

# High Anxiety Are Insurers Ready for Cannabis Legalization?

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# Legal Status of Marijuana in U.S Today

Currently, marijuana is classified as a “Schedule 1” substance by the Food and Drug Administration (FDA).

As a result of its Schedule 1 status, it is illegal to possess or use marijuana under Federal law.

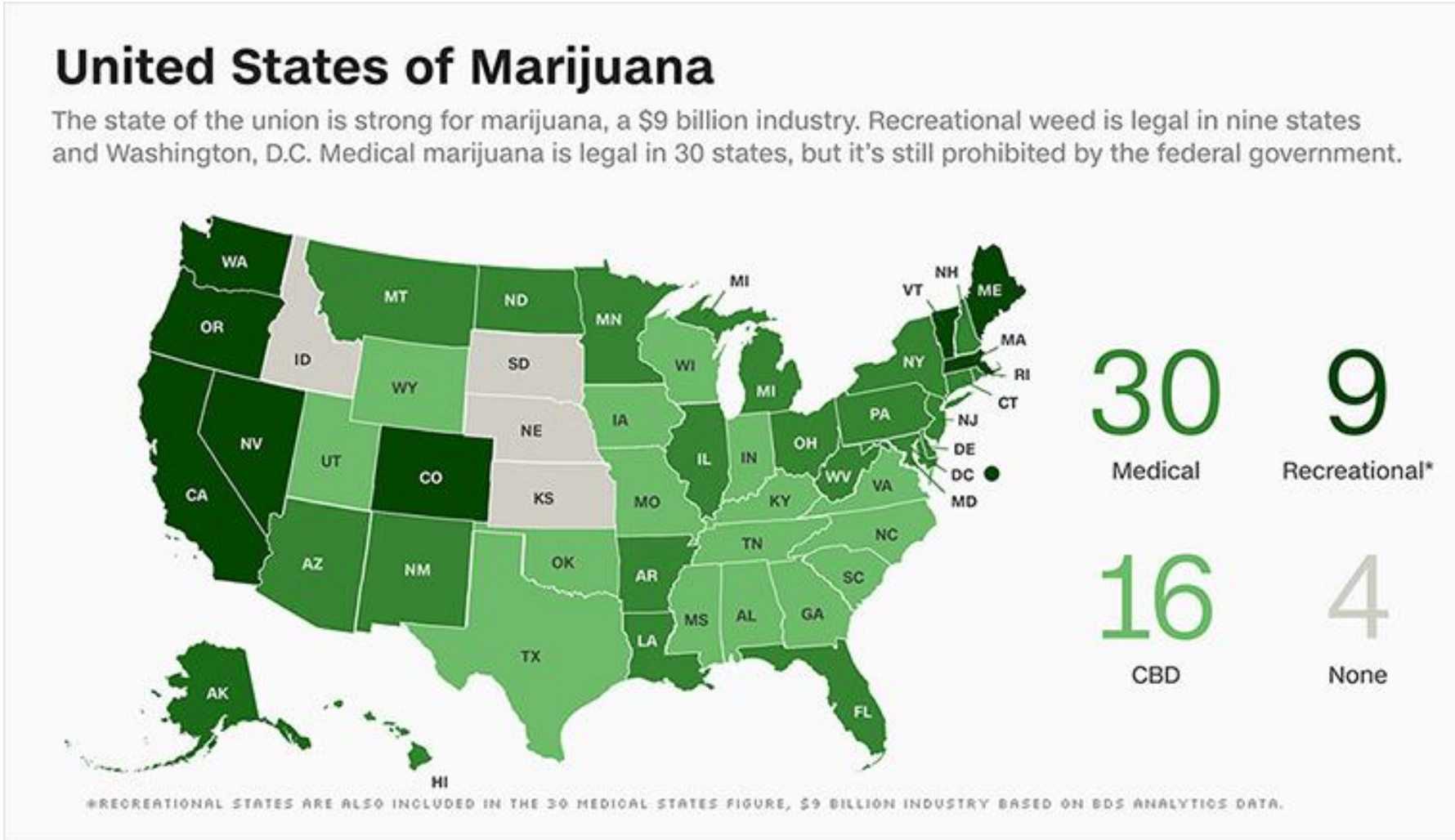
## Schedule I

Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse. Schedule I drugs are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence. Some examples of Schedule I drugs are:

heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote



# State Marijuana “Legalization” Laws



Source: CNN Money

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# Legal Status of Marijuana in Canada Today

Currently, marijuana is classified as a “Schedule II” drug under the Controlled Drug and Substances Act.

Unless otherwise regulated for production and distribution for medical purposes, is subject to offences under that Act.

Possessing and selling cannabis for non-medical purposes is still illegal everywhere in Canada.



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# Canada's Proposed Cannabis Act

- Bill C-45 – Introduced April 17, 2017
  - Amends the Controlled Drugs and Substances Act
  - The Act seeks to create a strict legal framework for the legalization and regulation of Cannabis in Canada

Licensing Regime

Enforcement

Directors and Officers  
Liability

Provincial Discretion

Packaging, Labeling and  
Promotion

Pricing and Taxation



# Licensing Regime

- Current holders of licenses for medical cannabis will be automatically licensed
- Importation and exportation
  - Only for medical cannabis and industrial hemp
  - Recreational appears to be “grown in Canada” only
- Production and testing
  - Good production practices
  - Prohibits use of certain ingredients
- Packaging and labeling
  - Standardize sizes and potency
- Sending and delivery
- Transportation
- Sale
  - Limits the types of cannabis products that can be sold
  - Restricts promotional activities
- Possession
- Disposal
- Tracking of cannabis from seed to sale to prevent diversion to the illicit market



Source: First Coast News

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# Controlled Access

- Adults who are **18 years or older** could legally:
  - Possess up to 30 grams of legal dried cannabis or equivalent in non-dried form
  - Share up to 30 grams of legal cannabis with other adults
  - Purchase dried or fresh cannabis and cannabis oil from a provincially-licensed retailer
    - If a province has not implemented a regulated retail framework, individuals could purchase cannabis online from a federally-licensed producer.
  - Grow up to four cannabis plants per residence for personal use from licensed seed or seedlings
  - Make cannabis products, such as food and drinks, at home provided that organic solvents are not used

# Enforcement



Source: Toronto Police Service

- The federal, provincial and territorial governments would share responsibility for overseeing the new system
- Decriminalizes possession of fewer than 30 grams of cannabis (or its equivalent)
- Prohibits the unlawful sale or distribution of cannabis
- Prohibits the unlawful possession, production, importation and exportation of cannabis
- Provides broad inspection and seizure powers
- Establishes administrative monetary penalties (up to \$1,000,000) and a national cannabis tracking system



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# Director and Officer Liability

