



DC, MD & VA Marijuana Laws

- DC – Recreational and Medical Use for adults over 21 may possess up to 2 ounces of marijuana and give up to 1 ounce of marijuana to another person. No recreational sales.
- MD – Medical use only with medical marijuana program.
- VA – Recreational and Medical use is legal. Adults over 21 can possess and cultivate 1 ounce of marijuana without intent to distribute. Cannot be used in public. Cultivate 4 plants per household. May share 1 ounce. No dispensaries (medical or recreational).

Impact on Employers



Drug Free Workplace Policy

Testing Policies (onboarding, accident)

Background checks

Accommodations

Drug Free Workplace Policies

No law prohibits drug free workplace policies

May prohibit use or possession of marijuana on employer premises and job sites

Searches company premises, cars, toolboxes, lockers still permitted





Testing Policies

- No consensus on what level of THC in system = impairment
- No federal level (marijuana is illegal under federal law so no use is acceptable)
- Positive test does not mean employee high or impaired
- Enforcement is issue – Zero tolerance must be strictly enforced
- Ability to fill positions if have testing policy

Background Check

Background Check

- Criminal Record
- Drug Test
- Driving Record
- Social Security
- Credit Report

- Drug convictions
- Legislation pending in Maryland and other jurisdictions to allow expungement of marijuana arrests
- Do you require a pre-employment drug test

Medical Accommodations



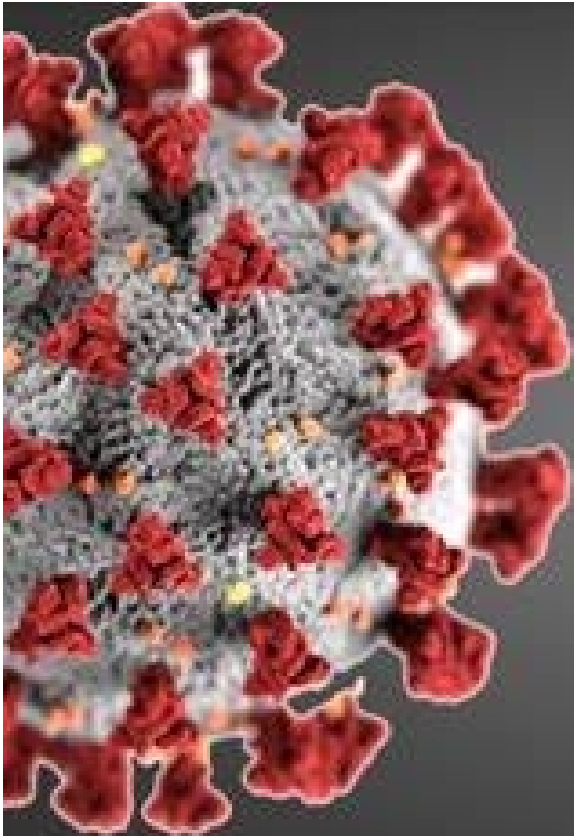
- Marijuana for medical use must be accommodated
- Require medical certification
- Determine drug use intervals
- Time-off from work if must use
- Require employees to register as medical marijuana users



Key Decisions

- Determine contractual requirements regarding policies and testing
- Determine insurance requirements regarding testing/policies
- Decide whether to keep testing
 - Onboarding
 - Random
 - Reasonable Suspicion
 - Post Accident
- Make sure employees understand that marijuana is treated the same as alcohol or other controlled substance





COVID-19 Update

COVID 19 REGULATION

- Biden
*Administration Safer
Workforce Task
Force*
 - Federal
Contractors
 - Large Employers
- Virginia DOLI
Amended
Regulations
- Paid leave

OSHA Safer Workforce Task Force Federal Contractors

- Applies to federal contractors and lower tiered subcontractors on covered contracts.
- Unless current contract permits the government to impose OSHA requirements, regulations do not apply until there is a new contract, task order, modification, etc.

