
SENATE BILL 5123

State of Washington

68th Legislature

2023 Regular Session

By Senators Keiser, Frame, Hunt, Kuderer, Mullet, Nguyen, Randall, Stanford, Van De Wege, and Wellman

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1 AN ACT Relating to the employment of individuals who lawfully
2 consume cannabis; adding new sections to chapter 49.44 RCW; and
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44
6 RCW to read as follows:

7 The legislature finds that the legalization of recreational
8 cannabis in Washington state in 2012 created a disconnect between
9 prospective employees' legal activities and employers' hiring
10 practices. Many tests for cannabis show only the presence of
11 nonpsychoactive cannabis metabolites from past cannabis use,
12 including up to 30 days in the past, that have no correlation to an
13 applicant's future job performance. Applicants are much less likely
14 to test positive or be disqualified for the presence of alcohol on a
15 preemployment screening test compared with cannabis, despite both
16 being legally allowed controlled substances. The legislature intends
17 to prevent restricting job opportunities based on an applicant's past
18 use of cannabis.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44
20 RCW to read as follows:

1 (1) It is unlawful for an employer to discriminate against a
2 person in hiring if the discrimination is based upon:

3 (a) The person's use of cannabis off the job and away from the
4 workplace; or

5 (b) An employer-required drug screening test that has found the
6 person to have nonpsychoactive cannabis metabolites in their hair,
7 blood, urine, or other bodily fluids.

8 (2) Nothing in this section:

9 (a) Prohibits an employer from discriminating in hiring based on
10 scientifically valid drug screening conducted through methods that do
11 not screen for nonpsychoactive cannabis metabolites; or

12 (b) Affects the rights or obligations of an employer to maintain
13 a drug and alcohol free workplace, or any other rights or obligations
14 of an employer required by federal law or regulation.

15 (3) This section does not apply to an applicant:

16 (a) In the building and construction trades; or

17 (b) Applying for a position that requires a federal government
18 background investigation or security clearance.

19 (4) This section does not preempt state or federal laws requiring
20 an applicant to be tested for controlled substances. This includes
21 state or federal laws requiring applicants to be tested, or the way
22 they are tested, as a condition of employment, receiving federal
23 funding or federal licensing-related benefits, or as required by a
24 federal contract.

25 (5) For the purposes of this section, "cannabis" has the meaning
26 provided in RCW 69.50.101.

27 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

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