- Broadens the potential liability faced by corporate directors and officers
- If a entity other than an individual commits an offense; the directors, officers, or agents who directed, authorized or assented can be held liable, even if the person who committed the act is not prosecuted for the offense



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# Provincial Discretion

## Federal

- Set strict requirements for producers
- Set industry-wide rules and standards

## Provinces and Territories

- License and oversee distribution and sales
- Increase the minimum age in their province or territory (but not lower it)
- Lower the personal possession limit in their jurisdiction
- Create additional rules for growing cannabis at home, such as lowering the number of plants per residence
- Restrict where adults can consume cannabis, such as in public or in vehicles
- Determine how cannabis can be sold in the province

# Packaging, Labeling and Promotion

- Informational promotion
  - Factual information about cannabis and its characteristics
- Promotion and displays
  - Only where persons 18 and younger are not permitted by law
  - Prohibited to appealing to people under 18 years of age



# Pricing and Taxation

- Priced and taxed in a manner that will balance health protection with the goal of reducing the illicit market
- How will taxes be split between federal and provincial?
- Department of Finance – Canada
  - Proposes total federal and provincial tax not exceed \$1.00 per gram or 10% of producer's sale price

## Application of Goods and Services Tax/Harmonized Sales Tax (GST/HST)

Cannabis product sales will be taxable under the Goods and Services Tax/Harmonized Sales Tax (GST/HST), as is currently the case for medical cannabis, for example.

Unlike the excise duty, GST/HST is paid **directly** by consumers at the point of sale.

The following example shows the final price paid by consumers at a combined rate of \$1.00 per gram, or 10 per cent of the sale price:

### One gram of dried cannabis

Pre-duty price: \$8.00

Excise duty (per gram): \$1.00

Subtotal: \$9.00

GST/HST: \$1.17

**Total: \$10.17**

### 60 ml bottle of cannabis oil

Pre-duty price: \$130.00

Excise duty (per cent): \$13.00

Subtotal: \$143.00

GST/HST: \$18.59

**Total: \$161.59**

Source: Department of Finance Canada

# Canada Cannabis Act Status

Trudeau vowed to legalize marijuana across Canada by July. It hasn't been that easy.



Canadian Prime Minister Justin Trudeau has shown no signs of wavering in his push for marijuana legalization, which he promised in his successful election campaign two years ago. (Pool photo by Ukas Michael/Getty Images)

Source: The Washington Post

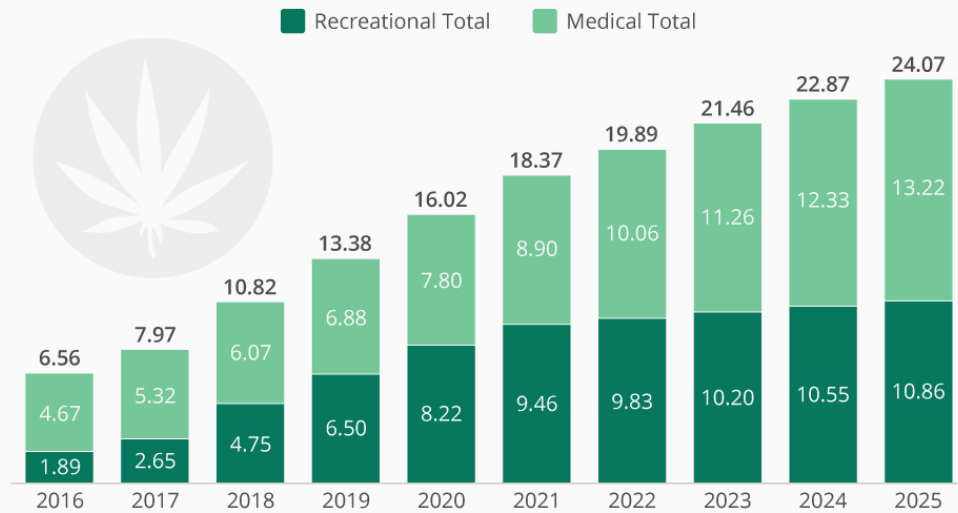
- Prime Minister Justin Trudeau is pressing forward
- Barriers
  - Sales
    - Police and psychiatrists are urging caution and even delay
    - Concerned about consumption by young people
    - Arguments over minimum age (Federal at 18 but provinces can raise if they wish)
  - Enforcement
    - If legislation is ready to go in July 2018, policing will not be ready to go in August
    - Roadside saliva tests
    - Tracking sales/potency/quality
  - Taxes
    - How will tax revenue be divided between federal government and provinces

# Why Should Insurers Care?

- Marijuana is a multi-billion-dollar industry

## U.S. Marijuana Market: The Grass Is Getting Greener

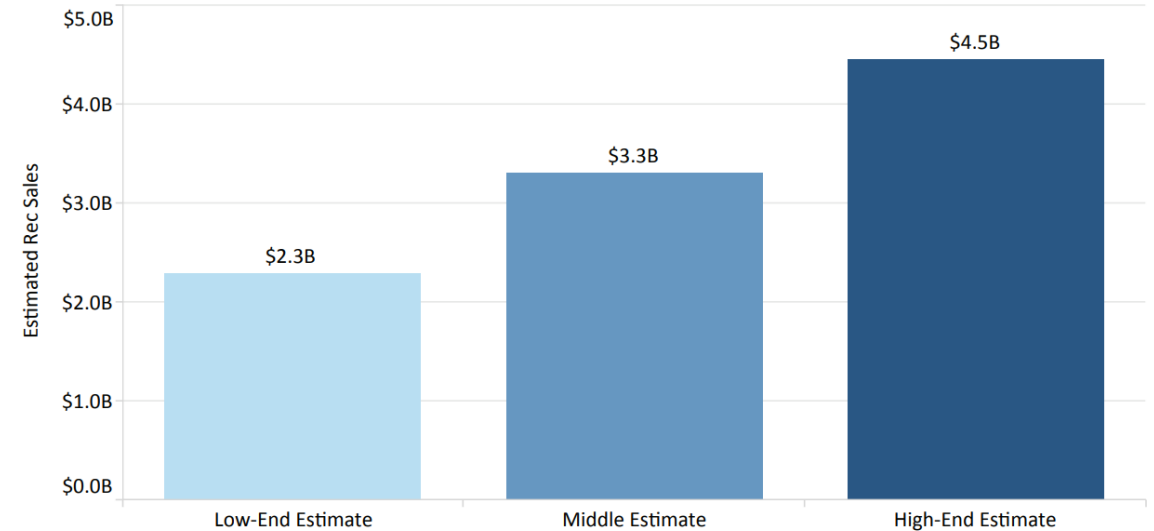
Projected growth of U.S. recreational and medical marijuana sales (billion U.S. dollars)



Source: The Cannabis Industry Annual Report



## Estimated Sales Of Recreational Marijuana In Canada To Domestic Users In 2021



Note: All values in USD.

