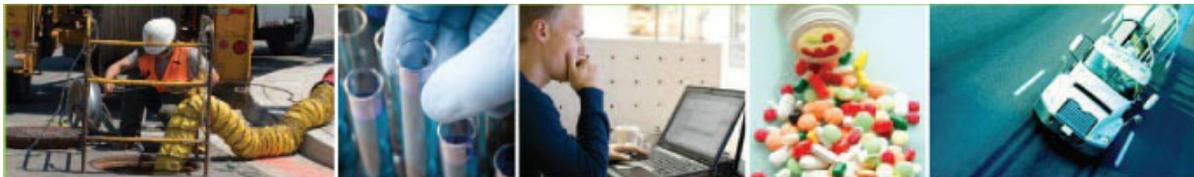


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## **Changes to New Jersey Law and What Comes Next**

by Lauren J. Marcus, Esq. Littler Mendelson

More than five years after it was first signed, employers may be one step closer to finally receiving guidelines on how to maintain a safe workplace while complying with the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the “Act”), which legalized recreational cannabis use for adults and protects employees’ lawful, off-duty use of marijuana.

The Act allows employers to prohibit employees from being under the influence of or impaired by marijuana at work but explicitly provides they may not take adverse action against an employee based solely on a positive test result showing the presence of cannabinoid metabolites (which is evidence marijuana has been metabolized, not that the individual is currently under the influence). Pursuant to the Act, the New Jersey Cannabis Regulatory Commission (the “Commission”) was to consult with the Police Training Commission to create standards for a Workplace Impairment Recognition Expert (“WIRE”) – an individual with special training to detect and identify whether an individual is under the influence of or impaired by marijuana or another intoxicating substance. In the fall of 2022, the Commission issued limited guidance for employers on how to respond to suspected impairment in the workplace, but did not establish the standards for a WIRE, create training for the same, or offer anything beyond a sample form on which employers can document evidence to support their “reasonable suspicion” an employee is under the influence or impaired.

On January 20, 2026, Governor Murphy’s final day in office, he signed over 120 bills into law, including Senate Bill 4847, which made various changes to the makeup of the Commission and the cannabis marketplace. Of note, Bill 4847 amends the section of the Act that pertains to employers (N.J.S.A. § 24:6I-52), which notes the Commission will consult with the Department of Labor and Workforce Development (“DOLWD”) and shall prescribe standards for a “Workplace

Impairment Recognition Expert” certification. Further, individuals will be able to obtain a Workplace Impairment Recognition Expert certification by successfully completing a program to be provided by the DOLWD or a DOLWD approved school. There is no further information yet, but this may be an indication that more guidance and training will be available later this year.

On that same day, Governor Murphy also signed Senate Bill 2283, which establishes a pilot program for the controlled, therapeutic use of psilocybin, which is naturally found in hallucinogenic mushrooms. Prior versions of Bill 2283 were significantly broader and contained provisions to decriminalize the recreational use of psilocybin, protect employees’ off-duty psilocybin use and prohibit testing employees for the presence of psilocybin absent “clear, observable symptoms of impairment.” The law, as passed, does not legalize the drug for recreational use.

**About the Author:** *Lauren Marcus, Esq., is a shareholder at Littler Mendelson who represents and advises employers in various aspects of employment law and regularly advises and counsels clients on a wide array of day-to-day concerns, including leaves of absence issues, wage and hour questions and handbooks and policies. Lauren’s practice focuses on advice regarding leaves of absence and accommodations under both state and federal law, paid sick leave and drug and alcohol law compliance.. Lauren has represented employers in a variety of matters in both New Jersey and New York state and federal courts and before governmental agencies. [www.littler.com](http://www.littler.com)*

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