Engage PEO Client Alert

Washington DC New Protections for Employee Cannabis Use

WHAT'S NEW: On July 13, 2022, Washington DC Mayor Muriel Bowser, signed the Cannabis Employment Protections Amendment Act of 2022. It is currently unfunded. However, the Act will only become applicable or enforceable when its fiscal effect is included in an approved budget, or on July 13, 2023, whichever is later.

WHAT IT MEANS: The new law prohibits employers from refusing to hire, terminate, suspend, fail to promote, demote, or penalize an individual based on upon an individual's use of cannabis, the individual's status as a medical cannabis program patient, or for testing positive for cannabinoid metabolites*.

Employers may take otherwise prohibited actions in limited circumstances as follows:

- An employee works in a safety sensitive position that the employer designates. It must be a position in which it is reasonable to expect an employee under the influence of drugs or alcohol to injure themselves or others while performing the routine duties or tasks required of the position.
- As required by federal statute, federal regulations or a federal contract or funding agreement.
- An employee used, consumed, possessed, stored, delivered, transferred, displayed, transported, sold, purchased or grew cannabis at the employee's place of employment, while performing work for the employer, or during the employee's hours of work.
- An employee is impaired by the use of cannabis, in that they manifest specific articulable symptoms that substantially decrease or lessen the employee's performance of duties or tasks.

WHAT EMPLOYERS SHOULD DO: Employers should review drug testing policies and procedures to ensure compliance. Within 60 days of the law becoming applicable (and annually thereafter), employers must notify employees and new hires of their rights and whether their position has been designated as a safety sensitive position. The DC Office of Human Rights is expected to publish a model notice.

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

* Cannabis drug tests detect cannabinoid metabolites, which are chemical remnants of the plant that remain in the body after the euphoric effect has worn off. The presence of cannabinoid metabolites offers a reliable indicator that a person has consumed the parent drug but does not indicate a person is currently under the influence.