



Marijuana Considerations by State

MARYLAND

(Updated as of May 2021)

Legal Status of Marijuana

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

*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.*)

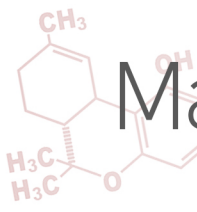
The subtitle categories within each state report are standardized. Because the marijuana laws and other laws directly associated to dealing with employee use of marijuana are different in every state, there may be categories within a state’s report that have no information. This indicates there has been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

- Maryland law does not prevent employers from prohibiting possession, use, or testing for marijuana use, and it does not protect employees who test positive for any reason (Reference, Patient FAQ, "My employer tests for drug use including cannabis. Can they test me if I am a medical cannabis patient? Can they fire me if I use medical cannabis?" available at http://mmcc.maryland.gov/Pages/patients_faq.aspx).
- (Maryland Code, Health-General § 13-3313) A qualifying patient must not be denied any right or privilege as the result of a medical marijuana status provided the patient is complying with the law.



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- Maryland's law also states that it does not prevent the imposition of, (Md. Code Ann., Health-Gen. § 13-3314(a)(1)) "civil, criminal, or other penalties for "using medical marijuana" when doing so would constitute negligence..." which could impact an employer's operations.
- Health insurance companies are not required to cover medical marijuana costs.
- Driving under the influence of medical marijuana is a crime.

Testing

- Maryland law does not prevent employers from prohibiting possession, use, or testing for marijuana use, and it does not protect employees who test positive for any reason. (See **Significant** above)
- Maryland has detailed laws governing drug testing by an employer.
- Individuals qualified as "certifying providers," include individuals registered and licensed in a medical, dentistry, podiatry, or nursing field, among other requirements.

Hiring/Termination

- See **Significant** above.

Discipline

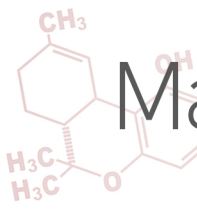
- Maryland law does not prevent employers from prohibiting possession, use, or testing for marijuana use, and it does not protect employees who test positive for any reason.

Use/Possession

- Maryland law does not prevent employers from prohibiting possession, use, or testing for marijuana use, and it does not protect employees who test positive for any reason. (See **Significant** above)
- Edibles are now allowed (2019) but not available at licensed dispensaries.
- Smoking is permitted, except in any public place where smoking tobacco is prohibited or in a motor vehicle. Beyond that, there are specific limitations when on private property.
- Cannot be consumed by either the driver or passenger in a motor vehicle.

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

- Workers' compensation claim denial - Although an injury is not compensable when intoxication on duty is the sole or primary cause of the injury, note that unless there is substantial evidence to the contrary, it will be assumed that an injury is not caused solely or primarily by the effects of drugs.
- Maryland's HB 83 prohibits the Maryland Judiciary Case Search from referring in any way to the existence of a District Court criminal case in which possession of marijuana is the only charge in the case and the case



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was disposed of before October 1, 2014 (effecting nearly 200,000 criminal charges). Full expungement is available after 4 years.

- 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

- HB 83 shields those criminally charged if possession was the only offense and if it happened prior to 10-1-2014. Full expungement is available after 4 years.

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

- Maryland Code Health Gen. 13-3314 – Medical marijuana
- http://mmcc.maryland.gov/Pages/patients_faq.aspx - Medical marijuana Patient FAQ
- Maryland Code Health-Gen. § 13-3313(a) – Medical marijuana
- Maryland Code Health Gen. 17-214 – Drug testing related
- Maryland Reg. Code 10.10.10.01 to .09 – Drug testing related
- Maryland's Fair Employment Practices Act – Disability related
- Maryland HB 83 – Criminal procedure
- Maryland Code Lab. and Emp. 8-1002 – Unemployment related
- Maryland Code Lab. and Emp. 9-506 – Workers' compensation related

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.