

WEED IN THE WORKPLACE

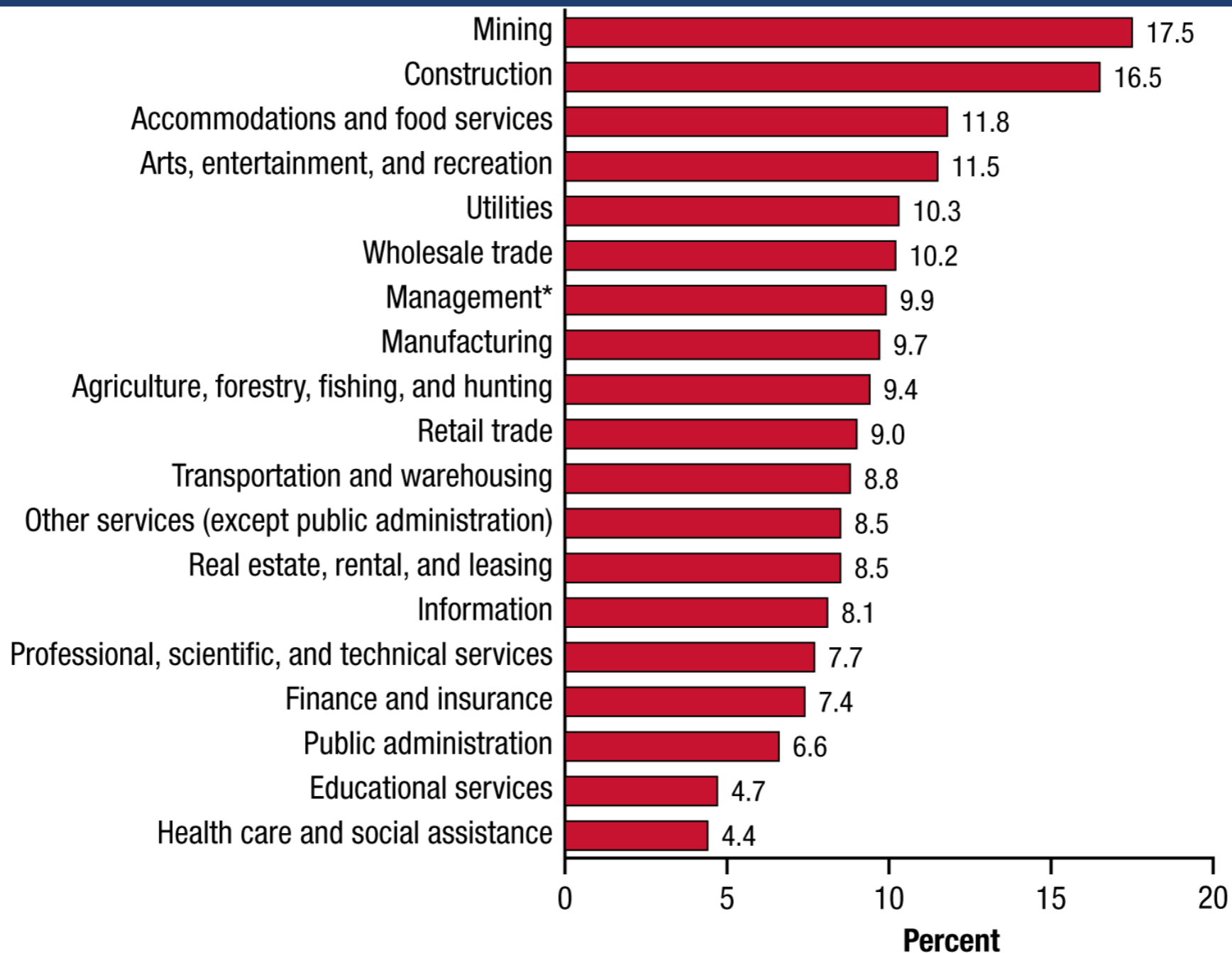


DRUG TESTING BASICS
AND EMPLOYER BEST PRACTICES

SAFRAN LAW OFFICES

STEPHEN SAFRAN

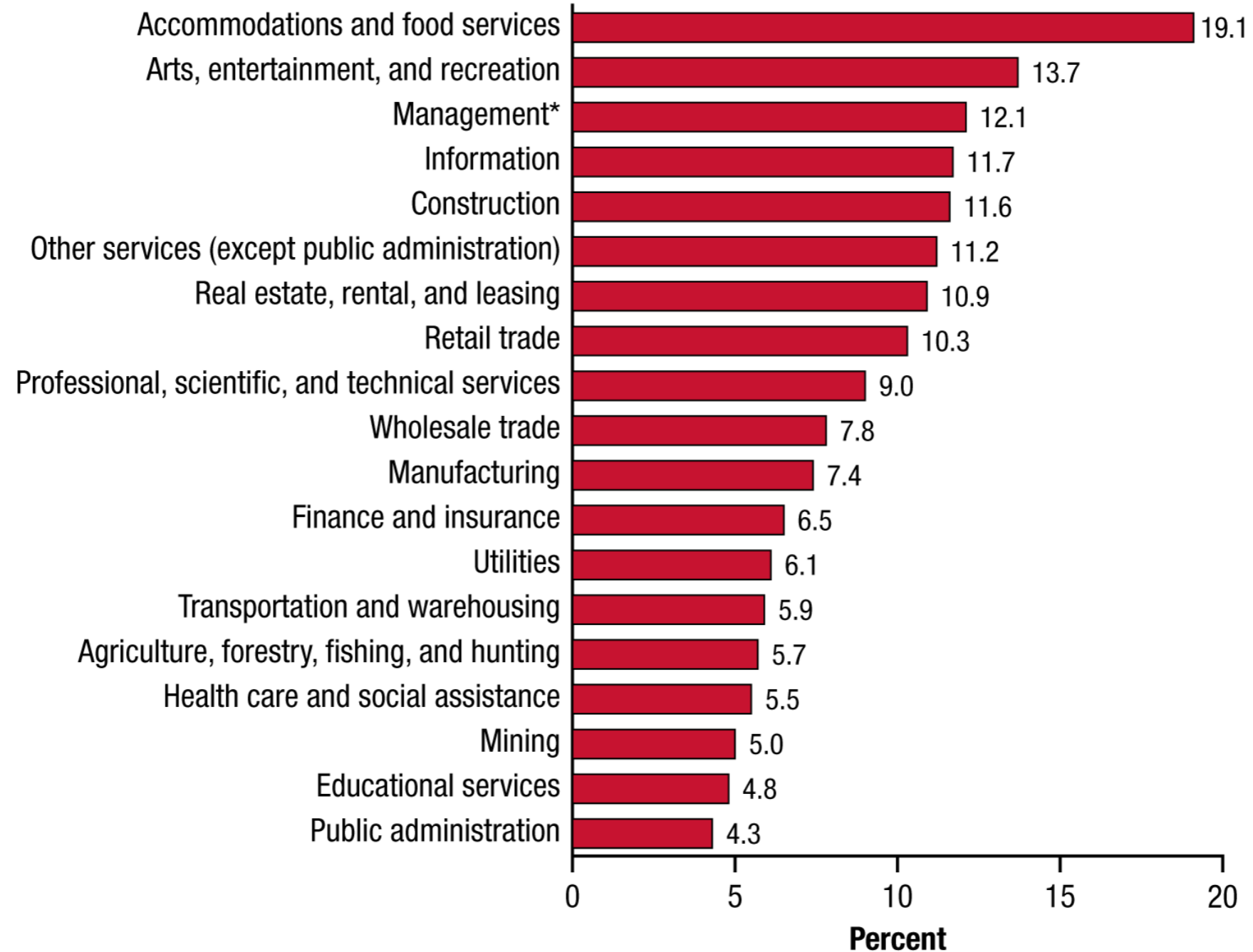
PAST MONTH HEAVY ALCOHOL USE BY ADULTS 18-65 EMPLOYED FULL TIME



The full title of this category is "Management of companies and enterprises, administration, support, waste management, and remediation services."

Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Surveys on Drug Use and Health (NSDUHs) 2008 to 2010 (revised March 2012) and 2011 to 2012.

