

LEGAL UPDATE

Virginia Legalizes Marijuana and Expands Employer Restrictions

On Feb. 5, 2021, Virginia passed a new law ([House Bill 2312](#)) that legalizes recreational marijuana for adults age 21 and older in the state. The new law also expands an existing provision that prohibits employers from asking job applicants about their marijuana-related criminal backgrounds. Under the new law, inquiries about an applicant's civil fines related to the drug will be prohibited as well.

Current Law – Decriminalized Marijuana

Under an existing law that was enacted in May 2020 ([Virginia Senate Bill 2](#)), the state has already removed all criminal penalties—and now imposes only a civil fine of up to \$25—for possessing up to one ounce of marijuana. As of July 1, 2020, that law also prohibits all employers in the state from asking job applicants about their marijuana-related criminal backgrounds (with limited exceptions for public-safety positions).

New Law – Legalized Marijuana

The new law, which is expected to be signed by the governor, removes all civil penalties for possession of up to one ounce of marijuana. It also expands the restrictions on employer inquiries to include civil violations. In general, this means that employers may face **fines of up to \$2,500, imprisonment for up to 12 months or both**, if they:

- Require a job applicant to disclose any information about their marijuana-related criminal or civil records; or
- Ask about marijuana-related criminal or civil history on any job application, during any job interview or in any other interaction with a job applicant.

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Important Dates

July 1, 2020

Effective date of current law, which prohibits Virginia employers from asking applicants about marijuana-related criminal history.

Feb. 5, 2021

Virginia passed a new law that removes civil fines for marijuana possession (up to one ounce) and prohibits employer inquiries about marijuana-related civil records.

July 21, 2021

New law goes into effect.

July 1, 2024

Scheduled date for marijuana dispensaries to open in the state.

Inquiries about marijuana-related criminal or civil offenses are off-limits in all interactions with job applicants.



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