A BILL ENTITLED

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 9–506(a) and 9–660(b)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Labor and Employment
Section 9–506(b) and 9–660(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 20–606(a)
Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
BY adding to
Article – State Government
Section 20–606(g)
Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – Labor and Employment

9–506.

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

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

(2) an attempt to injure or kill another.

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

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

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

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

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

(I) the prescription of a physician; OR

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

9–660.

(a) In addition to the compensation provided under this subtitle, if a covered
employee has suffered an accidental personal injury, compensable hernia, or occupational
disease the employer or its insurer promptly shall provide to the covered employee, as the
Commission may require:

(1) medical, surgical, or other attendance or treatment;

(2) hospital and nursing services;

(3) medicine, INCLUDING MEDICAL CANNABIS;

(4) crutches and other apparatus; and

(5) artificial arms, feet, hands, and legs and other prosthetic appliances.

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

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

Article – State Government

20–606.

(a) An employer may not:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) engage in harassment of an employee.

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

(1) DO NOT PREVENT AN EMPLOYER FROM ADOPTING POLICIES AND PROCEDURES THAT PROHIBIT AN EMPLOYEE FROM PERFORMING THE EMPLOYEE’S DUTIES WHILE IMPAIRED BY MEDICAL CANNABIS; AND
(2) MAY NOT BE CONSTRUED TO REQUIRE ANY DEFENSE INDUSTRIAL
BASE SECTOR EMPLOYER OR PROSPECTIVE EMPLOYER, AS DEFINED BY THE U.S.
CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, TO HIRE OR RETAIN
ANY APPLICANT OR EMPLOYEE WHO TESTS POSITIVE FOR
TETRAHYDROCANNABINOL (THC) IN EXCESS OF 50 NANOGRAMS PER MILLILITER
FOR A URINE TEST OR 10 PICOGRAMS PER MILLIGRAM FOR A HAIR TEST.

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

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