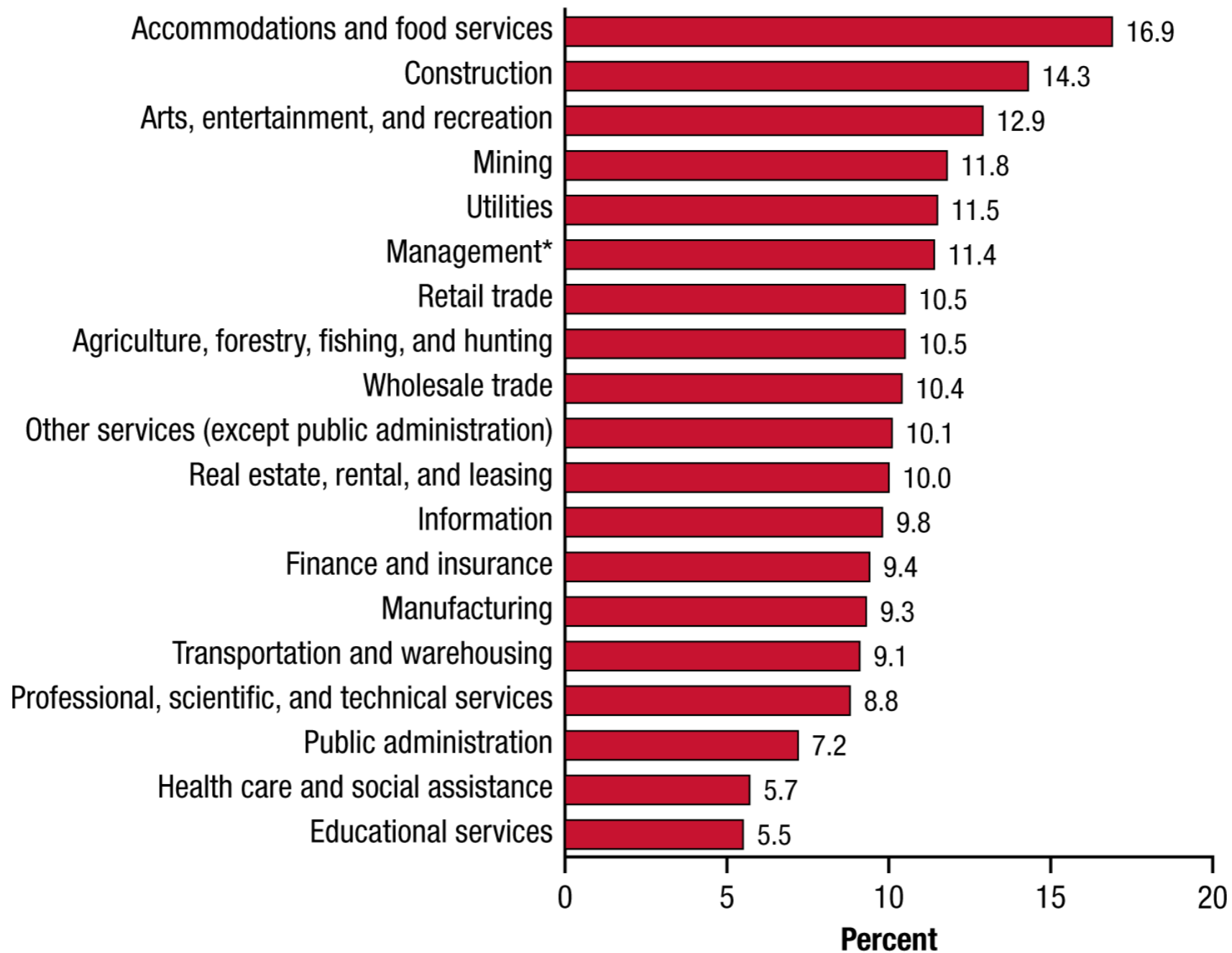
PAST MONTH ILLICIT DRUG USE BY ADULTS 18-65 EMPLOYED FULL TIME



* The full title of this category is "Management of companies and enterprises, administration, support, waste management, and remediation services."

Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Surveys on Drug Use and Health (NSDUHs) 2008 to 2010 (revised March 2012) and 2011 to 2012.

PAST YEAR SUBSTANCE USE DISORDER AMONG ADULTS 18-65 EMPLOYED FULL TIME



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Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Surveys on Drug Use and Health (NSDUHs) 2008 to 2010 (revised March 2012) and 2011 to 2012.

ESTABLISHING A DRUG FREE WORKPLACE

- EMPLOYERS SHOULD INFORM ITS EMPLOYEES ABOUT:
 - The dangers of drug abuse in the workplace
 - The employers policy of maintaining a drug free workplace
 - Any available drug counseling, rehabilitation, and employee assistance programs
 - The penalties that may be imposed upon employees for drug abuse violation occurring in the workplace

EMPLOYER BEST PRACTICES

- Have a Written Drug and Alcohol Policy
 - Signed by Employee
 - Defines Testing Procedures
 - Defines Reasonable Suspicion for Testing
 - Based on Essential Functions of Job and Business Necessity
 - Provides an Appeal Mechanism
 - i.e., confirmation test paid for by employee

NORTH CAROLINA PRIVATE EMPLOYERS

- Private employers **may require** that prospective employees submit to pre-employment drug test
- Tests must be performed by an **approved laboratory**
- Employers cannot require applicants to pay for the drug test; the drug test is done at the **employer's expense**
- However, applicants and employees may request a **retest at their own expense**

