Will Marijuana Rescheduling Be A Game Changer For Trucking?

How Schedule III rescheduling could end federal marijuana testing for CDL holders and why smart carriers are building company policies now

Rob Carpenter • Wednesday, December 17, 2025

Key Takeaways:

President Donald Trump confirmed this week that his administration is “looking very strongly” at rescheduling marijuana from Schedule I to Schedule III under the Controlled Substances Act. Cannabis stocks are surging. The industry is celebrating. The trucking world should be paying very close attention because if this executive order gets signed without a critical carve-out, the Department of Transportation may lose its legal authority to test nearly 4 million CDL holders for the drug that accounts for 60% of all positive tests in the FMCSA Drug and Alcohol Clearinghouse.

Without explicit language preserving DOT testing authority, moving marijuana to Schedule III could make it legally impossible for federal regulators to test commercial motor vehicle operators for THC.

Whether you’re a carrier, a driver, or someone who shares the road with 80,000-pound trucks, you need to understand what’s at stake.

The Regulatory Math Nobody’s Talking About

The Department of Health and Human Services sets the mandatory drug testing guidelines that DOT must follow. Under 49 CFR Part 40, those guidelines only authorize testing for Schedule I and Schedule II controlled substances.

Marijuana is currently Schedule I, alongside heroin and LSD. That’s why it’s on the five-panel

DOT drug test. Schedule III drugs, which include ketamine, anabolic steroids, and Tylenol with codeine, are not part of that testing panel. Never have been.

The moment marijuana moves to Schedule III, the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs would no longer authorize its inclusion. DOT would have no legal basis to require testing. HHS-certified laboratories would have no authority to process those samples. Medical Review Officers would be left holding positive results they can't legally verify.

If marijuana is moved from Schedule I to Schedule III, HHS would no longer require testing for it, and the DOT would also have to stop testing immediately. An immediate change would cause major confusion as thousands of existing test requests and forms still list marijuana as part of the panel. The entire enforcement apparatus built over three decades collapses overnight.

Why This Testing Program Exists

The federal government didn't start testing commercial drivers because some bureaucrat in Washington had a bright idea. The testing program exists because people died.

On January 4, 1987, Amtrak Train 94, the Colonial, was barreling north from Washington

toward Boston at 125 miles per hour when it slammed into three Conrail locomotives that had fouled the main track near Chase, Maryland. Sixteen people died. One hundred seventy-four were injured.

The National Transportation Safety Board investigation determined the probable cause: the Conrail engineer, Ricky Gates, was impaired by marijuana and failed to stop at a warning signal. The NTSB found marijuana and PCP in his blood and urine. His brakeman, Edward Cromwell, was also high. Both men had been smoking marijuana on duty.

Gates served four years in prison. Cromwell got immunity for testifying against him. And 16 families buried their loved ones.

That disaster, along with other drug-related transportation accidents, led directly to the Omnibus Transportation Employee Testing Act of 1991. Congress found that “alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation” and that “the use of alcohol and illegal drugs has been demonstrated to affect the performance of individuals significantly, and has been proven to have been a critical factor in transportation accidents.”

The law wasn’t theoretical. It was reactive. People died, and Congress acted.

For over three decades, DOT-regulated testing

has functioned as both a deterrent and a detection mechanism. The framework became the gold standard not just for federally mandated employers but also for countless private companies that voluntarily modeled their programs on DOT requirements.

For three decades, it's worked. Random testing is a deterrent. Pre-employment screening is a filter. The Clearinghouse is an accountability mechanism. Remove any piece of that infrastructure, and the system begins to fail.

What the Numbers Tell Us

The FMCSA Clearinghouse data is damning. Through April 2025, there have been 184,839 positive marijuana tests recorded since the database launched in 2020. That represents 59% of all substances identified in positive drug tests. In 2024 alone, 34,936 CDL holders tested positive for delta-9 THC metabolite.

Currently, 291,664 commercial vehicle drivers have at least one drug or alcohol violation on record. Of those, 184,337 are in prohibited status, meaning they cannot legally operate a CMV until completing the return-to-duty process.

When Clearinghouse II went into effect on November 18, 2024, those drivers lost their CDL privileges entirely. State licensing agencies now have real-time access to violation data. All of that infrastructure becomes meaningless if DOT

can't test for the substance that represents the majority of violations.

