

SENATE BILL 1023

D5, A3, E4

5lr3616
CF HB 1408

By: **Senator C. Jackson**

Introduced and read first time: February 5, 2025

Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

Employment Discrimination – Fire and Rescue Public Safety Employees – Use of Medical Cannabis

FOR the purpose of prohibiting an employer from taking certain discriminatory employment actions against a fire and rescue public safety employee for the use of medical cannabis, subject to certain conditions; and generally relating to employment discrimination and the use of medical cannabis.

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages and Cannabis

Section 36–101(a), (m), (ee), and (kk)

Annotated Code of Maryland

(2024 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Government

Section 20–601 and 20–606

Annotated Code of Maryland

(2021 Replacement Volume and 2024 Supplement)

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

Article – Alcoholic Beverages and Cannabis

36–101.

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

(m) “Certifying provider” means an individual who:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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(1) (i) 1. has an active, unrestricted license to practice medicine that was issued by the State Board of Physicians under Title 14 of the Health Occupations Article; and

2. is in good standing with the State Board of Physicians;

(ii) 1. has an active, unrestricted license to practice dentistry that was issued by the State Board of Dental Examiners under Title 4 of the Health Occupations Article; and

2. is in good standing with the State Board of Dental Examiners;

(iii) 1. has an active, unrestricted license to practice podiatry that was issued by the State Board of Podiatric Medical Examiners under Title 16 of the Health Occupations Article; and

2. is in good standing with the State Board of Podiatric Medical Examiners;

(iv) 1. has an active, unrestricted license to practice registered nursing and has an active, unrestricted certification to practice as a nurse practitioner or a nurse midwife that was issued by the State Board of Nursing under Title 8 of the Health Occupations Article; and

2. is in good standing with the State Board of Nursing; or

(v) 1. has an active, unrestricted license to practice as a physician assistant issued by the State Board of Physicians under Title 15 of the Health Occupations Article;

2. has an active collaboration agreement with a patient care team physician who is a certifying provider; and

3. is in good standing with the State Board of Physicians;

(2) has a State controlled dangerous substances registration; and

(3) is registered with the Administration to make cannabis available to patients for medical use in accordance with regulations adopted by the Administration.

(ee) “Qualifying patient” means an individual who:

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

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

(kk) “Written certification” means a certification that:

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

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

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

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

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

Article – State Government

20–601.

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

(b) (1) “Disability” means:

(i) 1. a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

2. a mental impairment or deficiency;

(ii) a record of having a physical or mental impairment as otherwise defined under this subsection; or

(iii) being regarded as having a physical or mental impairment as otherwise defined under this subsection.

(2) “Disability” includes:

(i) 1. any degree of paralysis, amputation, or lack of physical coordination;

2. blindness or visual impairment;

3. deafness or hearing impairment;

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4. muteness or speech impediment; and

5. physical reliance on a service animal, wheelchair, or other remedial appliance or device; and

(ii) retardation and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(c) (1) “Employee” means:

(i) an individual employed by an employer; or

(ii) an individual working as an independent contractor for an employer.

(2) Unless the individual is subject to the State or local civil service laws, “employee” does not include:

(i) an individual elected to public office;

(ii) an appointee on the policy making level; or

(iii) an immediate adviser with respect to the exercise of the constitutional or legal powers of an elected office.

(d) (1) “Employer” means:

(i) a person that:

1. is engaged in an industry or business; and

2. A. has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

B. if an employee has filed a complaint alleging harassment, has one or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; and

(ii) an agent of a person described in item (i) of this paragraph.

(2) “Employer” includes the State to the extent provided in this title.

(3) Except for a labor organization, “employer” does not include a bona fide private membership club that is exempt from taxation under § 501(c) of the Internal Revenue Code.

(e) (1) “Employment agency” means:

(i) a person that regularly undertakes with or without compensation to procure:

1. employees for an employer; or
2. opportunities for employees to work for an employer; and

(ii) an agent of a person described in item (i) of this paragraph.

(2) Except for the United States Employment Service and the system of State and local employment services receiving federal assistance, “employment agency” does not include a unit of the United States, the State, or a political subdivision of the State.

(f) “FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE” MEANS A FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN, A CARDIAC RESCUE TECHNICIAN, OR A PARAMEDIC EMPLOYED BY:

- (1) A MUNICIPAL CORPORATION;**
- (2) A COUNTY;**
- (3) THE STATE;**
- (4) THE STATE AIRPORT AUTHORITY; OR**
- (5) A FIRE CONTROL DISTRICT.**

(G) “Genetic information” has the meaning stated in § 27–909(a)(3) of the Insurance Article.

