

HOUSE BILL 1408

D5, A3, E4

5lr2676

By: **Delegate Boafo**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Employment Discrimination – Fire and Rescue Public Safety Employees – Use of**
3 **Medical Cannabis**

4 FOR the purpose of prohibiting an employer from taking certain discriminatory
5 employment actions against a fire and rescue public safety employee for the use of
6 medical cannabis, subject to certain conditions; and generally relating to
7 employment discrimination and the use of medical cannabis.

8 BY repealing and reenacting, without amendments,

9 Article – Alcoholic Beverages and Cannabis

10 Section 36–101(a), (m), (ee), and (kk)

11 Annotated Code of Maryland

12 (2024 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 Article – State Government

15 Section 20–601 and 20–606

16 Annotated Code of Maryland

17 (2021 Replacement Volume and 2024 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Alcoholic Beverages and Cannabis**

21 36–101.

22 (a) In this title the following words have the meanings indicated.

23 (m) “Certifying provider” means an individual who:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) (i) 1. has an active, unrestricted license to practice medicine
2 that was issued by the State Board of Physicians under Title 14 of the Health Occupations
3 Article; and
- 4 2. is in good standing with the State Board of Physicians;
- 5 (ii) 1. has an active, unrestricted license to practice dentistry
6 that was issued by the State Board of Dental Examiners under Title 4 of the Health
7 Occupations Article; and
- 8 2. is in good standing with the State Board of Dental
9 Examiners;
- 10 (iii) 1. has an active, unrestricted license to practice podiatry
11 that was issued by the State Board of Podiatric Medical Examiners under Title 16 of the
12 Health Occupations Article; and
- 13 2. is in good standing with the State Board of Podiatric
14 Medical Examiners;
- 15 (iv) 1. has an active, unrestricted license to practice registered
16 nursing and has an active, unrestricted certification to practice as a nurse practitioner or
17 a nurse midwife that was issued by the State Board of Nursing under Title 8 of the Health
18 Occupations Article; and
- 19 2. is in good standing with the State Board of Nursing; or
- 20 (v) 1. has an active, unrestricted license to practice as a
21 physician assistant issued by the State Board of Physicians under Title 15 of the Health
22 Occupations Article;
- 23 2. has an active collaboration agreement with a patient care
24 team physician who is a certifying provider; and
- 25 3. is in good standing with the State Board of Physicians;
- 26 (2) has a State controlled dangerous substances registration; and
- 27 (3) is registered with the Administration to make cannabis available to
28 patients for medical use in accordance with regulations adopted by the Administration.
- 29 (ee) “Qualifying patient” means an individual who:
- 30 (1) has been provided with a written certification by a certifying provider
31 in accordance with a bona fide provider–patient relationship; and
- 32 (2) if under the age of 18 years, has a caregiver.

1 (kk) “Written certification” means a certification that:

2 (1) is issued by a certifying provider to a qualifying patient with whom the
3 provider has a bona fide provider–patient relationship;

4 (2) includes a written statement certifying that, in the certifying provider’s
5 professional opinion, after having completed an assessment of the patient’s medical history
6 and current medical condition, the patient has a condition:

7 (i) that meets the inclusion criteria and does not meet the exclusion
8 criteria of the certifying provider’s application; and

9 (ii) for which the potential benefits of the medical use of cannabis
10 would likely outweigh the health risks for the patient; and

11 (3) may include a written statement certifying that, in the certifying
12 provider’s professional opinion, a 30–day supply of medical cannabis would be inadequate
13 to meet the medical needs of the qualifying patient.

14 Article – State Government

15 20–601.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) (1) “Disability” means:

18 (i) 1. a physical disability, infirmity, malformation, or
19 disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

20 2. a mental impairment or deficiency;

21 (ii) a record of having a physical or mental impairment as otherwise
22 defined under this subsection; or

23 (iii) being regarded as having a physical or mental impairment as
24 otherwise defined under this subsection.

25 (2) “Disability” includes:

26 (i) 1. any degree of paralysis, amputation, or lack of physical
27 coordination;

28 2. blindness or visual impairment;

29 3. deafness or hearing impairment;

1 4. muteness or speech impediment; and

2 5. physical reliance on a service animal, wheelchair, or other
3 remedial appliance or device; and

4 (ii) retardation and any other mental impairment or deficiency that
5 may have necessitated remedial or special education and related services.

6 (c) (1) "Employee" means:

7 (i) an individual employed by an employer; or

8 (ii) an individual working as an independent contractor for an
9 employer.

10 (2) Unless the individual is subject to the State or local civil service laws,
11 "employee" does not include:

12 (i) an individual elected to public office;

13 (ii) an appointee on the policy making level; or

14 (iii) an immediate adviser with respect to the exercise of the
15 constitutional or legal powers of an elected office.