PRE-EMPLOYMENT DRUG TESTING

- **MOST COMMON AND WIDELY USED TEST**
- Private employers **may require applicants** to submit to a drug test as a condition of their employment
- If an applicant refuses or fails the drug test, their employment may be denied
- **NORTH CAROLINA** - private employers may require applicants to submit to drug tests as a condition of their employment
- **SOUTH CAROLINA** - private employers may require applicants to submit to drug tests, and private employers in SC may receive a discount on workers' compensation premiums if they establish a drug-free workplace

CURRENT EMPLOYEE TESTING

- **RANDOM OR UNANNOUNCED TESTING**
 - Must be **truly randomized** testing, or **all employees**, including managers, should be subject to unannounced testing at the same time
- **PERIODIC TESTING**
 - Testing occurs on a **regular basis**, i.e., once a year, bi-annually, etc.

CURRENT EMPLOYEE TESTING

- **POST-ACCIDENT TESTING**

- May be required by insurance provider or under the terms of a contract
- Drug test may be **required after an on-the-job accident**

- **REHABILITATION OR FOLLOW-UP TESTING**

- Useful for employers when an employee previously tested positive or refused a drug test
- May be a condition of continued employment
- May be required as per the terms of a Last Chance Agreement

CURRENT EMPLOYEE TESTING

- **REASONABLE CAUSE OR REASONABLE SUSPICION TEST**
 - Conducted when supervisors/managers **observe** signs or symptoms leading to a suspicion that the drug-use policy has been violated
 - Suspicion should be **corroborated** by another supervisor, manager, or other employee(s)
 - The workplace policy should have a clear, consistent definition of what behavior justifies “reasonable suspicion” testing
 - Supervisors and Managers should be trained to observe the signs of impairment and initiate testing (next slide)

CURRENT EMPLOYEE TESTING

- **COMMON SIGNS OF IMPAIRMENT:**

- Delayed decision-making abilities;
- Erratic cognitive functions;
- Diminished concentration;
- Visual distance tracking;
- Impaired memory;
- Distortion in time;
- Paranoia; and/or
- Drowsiness



SOURCE: [hightimes.com](https://www.hightimes.com)

NORTH CAROLINA PRIVATE EMPLOYERS: COMMERCIAL DRIVERS LICENSES

- North Carolina requires employers to comply with federal CDL drug/alcohol testing regulations
- All CDL drivers give implied consent to drug and alcohol testing and must be **randomly tested**
- A driver's CDL will be suspended for **1 year** for refusing a drug/alcohol test
- Employers must receive negative test results **BEFORE** allowing a CDL driver to operate a CMV

FEDERAL REGULATIONS: COMMERCIAL DRIVERS LICENSES

- Employees may not **use, possess, or be under the influence** of drugs or alcohol while performing safety-sensitive functions
- Employees may not use drugs or alcohol within **FOUR HOURS** of reporting for duty
- Employees **may not** refuse a drug/alcohol test
- Employees are tested for marijuana/THC, cocaine, methamphetamine, opiates, and PCP

EMPLOYERS ON FEDERAL PROJECTS

- Drug testing requirements and conditions are controlled by the Drug Free Workplace Act, Americans with Disabilities Act, and Substance Abuse and Mental Health Services Administration regulations.
- The Drug Free Workplace Act **does not** require drug testing **or** automatic termination upon a positive test.
- Federal Agencies may require testing and negative results under the **terms of a construction contract**.
- Safety-Sensitive duties for DOT, DOD, US Coast Guard, FAA, etc., may require a negative result, and neither contractors nor their employees may refuse a drug test.

AMERICANS WITH DISABILITIES ACT (ADA)

- **Applies to Employers with 15 or more Employees**
- **Alcoholism and Drug Addiction are recognized disabilities under the ADA**
 - **An alcoholic is protected even when he/she continues to abuse alcohol**
 - **Drug addicts are only protected when he/she has discontinued use of the drug**
- **An Employee must admit to alcohol abuse and request an accommodation from the Employer in order to qualify for ADA protection**

MEDICAL MARIJUANA

- Is medical marijuana something you should worry about?
Not really.
- Medical marijuana has **not** been legalized in NC, SC, VA, TN, GA, KY, or WV.
It's only been legalized in **23 states**.
- The use of medical marijuana is **not permitted** on federal construction projects.
- State medical marijuana laws, where applicable, decriminalize the use of medical marijuana, but they **do not regulate private employers** or prevent a private employer from taking action against an employee who violates the employers' drug policies.