

Legalized Marijuana's Workplace Labyrinth, New York Law Journal, written by Aaron Solomon & Taylor Ferris, Oct. 19, 2021

ANALYSIS

Legalized Marijuana's Workplace Labyrinth

The MRTA will surely cause a myriad of obstacles for employers.

By Aaron N. Solomon and Taylor M. Ferris

On March 31, 2021, former New York Governor Andrew Cuomo signed the Marijuana Regulation and Taxation Act (MRTA), legalizing the recreational use of marijuana and expanding New York's Medical Cannabis Program. While this is a victory for New Yorkers overall, the MRTA will surely cause a myriad of obstacles for employers.

In addition to legalizing the recreational use of marijuana, the MRTA amends §201-d of the New York Labor Law (NYLL)—which prohibits discrimination against the engagement in certain activities—to prohibit discrimination against an employee who uses marijuana outside of business hours and “off of the employer’s premises and without use of the employer’s equipment or other property.” N.Y. S. 854-A (2021). Employers must refrain from such discrimination even though the MRTA also does not “limit the authority of ... employers to enact and enforce policies pertaining to cannabis in the workplace” or “exempt anyone from any requirement of federal law or pose any obstacle to the federal enforcement of federal law.” *Id.*

The MRTA also does not prohibit an employer from maintaining a zero-tolerance drug-free workplace and enforcing policies regarding same. Specifically, New York employers are not required to permit or otherwise accommodate the use, possession, sale, or transfer of cannabis in the workplace. *Id.* Employers can prohibit the use of marijuana during “break times” or at afterhours work functions. *Id.* Furthermore, employers can prohibit employees from being “impaired” during work hours, even if the “impairment” results from the use of marijuana at home. *Id.*

Please read the full article at the link below.

Aaron N. Solomon is a partner at Kaufman Dolowich & Voluck, where he focuses his practice primarily in management-side labor and employment law. Taylor M. Ferris is an attorney at the firm and she focuses her practice in representing management in all areas of employment law.