


Councilmember David Grosso

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to congressional review, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to prohibit the District of Columbia government from taking adverse employment actions against individuals for participating in a medical marijuana program; and to amend the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996 to do the same.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Program Patient Employment Protection Congressional Review Emergency Amendment Act of 2020”.

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 2051 (D.C. Official Code § 1-620.11) is amended as follows:

(1) Designate the existing text as subsection (a).

(2) A new subsection (b) is added to read as follows:

“(b) To the extent permitted by federal law and regulations, programs and rules adopted pursuant to subsection (a) of this section shall accommodate qualifying patients, as that term is defined in section 2(19) of the Legalization of Marijuana for Medical Treatment Initiative of

35 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01(19)), in
36 compliance with title XX-E.”.

37 (b) Section 2025 (D.C. Official Code § 1-620.25) is amended by adding a new subsection
38 (d) to read as follows:

39 “(d) Notwithstanding subsection (a) of this section, the testing program established
40 pursuant to this title shall comply with the requirements of title XX-E.”.

41 (c) Section 2032 (D.C. Official Code § 1-620.32) is amended by adding a new subsection
42 (g) to read as follows:

43 “(g) The testing program established pursuant to this title shall comply with the
44 requirements of title XX-E.”.

45 (d) A new title XX-E is added to read as follows:

46 "TITLE XX-E

47 "MEDICAL MARIJUANA PROGRAM PATIENT EMPLOYMENT PROTECTIONS.

48 "Sec. 2051. Definitions.

49 “For the purposes of this title, the term:

50 “(1) “Marijuana” shall have the same meaning as provided in section 102(3)(A) of
51 the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981
52 (D.C. Law 4-29; D.C. Official Code § 48-901.02(3)(A)).

53 “(2) “Qualifying patient” shall have the same meaning as provided in section
54 2(19) of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July
55 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01(19)).

56 “(3) “Public employer” means the District government.

57 “(4) “Safety sensitive position” means a position with duties that, if performed
58 while under the influence of drugs or alcohol, could lead to a lapse of attention that could cause
59 actual, immediate, and permanent physical injury or loss of life to self or others.

60 “Sec. 2052. Patient protections.

61 “(a)(1) Notwithstanding any other provision of law, except as provided in subsection (b)
62 of this section, a public employer may not refuse to hire, terminate from employment, penalize,
63 fail to promote, or otherwise take adverse employment action against an individual based upon
64 the individual’s status as a qualifying patient unless the individual used, possessed, or was
65 impaired by marijuana at the individual’s place of employment or during the hours of
66 employment.

67 “(2) A qualifying patient’s failure to pass a public employer-administered drug
68 test for marijuana components or metabolites may not be used as a basis for employment-related
69 decisions unless reasonable suspicion exists that the qualified patient was impaired by marijuana
70 at the qualifying patient’s place of employment or during the hours of employment.

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

74 Sec. 3. Section 3 of the Department of Corrections Employee Mandatory Drug and
75 Alcohol Testing Act of 1996, effective September 20, 1996 (D.C. Law 11-158; DC. Official
76 Code § 24-211.22), is amended by adding a new subsection (d) to read as follows:

77 “(d) The testing program established pursuant to this act shall comply with the
78 requirements of title XX-E of the District of Columbia Government Comprehensive Merit
79 Personnel Act of 1978, enacted June 8, 2020 (D.C. Act 23-327; 67 DCMR 759).”.

80 Sec. 4. Fiscal impact.

81 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
82 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
83 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

84 Sec. 5. Effective date.

85 This act shall take effect following approval by the Mayor (or in the event of veto by the
86 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
87 90 days, as provided for emergency acts of the Council of the District of Columbia in section
88 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
89 D.C. Official Code § 1-204.12(a)).