

Can My California Employer Fire Me for Smoking Marijuana?

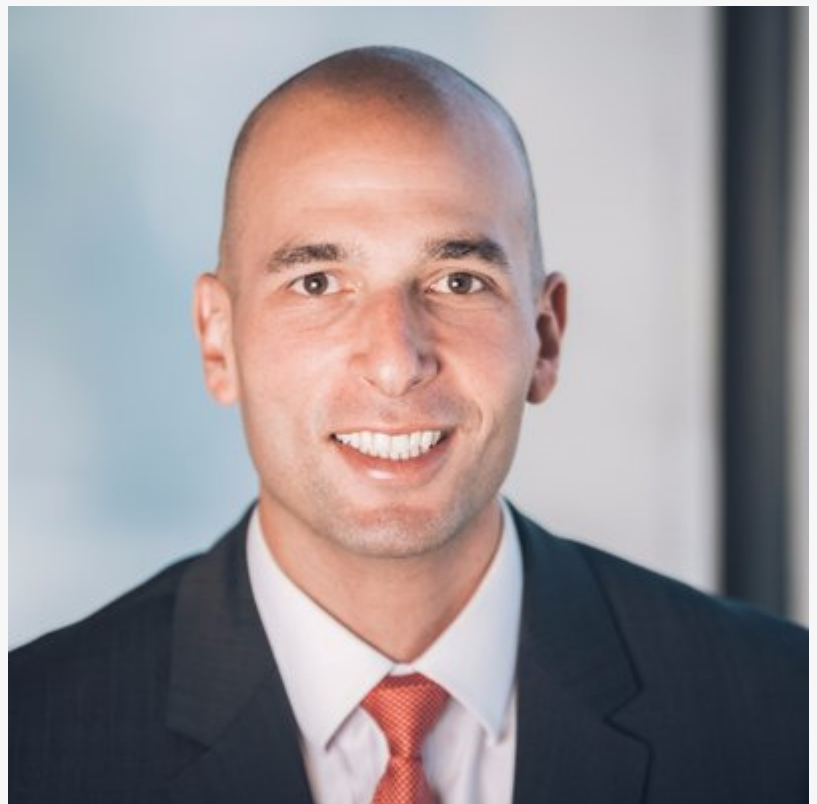
By Zein Obagi Jr., premier employment and business litigation attorney.

LOS ANGELES, CA, UNITED STATES, January 11, 2021 /EINPresswire.com/ -- As of January 2021, 13 states allow marijuana use by adults while 36 states allow marijuana use for medical purposes. California is one of the states where marijuana is legal for recreational use, which begs the question, "Can employees be fired for smoking marijuana in California?"

The answer depends on a number of factors, including but not limited to:

- Whether the employee is smoking marijuana at work or while off-duty
- Whether the worker is under the influence of cannabis at work
- Whether the employee has a valid medical marijuana card
- The employer's drug-related policies and protocols

If you still have questions or concerns, consult with a Los Angeles wrongful-termination attorney at [Obagi Law Group, P.C.](#) to review your particular situation and determine whether you are protected from being fired for smoking marijuana in California.



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Is being fired for Smoking Marijuana Considered Wrongful Termination in California?

California's Labor Code Section 230 establishes many reasons for which an employer CANNOT fire an employee. Some of these reasons — which may warrant a wrongful-termination lawsuit — include:

- Whistleblower retaliation
- Retaliation for taking family or medical leave
- Retaliation for complaints of sexual harassment
- Termination based on discrimination
- Retaliation for complaints of wage and hour issues
- Being fired for any reason that goes against California law

In some cases, firing an employee for smoking marijuana may give grounds for a wrongful-termination lawsuit against the employer. However, in most cases, employers are free to fire employees who:

- Are under the influence of cannabis at work
- Smoke marijuana when they are off-duty

Does California Law Prohibit Employers from Firing Employees for Smoking Marijuana?

Currently, California's employment law does not prohibit employers from firing or taking any adverse action against an employee for their lawful off-duty marijuana use. Many employees believe that they are protected under Labor Code Section 96, which prohibits employers from firing employees for their legal off-duty activities. But that's not the case.

Previously, California courts have held that this section applies to off-duty conduct related to exercising free speech rights and engaging in political activity. Thus, California law does not protect employees from being fired for smoking marijuana unless the worker is also fired for a discriminatory or illegal reason.

When Can a California Employer Test Employees for Drugs?

When an employer has reasonable suspicion that a worker is smoking marijuana or is under the influence of cannabis during work hours, they may legally request a drug test. Whether or not a drug test is legal depends on the reason for testing employees.

Common reasons for lawful drug tests are:

- The employee appears to be under the influence at work
- The employee was involved in a workplace accident that led to bodily injuries or property damage

- The employee is returning to work after completing rehab
- The worker occupies a safety-sensitive position

In most cases, whether or not a drug test is lawful is determined using the employer's drug-testing policies and regulations. However, it is worth mentioning that California law prohibits conducting random or scheduled drug tests on existing employees. Your employer must provide a legitimate reason for conducting a drug test.

If you believe you were fired for smoking marijuana or were subject to an unlawful drug test for using weed, do not hesitate to contact a Los Angeles wrongful-termination attorney. Speak with our lawyers at the Obagi Law Group, P.C., to schedule a consultation. Call 424-284-2401.

About Obagi Law Group, P.C.

Based in Los Angeles and founded by Lead Counsel Zein E. Obagi, Jr. in 2012, Obagi Law Group, P.C. carries a reputation as a game-changing, fierce advocate for employees who have fallen victim to hostile employers, individuals who have lost assets to dishonest business partners, and personal-injury victims. OLG comprises a team of diverse, energetic and highly skilled attorneys who treat each client as if they were the firm's only client, delivering time and again and attaining awards at times in the millions of dollars. At the heart of OLG's success is its uncompromising core value:

Small Firm Attention, Large Firm Results.

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