

HB22-1152 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby finds and declares that:

5 (a) Due to conflicts between federal law and the Colorado
6 constitution, Coloradans lawfully using medical marijuana are broadly
7 prohibited from employment;

8 (b) On November 7, 2000, Colorado voters passed Amendment
9 XX to the Colorado constitution and legalized marijuana for medical use.
10 The law went into effect 30 days after the vote.

11 (c) Section 14 of article XVIII of the Colorado constitution gives
12 Colorado residents the right to use and grow marijuana to treat a
13 debilitating condition; however, the same section of the constitution states
14 that "Nothing in this section shall require any employer to accommodate
15 the medical use of marijuana in any work place.";

16 (d) On June 15, 2015, in *Coats v. Dish Network*, 2015 CO 44, the
17 Colorado supreme court found that Dish employee Daniel Coats'
18 termination was authorized under the lawful off-duty activities statute
19 because his use of medical marijuana to treat symptoms related to being
20 a quadriplegic was not "lawful" under federal law;

21 (e) Despite federal inaction on all activities in Colorado associated
22 with the legalization of medical and recreational marijuana in 2000 and
23 2012 respectively, approximately 84,000 Coloradans using medical
24 marijuana for disease-related symptoms are denied access to employment;

25 (f) This act seeks to find a solution to near-term employment
26 options, in the absence of reliable impairment testing, and long-term
27 employment options, with reliable impairment testing, for medical
28 marijuana users; and

29 (g) The task force created in this act will recommend solutions
30 that maintain an employer's prerogative to a safe and productive work
31 environment while providing Coloradans who lawfully use medical
32 marijuana as an alternative to pharmaceuticals an opportunity for
33 employment.

34 **SECTION 2.** In Colorado Revised Statutes, **add** 8-2-131 as
35 follows:

36 **8-2-131. Medical marijuana and employment task force -**
37 **creation - duties - reporting - definitions - repeal.** (1) AS USED IN THIS
38 SECTION:

39 (a) "EMPLOYEE" MEANS A PERSON WHO MAY BE PERMITTED,

1 REQUIRED, OR DIRECTED BY ANY EMPLOYER, IN CONSIDERATION OF DIRECT
2 OR INDIRECT GAIN OR PROFIT, TO ENGAGE IN ANY EMPLOYMENT AND
3 INCLUDES AN APPLICANT FOR EMPLOYMENT.

4 (b) (I) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
5 COLORADO THAT, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
6 SERVICES OF ANY NATURE AND THAT HAS CONTROL OF THE PAYMENT OF
7 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
8 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

9 (II) "EMPLOYER" INCLUDES THE STATE OR A LOCAL GOVERNMENT.

10 (c) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
11 THE DEPARTMENT OF LABOR AND EMPLOYMENT.

12 (d) "MEDICAL MARIJUANA" HAS THE MEANING SET FORTH IN
13 SECTION 44-10-103 (34).

14 (e) "TASK FORCE" MEANS THE MEDICAL MARIJUANA AND
15 EMPLOYMENT TASK FORCE CREATED IN SUBSECTION (2) OF THIS SECTION.

16 (2) THERE IS CREATED IN THE DEPARTMENT OF LABOR AND
17 EMPLOYMENT THE MEDICAL MARIJUANA AND EMPLOYMENT TASK FORCE.

18 (3) (a) THE TASK FORCE CONSISTS OF MEMBERS APPOINTED BY THE
19 EXECUTIVE DIRECTOR AS FOLLOWS:

20 (I) ONE MEMBER WHO REPRESENTS A STATEWIDE COALITION OF
21 BUSINESSES, CHAMBERS, AND ASSOCIATIONS;

22 (II) ONE MEMBER WHO REPRESENTS A SMALL BUSINESS
23 ASSOCIATION;

24 (III) ONE MEMBER WHO REPRESENTS A STATEWIDE LABOR
25 ORGANIZATION REPRESENTING MULTIPLE TRADES AND PROFESSIONS;

26 (IV) ONE MEMBER WHO REPRESENTS A WORKERS' COMPENSATION
27 INSURER;

28 (V) ONE MEMBER WHO IS AN ATTORNEY WITH EXPERTISE IN STATE
29 AND FEDERAL LAWS REGARDING MEDICAL MARIJUANA;

30 (VI) ONE MEMBER WHO IS AN ATTORNEY WHO PRACTICES IN
31 EMPLOYMENT LAW REPRESENTING EMPLOYERS;

32 (VII) ONE MEMBER WHO IS AN ATTORNEY WHO PRACTICES IN
33 EMPLOYMENT LAW REPRESENTING EMPLOYEES;

34 (VIII) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF
35 PUBLIC HEALTH AND ENVIRONMENT;

36 (IX) ONE MEMBER REPRESENTING THE DEPARTMENT OF LABOR
37 AND EMPLOYMENT;

38 (X) TWO MEMBERS WHO REPRESENT MEDICAL MARIJUANA
39 PATIENTS;

