

Sponsor's Report

Fair Cannabis Employment Practices

Ordinance-35-24

Overview: The Fair Cannabis Employment Practices Ordinance is designed to align the City of Annapolis with the progressive approach taken by Governor Wes Moore, as outlined in Executive Order 01.01.2023.16. This ordinance seeks to ensure fair and equitable workplace policies regarding cannabis use, protecting employees' rights and promoting a just and inclusive community.

Key Provisions:

1. **Declassification of Cannabis:** Cannabis will be declassified as a controlled dangerous substance within the City of Annapolis.
2. **Prohibition of Pre-Employment Screening:** The City will prohibit pre-employment screening for cannabis, except where required by State or Federal laws.
3. **Prohibition of Random Testing:** Random testing for cannabis will be prohibited to respect employees' privacy and off-duty recreational or medicinal use.
4. **Employee Rights:** Employees will be allowed to use cannabis off-duty for recreational or medicinal purposes without fear of employment discrimination, as current testing methods (such as urine tests) detect off-duty usage.

Rationale: The current policy of testing all job applicants for cannabis as a condition of hire, and all employees for cannabis upon reasonable suspicion, impacts the City's ability to hire and retain good employees. Additionally, its policy to have employees undergo a full drug rehabilitation program upon detection of cannabis, even if its use was weeks ago, is entirely unreasonable. Losing a job for using legally permitted cannabis while off-duty is an extreme, disproportionate, discriminatory, and unacceptable consequence. Our policies need to change.

Alignment with State Policy: This ordinance follows Governor Moore's Executive Order 01.01.2023.16, which rescinds previous workplace substance abuse policies, reaffirms Maryland's commitment to a drug-free workplace, and recognizes the legalization of adult-use cannabis. The sponsors aim to adopt these principles to promote fairness and protect the rights of the City's employees.

Conclusion: The Fair Cannabis Employment Practices Ordinance represents a significant step toward equity and justice in Annapolis. By declassifying cannabis,

prohibiting discriminatory employment practices, and safeguarding employees' rights, this legislation ensures a more inclusive and fair community.

Explanation and Justification for Supervisor-Based Cannabis Impairment Assessment

Introduction: The traditional method of cannabis impairment testing, primarily through urine tests, fails to accurately measure real-time impairment and unfairly penalizes employees for off-duty use that could be weeks or months prior. Moving towards a judgment-based approach by supervisors focuses on observable behavior and performance, ensuring a fairer and more practical assessment of impairment.

Accuracy and Relevance:

- **Real-Time Assessment:** Current testing methods can detect THC in the system weeks or even months after use, which does not correlate with impairment at work. Supervisors can assess real-time behavior and performance, providing a more accurate measure of an employee's ability to perform their duties safely.
- **Observable Signs:** Supervisors are currently trained to determine “reasonable suspicion” and can be given further training to identify observable signs of impairment, such as poor coordination, slurred speech, or erratic behavior, which are more indicative of current impairment than a positive drug test.

Fairness and Non-Discrimination:

- **Equitable Treatment:** Traditional testing methods disproportionately affect minority communities, particularly African Americans, who are more likely to face job discrimination due to positive cannabis tests. A judgment-based approach ensures that all employees are assessed based on their current performance rather than past use.¹
- **Protection of Employee Rights:** This approach respects employees' privacy and rights to off-duty use of cannabis for recreational or medicinal purposes, as long as it does not impact their work performance.

Operational Efficiency:

- **Streamlined Processes:** Relying on supervisor judgment can reduce the need for frequent and costly drug tests, streamlining operations and reducing administrative burdens.

- **Training and Empowerment:** Providing supervisors with training on recognizing impairment empowers them to make informed decisions, fostering a safer and more responsive work environment.

Conclusion: Shifting from cannabis impairment testing to a supervisor-based assessment aligns with a more accurate, fair, and efficient approach to workplace safety. It ensures that employees are evaluated based on their real-time performance and behavior, promoting equity and respecting their rights.

ⁱ Willits, D. W., Solensten, B., Meize, M. R., Stohr, M. K., Makin, D. A., Lovrich, N. P., & Stanton, D. L. (2022). Racial disparities in the wake of cannabis legalization: documenting persistence and change¹. *Race and Justice*, 21533687221087355.