

Senate Bill 893

Sponsored by COMMITTEE ON COMMERCE AND WORKFORCE DEVELOPMENT

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**.

Prohibits discrimination in employment under certain circumstances if discrimination is based on person's status as medical marijuana registry cardholder or use of medical marijuana off property or premises of employment or during hours that are not hours of employment. Makes such discrimination unlawful employment practice. Allows employers to discipline employees who use medical marijuana on property or premises or during hours of employment.

A BILL FOR AN ACT

1
2 Relating to medical marijuana in the workplace; creating new provisions; and amending ORS
3 475.340.

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

5 **SECTION 1.** ORS 475.340 is amended to read:

6 475.340. Nothing in ORS 475.300 to 475.346 shall be construed to require:

7 (1) A government medical assistance program or private health insurer to reimburse a person
8 for costs associated with the medical use of marijuana; or

9 (2) An employer to accommodate the medical use of marijuana [*in any workplace*] **on the prop-**
10 **erty or premises of any place employment or during hours of employment except as provided**
11 **in section 3 of this 2009 Act.**

12 **SECTION 2.** Sections 3 and 4 of this 2009 Act is added to and made a part of ORS 475.300
13 to 475.346.

14 **SECTION 3.** (1) It is unlawful for an employer to discriminate against a person in hiring,
15 termination or any term or condition of employment or otherwise penalize a person if the
16 discrimination is based on:

17 (a) The status of the person as a registry identification cardholder; or

18 (b) A positive drug test for marijuana if the person is a registry identification cardholder
19 and the medical use of marijuana does not occur on the property or premises of the place
20 of employment or during the hours of employment.

21 (2) The prohibition established by this section does not apply to a person employed in a
22 safety-sensitive position. As used in this section, "safety-sensitive position" means a position
23 in which:

24 (a) The medical use of marijuana could affect the performance of the employee and en-
25 danger the health and safety of others;

26 (b) The duties involve a greater than normal level of trust, responsibility for or impact
27 on the health and safety of others;

28 (c) Errors in judgment, inattentiveness, or diminished coordination, dexterity, or com-
29 posture while performing the duties of the position could clearly result in mistakes that would
30 endanger the health and safety of others; and

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 (d) The employee works independently, or performs tasks of a nature that it cannot
2 safely be assumed that mistakes such as those described in this subsection could be pre-
3 vented by a supervisor or another employee.

4 (3) "Safety-sensitive position" includes a position that:

5 (a) Involves the performance of a "safety-sensitive function" as described in 49 C.F.R.
6 655.4; or

7 (b) Is held by a law enforcement official as defined in ORS 147.005.

8 (4) Nothing in this section prohibits an employer from terminating the employment of,
9 or taking other corrective action against, an employee who is impaired on the property or
10 premises of the place of employment or during the hours of employment, because of the
11 medical use of marijuana.

12 SECTION 4. (1) Any violation of section 3 of this 2009 Act by an employer is an unlawful
13 employment practice.

14 (2) Complaints alleging a violation of section 3 of this 2009 Act may be filed by an em-
15 ployee with the Commissioner of the Bureau of Labor and Industries. The commissioner shall
16 enforce section 3 of this 2009 Act in the manner provided in ORS chapter 659A for the
17 enforcement of other unlawful employment practices.

18 (3) Any person claiming to be aggrieved by a violation of section 3 of this 2009 Act may
19 bring a civil action in the manner provided in ORS 659A.885.

20