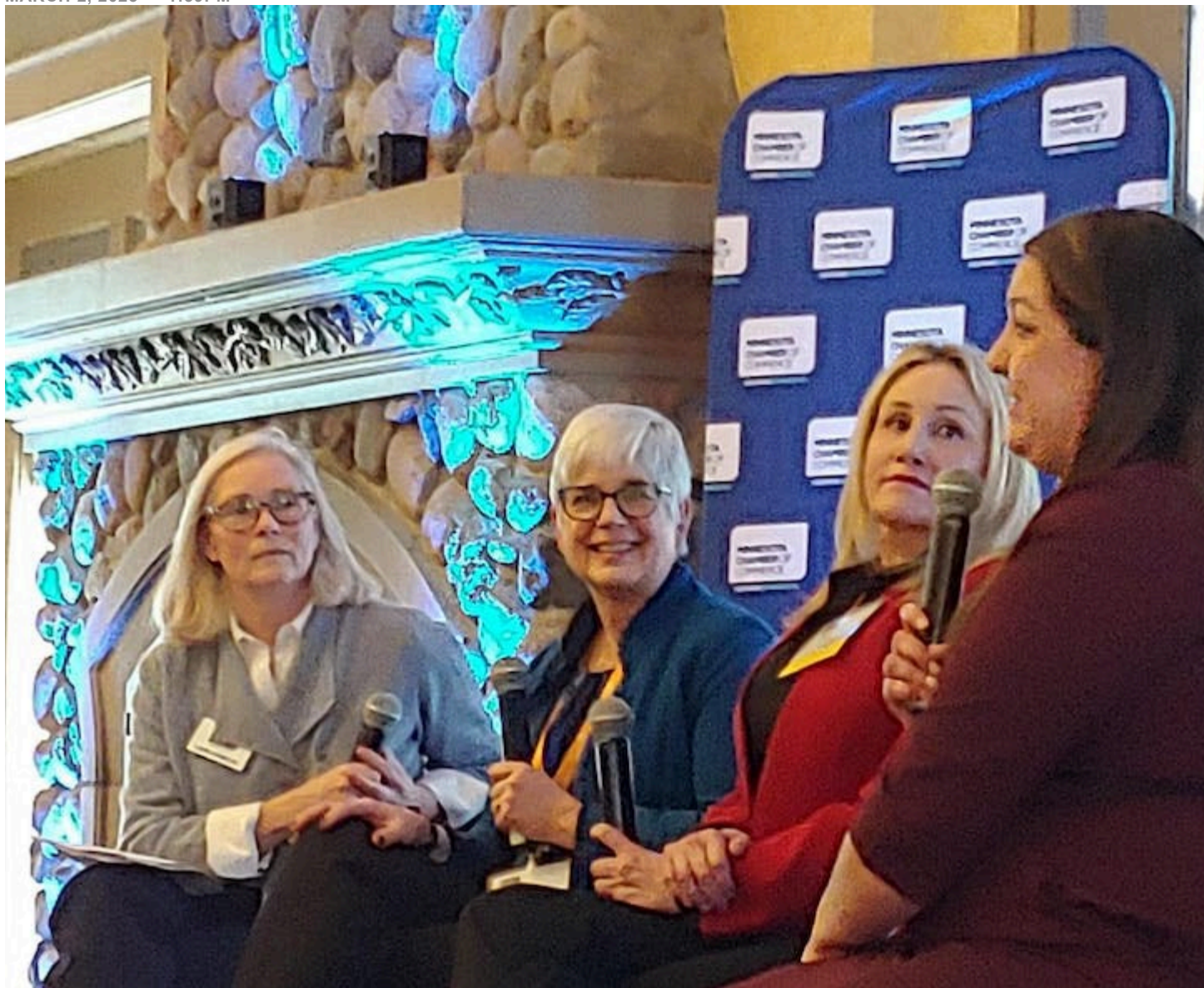


Recreational marijuana bill worries Minnesota employers

Business managers had many questions about how to avoid safety concerns and performance issues if they can't test for marijuana.

