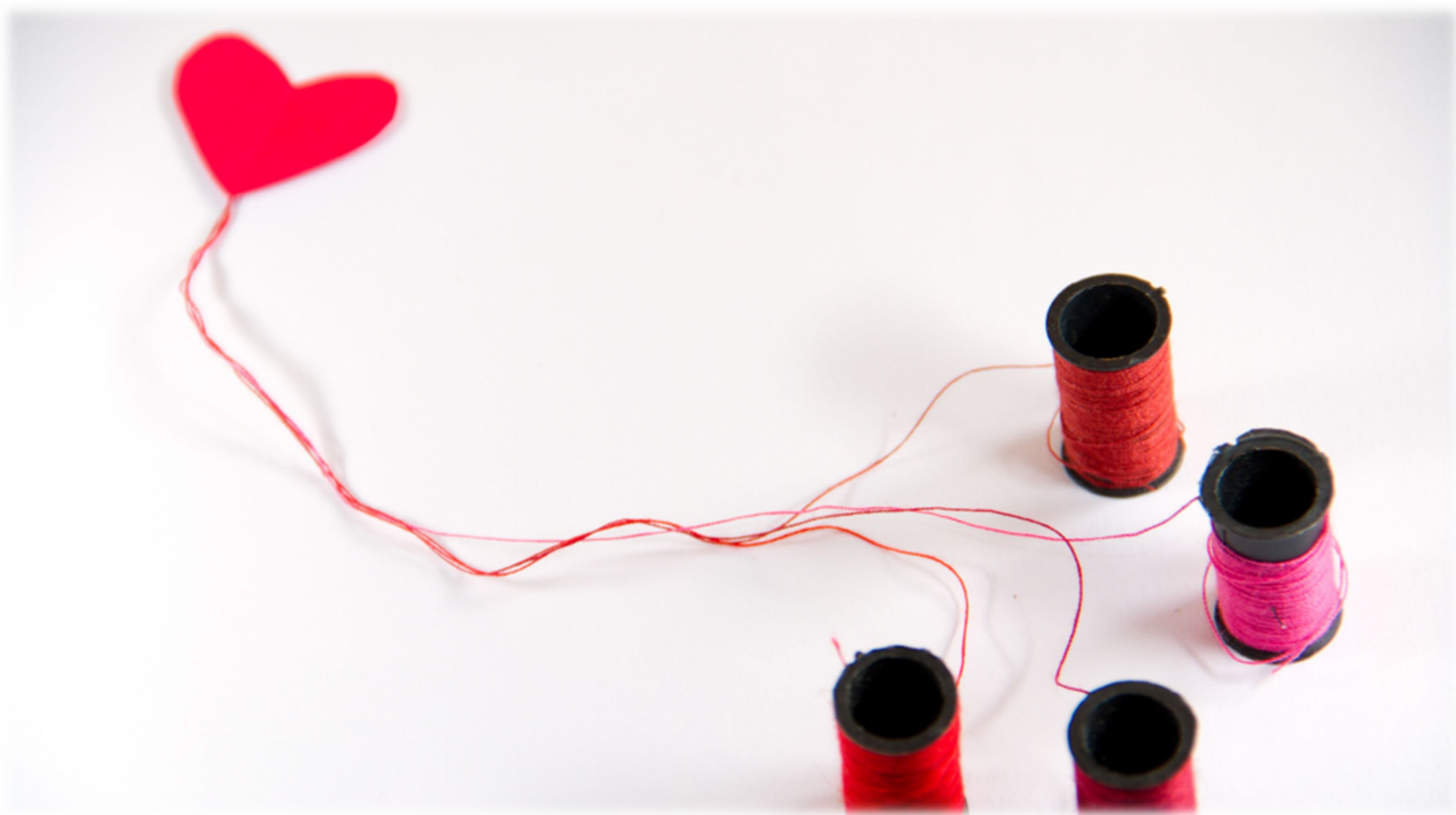
- Federal law prevails under the Supremacy Clause
- CSA preemption narrow:
only where a "positive conflict" exists
- No "positive conflict" found – state and federal law have co-existed for over a decade
- Pilot's license revoked for transporting cannabis via aircraft despite state-law compliance – airspace is federal jurisdiction

Fejes v. Federal Aviation Admin.