Source: Marijuana Business Daily

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# Challenges for Insurers

- Social stigma
- Risk management
- Insufficient data
- Lack of standardized forms
- Uncharted legal territory – limited precedent
- Valuation and extreme concentrations of value
- Fears of money laundering makes banks cautious about dealing with cannabis related businesses including insurance industry

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# Quizlet

- As of 2017 what percentage of Americans and Canadians feel cannabis should be legalized?
  - A. 32-38%
  - B. 46-51%
  - C. 64-68%
  - D. 78-82%

# Quizlet

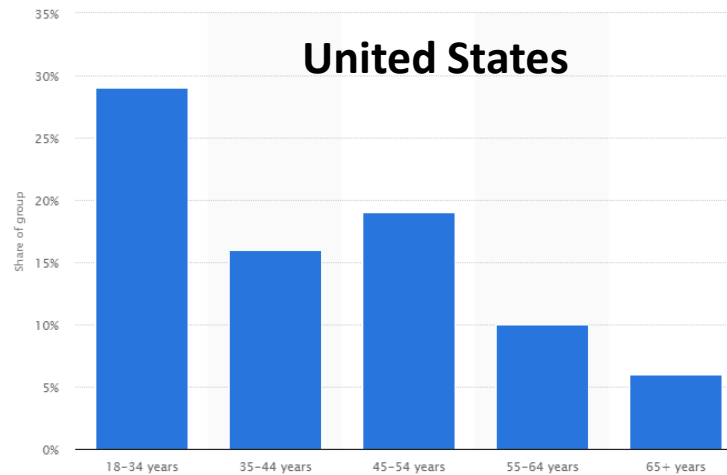
- In the U.S and Canada which age group consumes the most cannabis?

