

# HOUSE BILL 1239

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By: **Delegate Smith**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Discrimination in Employment for Use of Medical Cannabis – Prohibition**

3 FOR the purpose of prohibiting an employer, except under certain circumstances, from  
4 discriminating against an individual because of the individual's receipt of a certain  
5 written certification for the use of medical cannabis or the individual's positive drug  
6 test under certain circumstances; establishing that certain provisions prohibiting  
7 employment discrimination do not require an employer to allow certain use of  
8 medical cannabis or make certain reasonable accommodations or prohibit a law  
9 enforcement agency from adopting certain policies and procedures; and generally  
10 relating to discrimination in employment and the use of medical cannabis.

11 BY repealing and reenacting, with amendments,  
12 Article – State Government  
13 Section 20–606(a)  
14 Annotated Code of Maryland  
15 (2014 Replacement Volume and 2018 Supplement)

16 BY adding to  
17 Article – State Government  
18 Section 20–606(g)  
19 Annotated Code of Maryland  
20 (2014 Replacement Volume and 2018 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
22 That the Laws of Maryland read as follows:

23 **Article – State Government**

24 20–606.

25 (a) An employer may not:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) fail or refuse to hire, discharge, or otherwise discriminate against any  
2 individual with respect to the individual's compensation, terms, conditions, or privileges of  
3 employment because of:

4 (i) the individual's race, color, religion, sex, age, national origin,  
5 marital status, sexual orientation, gender identity, genetic information, or disability  
6 unrelated in nature and extent so as to reasonably preclude the performance of the  
7 employment; [or]

8 (ii) the individual's refusal to submit to a genetic test or make  
9 available the results of a genetic test; **OR**

10 **(III) UNLESS A FAILURE TO DO SO WOULD VIOLATE FEDERAL**  
11 **LAW OR REGULATIONS OR CAUSE THE EMPLOYER TO LOSE A MONETARY OR**  
12 **LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS:**

13 **1. THE INDIVIDUAL'S RECEIPT OF A WRITTEN**  
14 **CERTIFICATION FOR THE USE OF MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE**  
15 **33 OF THE HEALTH - GENERAL ARTICLE; OR**

16 **2. THE INDIVIDUAL'S POSITIVE DRUG TEST FOR**  
17 **CANNABIS COMPONENTS OR METABOLITES IF THE INDIVIDUAL HOLDS A WRITTEN**  
18 **CERTIFICATION FOR THE USE OF MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE**  
19 **33 OF THE HEALTH - GENERAL ARTICLE;**

20 (2) limit, segregate, or classify its employees or applicants for employment  
21 in any way that would deprive or tend to deprive any individual of employment  
22 opportunities or otherwise adversely affect the individual's status as an employee because  
23 of:

24 (i) the individual's race, color, religion, sex, age, national origin,  
25 marital status, sexual orientation, gender identity, genetic information, or disability  
26 unrelated in nature and extent so as to reasonably preclude the performance of the  
27 employment; [or]

28 (ii) the individual's refusal to submit to a genetic test or make  
29 available the results of a genetic test; **OR**

30 **(III) UNLESS A FAILURE TO DO SO WOULD VIOLATE FEDERAL**  
31 **LAW OR REGULATIONS OR CAUSE THE EMPLOYER TO LOSE A MONETARY OR**  
32 **LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS:**

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1 **33 OF THE HEALTH – GENERAL ARTICLE; OR**

2 **2. THE INDIVIDUAL’S POSITIVE DRUG TEST FOR**  
3 **CANNABIS COMPONENTS OR METABOLITES IF THE INDIVIDUAL HOLDS A WRITTEN**  
4 **CERTIFICATION FOR THE USE OF MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE**  
5 **33 OF THE HEALTH – GENERAL ARTICLE;**

6 (3) request or require genetic tests or genetic information as a condition of  
7 hiring or determining benefits; or

8 (4) fail or refuse to make a reasonable accommodation for the known  
9 disability of an otherwise qualified employee.

10 **(G) THE PROHIBITIONS UNDER SUBSECTION (A)(1)(III) AND (2)(III) OF THIS**  
11 **SECTION DO NOT:**

12 **(1) APPLY IN THE CASE OF AN INDIVIDUAL WHO USED, POSSESSED, OR**  
13 **WAS IMPAIRED BY MEDICAL CANNABIS ON THE PREMISES OF THE EMPLOYER OR**  
14 **DURING THE HOURS OF EMPLOYMENT;**

15 **(2) REQUIRE AN EMPLOYER TO ALLOW THE USE OF MEDICAL**  
16 **CANNABIS ON THE PREMISES OF THE EMPLOYER OR DURING THE HOURS OF**  
17 **EMPLOYMENT;**

18 **(3) REQUIRE AN EMPLOYER TO MAKE A REASONABLE**  
19 **ACCOMMODATION FOR THE MEDICAL NEEDS OF AN EMPLOYEE WHO IS AUTHORIZED**  
20 **TO USE MEDICAL CANNABIS UNDER TITLE 13, SUBTITLE 33 OF THE**  
21 **HEALTH – GENERAL ARTICLE IF THE ACCOMMODATION WOULD:**

22 **(I) POSE A THREAT OF HARM OR DANGER TO PERSONS OR**  
23 **PROPERTY OR IMPOSE AN UNDUE HARDSHIP ON THE EMPLOYER; OR**

24 **(II) IMPAIR THE ABILITY OF THE EMPLOYEE TO FULFILL ANY OR**  
25 **ALL OF THE EMPLOYEE’S JOB RESPONSIBILITIES; OR**

26 **(4) PROHIBIT A LAW ENFORCEMENT AGENCY FROM ADOPTING**  
27 **POLICIES AND PROCEDURES THAT PROHIBIT AN EMPLOYEE FROM ENGAGING IN THE**  
28 **USE OF MEDICAL CANNABIS.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2019.