- Requires all employees working on government contract to be vaccinated unless meet a medical exemption under ADA or religious exemption under Title VII
- Cannot offer testing as an alternative
- Covered Employees broadly defined
- Includes employees working on contract remotely



OSHA Federal Contractor COVID Regulations

- All covered employees must be fully vaccinated by 10/8/2021
- Must have first shot of:
 - Moderna by 10/27/2021
 - Pfizer 11/3/2021
 - Johnson & Johnson anytime before 11/24/2021
- Second Shot – Pfizer and Moderna by 11/24/2021

OSHA Federal Contractor COVID 19 Regulation



- First Step – distribute policy and mandatory vaccine attestation form
- Policy informs employees that they must complete mandatory vaccine attestation form and must be vaccinated unless obtain an investigation
- Employers must verify proof of vaccination (no honor system)

OSHA Federal Contractor COVID Regulations

Contractor COVID 19 Regulation

OSHA Federal Contractor COVID Regulations

- Employees must be accommodated for valid medical or religious exemption
- Only if unvaccinated employee poses a “direct threat” to others or themselves may accommodations be denied
- Religious exemption are tricky (cannot question a sincerely held religious belief does not need to be a requirement of mainstream religion)
- Unvaccinated employees must wear masks and physically distance
- Visitors must be vaccinated or mask/physically distance



OSHA Large Employer COVID Regulations

Joint Reporting Committee
Equal Employment Opportunity Commission
Office of Federal Contract Compliance Programs (Labor)

EQUAL EMPLOYMENT OPPORTUNITY
EMPLOYER INFORMATION REPORT EEO-1

Standard Form 100
REV. 11/2008
OMB No. 1627-0047
Control Number
184714

Section A—TYPE OF REPORT
Refer to instructions for number and types of reports to be filed.

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX).

(1) <input type="checkbox"/> Single-establishment Employer Report.	Multi-establishment Employer:
	(2) <input type="checkbox"/> Consolidated Report (Required)
	(3) <input type="checkbox"/> Headquarters Unit Report (Required)
	(4) <input type="checkbox"/> Individual Establishment Report (submit one for each establishment with 50 or more employees)
	(5) <input type="checkbox"/> Special Report

2. Total number of reports being filed by this Company (Answer on Consolidated Report only) _____

Section B—COMPANY IDENTIFICATION (To be answered by all employers)

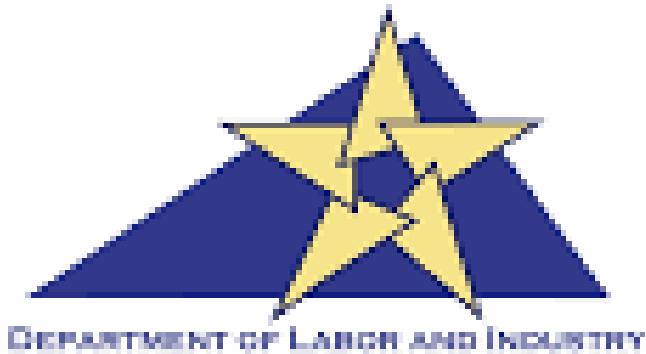
OFFICE USE

- Draft regulations recently submitted to Biden Administration for review/approval
- Large employers 100+ employees tied to filing of EEO-1?
- Mandate that all employees must be vaccinated or be approved for an accommodation: religious or medical

VIRGINIA

Amended DOLI COVID-19 Regulation

EMERGENCY Temporary Standard
Infectious Disease Prevention
SARS-CoV-2 Virus That Causes COVID-19
As Adopted by the
Safety and Health Code Board
on July 15, 2020



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH) PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY (VDLI)

Effective Date:

The Emergency Temporary Standard will take immediate effect upon publication in a newspaper of general circulation, published in the City of Richmond, Virginia. The Department anticipates that publication of the Emergency Temporary Standard will occur during the week of July 20, 2020, although the exact date is not known at this time.

MSH2020-009

Virginia Amended COVID-19 Regulation

- Eliminates classifications of lower and medium risk – policies must reflect differences for fully vaccinated and not fully vaccinated employees
- Must know current rate of infection – when substantial or high all employees must mask and physically distance
- Regulations have specific requirements for high risk (manufacturing, retail, restaurants, etc.) and for health care workers/first responders

Virginia Amended COVID-19 Regulations

- More streamlined
- Still recommend self-monitoring or site monitoring if high risk employees/workers
- Know local level of infection (published weekly - Monday) www.covid.cdc.gov/covid-data-tracker/#county-view)
- Appoint person responsible for compliance
- Follows CDC recommendations
- Still need plans and training



COVID-19 Workplace Recommendations



- Know employees' vaccination status (require mandatory disclosure with proof)
- Revise current COVID-19 Plan for changes needed for VA DOLI
- Understand if you are likely to be covered by OSHA Federal Contractor or Large Employer Regulations
- Appoint COVID-19 point person