

2023 Regular Session

HOUSE BILL NO. 115

BY REPRESENTATIVE TRAVIS JOHNSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EMPLOYMENT/DISCRIMINATN: Provides relative to employment discrimination against employees and prospective employees being treated with medical marijuana

1 AN ACT

2 To enact Part VIII of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 23:371 and 372, relative to employment; to prohibit certain
4 employment actions against employees and prospective employees who utilize
5 medical marijuana; to provide exceptions; to provide definitions; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part VIII of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of
9 1950, comprised of R.S. 23:371 and 372, is hereby enacted to read as follows:

10 PART VIII. MEDICAL MARIJUANA IN THE WORKPLACE

11 §371. Definitions

12 For the purpose of this Part, the following terms have the meanings ascribed
13 to them:

14 (1) "Negative employment consequences" means any action taken by an
15 employer or an employer's agent which negatively impacts an employee's or
16 prospective employee's employment status, including but not limited to termination
17 of employment, refusal to hire, or altered conditions of employment such as
18 counseling, probation, suspension, and demotion.

19 (2) "Qualifying medical marijuana patient" means an individual who has
20 been clinically diagnosed as suffering from a debilitating medical condition and an

1 authorized clinician has recommended marijuana for therapeutic use by the
2 individual in accordance with R.S. 40:1046.

3 (3) "Safety-sensitive position" means any position involving a safety-
4 sensitive function pursuant to federal or state agency rules, guidelines, or regulations
5 or any position in which a person performing the position while impaired by
6 marijuana may pose a threat to the health or safety of the public or the individual.

7 §372. Employment discrimination; recommended medical marijuana usage

8 A. Unless a failure to do so would cause an employer to lose a monetary or
9 licensing-related benefit under federal law or regulation, no employer shall subject
10 an employee or prospective employee to negative employment consequences based
11 solely upon either of the following:

12 (1) An employee's or prospective employee's past or present status as a
13 qualifying medical marijuana patient.

14 (2) An employee or prospective employee, who qualifies as a medical
15 marijuana patient, has tested positive for marijuana, marijuana components,
16 including tetrahydrocannabinols, or marijuana metabolites.

17 B.(1) Subsection A of this Section shall not be construed to prohibit the
18 imposition of negative employment consequences on an employee who uses,
19 possesses, or is impaired by marijuana on the premises of the employer or while in
20 the course and scope of his employment regardless of the employee's status as a
21 qualifying medical marijuana patient.

22 (2) An employer may not be required to modify the job requirements or work
23 conditions of an employee who is considered a qualifying medical marijuana patient
24 in order to facilitate the employee's ability to perform his job responsibilities.

25 C. The provisions of this Section shall not apply to emergency medical
26 services, law enforcement, public safety officials, firefighter services, and other
27 individuals in safety-sensitive positions.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 115 Original

2023 Regular Session

Travis Johnson

Abstract: Prohibits employment discrimination, under certain circumstances, against an employee or prospective employee being treated with medical marijuana.

Proposed law defines "negative employment consequences", "qualifying medical marijuana patient", and "safety-sensitive position".

Proposed law provides that unless doing so would cause an employer to lose a monetary or licensing-related benefit under federal law or regulation, no employer shall subject an employee or prospective employee to negative employment consequences, such as termination of employment or refusal to hire, based solely upon either of the following:

- (1) An employee's or prospective employee's past or present status as a qualifying medical marijuana patient.
- (2) An employee or prospective employee, who qualifies as a medical marijuana patient, has tested positive for marijuana, marijuana components, including tetrahydrocannabinols, or marijuana metabolites.

Proposed law allows an employer to impose negative employment consequences, such as terminating an employee, on an employee who uses, possesses, or is impaired by marijuana on the work premises or while in the course and scope of his employment regardless of the employee's status as a qualifying medical marijuana patient.

Proposed law provides that an employer may not be required to modify the job requirements or work conditions of an employee who is considered a qualifying medical marijuana patient in order to assist an employee's ability in performing his job responsibilities.

The provisions of proposed law do not apply to individuals employed in emergency medical services, law enforcement, public safety officials, firefighter services, and other safety-sensitive positions.

(Adds R.S. 23:371 and 372)