The Two-Track Testing System

Here's what many drivers and even some carriers don't fully grasp: There are two entirely separate drug testing frameworks operating in trucking today. Oddly enough, you can be a Commercial Motor Vehicle (CMV) driver operating equipment under 26,001 lbs and not be required to submit to any substance abuse testing. It's the one BASIC from FMCSA that non-CDL, CMV drivers under 26,001 lbs do not have to meet.

Federal DOT Testing (Mandatory)

Under 49 CFR Part 382 and Part 40, any driver operating a commercial motor vehicle requiring a CDL is subject to federal drug and alcohol testing. This is non-negotiable. The program includes pre-employment testing, random testing (currently 50% of the driver pool annually), post-accident testing, reasonable-suspicion testing, return-to-duty testing, and follow-up testing.

The drugs tested are named explicitly in federal regulation: marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids. Note that marijuana is listed by name, not by its scheduling classification under the Controlled Substances Act.

Former Transportation Secretary Pete Buttigieg attempted to reassure Congress last year that rescheduling "would not alter DOT's marijuana testing requirements" because marijuana is

"identified by name, not by reference to one of those classes."

That legal interpretation is optimistic at best. The testing authority flows through HHS guidelines, not DOT regulations. Without HHS certification, those laboratory results won't survive a legal challenge. And the first driver who loses their CDL after rescheduling will have every incentive to sue.

Company Policy Testing (Voluntary but Critical)

Here's where it gets important for carriers: DOT does not prohibit motor carrier employers from instituting a "company authority" testing program that is in addition to, and distinct from, the required DOT testing program. Under such non-DOT programs, employers could test for other drugs.

There are no regulations or laws requiring the testing of non-CDL drivers. As a best practice, to ensure employee safety and protect an organization from significant liability, all employees driving on behalf of the organization should be subject to a drug and alcohol testing program.

This distinction matters enormously. If the federal testing authority disappears, carriers with robust company policies will still have tools. Carriers relying solely on federal requirements will have nothing.

The Carve-Out We Need

Industry stakeholders aren't asking for marijuana to remain criminalized. They're asking for something far more narrow: a safety carve-out that explicitly preserves DOT's authority to test safety-sensitive transportation workers for cannabis, regardless of its scheduling status.

The American Trucking Associations sent letters to DOT Secretary Sean Duffy expressing "deep concern" about the potential impact. Jack Van Steenburg, the retired FMCSA Chief Safety Officer, raised the same alarm publicly. The railroad industry, the pipeline industry, and aviation stakeholders have all submitted comments demanding the same protection.

Should the Administration move marijuana to Schedule III, a supplemental Executive Order should be issued concurrently. This order must explicitly grant HHS the authority to test and certify labs for all controlled substances, including Schedule III drugs. Such a carve-out would preserve deterrence and protect transportation safety without interruption.

If that carve-out doesn't appear in the executive order, every carrier in America needs to be calling their congressional representatives. By the time this works its way through the courts, the deterrent effect will already be gone, and so will the drivers who decided it was finally safe to light up.

What Rescheduling Won't Change

What this policy shift actually does, and doesn't, accomplish.

Moving marijuana to Schedule III does not legalize cannabis at the federal level. It remains a controlled substance subject to DEA regulation. State-level recreational and medical marijuana laws would remain unchanged. The substance would still be prohibited for safety-sensitive workers under current DOT rules, assuming those rules survive the regulatory earthquake.

What it does is remove certain tax burdens from cannabis businesses, potentially expand access to banking services, and formally acknowledge that marijuana has accepted medical uses. For the broader cannabis industry, it's a significant economic shift.

For the trucking industry, it's potentially catastrophic if the implementation details aren't handled correctly.

What Carriers Need to Do Right Now

Here's where I put on my compliance consultant hat and speak directly to motor carriers: Regardless of what happens at the federal level, you have both the authority and the obligation to maintain drug testing programs in accordance with your company policy.

Build or Strengthen Your Company Drug Policy

Your company's drug and alcohol policy should exist independently of DOT requirements. It should clearly define prohibited substances (including marijuana, regardless of state legalization status), establish testing protocols (pre-employment, random, post-accident, and reasonable-suspicion testing), document disciplinary consequences for violations, and apply consistently to all safety-sensitive employees.

Although not on the DOT audit inspection list, a well-written safety policy demonstrates that a company is focused on public safety by going above and beyond minimum standards. In the nuclear verdict environment we're operating in, that documentation is survival.

Consider Expanded Testing Panels

DOT testing is limited to a five-panel screen. Under non-DOT programs, employers could test for other drugs, and can continue testing for marijuana under company authority even if it drops off the federal panel.

