



February 23, 2024

HB 525

Testimony from Olivia Naugle, senior policy analyst, MPP, favorable

Dear Chair Wilson and members of the House Economic Matters Committee:

My name is Olivia Naugle, and I am the senior policy analyst for the Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the United States. MPP has been working to improve cannabis policy for 29 years; as a national organization, we have expertise in the various approaches taken by different states.

MPP strongly supports HB 525, which would prevent most employers from discriminating against employees and job applicants for using cannabis outside of work or for testing positive for having cannabinoids or cannabis metabolites in their system as long as they do not work while impaired and federal law does not require otherwise.

A majority of Americans now live in a state where cannabis is legal in some form. This continued shift toward legalization has raised the question of whether pre-employment screening for cannabis is appropriate. Legalization states are increasingly acting to ensure workers don't lose their jobs for using cannabis after work hours. In fact, at least nine of the 24 legalization states — California, Connecticut, Nevada, New Jersey, New York, Minnesota, Montana, Rhode Island, and Washington — have some employment protections for adult-use cannabis consumers. And 22 of the 38 medical cannabis states have some employment protections. These laws only apply to off-hours cannabis use.¹ Every state allows employers to fire workers who are impaired at work, as HB 525 does.

Maryland should follow suit and pass HB 525 this year. Marylanders should not be subject to employment discrimination for using a now-legal product outside of work hours.

Importantly, drug testing for cannabis is an ineffective approach to workplace safety. Because THC and its metabolites stay in one's system long after the last use², drug tests result in completely sober, capable workers losing their jobs or not being hired for having used cannabis days or even weeks earlier. Meanwhile, drug testing doesn't detect workers who are impaired by alcohol, hangovers, fatigue, or a myriad of other factors. Employers with a safety-sensitive workforce should instead consider performance-based tests³, which can detect workers who are unable to safely perform regardless of the cause.

¹ The states are: Arizona, Arkansas, Connecticut, Delaware, Illinois, Louisiana, Maine, Massachusetts, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Utah, Virginia, and West Virginia. For details, see: <https://www.mpp.org/issues/medical-marijuana/medical-marijuana-laws-anti-discrimination-provisions/>

² See: "How long can you detect marijuana (cannabis) in the body?," Medical News Today.

³ For example: <https://predictivesafety.com/alertmeter/>

The Americans with Disabilities Act (ADA) generally prevents patients from being fired for using their prescriptions as long as they are not impaired at work. But it does not extend to medical cannabis due to it being federal illegal. To fill the gap, most medical cannabis states have enacted state-level protections. HB 525 will also protect medical cannabis patients. Currently, even medical cannabis patients can be fired for testing positive for using their medicine, which can push patients to use far more addictive and dangerous medications, including opioids.

Additionally, passing HB 525 will make Maryland's cannabis policy more equitable. In the last couple of years, Maryland has made tremendous progress in enacting cannabis policies that are equitable and focused on repairing the decades of harm cannabis prohibition has caused, particularly in Black communities. Studies have shown that drug testing disproportionately affects people of color. Black people are more likely to face repercussions for failing a drug test than white people.⁴ When Amazon, the nation's second-largest employer, ended testing for cannabis in pre-employment drug screens, Beth Galetti, senior vice president of human resources at Amazon noted,

“Pre-employment marijuana testing has disproportionately affected communities of color by stalling job placement, and by extension, economic growth, and we believe this inequitable treatment is unacceptable”⁵

Thank you, Delegate Wilkins, for your leadership on this important issue. I respectfully urge the committee to issue a favorable report on HB 525.

Thank you for your time and attention. If you have any questions or need additional information, I would be happy to help and can be reached at the email address or phone number below.

Sincerely,

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⁴ How Ending Drug Tests Can Create Greater Workplace Equity <https://time.com/6103798/workplace-drug-testing/>.

⁵ See: “Amazon Is supporting the effort to reform the nation’s cannabis policy” https://www.aboutamazon.com/news/policy-news-views/amazon-is-supporting-the-effort-to-reform-the-nations-cannabis-policy?asc_campaign=commerce-pra&asc_refurl=https%3A%2F%2Fwww.businessinsider.com%2Famazons-labor-shortage-solution-relax-cannabis-testing-2021-9&asc_source=browser&tag=thebusiinsi-20