

## New Cannabis Legislation Would Bring Changes for New Jersey Employers - *NJ Cannabis Blog*

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11.12.20

On November 3, 2020, voters in New Jersey passed a constitutional amendment legalizing the possession and use of marijuana by individuals over the age of 21. The New Jersey Legislature is now attempting to pass legislation to make that amendment a reality. If passed, the new law will essentially create a new protected category under New Jersey employment discrimination law.

The proposed bill contains two important provisions for New Jersey employers.

1) The bill would make it unlawful for an employer to discriminate against an individual because that person uses cannabis unless the employer has a “rational basis” which is “reasonably related to the employment, including the responsibilities of the employee or prospective employee.” This proposed provision means that employers will not be able to discriminate against individuals solely because they use cannabis products during their personal time unless they have a legitimate reason to do so that is sufficiently related to the employee’s position. There is a little-known law in New Jersey which provides similar protections to individuals who use tobacco products.

2) The bill would clarify that New Jersey employers can have drug and alcohol-free workplace policies. So, employers could continue to ban employees from using cannabis, being under the influence of cannabis, selling cannabis, or possessing cannabis in the workplace. This second proposed provision essentially preserves the status quo. It says that employers can continue to have drug-free workplace policies even though cannabis will be legal for adults over 21. In effect, this provision will put cannabis on equal footing with alcohol – both will be legal for individuals who are over 21 but employers can still ban the use of those products in the workplace.

The Cannabis & Hemp practice group at Pashman Stein Walder Hayden can assist New Jersey companies and entrepreneurs who seek to enter into the emerging cannabis industry.

