



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. Home cultivation is illegal. 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	Office of the Marijuana Commissioner (OMC)
State Forms (If Applicable)	Non-Specified

State Testing Policy

General Information	Delaware allows employers to enforce drug-free workplace policies. Employers may conduct pre-employment, random, reasonable suspicion, and post-accident testing . Employers may legally refuse to hire or may terminate an employee for a positive THC test if they are a recreational user.
Safety Sensitive Positions	Employers have broad authority to prohibit use (on or off duty) for roles involving heavy machinery, hazardous materials, law enforcement, or healthcare.
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?	There is no state mandate requiring a written policy, but it is strongly recommended to protect against discrimination claims. Policies should clearly distinguish between medical cardholders and recreational users. Employers are encouraged to use Workplace Impairment Recognition training for supervisors, as a positive THC test alone does not prove "current" impairment.
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State Employee Procedures and Policies	Delaware allows employers to enforce drug-free workplace policies. Employers may conduct pre-employment, random, reasonable suspicion, and post-accident testing. Employers may legally refuse to hire or may terminate an employee for a positive THC test if they are a recreational user.
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Protections for Use Outside Workplace/ Work Hours

Is Delaware a "Right to Weed State"?	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.
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More Detailed Information	Delaware Drug-Free Workplace Policy
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State Requirements for Drug & Alcohol Testing Program

Testing policy requirements:	Delaware Drug Testing Law
Main Requirement:	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.