16 (d) (1) "Employer" means:

17 (i) a person that:

18 1. is engaged in an industry or business; and

19 2. A. has 15 or more employees for each working day in
20 each of 20 or more calendar weeks in the current or preceding calendar year; or

21 B. if an employee has filed a complaint alleging harassment,
22 has one or more employees for each working day in each of 20 or more calendar weeks in
23 the current or preceding calendar year; and

24 (ii) an agent of a person described in item (i) of this paragraph.

25 (2) "Employer" includes the State to the extent provided in this title.

26 (3) Except for a labor organization, "employer" does not include a bona fide
27 private membership club that is exempt from taxation under § 501(c) of the Internal
28 Revenue Code.

1 (e) (1) “Employment agency” means:

2 (i) a person that regularly undertakes with or without
3 compensation to procure:

4 1. employees for an employer; or

5 2. opportunities for employees to work for an employer; and

6 (ii) an agent of a person described in item (i) of this paragraph.

7 (2) Except for the United States Employment Service and the system of
8 State and local employment services receiving federal assistance, “employment agency”
9 does not include a unit of the United States, the State, or a political subdivision of the State.

10 (f) **“FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE” MEANS A**
11 **FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN, A CARDIAC RESCUE**
12 **TECHNICIAN, OR A PARAMEDIC EMPLOYED BY:**

13 (1) **A MUNICIPAL CORPORATION;**

14 (2) **A COUNTY;**

15 (3) **THE STATE;**

16 (4) **THE STATE AIRPORT AUTHORITY; OR**

17 (5) **A FIRE CONTROL DISTRICT.**

18 (G) “Genetic information” has the meaning stated in § 27–909(a)(3) of the
19 Insurance Article.

20 [(g)] (H) “Genetic test” has the meaning stated in § 27–909(a)(5) of the Insurance
21 Article.

22 [(h)] (I) “Harassment” includes:

23 (1) unwelcome and offensive conduct, which need not be severe or
24 pervasive, when:

25 (i) the conduct is based on race, color, religion, ancestry or national
26 origin, sex, age, marital status, sexual orientation, gender identity, disability, or military
27 status; and

28 (ii) 1. submission to the conduct is made either explicitly or
29 implicitly a term or condition of employment of an individual;

1 2. submission to or rejection of the conduct is used as a basis
2 for employment decisions affecting the individual; or

3 3. based on the totality of the circumstances, the conduct
4 unreasonably creates a working environment that a reasonable person would perceive to
5 be abusive or hostile; and

6 (2) sexual harassment.

7 **[(i)] (J)** (1) “Labor organization” means:

8 (i) a labor organization engaged in an industry; and

9 (ii) an agent of an organization described in item (i) of this
10 paragraph.

11 (2) “Labor organization” includes:

12 (i) an organization of any kind, an agency, or an employee
13 representation committee, group, association, or plan:

14 1. in which employees participate; and

15 2. that exists, wholly or partly, for the purpose of dealing
16 with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other
17 terms or conditions of employment; and

18 (ii) a conference, general committee, joint or system board, or joint
19 council that is subordinate to a national or international labor organization.

20 **[(j)] (K)** “Religion” includes all aspects of religious observances, practice, and
21 belief.

22 **[(k)] (L)** “Sexual harassment” includes conduct, which need not be severe or
23 pervasive, that consists of unwelcome sexual advances, requests for sexual favors, or other
24 conduct of a sexual nature when:

25 (1) submission to the conduct is made either explicitly or implicitly a term
26 or condition of employment of an individual;

27 (2) submission to or rejection of the conduct is used as a basis for
28 employment decisions affecting the individual; or

29 (3) based on the totality of the circumstances, the conduct unreasonably
30 creates a working environment that a reasonable person would perceive to be abusive or
31 hostile.

1 20-606.

2 (a) An employer may not:

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

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

10 (ii) the individual's refusal to submit to a genetic test or make
11 available the results of a genetic test;

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

16 (i) the individual's race, color, religion, sex, age, national origin,
17 marital status, sexual orientation, gender identity, genetic information, military status, or
18 disability unrelated in nature and extent so as to reasonably preclude the performance of
19 the employment; or

20 (ii) the individual's refusal to submit to a genetic test or make
21 available the results of a genetic test;

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

24 (4) fail or refuse to make a reasonable accommodation for the known
25 disability of an otherwise qualified employee or an applicant for employment; or

26 (5) engage in harassment of an employee.

27 (b) An employment agency may not:

28 (1) fail or refuse to refer for employment or otherwise discriminate against
29 any individual because of the individual's race, color, religion, sex, age, national origin,
30 marital status, sexual orientation, gender identity, military status, or disability unrelated
31 in nature and extent so as to reasonably preclude the performance of the employment; or

32 (2) classify or refer for employment any individual on the basis of the
33 individual's race, color, religion, sex, age, national origin, marital status, sexual

1 orientation, gender identity, military status, or disability unrelated in nature and extent
2 so as to reasonably preclude the performance of the employment.

