A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To prohibit marijuana testing as a condition of employment, except for certain positions, and unless otherwise required by law.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Prohibition of Marijuana Testing Act of 2019”.

Sec. 2. Section 2 of the Prohibition of Pre-Employment Marijuana Testing Act of 2015, effective July 22, 2015 (D.C. Law 21-14; D.C. Official Code §32-931), is amended to read as follows:

(a) Except as otherwise provided by law, it shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or agent thereof to require a prospective employee to submit to testing for the presence of any tetrahydrocannabinols or marijuana in such prospective employee’s system as a condition of employment.

(b) The provisions of this act shall not apply to person applying to work or working:

(1) As police officers or special police officers, or in a position with a law enforcement function;
enforcement function;

(2) In any position requiring a commercial driver's license;

(3) Construction jobs that require occupational safety training;

(4) In any position requiring the supervision or care of children, medical patients, or vulnerable persons; or

(5) In any position with the potential to significantly impact the health or safety of employees or members of the public, as determined by the Director of the Department of Human Resources.

(c) The provisions of this act shall not apply to:

(1) Any regulation promulgated by the federal department of transportation that requires testing of a prospective employee in accordance with 49 CFR 40 or any rule promulgated by the District's department of transportation for purposes of enforcing the requirements of that regulation with respect to intrastate commerce;

(2) Any contract or grant entered into or awarded between the federal government and an employer that requires drug testing of prospective employees as a condition of receiving the contract or grant;

(3) Any federal or local regulation or order that requires drug testing of prospective employees for purposes of safety or security; or

(4) Any applicant whose prospective employer is a party to a valid collective bargaining agreement that specifically addresses the drug testing of such applicants.

(d) For the purposes of this act, the term “Employer” shall have the same meaning as provided in section 2(6) of the Occupational Safety and Health Act of 1988, effective March 16, 1989. (D.C. Law 7-186; D.C. Official Code § 32-1101(6)).
(e) Nothing in this act shall be construed to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace.

Sec. 3. Fiscal impact statement


Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.