

2022 Regular Session

HOUSE BILL NO. 988

BY REPRESENTATIVE LANDRY

EMPLOYMENT/DISCRIMINATION: Provides relative to employment discrimination against public employees being treated with medical marijuana

1 AN ACT

2 To enact R.S. 49:1016, relative to state employment; to provide relative to state employees
3 and potential state employees who use medical marijuana; to prohibit certain
4 employment actions against such employees and potential employees; to provide for
5 exceptions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 49:1016 is hereby enacted to read as follows:

8 §1016. Employment discrimination; physician recommended marijuana

9 A. No state employer shall subject an employee or prospective employee to
10 negative employment consequences based solely on a positive drug test for
11 marijuana, marijuana components, including tetrahydrocannabinols, or marijuana
12 metabolites if the employee or prospective employee has been clinically diagnosed
13 as suffering from a debilitating medical condition and a licensed physician has
14 recommended marijuana for therapeutic use by the employee in accordance with
15 R.S. 40:1046.

16 B. Subsection A of this Section shall not be construed to prohibit the
17 imposition of negative employment consequences on an employee who uses or is
18 impaired by marijuana on the premises of the employer or during work hours or an
19 employee whose principal responsibility is to operate a state vehicle, maintain a state
20 vehicle, or supervise any employee who drives or maintains a state vehicle.

1 C. The provisions of this Section shall not apply to emergency medical
2 services, law enforcement, public safety officials, any state employee of the horse
3 racing commission, and firefighter services.

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 988 Reengrossed

2022 Regular Session

Landry

Abstract: Provides relative to persons employed by the state being treated with medical marijuana.

Present law authorizes a licensed physician to recommend, in any form as permitted by the rules and regulations of the La. Bd. of Pharmacy, raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by any patient clinically diagnosed as suffering from a debilitating medical condition.

Present law authorizes a public employer to:

- (1) Require employees, as a condition of continued employment, to be tested for the presence of drugs following an accident during the course and scope of his employment, under other circumstances which result in reasonable suspicion that drugs are being used, or as a part of a monitoring program established by the employer to assure compliance with terms of a rehabilitation agreement.
- (2) Require prospective employees, as a condition of hiring, to be tested for the presence of drugs.
- (3) Implement a program of random drug testing of those employees who occupy safety-sensitive or security-sensitive positions.

Proposed law prohibits a state employer from subjecting an employee or prospective employee to negative employment consequences based solely on a positive drug test for marijuana if the employee or prospective employee has been clinically diagnosed as suffering from a debilitating medical condition and a licensed physician has recommended marijuana for therapeutic use by the employee in accordance present law.

Proposed law provides that proposed law shall not be construed to prohibit the imposition of negative employment consequences on an employee who uses or is impaired by marijuana on the premises of the employer or during work hours.

Proposed law also provides that proposed law shall not be construed to prohibit the imposition of negative employment consequences on an employee whose principal responsibility is to operate or maintain a state vehicle or a supervisor of any employee who drives or maintains a state vehicle.

Proposed law provides that proposed law shall not apply to emergency medical services, law enforcement, public safety officials, any state employee of the horse racing commission, and firefighter services.

Present law provides that negative employment consequences means any action which negatively impacts an employee's or prospective employee's employment status, including

termination of employment, refusal to hire, or altered conditions of employment such as counseling, probation, suspension, and demotion.

(Adds R.S. 49:1016)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Change the applicability from public employment to state employment.
2. Add an exception for law enforcement, public safety officials, and firefighter services.

The House Floor Amendments to the engrossed bill:

1. Add emergency medical services and any state employee of the horse racing commission to the list of individuals exempted from proposed law.
2. Provide that a state employer can impose negative employment consequences on an employee whose principal responsibility is to operate or maintain a state vehicle, or a supervisor of any employee who drives or maintains a state vehicle, who is impaired by marijuana.