

Legalized Recreational Marijuana Comes to the Midwest

[Michigan residents voted to legalize the recreational use of marijuana on November 6, 2018.](#) Michigan, not normally known as a bellwether state, becomes the first state in the Midwest to legalize recreational pot. In early December, individuals age 21 and older will be able to legally purchase, possess and use marijuana and marijuana infused edibles in Michigan.

Michigan will impose a 10% tax on pot growers, processors, transporters and retailers. Marijuana will not be commercially available for sale in Michigan until 2020. This delay will allow the state to develop regulations and issue licenses. At a minimum, the following regulations will pertain to the employer/employee relationship:

- Michigan employers can continue to prohibit marijuana and its use while employees are working, including being under the influence.
- Employers can continue to refuse to hire applicants who test positive for marijuana.
- Employers can continue to discipline or terminate employees who test positive for marijuana.

What About Illinois?

Illinois legalized limited medical use of marijuana and decriminalized the possession of 10 grams or less of marijuana effective 2014.

A [Paul Simon Institute poll conducted in March 2018](#) shows that approximately two-thirds of Illinois residents support legalizing marijuana for recreational use.

Governor-elect JB Pritzker says he will work with Illinois' House of Representatives and Senate to begin the process of legalizing the recreational use of marijuana. Pritzker says that legalizing marijuana will generate hundreds of millions of dollars in tax revenue and reduce opioid overdoses.

What About Illinois Employers?

Legalized recreational marijuana is coming to Illinois. For employers, there will be a variety of considerations:

- As we opined in 2017, [safety](#) has to be the number one consideration for employers when they consider how they will address legalized marijuana in Illinois. If off duty recreational marijuana use is incompatible with the type of business you run, then drug testing and prohibition for positive test results should be maintained.
- No matter what the states do, marijuana is still an illegal drug under federal law. This will not change. Therefore, employers can still take a "hard line" against testing positive for marijuana use if they want to.
- Many employers face tight labor [markets](#). These same employers are sometimes reluctant to hire job applicants who test positive for marijuana usage. If recreational use is legalized in Illinois, employers may feel more free to expand their available labor market.

The legalization of marijuana in Illinois will affect the relationship between employers and employees. There will be no one size fits all answer, however, to the quandaries that employers are sure to face.

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