

GSN

GLOBAL SAFETY NETWORK



THE MAGAZINE

March 2016



Feature Story

**WILL AN I-9 AUDIT
CLOSE YOUR BUSINESS?**

Inside:

**Employers in
States Where
Marijuana
is Legal Toughen
Drug Policies**



CLIENT NOTES

Study Finds Some E-Cigarettes Contain Enough Alcohol to Affect Motor Skills

Some types of e-cigarettes contain enough alcohol to affect motor skills, according to a new study conducted by Yale University.

Researchers concluded that the study's participants who used e-cigarettes with high levels of alcohol performed poorly on psychomotor tests when compared to those who used e-cigarettes with low or no levels of alcohol. In some cases, those alcohol impacted participants had detectable levels of alcohol in their urine.

E-cigarettes deliver nicotine by vaporizing liquids, which may contain alcohol and other chemicals. Some e-cigarette users create their own liquids with high alcohol content, the researchers noted in an article about the study found in the journal Drug and Alcohol Dependence.

For more information see
www.newsmax.com

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Employers in States Where Marijuana is Legal Toughen Drug Policies

Recent political, social, and legal issues regarding marijuana legalization have many employers in states where marijuana is legal to toughening up their current drug abuse prevention and detection policies, according to a recent survey conducted by the Society of Human Resource Management (SHRM).

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Will an I-9 Audit Close Your Business?

No employer, regardless of industry or location, is immune from complying with the nation's laws. ICE and its law enforcement partners will continue to bring all authorities to bear in their fight using criminal charges, asset seizures, administrative arrests, and deportations. – John Morton *Dept. of Homeland Security Assistant Secretary for ICE*

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“Drugs are the enemies of ambition and hope - and when we fight against drugs we are fighting for the future.”

Bob Riley / Politician

The GSN Magazine is published and distributed electronically 11 times a year on the third Tuesday of each month (except June) by Global Safety Network (GSN). Its purpose is to provide current information that will empower GSN clients to mitigate unnecessary risks in their organizations.

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Information about GSN Global Safety Network

Global Safety Network is a national provider of risk mitigation solutions. Our experienced staff will help you design a program that meets your company's unique goals and expectations. Our comprehensive selection of workplace programs enables you to make responsible and informed hiring decisions.

In a professional partnership with our clients, Global Safety Network delivers customer service that is accurate, individualized and timely. Through product innovation, our solutions promote ease of hiring, employee retention, compliance and confidence. Our goal is to provide our customers with comprehensive, single-source solutions, with customer satisfaction as our trademark.

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Editorial Staff

Global Safety Network EDITORIAL

Drug Abuse and the Wasp from Hell

Destin Florida is famous for its incredible beaches with its white sand and clear blueish green water. I love visiting this scenic vacation spot to walk along the beach, watch the waves crash to shore, and listen to seagulls.

Many, many years ago, my girlfriend and I went on a romantic walk along these sandy shores. She was barefoot while I wore sandals. As we held hands and strolled along the beach, our tender moment was interrupted by a wasp that was flying toward me.

This bothered me since I dread insects that sting. However, I didn't want to show my fear in front of my girlfriend. I took off my sun visor and swung it at the wasp. It didn't faze him a bit. This wasp was resilient.

Once again, it flew toward me like a Kamikaze pilot. This time, I swung my visor harder at it. Yet my force didn't stop this wasp from hell. Once again it flew toward me.

Now angry and determined, I whacked that annoying bug as hard as I could. The impact was so hard that the wasp was thrown to the ground where it disappeared into the sand.

Mission accomplished. The bug was defeated or so I thought. But I was wrong. Suddenly, from out of the sand, the tiny head of the wasp appeared. Then, its wings emerged as this terminator bug, looking dazed, pulled itself out from the sand. I looked at my girlfriend in shock. She looked at me with her eyes wide open with fear. Without hesitation, we started running for our lives.

The problem of Drug abuse is like that wasp from hell. It too is hard to kill. Yet, it continues to sting our families emotionally and our businesses financially. To defeat drug abuse will take more than just taking a few swings at it or burying it the sands of our minds. We cannot run away from this problem.

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Jerry LePre is the GSN Director of Communications



“There is what I consider to be a significant number of employers that are saying they wouldn’t hire an employee that uses marijuana.”

