

**TITLE 1: GOVERNMENT**  
**DIVISION 8: PUBLIC EMPLOYMENT**

**§ 8603. Exclusion of Drug Testing for Marijuana.**

- (a) Pre-employment Testing. Except as otherwise provided in subsection (b), pre-employment testing of persons applying for any position within the government of the Commonwealth of the Northern Mariana Islands (CNMI) shall not include testing for the presence of marijuana, as defined in 4 CMC § 53005(u).
- (b) Exceptions. The provisions of subsection (a) shall not apply to pre-employment testing for the presence of marijuana in applicants for government jobs in safety sensitive positions, meaning jobs that involve activities which directly affect the safety of one or more persons, including the operation of motor vehicles, heavy machinery, emergency services or the carrying of firearms. Each department, entity or organization head, in conjunction with the Director of Personnel Management, shall identify in writing all positions that shall be considered safety-sensitive positions.
- (c) Federal laws. This section does not preempt any federal laws requiring an applicant to be tested for controlled substances, including federal laws governing CNMI employees subject to federal funding, federal benefits or a federal contract.
- (d) Applicability. This section does not apply to any laws or policies mandating any other type of testing, including random testing, suspicion testing and post-accident testing.
- (e) Updating regulations and policies. All government agencies shall amend their regulations and policies to comply with this section before the effective date of this law.

**Source:** PL 23-27 § 2 (Oct. 2, 2024), modified.

**Commission Comment:** The Commission omitted underlines in sections (a)-(e), pursuant to [1 CMC § 3806\(g\)](#).

In addition to severability and savings clause provisions, PL 23-27 included the following Findings and Purposes and Effective Date sections:

Section 1. Findings and Purposes.

The enactment of Public Law 20-66, the “Taulamwaar Sensible CNMI Cannabis Act of 2018”, authorized personal, medicinal, and commercial use of cannabis or marijuana in the CNMI provided that such activity occurs pursuant the provisions set forth in the Act. However, Public Law 20-66 did not change or amend the drug testing policies of the CNMI government, which still includes testing for marijuana as a condition of employment. For example, see Title 120 (Office of Personnel Management) NMIAC § 12-10-320(f)(1) (Pre-employment Testing) (“At the time of application, persons applying for any position within the excepted service will be notified that any offer of employment is contingent upon a negative urine test. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine.”).

**TITLE 1: GOVERNMENT**  
**DIVISION 8: PUBLIC EMPLOYMENT**

The Legislature intended to regulate the use of marijuana similar to the use of alcohol. This approach should include the use of alcohol and marijuana at the workplace. Government employers do not prohibit employees or applicants from engaging in off-duty legalized alcohol use. Such employers should do the same with marijuana use.

All CNMI employers have adopted an Alcohol and Drug Free Workplace Policy that prohibits the use or possession of alcohol or illegal drugs as well as prohibits employees from being under the influence of alcohol and drugs at the workplace. These policies provide for alcohol and drug testing during employment in response to certain work-related behavior. However, alcohol is not included in the pre-employment drug testing for prospective employees or applicants.

Marijuana, which is no longer an illegal drug under CNMI law, should not be included in the pre-employment testing for prospective employees, except for certain employees including enforcement officers, firefighters, first responders, employees in safety sensitive positions, and federally funded employees. However, employees should still be subject to reasonable suspicion testing and post-accident testing to comply with the policy that employees shall not be under the influence of alcohol or drugs when at work. Moreover, employers have an obligation to provide a safe work environment and to protect all its employees from other employees who are under the influence of alcohol or drugs when at work.

The Legislature finds that other jurisdictions that have enacted legalized marijuana in their state or territory have also enacted laws prohibiting pre-employment testing for marijuana. These US states and municipalities include Main, Nevada, City of Rochester (NY), City of Richmond (VA), New York City, and Washington, DC. There are several other state legislatures reviewing similar legislation to limit or prohibit pre-employment testing for marijuana. Accordingly, the purpose of this legislation is to remove marijuana from pre-employment drug testing of prospective employees or applicants by all government employers with certain exceptions.

Section 4. Effective Date.

This Act shall take effect 180 days after approval by the Governor or becoming law without such approval.