

ASSEMBLY, No. 3018

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblywoman PAMELA R. LAMPITT
District 6 (Burlington and Camden)

SYNOPSIS

Establishes protection from adverse employment action for authorized medical cannabis patients.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning medical cannabis, supplementing P.L.2009,
2 c.307, and repealing section 9 of P.L.2019, c.153.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. a. Unless an employer establishes by a preponderance of the
8 evidence that the lawful use of medical cannabis has impaired the
9 employee's ability to perform the employee's job responsibilities, it
10 shall be unlawful to take any adverse employment action against an
11 employee who is a qualified registered patient using medical
12 cannabis consistent with the provisions of P.L.2009, c.307 (C.24:6I-
13 1 et al.) based on either: (1) the employee's status as a registry
14 identification cardholder; or (2) the employee's positive drug test
15 for cannabis components or metabolites.

16 For the purposes of this section, an employer may consider an
17 employee's ability to perform the employee's job responsibilities to
18 be impaired when the employee manifests specific articulable
19 symptoms while working that decrease or lessen the employee's
20 performance of the duties or tasks of the employee's job position.

21 b. (1) If an employer has a drug testing policy and an
22 employee or job applicant tests positive for cannabis, the employer
23 shall offer the employee or job applicant an opportunity to present a
24 legitimate medical explanation for the positive test result, and shall
25 provide written notice of the right to explain to the employee or job
26 applicant.

27 (2) Within three working days after receiving notice pursuant to
28 paragraph (1) of this subsection, the employee or job applicant may
29 submit information to the employer to explain the positive test
30 result, or may request a confirmatory retest of the original sample at
31 the employee's or job applicant's own expense. As part of an
32 employee's or job applicant's explanation for the positive test
33 result, the employee or job applicant may present a health care
34 practitioner's recommendation for medical cannabis, a registry
35 identification card, or both.

36 c. Nothing in this section shall restrict an employer's ability to
37 prohibit or take adverse employment action for the possession or
38 use of intoxicating substances during work hours, or require an
39 employer to commit any act that would cause the employer to be in
40 violation of federal law, or that would result in the loss of a federal
41 contract or federal funding.

42 d. As used in this section, "adverse employment action" means
43 refusing to hire or employ a qualified registered patient, barring or
44 discharging a qualified registered patient from employment,
45 requiring a qualified registered patient to retire from employment,
46 or discriminating against a qualified registered patient in
47 compensation or in terms, conditions, or privileges of employment.

1 2. Section 9 of P.L.2019, c.153 (C.24:6I-6.1) is repealed.

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3 3. This act shall take effect immediately.

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STATEMENT

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8 This bill would establish protections from adverse employment
9 actions for registered patients using medical cannabis pursuant to
10 the “Jake Honig Compassionate Use Medical Cannabis Act.”

11 Specifically, an employer would be prohibited from taking any
12 adverse employment action against an employee based on the
13 employee’s status as a registry identification cardholder or based on
14 a positive test for cannabis, unless the employer establishes by a
15 preponderance of the evidence that the lawful use of medical
16 cannabis has impaired the employee’s ability to perform the
17 employee’s job responsibilities. The bill provides that an employer
18 may consider an employee’s ability to perform the employee’s job
19 responsibilities to be impaired when the employee manifests
20 specific articulable symptoms while working that decrease or lessen
21 the employee’s performance of the duties or tasks of the employee’s
22 job position.

23 If an employer has a drug testing policy and an employee or job
24 applicant tests positive for cannabis, the employee or job applicant
25 is to be offered an opportunity to present a legitimate medical
26 explanation for the positive test result, and is to be provided written
27 notice of the right to explain. Within three working days after
28 receiving notice, the employee or job applicant would be permitted
29 to submit information to the employer to explain the positive test
30 result, or request a confirmatory retest of the original sample at the
31 employee’s or job applicant’s own expense. An employee or job
32 applicant would be permitted to present a health care practitioner’s
33 recommendation for medical cannabis, a registry identification card,
34 or both, as part of the employee’s or job applicant’s explanation for
35 the positive test.

36 Nothing in the bill would restrict an employer’s ability to
37 prohibit or take adverse employment action for the possession or
38 use of intoxicating substances during work hours, or require an
39 employer to commit any act that would cause the employer to be in
40 violation of federal law, or that would result in the loss of a federal
41 contract or federal funding.

42 The bill defines “adverse employment action” to mean refusing
43 to hire or employ a qualified registered patient, barring or
44 discharging a qualified registered patient from employment,
45 requiring a qualified registered patient to retire from employment,
46 or discriminating against a qualified registered patient in
47 compensation or in terms, conditions, or privileges of employment.