

HOUSE BILL NO. 582

INTRODUCED BY R. FARRIS-OLSEN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING EMPLOYER LIMITATIONS IN THE MONTANA MEDICAL MARIJUANA ACT; AND AMENDING SECTIONS 39-2-210 AND 50-46-320, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-2-210, MCA, is amended to read:

"39-2-210. Limitation on adverse action. ~~Except as provided in 50-46-320, no~~ No adverse action, including followup testing, may be taken by the employer if the employee presents a reasonable explanation or medical opinion indicating that the original test results were not caused by illegal use of controlled substances or by alcohol consumption. If the employee presents a reasonable explanation or medical opinion, the test results must be removed from the employee's record and destroyed."

Section 2. Section 50-46-320, MCA, is amended to read:

"50-46-320. Limitations of act. (1) This part does not permit:

(a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

1 (viii) at a public park, public beach, public recreation center, or youth center;

2 (ix) in or on the property of any church, synagogue, or other place of worship;

3 (x) in plain view of or in a place open to the general public; or

4 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or
5 welfare of children.

6 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate
7 marijuana or manufacture marijuana concentrates or marijuana-infused products for use by a registered
8 cardholder in a manner that is visible from the street or other public area.

9 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that
10 allows use of marijuana by a registered cardholder.

11 (4) Nothing in this part may be construed to require:

12 (a) a government medical assistance program, a group benefit plan that is covered by the provisions
13 of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
14 reimburse an individual for costs associated with the use of marijuana by a registered cardholder;

15 (b) an employer to accommodate the use of marijuana by a registered cardholder;

16 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
17 activities; or

18 (d) a property owner to allow a tenant who is a registered cardholder, provider, marijuana-infused
19 products provider, dispensary, or testing laboratory to cultivate, manufacture, dispense, sell, or test marijuana,
20 marijuana concentrates, or marijuana-infused products or to allow a registered cardholder to use marijuana.

21 ~~(5) Nothing in this part may be construed to:~~

22 ~~(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for~~
23 ~~a debilitating medical condition; or~~

24 ~~(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or~~
25 ~~discrimination pursuant to 49-1-102.~~

26 ~~(6)~~(5) Nothing in this part may be construed to allow a provider, marijuana-infused products provider,
27 or employee of a licensee to use marijuana or to prevent criminal prosecution of a provider, marijuana-infused
28 products provider, or employee of a licensee who uses marijuana or paraphernalia for personal use.

~~(7)~~(6) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the individual's registry identification card or license if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If an individual's registry identification card or license is subject to renewal during the revocation period, the individual may not renew the card until the full revocation period has elapsed. The card or license may be renewed only if the individual submits all materials required for renewal.

~~(8)(7)~~ A provider or marijuana-infused products provider who violates 15-64-103 or 15-64-104 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance with 15-64-103 or 15-64-104."

- END -