

# Employers forecast challenges in age of recreational cannabis

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ATLANTIC CITY — A restaurant kitchen may not seem like a dangerous place, but it is filled with knives and equipment that can do harm if not used properly.

“A mixer could cut your arm off,” said James Thumhart, a manager at Social 37 restaurant in Toms River. “Or if you are preparing something with the wrong ingredients ... are we going to take a hit for that?”

He was one of a few dozen businesspeople and education representatives attending a workshop Tuesday night on employers’ rights and responsibilities should recreational marijuana use become legal in New Jersey.

It's not a new challenge, said Tom Olah, an adjunct faculty member at Stockton University who teaches a medical marijuana class, and a former dispensary manager for the Compassionate Care Foundation in Egg Harbor Township.

“We worked in the casino industry for 30 years,” said Olah of himself and friend Bob Lagg, who also attended and recently retired from the casino industry. “Cocaine was rampant there in the 1980s.”

Lagg agreed, saying if recreational cannabis becomes legal it won't be much different for employees to handle than alcohol use.

Part of the Retail, Hospitality and Tourism Talent Network South meeting at Stockton's Atlantic City Campus Center, it was led by Bridget Hill-Zayat, a lawyer who focuses mainly on the energy and cannabis industries. She works with the Hoban Law Group of Philadelphia and teaches a cannabis law class at Stockton.

“It’s developing extremely quickly,” said Hill-Zayat of legislation to legalize the psychoactive weed in New Jersey. She predicted recreational cannabis will become legal next year in the state.

A 140-page bill called the New Jersey Cannabis Regulatory and Expungement Aid Modernization Act could be considered by the full Legislature as early as Dec. 17.

The bill sets up a regulatory framework for treating cannabis like alcohol, restricting its sale to those 21 and older; taxing it at about 12 percent, with 2 percent potentially going to municipalities; and regulating who can sell it. It would allow for more points of sale in cities with high rates of marijuana arrests, including Atlantic City.

There are no protections for medical marijuana users under current New Jersey law, but a bill to expand its medical use includes some job protections and is moving through the Legislature, Hill-Zayat said.

That bill, separate from the recreational cannabis bill, would require companies that do drug testing to give those who test positive for cannabis notice of the positive result. They would also have to allow three days for

the person tested to prove they are part of a medical cannabis program; or to demand retesting (with employee/applicant paying the cost), she said.

The medical cannabis bill does not, however, require the employer to allow cannabis use during working hours or to risk losing a federal contract by allowing cannabis use, since the federal government still considers it an illegal drug, Hill-Zayat said.

Courts, however, have begun siding with users of medical cannabis, she said, calling their medical need for it a protected right under disability law.

If a person's job doesn't have a safety component to it, and the worker has a medical reason for using cannabis, employers not only have had to allow its off-the-job use, they have been forced by courts to pay for it in at least one local instance.

In a case involving 84 Lumber in Egg Harbor Township, worker Andrew Watson injured his hand on the job and was covered by workman's comp. His employer bought 2.25 ounces of state-sanctioned medical marijuana in 2014 for him to use instead of opioids for pain relief, but when the employer refused to pay for more, Watson stopped using it.

"The court said you've got to pay for this," said Hill-Zayat, pointing out it was a lot cheaper than paying for opioid painkillers, which can lead to addiction.

But health insurance plans won't pay for it until the end of federal prohibition, she said.

"I think it's coming faster than most people are willing to acknowledge," she said.

People can test positive for cannabis use long after they actually used it, said Hill-Zayat, complicating the testing process.

"And if you lose weight it is released from fat cells," she said. "Technology hasn't caught up yet."

Companies that have federal contracts of more than \$100,000, and those whose employees hold federal Department of Transportation licenses such as bus drivers or train engineers, have the right to restrict all use of cannabis by employees, Hill-Zayat said. The key is that there is a safety aspect to the job.

That's where the discussion of kitchen work came in.

"I'm worried about someone making a mistake and hurting themselves or someone else," said Ron Mueller, also of Social 37. "It's one more thing to worry about."