

EPLEB 2

PASSED 3/29/21

1 (b) is confidential. Except as otherwise permitted by any other state or
2 federal law, a financial institution shall not make the information available
3 to any person other than the customer to whom the information applies and
4 any trustee, conservator, guardian, personal representative or agent of that
5 customer.

6 (d) As used in this section:

7 (1) "Financial institution" means any bank, trust company, savings
8 bank, credit union or savings and loan association or any other financial
9 institution regulated by the state of Kansas, any agency of the United
10 States or other state with an office in Kansas; and

11 (2) "financial services" means services that a financial institution is
12 authorized to provide under chapter nine or article 22 of chapter 17 of the
13 Kansas Statutes Annotated, and amendments thereto, as applicable.

14 New Sec. 45. Nothing in this act authorizes the secretary of
15 agriculture or the director of alcoholic beverage control to oversee or limit
16 research conducted at a postsecondary educational institution, academic
17 medical center or private research and development organization that is
18 related to marijuana and is approved by an agency, board, center,
19 department or institute of the United States government, including any of
20 the following:

- 21 (a) The agency for health care research and quality;
- 22 (b) the national institutes of health;
- 23 (c) the national academy of sciences;
- 24 (d) the centers for medicare and medicaid services;
- 25 (e) the United States department of defense;
- 26 (f) the centers for disease control and prevention;
- 27 (g) the United States department of veterans affairs;
- 28 (h) the drug enforcement administration;
- 29 (i) the food and drug administration; and
- 30 (j) any board recognized by the national institutes of health for the
31 purpose of evaluating the medical value of health care services.

32 New Sec. 46. The provisions of the Kansas medical marijuana
33 regulation act are hereby declared to be severable. If any part or provision
34 of the Kansas medical marijuana regulation act is held to be void, invalid
35 or unconstitutional, such part or provision shall not affect or impair any of
36 the remaining parts or provisions of the Kansas medical marijuana
37 regulation act, and any such remaining provisions shall continue in full
38 force and effect.

39 New Sec. 47. (a) It shall be unlawful to store or otherwise leave
40 medical marijuana where it is readily accessible to a child under the age of
41 18 years. Such conduct shall be unlawful with no requirement of a
42 culpable mental state.

43 (b) Violation of this section is a class A person misdemeanor.

New Sec. 46. No provisions of the medical marijuana regulation act shall be construed to:

(a) Require an employer to permit or accommodate the use, consumption, possession, transfer, display, distribution, transportation, sale or growing of marijuana or any conduct otherwise allowed by this act in any workplace or on the employer's property;

(b) prohibit a person, employer, corporation or any other entity that occupies, owns or controls a property from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, distribution, transportation, sale or growing of marijuana on such property;

(c) require any government medical assistance program, a private health insurer or a workers' compensation carrier or self-insured employer providing workers' compensation benefits to reimburse a person for costs associated with the use of medical marijuana.

(d) affect the ability of an employer to implement policies to promote workplace health and safety by restricting the use of marijuana by employees;

(e) prohibit an employer from:

(1) establishing and enforcing a drug testing policy, drug-free workplace policy or zero-tolerance drug policy; or

(2) disciplining an employee for a violation of a workplace drug policy or for working while under the influence of marijuana;

(f) prevent an employer from, because of a person's violation of a workplace drug policy or because that person was working while under the influence of marijuana, refusing to:

(1) Hire;

(2) discharge;

(3) discipline; or

(4) otherwise take an adverse employment action against a person with respect to hiring decisions, tenure, terms, conditions or privileges of employment; or

(g) prohibit an employer from including a provision in any contract that prohibits the use of marijuana.

Redesignate remaining sections

1 discharge for misconduct has had earnings from insured work of at least
2 three times the individual's determined weekly benefit amount, except that
3 if an individual is discharged for gross misconduct connected with the
4 individual's work, such individual shall be disqualified for benefits until
5 such individual again becomes employed and has had earnings from
6 insured work of at least eight times such individual's determined weekly
7 benefit amount. In addition, all wage credits attributable to the
8 employment from which the individual was discharged for gross
9 misconduct connected with the individual's work shall be canceled. No
10 such cancellation of wage credits shall affect prior payments made as a
11 result of a prior separation.

12 (1) (A) For the purposes of this subsection, "misconduct" is defined as
13 a violation of a duty or obligation reasonably owed the employer as a
14 condition of employment including, but not limited to, a violation of a
15 company rule, including a safety rule, if: ~~(A)(i)~~ The individual knew or
16 should have known about the rule; ~~(B)(ii)~~ the rule was lawful and
17 reasonably related to the job; and ~~(C)(iii)~~ the rule was fairly and
18 consistently enforced.

19 (B) The term "misconduct" does not include any violation of a duty,
20 obligation or company rule, if:

21 ~~(i) The individual is a registered patient pursuant to section 8, and~~
22 ~~amendments thereto; and~~

23 ~~(ii) the basis for the violation is the possession of an identification~~
24 ~~card issued under section 8, and amendments thereto, or the possession or~~
25 ~~use of medical marijuana in accordance with the Kansas medical~~
26 ~~marijuana regulation act, section 1 et seq., and amendments thereto.~~

27 (2) (A) Failure of the employee to notify the employer of an absence
28 and an individual's leaving work prior to the end of such individual's
29 assigned work period without permission shall be considered prima facie
30 evidence of a violation of a duty or obligation reasonably owed the
31 employer as a condition of employment.

32 (B) For the purposes of this subsection, misconduct shall include, but
33 not be limited to, violation of the employer's reasonable attendance
34 expectations if the facts show:

35 (i) The individual was absent or tardy without good cause;

36 (ii) the individual had knowledge of the employer's attendance
37 expectation; and

38 (iii) the employer gave notice to the individual that future absence or
39 tardiness may or will result in discharge.

