

## e-Alert

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# Connecticut Legalizes Recreational Marijuana, Including Employment-Related Protections

## Background

The [Responsible and Equitable Regulation of Adult-Use Cannabis Act](#) will take effect on October 1, 2021. The Act legalizes recreational marijuana and establishes the impact on employers.

## Summary

### Employee Protections

- Employers are prohibited from taking adverse action against an employee who is under the influence or in possession of cannabis products or paraphernalia outside of the workplace.
- However, the law does not restrict an employer's ability to prohibit the use of marijuana during work hours or to discipline employee(s) for being under the influence during work hours.

### Exempt Employers and Employees

- Employers whose primary activity is mining, utilities, construction, manufacturing,

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transportation (especially those subject to Department of Transportation [DOT] compliance), educational services, childcare services, health care services, social services, justice, public order, public safety, safety activities, or national security and international affairs.

- Employees who are actively in an employment contract or collective bargaining agreement that contradicts the Act.

### **Accommodations for Cannabis Use**

- Employers are not required to make accommodations for recreational cannabis use in the workplace.
- Employers have the right to create a policy that prohibits all cannabis products and paraphernalia within the workplace. However, the policy should take into consideration the use of cannabis for medical purposes.
- The Commissioner of the Department of Consumer Protection will be issuing a list of qualifying medical conditions.

### **Drug Testing**

- Drug tests may continue as determined by the company.
- A positive test result for cannabis by a prospective or existing employees should not be used as the sole reason for refusing to hire or continue employment, unless:
  - Refusing to hire the candidate or discharging the employee would put the employer in violation of a federal contract or cause the employee to lose federal funding;
  - The employer reasonably suspects an employee's cannabis usage during working hours;
  - The employee exhibits symptoms of drug impairment while working that decrease their performance; or
  - The drug test was due to a random drug-testing policy.

### **Prohibition of Smoking**

- Employers who have five or more employees should continue to designate their business as a Smoke-Free Workplace. They are permitted to have designated smoking rooms, so long as an additional nonsmoking break room is available.

Employees who believe their employer has violated the Act may take civil action within 90 days of the alleged violation.

## Employer Next Steps

- Employers should review their Drug and Alcohol Use policy in their employee handbook, making sure to update any sections impacted by the Act.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy please [email us](#).
- If you have further questions regarding this e-Alert, please [email us](#).

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