

Impact of Ohio Legal Recreational Marijuana on Employers: All Smoke and No Fire?

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In November 2023, Ohio [passed a recreational marijuana law](#). Sales of recreational marijuana began on August 6 in the Buckeye State, and employers can expect an uptick in employee use.

Employers' rights with respect to marijuana use are unaffected by the new law. Employers are not:

- Required to permit or accommodate an employee's use, possession, or distribution of marijuana; nor
- Prohibited from refusing to hire, discharging, disciplining, or otherwise taking an adverse action against an individual because of the individual's use, possession, or distribution of marijuana.

This is true even if an individual's marijuana use is lawful and off-duty. The new law does not create a cause of action for employees or applicants based on any such action by an employer. Employers in Ohio can continue enforcing drug testing policies, drug-free workplace policies, and zero-tolerance drug policies.

Employers that continue to prohibit marijuana use and plan to test for it may want to remind employees of the company's policy, requirements, and expectations. Among other things, Ohio employers should ensure their drug and alcohol policies clearly state that:

- Marijuana may not be used during work time, including during meal breaks and rest breaks; and
- Marijuana impairment during work time will not be tolerated.

It is also a good time to reevaluate drug policies to determine whether they are tailored to the needs of the business and consistent with both state and federal law.

Should you have questions about marijuana-related legal developments in Ohio and around the country (as each state is different), or need assistance revising your drug and alcohol policy, please contact the Jackson Lewis attorney with whom you usually work or a member of our Drug Testing and Substance Abuse Management team.

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