40 (C) For the purposes of this subsection, if an employee disputes being
41 absent or tardy without good cause, the employee shall present evidence
42 that a majority of the employee's absences or tardiness were for good
43 cause. If the employee alleges that the employee's repeated absences or

(i)

(a)

(b)

(ii) Include any violation of a duty,
obligation or company rule if the
individual ingested marijuana in the
workplace, worked while under the
influence of marijuana or tested
positive for a controlled substance.

1 tardiness were the result of health related issues, such evidence shall
2 include documentation from a licensed and practicing health care provider
3 as defined in subsection (a)(1).

4 (3) (A) (i) The term "gross misconduct" as used in this subsection
5 shall be construed to mean conduct evincing extreme, willful or wanton
6 misconduct as defined by this subsection. Gross misconduct shall include,
7 but not be limited to: ~~(i)(a)~~ Theft; ~~(ii)(b)~~ fraud; ~~(iii)(c)~~ intentional damage
8 to property; ~~(iv)(d)~~ intentional infliction of personal injury; or ~~(v)(e)~~ any
9 conduct that constitutes a felony.

10 (ii) The term "gross misconduct" does ~~not~~ include any conduct of an
11 individual, if:

12 (a) ~~The individual is a registered patient pursuant to section 8, and~~
13 ~~amendments thereto; and~~

14 (b) ~~The basis for such conduct is the possession of an identification~~
15 ~~card issued under section 8, and amendments thereto, or the possession or~~
16 ~~use of medical marijuana in accordance with the Kansas medical~~
17 ~~marijuana regulation act, section 1 et seq., and amendments thereto.~~

18 (B) For the purposes of this subsection, the following shall be
19 conclusive evidence of gross misconduct:

20 (i) The use of alcoholic liquor, cereal malt beverage or a
21 nonprescribed controlled substance by an individual while working;

22 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
23 or a nonprescribed controlled substance by an individual while working;

24 (iii) a positive breath alcohol test or a positive chemical test,
25 provided:

26 (a) The test was either:

27 (1) Required by law and was administered pursuant to the drug free
28 workplace act, 41 U.S.C. § 701 et seq.;

29 (2) administered as part of an employee assistance program or other
30 drug or alcohol treatment program in which the employee was
31 participating voluntarily or as a condition of further employment;

32 (3) requested pursuant to a written policy of the employer of which
33 the employee had knowledge and was a required condition of
34 employment;

35 (4) required by law and the test constituted a required condition of
36 employment for the individual's job; or

37 (5) there was reasonable suspicion to believe that the individual used,
38 had possession of, or was impaired by alcoholic liquor, cereal malt
39 beverage or a nonprescribed controlled substance while working;

40 (b) the test sample was collected either:

41 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
42 seq.;

43 (2) as prescribed by an employee assistance program or other drug or

(a) (1)

(2)

(b) Include any conduct of an individual if the individual ingested marijuana in the workplace, worked while under the influence of marijuana or tested positive for a controlled substance.

1 (H) fail to select and administer tests concerning employment in the
2 most effective manner to ensure that, when such test is administered to a
3 job applicant or employee who has a disability that impairs sensory,
4 manual or speaking skills, the test results accurately reflect the skills,
5 aptitude or whatever other factor of such applicant or employee that such
6 test purports to measure, rather than reflecting the impaired sensory,
7 manual or speaking skills of such employee or applicant—, except where
8 such skills are the factors that the test purports to measure).

9 (9) For any employer to:

10 (A) Seek to obtain, to obtain or to use genetic screening or testing
11 information of an employee or a prospective employee to distinguish
12 between or discriminate against or restrict any right or benefit otherwise
13 due or available to an employee or a prospective employee; or

14 (B) subject, directly or indirectly, any employee or prospective
15 employee to any genetic screening or test.

16 (10) (A) *For an employer, because a person is a registered patient or*
17 *caregiver pursuant to section 8, and amendments thereto, or possesses or*
18 *uses medical marijuana in accordance with the Kansas medical marijuana*
19 *regulation act, section 1 et seq., and amendments thereto, to:*

20 (i) *Refuse to hire or employ a person;*

21 (ii) *bar or discharge such person from employment; or*

22 (iii) *otherwise discriminate against such person in compensation or*
23 *in terms, conditions or privileges of employment without a valid business*
24 *necessity.*

25 (B) *For a labor organization, because a person is a registered patient*
26 *or caregiver pursuant to section 8, and amendments thereto, or possesses*
27 *or uses medical marijuana in accordance with the Kansas medical*
28 *marijuana regulation act, section 1 et seq., and amendments thereto, to*
29 *exclude or expel such person from its membership.*

30 (C) *Nothing in this paragraph shall be construed to prohibit a person*
31 *from taking any action necessary to procure or retain any monetary*
32 *benefit provided under federal law, or any rules and regulations adopted*
33 *thereunder; or to obtain or maintain any license, certificate, registration*
34 *or other legal status issued or bestowed under federal law, or any rules*
35 *and regulations adopted thereunder.*

36 (b) It shall not be an unlawful employment practice to fill vacancies
37 in such way as to eliminate or reduce imbalance with respect to race,
38 religion, color, sex, disability, national origin or ancestry.

39 (c) It shall be an unlawful discriminatory practice:

40 (1) For any person, as defined herein being the owner, operator,
41 lessee, manager, agent or employee of any place of public accommodation
42 to refuse, deny or make a distinction, directly or indirectly, in offering its
43 goods, services, facilities, and accommodations to any person as covered

(D) Nothing in this paragraph shall be construed to provide a cause of action against an employer for wrongful discharge or discrimination for the unlawful use of marijuana.