



Marijuana Considerations by State

ALASKA

(Updated as of January 2020)

Legal Status of Marijuana

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

**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, [Workplace Considerations For Marijuana Use](#))

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

Employer Concerns

Significant

- Nothing in law requires any accommodation of medical marijuana use in any place of employment and that employers can make their own rules about use. However, due to case decision in *Luedtke v. Nabors Alaska Drilling*, to discipline or fire an employee for drug test results, there must be some "nexus between the use and the work."

Testing



Marijuana Considerations by State

Hiring/Termination

Discipline

Use/Possession

- No use in public except state-sanctioned places.
- State-operated insurance does not cover the costs of marijuana.

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

- Alaska has a voluntary drug testing law and an unemployment law with many details about drug testing. Although not required, these statutes provide extensive legal protections for employers complying with these voluntary laws including greater latitude to deny workers' compensation and unemployment claims.
- Alaska addresses drug testing in their unemployment law with many details. An insured worker is disqualified from receiving benefits if he or she was discharged for misconduct including a violation of an employer's policy concerning the use of drugs or alcohol. This is only true if the employer's drug-free policy and program are consistent with Alaska's voluntary drug testing law and specifications in the unemployment law.
- An injury is not compensable if the injury was proximately caused by employee's intoxication or under-the-influence (unless drug prescribed by his/her physician). It is unknown whether a physician's *recommendation* can qualify.
- Apply the [Checklist of Impacting Issues for Employee Use of Marijuana](#) provided by NDS to research additional state laws that can relate to and/or impact your operations regarding employee use of marijuana.

Miscellaneous

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

- Alaska Statute 17.37, 17.38 et al - Regulation of marijuana
- AS 23.30.235 - Workers' compensation related
- AS 23.20.379 - Unemployment related
- AS 23.10.600 -699 - Voluntary drug testing law

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.