Engage PEO Client Alert

Maryland: Cannabis Legalization, Non-Competes, Enforcement of Civil Rights, and Firearm Restrictions

1. CANNABIS LEGALIZATION

What's New: Effective July 1, 2023, individuals who are 21 years old and older may purchase cannabis products legally from a licensed dispensary.

Why It Matters: Effective July 1, 2023, with the legalization of adult use cannabis, employers may want to revisit that their workplace policies that encompass the consumption of marijuana. While no express guidance has been provided regarding the impact of this legislation on employers, employers should bear in mind that consumption of marijuana outside of the workplace during non-work hours may no longer serve as grounds for termination or other disciplinary action where an employee's work performance is not impaired.

What Employers Should Do: Employers should be careful not to issue discipline to employees based only on their use of recreational marijuana without other aggravating factors, such as impairment on the job due to marijuana use. Similarly, employers should revisit any pre-employment drug testing policies they may have in place to ensure that job candidates are not screened for use of marijuana unless they will hold a safety-sensitive position, such as driving or operating vehicles.

2. EXPANSION OF PROHIBITION ON NON-COMPETE AGREEMENTS

What's New: Effective October 1, 2023, Maryland's prohibition on non-competition agreements has been expanded to include those individuals who enter into an employment contract or other similar agreement and earn a sum that is less than or equal to 1.5 times the state minimum wage rate.

Why It Matters: Employers that enter into an employment agreement or a similar document with an employee who earns 1.5 times Maryland's minimum wage may not include a non-compete or conflict of interest provision that restricts the ability of an employee to enter into employment with a new employer to become self-employed in the same or similar business. In 2023, the minimum wage in Maryland is $13.25/hour. Thus, Maryland employees who earn $13.25 x 1.5 = $19.875/hour or less may not be subject to a non-compete or conflict of interest provision in an employment agreement or a similar document.

What Employers Should Do: Employers should ensure that they are not entering into employment agreements or similar documents that contain non-compete provisions with employees who earn 150% or less of Maryland's then applicable minimum wage rate.

3. NEW AUTHORITY OF OFFICE OF ATTORNEY GENERAL TO INITIATE A CIVIL ACTION REGARDING CIVIL RIGHTS VIOLATIONS

What's New: Effective October 1, 2023, Maryland's Office of the Attorney General (OAG) may investigate, prosecute, and provide legal remedies for residents of the state of Maryland with respect to any conduct that constitutes a civil rights violation.

Why It Matters: Maryland's OAG has been authorized to investigate and bring legal actions regarding conduct, including harassment or discrimination, that may constitute a civil rights violation. This means that employers should be on notice of the fact that a court action to address civil rights violations may be brought against them not only by individuals but also by the state.

What Employers Should Do: Employers should take care to ensure that the have robust anti-discrimination and anti-harassment policies in place and that they adhere to them, as employers may now face an investigation and ultimately a civil action filed by the Maryland OAG in addition to an employee seeking direct relief through the Maryland Commission of Human Rights and potentially the courts.

4. RESTRICTIONS ON CARRYING FIREARMS

What's New: Effective October 1, 2023, a person wearing, carrying or transporting a firearm may not enter or trespass on property unless the owner or the owner's agent has posted a clear and prominent sign indicating that it is permissible to wear, carry, or transport a firearm on the property or enter or trespass on property unless the owner or the owner's agent has given the person express permission to do so.

Why It Matters: The new law restricting individuals from bringing firearms onto private property without being given express permission to do so will be applicable to workplaces as well as private residences.

What Employers Should Do: Employers should review, and if necessary, revise any posted notices concerning restrictions on bringing weapons onto workplace property.

Please reach out to your Engage Human Resources Consultant if you have any questions concerning this alert or other H.R.-related matters.