



State of Maryland Commission on Civil Rights

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Senate Bill 0513 – Employment Discrimination – Use of Cannabis Products

POSITION: Support

Dear Chair, Beidle, Vice Chair Klausmeier, and Members of the Senate Finance Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, health services and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, and source of income.

Senate Bill 0513 would prohibit employers from discriminating against individuals that consume cannabis under certain circumstances. The bill protects employees and their consumption of cannabis when the employee is off-site and not working. An employer may not take any adverse action against these employees. These employees cannot use or possess cannabis at work, and they cannot work under the influence. “Adverse actions” are defined as refusing to hire, forcing individuals to retire, or discriminating in the terms, conditions, or privileges of employment, including compensation. Some employers will need to provide employees with an updated drug policy.

Employers cannot use convictions of non-violent cannabis offenses that do not involved minors as a basis for any adverse action. Employers are still permitted to take adverse actions against employees that are in possession of cannabis, under the influence during work, or test positive during work hours. Employers are also permitted to decide that an employee’s job responsibilities cannot be performed if the employee uses cannabis and if it is based on the employee’s manifestation of specific articulable symptoms while working. The employer must prove this by a preponderance of the evidence or no adverse action may be taken.

Employers that are operating with the federal government are exempted from this subtitle under certain circumstances. When federal law requires drug testing for employment to maintain federal contracts, funding, or licensing, then SB 0513 will not apply. Additionally, employers are exempted if it would violate federal law or if the employer would lose federal contracts or funding as a result.

“Our vision is to have a State that is free from any trace of unlawful discrimination.”

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A total of 38 states across the nation have legalized the use of medical cannabis and 24 have legalized recreational use. Americans smoke more cannabis than cigarettes, with nearly 10% of adults in Maryland reporting use of cannabis. Maryland is currently struggling with a severe worker shortage, and it would not be beneficial to allow for such a significant portion of the workforce and overall economy to be adversely affected. There are approximately 165,000 job openings in the state with only 54,778 unemployed residents. That means for every 100 job openings in the state there are only 33 unemployed residents to fill them.

Further, Maryland is a major tourism destination, with the state collecting \$19.4 billion in tourist spending in 2022. The service and hospitality industry accounts for a significant portion of those earnings. Unfortunately, the same industry has taken the brunt of the worker shortage, which can have negative effects on the entire state's economy. To ensure our economy has every opportunity to thrive, Maryland employees need these protections for use of cannabis products.

Disciplinary action at work has historically been unequal, with minority employees more likely to face disciplinary processes within the workplace than their White counterparts. The need for this legislation is great as minorities with medical marijuana cards have quit their jobs and faced discharge and layoffs more than White medical marijuana card holders. The State needs to provide employers with guidance about how to manage themselves and their employees in a non-discriminatory manner.

For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on SB 0513. Thank you for your time and consideration of the information contained in this letter. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.