Evren Esen

Director of Survey Programs at SHRM

Employers in States Where Marijuana is Legal Toughen Drug Policies

Recent political, social, and legal issues regarding marijuana legalization have many employers in states where marijuana is legal to toughening up their current drug abuse prevention and detection policies, according to a recent survey conducted by the Society of Human Resource Management (SHRM).

Almost half of the 623 human resources managers who were part of the survey said they have policies, or plan to implement them, that restrict employing people who use marijuana. The survey found 38 percent will not hire people who use marijuana, even if it is for medical reasons. Six percent said their policy only prohibits THC for recreational use.

Continued on Next Page

The Lead



Information provided by the national office of National Council on Alcoholism and Drug Dependence, Inc. (NCADD) which provides education, information, help and hope to the public. It advocates prevention, intervention and treatment through offices in New York and Washington, and a nationwide network of Affiliates.

Colorado Supreme Court Rules: Workers Can Be Fired for Using Pot

In an article published by GSN on July 7, 2015, the Colorado Supreme Court ruled that employees in the state can be fired for using marijuana off the job. The case involved an employee who uses medical marijuana to help treat spasms resulting from a car accident.

The lawsuit of the employee, who was fired after testing positive for marijuana, argued the plaintiff did not use marijuana on the job.

The decision was based on the plain language of section 24-34-402.5, 13 C.R.S. (2014) under Colorado's "lawful activities statute," which states the term "lawful" refers only to those activities that are lawful under both state and federal law by the statute.

Therefore, employees who engage in an activity, such as using medical marijuana, that is permitted by state law but unlawful under federal law are not protected by the statute. Federal law classifies marijuana as a Schedule I drug—one with no legal use. Under federal mandated DOT (Department of Transportation) regulations, employees must undergo regular testing for marijuana.

Though this Colorado case involves medical marijuana, the decision has a major impact for employers with employees who choose to smoke pot while off-duty in states that have legalized medical or recreational marijuana.

Courts Support Employers

Courts have supported employers' efforts to maintain a drug-free workplace in other cases. An appellate court in Colorado has held that the state's "lawful activities" statute did not protect an employee from termination after he tested positive for marijuana, despite his status as a licensed medical marijuana patient. The court reasoned that, because marijuana is still illegal under federal law, its use is not a "lawful activity" receiving protection.

The 6th U.S. Court Circuit of Appeals has ruled that "private employees are not protected from disciplinary action as a result of their use of medical marijuana, nor are private employers required to accommodate the use of medical marijuana in the workplace."

Varying State Laws

According to SHRM, the states of Connecticut, Maine and Rhode Island, have laws "prohibiting organizations from discriminating against workers solely based on their status as medical marijuana patients." Arizona and Delaware have the strongest laws protecting medical marijuana use. These states prohibit employers from "discriminating against registered and qualifying patients who test positive for marijuana, with an exception for employees who are impaired in the workplace."

Will an I-9 Audit Close Your Business?



IN REFERENCE TO I-9 AUDITS
“No employer, regardless of industry or location, is immune from complying with the nation’s laws. ICE and our law enforcement partners will continue to bring all our authorities to bear in their fight using criminal charges, asset seizures, administrative arrests and deportations.”

John Morton

Department of Homeland Security
Assistant Secretary for ICE (*U.S.
Immigration and Customs
Enforcement*)

Feature

Will an I-9 Audit Close Your Business?

“ICE is committed to establishing a meaningful I-9 Inspection program to promote compliance within the law.”

John Morton

Department of
Homeland Security
Assistant Secretary
for ICE

Aggressive ICE Enforcement Programs Have Become More Extensive

For decades the focus of government authorities had been on locating and deporting illegal immigrants. However, the new aggressive focus of ICE is to punish the employer with civil fines and penalties along with criminal charges.

As a result of ICE audits, employers now find themselves facing criminal racketeering charges under RICO and potential jail time for harboring or smuggling illegal aliens. In addition to the corporate punishment, ICE is also issuing personal fines and criminal prosecution to key personnel.

In order to be prepared for a random ICE audit, every employer should consult with a risk mitigation company, like Global Safety Network (GSN), and an immigration lawyer to develop written policies and to train key company personnel on what to do when ICE arrives. It will be too late, once ICE knocks at your door. The time to prepare is NOW.

