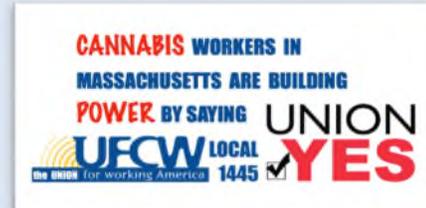
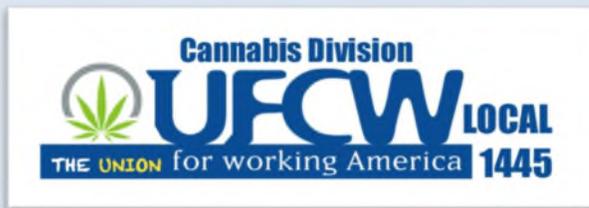


What Cannabis Employers Should Know About Labor Unions

Unions are targeting cannabis companies. Here's what you need to know about how it can happen to you – and why it matters.

United Food and Commercial Workers (UFCW), a powerful nationwide union, is heavily focused on union organizing in the cannabis industry. As the cannabis industry has grown, so too have UFCW's efforts, and union activity has seen a sharp uptick in the Northeast and most particularly Massachusetts.



Many UFCW local unions have a specific "Cannabis Division" focused on organizing the cannabis industry. UFCW is making no secret of its goals. If you are in the cannabis business, you should expect to be targeted.

What does union organizing look like?

You might first become aware of a union organizing effort through leafletting or other public efforts. We've seen many such actions at cannabis facilities around Massachusetts. But beware: If you are running a grow facility, you might not be aware of union organizing activity until you're presented with a demand for recognition. That's because "agricultural workers" are covered by state, rather than federal, labor law, and Massachusetts law allows for a process called "card check" where a union can become recognized simply by getting a majority of employees to sign cards supporting the union. You can read more about how unions can use card check to organize cannabis workers [here](#).

Retail workers, who are covered by federal law, can't be organized via card check. Instead, they and other employees can be organized through a union election, a heavily-regulated process filled with potential pitfalls for the unwary employer.

What would a union mean for me?

If your workforce becomes unionized, you will be obligated to bargain with the union regarding the terms and conditions of your unionized employees' employment. This may mean an increase to the cost of doing business or less operational flexibility.

What are some common mistakes employers make?

Labor law is different in every state, and what employers must do in some states can be unnecessary and even counterproductive in other states. For example, some states require cannabis employers to sign documents called labor peace agreements (LPAs), under which the employer waives certain rights it has under federal labor law, thus making it easier for unions to organize. Companies in states that don't require LPAs may unwittingly adopt employer policies formulated in LPA states – thus unnecessarily tying their hands when it comes to union matters.

On the other hand, even without an LPA, and even if employees haven't unionized, employees have rights under federal labor law. Labor law can impose penalties on employers who interfere with their employees' attempts to unionize. And unions will be on the lookout for anything close to interference. What can seem like a common sense business decision to you may be a violation of labor law.

What Can I Do?

Labor law is a complicated subject, and legal counsel can provide vital counsel to avoid falling into traps. Notably, federal and state labor law apply even before a union comes onto the scene. Decisions you make now can cause you to run afoul of labor law, or can tie your hands if a union comes on the scene. By proactively planning together with experienced labor counsel, you can put yourself in the best position put your business in a position of success and comply with legal requirements.

ABOUT US

Foley Hoag's Labor & Employment Law practice offers decades of experience helping companies manage their workplace legal issues. We have experience representing cannabis employers in proceedings before both the National Labor Relations Board and state agencies, such as the Massachusetts Department of Labor Relations. If you would like additional information on this topic, please contact [Jonathan Keselenko](#) or [James Fullmer](#) of the firm's Labor & Employment practice, or contact your lawyer at [Foley Hoag](#).