



## HB22-1152

**SHORT TITLE:** Prohibit Employer Adverse Action Marijuana Use

**LONG TITLE:** Concerning limitations on the ability of an employer to take an adverse action against an employee based on the employee's use of marijuana.

**SPONSORS:** Representatives Hooton and Titone

**COMMITTEES:** House Business Affairs & Labor Committee

**PURPOSE OF THE BILL:** To allow the use of medical marijuana on workplace premises, and to allow consumption of medical or retail (recreational) marijuana outside the workplace without adverse action by an employer except in limited circumstances

**PROPONENTS OF THE BILL:** Marijuana advocacy organizations?

**POTENTIAL STAKEHOLDERS:** Business organizations statewide, individual companies and institutions, marijuana advocacy groups

**BACKGROUND:** In 2012 Colorado voters passed Amendment 64 which legalized the use of marijuana. The amendment stated that nothing was intended to require employers to permit or accommodate the use or consumption of marijuana in the workplace, or to affect the ability of employers to have policies restricting the use by employees. In 2013, the Colorado Court of Appeals upheld the firing of a disabled man who used marijuana off duty, holding that Colorado's statute prohibiting restriction of an employee's legal off-duty activities did not extend to consumption of marijuana because marijuana was (and remains) illegal under federal law and the statute is silent as to federal law.

**Is this bill necessary this year?** No

**How does the bill change current law?** It would prohibit firing or other adverse action by employer against employees who use medical marijuana at work during working hours, or who use either medical or retail (recreational) marijuana during non-working hours except for bona fide occupational restrictions related to individuals as opposed to an employer's entire workforce.

**Does the bill affect the prior appropriations system?** No

**How is the bill implemented?** An employer who refuses to hire, promote, harasses, or fires an employee for marijuana use except for very limited circumstances could be subject to a successful lawsuit by the employee.

**Practical considerations:** Colorado is an "at will" state regarding employment. An employer may terminate or discipline for a variety of reasons subject to conditions spelled out in an employee handbook, clearly stated policy, union agreement, or another contract. However, certain industries and



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occupations are regulated by federal law which require a drug-free workplace or would otherwise prohibit marijuana use or presence in the body following off-hours use. What about a workplace accident where marijuana is a factor – does the employer bear any responsibility for not enforcing a drug-free policy? Would an employer’s insurance be impacted?

**Fiscal Impact:** No fiscal note

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