



What's New in HR Law

Bill 174 Restricts Use of Marijuana in Ontario Workplaces

March 20, 2018

BOTTOM LINE

Bill 174, *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017*, which received Royal Assent on December 12, 2017, will amend the *Highway Traffic Act* and establish new statutes, including the *Smoke-Free Ontario Act, 2017* and the *Cannabis Act, 2017*. Both of these acts impose new obligations on employers and employees regarding the use of marijuana in the workplace.

Smoke-Free Ontario Act, 2017

The *Smoke-Free Ontario Act, 2017* will prohibit individuals from smoking or holding lighted medical cannabis in a number of places, including in an "enclosed workplace" or "enclosed public place."

The Act will also require employers to:

- Ensure compliance with the obligations on smoking or holding lighted medical cannabis in enclosed spaces;
- Provide notice to employees regarding the restrictions;
- Post signs throughout the workplace;
- Ensure that there are no ashtrays or similar equipment in the enclosed workplace or area (other than a vehicle in which the manufacturer has installed the ashtray); and

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- Ensure that employees or persons who do not comply with the above requirements are removed from the space.

Corporations that fail to abide by the restrictions on cannabis use in an enclosed space may be fined up to \$100,000 for a first offence, and up to \$300,000 for subsequent offences. Individuals may be fined up to \$1,000 for the first offence, and up to \$5,000 for subsequent offences.

Cannabis Act, 2017

The *Cannabis Act, 2017* will prohibit individuals from consuming recreational cannabis in:

- A public place;
- A workplace within the meaning of the *Occupational Health and Safety Act*;
- A vehicle or boat; or
- Any other prescribed place.

This prohibition means that even after recreational marijuana is legalized, individuals cannot consume recreational cannabis in the workplace. It is important to note that the *Occupational Health and Safety Act's* broad definition of "workplace" includes "any land, premises, location or thing at, upon, in or near which a worker works".

Further, if an employee requires medical marijuana, employers should consider their obligations pursuant to the duty to accommodate under the *Human Rights Code*.

Check the Box

Although Bill 174 has not yet come into force – the proclamation date is still unknown – we anticipate that the effective date will align with the federal legislation legalizing marijuana, expected to occur in 2018.

To prepare for their new obligations under the *Smoke-Free Ontario Act, 2017* and *Cannabis Act, 2017*, employers should consider creating or revising their smoke-free policies to refer to the new legislation and comply with the new requirements.

Need more information?

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