

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 732 Session of 2025

INTRODUCED BY STEFANO, LAUGHLIN, PENNYCUICK, YAW, J. WARD AND BROWN, MAY 12, 2025

REFERRED TO LAW AND JUSTICE, MAY 12, 2025

AN ACT

1 Amending the act of April 17, 2016 (P.L.84, No.16), entitled "An  
2 act establishing a medical marijuana program; providing for  
3 patient and caregiver certification and for medical marijuana  
4 organization registration; imposing duties on the Department  
5 of Health; providing for a tax on medical marijuana  
6 organization gross receipts; establishing the Medical  
7 Marijuana Program Fund; establishing the Medical Marijuana  
8 Advisory Board; establishing a medical marijuana research  
9 program; imposing duties on the Department of Corrections,  
10 the Department of Education and the Department of Human  
11 Services; and providing for academic clinical research  
12 centers and for penalties and enforcement," in preliminary  
13 provisions, further providing for definitions; in patients,  
14 further providing for prohibitions; in miscellaneous  
15 provisions, further providing for protections for patients  
16 and caregivers and providing for enforcement and civil  
17 actions; and promulgating regulations.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. Section 103 of the act of April 17, 2016 (P.L.84,  
21 No.16), known as the Medical Marijuana Act, is amended by adding  
22 definitions to read:

23 Section 103. Definitions.

24 The following words and phrases when used in this act shall  
25 have the meanings given to them in this section unless the

context clearly indicates otherwise:

\* \* \*

"Essential functions." The fundamental, not marginal, duties of a position.

\* \* \*

"Impaired." As follows:

(1) Symptoms of being under the influence of marijuana that may decrease or lessen an employee's performance of essential duties or tasks that an employer, in good faith, believes will result in carelessness, negligence or disregard for the safety of themselves or others and disrupt business operations.

(2) Observable symptoms of impairment from medical marijuana may include the employee's speech, mobility, physical dexterity, agility, coordination, demeanor, appearance, odor or irrational or unusual behavior.

\* \* \*

"Safety-sensitive position." A position that requires any activity that an employer reasonably believes presents a potential risk of harm to the health or safety of an employee or others, including:

(1) Duties performed at heights or in confined spaces, to which the following shall apply:

(i) The term "at heights" shall mean an activity undertaken in any place where, if there were no safety precautions in place, a person could fall a certain distance, resulting in personal injury.

(ii) The term "confined space" shall mean a space with limited openings for entry or exit that is large enough for entering and working and that is not designed

1       for continuous worker occupancy, including mines,  
2       underground vaults, tanks, storage bins, manholes, pits,  
3       silos, underground vaults and pipelines.

4       (2) The operation of any motor vehicle or other vehicle,  
5       including a forklift.

6       (3) Operating, repairing, maintaining or monitoring the  
7       performance or operation of any equipment, machinery, power  
8       tools or manufacturing process, the malfunction or disruption  
9       of which could result in injury or property damage.

10       (4) The performance of official firefighting or rescue  
11       duties.

12       (5) The operation, maintenance or oversight of critical  
13       services and infrastructure, including electric, gas and  
14       water utilities, power generation or distribution.

15       (6) The extraction, compression, processing,  
16       manufacturing, handling, packaging, storage, disposal,  
17       treatment or transport of chemicals or other potentially  
18       volatile, flammable, combustible materials, elements,  
19       chemicals or other highly regulated component.

20       (7) Dispensing or handling pharmaceuticals.

21       (8) Carrying a firearm or any device or weapon designed  
22       or primarily employed so as to incapacitate an individual  
23       while minimizing fatalities, permanent injury or undesired  
24       damage to property or the environment.

25       (9) Direct patient, elder or child care.

26       \* \* \*

27       "Under the influence." One or more of the following:

28       (1) A drug test pursuant to which it is determined that:

29               (i) the level of tetrahydrocannabinolic acid in the  
30               individual's urine is equal to or greater than 15

1        nanograms per milliliter; or

2            (ii) the individual has provided an adulterated or  
3        substituted testing sample.

4        (2) An employer's good faith determination that an  
5        employee or job applicant is under the influence of marijuana  
6        based on observable physical behavior or characteristics,  
7        provided that an employee may rebut the determination by  
8        immediately submitting to a drug test, the results of which  
9        demonstrate that the level of tetrahydrocannabinolic acid in  
10       the employee's urine is less than 15 nanograms per  
11       milliliter.

12       Section 2. Sections 510 and 2103(b) of the act are amended  
13 to read:

14       Section 510. Prohibitions.

15       The following prohibitions shall apply:

16            (1) A patient may not operate or be in physical control  
17        of any of the following while under the influence with a  
18        blood content of more than 10 nanograms of active  
19        tetrahydrocannabis per milliliter of blood in serum:

20            (i) Chemicals which require a permit issued by the  
21        Federal Government or a state government or an agency of  
22        the Federal Government or a state government.

23            (ii) High-voltage electricity or any other public  
24        utility.

25        [(2) A patient may not perform any employment duties at  
26        heights or in confined spaces, including, but not limited to,  
27        mining while under the influence of medical marijuana.]

