

Initiative 71 – Impact on Mandatory Drug and Alcohol Testing



District Personnel Manual Instruction No. 39-3

Effective Date	Expiration Date	Related DPM Chapters
August 4, 2015	Until superseded	39

Overview

The purpose of this instruction is to clarify that the recent enactment of D.C. Law 20-153, the Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014 (Initiative 71), effective February 26, 2015, will have no impact on the District of Columbia government’s mandatory drug and alcohol testing process.

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Initiative 71 Overview

On November 4, 2014, District voters approved Initiative 71 – Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, which among other things legalized the limited possession and cultivation of marijuana. Specifically, adults who are 21 years of age or older may, within the interior of a house or rental unit that constitutes their principal place of residence, possess or grow marijuana plant(s) in accordance with the provisions of the law. Initiative 71, which became effective on February 26, 2015, does not apply to federal property in the District and therefore possessing any amount of marijuana

on federal property remains illegal. The sale and public consumption of marijuana also remains illegal anywhere in the District, whether it is on District or federal property.

Safety-Sensitive Positions

1. Title 6B of the District of Columbia Municipal Regulations contains provisions relating to drug and alcohol testing. These provisions require drug and alcohol testing of candidates for and employees in safety-sensitive positions. Safety sensitive positions include, but are not limited to, positions that involve:
 - a. Direct contact with children and youth;
 - b. Direct care and custody of children or youth; and
 - c. Typical duties that may affect the health, welfare, or safety of children or youth.
2. For an exact list of safety-sensitive position in the District government employees, see E-DPM Inst. No. 4-16, date August 4, 2010 (“... *Listing of Positions Subject to ... Drug and Alcohol Testing for the Protection of Children and Youth*”).
3. This instruction shall apply to any future safety-sensitive position designations.

Impact of Initiative 71

Initiative 71 has **no impact** on the District government’s current enforcement and application of employment related drug testing requirements. This is because the provisions contained in D.C. Law 20-153 expressly permit employers to continue to enforce and establish policies which restrict marijuana use amongst employees. Specifically, the plain language of the legislation permits District government agencies to maintain and develop policies which prohibit any marijuana use by employees. The legislation also, among other things, expressly permits District government agencies to bar the possession, consumption, use, or transportation of marijuana on District government property. Accordingly, Initiative 71 has no legal effect or impact on the District government’s drug and alcohol testing programs.

Legal Authorities and Applicability

Authorities:

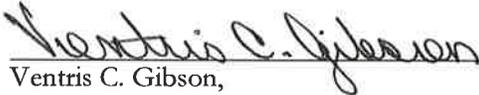
- Section 2(b)(1C) of Initiative Measure 71 – Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014
- D.C. Code § 1-620.31 *et seq.* (Child and Youth Safety and Health Omnibus Amendment Act of 2004.)
- D.C. Code § 1-620.33 (Anti-Drunk Driving Clarification Amendment Act of 2006.)
- D.C. Code § 48-904.01 *et seq.* (Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014.)

Applicability:

The provisions of this instruction apply to those District government agencies which are subordinate to the Mayor's personnel authority. Other personnel authorities or independent agencies may adopt any or all of these procedures.

Additional Information

For additional information concerning this instruction, contact the Department of Human Resources, Policy and Compliance Administration, by calling (202) 442-9700 or by sending an e-mail to dchr.compliance@dc.gov. E-DPM Instruction No. 4-16 can be accessed on the DHCR website at www.dchr.dc.gov, by clicking the "Policies and Procedures" link, followed by the "Electronic District Personnel Manual" link. All instructions and bulletins are located under the "View Issuances Related to this Chapter" link for the appropriate DPM chapter.



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Date