

Your Business

New Jersey | Fall/Winter 2021



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Cannabis and the workplace

In 2021, New Jersey joined the growing number of states that have legalized recreational, adult-use cannabis, which means that employers throughout the state should revisit and potentially update their workplace drug policies.

What you can require

Employers may prohibit cannabis from their workplace explicitly. These policies should be stated clearly in the company's personnel policy. Such policies must be in writing, and should be distributed to all employees and prospective employees.

Employers may prohibit their employees from using cannabis outside the workplace if it would jeopardize a federal contract, since cannabis still is illegal under federal law. Additionally, specific types of employers (e.g., firefighters, police officers) may require their employees to refrain from using cannabis outside the workplace.

Testing for cannabis impairment remains an ongoing issue, but employers may penalize and discharge an employee who is unable to perform his or her work and it is suspected that he or she is impaired from cannabis use. If an employee demonstrates symptoms that interfere with his or her ability to work or acts in a way that creates an unsafe work environment for other employees, then an employer may take the appropriate adverse actions. Such actions should be in accordance with the company's written personnel policy.

Only employers who meet specific exemptions to the law may take adverse action against an employee if he or she

tests positive for cannabis use—these exemptions apply primarily to employers who have federal contracts.

What you can't require

Employers may not discharge or refuse to hire an individual for cannabis use outside the workplace, unless it would jeopardize a federal contract or unless the employer has a specific duty (e.g., firefighting or policing).

Unless you meet specific exemptions to the law (you employ firefighters, police officers, etc.), you may not take adverse action against an employee if he or she tests positive for cannabis. You should review your drug testing policy and remove cannabis from the list of drugs for which you test.

Servicing cannabis-legal businesses

If you are interested in selling or providing services to a cannabis-legal business, New Jersey has not yet issued regulations that allow the sale of recreational cannabis.

In the meantime, it's important to ensure that any of your insurance policies do not exclude services to cannabis businesses. Some of these may be surprising, such as providing services to refrigeration units.

Whether you need to review your office policies to adapt to the legalization of recreational cannabis or you find yourself working with the cannabis industry, contact our office today so we can help you ensure that you have the coverages in place to protect your business.



Tackling workplace issues without HR

EEO and EPLI facts:

AVERAGE
EEOC settlement is
\$40,000

41.5%
of employee lawsuits
are brought
against small,
private companies
**with fewer than
100 employees.**

Average
EPLI policy
costs between
\$800 and \$3,000
annually



Businesses should have a dedicated person or department that handles human resources. HR personnel have myriad responsibilities and without HR, businesses could face hefty employment liability claims inadvertently if they violate federal or state employment laws.

But, not every business is equipped with a person or team that protects it from getting into trouble. Consider these tips if your business does not have HR personnel:

1. **Educate yourself.** It's imperative that your business is compliant with the Equal Employment Opportunities Act. The EEO Act protects employees from workplace discrimination. If you violate this federal law, you could face a costly federal lawsuit from the Equal Employment Opportunity Commission.
2. **Hire HR consultants.** Usually, if employers don't have HR personnel, they might be trying to save money. However, hiring a third-party consultant to help you (e.g., with EEO compliance, with personnel policies, with payroll) will protect your business from lawsuits, help ensure your employees' rights are protected, and

help you stay organized. Additionally, many states have required training (e.g., sexual harassment prevention training) in which employees must participate, and HR personnel can help you organize that.

3. **Train your supervisory staff.** Be sure that your supervisory staff is trained to handle conflict between employees. Any conflict between employees can cause significant damage if it isn't addressed properly.
4. **Talk to your independent agent.** Your independent insurance agent will help educate you about the coverages your business needs to protect you and your employees. These coverages include employment practices liability, employment benefits liability and employers liability coverage. Additionally, EPLI carriers can help you develop a compliant HR manual for your business.

Does your business lack an HR department or personnel? Or, do you have questions about your EPLI, employment benefits liability and employers liability coverages? Give our office a call today. We look forward to hearing from you.

When a flood interrupts your business



Lately, flood damage no longer is a matter of if, but when. A small amount of water can cause copious damage—and when a business sustains flood damage, it can cost tens, if not hundreds of thousands of dollars to repair.

Types of flood damage

Flood damage comes in three forms:

- damage to building property;
- damage to the contents of the building; and
- damage from business interruption.

It's important to be sure your business is covered before a flood damages your property.

NFIP

A commercial flood policy through the National Flood Insurance Program provides businesses with coverage for two of the types of flood damage: damage to the building and damage to the contents of the building.

Building coverage covers damage to the building and its systems, such as damage

to the walls; floors; electrical systems; and heating, ventilation and air conditioning systems.

Contents coverage insures everything inside the building, such as furniture, inventory, machinery or equipment.

However, coverage for property in a basement is limited. Contents coverage will include drywall, furnaces, hot water tanks, electrical outlets and food

freezers (and the food in the freezers) that are in the basement. But, it will not cover walls and ceilings not made of drywall, flooring such as carpets and tile, and refrigerators (and the food in the refrigerators) that are in the basement.

An NFIP policy is available to cover damages up to \$500,000 to an insured building, and \$500,000 for the contents of the building. Any damages that a business might incur over that amount

would not be covered, unless you have purchased an excess flood policy.

Note: Condo association buildings have special flood policies with higher limits.

Business interruption coverage

Business interruption insurance recovers lost income and pays continuing expenses (e.g., payroll, mortgage payments) if operations cease because of damage or destruction from a flood. Additionally, it covers extra expenses if operations continue in a substitute location.

Business interruption coverage is not available in an NFIP policy. However, it may be available with a private flood policy, or an endorsement to your property policy, particularly when not located in a high-risk flood zone.

Are you sure your commercial property has the optimal coverage for flood damage? Contact our office today to discuss your flood coverages today. We look forward to talking with you.

Flood damage no longer is a matter of if, but when.



Your employee is disabled ... Myths about their return to work

When one of your employees becomes disabled, it's crucial to prepare for when they return to work. However, many employers believe common myths about their disabled employee's return to work:

Myth: The employee could be a workers' compensation liability.

Some employers believe that when a disabled employee returns to work, he or she could become reinjured and the employer could face a workers' compensation claim. But, employers should encourage injured employees to resume their work slowly when they return to work, making it less likely that they will become reinjured on the job.

Myth: I need to accommodate my disabled employees only if their injuries happened at work.

According to the U.S. EEOC, you are required to accommodate any disability an employee or applicant may have, as long as it is within financial reason. Most accommodations will cost \$500 or less, and 20% of them don't cost anything. Plus, it is illegal for an employer to differentiate whether the disability occurred at work or away from work. But, if your employee's injury happened at work, your workers' compensation coverage will help you. And, EPLI coverage will help you if you face a claim related to workplace discrimination as a result of your employee's injury.

Myth: Implementing light duty will help my disabled employee become fully productive.

Often, light duty is fixed and changeless—and likely will keep an employee's healing and improvement fixed and changeless, too. Employees should transition back into their roles slowly, so they can train themselves to handle it in full capacity.

These are just some of many myths surrounding disabilities and disabled employees' return to work. Contact our office today to discuss your commercial policies, including your workers' compensation and EPLI coverages, which will help you if one of your employees becomes disabled.



News from our agency

Before, during and after—
We are here for you

As we continue to adapt to the changing conditions of the COVID-19 pandemic, we want you to know that your independent insurance agent is here for you, just like always.

Even in the thick of it, when all you can do is work from home and stay safe, we are always one phone call away. Some things never change.

As you navigate the pandemic, we'll be right here if you need us. Give us a call or send us an email, any time, any day.