A. 18-34

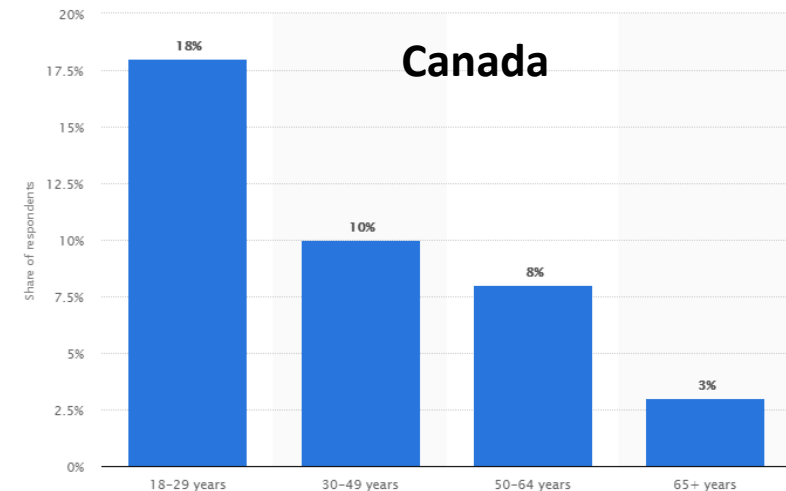
B. 35-50

C. 51-65

D. Over 65



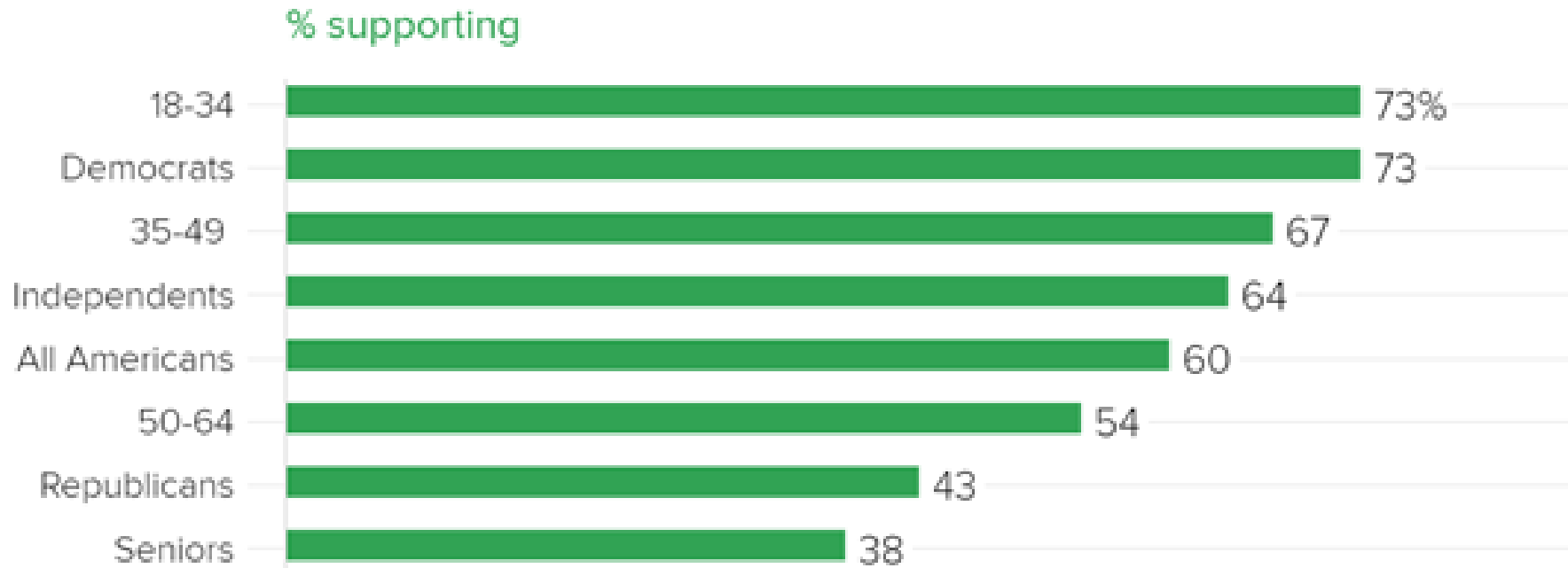
Source: Statista, September 2017



Source: Statista, July 2017

# U.S. Demographics – Support for Cannabis Legalization for Personal Use

## Support allowing purchasing of marijuana for personal use?

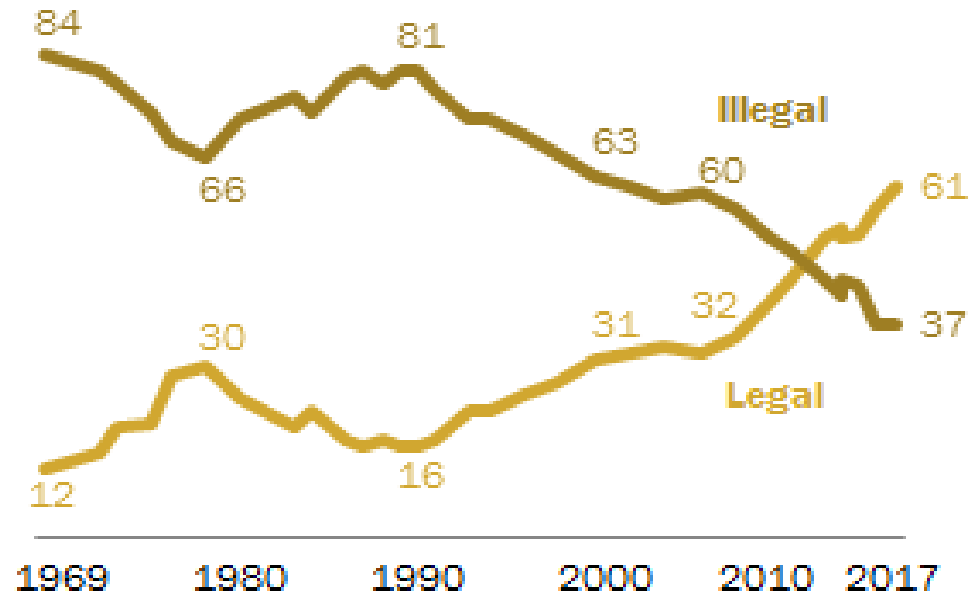


Data: NBC News/Wall Street Journal January 2018 poll

# Public Opinion Has Changed Over Time

## U.S. public opinion on legalizing marijuana, 1969-2017

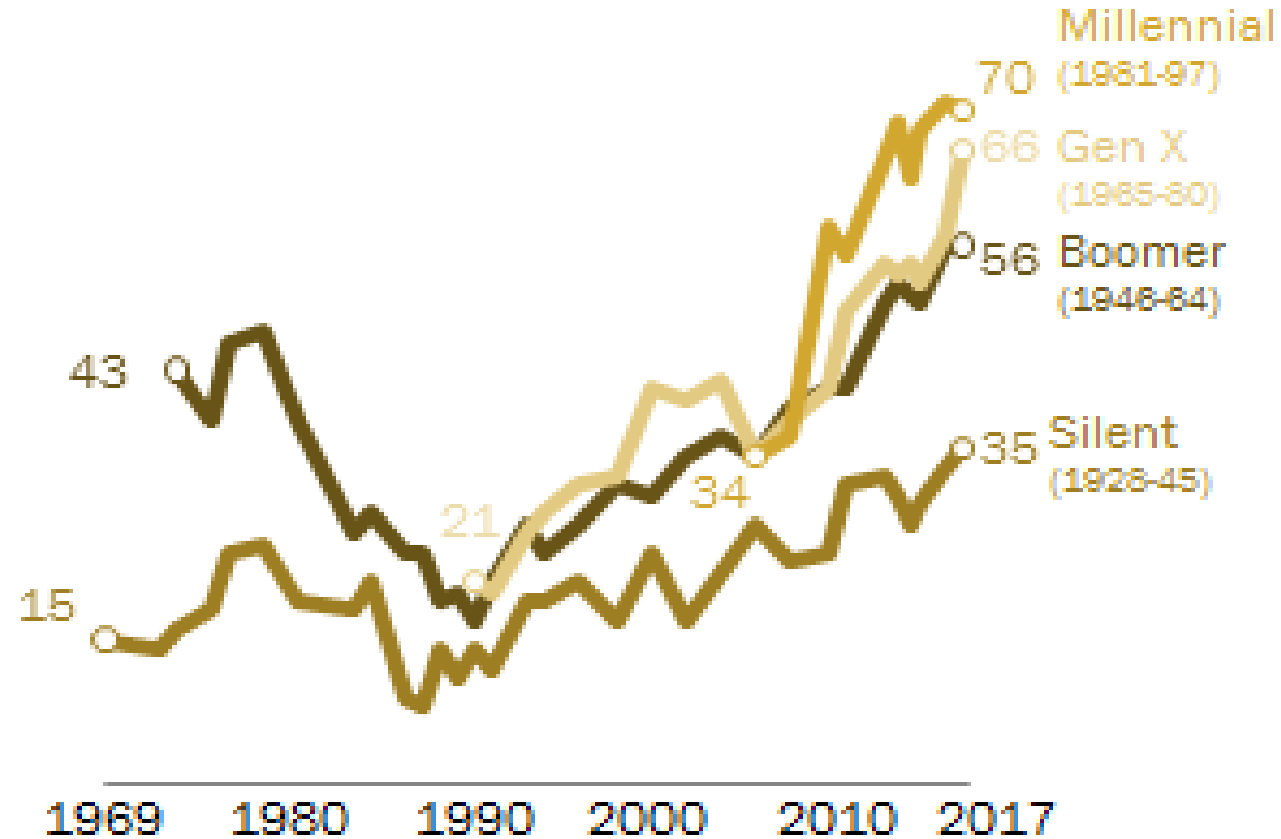
*Do you think the use of marijuana should be made legal, or not? (%)*



Source: Pew Research Center

# Public Opinion – by Age Group

*% who say marijuana should be made legal*



Source: Pew Research Center



# Property Risk Management

- Indoor marijuana growing operation
  - High intensity lamps
  - CO2 emitting equipment
  - Irrigation systems
  - Chemicals for fertilizer and pesticides
  - Adequate fire protection and security systems
  - Excessive heat produced by lights
  - Pressurized gas cylinders (CO2) to hasten plant growth
  - Moisture intrusion, mold
- High concentration of values
- Cash operations



