



Virginia - 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 – 2020 (HB 1846)
Recreational Use	Legalized – 2018 (SB 1406)
Possession/Personal Use Specifics	Adults 21+ in Virginia can possess up to one ounce of marijuana in public and two ounces at home and can cultivate up to four plants. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product to another, whether accepted or not, at or in any public place.

State Regulatory Agency Information

State Regulatory Agency	Virginia Cannabis Control Authority
State Forms (If Applicable)	None Specified

State Testing Policy

General Information	While Virginia allows private employers to drug test applicants and current employees with reasonable suspicion, including post-accident testing, they generally cannot be based solely on off-duty marijuana use due to recent legislation protecting employee rights. Remember, establishing robust documentation is a key risk mitigant for employers in states like Virginia.
Safety Sensitive Positions	Virginia defines sensitive positions as those generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures.
Privacy Laws	While Virginia doesn't have specific laws directly limiting employer drug testing, they must act prudently to avoid infringing on common-law privacy rights, requiring consent or reasonable suspicion for certain tests, clear policies and procedures, and adherence to anti-discrimination laws.

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.

Private Virginia employers can drug test with reasonable suspicion and for safety-sensitive jobs, but not solely for off-duty marijuana use due to employee protection laws, with specific exceptions requiring careful guidance from official sources such as the State of [Virginia Policy Guide](#).

State Employee Procedures and Policies

Virginia state employees aren't covered by a separate Drug-Free Workplace program, but [Policy 1.05](#) from the Department of Human Resource Management lays out guidelines. This policy prohibits unlawful drug use and possession in the workplace and empowers agencies to conduct drug testing under specific circumstances like reasonable suspicion, impairment, or post-accident scenarios.

Protections for Use Outside Workplace/ Work Hours

Is Virginia a "Right to Weed State"?

Although many states have passed laws regulating or restricting an employer's right to require drug testing, Virginia has not. Virginia legislation does not address drug testing in private employment. This means that employers are free to require or ask employees and applicants to take a drug test, as long as they don't run afoul of other legal protections.

More Detailed Information

[NOLo-Workplace Drug Testing](#)

State Requirements for Drug & Alcohol Testing Program

Testing policy requirements: [Virginia Drug Testing Policy](#)

Main Requirement:

Virginia's drug testing policy allows for pre-employment, post-accident, random, return-to-duty, and follow-up testing for some employees depending on their job duties and applicable laws. Agencies can also create stricter policies for specific roles.