

HOUSE BILL 628

K1, D5

2lr1000
CF 2lr1001

By: **Delegates K. Young, Howell, Jalisi, Kerr, Landis, Lehman, Lierman, Shetty,
and Solomon**

Introduced and read first time: January 31, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of altering the circumstances under which a covered employee or a
5 dependent of a covered employee is not entitled to compensation or benefits under
6 the workers’ compensation law to include circumstances related to the use of medical
7 cannabis; including medical cannabis in the medicine that an employer or its insurer
8 is required to provide to a certain covered employee under certain circumstances;
9 prohibiting an employer from discriminating against an individual because of the
10 individual’s receipt of a certain written certification for the use of medical cannabis
11 or the individual’s positive drug test under certain circumstances; and generally
12 relating to employment, workers’ compensation, workplace discrimination, and the
13 use of medical cannabis.

14 BY repealing and reenacting, without amendments,
15 Article – Labor and Employment
16 Section 9–506(a) and 9–660(b)
17 Annotated Code of Maryland
18 (2016 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Labor and Employment
21 Section 9–506(b) and 9–660(a)
22 Annotated Code of Maryland
23 (2016 Replacement Volume and 2021 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – State Government
26 Section 20–606(a)
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2021 Replacement Volume)

2 BY adding to
3 Article – State Government
4 Section 20–606(g)
5 Annotated Code of Maryland
6 (2021 Replacement Volume)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Labor and Employment**

10 9–506.

11 (a) A covered employee or a dependent of a covered employee is not entitled to
12 compensation or benefits under this title as a result of:

13 (1) an intentional, self–inflicted accidental personal injury, compensable
14 hernia, or occupational disease; or

15 (2) an attempt to injure or kill another.

16 (b) A covered employee or a dependent of a covered employee is not entitled to
17 compensation or benefits under this title as a result of an accidental personal injury,
18 compensable hernia, or occupational disease if:

19 (1) the accidental personal injury, compensable hernia, or occupational
20 disease was caused solely by the effect on the covered employee of:

21 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant
22 drug; or

23 (ii) another drug that makes the covered employee incapable of
24 satisfactory job performance; and

25 (2) the drug was not administered or taken in accordance with:

26 (I) the prescription of a physician; **OR**

27 (II) **FOR MEDICAL CANNABIS, THE WRITTEN CERTIFICATION OF**
28 **A CERTIFYING PROVIDER OR THE WRITTEN INSTRUCTIONS OF A PHYSICIAN.**

29 9–660.

30 (a) In addition to the compensation provided under this subtitle, if a covered
31 employee has suffered an accidental personal injury, compensable hernia, or occupational

1 disease the employer or its insurer promptly shall provide to the covered employee, as the
2 Commission may require:

- 3 (1) medical, surgical, or other attendance or treatment;
- 4 (2) hospital and nursing services;
- 5 (3) medicine, **INCLUDING MEDICAL CANNABIS**;
- 6 (4) crutches and other apparatus; and
- 7 (5) artificial arms, feet, hands, and legs and other prosthetic appliances.

8 (b) The employer or its insurer shall provide the medical services and treatment
9 required under subsection (a) of this section for the period required by the nature of the
10 accidental personal injury, compensable hernia, or occupational disease.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
12 as follows:

13 Article – State Government

14 20–606.

15 (a) An employer may not:

16 (1) fail or refuse to hire, discharge, or otherwise discriminate against any
17 individual with respect to the individual's compensation, terms, conditions, or privileges of
18 employment because of:

19 (i) the individual's race, color, religion, sex, age, national origin,
20 marital status, sexual orientation, gender identity, genetic information, or disability
21 unrelated in nature and extent so as to reasonably preclude the performance of the
22 employment; **[or]**

23 (ii) the individual's refusal to submit to a genetic test or make
24 available the results of a genetic test; **OR**

25 **(III) UNLESS A FAILURE TO DO SO WOULD VIOLATE FEDERAL**
26 **LAW OR REGULATIONS OR CAUSE THE EMPLOYER TO LOSE A MONETARY OR**
27 **LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS:**

28 **1. THE INDIVIDUAL'S RECEIPT OF A WRITTEN**
29 **CERTIFICATION FOR THE USE OF MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE**
30 **33 OF THE HEALTH – GENERAL ARTICLE; OR**

1 **2. THE INDIVIDUAL’S POSITIVE DRUG TEST FOR**
2 **CANNABIS COMPONENTS OR METABOLITES IF THE INDIVIDUAL HOLDS A WRITTEN**
3 **CERTIFICATION FOR THE USE OF MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE**
4 **33 OF THE HEALTH – GENERAL ARTICLE;**

5 (2) limit, segregate, or classify its employees or applicants for employment
6 in any way that would deprive or tend to deprive any individual of employment
7 opportunities or otherwise adversely affect the individual’s status as an employee because
8 of:

9 (i) the individual’s race, color, religion, sex, age, national origin,
10 marital status, sexual orientation, gender identity, genetic information, or disability
11 unrelated in nature and extent so as to reasonably preclude the performance of the
12 employment; [or]

13 (ii) the individual’s refusal to submit to a genetic test or make
14 available the results of a genetic test; **OR**

15 **(III) UNLESS A FAILURE TO DO SO WOULD VIOLATE FEDERAL**
16 **LAW OR REGULATIONS OR CAUSE THE EMPLOYER TO LOSE A MONETARY OR**
17 **LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS:**

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21 **2. THE INDIVIDUAL’S POSITIVE DRUG TEST FOR**
22 **CANNABIS COMPONENTS OR METABOLITES IF THE INDIVIDUAL HOLDS A WRITTEN**
23 **CERTIFICATION FOR THE USE OF MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE**
24 **33 OF THE HEALTH – GENERAL ARTICLE;**

25 (3) request or require genetic tests or genetic information as a condition of
26 hiring or determining benefits;

27 (4) fail or refuse to make a reasonable accommodation for the known
28 disability of an otherwise qualified employee; or

29 (5) engage in harassment of an employee.

30 **(G) THE PROHIBITIONS UNDER SUBSECTION (A)(1)(III) AND (2)(III) OF THIS**
31 **SECTION:**

32 **(1) DO NOT PREVENT AN EMPLOYER FROM ADOPTING POLICIES AND**
33 **PROCEDURES THAT PROHIBIT AN EMPLOYEE FROM PERFORMING THE EMPLOYEE’S**
34 **DUTIES WHILE IMPAIRED BY MEDICAL CANNABIS; AND**

1 **(2) MAY NOT BE CONSTRUED TO REQUIRE ANY DEFENSE INDUSTRIAL**
2 **BASE SECTOR EMPLOYER OR PROSPECTIVE EMPLOYER, AS DEFINED BY THE U.S.**
3 **CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, TO HIRE OR RETAIN**
4 **ANY APPLICANT OR EMPLOYEE WHO TESTS POSITIVE FOR**
5 **TETRAHYDROCANNABINOL (THC) IN EXCESS OF 50 NANOGRAMS PER MILLILITER**
6 **FOR A URINE TEST OR 10 PICOGRAMS PER MILLIGRAM FOR A HAIR TEST.**

7 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
8 construed to apply only prospectively and may not be applied or interpreted to have any
9 effect on or application to any claim arising from events occurring before the effective date
10 of this Act.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2022.