3 (c) A labor organization may not:

4 (1) exclude or expel from its membership, or otherwise discriminate
5 against, any individual because of the individual's race, color, religion, sex, age, national
6 origin, marital status, sexual orientation, gender identity, military status, or disability
7 unrelated in nature and extent so as to reasonably preclude the performance of the
8 employment;

9 (2) limit, segregate, or classify its membership, or classify or fail or refuse
10 to refer for employment any individual, in any way that would deprive or tend to deprive
11 the individual of employment opportunities, limit the individual's employment
12 opportunities, or otherwise adversely affect the individual's status as an employee or as an
13 applicant for employment because of the individual's race, color, religion, sex, age, national
14 origin, marital status, sexual orientation, gender identity, military status, or disability
15 unrelated in nature and extent so as to reasonably preclude the performance of the
16 employment; or

17 (3) cause or attempt to cause an employer to discriminate against an
18 individual in violation of this section.

19 (d) An employer, labor organization, or joint labor-management committee
20 controlling apprenticeship or other training or retraining programs, including on-the-job
21 training programs, may not discriminate against any individual in admission to, or
22 employment in, any program established to provide apprenticeship or other training or
23 retraining because of the individual's race, color, religion, sex, age, national origin, marital
24 status, sexual orientation, gender identity, military status, or disability unrelated in nature
25 and extent so as to reasonably preclude the performance of the employment.

26 (e) (1) Except as provided in paragraph (2) of this subsection, an employer,
27 labor organization, or employment agency may not print or cause to be printed or published
28 any notice or advertisement relating to employment by the employer, membership in or any
29 classification or referral for employment by the labor organization, or any classification or
30 referral for employment by the employment agency that indicates any preference,
31 limitation, specification, or discrimination based on race, color, religion, sex, age, national
32 origin, marital status, sexual orientation, gender identity, disability, or military status.

33 (2) A notice or advertisement may indicate a preference, limitation,
34 specification, or discrimination based on religion, sex, age, national origin, marital status,
35 disability, or military status if religion, sex, age, national origin, marital status, disability,
36 or military status is a bona fide occupational qualification for employment.

37 (f) An employer may not discriminate or retaliate against any of its employees or
38 applicants for employment, an employment agency may not discriminate against any

1 individual, and a labor organization may not discriminate or retaliate against any member
2 or applicant for membership because the individual has:

3 (1) opposed any practice prohibited by this subtitle; or

4 (2) made a charge, testified, assisted, or participated in any manner in an
5 investigation, proceeding, or hearing under this subtitle.

6 (G) (1) IN THIS SUBSECTION, "WRITTEN CERTIFICATION" HAS THE
7 MEANING STATED IN § 36-101 OF THE ALCOHOLIC BEVERAGES AND CANNABIS
8 ARTICLE.

9 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON THE BASIS
10 OF A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE'S POSSESSION OF A VALID
11 WRITTEN CERTIFICATION, OR ON THE BASIS OF A FIRE AND RESCUE PUBLIC SAFETY
12 EMPLOYEE TESTING POSITIVE FOR CANNABIS COMPONENTS OR METABOLITES
13 WHILE HOLDING A VALID WRITTEN CERTIFICATION, AN EMPLOYER MAY NOT:

14 (I) DISCIPLINE, DISCHARGE, OR OTHERWISE DISCRIMINATE
15 AGAINST THE FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE WITH RESPECT TO THE
16 EMPLOYEE'S COMPENSATION, TERMS, CONDITIONS, OR PRIVILEGES OF
17 EMPLOYMENT; OR

18 (II) LIMIT, SEGREGATE, OR CLASSIFY ITS EMPLOYEES IN ANY
19 WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE THE FIRE AND RESCUE PUBLIC
20 SAFETY EMPLOYEE OF EMPLOYMENT OPPORTUNITIES OR OTHERWISE ADVERSELY
21 AFFECT THE FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE'S STATUS AS AN
22 EMPLOYEE.

23 (3) NOTHING IN THIS SUBSECTION:

24 (I) REQUIRES AN EMPLOYER TO COMMIT AN ACT THAT WOULD:

25 1. VIOLATE FEDERAL LAW OR REGULATIONS; OR

26 2. CAUSE THE EMPLOYER TO LOSE A MONETARY OR
27 LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS; OR

28 (II) PROHIBITS AN EMPLOYER FROM:

29 1. ADOPTING POLICIES AND PROCEDURES THAT
30 PROHIBIT A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE FROM PERFORMING THE
31 EMPLOYEE'S DUTIES WHILE IMPAIRED BY MEDICAL CANNABIS; OR

