

Hall of the House of Representatives
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of House Bill No. 1460

TO AMEND THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016 REGARDING EMPLOYEE
PROTECTIONS AND EMPLOYEE SAFETY.

Amendment No. 1 to House Bill No. 1460

Amend House Bill No. 1460 as originally introduced:

Delete SECTION 2 in its entirety

AND

Page 2, line 29, delete "an employee" and substitute "an applicant or employee"

AND

Page 3, line 7, delete "an individual who" and substitute "an entity that"

AND

Page 3, delete lines 9 and 10, and substitute the following:
"the current or preceding calendar year;"

AND

Page 3, line 21, delete "an employee in" and substitute "an applicant or employee in"

AND

Page 4, delete lines 14 through 34, and substitute the following:
"a person performing the position while under the influence of marijuana may constitute a threat to health or safety, including without limitation a position:

(i) That requires any of the following activities:

(a) Carrying a firearm;

(b) Performing life-threatening procedures;

(c) Working with confidential information or

documents pertaining to criminal investigations; or



(d) Working with controlled substances, food, or medicine; or

(ii) In which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of the job duties; and

(26)(A) "Under the influence" means symptoms of the current use of marijuana that may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety.

(B) "Under the influence" includes without limitation:

(i) Symptoms of the applicant's or employee's speech, walking,"

AND

Page 5, line 1, delete "the employee" and substitute "the applicant or employee"

AND

Page 5, delete lines 4 and 5, and substitute the following:

"(iii) Disregard for safety;"

AND

Page 5, delete lines 11 through 14, and substitute the following:

"(c) An injury; or

(v) Other symptoms causing a reasonable suspicion that the current use of marijuana may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety."

AND

Page 5, line 29, delete "an employee under the" and substitute "an applicant or employee under the"

AND

Page 5, delete line 32, and substitute the following:

"a qualifying patient;"

AND

Page 6, line 1, delete "during hours" and substitute "during the hours"

AND

Page 6, delete line 5, and substitute the following:

"from performing a safety sensitive position based on"

AND

Page 6, delete lines 15 through 30, and substitute the following:

"(iv) Suspending or terminating an employee;
(v) Requiring an employee to successfully complete a
substance abuse program before returning to work;

(vi) Refusing to hire an applicant; or
(vii) Any combination of the actions listed in
subdivisions (f)(3)(C)(i) - (f)(3)(C)(vi) of this section.

(D)(i) Damages established for an employment
discrimination claim based on an applicant's or employee's past or present
status as a qualifying patient or designated caregiver in violation of this
amendment shall be limited to the damages available for an employment
discrimination claim under § 16-123-107(c) of the Arkansas Civil Rights Act
of 1993, § 16-123-101 et seq., including the statutory limits provided under
§ 16-123-107(c)(2)(A)(i)-(v).

(ii) Liability for back pay shall not accrue from a
date more than two (2) years prior to the filing of an action.

(iii) Damages under this subdivision (f)(3) shall
not duplicate or increase a damages award over the statutory limit allowed
by:

(a) Title VII of the Civil Rights Act of 1964,
the Americans with Disabilities Act of 1990, or any other federal employment
discrimination law containing a statutory limit on damages; or

(b) The Arkansas Civil Rights Act of 1993, §
16-123-101 et seq., or any other state employment discrimination law
containing a statutory limit on damages."

AND

Appropriately renumber the sections of the bill

The Amendment was read _____

By: Representative Wing

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Chief Clerk