

**SB 379 A STAFF MEASURE SUMMARY**

Carrier: Sen. Prozanski

**Senate Committee On Judiciary**


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**Action Date:** 04/08/19  
**Action:** Do pass with amendments. (Printed A-Eng.)  
**Vote:** 4-3-0-0  
**Yeas:** 4 - Fagan, Gelser, Manning Jr, Prozanski  
**Nays:** 3 - Bentz, Linthicum, Thatcher  
**Fiscal:** Fiscal impact issued  
**Revenue:** No revenue impact  
**Prepared By:** Michael Lantz, Counsel  
**Meeting Dates:** 2/7, 4/4, 4/8

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**WHAT THE MEASURE DOES:**

Makes it an unlawful employment practice for employer to prohibit an employee or potential employee from using a substance that is legal in Oregon during nonworking hours. Allows exemption if the restriction relates to a bona fide occupational qualification related to health and safety, restriction relates to the performance of work while impaired, restriction is included in collective bargaining agreement, restriction is required by federal government, or restriction applies to certain employees in the health, public safety, or public transportation fields. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Lack of adequate impairment test for marijuana
- Federal requirements to test certain employees
- Employer safety concerns
- Need for amendment

**EFFECT OF AMENDMENT:**

Adds additional exemptions for certain employers and employees.

**BACKGROUND:**

Under ORS 659A.315, an employer may not prohibit an employee or prospective employee from using tobacco products during nonworking hours. However, an employer can prohibit the off-duty use of other products legal to Oregon, including alcohol and marijuana.

Senate Bill 379 A prohibits employers from restricting or banning the use of marijuana, alcohol, and other products legal to Oregon by their employees or prospective employees during nonworking hours. The measure does provide that an employer can prohibit or otherwise restrict use if: the restriction relates to a bona fide occupational qualification relating to health and safety; the business is a federal contractor or employer receiving grants subject to the federal Drug-Free Workplace Act; the employer is required by federal law or regulation to drug test employees or potential employees; the employee is subject to a collective bargaining agreement that prohibits use; the employee fits within the statutory definition of public safety personnel, emergency service provider, or licensed health care professional; the employer/employee operates a public transit vehicle or taxi; or performs job functions that may involve a risk of injury to others, including the operation of heavy machinery or equipment. Finally, employers are still able to impose restrictions that relate to an employees performance of work while impaired.