

# Government Affairs Update



## Cannabis Use in Illinois

The Cannabis Regulation and Tax Act (CRTA) will go into effect on January 1, 2020 making Illinois the 11th state to legalize adult recreational cannabis use.

The CRTA instantly caused concern and confusion in the business community regarding employers' rights and liabilities relative to drug testing, including those employer's signatory to collective bargaining agreements.

However, on November 14, 2019, the Illinois legislature passed an amendment (trailer bill) to the CRTA that clarified many outstanding questions, including employment-based questions. The trailer bill was signed into law on December 4, 2019 by Governor Pritzker.

Here are some takeaways from the newly signed trailer bill:

- Employers cannot refuse to hire a candidate or discharge an employee based solely on the fact that an individual is a recreational marijuana user or because an individual possesses a medical marijuana card.
- Employers can maintain, reasonable and non-discriminatory workplace drug policies whereby they can:
  1. Prohibit employees from possessing, distributing and/or using cannabis at work (including in parking areas and company-controlled vehicles) or being under the influence of cannabis while performing job duties or while on call.
  2. Take actions, including discipline or termination, based a good faith belief that an employee used, distributed and/ or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policies.
  3. Subject an employee or applicant to reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, and discipline, termination of employment, or withdrawal of a job offer due to a failure of a drug test.
  4. Take actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy.

If an employee or candidate informs an employer that he/she possesses a medical marijuana card, the employer should engage in the interactive accommodation process.

*Editor's Note: The above language is courtesy of MARBA's December 10th memo. Specific questions regarding compliance with the CRTA and any other laws amended by the CRTA should be addressed with your legal counsel.*