98 F.4th 1156 (9th Cir. 2024)



- **Key facts (Alaska vs. federal law):** Alaska legalized marijuana and licensed Fejes’s company—Flying High Investments, LLC—to cultivate and distribute it; Fejes used a private aircraft to transport marijuana within Alaska, but federal law still criminalizes marijuana distribution.
- **Legal issue:** Whether the FAA could revoke Fejes’s pilot certificate under federal law for conduct that was legal under state law and occurred purely intrastate.
- **Parties’ positions:**
 - *Fejes:* FAA lacked authority over intrastate activity; his conduct was authorized by Alaska law and should fall under regulatory exceptions.
 - *FAA:* Required to revoke his license because he knowingly used an aircraft to transport a federally illegal controlled substance.
- **Outcome:** Yes. The Ninth Circuit upheld the FAA—federal law controls, airspace is within Congress’s commerce power, and the FAA properly revoked his certificate even without a criminal conviction.



Airport Grant Assurances



- Grant assurances = commitments required from airports receiving FAA funding
- FAA (2019): marijuana cultivation, storage, or distribution strictly prohibited on federally obligated airport property
- FAA 2022 CGL confirmed marijuana on airport property violates CSA
- Leasing airport property for marijuana operations = unlawful + potential criminal liability
- Exception: hemp products ($\leq 0.3\%$ THC) are not controlled; FAA "takes no position" on legal hemp at airports

Airport Cooperative Research Program

ACRP Legal Research Digest 21



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Web-Only Document 65

DOT and FAA Airport
Legal Determination
and Opinion Letter
Abstracts of 2023

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Abstracts of 2023 for ACRP Project 11-01/Topic 10-01
Submitted August 2024

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DOT and FAA Airport Legal Determination and Opinion Letter Abstracts of 2023

Fourth Amendment & Airport Searches



- Fourth Amendment protects against unreasonable searches, including airport security searches
- State legalization has not materially impacted Fourth Amendment issues at airports
- Airport authorities not prioritizing cannabis searches; focus remains on security

FAA Warning Regarding Transportation of Marijuana



Marijuana and Aviation DIGITAL TOOL KIT



Marijuana Can't Fly

The Federal Aviation Administration (FAA) is issuing an urgent warning to pilots who may be considering transporting marijuana aboard their aircraft. While a number of states have *legalized marijuana* for medicinal or personal use, *federal law prohibits the knowing transportation of marijuana on aircraft.*

Know the Rules and Penalties

Pilots and aircraft owners involved in transporting marijuana face severe penalties for violating the federal prohibitions.

Federal law *requires* the Federal Aviation Administration to **permanently** revoke the certificates of pilots who knowingly *transport* controlled substances – including quantities of marijuana amounting to more than simple possession – on aircraft. Federal law also *requires* the FAA to revoke the registrations of aircraft used for that purpose for five years.

In addition, *FAA regulations* authorize the agency to *revoke the certificates* of people who knowingly transport aboard aircraft even small quantities of marijuana that amount to simple possession.

The FAA does not want pilots or aircraft owners to face these severe penalties due to confusion between what is allowed under state law and what remains prohibited under federal law.

The Bottom Line

Even if marijuana possession or cultivation is legal in a state, **it is illegal under federal law** to use an aircraft to transport marijuana to, from, or within that state. If you violate the federal prohibitions, you can lose your pilot certificate and your aircraft.

