

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1460

Amendment Number: H3

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

Basic Change :

Sponsors: Representative Wing, House

Engrossment 03/02/17 --- House Amendment 3 --- Amends the language regarding employer damages established for employment discrimination claims by applicants or employees based on past or present status as a qualifying patient of designated caregiver to delete the specific references to Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and the Arkansas Civil Rights Act of 1993. The amendment provides that damages awarded could not exceed any statutory limits as existing in federal or state law on January 1, 2017.

Engrossment 02/28/17 --- House Amendment 2 --- Amends the bill to provide additional clarifying language regarding actions of an employer regarding safety sensitive positions; causes of action against an employer who implements a substance abuse or drug-free workplace; and to include an employee of an agent of an employer as being within the protected class for violations of the amendment provisions regarding the use of medical marijuana.

Engrossment 02/16/17 --- House Amendment 1 --- Amends definitions to establish that an employer's good faith belief of marijuana use applies to applicants for employment as well as existing employees; employer includes all types of business entities in addition to individuals; clarifies provisions related to a "safety sensitive position", and "under the influence"; and makes clarifying changes to employer, employee, and applicant for employment protections.

Original Bill --- The proposal would amend the Arkansas Medical Marijuana Amendment of 2016 to clarify that a written certification by a physician for use of marijuana is not a medical prescription and amends the definition of "designated caregiver" to provide that the caregiver may assist no more than one (1) qualifying patient including their spouse or minor child.

The bill would also provide protections for employers of employees who may be under the influence of marijuana at the workplace and during work hours. Actions against an employer for establishing a substance abuse or drug-free workplace policy including drug testing or for an employer to act in good faith in determining that an employee used marijuana while on the job or was under the influence of marijuana while on the job would be limited.

Revenue Impact :

None.

Taxpayer Impact :

None.

Resources Required :

None.

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Time Required :

None.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

HB1460-H3 clarifies that any damages awarded for an action against an employer under the protections of the Arkansas Medical Marijuana Amendment of 2016 (Amendment) are subject to the same statutory limitations under state and federal law. Stated differently, the Amendment does not create any additional damages or allow any increases to current statutory limitations.

HB1460-H2 clarifies language in the earlier bill. One portion of the amendment strengthens an employer's power to establish and implement a substance abuse or drug-free workplace policy. This significantly expands an employer's ability to exclude qualified patients from a workplace. This amendment also clarifies that the state maintains sovereign immunity.

HB1460 modifies the language of the Amendment regarding employer-employee relations. Under the current Amendment, an employer is not required to accommodate the ingestion of marijuana in the workplace or to allow employees to be under the influence of marijuana while working. See § 6(b)(2). Additionally, the Amendment provides that an employer cannot discriminate or otherwise penalize an individual in hiring, termination or any term of employment for being a current or past qualifying patient or designated caregiver.