

EMPLOYMENT LAW SUMMARY

Alaska: Legalized Marijuana and Drug Testing Laws



Because You're Different

Though all marijuana use remains illegal under the federal [Controlled Substances Act](#), Alaska has adopted laws that allow certain individuals to use marijuana for medical or recreational purposes in the state. Alaska also has a drug testing law, under which employers may gain protection from law suits if they meet certain requirements.

This Employment Law Summary provides a high-level overview of Alaska's medical and recreational marijuana laws, including a brief overview of how these laws impact employer policies and procedures. Employers that choose to conduct workplace drug testing should also be aware that they may gain protection against certain types of lawsuits if they voluntarily comply with requirements under the Alaska drug testing law.

Medical Marijuana

Alaska's **Medical Uses of Marijuana Act** (MUMA), enacted in 2014, provides protections against criminal prosecution for certain medical uses of marijuana. These protections are available only to "registered patients" and "registered caregivers," which are individuals who have [applied](#) for and received a marijuana registry identification card from the Alaska [Department of Health and Social Services](#) (DHSS).

To become a registered patient, an individual must provide a signed statement from his or her physician indicating that he or she has been diagnosed with one or more of the following "debilitating medical conditions":

- Cancer;
- Glaucoma;
- Human immunodeficiency virus (HIV);
- Acquired immune deficiency syndrome (AIDS);
- Any chronic or debilitating disease that produces cachexia, severe pain, severe nausea, seizures (including those that are characteristic of epilepsy) or persistent muscle spasms (including those that are characteristic of multiple sclerosis); and
- Any other medical condition or treatment approved by the DHSS.

In general, a valid medical marijuana registry identification card allows its holder to acquire, use, possess, cultivate and transport marijuana (and any paraphernalia related to its administration) to alleviate his or her debilitating medical condition. Specifically, a registered patient may possess a total of up to the following:

- **1 ounce** of usable marijuana; and
- **6 marijuana plants**, as long as no more than three of them are producing usable marijuana at any one time.

Under the MUMA, "usable marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) cannabis, but does not include the stalks or roots.

If a registered patient no longer has a debilitating medical condition, he or she must return all registry identification cards to the DHSS within 24 hours of receiving a diagnosis from their physicians. In addition, the DHSS may revoke a patient's registration if it determines that he or she has violated the MUMA. Violations include:

- Using medical marijuana in a way that endangers the health or well-being of any person;
- Using medical marijuana in plain view or in a place open to the general public;
- Selling or distributing marijuana to any person (though a primary caregiver may deliver marijuana to the patient for whom the caregiver is listed and vice versa); or
- Possessing more than the allowed amounts of marijuana or number of plants at any given time.

However, the MUMA’s prohibition against selling or distributing marijuana does not extend to possessing marijuana in a place open to the general public if:

- The person possesses, in a closed container carried on the person, 1 ounce or less of marijuana in usable form;
- The marijuana is not visible to anyone other than the patient or primary caregiver; and
- The possession is limited to that necessary to transport the marijuana directly to the patient or primary caregiver or directly to a place where the patient or primary caregiver may lawfully possess or use the marijuana.

Individuals who knowingly violate these restrictions may be excluded from the marijuana registry for up to one year.

Recreational Marijuana

Starting in 2015, **Alaska’s Regulation of Marijuana Law (ARML)** legalized the sale and use of small amounts of marijuana for recreational purposes in the state. The ARML does **not** exempt any individual from federal laws related to marijuana, nor does it allow individuals to consume marijuana in public.

Instead, the ARML protects individuals who are **age 21 or older** from state prosecution for:

- Possessing, using, displaying, purchasing or transporting up to **1 ounce of marijuana**;
- Possessing, growing, processing or transporting up to **6 marijuana plants** (up to three of which may be flowering);
- Possessing up to **12 marijuana plants** (up to six of which may be flowering) in a single dwelling occupied by two or more individuals who are age 21 or older;
- Gifting up to **1 ounce of marijuana** and up to **6 immature marijuana plants** to a person who is age 21 or older; and
- Assisting, aiding or supporting another person who is at least 21 years of age in any of the situations listed above.

The ARML defines “marijuana” as all parts of the cannabis plant, regardless of whether it is growing. This includes:

- Seeds;
- Resin extracted from any part of the plant;
- Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and
- Marijuana concentrate.

Impact on Employers

| Medical Marijuana | Recreational Marijuana |
|---|---|
| <p>The MUMA specifies that it does not require:</p> <ul style="list-style-type: none"> • Employers to accommodate medical marijuana use in their workplaces; or • Health insurance providers to cover claim expenses associated with the use of medicinal marijuana. <p>Similarly, the MUMA does not require accommodation of medical marijuana use in correctional, medical or other facilities that are monitored by the state’s Department of Administration, in school buses or within 500 feet of a school or recreation or youth center. However, the law also states that a person may not be subject to “penalty in any manner” for applying to become a registered patient.</p> | <p>The ARML specifies that it does not require employers to permit or accommodate recreational marijuana use in the workplace. In fact, the ARML provides employers with a right to implement policies that restrict employee marijuana use. These policies may prohibit the possession, consumption, use, display, transfer, distribution, sale, transportation or cultivation of marijuana on or in the employer’s property.</p> |

More Information

Contact Heffernan Insurance Brokers for more information on legalized marijuana and drug testing laws in Alaska.

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