DOL Payroll Inspections Can Now Involve Form I-9 Review

ICE auditors and inspectors are not alone. I-9 audits are no longer solely conducted by ICE. Under the current administration, two offices within the Department of Labor (DOL) have the authority to conduct regular and random audits of an employer's Form I-9s *without probable cause*. The key phrase is *without probable cause*. An audit of an employer's Form I-9s can be conducted if the inspector believes one or more violations have taken place.

The Department of Labor investigates employment compliance through the Wage and Hour Division and the Office of Federal Contract Compliance Program. DOL is authorized to audit employers for wage and hour matters and inspect I-9 verification files. The Department of Labor does not have authority to issue a Notice of Intent to Fine (NIF), but it reports to DHS, which does issue notification of fines.

DOL has more than 1,500 inspectors and is spending \$30 million to hire an additional 288 front line inspectors.



CLOSED

How are I-9 paperwork **fin**es calculated?

The Immigration statute and regulations set the minimum and maximum range for civil money penalties for I-9 violations. Employers who fail to properly complete, retain, and/or present Form I-9s for inspection may be subject to a civil penalty for violations occurring on or after September 29, 1999 from \$110 to \$1,100 per affected employee. In practice, ICE agents and auditors will consult the "Guide to Administrative Form I-9 Inspections and Civil Money Penalties," which was released in May of 2014, to figure out the base fine amount and appropriate adjustments.

Substantive / Uncorrected Technical Violation Fine Schedule			
Substantive Verification Violations	1st Offense \$110 - \$1100	2nd Offense \$110 - \$1100	3rd Offense + \$110 - \$1100
0% - 9%	\$110	\$550	\$1,100
10% - 19%	\$275	\$650	\$1,100
20% - 29%	\$440	\$750	\$1,100
30% - 39%	\$605	\$850	\$1,100
40% - 49%	\$770	\$950	\$1,100
50% or more	\$935	\$1,100	\$1,100

NOTE: Fines are calculated per violation

Giant Tech Company Pays Record \$34 million in Fines Due to ICE Audit

Tech giant Infosys Limited (INFY), a publicly traded Indian technology, consulting and outsourcing company, agreed to pay a settlement of \$34 million in fines resulting from an ICE audit, according to an announcement by the Department of Justice (DOJ).

The DOJ stated "Infosys failed to maintain I-9 records for many of its foreign nationals in the United States in 2010 and 2011 as required by law, including a widespread failure to update and re-verify the employment authorization status of a large percentage of its foreign national employees."

Judge Orders Subway Franchise Restaurant to Pay \$27,000 for I-9 Violations

A Subway franchise restaurant in Fayetteville, North Carolina was fined more than \$100,000 for I-9 violations discovered during a 2009 ICE audit. After appeal, Snack Attack, the Subway franchisee, was ordered to pay \$27,000 since the judge felt it would be a hardship for the small business owner to pay the full fine.

CLOSED



Long-Term Care Employees Must Be Held to Much Higher Background Check Standards

Lawmakers and health care providers are pushing to reverse the current trend of poor accountability and low standards used in the selection of long-term care employees. Although comprehensive employment screenings are vital for all employers of health care professions, this is especially true for those who coordinate hiring in the long-term care industry.

According to the Centers for Medicare & Medicaid Services (CMS), since the Omnibus Budget Reconciliation Act was passed in 1987, millions of U.S. citizens have been victims of long-term care patient abuse, neglect and misappropriation of funds.

Continued on Next Page

Focus

Long-Term Care Employees Must Be Held to Much Higher Background Check Standards

The Affordable Care Act (ACA) of 2010 responded to this issue by including legislation that created a nationwide framework for each state to conduct background screening program on all employees of long-term care facilities and providers who have direct access to patients. The administration of this program on the national level is provided by the Centers for Medicare & Medicaid Services (CMS) with the assistance of the Department of Justice and Federal Bureau of Investigation (FBI). More than \$50 million have been awarded to 26 states by the CMS to design this comprehensive national background check program.

The comprehensive background program established by the ACA is showing results. According to OPEN MINDS Strategy and Innovation Institute, since the program was established in 2010 to September of 2014, about 3% of applicants in six states seeking work in long-term health care were disqualified due to adverse findings in the background checking process.

To assist long-term care employers, the U.S. Office of the Inspector General (OIG) and General Services Administration have established exclusion lists that these health care providers are expected to access and analyze during the hiring and vetting process.