Q&A

- Q.** Why can't a pilot transport marijuana in a state where possession and use of the substance is legal?
- A.** Marijuana continues to be a federally banned substance. The Federal Aviation Administration regulates both pilots, who must follow federal law and FAA regulations, and aircraft.
- Q.** Does this law pertain to all forms of marijuana such as edibles?
- A.** Yes.
- Q.** What happens to pilots who are caught knowingly transporting marijuana?
- A.** The FAA will investigate the case and, if the investigation warrants, proceed with an enforcement action. Federal law requires the Federal Aviation Administration to permanently revoke the certificates of pilots who knowingly transport controlled substances on aircraft, including quantities of marijuana amounting to more than simple possession.
- Q.** Does this apply only to private pilots or airline pilots too?
- A.** It applies to all pilots.
- Q.** What about airlines? What penalties could they face?
- A.** The FAA is required to revoke for five years the registrations of a U.S. registered aircraft that the owner or operator knowingly uses to transport controlled substances. So an airline would face the loss of the aircraft it used for the operation for five years.
- Q.** Is this a new policy?
- A.** No. Longstanding federal laws address this issue.
- Q.** What is "simple possession?"
- A.** Federal law doesn't assign a weight threshold to "simple possession." A court would determine whether a quantity of marijuana is simple possession based on the totality of circumstances, including but not limited to the amount of the substance and intent of the person who possesses it.
- Q.** Times and attitudes are changing. Is there a chance that the FAA could change this law in the future?
- A.** Congress makes federal laws. Congress would have to pass any new law and the president would have to sign it.
- Q.** What about passengers who bring marijuana aboard planes? What penalties could they face?
- A.** FAA regulations pertaining to carrying prohibited substances aboard aircraft do not apply to passengers. However, federal law involving carrying banned substances aboard aircraft applies not only people serving as airmen on aircraft but also to people with airman certificates who are passengers and are knowingly transporting aboard aircraft controlled substances, including quantities of marijuana amounting to more than simple possession.



DOT Drug and Alcohol Policy and Compliance Notice

December 3, 2012



- Recently, some states passed initiatives to permit use of marijuana for so-called “recreational” purposes.
- We want to make it perfectly clear that the state initiatives will have no bearing on the DOT’s regulated drug testing program.
- 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.

DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



Recently, some states passed initiatives to permit use of marijuana for so-called “recreational” purposes.

We have had several inquiries about whether these state initiatives will have an impact upon the Department of Transportation’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.

We 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.

We want to assure the traveling public that our transportation system is the safest it can possibly be.

Jim L. Swart
Director
Office of the Secretary of Transportation
Office of Drug and Alcohol Policy and Compliance
Department of Transportation
December 3, 2012

A photograph of an airport terminal at night. The scene is viewed through large glass windows. In the foreground, several rows of empty, modern airport-style chairs are visible, their forms reflected on the polished floor. Outside the window, a large airplane is silhouetted against a dark sky, with its wings spread. The background is filled with a dense field of colorful bokeh lights, likely from city buildings or airport lights, creating a warm, atmospheric glow. A semi-transparent purple graphic element, resembling a large arrow pointing right, is overlaid on the middle of the image, serving as a background for the text.

VI. Employment Impacts

Joint Employment Doctrine



- Joint employment means two+ entities controlling a worker, may both be deemed employers
- Most airport workers employed by vendors/contractors/tenants, not the airport operator
- If deemed joint employer, airport operator liable for vendor/tenant employment violations
- Mandating cannabis policies for vendor employees could trigger joint employer liability
- Separation is important for avoiding liability

Federal Preemption in Employment



- Key question: Is the employee subject to federal cannabis law? Depends
 - Federal and DOT/FAA-regulated employees must comply with federal law
 - Tenant restaurant/vendor employees generally governed by state law, not federal

DOT Drug & Alcohol Guidance



- DOT: state cannabis initiatives have "no bearing" on federal drug testing
- Medical Review Officers will not verify a negative based on state-legal use
- Marijuana remains unacceptable for any safety-sensitive employee under DOT