The Nuclear Verdict Reality

Nuclear verdicts remain a top concern for trucking companies, large and small. The rise in nuclear verdicts is damaging for small-business truckers who can't afford the increased insurance costs and the risk of litigation.

No carrier wants to be the defendant in a wrongful death lawsuit where the plaintiff's attorney asks, "You knew marijuana was legal, you knew your driver used marijuana, and you put him behind the wheel anyway?"

Industry experts advise that simply meeting minimum regulations isn't enough; carriers are encouraged to go above and beyond compliance by adopting best practices that demonstrate a genuine commitment to safety.

Consult Legal Counsel

State marijuana laws create a patchwork of employer obligations. Organizations should have legal counsel review the rules and regulations in the jurisdictions they operate to ensure they are not in violation. What's permissible in Texas may not be permissible in New York. What's required in California may conflict with what's allowed in New Jersey.

This is not an area for guesswork.

What Drivers Need to Understand

For the drivers reading this: Nothing has changed yet. Marijuana remains a Schedule I substance. DOT testing continues to include marijuana. A positive test still ends your driving career until you complete the return-to-duty process.

But let me give you some straight talk about where this is headed.

Even if the federal testing authority disappears, most carriers worth working for will maintain marijuana testing under company policy. Why? Because insurers will demand it. Because shippers will require it. The liability exposure of putting a potentially impaired driver behind the wheel of an 80,000-pound vehicle is catastrophic.

The smart drivers understand that federal legality and employment eligibility are two different things. Your employer can prohibit marijuana use even if the federal government stops testing for it. Most will.

The Unsolved Impairment Problem

Let me acknowledge the elephant in the room: Current marijuana testing doesn't measure impairment. It measures prior use.

THC metabolites can remain detectable in urine for weeks after consumption. A driver who smoked marijuana in a legal state on his home time three weeks ago can still test positive today, long after any cognitive impairment has passed.

This creates legitimate frustration for drivers who follow the rules but face career-ending consequences for off-duty conduct that wouldn't impair their driving.

Here's the uncomfortable truth: Until someone develops a reliable, scientifically validated impairment standard for THC, comparable to blood alcohol concentration for alcohol, detection-based testing is the only tool we have.

The NTSB has been requesting research into marijuana impairment standards for years. Congress has expressed interest. The technology doesn't exist yet.

Until it does, carriers and regulators face an impossible choice: Test for detection (which catches some drivers who aren't impaired) or don't test at all (which fails to catch drivers who

are). Given what we know about marijuana-involved crashes, the safety calculus favors continued testing.

What Happens Next

The White House could sign an executive order directing federal agencies to initiate rescheduling as soon as this week. Multiple media outlets report industry representatives met with administration officials, including HHS Secretary Robert F. Kennedy Jr. and FDA Commissioner Marty Makary, in the Oval Office on December 9.

The formal rulemaking process could take months. DEA hearings that were scheduled under the Biden administration were scuttled just before Trump's inauguration. Legal challenges are virtually guaranteed from both pro-cannabis advocates who want faster action and anti-rescheduling groups who want to stop it entirely.

During that window, the trucking industry has one job: Demand that any rescheduling order include explicit, unambiguous language preserving DOT testing authority for commercial motor vehicle operators and other safety-sensitive transportation workers.

I've spent 25 years in this industry. I've reviewed crash reconstructions where marijuana was a contributing factor. I've consulted with carriers who lost good drivers because someone couldn't stay away from weed while holding a CDL. I've testified as an expert witness in cases where families were destroyed because someone made a bad choice.

The drug testing program that emerged from the Chase disaster has saved lives. That's not speculation, it's demonstrated reality. The program serves as a deterrent, and deterrence works.

If rescheduling proceeds without a safety carve-out, carriers will need to build their own deterrent systems. Company policies will need to be stronger, more comprehensive, and more consistently enforced than ever before.

The carriers who thrive in that environment will be those that view drug testing not as a regulatory burden but as a core element of their safety culture. The ones who understand that "legal" and "safe" aren't synonyms. The ones who recognize that the traveling public, and their own drivers, deserve better than hoping impaired operators don't cause the next Chase, Maryland.

For drivers, the message is simpler: The rules may change, but the physics don't. An impaired operator behind the wheel of a commercial motor vehicle is a danger to everyone on the road. That reality doesn't care about scheduling classifications or executive orders.

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