In addition, effective in May 2013, these employers must also check this list on a monthly basis to ensure that their employees and contractors are not excluded due to past violations. This mandated monthly confirmation is outlined by the OIG's Updated Special Advisory Bulletin.

In order to ensure a higher standard of worker in the long-term healthcare industry, the burden is on the employer to make sure that they are acting in compliance with the legislation as established by the ACA in 2010.

Global Safety Network (GSN) is an International CRA (Consumer Reporting Agency). The GSN background screening team can help you understand and adhere to the strict regulatory requirements.





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- FCRA² Background Check compliance; and
- DOT³ Drug and Alcohol testing program audits.

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¹U.S. Immigration and Customs Enforcement; ²Fair Credit Reporting Act; ³ Department of Transportation.

Compliance Corner

By Jamie Bork
GSN Director of Compliance

Global Safety Network (GSN) reviews DOT driver exams for compliance to the CME...

FMCSA implemented the Certified Medical Examiner National Registry law

The National Registry of Certified Medical Examiners (National Registry) is a Federal Motor Carrier Safety Administration (FMCSA) program. As was effective May 21, 2014, interstate commercial motor vehicle (CMV) drivers must have medical certificates issued by medical examiners (MEs) listed on the National Registry. Only those medical examiners that have completed training and successfully passed a test on FMCSA's physical qualification standards will be featured on the National Registry.

What this mean to you is that your drivers' medical certificates must be issued by a Certified Medical Examiner (CME). You can check the FMCSA website to determine if your provider is certified, and if your preferred health care professional isn't on the National Registry list, refer him or her to the Certified Medical Examiners page (link below) to learn more about getting certified.

Did you know...?

Global Safety Network (GSN) reviews DOT driver exams for compliance to the CME rule, and for procedural and certification errors or oversights made by the provider.

Global Safety Network can store your driver card status and then notify you in advance of its next renewal (GlobalTRAX).

Call our Business Development or Customer Support Team for more details! 866-792-9808

Try this link:

<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/home.seam>

Search by Zip Code, State, or examiner name.

Don't Lose Sight of Your Goals

What's

POP N

By Jerry LePre

GSN Director of Communications

When Joe started high school back in the late 1960s, he had a dream of becoming an attorney. Even as a teenager, he knew in order to obtain his goal, he had to initiate and follow a plan of action. He also knew he had to stay focused on his vision and committed to his goal.

At fourteen, it was time to begin the first step of his quest. In high school, he dedicated himself to becoming a model student. This meant he had to study hard and make sacrifices because goals seldom come easy.

Since Joe was a well-rounded teenager, he joined the high school band along with the wrestling and bowling teams. As a band member, he experienced the thrill of marching in parades and performing during halftime of football games.

After four tough and fun years, Joe, who served as a class president, graduated from high school.

The next step of Joe's plan was to earn a college degree. He knew this phase wouldn't be easy. Even though his challenges became more difficult the closer he got to his goal, his determination didn't allow him to quit.

While in college, Joe, an intense competitor, served as a goalie on his intramural indoor floor hockey team. Spectators, teammates, and opponents were amazed at his skill for stopping the racing puck from rushing into the net.

Continued on Next Page

Don't Lose Sight of Your Goals

Keep on

POP N

After many classroom hours, Joe earned his undergraduate degree. He was now ready to start law school. This, the next step toward his goal of becoming an attorney, would be his greatest test. His commitment and conviction didn't let him down. Joe, who always kept the vision of his goal focused, graduated from law school, passed the bar exam, and began a successful career as an attorney.

You may be wondering what made Joe so special. After all, there are many athletic attorneys who play an instrument. The thing that made this person extraordinary was Joe was blind.

Although he could not see with his eyes, he remained focused on his goal. Although he could not see the football field or the parade route, he marched forward. Although he could not see the puck, he stopped this obstacle from defeating him.

Isn't it sad that so many people with the gift of sight are blind to the realization of their goals?

In the story "Don't Lose Sight of Your Goals," the puck used during the floor hockey games, in which Joe served as goalie, emitted a humming noise for Joe to hear.

'Don't Lose Sight of Your Goals' is from the book 'Smell The Popcorn: 12 Life-changing Secrets to Pop to the Top' by Jerry LePre.

