

Publications

Labor and Employment Alert: Michigan Legalizes Recreational Use of Marijuana

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CLIENT ALERT | 11.7.2018

Michigan becomes the most recent state to legalize the recreational use of marijuana with the passage of Proposal 18-1 on November 6, 2018. While medical marijuana has been legal in Michigan since 2008, the passage of Proposal 18-1 will now permit individuals 21 years and older to purchase, possess, and use marijuana for recreational purposes.

Michigan's new stance on recreational marijuana will undoubtedly create additional challenges for employers seeking to enforce workplace drug policies. Importantly, however, Proposal 18-1 protects employer rights to implement workplace drug policies, including zero-tolerance policies. Specifically, Proposal 18-1 does not require employers to permit or accommodate the recreational use of marijuana in the workplace or on employer property, and will allow employers to discipline employees who violate workplace drug policies or who report to work under the influence of marijuana. As for discipline, employers are not prohibited from discharging, refusing to hire, or taking other adverse employment actions against employees with respect to hire, tenure, terms, conditions, or privileges of employment due to that person's violation of an employer workplace drug policy.

While the passing of Proposal 18-1 may expand the pool of potential employees who use recreational marijuana, the proposal leaves intact the employer's ability to choose the appropriate remedial actions when dealing with these issues.