



Delaware - State Specific Information

Information provided is current as of July 31, 2024, and companies are encouraged to consult with legal counsel on these types of complex matters.

Cannabis Legalization History

Medical Use	Legalized – 2011 (Title 16)
Recreational Use	Legalized – 2023 (Delaware Marijuana Control Act)
Possession/Personal Use Specifics	Adults 21+ can possess up to one ounce of marijuana for personal use. Equivalent amounts of marijuana products like concentrates and edibles are also allowed. Sharing small amounts between adults is permitted. Using marijuana in public is illegal , including parks, businesses, and vehicles. This applies to smoking, eating, and vaping cannabis.

State Regulatory Agency Information

State Regulatory Agency	Division of Public Health – (DPH)
State Forms (If Applicable)	Non-Specified

State Testing Policy

General Information	Employers can conduct reasonable suspicion drug testing if there is a clear belief that an employee is under the influence while at work, based on observable signs of impairment or specific incidents. Employers must follow their written policies on such testing, which should be communicated to employees. Remember, establishing robust documentation is a key risk mitigant for employers in states like Delaware.
Safety Sensitive Positions	Where impairment could significantly impact safety and performance, including roles involving operating heavy machinery, handling hazardous materials, performing law enforcement duties, and working in healthcare settings
Privacy Laws	Test results and related medical information must be kept private and disclosed only to individuals with a legitimate need to know, such as HR personnel or supervisors involved in the disciplinary process. Employers must also follow established procedures for obtaining consent and informing employees of their rights and the testing process.

Recommended Procedures

Does the state have recommended procedures?	<p>It is always recommended to have standardized documentation and training procedures and regular employee evaluations to set clear performance expectations.</p> <p>Establish and communicate employer's drug testing policies, including procedures for pre-employment, reasonable suspicion, and post-accident testing. These policies should align with privacy laws, ensuring confidentiality and proper handling of test results, and should be clearly outlined in employee handbooks or similar documents.</p>
State Employee Procedures and Policies	<p>Mandates a drug-free workplace, includes drug testing under specific circumstances (pre-employment, reasonable suspicion, post-accident, and for safety-sensitive roles), ensures confidentiality of test results, and may provide access to substance abuse programs for those seeking help.</p>

Protections for Use Outside Workplace/ Work Hours

Is Delaware a "Right to Weed State"?	<p>Employers can terminate or refuse to hire individuals if their cannabis use impairs their ability to perform job duties or poses safety risks, particularly for safety-sensitive positions. Additionally, employers are not required to allow on-duty use of cannabis, and drug testing policies can still apply.</p>
More Detailed Information	<p>Delaware Drug-Free Workplace Policy</p>

State Requirements for Drug & Alcohol Testing Program

Testing policy requirements:	<p>Delaware Drug Testing Law</p>
Main Requirement:	<p>State employees must follow a drug-free workplace policy, with testing permissible under conditions such as pre-employment, reasonable suspicion, and post-accident, while results are kept confidential. Private employers are responsible for creating and communicating their own drug and alcohol testing policies, including those for reasonable suspicion and post-accident testing, and must handle test results with confidentiality.</p>