



State of Maryland
Department of State Police
Government Affairs Section
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: February 9, 2021

BILL NUMBER: Senate Bill 504 **Position:** Letter of Information

BILL TITLE: Discrimination in Employment – Use of Medical Cannabis - Prohibition

REVIEW AND ANALYSIS:

This legislation seeks to prohibit an employer from discriminating against an employee because the employee is certified to use medical cannabis or the employee's positive drug test related to the use of medical cannabis. The employer is authorized to develop policies and procedures that limit an employee from performing the employee's duties while impaired by medical cannabis.

While the Maryland State Police (MSP) could adopt policies prohibiting employees from working while "impaired", that leaves room for an employee who has a positive drug test for "Cannabis Components or Metabolites" to argue that while they indeed had the drug or metabolite in their system, they were not "impaired." In other words, under (a)(1)(iii)(2), MSP would not be permitted to impose discipline or order drug treatment to a sworn employee simply because of a positive test for cannabis if they were a qualifying medical cannabis patient.

The MSP requires random drug testing of its sworn employees. Sworn employees are also required to notify the agency if they are prescribed any medication or if they are exposed to any drug which could impair the performance of their duties. If an employee is referred for drug screening because of work related issues and comes up negative, the agency moves onto other potential factors. However, if an employee tests positive for Cannabis and has a medical cannabis card, the agency cannot act. The Department may not have any recourse if the employee tests positive for Cannabis on multiple occasions but possesses a medical cannabis card.

Senate Bill 504 does provide an exception for violations of federal law or regulations. The MSP would suggest an amendment to exempt sworn law enforcement officers from this legislation.