

MINNESOTA

Minnesota Legalizes Recreational Marijuana and Restricts Testing

On May 30, 2023, Minnesota enacted a new law ([HF 100](#)) that legalizes recreational marijuana for adults aged 21 and older in the state. The new law, which also adds new employment protections for both medical and recreational marijuana users, is expected to go into effect by Aug. 1, 2023.

Overview of Employer Impact

The new law does not require employers to permit or accommodate an employee's use, possession, impairment, sale or transfer of marijuana at work or while the employee is operating the employer's vehicle, machinery or equipment, nor does it limit employers' ability to enforce policies prohibiting these actions. However, it does require employers to establish these policies in writing prior to any marijuana testing. It also prohibits these policies from banning lawful marijuana use outside of work, except where compliance would violate a federal rule or result in a licensing- or monetary-based loss.

Prohibition Against Applicant Testing

The new law also prohibits employers from requesting or requiring an applicant to undergo marijuana testing as a condition of employment unless a state or federal law requires it. Exceptions are also available for certain safety-sensitive positions and other specified roles, such as firefighters and peace officers.

Lawful Consumable Product

The new law adds marijuana to an existing prohibition against adverse employment actions based on an individual's use or enjoyment of "lawful consumable products" outside of work. In general, this means employers may not take any adverse actions against an employee based solely on a positive test for marijuana. Employers that violate this prohibition may be ordered to pay the greater of either the actual damages resulting from the violation or a civil fine of \$100 plus attorney's fees.

Important Information

Recreational Marijuana Law

Minnesota has enacted a new that will make it the 23rd state to legalize recreational marijuana.

Written Policy

Under the new law, employers that choose to test employees for marijuana must first establish a written policy that allows for lawful, off-duty marijuana use, unless an exception applies.

The new law restricts marijuana testing and prohibits adverse actions based solely on a positive test, except under certain circumstances.

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