Source: Greentech Media



Source: Pie Consulting and Engineering

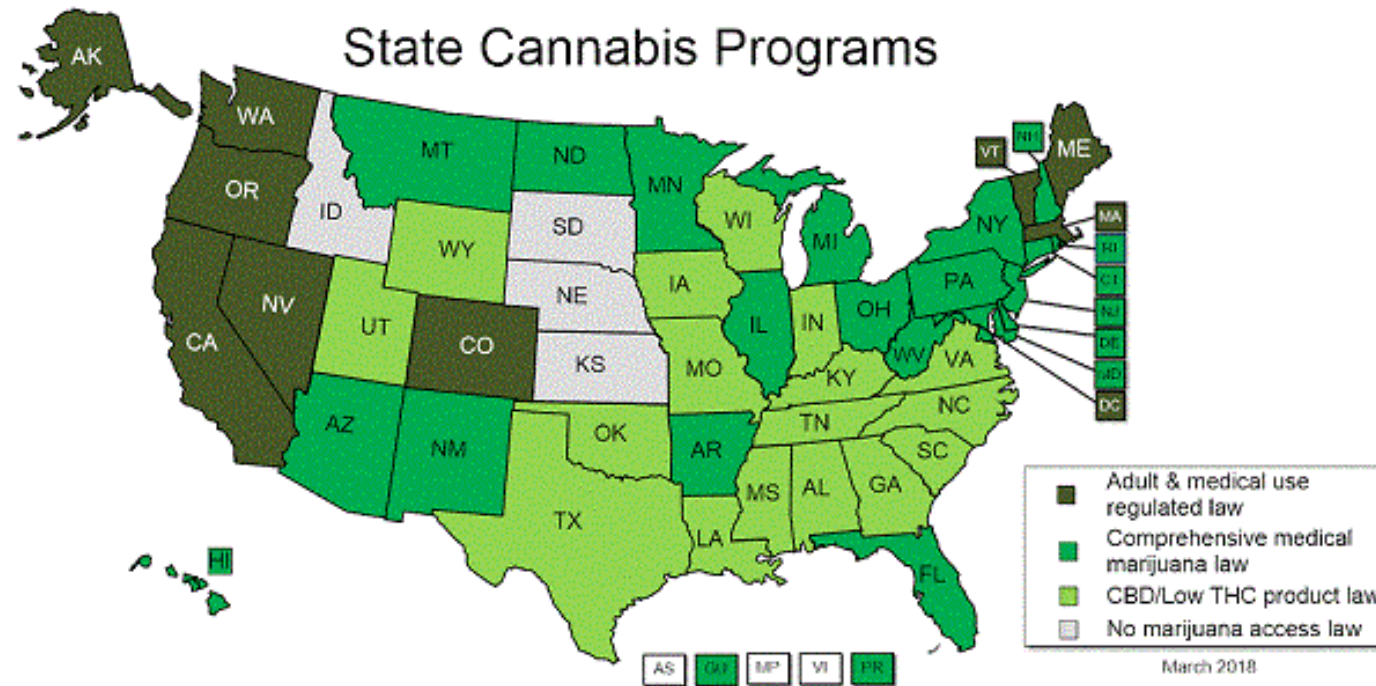
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# Product Liability

- Strict packaging requirements designed to prevent consumers from mistakenly ingesting unsafe levels of THC
  - Edibles
    - Brownies, cookies, candies, beverages
  - Slower onset, potentially higher dose (might take two hours to feel the impact)
  - Levy Thamba
  - Unknowing consumption
  - Relatively few court decisions that involve property or liability coverage for marijuana

# In the U.S., Differences Federal and State

- Marijuana is “legal” in some states, however it’s *not* legal according to federal law



Source: National Conference of State Legislatures

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# Today's Coverage Forms

- Property
  - Personal lines
    - Explicit exclusions?
    - Business personal property exclusion
    - Trees, shrubs, or plants
      - Sublimit
      - Named perils
  - Commercial
    - Contraband exclusion
- Liability
  - Personal lines
    - Controlled substances exclusion
    - “Business” exclusion
  - Farm liability
    - Controlled substances exclusion (personal farm)
    - Covers “farming”, if legalized, the policy would imply that coverage existed for growing and selling crops of marijuana
  - Commercial liability
    - If legalized, no exclusion applicable

**It is best to be intentional and specific about coverage!**

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# What are Insurers Offerings Today?

- In the United States there are approximately 25 non-admitted carriers offering coverage
  - Price is high
  - Process is tedious
  - Coverage terms are narrow
- November 2017 – Golden Bear
  - Golden Bear Insurance Company became the first admitted insurer approved by the California Department of Insurance to provide insurance coverage for marijuana companies
  - Golden Bear will now begin offering first- and third-party insurance coverage specifically targeting marijuana companies in the state
  - Details are being finalized – policies will range from \$1 to \$3 million, with property coverage totaling around \$10 million depending on property value

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# Standardized Coverage Forms

## AAIS Announces Development of “CannaBOP”



Source: AAIS - LinkedIn

AAIS President and CEO [Ed Kelly](#) discusses the major issues industry executives are concerned about heading into 2018, including technology, the new economy and buying behavior, as well as government regulation.

He also introduces a new product in development at AAIS. CannaBOP addresses the emerging need for coverage as a result of legislation surrounding the use of medical and recreational marijuana.



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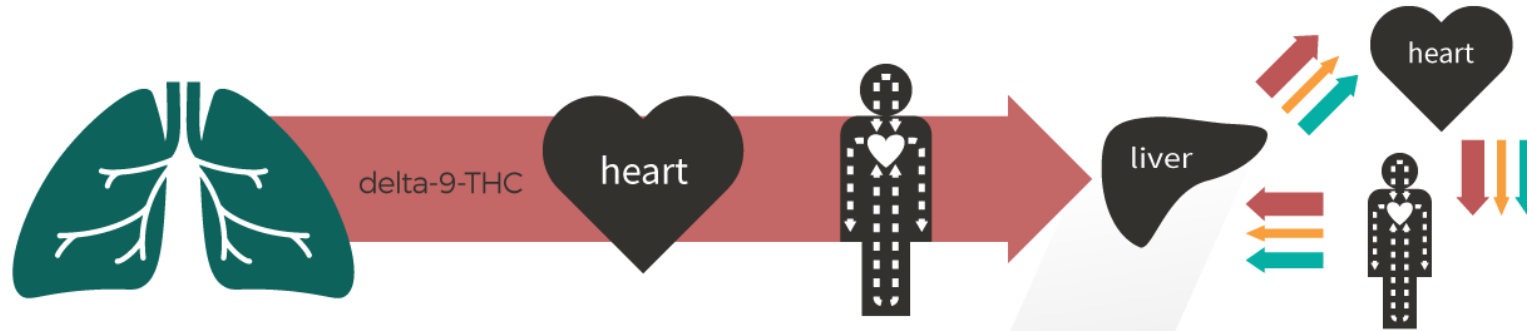
# Quizlet

- Which route of cannabis intake has the fastest absorption into the body?
  - A. Smoking
  - B. Drinkables
  - C. Edibles
  - D. They are all the same

**Smoking** marijuana results in rapid absorption. THC peaks in the blood typically before the smoking session ends.

**Oral intake** results in slower absorption but has higher delayed peaks in THC levels.

# Metabolism of THC



## LIVER MAKES META- BOLITES

Enzymes in the liver turn the original **delta-9-THC** from a cannabis plant into the metabolite **11-OH-THC** which is further metabolized into **11-COOH-THC**.

