

Legalization of Cannabis in New Jersey Means Employers Should Revise Their Workplace Policies

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On February 22, 2021, Governor Philip Murphy signed into law a trio of bills that collectively legalize adult use of recreational cannabis in the State of New Jersey. The legalization of cannabis, more commonly referred to as marijuana, will have a significant impact on workplaces and institutions of higher education across the state of New Jersey. Employers should contact legal counsel for guidance on revising their workplace policies to comply with the new law and ensure a safe and healthy working environment.

The following are key points employers should consider to comply with the new Law.

1. **Employers Should Not Automatically Fire Employees for Cannabis Use.** The legalization laws do not give employees the right to use cannabis in the workplace. Employers may prohibit cannabis use in the workplace but should not immediately terminate an employee for actual or suspected cannabis use outside of the workplace. The new laws prohibit employers from taking adverse action against employees for actual or prospective use of cannabis. It is prudent for employers to establish a policy that sets clear expectations for employees and consult with counsel for guidance before taking disciplinary action against an employee for using cannabis.
2. **Employers May Still Require Employees to Undergo Drug Tests.** Despite the new Cannabis laws, employers may still require drug tests for prospective and current employees. Employers remain authorized to use drug test results in connection with making employment decisions. The legalization laws, however, have created additional statutory requirements and procedures regarding drug testing which should be incorporated into employer policies.

3.

Cannabis is Still Illegal Under Federal Law. It is important for employers to keep in mind that cannabis use is still illegal under federal law. New Jersey employers that have federal contracts and/or receive federal funding, may be able to impose more stringent standards in the workplace if it can demonstrate that employee use of cannabis may result in fines and penalties. To avoid such damages, employers that perform services for the federal government should consult with counsel.

4.

You Cannot Legally Purchase Cannabis in New Jersey. At this time, cannabis may not be purchased legally in New Jersey until the State licenses businesses to grow and sell cannabis and cannabis products. It may take up to a year or longer for the Cannabis

Regulatory Commission to issue licenses and for legal cannabis sales to commence. Further guidance is expected later this year when the Cannabis Regulatory Commission promulgates regulations for the new legalization laws.