



26 | a qualified patient with respect to compensation, terms,  
 27 | conditions, or privileges of employment.

28 | (b) "Confirmation test" has the same meaning as in s.  
 29 | 112.0455(5) (d) .

30 | (c) "Employee" has the same meaning as in s.  
 31 | 112.0455(5) (g) .

32 | (d) "Employer" means a state, regional, county, local, or  
 33 | municipal government entity, whether executive, judicial, or  
 34 | legislative; an official, an officer, a department, a division,  
 35 | a bureau, a commission, an authority, or a political subdivision  
 36 | therein; or a public school, community college, or state  
 37 | university that employs individuals for salary, wages, or other  
 38 | remuneration.

39 | (e) "Job applicant" has the same meaning as in s.  
 40 | 112.0455(5) (f) .

41 | (f) "Law enforcement agency" has the same meaning as in s.  
 42 | 908.102 .

43 | (g) "Physician certification" has the same meaning as in  
 44 | s. 381.986(1) .

45 | (h) "Qualified patient" has the same meaning as in s.  
 46 | 381.986(1) .

47 | (i) "Undue hardship" means an action requiring significant  
 48 | difficulty or expense, when considered in light of the following  
 49 | factors:

50 | 1. The nature, cost, and duration of the accommodation.

51        2. The overall financial resources of the employer.

52        3. The overall size of the business of the employer with  
53 respect to the number of employees and the number, type, and  
54 location of the employer's facilities.

55        4. The effect on expenses and resources or any other  
56 impacts of such accommodation upon the operation of the  
57 employer.

58        (2) An employer may not take adverse personnel action  
59 against an employee or a job applicant who is a qualified  
60 patient using medical marijuana consistent with s. 381.986.  
61 However, an employer may take appropriate adverse personnel  
62 action against an employee if the employer establishes by a  
63 preponderance of the evidence that the lawful use of medical  
64 marijuana is impairing the employee's ability to perform his or  
65 her job responsibilities. For purposes of this subsection, an  
66 employer may consider an employee's ability to perform his or  
67 her job responsibilities to be impaired if the employee displays  
68 specific articulable symptoms while working which decrease or  
69 lessen the performance of his or her duties or tasks.

70        (3)(a) If an employer has a drug testing policy and an  
71 employee or a job applicant tests positive for marijuana or its  
72 metabolites, the employer must provide written notice within 5  
73 business days after receipt of the positive test result to the  
74 employee or job applicant of his or her right to provide an  
75 explanation for the positive test result.

76 (b) Within 5 business days after receipt of the written  
77 notice, the employee or job applicant may submit information to  
78 an employer explaining or contesting the positive test result or  
79 may request a confirmation test at the expense of the employee  
80 or job applicant.

81 (c) An employee or a job applicant may submit a physician  
82 certification for medical marijuana or a medical marijuana use  
83 registry identification card as part of his or her explanation  
84 for the positive test result.

85 (d) If an employee or a job applicant fails to provide a  
86 satisfactory explanation for the positive test result, an  
87 employer must verify the positive test result with a  
88 confirmation test, at the expense of the employer, before the  
89 employer may take adverse personnel action against the employee  
90 or job applicant.

91 (4) (a) Notwithstanding s. 381.986(15), an employee or a  
92 job applicant who has been the subject of an adverse personnel  
93 action in violation of this section may institute a civil action  
94 in a court of competent jurisdiction for relief as set forth in  
95 paragraph (c) within 180 days after the alleged violation.

96 (b) An employee or a job applicant may not recover in any  
97 action brought under this subsection if the adverse personnel  
98 action was predicated upon a ground other than the employee's or  
99 job applicant's exercise of a right protected by this section.

100 (c) In any action brought under this subsection, the court

101 may order any of the following:

102 1. An injunction restraining continued violation of this  
103 section.

104 2. Reinstatement of the employee to the same position held  
105 before the adverse personnel action, or to an equivalent  
106 position.

107 3. Reinstatement of full fringe benefits and seniority  
108 rights.

109 4. Compensation for lost wages, benefits, and other  
110 remuneration.

111 5. Reasonable attorney fees and costs.

112 6. Any other compensatory damages allowable by general  
113 law.

114 (5) This section does not:

115 (a) Prohibit an employer from taking adverse personnel  
116 action against an employee for the possession or use of a  
117 controlled substance, as defined in s. 893.02, during normal  
118 business hours or require an employer to commit any act that  
119 would cause the employer to violate federal law or that would  
120 result in the loss of a federal contract or federal funding;

121 (b) Require a government medical assistance program or  
122 private health insurer to reimburse a person for costs  
123 associated with the use of medical marijuana;

124 (c) Require an employer to modify the job or working  
125 conditions of a person who engages in the use of medical

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126 | marijuana based on the reasonable business purposes of the  
127 | employer. However, notwithstanding s. 381.986(15) and except as  
128 | provided in paragraph (d), the employer must attempt to make  
129 | reasonable accommodations for the medical needs of an employee  
130 | who engages in the use of medical marijuana if the employee  
131 | holds a valid medical marijuana use registry identification  
132 | card, unless the employer can demonstrate that the accommodation  
133 | would pose a threat of harm or danger to persons or property,  
134 | impose an undue hardship on the employer, or prohibit an  
135 | employee from fulfilling his or her job responsibilities; or  
136 | (d) Prohibit a law enforcement agency from adopting  
137 | policies and procedures that preclude an employee from engaging  
138 | in the use of medical marijuana.

139 | Section 2. This act shall take effect upon becoming a law.