

Marijuana Considerations by State

LOUISIANA

(Updated as of January 2021)

Legal Status of Marijuana

Medical Marijuana Law	Yes
Recreational Marijuana Law	No
No broad laws legalizing marijuana*	No

**Marijuana is either totally illegal, or there may be laws decriminalizing possession, or use of marijuana, or, the state may have a CBD law legalizing THC at a level constituting marijuana-derived CBD.*

Understanding this report: The objective of this state report is to identify direct factors that impact employment rights, protections and obligations as they relate to an employee’s use of marijuana.

In some cases, information can be confusing or even appear contradictory. This underscores the necessity of having legal counsel, specialized in marijuana and all related state laws, assist the employer in determining impactors/influences. Further, it is wise to have a professional experienced in drug-responsible workplace programs (i.e., drug-free workplace program [DFWP] consultant) assist in the development of corporate policies and operational practices. (See the NDS article, *Finding Answers to Your Questions about Marijuana in the Workplace.*)

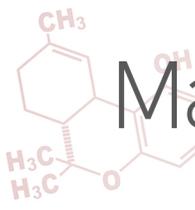
The subtitle categories within each state report are standardized. Because the marijuana laws and other laws directly associated to dealing with employee use of marijuana are different in every state, there may be categories within a state’s report that have no information. This indicates there has been no specific information found.

Lastly, where there are quotation marks, the language is directly from published law cited just before the quote. The quoted words are significant, but it will benefit the reader to review the information in context (go to the law) and in relation to other laws (e.g., disability discrimination, workers’ compensation, unemployment law). Additionally, there may be case decisions in a state, that set precedence and clarify or further detail the operational meaning of a law for an employer.

FROM THE STATE

Significant

- Although Louisiana has legalized medical marijuana for qualifying individuals with a physician’s recommendation, the law does not address employer concerns or employment protections.
- Relevant to an employer is the fact that although Louisiana has a list of medical conditions for which a physician can recommend cannabis, in 2020 a clause was added (LA RS 40:1046 A(2)(xxii)) “any condition not otherwise specified...that a physician, in his medical opinion, considers debilitating to an individual patient and is qualified through his medical education and training to treat.”



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- An employer doing drug testing in compliance with the state's drug testing law (which includes testing for marijuana), may qualify for liability protection.
- Louisiana has unemployment and workers' compensation voluntary laws that, although not required, with compliance, an employer has greater latitude to deny claims.

Testing

- An employer doing drug testing in compliance with the state's drug testing law (which includes testing for marijuana), may qualify for liability protection.

Hiring/Termination

Discipline

Use/Possession

- Prohibits possession and consumption of raw cannabis materials (whole plant).
- Smoking is prohibited.
- Consumption in public is prohibited.

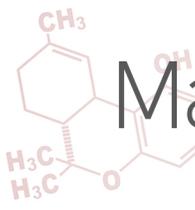
Other Impacting Laws (e.g., drug testing, workers' compensation, unemployment)

- Louisiana has unemployment and workers' compensation voluntary laws that, although not required, with compliance, an employer has greater latitude to deny claims.
- An employee who refuses to take an employer's pre-announced drug test or who tests positive for marijuana, can be discharged for misconduct and thereby disqualified for unemployment compensation.
- If an employee refuses a drug test or tests positive for marijuana in a drug test following a qualifying accident, he or she will be presumed intoxicated and thereby not eligible for workers' compensation.
- Apply the [Checklist of Impacting Issues to Research](#) provided by NDS for additional state laws and issues that can relate to and/or impact your operations regarding employee use of marijuana.

Miscellaneous

Sources (e.g., Bill Number, Authority)

- Louisiana Rev. Stat. 40:1046 – Medical marijuana
- Louisiana Rev. Stat. 49-1001 to 1012 – Drug testing related
- Louisiana Rev. Stat. 40:1046 – Therapeutic use of marijuana
- Louisiana Rev. Stat. Ann. 23:1601 – Unemployment related
- Louisiana Rev. Stat. Ann. 23:1081 – Workers' compensation related



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DISCLAIMER: This resource, developed by *Working Partners*[®], is meant for educational purposes only. It is provided with the understanding that those involved in the resource are not engaged in rendering legal counsel. An experienced attorney with proven knowledge about these issues should be consulted for legal advice. In addition, an experienced drug-free workplace professional should be relied upon for assistance on operational issues for your company's program.