



Seattle Blazing a Trail for Cannabis Industry Employees: Here's What Their Employers Need to Know

Insights

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Seattle is not only a hotbed for the cannabis industry but also for cannabis industry employment protections. City officials signed three ordinances into law in 2022, each pitched as a way to promote equity in the cannabis sector. One established the city's commitment to support cannabis workers and communities "disproportionately harmed by the federal War on Drugs." A second is intended to advance equity in ownership by establishing social equity criteria to obtain licenses for cannabis businesses, among other changes. And the third, which is discussed in this Insight, created specific rules related to the workforce when a cannabis business is sold or substantial assets are transferred to a new operator. Here's what you need to know ahead of July when certain provisions take effect.

What Do You Need to Do?

These laws define "cannabis business" as "any person licensed by the Washington State Liquor and Cannabis Board and The City of Seattle to grow, possess, produce, process, manufacture, sell (whether at wholesale or retail), distribute, transport, allow for consumption on their premises, or deliver cannabis." Examples include a cannabis processor, producer, or retailer — regardless of whether the cannabis is intended for medical or recreational use.

Starting in July, certain provisions of the Cannabis Employee Job Retention Ordinance will apply when a cannabis business undergoes a "change of control," meaning when the current owner ("the outgoing employer") sells, assigns, or otherwise transfers all or substantially all of the assets used in operating a cannabis business or a discrete portion of the cannabis business, and the new owner ("the incoming employer") keeps the business or portion as a cannabis business of the same business type.

The outgoing employer must:

- Post a written notice of the change of control at the business site within five days. Such notice must include the name of the outgoing employer and incoming employer with contact information for each, as well as the effective date for the change in control; and
- Give the incoming employer a "preferential hiring list" within 15 days.

The incoming employer must:

- Keep the change of control notice posted for 180 days after reopening to the public;
- Hire from the preferential hiring list within each job classification, by seniority, for 180 days after reopening to the public;
- Make any job offers in writing and keep them open for 10 days;
- Retain new hires for at least 90 calendar days unless laid off due to a need for downsizing or for good cause;
- Provide new hires, after 90 days, with a written performance evaluation; and
- Retain records of the preferential hiring list, offers made to new hires, and performance evaluations for three years.

All employers must:

Post a notice of employee rights under the ordinance at their business site or send it electronically to remote workers. The notice must be in English and in the primary language used at the worksite. The City of Seattle is preparing a template notice but has not published it yet.

The ordinance also contains protections against retaliation toward employees who exercise their rights under the ordinance, inform others of those rights, raise a complaint, or contact the city. An example of retaliation includes threatening to reveal the employee's immigration status to any government agency.

The ordinance presumes that retaliation has occurred if an employer takes any adverse action against an employee within 90 days of exercising their rights under the ordinance or fails to rehire a seasonal worker if their last seasonal employment ended fewer than 90 days after exercising these rights.

The ordinance allows for both agency and private enforcement.

Seattle's Office of Labor Standards (OLS) may assess employers for unpaid compensation, liquidated damages up to twice the amount of unpaid compensation, and interest. OLS can also order reinstatement of employees terminated for exercising their rights under the ordinance or front pay in lieu of reinstatement.

Likewise, a private employee may bring a court action for unpaid compensation, liquidated damages, and penalties for retaliation.

Only OLS, however, can recover fines against an employer for failing to post required notices and failing to retain records.

Recommendations for Cannabis Employers

If you have not done so already, cannabis business employers should post a notice of employee rights under the ordinance in your workplace. The advice of counsel may be helpful in crafting such a notice until the city provides a form notice. Any cannabis business located in Seattle looking to sell or transfer substantial assets should also seek legal advice to meet the requirements of this law so it can be part of anticipated succession planning.

We'll monitor these developments and provide updates where warranted, so make sure you are subscribed to the [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have any questions about how these ordinances may impact your business, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Seattle office](#).

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