

Medical Marijuana Program Patient Employment Protection Act

Summary of July 24 version of committee print

- **Basic Protections**
 - No adverse employment actions against applicants and employees who are qualified patients, provided no use or possession at work and not impaired at work.
 - Failing a drug test for marijuana can't lead to employment-related decisions for qualified patients, unless there's reasonable suspicion of impairment at work or during work hours.
- **Exceptions.** Protections will not apply:
 - If it would cause a violation of federal law or loss of federal money or to
 - To safety sensitive employees
- **Special rights and protections**
 - **Safety sensitive employees** would have other rights and protections to prevent job loss or other repercussions as much as possible, specifically the right to:
 - Receive a written justification of their position's designation as safety sensitive; that is, what duties make it safety-sensitive.
 - Appeal the designation as safety-sensitive.
 - This right will be available to people who are SS employees on the Act's effective date; when an employee's status as a medical marijuana patient changes; or when a position's designation changes
 - The first-level review would be by the personnel authority (usually DCHR); that review could be appealed to the Office of Employee Appeals, which would issue a final determination
 - An individual-level appeal process in a CBA would supersede this provision
 - **All employees** (safety sensitive and others) will have the right to reasonable accommodation of medical marijuana use.
 - The committee report will make clear that the reasonable accommodation language (which will amend the CMPA rather than the DC Human Rights Act) is intended to mirror the reasonable accommodation framework employers must follow under the Americans with Disabilities Act/DCHRA, with certain modifications. This includes an individualized, interactive process and a prohibition on retaliating against an employee who requests a reasonable accommodation. See [EEOC guidance](#) for more detail.
 - As with the ADA/HRA, there is not an entitlement to or guarantee of accommodation. The accommodation is not reasonable if:
 1. It would require an employee to perform safety-sensitive duties (or serve in a designated safety-sensitive position)
 2. It would cause "undue hardship" to the employer, as defined in the ADA and spelled out in [EEOC guidance](#).
 3. It would cause the District to violate federal law or forego federal money

Medical Marijuana Program Patient Employment Protection Act

Summary of September 11 version of committee print

- **Basic Protections**
 - No adverse employment actions against applicants and employees who are qualifying patients, provided no use or possession at work and not impaired at work.
 - Failing a drug test for marijuana can't lead to employment-related decisions for qualified patients, unless there's reasonable suspicion of impairment at work or during work hours.
 - **NEW:** amended definition of "qualifying patient"
- **Exceptions.** Protections will not apply:
 - If it would cause a violation of federal law or loss of federal money or to
 - To safety sensitive employees
- **Special rights and protections**
 - **Safety sensitive employees** would have other rights and protections to prevent job loss or other repercussions as much as possible, specifically the right to:
 - **NEW:** Notice of the SS designation in the position description
 - **NEW:** Notice of rights under this Act
 - Receive a written justification of their position's designation as safety sensitive; that is, what duties make it safety-sensitive. **NEW:** may be satisfied by including the info in the position description.
 - Appeal the designation as safety-sensitive.
 - This right will be available to people who are SS employees on the Act's effective date; when an employee's status as a medical marijuana patient changes; or when a position's designation changes. **NEW:** timelines; clarification that the appeal may not be filed solely because of failure of a drug test or facing adverse action.
 - The first-level review would be by the personnel authority (usually DCHR); that review could be appealed to the Office of Employee Appeals, which would issue a final determination. **NEW:** timelines
 - An appeal process in a CBA would supersede this provision
 - **All employees** (safety sensitive and others) will have the right to reasonable accommodation of medical marijuana use.
 - The committee report will make clear that the reasonable accommodation language (which amends the CMPA, not the DC Human Rights Act) is intended to mirror the reasonable accommodation framework employers must follow under the Americans with Disabilities Act/DCHRA. This includes an individualized, interactive process and a prohibition on retaliating against an employee who requests a reasonable accommodation. See [EEOC guidance](#) for more detail.
 - As with the ADA/HRA, there is not an entitlement to or guarantee of accommodation. The accommodation is not reasonable if:
 4. It would require an employee to perform safety-sensitive duties (or serve in a designated safety-sensitive position)
 5. It would cause "undue hardship" to the employer, as defined in the ADA and spelled out in [EEOC guidance](#).

6. It would cause the District to violate federal law or forego federal money

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