
HOUSE BILL 2047

State of Washington

68th Legislature

2024 Regular Session

By Representatives Dent and Davis

Prefiled 12/27/23.

1 AN ACT Relating to allowing employers to screen candidates for
2 cannabis use when hiring for certain positions involving services to
3 persons with substance use disorder; and amending RCW 49.44.240.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 49.44.240 and 2023 c 359 s 2 are each amended to
6 read as follows:

7 (1) It is unlawful for an employer to discriminate against a
8 person in the initial hiring for employment if the discrimination is
9 based upon:

10 (a) The person's use of cannabis off the job and away from the
11 workplace; or

12 (b) An employer-required drug screening test that has found the
13 person to have nonpsychoactive cannabis metabolites in their hair,
14 blood, urine, or other bodily fluids.

15 (2) Nothing in this section:

16 (a) Prohibits an employer from basing initial hiring decisions on
17 scientifically valid drug screening conducted through methods that do
18 not screen for nonpsychoactive cannabis metabolites;

19 (b) Affects the rights or obligations of an employer to maintain
20 a drug and alcohol free workplace, or any other rights or obligations
21 of an employer required by federal law or regulation; or

1 (c) Applies to testing for controlled substances other than
2 preemployment, such as postaccident testing or testing because of a
3 suspicion of impairment or being under the influence of alcohol,
4 controlled substances, medications, or other substances.

5 (3) This section does not apply to an applicant seeking:

6 (a) A position requiring a federal government background
7 investigation or security clearance;

8 (b) A position with a general authority Washington law
9 enforcement agency as defined in RCW 10.93.020;

10 (c) A position with a fire department, fire protection district,
11 or regional fire protection service authority;

12 (d) A position as a first responder not included under (b) or (c)
13 of this subsection, including a dispatcher position with a public or
14 private 911 emergency communications system or a position responsible
15 for the provision of emergency medical services;

16 (e) A position as a corrections officer with a jail, detention
17 facility, or the department of corrections, including any position
18 directly responsible for the custody, safety, and security of persons
19 confined in those facilities;

20 (f) A position in the airline or aerospace industries; (~~or~~)

21 (g) A position as a substance use disorder professional or
22 trainee, or any position as a health care professional licensed or
23 certified under Title 18 RCW where the person will be providing
24 services directly to clients or patients receiving treatment for
25 substance use disorder; or

26 (h) A safety sensitive position for which impairment while
27 working presents a substantial risk of death. Such safety sensitive
28 positions must be identified by the employer prior to the applicant's
29 application for employment.

30 (4) (a) This section does not preempt state or federal laws
31 requiring an applicant to be tested for controlled substances. This
32 includes state or federal laws requiring applicants to be tested, or
33 the way they are tested, as a condition of employment, receiving
34 federal funding or federal licensing-related benefits, or as required
35 by a federal contract.

36 (b) Employers may require an applicant to be tested for a
37 spectrum of controlled substances, which may include cannabis, as
38 long as the cannabis results are not provided to the employer. Such
39 policies are fully subject to subsection (1) of this section.

1 (5) For the purposes of this section, "cannabis" has the meaning
2 provided in RCW 69.50.101.

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