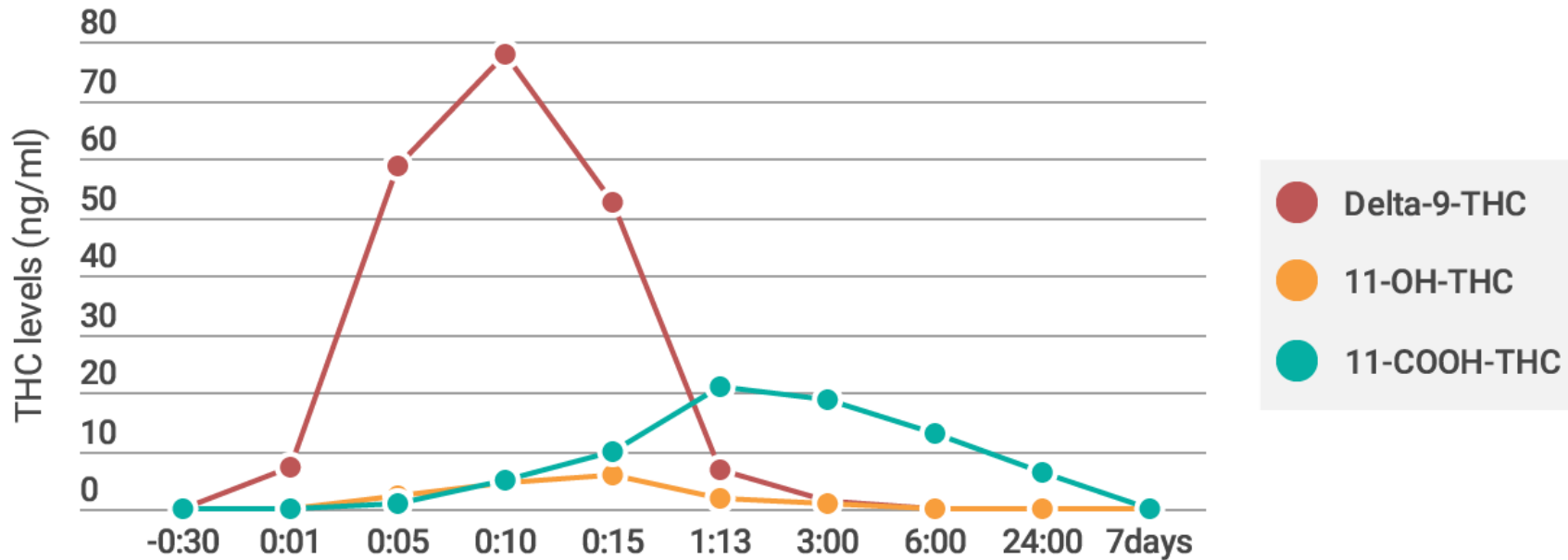


Source: Sapien Soup

# THC Levels When Inhaled



Average concentration of **delta-9-THC** and its metabolites after **INHALATION** of 15.8 mg (= one joint) of THC. Measured from half an hour before inhalation until 7 days after.



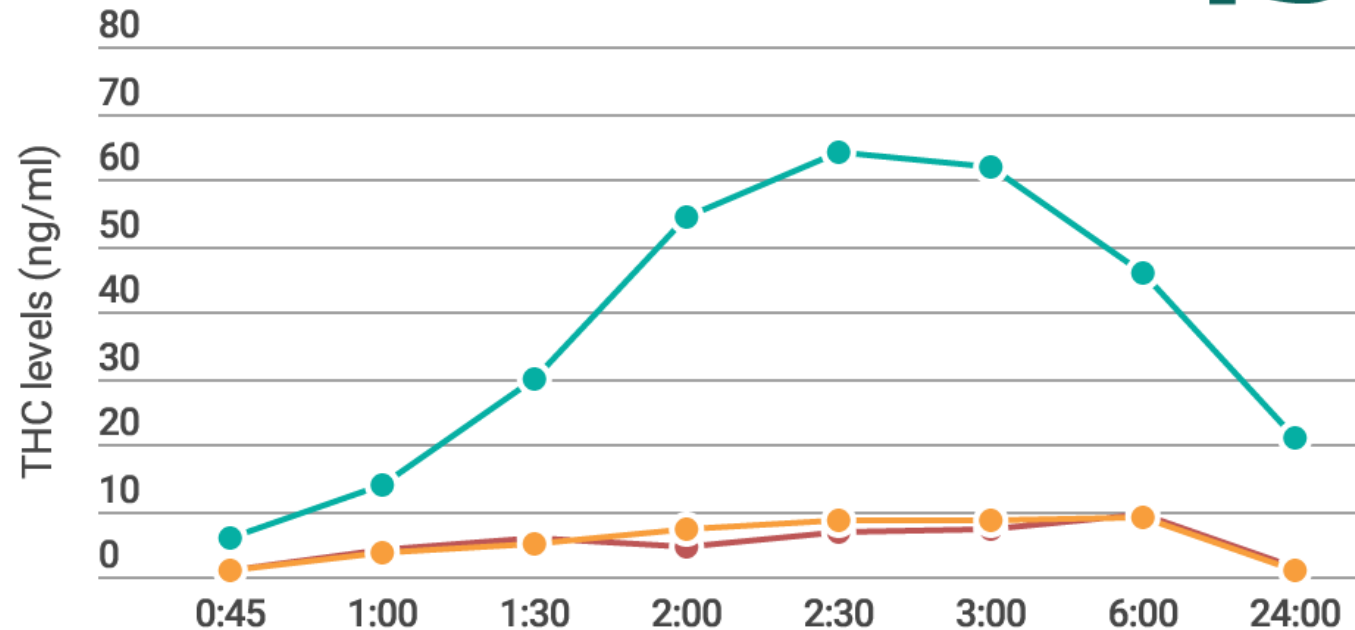
Source: Sapien Soup

[3]

# THC Levels When Ingested

Regardless of the lower **delta-9-THC** levels, ingestion can produce an intense and long lasting psychological high. Both psychoactive substances **delta-9-THC** and **11-OH-THC** plateau for several hours in the bloodstream.

