


Government of the District of Columbia
Office of the Chief Financial Officer



Fitzroy Lee
Acting Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Fitzroy Lee
Acting Chief Financial Officer 

DATE: April 19, 2022

SUBJECT: Fiscal Impact Statement – Cannabis Employment Protections
Amendment Act of 2022

REFERENCE: Bill 24-109, Draft Committee Print as provided to the Office of Revenue
Analysis on April 1, 2022

Conclusion

Funds are not sufficient in fiscal year 2022 budget and in the proposed fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. The bill will cost \$316,000 in fiscal year 2023 and \$1.26 million over the four-year financial plan.

Background

The bill prohibits employers in the District of Columbia, including the District of Columbia government¹, from taking adverse actions against applicants or employees based on an individual's use of cannabis, status as a medical cannabis program patient, or the failure to pass an employer-required or requested cannabis drug test. Exempted from these prohibitions are safety-sensitive positions and employers bound by federal statute, regulations, contracts, or funding agreements to provide a drug-free work environment.

If an employer violates this law, the bill allows employees to file a complaint with the Office of Human Rights (OHR) or pursue a private right of action. The bill also gives the Attorney General the authority to enforce the law. The bill requires the Office of the Attorney General and OHR to enter into a memorandum of agreement to establish processes and procedures and share information to prevent duplicative enforcement activities.

¹ But excluding the District of Columbia court system and the federal government.

The Honorable Phil Mendelson

FIS: Bill 24-109, "Cannabis Employment Protections Amendment Act of 2022," Draft Committee Print as provided to the Office of Revenue Analysis on April 1, 2022

The bill also requires² employers to treat a qualifying patient's use of medical cannabis as a disability in the same manner as it would treat the legal use of any other controlled substance.

This bill expands upon existing District laws³ that prohibit pre-employment drug testing for cannabis before a conditional offer of employment and adverse actions against District government employees based on an employee's legal use of medical cannabis.

Financial Plan Impact

Funds are not sufficient in fiscal year 2022 and in the proposed fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. The bill will cost \$316,000 in fiscal year 2023 and \$1.26 million over the four-year financial plan. While there are approximately 13,000 medical marijuana registrations in the District⁴, comparable employment discrimination complaint levels in other states suggest complaints under this law could be fewer than 100 per year. OHR will require a point person on cannabis employment discrimination to coordinate with the Office of the Attorney General to enforce the law, as well as mediate and hear cases. An additional FTE is required to manage the intake of complaints, investigate, and gather information about the complaints.

Cannabis Employment Protections Amendment Act of 2022					
Total Cost (\$ thousands)					
	FY 2023	FY 2024	FY 2025	FY 2026	Total
Salary ^(a)	\$209	\$212	\$216	\$219	\$857
Fringe ^(b)	\$52	\$53	\$54	\$56	\$214
NPS ^(c)	\$55	\$44	\$44	\$44	\$188
Total	\$316	\$310	\$315	\$320	\$1,260

Table Notes:

- (a) Assumes one Grade 13, Step 5 Intake/ Hearing Examination FTE and Grade 13, Step 1 Legal Support FTE cost growth of 1.75 percent and a start date of October 1, 2022.
- (b) Assumes a fringe rate of 22.8 percent and cost growth of 2.375 percent.
- (c) NPS is higher in FY 2023 than the remainder of the financial period to account for startup equipment and training of new hires.

² By amending Section 211 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.11).

³ D.C. Official Code § 32-931 and § 1-620.62.

⁴Alcohol Beverage Registration Administration statistics as of March 2022:

https://abra.dc.gov/sites/default/files/dc/sites/abra/page_content/attachments/MCP%20Metrics%20March%202022%20Report.pdf