28            (3) A patient may be prohibited by an employer from  
29        performing any task which the employer deems life-  
30        threatening, to either the employee or any of the employees

1 of the employer, while under the influence of medical  
2 marijuana. The prohibition shall not be deemed an adverse  
3 employment decision even if the prohibition results in  
4 financial harm for the patient.

5 (4) A patient may be prohibited by an employer from  
6 performing any duty which could result in a public health or  
7 safety risk while under the influence of medical marijuana.  
8 The prohibition shall not be deemed an adverse employment  
9 decision even if the prohibition results in financial harm  
10 for the patient.]

11 Section 2103. Protections for patients and caregivers.

12 \* \* \*

13 (b) Employment.--

14 (1) No employer may discharge, threaten, refuse to hire  
15 or otherwise discriminate or retaliate against an employee  
16 regarding an employee's compensation, terms, conditions,  
17 location or privileges solely on the basis of such employee's  
18 status as an individual who is certified to use medical  
19 marijuana.

20 (2) Nothing in this act shall require an employer to  
21 make any accommodation of the use of medical marijuana on the  
22 property or premises of any place of employment. [This act  
23 shall in no way limit an employer's ability to discipline an  
24 employee for being under the influence of medical marijuana  
25 in the workplace or for working while under the influence of  
26 medical marijuana when the employee's conduct falls below the  
27 standard of care normally accepted for that position.]

28 (3) Nothing in this act shall require an employer to  
29 commit or refuse to commit any act that would put the  
30 employer or any person acting on its behalf in violation of

1 Federal law.

2 (4) An employer may require employees or job applicants  
3 who have received a conditional offer of employment to submit  
4 to a drug test, including a test for marijuana, for safety-  
5 sensitive positions. An employer may make an adverse  
6 employment decision against an employee or job applicant who  
7 has provided an adulterated or substituted testing sample or  
8 has refused to submit to a lawful drug test required by an  
9 employer.

10 (5) An employer or entity that provides employment  
11 services or information may indicate that a job position is  
12 safety sensitive and the job position's application process  
13 or the job may require a drug test.

14 (6) An employer may require an employee or job applicant  
15 who has received a conditional employment offer to disclose  
16 and produce a valid identification card if the employee's  
17 position, or the position for which the job applicant is  
18 applying, is a safety-sensitive position. An employer may  
19 make an adverse employment decision against an employee or  
20 job applicant who fails to disclose and produce a valid  
21 identification card under this act, and the employer shall  
22 not be in violation of paragraph (1).

23 (7) An employer may make an adverse employment decision  
24 against an employee or job applicant who discloses and  
25 produces a valid identification card or who uses medical  
26 marijuana if the employee's position, or the position for  
27 which the job applicant is applying, is a safety-sensitive  
28 position, and the employer shall not be in violation of  
29 paragraph (1), if the employer has engaged in an interactive  
30 process with the employee or applicant to evaluate the

1 individual's ability to perform the essential functions of  
2 the position with or without reasonable accommodation.

3 (8) An employer may make an adverse employment decision  
4 against an employee if the employee's use of medical  
5 marijuana decreases or lessens the employee's job performance  
6 or ability to perform the employee's job duties, and the  
7 employer shall not be in violation of paragraph (1), provided  
8 that the employer has engaged in an interactive process with  
9 the employee or applicant to evaluate the individual's  
10 ability to perform the essential functions of the position  
11 with or without reasonable accommodation.

12 (9) Nothing in this section shall be construed to  
13 invalidate or void any rights, benefits or procedures  
14 afforded to an employee under an existing collective  
15 bargaining agreement.

16 (10) Nothing in this section shall be construed to  
17 create or permit a cause of action for an employee or job  
18 applicant against an employer for:

19 (i) Any claim that arises following an employee's or  
20 job applicant's noncompliance with this section and which  
21 the employee or job applicant may have prevented the  
22 claim had they complied.

23 (ii) Actions taken pursuant to an employer's lawful  
24 workplace drug policy, including subjecting an employee  
25 or job applicant to a lawful drug and alcohol test,  
26 lawful and nondiscriminatory random drug test and  
27 discipline, termination of employment or withdrawal of a  
28 job offer after a failure of a drug test.

29 (iii) Actions based on the employer's good faith  
30 belief that an employee used or possessed medical

1 marijuana in the employer's workplace or while performing  
2 the employee's job duties or while on call in violation  
3 of the employer's lawful employment policies.

4 (iv) Actions based on the employer's good faith  
5 belief that an employee was impaired as a result of the  
6 use of medical marijuana, under the influence of medical  
7 marijuana while at the employer's workplace, under the  
8 influence while performing the employee's job duties or  
9 under the influence while on call in violation of the  
10 employer's lawful workplace drug policy.

11 (11) If an employer makes an adverse employment decision  
12 against an employee or job applicant under this act, the  
13 employee or job applicant may not challenge the adverse  
14 employment decision under any other State or local law.

15 \* \* \*

16 Section 3. The act is amended by adding a section to read:  
17 Section 2109.1. Enforcement and civil actions.

18 (a) Regulations.--The Secretary of Labor and Industry shall  
19 promulgate regulations necessary to enforce section 2103(b).

20 (b) Civil action.--A complainant may only bring a civil  
21 action after all administrative remedies are exhausted.

22 Section 4. This act shall take effect in 60 days.