40 (XI) ONE MEMBER WHO REPRESENTS PHYSICIANS WHO
41 RECOMMEND MEDICAL MARIJUANA TO PATIENTS;

42 (XII) ONE MEMBER WHO REPRESENTS A MEDICAL MARIJUANA
43 DISPENSARY;

1 (XIII) ONE MEMBER WHO REPRESENTS MARIJUANA LABORATORIES;
2 AND
3 (XIV) ONE MEMBER WHO REPRESENTS THE MARIJUANA INDUSTRY
4 WORKERS IN A UNION.
5 (b) EACH MEMBER OF THE TASK FORCE WHO IS APPOINTED
6 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION SERVES AT THE
7 PLEASURE OF THE EXECUTIVE DIRECTOR.
8 (c) IF ONE PERSON IS CAPABLE OF REPRESENTING MORE THAN ONE
9 INTEREST DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, THE
10 EXECUTIVE DIRECTOR MAY APPOINT THAT PERSON TO FILL MORE THAN
11 ONE POSITION ON THE TASK FORCE.
12 (4) NOTWITHSTANDING SECTION 2-2-326, EACH MEMBER OF THE
13 TASK FORCE SERVES WITHOUT COMPENSATION BUT IS ENTITLED TO
14 RECEIVE REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES
15 INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES AS A MEMBER
16 OF THE TASK FORCE.
17 (5)(a) THE EXECUTIVE DIRECTOR SHALL CALL THE FIRST MEETING
18 OF THE TASK FORCE NO LATER THAN SEPTEMBER 1, 2022. THE TASK FORCE
19 SHALL HOLD ITS INITIAL MEETING NO LATER THAN NOVEMBER 1, 2022.
20 (b) THE TASK FORCE SHALL ELECT A CHAIR FROM AMONG ITS
21 MEMBERS.
22 (6) THE TASK FORCE SHALL CONSIDER AT LEAST THE FOLLOWING
23 ISSUES:
24 (a) THE DIFFERENCES BETWEEN MEDICAL AND RECREATIONAL
25 MARIJUANA USE BY EMPLOYEES;
26 (b) THE REASONS A PERSON MAY CHOOSE MEDICAL MARIJUANA
27 OVER A PHARMACEUTICAL ALTERNATIVE;
28 (c) THE WAYS IN WHICH MEDICAL MARIJUANA AFFECTS A PERSON'S
29 COGNITIVE AND PHYSICAL FUNCTIONING;
30 (d) THE RISKS AND UNCERTAINTY THAT MEDICAL MARIJUANA USE
31 MAY BRING TO WORKPLACE SAFETY AND EMPLOYEE PRODUCTIVITY;
32 (e) ANY LIABILITY ISSUES AN EMPLOYER MAY FACE BY EMPLOYING
33 A PERSON WHO USES MEDICAL MARIJUANA;
34 (f) HOW TO BEST PROVIDE EMPLOYMENT OPTIONS FOR USERS OF
35 MEDICAL MARIJUANA WHILE ENSURING SAFE AND PRODUCTIVE WORK
36 ENVIRONMENTS;
37 (g) IDENTIFYING CATEGORIES OF EMPLOYMENT FOR WHICH THE
38 USE OF MEDICAL MARIJUANA IS PROHIBITED BY EMPLOYEES BASED ON
39 SAFETY CONCERNS;
40 (h) IDENTIFYING CATEGORIES OF EMPLOYMENT FOR WHICH THE
41 USE OF MEDICAL MARIJUANA IS NOT PROHIBITED BASED ON SAFETY
42 CONCERNS;
43 (i) IDENTIFYING HOW THE TASK FORCE'S RECOMMENDED

1 SOLUTIONS FOR EMPLOYMENT OF USERS OF MEDICAL MARIJUANA SHOULD
2 BE MODIFIED IF RELIABLE TESTING FOR IMPAIRMENT BY MEDICAL
3 MARIJUANA BECOMES AVAILABLE; AND

4 (j) IDENTIFYING BEST PRACTICES FOR DETERMINING WHETHER THE
5 COST OF A TEST FOR IMPAIRMENT SHOULD BE COVERED BY THE EMPLOYER,
6 EMPLOYEE, OR APPLICANT.

7 (7) ON OR BEFORE NOVEMBER 1, 2023, THE TASK FORCE SHALL
8 REPORT TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE
9 OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND TECHNOLOGY
10 COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE
11 REPORT MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE TASK FORCE'S
12 FINDINGS BASED ON SUBSECTION (6) OF THIS SECTION AND FINAL
13 RECOMMENDATIONS FOR HOW TO ACCOMMODATE MEDICAL MARIJUANA
14 USERS IN THE WORKPLACE IN THE ABSENCE OF A RELIABLE TEST FOR
15 IMPAIRMENT BASED ON MEDICAL MARIJUANA USE.

16 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

17 **SECTION 3. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety."

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