



New York - State Specific Information

Information provided is current as of February 1, 2024, and companies are encouraged to consult with legal counsel on these types of complex matters.

Cannabis Legalization History

Medical Use	Legalized – 2014 (Compassionate Care Act)
Recreational Use	Legalized – 2021 (Marihuana Regulation and Taxation Act (MRTA))
Possession/Personal Use Specifics	Adults over the age of 21 are allowed to possess up to 3 ounces of cannabis flower and up to 24 grams of cannabis concentrates. Smoking and vaping any products, including cannabis, are not allowed in public areas of buildings and most workplaces. Other areas where smoking and vaping are not allowed include, but are not limited to, restaurants, bars and public spaces like parks and beaches.

State Regulatory Agency Information

State Regulatory Agency	NYS Office of Cannabis Management (OCM)
State Forms (If Applicable)	None Specified

State Testing Policy

General Information	New York's drug-free workplace policy for private employers is complex and has gone through significant changes recently. Additionally, exceptions exist for safety-sensitive positions where drug testing might be allowed by law. Remember, this is a rapidly evolving area, so staying updated on the latest regulations is crucial for New York employers. Remember, establishing robust documentation is a key risk mitigant for employers in states like New Mexico.
Safety Sensitive Positions	In New York, safety-sensitive positions allowing pre-employment marijuana testing involve operating heavy machinery, working on active construction sites, or jobs where impairment poses immediate risk of serious harm.
Privacy Laws	New York's privacy laws restrict pre-employment marijuana testing in most cases. Employers must balance workplace safety with individual privacy when conducting drug testing.

Recommended Procedures

Does the state have recommended procedures?

It is always recommended to have standardized documentation and training procedures and regular employee evaluations to set clear performance expectations.

While private employers in New York are not mandated to have a drug-free workplace policy, they need to navigate a complex legal landscape involving balancing workplace safety with individual privacy rights, particularly in regard to marijuana use. Understanding the limitations on marijuana testing and adhering to privacy regulations is crucial for employers in the state.

State Employee Procedures and Policies

New York state employees are subject to a stricter [Drug-Free Workplace Policy](#) compared to private employers. While off-duty recreational marijuana use is no longer a basis for discrimination, on-the-job use or impairment from any controlled substance is strictly prohibited.

Protections for Use Outside Workplace/ Work Hours

Is New York a “Right to Weed State”?

As of 2023, [employers cannot discriminate against employees or applicants based on their legal, off-duty recreational marijuana use.](#) This means pre-employment cannabis testing is generally prohibited, and "drug-free workplace" clauses might not be enforceable.

More Detailed Information

[Cannabis in NYC: Know Your Rights](#)

State Requirements for Drug & Alcohol Testing Program

Testing policy requirements:

[NYC Commission on Human Rights](#)

Main Requirement:

For private employers, recreational marijuana use outside of work cannot lead to discrimination, making pre-employment testing mostly off-limits. However, employers can still maintain a drug-free environment during work hours and address suspected impairment.