

## HR/LR Policy #1418

### Prohibition of Alcohol and Drug Use by State Employees

Issued	8/24/1988
Revised	03/18/1999, 04/01/1989, 09/19/1995, 09/08/2009, 07/24/2014, 8/19/16
Authority	Labor Relations

## OVERVIEW

<b>Objective</b>	To provide safe and effective services to the public, to protect the safety, health and well-being of employees and others in the workplace, to ensure that state agency employees perform their jobs efficiently, safely, and in a professional manner, and to maintain a workplace free from the illegal use of drugs and the use of alcohol.
<b>Policy Statement</b>	The state prohibits the unlawful manufacture, distribution, dispensation, possession, use, sale, trade, and/or offer for sale of alcohol, or controlled substances in the workplace or while performing work for the state.
<b>Scope</b>	This policy applies to employees of executive branch agencies and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.
<b>Definitions</b>	<p><b>Alcohol:</b> Any alcoholic beverage or intoxicating liquor. M.S. 340A.101, subd. 2 and subd. 14.</p> <p><b>Conviction:</b> A finding of guilt (including a plea of nolo contendere/no contest), an imposition of sentence, or both, by a judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes. 41 U.S.C. 8101.</p> <p><b>Criminal drug statute:</b> A criminal statute involving manufacture, distribution, dispensation, use, or possession of a controlled substance. 41 U.S.C. 8101.</p> <p><b>Drug/controlled substance:</b> A substance in Schedules I through V of section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812; 21 C.F.R. 1308.11-1308.15) or M.S. 152.02. This does not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.</p> <p><b>Employee Assistance Program:</b> Training, assessment, counseling, and referral services for state employees and dependents. M.S. 43A.319.</p> <p><b>Medical cannabis:</b> Any species of the cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of: liquid, including but not limited to oil; pill; vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or any other method, excluding smoking, approved by the commissioner of the Minnesota Department of</p>

Health. M.S. 152.22. Medical cannabis may be prescribed to a patient with a qualifying medical condition enrolled in the medical cannabis registry program.

**Under the influence:** Affected by drugs or alcohol, as indicated by specific, contemporaneous, articulable facts concerning the appearance, behavior, speech, or body odors of the individual.

**Workplace:** Any state-owned or leased property or any site where state employees perform work for the state.

## Exclusions

N/A

## Statutory References

MN Ch. 340, Liquor  
MN Ch. 152m Drugs  
Drug-Free Workplace Act, 41 U.S.C. § 8101, et al.

# POLICY REQUIREMENTS

## I. PROHIBITED BEHAVIORS

The manufacture, distribution, dispensation, possession, use, sale, transfer, trade, and/or offer for sale of alcohol or controlled substances in the workplace or while performing work for the State is prohibited. Employees must not be under the influence of alcohol or controlled substances in the workplace or while performing work for the state.

Employees must not operate, use, or drive any equipment, machinery, and/or vehicles while under the influence of alcohol or controlled substances while performing work for the state. This prohibition includes any vehicles or equipment that are owned by, leased or rented on behalf of the state, as well as personal vehicles or equipment.

Prescription and over-the-counter medications are not prohibited when taken in standard dosage and/or according to a physician's prescription. Employees taking prescribed or over-the-counter drugs are responsible for consulting the prescribing doctor and/or pharmacist to determine whether the medication may interfere with the safe performance of the employee's job. If use of the medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty) to avoid unsafe workplace practices. The illegal or unauthorized use, possession, sale, trade, and/or offer for sale of prescription drugs in the workplace or while performing work for the state is prohibited.

Employees may not use, possess, or be impaired by medical cannabis on the premises of the place of employment or during the hours of employment.

## II. EXCEPTIONS TO PROHIBITED BEHAVIORS

The following are exceptions to the prohibited behaviors listed above:

- Consumption, possession, sale or purchase of alcohol when authorized by a commissioner under separate statutory or executive agency authority.
- Possession of alcohol while in a state vehicle in compliance with any applicable state or federal law.
- Possession of alcohol while in an employee's personal vehicle on the state's premises in compliance with any applicable state or federal law.

### III. ADDITIONAL REQUIREMENTS

Employees are responsible for productive and safe work performance, and for addressing any alcohol or drug use which interferes with acceptable workplace behavior and performance. Employees shall not report to work or perform work for the state while their ability to perform job duties is negatively affected due to on- or off-duty use of alcohol or drugs. Employees on rest breaks or working overtime, even off of state premises, are considered on-duty for the purposes of this policy. Employees are strongly discouraged from consuming alcoholic beverages during meals when returning immediately thereafter to perform work for the state.

Any employee who is convicted of a criminal drug or alcohol violation for conduct that occurred in the workplace must notify the employer in writing within five (5) calendar days of the conviction. Agencies must take appropriate personnel action, up to and including termination. Employees of federal contractors or grantees may be required to satisfactorily participate in a drug abuse assistance or rehabilitation program, as may be required by federal law.

Agencies receiving federal grants must notify the granting agency within ten (10) days after receiving notice of an employee's conviction. 41 U.S.C. 8103(a)(1)(E).

Employers shall notify the appropriate law enforcement agency when an employee unlawfully possesses controlled substances in the workplace.

### IV. EMPLOYEE ASSISTANCE PROGRAM

Employees with problems relating to drugs or alcohol are encouraged to seek counseling or other assistance.

The Employee Assistance Program (EAP) is available to help employees address problems such as alcohol or drug abuse. Employees are encouraged to seek professional assistance from the EAP before the use of drugs or alcohol affects their employment. Participation in this program is voluntary and confidential.

### V. CONSEQUENCE OF VIOLATION OF THIS POLICY

Employees must abide by the terms of this policy. Violations of this policy may constitute just cause for discipline, up to and including discharge.

## RESPONSIBILITIES

**Agencies are responsible for:** Providing all employees with a copy of this policy. Enforcing policy measures in a nondiscriminatory fashion. Creating an agency-specific policy, if necessary, in consultation with MMB.

**MMB is responsible for:** Providing assistance in the enforcement of this policy. Updating this policy as necessary.

## FORMS AND SUPPLEMENTS

**Contacts** MMB Labor Relations Division

**References** Alcohol and Drug Testing Plan