

INTERNATIONAL UNION OF OPERATING ENGINEERS

Craft-Maintenance Division State of California Unit 12
Locals 3, 39 & 501, AFL-CIO

Even Though It's Legal, You Can Still Lose Your Job Over It- 12/29/17

As of January 1, 2018 recreational use of marijuana in California is legal, but this doesn't mean that you can be under the influence of it or use it while on the job.

For decades most employers have had workplace policies in place dealing with certain types of drugs and alcohol. Basically, they prohibit employees from being under the influence of drugs or alcohol or using them during working hours.

State law has changed, but employer policies have not. The courts have held that an employer can terminate an employee for being in violation of a drug free workplace policy even if it is for medical reasons.

Proposition 64, the California initiative passing more than a year ago legalizing recreational marijuana for adults over 21 allows public and private employers to enact and enforce workplace policies pertaining to marijuana. In other words, an employee can be terminated for consuming it even if it is on his or her own time and away from work, if that's your employer's policy.

In California there are no workplace provisions protecting the rights of medical marijuana patients. Also, there is no law requiring accommodation for medicating on the job or protection from termination.

The Supreme Court has ruled that businesses can fire employees who fail drug tests even if they present evidence of a doctor's recommendation for medicinal use.

Nearly fifty California state agencies can test various employees if there is "reasonable suspicion" of drug or alcohol use, including marijuana. Employees can be dismissed, depending on test results.

Employers may still enforce drug-free workplace rules for cannabis even with marijuana legalization in California. Employers can still test you for pot and fire you if you refuse the test.

So remember, before you light up or ingest, be sure you are not reporting to work under the influence.

Happy New Year

Steve Crouch
Director of Public Employees