DOT Safety-Sensitive Roles



- Safety-sensitive roles (flight crew, maintenance, security, ATC) require FAA-mandated THC testing
- "Safety-sensitive" status not always clear – approaches vary across airports
- Note:
 - State cannabis laws have no impact on FAA/DOT drug testing
 - CBD use is not a legitimate explanation for a marijuana-positive test

Other Federal Regulations



- Federal employees in law enforcement, national security, and public safety subject to mandatory testing
- OSHA: tolerating marijuana use may create a harmful work environment
- DFWA: federal workplaces and contractors must maintain drug-free environment
- DFWA does NOT require testing or termination for failing a test
- DFWA does NOT impose obligations on subcontractors

ADA & Cannabis



- ADA does not protect medical marijuana use – Schedule I = "illegal drug"
- If rescheduled to Schedule III, employers may need to accommodate
- Accommodations would not require tolerating on-the-job impairment

State Disability & Discrimination Laws



- Several states (MA, NJ, NH, NY, RI) require accommodation of off-duty medical marijuana use
- No state requires accommodation for on-the-job use or impairment
- Several states (AZ, AR, OK, PA, VA) prohibit discrimination based on cardholder status
- Positive test alone may not support termination – train supervisors on documenting impairment

State Protections for Off-Duty Adult Use



- Off-duty protections: CA, CT, MT, NV, NJ, NY, RI, WA
 - CA: No discrimination for off-duty cannabis use; cannot request prior use info
 - NY: Prohibits adverse actions for off-duty, off-premises cannabis use
 - Exceptions exist for federal drug tests, CBAs, and safety-sensitive positions

Drug Testing – Pre- and During Employment



- Most states permit cannabis testing but impose restrictions
- Examples:
 - NV: generally cannot deny employment for positive marijuana test
 - NY: prohibits cannabis testing of employees (with exceptions)
 - CA (2024): cannot use results showing only nonpsychoactive metabolites
- 64% of airport operators test for cannabis; pre-employment testing deters applicants

Zero-Tolerance Policies & Exceptions



- Federal law on safety-sensitive roles generally preempts state exceptions
- Some states (IA, NM, OK, PA, WA, D.C.) have "safety-sensitive" exceptions
- Safety-sensitive determinations should be made job-by-job based on actual functions
- CA: no safety-sensitive exemption but exempts construction and federal background check positions
- Best practice: train supervisors on impairment signs; establish clear protocols

A photograph of an airport terminal interior. In the foreground, several rows of empty, modern airport-style chairs with metal frames and dark seats are arranged on a polished, reflective floor. The chairs are positioned in front of a large glass window. Through the window, a large commercial airplane is silhouetted against a bright, hazy sky, appearing to be in flight. The background is filled with a dense field of colorful bokeh lights in shades of yellow, orange, red, and blue, suggesting a city skyline at night or a festive light display. A semi-transparent purple graphic element, resembling a large arrow pointing to the right, is overlaid on the middle of the image, partially covering the window and the chairs.

VII. Conclusion

Key Takeaways



- Airports generally not engaging with cannabis/hemp markets due to federal concerns
- Federal government has tolerated state-legal activities; some services (e.g., advertising) may be permissible
- Hemp offers greater opportunities: advertising and vendor sales of compliant products
- Engage experienced regulatory attorneys before pursuing commercial opportunities

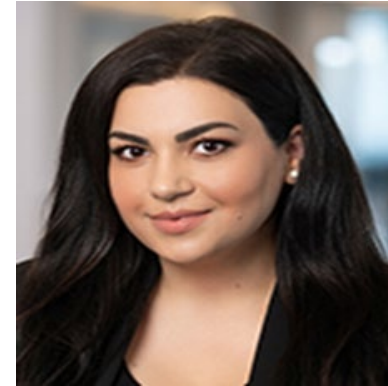
A photograph of an airport terminal at night. In the foreground, there are several rows of empty metal airport-style chairs with dark seats, arranged on a polished floor that reflects the lights. In the background, a large window looks out onto a runway where an airplane is silhouetted against a bright, hazy sky. The background is filled with a dense field of colorful bokeh lights in shades of yellow, orange, red, and blue. A semi-transparent purple overlay covers the left and center portions of the image, with the text 'Q&A and Thank You' written in white.

