

House Bill 3635

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of House Interim Committee on Business and Labor)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Eliminates duty of employer to accommodate medical use of certain legal medications in workplace by employees in occupations requiring performance of hazardous duties. Exempts employers who have entered into collective bargaining agreement with labor organization if agreement addresses use of certain legal medications by employees subject to agreement.

Allows employer to refuse to permit employees to possess or consume medical marijuana in workplace.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to legal medications in workplace; creating new provisions; amending ORS 475.340; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section, "hazardous duties" means:**

6 (a) **Use of explosives;**

7 (b) **Mining activities;**

8 (c) **Logging or sawmilling;**

9 (d) **Use of power-driven machines in woodworking, metalworking, bakery operations, pa-**
10 **per products manufacturing, sawing, shearing or hoisting activities using apparatuses such**
11 **as elevators, cranes, forklifts or manlifts;**

12 (e) **Activities involving potential exposure to radioactive substances;**

13 (f) **Slaughtering or meatpacking;**

14 (g) **Brick or tile manufacturing;**

15 (h) **Wrecking, demolition or shipbreaking;**

16 (i) **Roofing;**

17 (j) **Excavation; or**

18 (k) **Operations at construction sites or the use of construction equipment.**

19 (2) **Notwithstanding ORS 659A.100 to 659A.145, an employer is not required to accommo-**
20 **date an employee's medical use of medications containing long-acting benzodiazepines,**
21 **cannabis, codeine, methadone or morphine if the employee is engaged in an occupation that**
22 **requires the performance of hazardous duties.**

23 (3)(a) **After consultation with the State Board of Pharmacy, the Director of the Depart-**
24 **ment of Consumer and Business Services may add by rule additional legal medications to the**
25 **list of medications specified in subsection (2) of this section. The director may add a legal**
26 **medication to the list only after making a finding that the medication may impair the ability**
27 **of an employee to perform the hazardous duties described in subsection (1) of this section.**

28 (b) **As used in this subsection, "impair" means to impede the ability of an employee to**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 perform hazardous duties in a manner that may increase the likelihood of injury to the em-
2 ployee or coworkers present at the work site or to members of the general public.

3 (4)(a) Prior to taking any action against an employee or prospective employee based on
4 a positive drug test for the presence of the legal medications specified in subsection (2) of
5 this section or added to the list by rule as provided in subsection (3) of this section, the
6 employer must have the results of the test verified and certified as being accurate by a
7 medical review officer who is trained in the field of substance abuse.

8 (b) The employee or prospective employee who is the subject of the drug test must be
9 given the opportunity to provide notification to the medical review officer of any medical
10 information that is relevant to the interpretation of the results of the drug test, including
11 information concerning prescription and nonprescription drugs being used at the time of or
12 within 60 days prior to the drug test.

13 (5) This section does not apply to an employer who has entered into a collective bar-
14 gaining agreement with a labor organization if the agreement addresses the use of legal
15 medications specified in subsection (2) of this section by employees subject to the agreement.

16 **SECTION 2.** ORS 475.340 is amended to read:

17 475.340. Nothing in ORS 475.300 to 475.346 [*shall*] **may** be construed to [*require*]:

18 (1) **Require** a government medical assistance program or private health insurer to reimburse a
19 person for costs associated with the medical use of marijuana; or

20 (2) **Require** an employer to:

21 (a) Accommodate the medical use of marijuana in any workplace[.] **by an employee engaged**
22 **in an occupation that requires the performance of hazardous duties described in section 1 (1)**
23 **of this 2008 Act; or**

24 (b) **Allow an employee to possess or consume medical marijuana in the workplace.**

25 **SECTION 3.** This 2008 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect
27 on its passage.

28