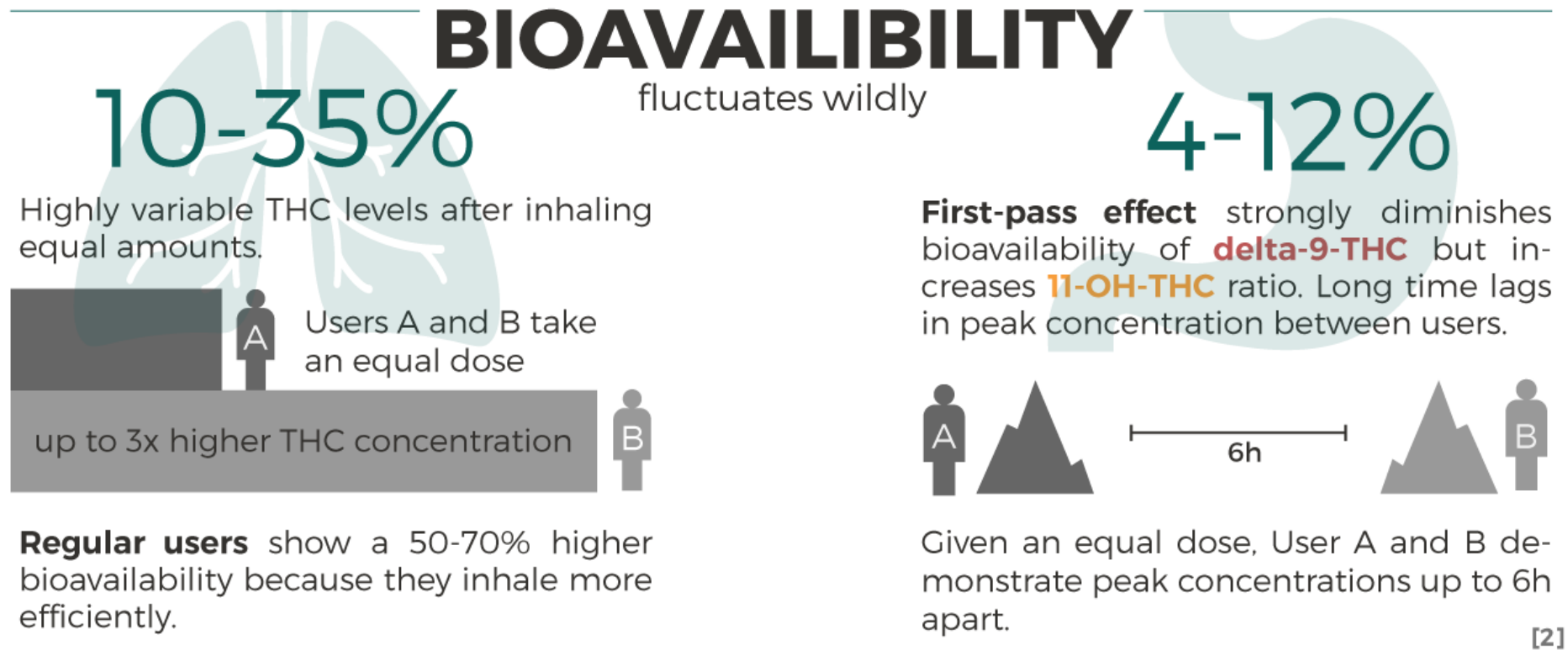
Average concentration of **delta-9-THC** and its metabolites after **INGESTION** of 20 mg (= one chocolate cookie) of THC. Measured from 45 minutes until 24 hours after consumption.



[4]

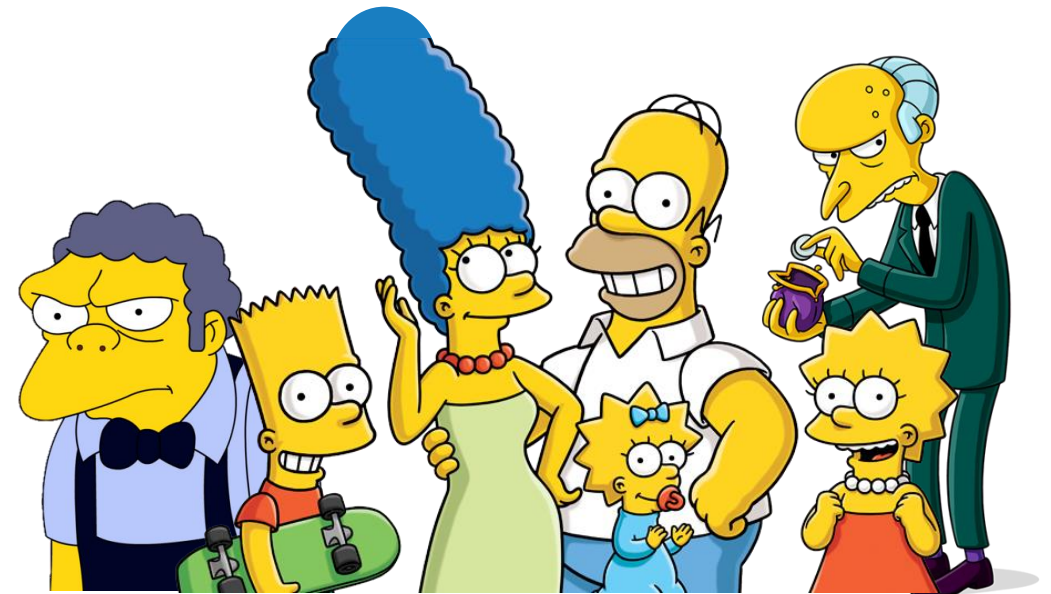
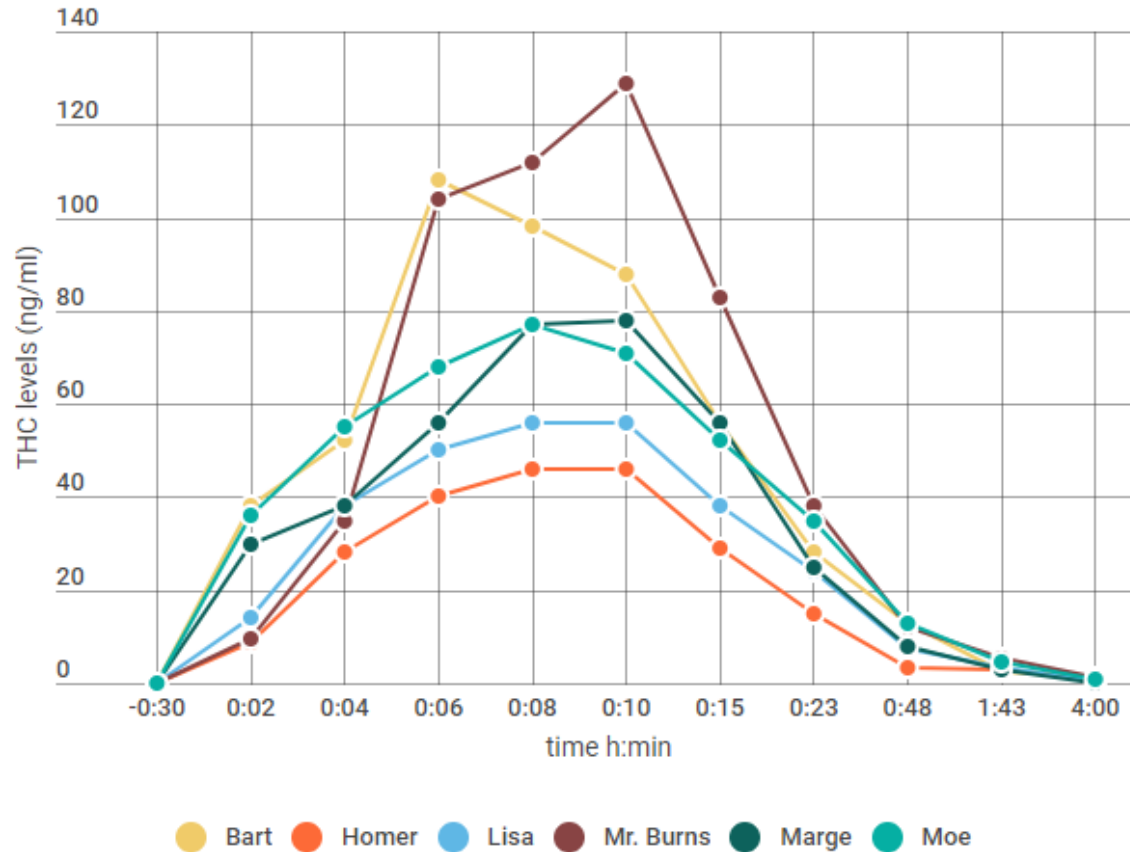
Source: Sapien Soup

