

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0239.01 Yelana Love x2295

HOUSE BILL 22-1152

HOUSE SPONSORSHIP

Hooton and Titone,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON THE ABILITY OF AN EMPLOYER TO TAKE
102 AN ADVERSE ACTION AGAINST AN EMPLOYEE BASED ON THE
103 EMPLOYEE'S USE OF MARIJUANA.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits an employer from taking adverse action against an employee, including an applicant for employment, who engages in the use of:

- Medical marijuana on the premises of the employer during working hours; or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- Retail or medical marijuana off the premises of the employer during nonworking hours.

An employer is permitted to impose restrictions on employee use of medical or retail marijuana under specified circumstances.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-2-131 as
3 follows:

4 **8-2-131. Employer prohibited from taking adverse actions**
5 **against an employee or applicant based on marijuana use -**
6 **exceptions.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION,
7 AN EMPLOYER SHALL NOT TAKE ADVERSE ACTION AGAINST AN EMPLOYEE
8 BECAUSE THE EMPLOYEE ENGAGES IN THE USE OF:

9 (a) MEDICAL MARIJUANA ON THE PREMISES OF THE EMPLOYER
10 DURING WORKING HOURS; OR

11 (b) MEDICAL OR RETAIL MARIJUANA OFF THE PREMISES OF THE
12 EMPLOYER DURING NONWORKING HOURS.

13 (2) AN EMPLOYER MAY IMPOSE A RESTRICTION ON THE USE OF
14 MEDICAL OR RETAIL MARIJUANA IF THE RESTRICTION:

15 (a) RELATES TO A BONA FIDE OCCUPATIONAL REQUIREMENT OR IS
16 REASONABLY AND RATIONALLY RELATED TO THE EMPLOYMENT ACTIVITIES
17 AND RESPONSIBILITIES OF A PARTICULAR EMPLOYEE OR A PARTICULAR
18 GROUP OF EMPLOYEES, RATHER THAN TO THE OCCUPATIONAL
19 REQUIREMENTS OR EMPLOYMENT ACTIVITIES OF ALL EMPLOYEES OF THE
20 EMPLOYER; OR

21 (b) IS NECESSARY TO AVOID A CONFLICT OF INTEREST WITH ANY
22 RESPONSIBILITIES TO THE EMPLOYER OR THE APPEARANCE OF SUCH A
23 CONFLICT OF INTEREST.

1 (3) AS USED IN THIS SECTION:

2 (a) "ADVERSE ACTION" MEANS:

3 (I) TO REFUSE TO HIRE, TO DISCHARGE, TO REFUSE TO PROMOTE,
4 TO DEMOTE, TO HARASS DURING THE COURSE OF EMPLOYMENT, OR TO
5 DISCRIMINATE IN MATTERS OF COMPENSATION, TERMS, CONDITIONS, OR
6 PRIVILEGES OF EMPLOYMENT AGAINST AN EMPLOYEE; OR

7 (II) ANY OTHER EMPLOYMENT DECISION OR TREATMENT THAT
8 ADVERSELY AFFECTS AN EMPLOYEE.

9 (b) "EMPLOYEE" MEANS A PERSON WHO MAY BE PERMITTED,
10 REQUIRED, OR DIRECTED BY ANY EMPLOYER, IN CONSIDERATION OF DIRECT
11 OR INDIRECT GAIN OR PROFIT, TO ENGAGE IN ANY EMPLOYMENT AND
12 INCLUDES AN APPLICANT FOR EMPLOYMENT.

13 (c) (I) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
14 COLORADO THAT, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
15 SERVICES OF ANY NATURE AND THAT HAS CONTROL OF THE PAYMENT OF
16 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
17 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

18 (II) "EMPLOYER" INCLUDES THE STATE OR A LOCAL GOVERNMENT.

19 (d) "MEDICAL MARIJUANA" HAS THE SAME MEANING AS SET FORTH
20 IN SECTION 44-10-103 (34).

21 (e) "RETAIL MARIJUANA" HAS THE SAME MEANING AS SET FORTH
22 IN SECTION 44-10-103 (57).

23 **SECTION 2. Act subject to petition - effective date -**
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
25 the expiration of the ninety-day period after final adjournment of the
26 general assembly; except that, if a referendum petition is filed pursuant
27 to section 1 (3) of article V of the state constitution against this act or an

1 item, section, or part of this act within such period, then the act, item,
2 section, or part will not take effect unless approved by the people at the
3 general election to be held in November 2022 and, in such case, will take
4 effect on the date of the official declaration of the vote thereon by the
5 governor.

6 (2) This act applies to conduct occurring on or after the applicable
7 effective date of this act.