

HOUSE BILL 1496

K3, P4, J1

8lr2568

By: Delegates Glenn, Luedtke, Angel, Brooks, Conaway, Cullison, Hayes, J. Lewis,
Lierman, Moon, Morales, Morhaim, Pena-Melnyk, Rosenberg, Sanchez,
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Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Discrimination Against Medical Cannabis Patients**
3 **and Caregivers – Prohibition**
4 **(Medical Cannabis Patient and Caregiver Antidiscrimination Act)**

5 FOR the purpose of prohibiting, except under certain circumstances, a certain employer
6 from taking certain discriminatory actions against or otherwise penalizing a certain
7 qualifying patient or certain caregiver based on the individual's status as a
8 qualifying patient or caregiver or, with respect to a certain qualifying patient, a
9 certain drug test result; authorizing certain individuals to file a complaint with the
10 Commissioner of Labor and Industry; requiring the Commissioner to investigate a
11 certain matter promptly under certain circumstances; requiring the Commissioner
12 to try to resolve a certain matter informally; authorizing the Commissioner to assess
13 certain civil penalties and send a certain order to pay a certain penalty to certain
14 parties under certain circumstances; authorizing an employer to request a certain
15 hearing under certain circumstances; requiring the Commissioner to schedule a
16 certain hearing under certain circumstances; establishing that an order to pay a civil
17 penalty becomes final under certain circumstances; authorizing the Commissioner
18 or a complainant to bring certain court actions under certain circumstances; defining
19 certain terms; and generally relating to adverse actions against qualifying patients
20 and caregivers by employers.

21 BY repealing and reenacting, without amendments,
22 Article – Health – General
23 Section 13–3301(a), (b), (m), and (n)
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2017 Supplement)

26 BY adding to
27 Article – Labor and Employment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3–715
2 Annotated Code of Maryland
3 (2016 Replacement Volume and 2017 Supplement)

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

6 **Article – Health – General**

7 13–3301.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) “Caregiver” means:

10 (1) A person who has agreed to assist with a qualifying patient’s medical
11 use of cannabis; and

12 (2) For a qualifying patient under the age of 18 years, a parent or legal
13 guardian.

14 (m) “Qualifying patient” means an individual who:

15 (1) Has been provided with a written certification by a certifying provider
16 in accordance with a bona fide provider–patient relationship; and

17 (2) If under the age of 18 years, has a caregiver.

18 (n) “Written certification” means a certification that:

19 (1) Is issued by a certifying provider to a qualifying patient with whom the
20 provider has a bona fide provider–patient relationship; and

21 (2) Includes a written statement certifying that, in the provider’s
22 professional opinion, after having completed an assessment of the patient’s medical history
23 and current medical condition, the patient has a condition:

24 (i) That meets the inclusion criteria and does not meet the exclusion
25 criteria of the certifying provider’s application; and

26 (ii) For which the potential benefits of the medical use of cannabis
27 would likely outweigh the health risks for the patient; and

28 (3) May include a written statement certifying that, in the provider’s
29 professional opinion, a 30–day supply of medical cannabis would be inadequate to meet the
30 medical needs of the qualifying patient.

1 PLACE OF EMPLOYMENT OR DURING THE HOURS OF EMPLOYMENT.

2 (D) (1) IF AN EMPLOYER VIOLATES SUBSECTION (C) OF THIS SECTION,
3 THE QUALIFYING PATIENT OR CAREGIVER MAY FILE A WRITTEN COMPLAINT WITH
4 THE COMMISSIONER.

5 (2) IF THE COMMISSIONER RECEIVES A WRITTEN COMPLAINT UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL INVESTIGATE
7 THE MATTER PROMPTLY.

8 (3) IF THE COMMISSIONER DETERMINES THAT THE EMPLOYER HAS
9 VIOLATED SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER SHALL TRY TO
10 RESOLVE THE MATTER INFORMALLY.

11 (4) IF THE COMMISSIONER IS UNABLE TO RESOLVE THE MATTER
12 INFORMALLY, THE COMMISSIONER MAY:

13 (I) ASSESS A CIVIL PENALTY OF:

14 1. UP TO \$500 FOR AN INITIAL VIOLATION OF
15 SUBSECTION (C) OF THIS SECTION; OR

16 2. UP TO \$2,500 FOR A REPEAT VIOLATION OF
17 SUBSECTION (C) OF THIS SECTION; AND

18 (II) SEND AN ORDER TO PAY THE CIVIL PENALTY TO THE
19 COMPLAINANT AND THE EMPLOYER.

20 (5) (I) WITHIN 30 DAYS AFTER AN EMPLOYER RECEIVES AN ORDER
21 TO PAY A CIVIL PENALTY UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE
22 EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING, SUBJECT TO THE
23 REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

24 (II) ON RECEIPT OF A REQUEST FOR A HEARING UNDER
25 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSIONER SHALL SCHEDULE A
26 HEARING.

27 (III) IF A HEARING IS NOT REQUESTED UNDER SUBPARAGRAPH
28 (I) OF THIS PARAGRAPH, THE ORDER TO PAY A CIVIL PENALTY BECOMES A FINAL
29 ORDER OF THE COMMISSIONER.

30 (6) IF AN EMPLOYER FAILS TO COMPLY WITH A FINAL ORDER TO PAY
31 A CIVIL PENALTY, THE COMMISSIONER OR THE COMPLAINANT MAY BRING AN

1 ACTION TO ENFORCE THE ORDER TO PAY A CIVIL PENALTY IN THE CIRCUIT COURT
2 IN THE COUNTY WHERE THE EMPLOYER OR THE COMPLAINANT IS LOCATED.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2018.