

Sean Mack Featured in NJBIZ Article on Uncertainty Faced by Employers in Requiring a Drug-Free Workplace

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Sean Mack, co-chair of the Cannabis & Hemp Law practice, and co-chair of the Litigation practice, at Pashman Stein Walder Hayden, was featured in an article on NJBIZ, “**High stakes.**” The article discusses the uncertainty faced by employers in requiring a drug-free workplace in light of the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act (CREAMMA). Under CREAMMA, the Cannabis Regulatory Commission will develop a certification for Workplace Impairment Recognition Experts (WIREs), who will fill the same role as Drug Recognition Experts (DREs). The New Jersey Supreme Court is currently reviewing a case regarding the admissibility of evidence obtained by DREs.

“‘Depending on how that review comes out for DREs, if the courts throw out that DREs are valid science, it’ll cause a problem for these workplace experts,’ said Pashman Stein Walder Hayden partner Sean Mack. ‘Is it objective science or is there too much subjectivity? That’s part of the problem.’

While employees should avoid putting a target on their backs—if smoking after hours, don’t come in the next day smelling like cannabis, Mack warned—the protections in CREAMMA were designed to require an employer have more than suspicion because someone looks sleepy.

‘To have one of these experts come in and say this person is visibly intoxicated is not an initially easy burden for an employer to meet, and then to take a drug test ... employers that have been paying attention realize the bar has been set higher than it currently is, so employers might be more wary to take adverse action against employees,’ Mack

said.”

For the full article, please click here.

