

Marijuana Legalization Votes Won't End Drug-Free Workplaces, Law360, ft. Tad Devlin

Tad A. Devlin, partner at KD Law in San Francisco, was quoted in a Law360 article written by Matthew Bultman on September 16, 2016.

Eight states will vote in November on whether to legalize marijuana for medical or recreational use, but attorneys say employers in those states will be able to maintain drug-free workplaces regardless of what happens at the polls.

Nonetheless, attorneys said they expect employees to continue bringing challenges in court.

"Broadly speaking, anytime there's a change in the law, it creates potential claims," said Tad Devlin, a partner at Kaufman Dolowich & Voluck LLP.

Marijuana legalization laws, while similar in some respects, vary from state to state. In particular, there are often differences in the legal protections that are afforded to medical marijuana users.

For instance, a handful of states, including Pennsylvania, prohibit employers from taking adverse action against a worker just because they are medical marijuana card holders unless the person was impaired during work hours. Attorneys said it's important employers be aware of the law in their particular jurisdiction when crafting drug-testing policies.

In the meantime, employers should review their policies and handbooks to make sure they are clear about what is expected of employees, attorneys said. Devlin said it is also important to have training programs for workers to make sure that everyone knows the rules. "It goes quite a ways in battling back claims by having all of that done," he said.