



**House Committee on Federal & State Affairs
Neutral Testimony on House Bill 2184
Presented by Eric Stafford, Vice President of Government Affairs**

Thursday, February 25, 2021

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. The Kansas Chamber appreciates the opportunity to testify neutral with concerns on House Bill 2184.

Our concern with HB 2184 begins on page 49, section 63 amending the Kansas workers compensation statutes to modify the definition of “misconduct” and “gross misconduct” to exclude any individual who is a registered medical marijuana patient. Second, on page 63 modifies unemployment insurance statutes to eliminate the prohibition on benefits for a registered patient under this act. HB 2184 also creates an unlawful business practice to refuse to hire or employ a person if they are a registered patient under the act.

HB 2184 enters into the relationship between employers and employees and the employment-at-will status of our state. Each state operates differently, but we know some states have offered employer protections. For example, Colorado, Michigan, Montana, Oregon, and Vermont are among the states which protect employers from such legal obligations to reimburse medical marijuana as part of workers' compensation.

Our concern stems from this bill entering into and dictating employer drug policies, and preventing them from deciding what is best for their own company. Additionally, unemployment insurance and workers compensation benefits should not be allowed if an employee is terminated or injured on the job, and are in violation of the employer's drug policies. If the proposed language can be adopted, and the provisions changing employer drug policies be removed, we will not be opposed to the bill.

Therefore, we would urge this committee to adopt language attached to our testimony to offer clear guidance to employers, and employees, on the treatment of medical marijuana if this bill were to become law. Thank you for allowing us to testify on HB 2184, and I am happy to answer questions at the appropriate time.

Legislative Language

Council of State Chambers

Marijuana Legalization: Protections for Employers

Limitations

(1) This act does not require

(a) an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in any workplace or on the employer's property;

(b) an employer to permit or accommodate conduct otherwise allowed by this act in any workplace or on the employer's property; or

(c) a government medical assistance program, a private health insurer or a workers' compensation carrier or self-insured employer providing workers' compensation benefits to reimburse a person for costs associated with the medical use of marijuana.

(3) Nothing in this act

(a) affects the ability of an employer to implement policies [promoting workplace health and safety by] restricting the use of marijuana by employees;

(b) prohibits an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marijuana; or

(c) prevents an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marijuana.

(2) Nothing in this act may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana;

(b) permit a cause of action against an employer for wrongful discharge or discrimination;

(c) prohibit a person, employer, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property; or

(d) prohibit an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy.

(3) A patient who is discharged from employment for ingesting marijuana in the workplace, working while under the influence of marijuana, or testing positive for a controlled substance shall not be eligible to receive benefits under [state Unemployment Insurance law].”