



# Marijuana Considerations by State

## OHIO

(Updated as of September 2019)

### Legal status of Marijuana

<b>Medical Marijuana Law</b>	Yes
<b>Recreational Marijuana Law</b>	No
<b>No broad laws legalizing marijuana*</b>	✓

\*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

#### Significant

- The law permits an employer to establish and enforce a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy.
- The law does not require an employer to accommodate use, possession or distribution of medical marijuana.
- There is a voluntary drug testing law (including testing for marijuana) and employers who choose to comply with it qualify for workers’ compensation premium discounts/rebates.



# Marijuana Considerations by State

- Ohio has a voluntary workers' compensation law with its own drug testing requirements including testing for marijuana. Although not required to, employers who comply have greater latitude in denying workers' compensation claims.
- Contractors working on publicly funded state projects must operate a drug-free workplace including drug testing for marijuana.

## Testing

- An employer can legally operate a drug-free workplace program including testing for marijuana even if an employee is authorized to use medical marijuana.
- Ohio outlines testing details in their voluntary Drug-Free Safety Program.

## Hiring/Termination

- An employer is permitted to refuse to hire, discipline, terminate an employee for marijuana use.

## Discipline

- An employer is permitted to refuse to hire, discipline, terminate an employee for marijuana use.

## Use/Possession

- Permission for use is determined by the employer, but the law does not require an employer to accommodate.
- Smoking or combustion of marijuana is prohibited.
- Vaping and patches are permitted.
- Cannabis is to be consumed at home.
- No operating a vehicle or other named transports while under the influence.
  - DUI limit for marijuana is 35 nanograms of marijuana metabolites per ml of urine, or 50 nanograms per ml of blood.

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

- There is a voluntary drug testing law (including testing for marijuana) and employers who choose to comply with it qualify for workers' compensation premium discounts/rebates.
- Ohio has a voluntary workers' compensation law with its own drug testing requirements including testing for marijuana. Although not required to, employers who comply have greater latitude in denying workers' compensation claims.



# Marijuana Considerations by State

- Contractors working on publicly funded state projects must operate a drug-free workplace including drug testing for marijuana.
- 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

- Nothing in the law permits a person (Ohio Revised Code Ann. 3796) “to commence a cause of action against an employer for refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment related to medical marijuana.”

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

- Ohio’s Medical Marijuana Control Program <https://medicalmarijuana.ohio.gov/>
- Ohio Revised Code Ann. 3796 et al – Medical Marijuana Control Program
- Ohio HB 523 – Medical marijuana law
- Drug-Free Safety Program (voluntary) <http://www.ohiobwc.com/downloads/blankpdf/DFSPGuide.pdf>  
<http://www.ohiobwc.com/employer/programs/dfspinfo/dfspdescription.asp>
- Ohio HB 80 – Public funds’ projects
- Ohio Revised Code Ann. 4123.54 – Workers’ compensation related
- Ohio HB 223 – Rebuttable presumption law
- Ohio Revised Code Ann. 4141.29 – Unemployment 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.