



LEGISLATIVE POSITION:

Unfavorable

House Bill 628

Employment – Workers’ Compensation and Workplace Discrimination – Use of Medical Cannabis

House Economic Matters Committee

Tuesday, February 15, 2022

Dear Chairman Wilson and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,500 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

HB 628 stands to negatively impact a Maryland employers’ ability to enforce a drug-free workforce *regardless of industry, occupation or trade* by allowing coverage for workers’ compensation claims even where *the sole* cause of the injury or disease is the injured workers’ use of medical cannabis, as long as it was taken with written certification by a certifying provider. This provision disregards the real dangers that many workers face while at work with heavy equipment, in traffic or working at heights, for example. For Maryland employers to ensure a safe working environment they must retain the ability to enforce drug-free workplace policies. The denial of workers compensation claims where the sole cause is the injured workers’ use of medical cannabis, as with any other drugs or substances listed in the statute, acts as a deterrent and supports employers’ safety policies.

Moreover, adding medical cannabis to the statute as an enumerated substance or treatment which employers must provide injured workers exposes all Maryland employers to federal criminal statutes, especially those employers who practice interstate travel or who work on federal contracts. Those with drug-free workforce policies will lose their ability to enforce their safety policies in any real sense.

While commonly mentioned as an alternative to the use of narcotics for workers compensation injury recovery, this trend is reminiscent of the narcotics wave of the 2000s. During that time injured workers were negatively impacted by addiction issues, employers were negatively impacted by being forced to pay for the narcotics and then were ultimately forced to pay for the detox and addiction recovery years later when the science caught up. The burdening of Maryland employers with something supported by mostly anecdotal evidence while at the same time exposing them to real legal issues is unfair and unduly burdensome. This legislation also singles out private employers and their insurers in workers’ compensation matters while the

public sector and health insurers are not being forced to cover medical cannabis. Why further burden Maryland employers when the legalization of cannabis *for any purpose* is being debated currently by the General Assembly, which when decided, may further complicate, or clarify its use in many circumstances?

Further, HB 628 prevents employers from discriminating against applicants or employees in any form based on their holding a written certification for the use of medical cannabis or for an individual's positive drug test for cannabis if the individual holds a written certification for the use of medical cannabis. The Maryland Chamber of Commerce greatly appreciates this portion of the bill and supports all efforts to reduce discrimination in the workplace, however, Maryland employers maintain some concerns with these provisions.

HB 628 includes an exemption for employers if, "... A FAILURE TO DO SO WOULD VIOLATE FEDERAL LAW OR REGULATIONS OR CAUSE THE EMPLOYER TO LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS...". This provision is critical as Maryland is home to many federal installations, employers, and contractors. However, it is the opinion of the Maryland Chamber of Commerce that this exemption provision should also include "state" and "local" laws and regulations. There are some instances, like state law which disallows the use of medical cannabis to receive an EE license to drive a Commercial Motor Vehicle (CMV).

Additionally, the Maryland Chamber would suggest adding language referring to "any contract" in addition to federal law and regulation for the government contractors whose government clients will not allow a person to work on a government site or contract if they are a medical cannabis card holder or test positive. We suggest "any contract" as there are instances where a private entity could certainly tell a contractor the same thing.

Finally, there is concern about an employer's ability to effectively adopt and enforce any policies and procedures they may adopt laid out in subsection (G) to protect the employee and broader workplace safety while that employee is impaired by medical cannabis. Currently, an accepted reliable and accurate method of testing for medical cannabis impairment on the job site does not exist. As a result, an employer cannot be expected to reasonably know if an employee is currently under the influence of medical cannabis or not while on the job. Without a reliable method of testing, employers are truly unable to ensure a safe work environment.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **HB 628**.