# No Two Users are Alike



Source: Sapien Soup

# Experiment – No Users Alike



Source: Global TV

Comparison of delta-9-THC levels in blood serum of six male test subjects after inhalation of 15.8 mg of THC

(names are fictional). [2]

Source: Sapien Soup



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# Auto Implications

- New users low tolerance – don't understand impacts to driving
- Very little data that links legalization to stoned driving
- No separate DUI laws for marijuana



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# Driving Stoned



Source: CNN

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# Does Marijuana Impact the Ability to Drive?

- Driving is an exercise in timing, multi-tasking and situational awareness
- Smoking is a very efficient way to deliver drugs to the brain
- Marijuana effects
  - Peripheral vision
  - Perception of how fast time is passing
  - Balance
  - Prefrontal cortex (execution function)
  - Standard deviation of lateral position
- Marijuana throws off perception, loosens inhibitions and changes reaction times

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# Laws Regarding DUID

- Zero tolerance
  - Illegal to drive with any amount of marijuana in the system
  - Easy to understand, send a strong clear message
  - Easy to justify for illegal drugs
- Per se
  - Illegal to drive with amounts of specified THC in body exceeding set limits
  - Modeled after alcohol per se laws
  - Tricky to set a positive per se limit. Scientific evidence does not and may never exist.
  - Delays in collecting blood samples may allow blood concentration to drop
  - WA and CO have 5ng limit

# Enforcing DUID



- Roadside sobriety field tests
  - Interview and observation
  - Nystagmus (horizontal gaze)
  - Walk and turn
  - One leg stand
- Saliva and breath
- At the police station – blood and urine samples

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# Marijuana Breathalyzer and Oral Fluid



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# Impact of Cannabis “Legalization”



**“Marijuana users were about 25% more likely to be involved in a crash than drivers with no evidence of marijuana use.”**

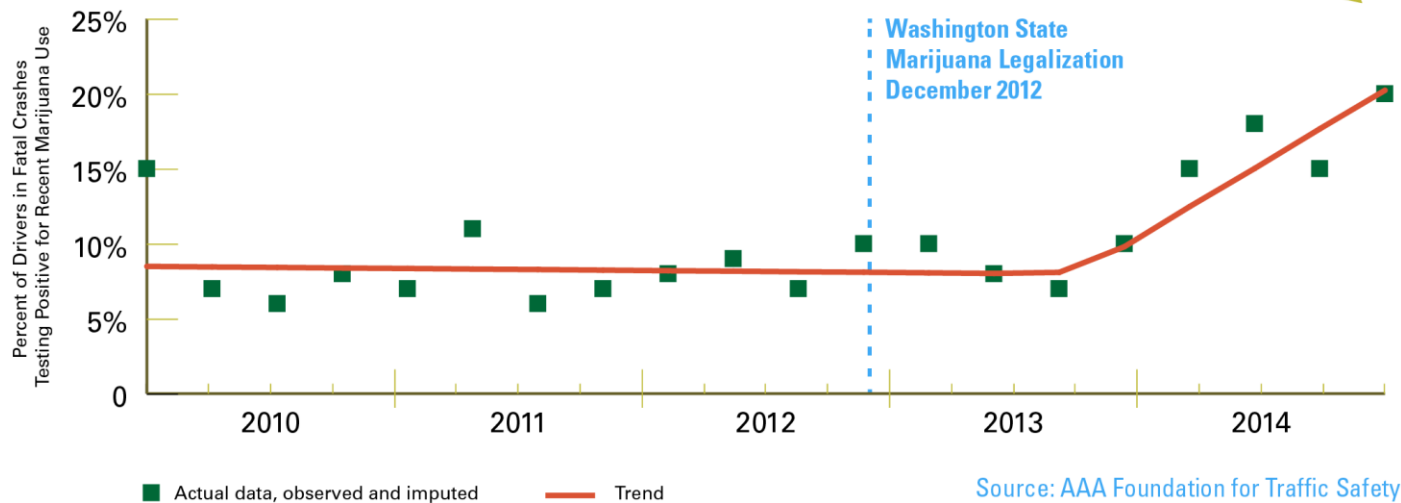


**“Despite popular myth, driving after using cannabis is not safer than driving after drinking alcohol. Cannabis impairs you differently than alcohol but it still impairs.”**

# Impact of Cannabis “Legalization”

## Fatal Road Crashes Involving Marijuana Double After State Legalizes Drug

FATAL CRASHES INVOLVING DRIVERS WHO RECENTLY USED MARIJUANA DOUBLED IN WASHINGTON AFTER THE STATE LEGALIZED THE DRUG IN 2012.





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# Who needs coverage?

- Cultivators and farmers
- Processors and harvesters
- Manufacturers
- Dispensaries
- Retail stores

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# Business Insurance Needs

- Property coverage
  - Valuable crops
  - Harvested products
- Crop coverage
- Product Recall
- Employee dishonesty
- Directors and Officers Liability
- Cyber liability/electronic data
- Cargo
- Workers compensation
- Equipment breakdown



# Looking Ahead



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# Strategy and Awareness

- Leverage new and existing data
- Risk appetite
- Stakeholder expectations
- Monitor trends
  - Timing and variations in adoption
  - Consumer response
  - How use of marijuana might interact with other trends or risks that your company takes



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# Underwriting and Product Development

- Underwriting
  - Identify and evaluate new risks
  - Will classifications or selection change?
  - Utilization, availability, and applicability of new data
  - New strategic partners
- New risks – new product solutions
- Changes to existing language
- Specialization
- Niches



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# Regulatory Awareness and Claims Expertise

- When it comes, it could be fast and furious
- Inconsistency among states or provinces
- Industry regulatory and supervisory requirements
- Legal strategy
- Theories of liability



**Thank you!**



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