Q&A
and
Thank You

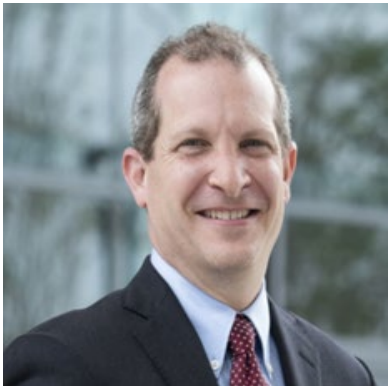
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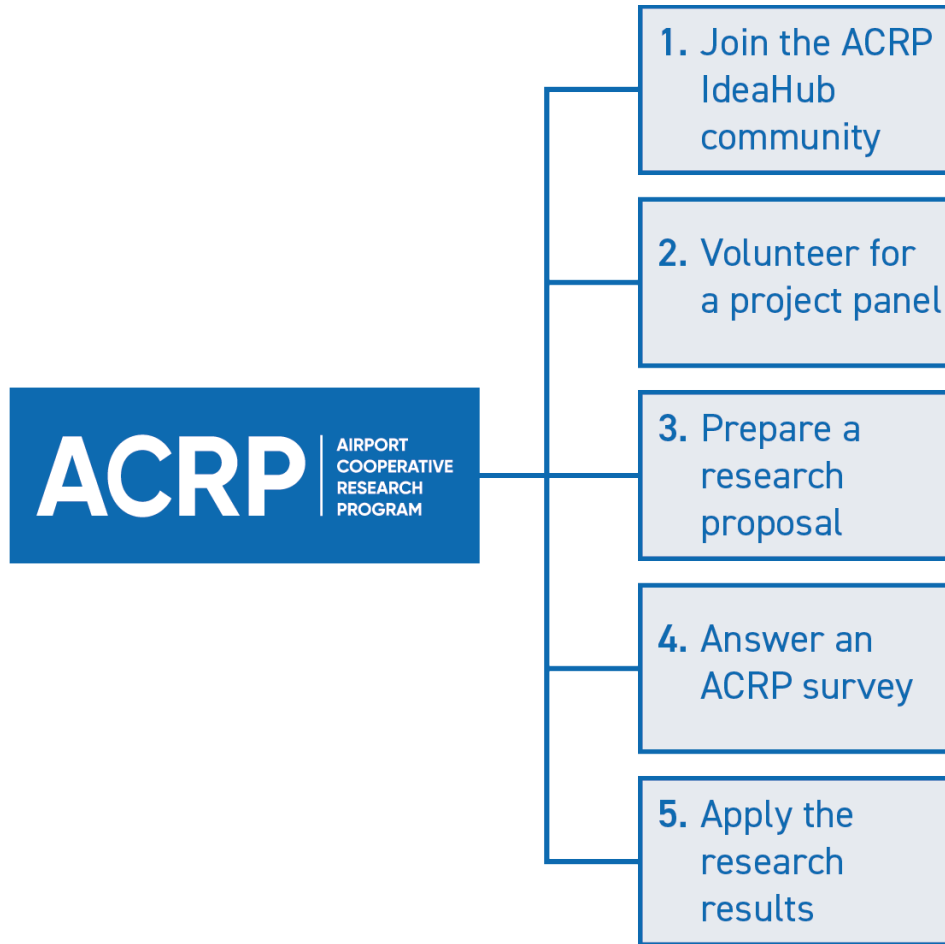
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