By [Dee DePass](#) Star Tribune

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DEE DEPASS, STAR TRIBUNE

Laura Bordelon of the Minnesota Chamber of Commerce, from left, Kathy Bray of SFM workers' compensation firm, Dr. Alta DeRoo of Hazelden Betty Ford Foundation and Nicole Truso of Faegre Drinker speak Wednesday at a forum sponsored by the Minnesota Chamber of Commerce.

Minnesota employers are worried about the consequences of on-site safety — and general job competence — should a bill to legalize recreational marijuana in the state become law.

As lawmakers consider whether Minnesota should join 18 states in legalizing pot, scores of concerned business owners gathered Wednesday to hear from attorneys, doctors, workers' compensation and human resource professionals at a forum in Maple Grove sponsored by the Minnesota Chamber of Commerce.

"For employers this is a mess," said Nicole Truso, an employment attorney and partner at Faegre Drinker. "For employers, the big question is how do we tell if [employees] are impaired on the job?"

Karen Wentworth, controller at ChemQuest Inc. in Lakeville, worried how to keep workers at her chemical manufacturing plant safe should a forklift driver be allowed to legally get high during a lunch break and then return to the driving job with slower motor skills.

"We work with hazardous chemicals and forklifts," Wentworth said. "I am very concerned about our ability to protect ourselves as a manufacturer and our employees."

So far, the Minnesota bill allows for cannabis testing for several professions that interact closely with the public such as police officers and medical professionals. Truck drivers and some other federally regulated professions also are excluded.

Smoking and edible consumption also would be allowed only at home, on private property and on the premises of a business or event licensed for on-site consumption of marijuana products.

Other states such as Colorado did not include any restrictions about workplace use, leaving it to employers to set up language and workforce rules when they could not test for cannabis as a condition of employment or have random testing like what is done for other substances.

Plus, unlike with alcohol use, there is not an easy "impairment" test for marijuana at this time, only ones that detect cannabis is in a person's system, Truso said.

"So you will be left to making judgment calls as to if someone is impaired," she said, which is why establishing clear policies about what are "unacceptable behaviors" in the workplace is the direction to take.

Establishing violations based on conduct "could save you a lot of hassle," Truso said.

The concern goes beyond factory workers, construction and industrial environments.

Chamber Senior Vice President Laura Bordelon said there are big considerations for banks and financial firms, where some federal protections exist that ward against abuse. But concerns go further in other office settings.

"Do you really want [your company lawyer] to be writing your appellate brief after she's had a couple of hits?" asked Kathy Bray, senior vice president and chief legal officer at the workers' compensation firm SFM in Bloomington.

Chamber President Doug Loon said businesses have been calling the group for weeks asking for information about what their options are and how to proceed in the potential new frontier.

"Expanding the legalization of recreational cannabis here in Minnesota ... is a big issue," he said. "The whole question around [worker] impairment and [a company's] legal exposure is what every business is trying to get their arms around."

Employers also are looking at what discrepancies might occur between federal and state law if the bill passes the Legislature, Loon said.

Best practices on policy have yet to be established, he said.

Employers at the forum also worried about a new law being passed at a time when they are facing one of the worst labor shortages in state history. It would make it harder for a company to have a tough no-pot-at-work rule, they said.

"It's a big concern," Loon said.

Another concern is if employers could face greater liability threats and workers' compensation costs should employees under the influence of cannabis injure themselves or co-workers, said Bray of SFM.

Some of these issues are not new. Corporations and human resources leaders wrestled with them when medical marijuana became legal in Minnesota, Truso noted.

In those cases, employers were required under the Americans with Disabilities Act to accommodate the worker's disability, when possible. Going forward, it's unknown how the federal government would respond to state laws that legalize recreational use.

Dr. Alta DeRoo, chief medical officer at the Hazelden Betty Ford Foundation, said there are risks to what Minnesota legislators are considering, not only in the workplace.

THC stays in the urine, blood and fat cells of the body for up to 30 days. It can slow eye-hand coordination and compromises the recovery efforts of addicts, she said.