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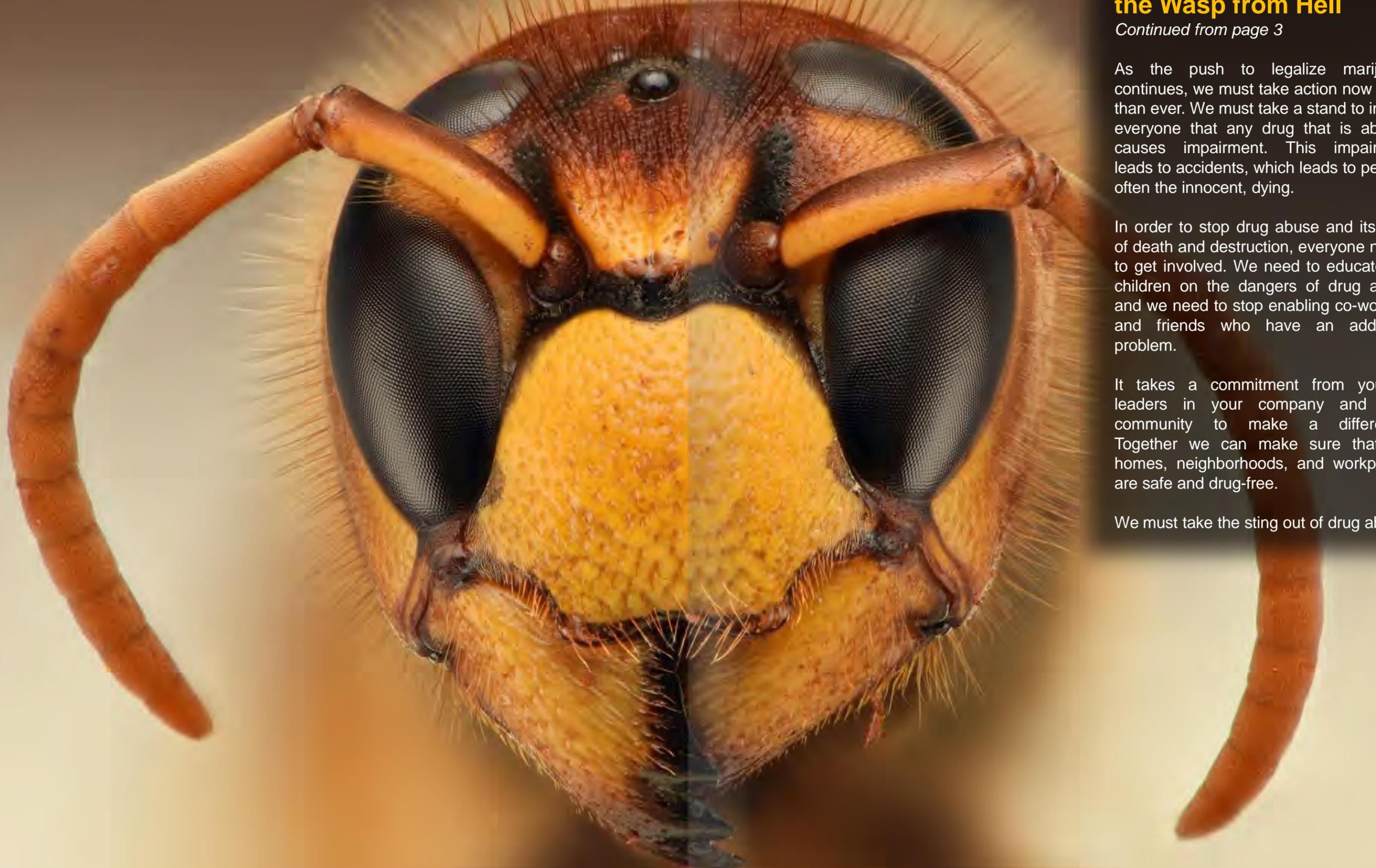
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Take the Sting out of Drug Abuse!



Editorial **Drug Abuse and** **the Wasp from Hell**

Continued from page 3

As the push to legalize marijuana continues, we must take action now more than ever. We must take a stand to inform everyone that any drug that is abused causes impairment. This impairment leads to accidents, which leads to people, often the innocent, dying.

In order to stop drug abuse and its path of death and destruction, everyone needs to get involved. We need to educate our children on the dangers of drug abuse and we need to stop enabling co-workers and friends who have an addiction problem.

It takes a commitment from you as leaders in your company and your community to make a difference. Together we can make sure that our homes, neighborhoods, and workplaces are safe and drug-free.

We must take the sting out of drug abuse.