

LEGAL UPDATE

OHIO

Ohio's New Recreational Marijuana Law Protects Employers

On Nov. 7, 2024, Ohio joined 23 other states and the District of Columbia in legalizing recreational marijuana. Like Ohio's existing medical marijuana law (enacted in 2016), the state's new law, [Ballot Issue 2](#), retains employers' rights to have zero-tolerance drug policies and protects employers against lawsuits for taking adverse employment actions based on an individual's marijuana use. The new recreational marijuana law is **effective Dec. 7, 2023**.

Employer Protections

Ballot Issue 2 makes clear that it does **not**:

- ❌ Require employers to permit or accommodate an employee's use, possession or distribution of marijuana;
- ❌ Prohibit employers from enforcing drug testing or drug-free policies;
- ❌ Prohibit employers from taking adverse employment actions against an individual because of the individual's marijuana use;
- ❌ Interfere with any federal laws or regulations requiring drug tests;
- ❌ Permit individuals to file lawsuits against an employer for actions based on the individual's marijuana use, possession or distribution; or
- ❌ Affect the state's program under which employers may receive workers' compensation premium discounts for maintaining drug-free workplaces.

Unemployment Disqualification

The new law provides that an employee who is terminated because of marijuana use is automatically considered discharged for just cause for purposes of unemployment benefits, as long as the termination is in accordance with the employer's workplace drug use policy. To secure the benefit of this, employers that test for marijuana should ensure that they have a written policy in place before taking adverse actions based on positive marijuana tests.

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Important Information

Ohio Ballot Issue 2

Ohio voters have approved a ballot measure that legalizes recreational marijuana for adults aged 21 and older, effective Dec. 7, 2023.

Zero-tolerance Policies

The new law does not affect employers' rights to conduct drug testing or enforce drug-free workplace policies, including those required for workers' compensation premium discounts.

Employers may still ban all off-duty marijuana use and take adverse actions based on positive tests for marijuana.