



**Rhode Island Society for Human Resource Management State Chapter**

Written Testimony of

Cynthia J. Butler, SHRM-SCP, SPHR, Butler & Associates

Gregory Tumolo, Esq., Duffy & Sweeney, Ltd.

On behalf of the Rhode Island Society for Human Resource Management State Chapter

Submitted to the House Committee on Finance

**House Bill 5151: Article 20 Relating to Marijuana**

*March 20, 2019*

Chairman Abney, First Vice Chairman Slater, Second Vice Chairman Marszalkowski, and the Honorable Members of the House Committee on Finance:

My name is Cindy Butler and I currently serve in the role of State Chapter Director for the Rhode Island Society for Human Resource Management State Chapter (“RI SHRM”). Together with RI SHRM’s Co-Director of Legislative Affairs, Gregory Tumolo, Esq., we would like to share our thoughts about the impacts to the workplace on the legalization of recreational marijuana from the human resources perspective and the potential challenges for employers and employees. We are grateful for the opportunity to provide written testimony to the House Committee on Finance.

With over 800 member in the state, RI SHRM is an affiliate of the Society for Human Resource Management (“SHRM”), the world’s largest HR professional society representing more than 290,000 members in more than 165 countries around the world. SHRM members influence the lives of over 100 million individuals in the workforce—about one in three Americans.

We understand that the state of Rhode Island is in the process of determining whether to legalize the recreational use of hemp and hemp products. We are not taking a position on whether the legislature should or should not approve House Bill 5151. The purpose of our testimony is to share some of the challenges and concerns human resources professionals will face—and how it may impact the workplace if this legislation is passed.

## **RI SHRM has several concerns regarding legalization of marijuana for adult recreational use:**

- Marijuana is significantly more potent today (1-4% THC in 1980s vs. up to 40% today).
- Dangerous strains of synthetic marijuana are becoming more common.
- Concealed consumption is much more common through use of edibles.
- While employers are not required to tolerate “under the influence” employees, there is no scientifically valid test for measuring level of impairment.
- “Under the influence” and “impairment” are not defined in law.
- Marijuana-related traffic deaths are up sharply in states that have legalized adult use (e.g. number of fatally injured drivers testing positive for marijuana doubled in Washington state after legalization). Many employees are required to drive themselves, other employees, customers and clients during the course of the work day. Employers are responsible for the safety of all involved and could be liable for injuries or accidents. Even if the employee's post-accident drug test is positive for marijuana components or metabolites such as THC, there is no established legal limit beyond which a person is impaired as a result of marijuana consumption.
- It may make it difficult or impossible for employers with safety-sensitive positions to find workers who can pass a pre-employment drug test (e.g. significant impacts on construction industry in Colorado).
- Absenteeism among marijuana users is significantly higher than overall population who "didn't want to be there" at work (7.4% vs. 15% per Qwest Diagnostics).
- Many employees work with children and need to remain vigilant to ensure their safety. If an employee comes to work after consuming marijuana and does not exhibit the telltale signs of consumption, how would an employer know if an individual is fit for duty, and how can they ensure the safety of the children they are responsible for?
- The Rhode Island drug testing statutes make it difficult for employers to randomly test employees, or test for cause, which impacts the ability of the employer to maintain a safe work environment, for that employee and all others.
- Many employers are legally required to maintain drug-free workplaces. Under federal law, employers with federal government contracts over a certain dollar amount (e.g. defense contractors like General Dynamics/Electric Boat) are required to maintain drug-free workplaces as a condition of their continued receipt of federal funds. Employers may be challenged to enforce federal regulations under the current RI drug testing statutes.

## **Recommendations:**

We understand from conversations with the commissioner on the Massachusetts Cannabis Control Commission that there were a number of unforeseen issues that are now being addressed after legal sales have already started. We think there are some lessons that can be learned from studying the experiences from other states and recommend the committee consider the following:

- Take into consideration the need for employers with safety-sensitive positions to maintain a drug free workplace as means of promoting the health and safety of employees and ensure employers can enforce policies that support this.
- Provide a method for employers to verify that an employee is a marijuana cardholder.
- Establish a Commission similar to Massachusetts. Take time to ensure there is input from the employer community, that regulations and licenses are well thought out and communicated before marijuana is legalized.
- Develop a public safety and awareness campaign. Work with employers to help educate them--- so they can educate their employees on the effects of marijuana and how to ensure safe work environments.
- Work with employers to help improve and strengthen the drug testing statutes in the state.

## **Conclusion**

We recommend that Rhode Island proceed with caution and continue to monitor the impact of legalizing marijuana on the workplace and workers in other states, and particularly Massachusetts.

Respectfully submitted by:

Cynthia J. Butler, SHRM-SCP, SPHR, State Chapter Director

Rhode Island Society for Human Resource Management State Chapter (RI SHRM)

[ri.shrm.state.chapter.director@gmail.com](mailto:ri.shrm.state.chapter.director@gmail.com) (401) 423-0046

Gregory Tumolo, Esq., Co-Director of Legislative Affairs

[ri.shrm.legislative@gmail.com](mailto:ri.shrm.legislative@gmail.com); (401) 272-3500