

SENATE BILL 863

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9lr0658

By: **Senator Zirkin**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Screening for Use of Marijuana or Cannabis**

3 FOR the purpose of authorizing the Commissioner of Labor and Industry to conduct an
4 investigation to determine whether certain provisions of this Act have been violated
5 on receipt of a certain written complaint; prohibiting certain employers from
6 requiring an applicant for employment or an employee to disclose the applicant's or
7 employee's use of marijuana or cannabis and from taking certain other action;
8 providing that certain provisions of this Act do not prohibit an employer from making
9 a certain inquiry or taking certain other action; authorizing the Commissioner on a
10 certain determination to resolve certain issues informally or by mediation;
11 authorizing the Commissioner to ask the Attorney General to bring a certain action
12 on behalf of certain applicants or employees under certain circumstances;
13 authorizing the Attorney General to bring a certain action in a certain county under
14 certain circumstances for injunctive relief, damages, or other relief; prohibiting
15 employers from taking or refusing to take certain actions or otherwise retaliating or
16 discriminating against certain applicants and employees under certain
17 circumstances; establishing a certain penalty; providing for the application of this
18 Act; defining certain terms; and generally relating to screening practices of
19 employers for the use of marijuana or cannabis.

20 BY adding to

21 Article – Labor and Employment

22 Section 3–103(l); and 3–1401 through 3–1406 to be under the new subtitle “Subtitle

23 14. Screening for Use of Marijuana or Cannabis”

24 Annotated Code of Maryland

25 (2016 Replacement Volume and 2018 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

27 That the Laws of Maryland read as follows:

28 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-103.

2 (L) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE
3 WHETHER SUBTITLE 14 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A
4 WRITTEN COMPLAINT OF AN APPLICANT OR EMPLOYEE.

5 SUBTITLE 14. SCREENING FOR USE OF MARIJUANA OR CANNABIS.

6 3-1401.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) (1) "EMPLOYER" MEANS A PERSON WHO EMPLOYS 15 OR MORE
10 FULL-TIME EMPLOYEES.

11 (2) "EMPLOYER" INCLUDES A PERSON WHO ACTS, DIRECTLY OR
12 INDIRECTLY, IN THE INTEREST OF AN EMPLOYER WITH RESPECT TO AN EMPLOYEE
13 OF THE EMPLOYER.

14 (C) (1) "EMPLOYMENT" MEANS ANY WORK FOR PAY AND ANY FORM OF
15 VOCATIONAL OR EDUCATIONAL TRAINING, WITH OR WITHOUT PAY.

16 (2) "EMPLOYMENT" INCLUDES:

17 (I) CONTRACTUAL, TEMPORARY, SEASONAL, OR CONTINGENT
18 WORK; AND

19 (II) WORK THROUGH THE SERVICES OF A TEMPORARY OR
20 OTHER EMPLOYMENT AGENCY.

21 3-1402.

22 (A) THIS SUBTITLE DOES NOT:

23 (1) PROHIBIT AN EMPLOYER FROM MAKING AN INQUIRY OR TAKING
24 OTHER ACTION THAT THE EMPLOYER IS REQUIRED TO TAKE OR IS EXPRESSLY
25 AUTHORIZED TO TAKE BY ANOTHER APPLICABLE FEDERAL, STATE, OR LOCAL LAW;
26 OR

27 (2) PROHIBIT AN EMPLOYER FROM MAKING AN INQUIRY OR TAKING
28 OTHER ACTION IF THE APPLICANT OR EMPLOYEE USED, POSSESSED, OR WAS
29 IMPAIRED BY MARIJUANA OR CANNABIS ON THE PREMISES OF THE PLACE OF

1 EMPLOYMENT DURING THE HOURS OF EMPLOYMENT.

2 (B) THIS SUBTITLE DOES NOT APPLY TO AN EMPLOYER THAT PROVIDES
3 PROGRAMS, SERVICES, OR DIRECT CARE TO MINORS OR TO VULNERABLE ADULTS.

4 3-1403.

5 AN EMPLOYER MAY NOT:

6 (1) REQUIRE AN APPLICANT OR AN EMPLOYEE TO DISCLOSE THE
7 APPLICANT'S OR THE EMPLOYEE'S USE OF MARIJUANA OR CANNABIS; OR

8 (2) OTHERWISE INQUIRE OF THE APPLICANT, THE EMPLOYEE, OR
9 OTHERS ABOUT THE APPLICANT'S OR THE EMPLOYEE'S USE OF MARIJUANA OR
10 CANNABIS.

11 3-1404.

12 (A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE
13 HAS BEEN VIOLATED, THE COMMISSIONER MAY:

14 (1) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION
15 INFORMALLY BY MEDIATION; OR

16 (2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF
17 OF THE APPLICANT OR EMPLOYEE.

18 (B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION
19 IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED, FOR INJUNCTIVE
20 RELIEF, DAMAGES, OR OTHER RELIEF.

21 3-1405.

22 AN EMPLOYER MAY NOT TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR
23 OTHERWISE RETALIATE OR DISCRIMINATE AGAINST AN APPLICANT OR EMPLOYEE
24 AS A REPRISAL FOR THE APPLICANT OR EMPLOYEE HAVING CLAIMED A VIOLATION
25 OF THIS SUBTITLE.

26 3-1406.

27 AN EMPLOYER WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
28 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
29 \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH FOR EACH

1 VIOLATION.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2019.