HOUSE . . . . . No. 4426

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 26, 2024.

The committee on Cannabis Policy, to whom was referred the petition (accompanied by bill, House, No. 114) of Michael P. Kushmerek and Colleen M. Garry relative to employment protections for medical marijuana patients, reports recommending that the accompanying bill (House, No. 4426) ought to pass.

For the committee,

DANIEL M. DONAHUE.

FILED ON: 2/5/2024

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The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act prohibiting employment discrimination based on 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:

SECTION 1. Section 1 of chapter 151B of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by adding the following subsection: --

24. The term "safety sensitive position" shall mean a position with duties that, if performed while under the influence of drugs or alcohol, could lead to a lapse of attention that could cause actual, immediate, and permanent physical injury or loss of life to self or others.

SECTION 2. Section 4 of Chapter 151B of the General Laws, as so appearing, is hereby amended by adding after subsection 19, the following subsections: --

20. For an employer or his agent, because of the presence of tetrahydrocannabinol or marijuana metabolite in the blood, urine or other body sample provided by the individual, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment, unless reasonable suspicion exists that the employee was impaired by marijuana at the employee's place of employment or during the hours of employment.

It shall be a defense to such employment action if the employee, due to the presence of tetrahydrocannabinol or marijuana metabolite in the blood, urine or other body sample provided by the individual, is unable to maintain licenses, credentials, or other qualifications that are reasonably necessary for the performance of the employee's position, regardless of whether such licensing, credentialing, or other qualifications prohibit the employee from using marijuana. This section shall not apply to safety sensitive positions or if compliance would cause the employer to commit a violation of a federal law, regulation, contract, or funding agreement.