

SB 301 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/18/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 3-2-0-0
Yeas: 3 - Dembrow, Manning Jr, Prozanski
Nays: 2 - Linthicum, Thatcher
Fiscal: Fiscal impact issued
Revenue: No revenue impact
Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Makes it an unlawful employment practice for an employer to refuse to employ, discharge or penalize employee, or discriminate against employee in compensation or employment terms, because employee is a registry identification cardholder or is cardholder and tests positive for cannabis. Specifies exceptions. Takes effect 91st day after adjournment sine die.

ISSUES DISCUSSED:

- Whether SB 301 is subject to preemption
- Whether it is possible to test for impairment by marijuana
- Applicability of exemptions for this provision
- Explanation of federal funding impact on certain employers in Oregon

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

In Oregon, it is considered an unlawful employment practice for any employer to condition employment on refraining from using lawful tobacco products during nonworking hours. There is an exception when the restriction relates to a bona fide occupational requirement or an applicable collective bargaining agreement prohibits the off-duty use of tobacco products.

Senate Bill 301-A makes it an unlawful employment practice for any employer to refuse to employ, discharge or penalize an employee, or discriminate against an employee in compensation or employment terms, because the employee is a registry identification cardholder or cardholder who tests positive for cannabis. A registry identification card allows a person to use marijuana when the person's attending physician has diagnosed the person with a debilitating medical condition and the use of medical marijuana may mitigate the condition's symptoms or effects. SB 301-A specifies exceptions for employment practices related to (1) performing work while impaired; (2) the essence of the employer's business, when at least substantially all users of cannabis products would be unable to perform their work duties safely and efficiently or at least some would and it is impossible or impracticable to determine who is using the products; (3) a collective bargaining agreement's prohibition on using the products during nonworking hours; (4) a federal law or regulation requiring an employer to test employees or prospective employees for the products; or (4) a contract with the federal government under which the receipt of federal moneys is contingent on having a drug-free workplace. Finally, SB 301-A makes several conforming amendments.