

ASSEMBLY BILL

No. 1256

Introduced by Assembly Member Quirk

February 19, 2021

An act to add Section 52.8 to the Civil Code, relating to employment.

LEGISLATIVE COUNSEL’S DIGEST

AB 1256, as introduced, Quirk. Employment discrimination: cannabis screening test.

Existing law establishes various personal rights and makes unlawful certain employment practices that discriminate on certain protected bases. Existing law makes a person who engages in certain prohibited conduct liable in a cause of action by the aggrieved person, as specified.

This bill would prohibit an employer from discriminating against a person in hiring, termination, or any term or condition of employment because a drug screening test has found the person to have tetrahydrocannabinol in their urine. The bill would exempt from its provisions an employer that is required to conduct testing for tetrahydrocannabinol by federal law or regulations, or that would lose a monetary or licensing-related benefit for failing to conduct testing for tetrahydrocannabinol. The bill would also exempt employment in the building and construction trades.

This bill would authorize a person who has suffered discrimination in violation of the bill’s provisions to institute and prosecute in their own name and on their own behalf a civil action for specified relief.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 52.8 is added to the Civil Code, to read:

52.8. (a) Except as specified in subdivision (c), an employer shall not discriminate against a person in hiring, termination, or any term or condition of employment on account of the fact that a drug screening test has found that person to have tetrahydrocannabinol in their urine.

(b) A person who has suffered discrimination in violation of subdivision (a) may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, reasonable attorney's fees and costs, any other appropriate equitable relief to protect the peaceable exercise of the right or rights secured, and any other relief the court may deem proper.

(c) This section does not prohibit an employer from conducting a screening test for tetrahydrocannabinol if any of the following apply:

(1) The employer is required to conduct that test by federal law or regulations, including Subpart F of Part 655 of Title 49 of the Code of Federal Regulations and the federal Drug-Free Workplace Act of 1988.

(2) The employer would lose a monetary or licensing-related benefit for failing to do so.

(3) The employment is in the building and construction trades.