

## **THE MICHIGAN REGULATION AND TAXATION OF MARIJUANA ACT**

Authored by: Robert Hamor

In November 2018, Michigan voters passed Proposal 1, with Michigan joining other states in legalizing marijuana for recreational use by adults. The Michigan Regulation and Taxation of Marijuana Act (the "Act") (MCL § 333.27951), allows adults age 21 and older to possess up to 2.5 ounces of marijuana on them or up to 10 ounces in their home. The Act does not, however, trump federal law where marijuana is still illegal.

With the dust settled on the passage of the Act, employers are often asking what this means for their employees. The reoccurring question is: "what are the company's rights when it comes to employees using marijuana recreationally?" Fortunately, the Act has provided some guidance.

### **MCL § 333.27951(3) states:**

This act does not require an employer to permit or accommodate conduct otherwise allowed by this act in any workplace or on the employer's property. This act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marijuana. This act does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marijuana.

While we can expect various legal challenges to the interpretation of this law and subsequent amendments, the plain language allows employers to craft enforceable workplace drug-free policies if they so choose. Many employers have done so citing various reasons including: (1) marijuana is illegal under federal law, (2) federal contractors and grantees may be subject to the Drug-Free Workplace act of 1988 which imposes certain conditions for federal contracts and grants, (3) risks of job-related accidents and injuries, and (4) insurance requirements.

You can read the full text of the Act on the web at <http://bit.ly/2KeX9Aq>.

### **DISCLAIMER**

All information, content, and materials available herein are for general informational purposes only and is not, nor is intended to, constitute legal advice of a general or particular nature. Information contained herein may not contain the most up-to-date information. All liability with respect to actions taken or not taken based on the contents herein are hereby expressly disclaimed. The content is provided "as is;" no representations are made that the content is error-free.

Readers should contact competent counsel to obtain advice with respect to any particular legal matter. Readers should act, or refrain from acting, based solely upon information contained herein. Use of this website, newsletter, or any related links or resources, does not create an attorney-client relationship between the reader and the Southfield Chamber of Commerce or its contributors.

The views and opinions contained in this site are those of the individual authors writing in their individual capacities and may not reflect the views and opinions of the Southfield Chamber of Commerce.