

Post-Hire Drug Testing

News

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The article, “Post-Hire Drug Testing,” featured in *Pizza Today*, discussed concerns revolving post-hire drug testing in the pizza industry.

Danielle Urban weighed in on the legal perimeters regarding post-hire drug testing.

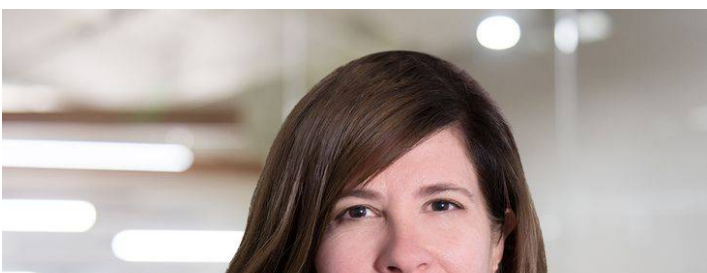
Random drug testing can be a minefield. “In most states you can random drug test, but to avoid legal issues, employers can test a certain percent of employees, all employees, or limit the testing to specific positions,” said Danielle. Employers cannot pick on just certain employees; all those qualifying for random screening — like delivery drivers, for example — must at some point be screened. The best strategy for avoiding charges of discrimination/harassment? Have an outside agency do the selection, she said.

Medical marijuana has thrown a curve into drug-testing, said Danielle. “Some states don’t protect the right to use medical marijuana, so employers are free to have a zero-tolerance policy,” she says. “If post-accident or random drug testing reveals the presence of marijuana — and the person must have a medical-marijuana card — he can still be fired, even if he had smoked days earlier.”

However, in other states employers can’t make testing positive for medical marijuana grounds for firing, unless the employee is in a safety-sensitive position, or shows up impaired, or smokes/consumes it while on the job, she said, adding that she knows of no state protecting recreational marijuana use. (Testing positive for medical marijuana in these states also wouldn’t necessarily be grounds for rescinding a job offer, unless for safety-sensitive positions.)

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