

Marijuana Considerations by State

NEBRASKA

(Updated as of January 2020)

Legal Status of Marijuana

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

**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.

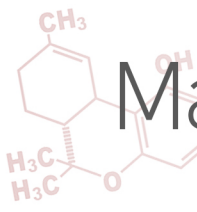
Lastly, where there are quotation marks, the language is directly from published law cited just before the quote. The quoted words are significant, but it will benefit the reader to review the information in context (go to the law) and in relation to other laws (e.g., disability discrimination, workers’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

- No form of marijuana is legal. Both medical and recreational marijuana are illegal in Nebraska.
- Possession of marijuana is illegal in Nebraska.



Marijuana Considerations by State

- Although Nebraska has a mandatory drug testing law with several specifics, it is very open and has the intent of (Nebraska Revised Code 48-1901) "... helping in the treatment and elimination of drug and alcohol use and abuse in the workplace while protecting the employee's rights."
- Per Nebraska's drug testing law, it is unlawful to assist or attempt to tamper with the collection process, and is (Neb. Rev. Stat. 48-1908) "...unlawful to provide, acquire or use body fluids for the purpose of altering the results" of any drug test. These are a Class I misdemeanor.
- An employer can discipline, up to and including termination, based on drug test results, refusing to test, or assisting or attempting to cheat a drug test.

Testing

- See **Significant** above.

Hiring/Termination

- An employer can discipline, up to and including termination, based on drug test results, refusing to test, or assisting or attempting to cheat a drug test.

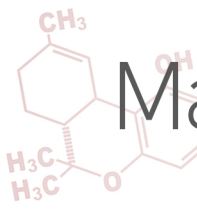
Discipline

- An employer can discipline, up to and including termination, based on drug test results, refusing to test, or assisting or attempting to cheat a drug test.
- See **Significant** above.

Use/Possession

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

- It is illegal for an individual to drive or be in physical control of a vehicle while under the influence of marijuana or any other drug.
- Although Nebraska has a mandatory drug testing law with several specifics, it is very open and has the intent of (Nebraska Revised Code 48-1901) "... helping in the treatment and elimination of drug and alcohol use and abuse in the workplace while protecting the employee's rights."
- A denial of an unemployment claim can be based on misconduct, including being under the influence of marijuana.
- If an employee is injured due to his or her intoxication, workers' compensation benefits will be denied. A case decision found that proving the employee was intoxicated is the burden of the employer.



Marijuana Considerations by State

- 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)

- Nebraska Rev. Stat. 48-1901 to 1910 – Drug testing related
- Nebraska Rev. Stat. 48-628 – Unemployment related
- Nebraska Rev. Stat. 48-102 & 127 – Workers' compensation related
- Johnson v. Hahn Bros. Const. Inc., 188 Neb. 252, 196 N.W.2d 109 (1972) – Case decision

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.