

## Ohio

### Employment Law Workbook Addendum

(Update on legislation enacted from Jan. 1, 2015- Dec. 31, 2016)

#### Topics

##### **I. Discrimination**

No new laws or regulations enacted in 2015 or 2016.

##### **II. Pre-Employment Inquiry Guidelines**

No new laws or regulations enacted in 2015 or 2016.

##### **III. Family and Medical Leave**

No new laws or regulations enacted in 2015 or 2016.

##### **IV. Wage and Hour Laws**

The Department of Commerce announced that effective January 1, 2017, the minimum wage will increase from \$8.10 to \$8.15 per hour for non-tipped employees.

In 2017, the minimum wage will increase from at least \$4.05 to at least \$4.08 per hour, plus tips, for tipped employees.

Note that the 2017 minimum wage provisions will apply only to business with annual gross receipts of more than \$299,000 per year (In 2016: more than \$297,000 per year).

(Effective Date 01/01/2017).

##### **V. Drug Testing**

Ohio has become the latest state to legalize marijuana for certain medical uses. Ohio's new medical marijuana law technically takes effect on September 6, 2016, but the state must first take steps to establish the Medical Marijuana Control Program, which will oversee the new law and which could take up to two years to be fully operational.

##### **Rules for Use**

The new law allows patients suffering from a qualifying medical condition, which includes over 20 conditions, including HIV/AIDS, epilepsy, cancer, and post-traumatic stress disorder, to use marijuana. Under the new law, medical marijuana will be dispensed only to an individual (or a caregiver of an individual) who is registered with the state and has been issued a patient or caregiver identification card. Before patient registration may begin, the state's Department of Commerce and the State Board of Pharmacy must establish rules for the licensure of cultivators, processors, and retail dispensaries as well as for the registration of patients and caregivers.

The following forms of medical marijuana may be dispensed: oils, tinctures, plant material, edibles and patches. In addition, vaporization of medical marijuana is permitted. Notably, the new law does not authorize smoking or combustion of medical marijuana.

## **Drug-Free Workplace Requirements**

For employment purposes, Ohio's medical marijuana law tracks federal law. The new law preserves Ohio employers' right to establish and enforce drug-testing, drug-free workplace policies, and zero-tolerance drug policies. In contrast with some of the other states that have enacted medical marijuana laws, the new Ohio law:

- Does not require an employer to permit or accommodate an employee's use, possession or distribution of medical marijuana.
- Does not prohibit an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person because of the person's use, possession, or distribution of medical marijuana.
- Does not permit a person to commence a cause of action against an Ohio employer for refusing to hire, or otherwise taking an adverse employment action against a person with respect to the terms, conditions, or privileges of employment related to medical marijuana.

Ohio employees who are terminated for violating an employer's formal policy regulating the use of medical marijuana will be considered "discharged for just cause" under Ohio's Unemployment Compensation Law. As a result, individuals who have been discharged for using medical marijuana will likely be deemed ineligible for unemployment benefits.

Likewise, the use of medical marijuana may also affect an employee's eligibility for workers' compensation benefits. Regardless of whether marijuana use is recommended by a physician, an employee will likely be ineligible for workers' compensation benefits if the employer can show the injury was caused by the employee's being under the influence of marijuana.

ORC Ann. 109.572, ORC Ann. 519.21, ORC Ann. 4123.54, ORC Ann. 4729.75, ORC Ann. 4729.80, ORC Ann. 4729.84, ORC Ann. 4729.85, ORC Ann. 4729.86, ORC Ann. 4731.22, ORC Ann. 4731.281, ORC Ann. 4776.02, ORC Ann. 4776.04, ORC Ann. 5713.30, ORC Ann. 3796.01 – 30, ORC Ann. 4729.771, ORC Ann. 4731.229, ORC Ann. 4731.30, ORC Ann. 4731.301, and ORC Ann. 4731.302 (Effective Date 09/06/2016).

## **VI. Noncompete and Other Employment Agreements**

No new laws or regulations enacted in 2015 or 2016.

## **VII. Workplace Safety**

No new laws or regulations enacted in 2015 or 2016.

## **VIII. Workers' Compensation**

### **A. Workers' Compensation Regulations Amendments**

Ohio adopted a rule to align certain workers' compensation programs and to define employer program deadlines and associated dates.

The rule publishes a new table of application deadlines for the following programs: Deductible Program, Drug-Free Safety Program, Group Experience Rating, Group Retrospective Rating Program, Industry-Specific Safety Discount, One Claim Program, Retrospective Rating, and the Transitional Work Program. The rule also publishes a new table establishing compatibility among employer programs. The table sets forth the employer rating framework and lists

compatible discount programs as well as applicable restrictions on combining discount programs.

OAC 4123-17-74 (Effective Date 03/21/2015).

#### **B. Rule Rescinded: Renewals & Discontinuation of Workers' Compensation Coverage**

Ohio has rescinded its regulation governing renewals and discontinuation of employer workers' compensation coverage.

(Effective Date 07/01/2015).

#### **IX. Miscellaneous**

The amendment mandates that all employers required to file quarterly contribution and wage reports under Ohio Revised Code Annotated section 4141.20 must file those reports electronically.

Likewise, employers liable for payments in lieu of contributions that are required to file quarterly payroll and wage reports under Ohio Revised Code Annotated section 4141.20 must file those reports electronically.

The quarterly reports will continue to be due no later than the last day of the month following the close of the calendar quarter for which the reports are being filed.

The Director will have the discretion to accept quarterly contribution and wage reports filed by other methods of reporting that are not electronic. If the Director does not accept the reports, however, they will be returned to the employer and considered not filed and subject to forfeitures for non-compliance with the electronic transmission requirements.

OAC Ann. 4141-11-01 (Effective Date 01/01/2018).