

Marijuana Considerations by State

FLORIDA

(Updated as of January 2020)

Legal Status of Marijuana

Medical Marijuana Law	Yes
Recreational Marijuana Law	No
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.

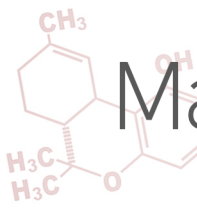
Lastly, where there are quotation marks, the language is directly from published law cited just before the quote. The quoted words are significant, but it will benefit the reader to review the information in context (go to the law) and in relation to other laws (e.g., disability discrimination, workers’ 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

- Employers are not required to accommodate the use of medical marijuana in the workplace or allow an employee to work under the influence of marijuana.
- A case decision determined that employers are not required to pay for or facilitate an employee’s obtainment of medical marijuana.



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- Florida has a voluntary drug testing law that, although not required, if an employer elects to comply, they will qualify for a workers' compensation premium discount. It does require testing for marijuana.
- Florida has unemployment and workers' compensation voluntary laws that, although not required, with compliance, an employer has greater latitude to deny claims.
- Drug testing is required by the state for certain public contractors.

Testing

- See **Significant** above.

Hiring/Termination

Discipline

Use/Possession

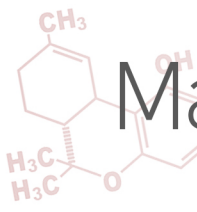
- Consumption prohibited in public places unless employer authorizes use.
- Smoking is permitted (as of March 2019).
- No consumption in transportation vehicles (car, boat, train, etc.).
- Edibles are legal, but must have been commercially produced.

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

- If an employee tests positive causing a discharge, he or she will not be eligible for unemployment compensation when the employer is adhering to the Florida drug-free workplace program and the Florida unemployment laws.
- If an employee tests positive causing a discharge, it will be presumed intoxication was the cause of the injury (rebutted only by clear and convincing evidence) and he or she will not be eligible for workers' compensation for his or her injury when the employer is adhering to the Florida drug-free workplace program and the Florida workers' compensation laws.
- Apply the [Checklist of Impacting Issues for Employee Use of Marijuana](#) 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)



Marijuana Considerations by State

- Florida Constitution Art. X Sec. 29 – Medical marijuana law
- Fla. Stat. Ann. § 381.986 – Medical marijuana related

- Fla. WC Code 440.102 – Drug testing related
- Fla. Admin. Code 59A-24 et al. – Drug testing related
- Fla. Stat. Ann. 443.101 – Unemployment related
- Fla. Stat. Ann. 440.09 – 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.