



Marijuana Legalization and the Workplace: What's an Employer to Do?

On December 15, 2016, Massachusetts voters legalized the recreational use of marijuana, leaving many employers wondering how this will impact their business in 2017 and beyond. The [Massachusetts Regulation and Taxation of Marijuana Act](#) allows adults over the age of 21 to legally possess up to 10 ounces of marijuana in their homes and one ounce in public.

Since the law does not limit employers' ability to enforce policies prohibiting employees from using, possessing, or being under the influence of marijuana at work, it will have little effect on employers who have proper policies in place. Employers also can require drug testing under certain circumstances in accordance with their policies and applicable law.

For workplaces that have heightened safety and injury concerns, the law includes certain protections to mitigate these concerns. It also specifically prohibits the possession or consumption of marijuana on public or private school grounds where children attend preschool, kindergarten, or grades 1-12 inclusive.

So, what does all this mean for employers? It means they can continue to maintain policies that restrict or prohibit marijuana use in the workplace, including performing off-site duties such as conducting trainings or visiting clients, driving company vehicles, and attending work-related functions.

What steps should employers take now?

First, review your employee handbook or policy manual to ensure that your drug policy states that the use of marijuana is prohibited. Schools should ensure that their policy specifically prohibits marijuana on school grounds at all times.

Employers may also want to review their drug testing policies for both pre-employment and current employees to ensure that any testing is done in accordance with a carefully and lawfully written policy. Specifically, random drug testing is only permitted in limited circumstances in Massachusetts. For those employers with safety-sensitive positions, there are protections built into the Massachusetts marijuana law concerning these occupations. Employers can establish zero tolerance policies for those employees engaged in such safety-sensitive work and can conduct drug testing under existing state laws to both applicants and employees.

The takeaway for employers is that while marijuana is now legal in Massachusetts, it is still illegal on the federal level. Employers need not panic as they do not have to accommodate marijuana use and they can maintain their rights to implement and enforce drug-free workplaces if they have proper written policies in place.

The [Massachusetts Regulation and Taxation of Marijuana Act](#), which went into effect on December 15, 2016, allows adults over the age of 21 to legally possess, use, purchase, and manufacture up to one ounce of marijuana in public.

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