



FAIRFIELD POLICE DEPARTMENT ROLL CALL TRAINING

December 22, 2023

Assembly Bill 2188

Assembly Bill 2188 adds Section 12954 to the Government Code. The Bill establishes that, as of January 1, 2024, it is unlawful for employers to discriminate against a person in hiring, termination, or any term or condition of employment, or penalize a person based on a person's use of cannabis off the job or away from the workplace. Legislative intent is captured in the Legislative Counsel's Digest of the Bill:

Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The act prohibits various forms of employment discrimination and empowers the Civil Rights Department to investigate and prosecute complaints alleging unlawful practices.

This bill, on and after January 1, 2024, would also make it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon the person's use of cannabis off the job and away from the workplace, except for preemployment drug screening, as specified, or upon an employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

The new law does not permit an employee to possess, be impaired by, or use cannabis on the job. Per City of Fairfield Administrative Policy Chapter 200, Section 41, the City of Fairfield fosters a drug and alcohol-free workplace for all employees and provides a lawful and productive environment which promotes the health and safety of all employees, free from the hazards caused by the misuse of drugs and alcohol. This is supported by Health and Safety Code 11362.45.

Lexipol Policy 1012 establishes clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103). In response to the new legislation, Lexipol Policy 1012.3.2 is amended to state **"Possession, use, or being under the influence of medical or recreational cannabis on-duty is prohibited and may lead to disciplinary action. Members shall not smoke, ingest, or otherwise consume cannabis within 24 hours of reporting for duty."** Lexipol Policy 1012.7 covers the criteria surrounding screening tests.

There is no change to police department or city policy regarding employees being under the influence of any substance while at work. While the topic of the effects of cannabis in its various forms continues to be studied, and policy may be further restricted or modified, the 24-hour time frame in Lexipol Policy 1012.7 is supported by various studies and publications. The time frame is to ensure the safety and wellbeing of the public and department members. THC may be present

in urine for much longer than 24 hours. All employees have individual responsibility to not be impaired at work.

Sworn members that are interested in working in any federally funded capacity, such as a task force, will not be able to use or possess cannabis. The background check for the task force is federal, exempting it from the new legislation.

Members testing positive for cannabis after a critical incident or traffic collision may increase their legal exposure as cannabis stays in the body for up to 30 days.

Federal law prohibits a person who uses or who is addicted to illegal drugs, including cannabis, from possessing or purchasing a personally owned firearm for either on or off-duty use. The federal prohibition impacts sworn members' ability to carry personally owned firearms on duty. The ATF provides the following warning on Firearms Transaction Records: *"The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medical or recreational purposes in the state where you reside."*

Author: Training Unit

Sources: Assembly Bill 2188
Government Code 12954
Health and Safety Code 11362.45
Lexipol Policy 1012
City of Fairfield Administrative Policy Chapter 200, Section 41

Alcohol Tobacco and Firearms Form 4473 Firearms Transaction Record
(Revised August 2023)

Center for Disease Control
<https://www.cdc.gov/marijuana/health-effects/brain-health.html>

National Institutes of Health "Cannabis (Marijuana) Research Report, What are marijuana's effects?"
<https://nida.nih.gov/publications/research-reports/marijuana/what-are-marijuana-effects>

National Academies "The Health effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research 2017"
<https://nap.nationalacademies.org/read/24625/chapter/13#270>

New England Journal of Medicine "Adverse health Effects of Marijuana Use" N Engl J Med 2014; 370:2219-2227
DOI: 10.1056/NEJMra1402309
<https://www.nejm.org/doi/full/10.1056/nejmra1402309>

Distribution: All employees