

## FIRM NEWS

### THERE WILL STILL BE 'PARTIES FOR HOSTING,' BUT COMPANY DRUG USE POLICIES PREDOMINATE MICHIGAN'S RECREATIONAL MARIJUANA LAW

Detroit, Michigan  
November 13, 2019

PROFESSIONALS  
Deborah Brouwer

#### ***Nemeth Law attorney offers employer tips for safe, seasonal celebrations***

Early on, there was sexual harassment and drinking and driving; then came ax throwing and other risky party activities. Now, as Michigan marks the one-year anniversary of the vote to legalize recreational marijuana, employers added another item to their menu of things to worry about when hosting corporate holiday parties. Yet, Deborah Brouwer, a partner with Detroit-based labor and employment law firm Nemeth Law, says employers should not be deterred from giving employees time to enjoy themselves in a more relaxed environment because of legal concerns regarding marijuana use or other potential liability issues.

"Holiday parties can be a wonderful opportunity to celebrate the season, while also strengthening company culture and marking organization wins from the past year," Brouwer said. "Unlike Colorado and Washington, where 'cannabars' are becoming more prevalent at corporate events, Michigan employers seem to be sticking to their traditional company policies on marijuana use even though it is legal. So, while employees may think it's ok to use before or during the holiday event because it is 'off hours,' they are mistaken; employers have the right to enforce workplace policies on marijuana even when such use is outside the actual workplace."

Brouwer added that Michigan employers may be taking a more conventional approach to their workplace policies because under federal law, the use, sale or distribution of marijuana is illegal. Plus, testing for marijuana use is trickier than alcohol.

"The issue of marijuana use gets a little thorny compared to alcohol, which is easier to test for; current tests for marijuana do not clearly show whether the employee is at that time under the influence of the drug," Brouwer said. "The key takeaway for employers, though, is that Michigan's marijuana statutes do not prohibit an employer from terminating employment for recreational marijuana use – either at work, at a work function or while at home."

Brouwer suggests that employers revisit their company policies for any potential gaps and offers the following additional guidelines to keep attendees safe, happy—and employed.

- Senior management and HR representatives from the organization should attend the party, follow all company policies and set an example for the organization in terms of appropriate behavior.
- The company’s sexual harassment policy should be reviewed prior to the party—and enforced on the spot if questionable behavior becomes evident.
- Remind employees that while the holiday party is meant to celebrate the season and/or their contributions from the past year, the event is still a business function and inappropriate behavior may result in discipline, including termination.
- Ditto for party pictures and social media party posts. Remind staff in advance of the celebration that the company’s social media policy still applies at the event, and that actions will be taken against those who don’t follow the spirit of the policy.
- If alcohol is served and employees (including interns) under the age of 21 will be present, be sure to implement and follow a “We ID” policy.
- For crowd control and better monitoring of party activities, consider limiting parties to employees rather than adding clients and vendors.
- Consider moving celebratory events to Monday or Tuesday evenings rather than Thursday or Friday evenings.
- Invite all employees to the party but make it clear that attendance is voluntary. Not everyone celebrates the holidays and employees should not feel pressured to attend.
- Don’t drink and drive should be the mantra. If possible, arrange for transportation in advance for employees who may not be able to drive. Shuttles and car services are an excellent option but can be costly. Consider alternatives, including offering to reimburse employees for ride-hailing services or cab fares. If your workplace has no definite holiday plans this year, Brouwer suggests holding a less formal, alcohol (and marijuana)-free breakfast or lunch event on-site and then closing the office early. “Less formal parties can be a two-for-one; staff get to celebrate the season with colleagues while also getting paid time off during the busy holiday season—and employers avoid the pitfalls of the holiday office party,” Brouwer said.

#### **About Nemeth Law, P.C.**

Nemeth Law specializes in arbitration, mediation, workplace investigations, employment litigation, traditional labor law and management consultation/training for private and public sector employers. It is the largest woman-owned law firm in Michigan to exclusively represent management in the prevention, resolution and litigation of labor and employment disputes.