

SENATE No. 978

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the fair treatment of employees.

PETITION OF:

NAME:

Jason M. Lewis

DISTRICT/ADDRESS:

Fifth Middlesex

SENATE No. 978

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 978) of Jason M. Lewis for legislation relative to the fair treatment of employees. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to the fair treatment of employees.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 94G of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out subsection (e).

3 SECTION 2. Chapter 94G of the General Laws is hereby amended by inserting after
4 section 21, the following section:-

5 Section 22.

6 (a) An employer may not discriminate against a person in hiring, termination or imposing
7 any term or condition of employment or otherwise penalize a person based upon a person’s use
8 of marijuana provided that:- (i) The use of marijuana by the employee is neither in the work
9 place during work hours, nor while the employee is performing tasks related to employment; and
10 (ii) an employee is not impaired due to the consumption of marijuana in the workplace or while
11 performing tasks related to employment.

12 (b) Subsection (a) shall not apply to employers who are compelled to test for marijuana
13 due to requirements established by the federal government.

14 (c) Nothing in this Section prohibits an employer from taking adverse employment
15 action: (i) if an employee who is unable to maintain licenses, credentials, or other qualifications
16 that are reasonably necessary for the performance of the employee's position, even if such
17 licensing, credentialing, or other qualifications prohibit the employee from using marijuana; or
18 (ii) the employee is charged with a crime relating to his or her use, possession, sale, manufacture,
19 distribution, dispensation, or transfer of marijuana and, based on the employer's investigation
20 into the matter, the employer reasonably believes the employee committed a crime.

21 (d) Any person claiming to be aggrieved under subsection (a) may bring a civil action
22 under this section for damages or injunctive relief, or both, and shall be entitled to a trial by jury
23 on any issue of fact in an action for damages regardless of whether equitable relief is sought by a
24 party in such action. If the court finds for the petitioner, recovery shall be in the amount of actual
25 damages; or up to 2 times such amount if the court finds that the act or practice complained of
26 was committed with knowledge, or reason to know, that such act or practice violated the
27 provisions of this section.

28 (e) The executive office of labor and workforce development in consultation with the
29 executive office of public safety and security shall promulgate regulations to enforce this section.