

HOUSE No. 2056

The Commonwealth of Massachusetts

PRESENTED BY:

Chynah Tyler

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 prohibiting employment discrimination based on the legal use of cannabis.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/18/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/24/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>2/26/2021</i>

HOUSE No. 2056

By Ms. Tyler of Boston, a petition (accompanied by bill, House, No. 2056) of Chynah Tyler and others relative to prohibiting employment discrimination based on the legal use of cannabis. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act prohibiting employment discrimination based on the legal use of cannabis.

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 4 of chapter 151B of the General Laws is hereby amended by adding the
2 following subsection:-

3 Section 1. Definitions

4 For the purposes of this Act, the term

5 "(1) "Marijuana" shall mean all parts of any plant of the genus cannabis, not excepted
6 below and whether growing or not; the seeds thereof; and resin extracted from any part of the
7 plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its
8 seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C.

9 "(2) "Qualifying patient" shall have the same meaning as provided in Section (K) of
10 Chapter 369 of the Acts of 2012

11 "(3) "Employer" means the any business or employer operating in the Commonwealth
12 and the government of the Commonwealth and municipalities

13 “(4) "Prospective employee" means any individual applying for employment with an
14 employer.

15 "(5) "Safety sensitive position" means a position with duties that, if performed while
16 under the influence of drugs or alcohol could lead to a lapse of attention that could cause actual,
17 immediate, and permanent physical injury or loss of life to self or others.

18 Section 2. Restriction on pre-employment marijuana testing and employment conditional
19 on marijuana testing.

20 (a) An employer may only test a prospective employee for marijuana use after a
21 conditional offer of employment has been extended, unless otherwise required by law. Further,
22 no employer or agent of an employer may directly or indirectly solicit or require an employee or
23 prospective employee to submit to testing for the presence of marijuana in his or her system as a
24 condition of employment

25 (b) Nothing in this act shall be construed to:

26 (1) Affect employee compliance with employer workplace drug policies for any
27 substance other than marijuana as defined in Section 1 of this Act;

28 (2) Require an employer to permit or accommodate the use, consumption, possession,
29 transfer, display, transportation, sale, or growing of marijuana in the workplace or at any time
30 during employment; or

31 (3) Interfere with federal employment contracts

32 (b) Subsection (a) of this section shall not apply to safety sensitive positions or if
33 compliance would cause the public employer to commit a violation of a federal law, regulation,
34 contract, or funding agreement.

35 Section 3. Patient protections.

36 "(a)(1) Notwithstanding any other provision of law, except as provided in subsection (b)
37 of this section, an employer may not refuse to hire, terminate from employment, penalize, fail to
38 promote, or otherwise take adverse employment action against an individual based upon the
39 individual's status as a qualifying patient unless the individual used, possessed, or was impaired
40 by marijuana at the individual's place of employment or during the hours of employment.

41 "(2) A qualifying patient's failure to pass an employer-administered drug test for
42 marijuana components or metabolites may not be used as a basis for employment-related
43 decisions unless reasonable suspicion exists that the qualified patient was impaired by marijuana
44 at the qualifying patient's place of employment or during the hours of employment.

45 "(b) Subsection (a) of this section shall not apply to safety sensitive positions or if
46 compliance would cause the public employer to commit a violation of a federal law, regulation,
47 contract, or funding agreement."