[(g)] (H) “Genetic test” has the meaning stated in § 27–909(a)(5) of the Insurance Article.

[(h)] (I) “Harassment” includes:

(1) unwelcome and offensive conduct, which need not be severe or pervasive, when:

(i) the conduct is based on race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, or military status; and

(ii) 1. submission to the conduct is made either explicitly or implicitly a term or condition of employment of an individual;

2. submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or

3. based on the totality of the circumstances, the conduct unreasonably creates a working environment that a reasonable person would perceive to be abusive or hostile; and

(2) sexual harassment.

[(i)] (J) (1) “Labor organization” means:

(i) a labor organization engaged in an industry; and

(ii) an agent of an organization described in item (i) of this paragraph.

(2) “Labor organization” includes:

(i) an organization of any kind, an agency, or an employee representation committee, group, association, or plan:

1. in which employees participate; and

2. that exists, wholly or partly, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment; and

(ii) a conference, general committee, joint or system board, or joint council that is subordinate to a national or international labor organization.

[(j)] (K) “Religion” includes all aspects of religious observances, practice, and belief.

[(k)] (L) “Sexual harassment” includes conduct, which need not be severe or pervasive, that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when:

(1) submission to the conduct is made either explicitly or implicitly a term or condition of employment of an individual;

(2) submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or

(3) based on the totality of the circumstances, the conduct unreasonably creates a working environment that a reasonable person would perceive to be abusive or hostile.

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, military status, 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;

(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, military status, 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;

(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 an applicant for employment; or

(5) engage in harassment of an employee.

(b) An employment agency may not:

(1) fail or refuse to refer for employment or otherwise discriminate against any individual because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, military status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(2) classify or refer for employment any individual on the basis of the individual's race, color, religion, sex, age, national origin, marital status, sexual

orientation, gender identity, military status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.

(c) A labor organization may not:

(1) exclude or expel from its membership, or otherwise discriminate against, any individual because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, military status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment;

(2) limit, segregate, or classify its membership, or classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive the individual of employment opportunities, limit the individual's employment opportunities, or otherwise adversely affect the individual's status as an employee or as an applicant for employment because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, military status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(3) cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) An employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, may not discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, military status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.

(e) (1) Except as provided in paragraph (2) of this subsection, an employer, labor organization, or employment agency may not print or cause to be printed or published any notice or advertisement relating to employment by the employer, membership in or any classification or referral for employment by the labor organization, or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, disability, or military status.

(2) A notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, national origin, marital status, disability, or military status if religion, sex, age, national origin, marital status, disability, or military status is a bona fide occupational qualification for employment.

(f) An employer may not discriminate or retaliate against any of its employees or applicants for employment, an employment agency may not discriminate against any

individual, and a labor organization may not discriminate or retaliate against any member or applicant for membership because the individual has:

(1) opposed any practice prohibited by this subtitle; or

(2) made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subtitle.

(G) (1) IN THIS SUBSECTION, “WRITTEN CERTIFICATION” HAS THE MEANING STATED IN § 36–101 OF THE ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON THE BASIS OF A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE’S POSSESSION OF A VALID WRITTEN CERTIFICATION, OR ON THE BASIS OF A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE TESTING POSITIVE FOR CANNABIS COMPONENTS OR METABOLITES WHILE HOLDING A VALID WRITTEN CERTIFICATION, AN EMPLOYER MAY NOT:

(I) DISCIPLINE, DISCHARGE, OR OTHERWISE DISCRIMINATE AGAINST THE FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE WITH RESPECT TO THE EMPLOYEE’S COMPENSATION, TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT; OR

(II) LIMIT, SEGREGATE, OR CLASSIFY ITS EMPLOYEES IN ANY WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE THE FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE OF EMPLOYMENT OPPORTUNITIES OR OTHERWISE ADVERSELY AFFECT THE FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE’S STATUS AS AN EMPLOYEE.

(3) NOTHING IN THIS SUBSECTION:

(I) REQUIRES AN EMPLOYER TO COMMIT AN ACT THAT WOULD:

1. VIOLATE FEDERAL LAW OR REGULATIONS; OR

2. CAUSE THE EMPLOYER TO LOSE A MONETARY OR LICENSING–RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS; OR

(II) PROHIBITS AN EMPLOYER FROM:

1. ADOPTING POLICIES AND PROCEDURES THAT PROHIBIT A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE FROM PERFORMING THE EMPLOYEE’S DUTIES WHILE IMPAIRED BY MEDICAL CANNABIS; OR

2. PROHIBITING A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE FROM USING MEDICAL CANNABIS WITHIN 12 HOURS BEFORE REPORTING FOR A WORK ASSIGNMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.