

NYC Bill Banning Pre-Employment Marijuana Drug Testing Becomes Law

Article By:

Nathaniel M. Glasser

Lauri F. Rasnick

Michael F. McGahan

Steven M. Swirsky

Amanda M. Gomez

As we previously reported, on April 9, 2019, the New York City Council passed [Int. 1445-A](#), which prohibits employers from pre-employment drug testing for marijuana and tetrahydrocannabinols (“THC,” the active ingredient in marijuana). On May 10, 2019, Int. 1445-A became law by operation of the New York City legislative process, which automatically made the bill law after 30 days without action by Mayor de Blasio. The law becomes effective May 10, 2020, giving New York City employers one year to prepare.

Under the law, employers, labor organizations, and employment agencies, and all of their agents, are prohibited from requiring a prospective employee to submit to a marijuana or THC drug test as a condition of employment. This conduct is now characterized as an “unlawful discriminatory practice.” There are, however, several exceptions to the law. For example, the law will not apply to employees in the following roles: safety-related positions, transport-related positions, caregivers, and certain federal contractors. Further, to the extent that a collective bargaining agreement requires drug testing, the law will not apply to such testing.

What Employers Should Do Now:

In addition to the steps that we have previously suggested, employers should consider the following actions:

- Determine whether you are a covered employer, and if so, review and potentially revise your drug-testing requirements to ensure that they will not violate the new prohibition, and be prepared to cease pre-employment drug screening for marijuana and THC.
- Determine whether any of your employees fall within one of the many carve-outs and

exceptions provided under the law and if so how the Company will implement the testing for such individuals.

- Look out for any rules or regulations published by the City to facilitate and guide implementation of the law.

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