



Virginia - State Specific Information

Information provided is current as of January 7, 2026, and companies are encouraged to consult with legal counsel on these types of complex matters.

Cannabis Legalization History

Medical Use	Legalized – 2020 (HB 1846)
Recreational Use	Legalized – 2018 (SB 1406)
Possession/Personal Use Specifics	Recreational retail sales are scheduled to begin as early as November 1, 2026, under the oversight of the Virginia Cannabis Control Authority . Possession of up to one ounce in public remains legal, though new 2026 legislation has proposed increasing the limit to 2.5 ounces. Adults (21+) may possess up to one ounce in public. At home, you may possess the harvest from up to four plants (per household, not per person). Public consumption remains a civil infraction. Note that "botanical" (flower) medical cannabis is now fully harmonized with "cannabis oil" protections.

State Regulatory Agency Information

State Regulatory Agency	Virginia Cannabis Control Authority
State Forms (If Applicable)	None Specified

State Testing Policy

General Information	Under Va. Code § 40.1-27.4 , Virginia prohibits both private and public employers from discharging or discriminating against employees for their off-duty, lawful use of cannabis. A positive drug test for metabolites is no longer sufficient for termination on its own; employers must provide "additional factors" or evidence of active workplace impairment. Remember, establishing robust documentation is a key risk mitigant for employers in states like Virginia.
Safety Sensitive Positions	While general protections are broad, a "safe harbor" exists for the Defense Industrial Base Sector. Employers in this sector may still refuse to hire or retain any employee who tests positive for THC in excess of specified amounts. Additionally, roles subject to federal mandates (DOT, federal grants) are exempt from state protections.
Privacy Laws	While Virginia doesn't have specific laws directly limiting employer drug testing, they must act prudently to avoid infringing on common-law privacy rights, requiring consent or reasonable suspicion for certain tests, clear policies and procedures, and adherence to anti-discrimination laws.

Recommended Procedures

Does the state have recommended procedures?

As of 2026, Virginia has harmonized workplace rights by extending the same cannabis protections to both private and public sector employees (including teachers and first responders), prohibiting discipline based solely on a positive drug test. Furthermore, the "odor of marijuana" no longer serves as legal [reasonable suspicion](#) for a police stop or search unless the officer specifically suspects a DUI; similarly, in the workplace, odor alone is increasingly viewed as an insufficient "additional factor" to prove impairment without documented behavioral evidence.

State Employee Procedures and Policies

Virginia state employees aren't covered by a separate Drug-Free Workplace program, but [Policy 1.05](#) from the Department of Human Resource Management lays out guidelines. This policy prohibits unlawful drug use and possession in the workplace and empowers agencies to conduct drug testing under specific circumstances like reasonable suspicion, impairment, or post-accident scenarios.

Protections for Use Outside Workplace/ Work Hours

Is Virginia a "Right to Weed State"?

In 2026, Virginia has transitioned into a "Right to Weed" state for most workers. Under Va. Code § 40.1-27.4, employers are generally prohibited from firing or disciplining employees based solely on a positive THC test result. Unless an employee is in a federal-regulated role or the Defense Industrial Base Sector, an employer must document active workplace impairment to justify adverse action. Retail sales are set to launch on November 1, 2026, which is expected to further normalize off-duty use.

More Detailed Information

[NOLO-Workplace Drug Testing](#)

State Requirements for Drug & Alcohol Testing Program

Testing policy requirements:

[Virginia Drug Testing Policy](#)

Main Requirement:

Virginia's drug testing policy allows for pre-employment, post-accident, random, return-to-duty, and follow-up testing for some employees depending on their job duties and applicable laws. Agencies can also create stricter policies for specific roles.