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BUSINESS

Recreational marijuana is legal in California but you still can't smoke it at work or in your car



By SAMANTHA MASUNAGA
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Recreational marijuana becomes legal in California on Jan. 1. The first round of state licenses for marijuana businesses kick into effect in January. Here's a guide to everything you need to know.



Legal sales of recreational marijuana may have begun Monday, but don't expect big changes in the workplace or

in public.

Michelle Lee Flores, partner at national law firm Cozen O'Connor who specializes in labor and employment law, said that while employees may think the new law could give them a pass, that's not necessarily the case.



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"I think there are a lot of employees that think that now it's a get out of jail free card or 'Now I have a right and therefore you cannot hinder that in any way' and that's just not true," she said. "You have a right to buy alcohol, but we all understand we don't come to work drunk."



But can you bring marijuana on a plane? Or to sporting events? Read on to find out more about how the new law will affect workplaces and other spaces.



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Does the legalization of recreational marijuana sales change drug testing policies for job applicants?

The new law "specifically does not change the legal status between employers and employees when it comes to drug testing and employment," said Tamar Todd, legal affairs director for Drug Policy Alliance, a national drug law reform group that supported the 2016 passage of Proposition 64, which legalized the sale of recreational marijuana in California.

"You can still be drug tested, and you could still be fired by your employer," she said.

What should employers do now in terms of employee handbooks and company rules?

Flores said employers can still enforce so-called zero-tolerance drug policies.

"Those zero tolerance policies are about safety in the workplace," she said. "That's a real issue, so we want to remember that simply because California law says it's legal for recreational purposes doesn't mean that safety goes out the window."

However, she said employers should be mindful of employees who use medical marijuana.

"For some, they may be using cannabis for medicinal purposes and if so, then we need to be mindful of the Americans With Disabilities Act and the California component of that," Flores said. "My first thought in that regard is to say, 'Are you taking this for a medical reason and is there a legal alternative under the federal regime?'"

"With the exception of the medicinal use, think of it as you would with alcohol," she said. "We don't want you to come to work impaired."

Could any legal issues arise by asking employees if they're using marijuana for medical purposes?

In California, Flores said employers should preface that question with a disclaimer — "Do not tell me what your

condition is." ▼

"You don't want to get into a situation where you ring the bell and then someone feels that they've been discriminated against because you know what their condition is," she said. "You're only going to ask that question if someone has a hit for cannabis on a post-offer, pre-employment [test], and you're going to make it clear that you don't want to know what that condition is." ▲

Are there certain industries that are more likely to enforce zero-tolerance policies for marijuana?

Safety-sensitive industries that work with heavy machinery, such as construction or manufacturing, may be more likely to uphold these policies, Flores said.

Are many companies changing company policies?

Flores said many of the employers she knows are keeping their status quo on marijuana usage.

"The bigger concern is managing the either lack of knowledge or misconception or impression that now it's a free-for-all," she said. ▼

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Can you transport marijuana in your car?

Drivers can have marijuana in their vehicles, but it must be in a container in the trunk. Driving under the influence is still illegal and consumption in the vehicle is not allowed. ▲

Can you bring marijuana to sporting events at venues that have explicitly prohibited illegal drugs in the past?

Todd of Drug Policy Alliance said the answer will probably depend on the venue itself. Prop. 64 prohibits public

consumption of marijuana, which would include sporting events, though businesses can get a license for on-site consumption, she said. Businesses that allow on-site marijuana consumption could not also allow the consumption of alcohol or tobacco. That means you can't smoke it in a bar.

Private arenas can prohibit possession of marijuana in their own rules. For example, a Staples Center spokeswoman said cannabis and use of the drug are prohibited inside the venue. A spokeswoman for the Honda Center said the venue was nonsmoking and that marijuana was not permitted at the arena.

The Transportation Security Administration focuses on detecting security threats to aircraft and passengers, TSA spokeswoman Lorie Dankers said in an email. However, if a TSA agent came across marijuana — or any item that might violate the law — during a security bag check, the agency contacts the airport's police and they handle the case.

If a passenger at Los Angeles International Airport has less than an ounce of marijuana or less than eight grams of concentrated cannabis, it is treated "just as cigarettes" or "any tobacco product would be treated," said Rob Pedregon, a spokesman for LAX police.

But he noted that this is just within the state of California. Once passengers go into federal airspace, they are subject to federal laws, he said. And in a statement, the Federal Aviation Administration said that "while a number of states have legalized marijuana for medicinal or personal use, federal law still prohibits transporting the drug on aircraft."

Does the Justice Department's decision change anything?

Not really, says Robert Mikos, a professor at Vanderbilt University Law School who studies federal, state and local marijuana laws and enforcement policies. The Justice Department on Thursday rescinded Obama-era rules that prevented federal prosecutors from targeting marijuana businesses operating legally under state laws.

"By rescinding these, it looks like the attorney general is changing course, but it's important to note they didn't say that he wanted local U.S. attorneys to go out and crack down on the industry," he said. "He's left it up to the discretion of local U.S. attorneys, and there are some reasons to think they'll just stay the course."

Mikos said the federal government has limited resources for this kind of enforcement and that going after the recreational marijuana industry would require pulling resources away from other tasks, such as fighting the opioid epidemic.

However, Todd of Drug Policy Alliance said removing this policy "creates a lot of uncertainty" and represents a "direct threat to access."

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UPDATES:

3 p.m.: This article was updated with additional details about marijuana possession in airports and on planes.

1 p.m.: This article was updated with additional details about the Department of Justice's stance on

recreational marijuana.

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