

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Session, 2023

H. B. 23- 50

A BILL FOR AN ACT

To remove marijuana from all pre-employment drug testing for government applicants with certain exceptions; and for other purposes.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The enactment of Public Law 20-66,
2 the “Taulamwaar Sensible CNMI Cannabis Act of 2018”, authorized personal,
3 medicinal, and commercial use of cannabis or marijuana in the CNMI provided that
4 such activity occurs pursuant the provisions set forth in the Act. However, Public
5 Law 20-66 did not change or amend the drug testing polices of the CNMI
6 government, which still includes testing for marijuana as a condition of
7 employment. For example, see Title 120 (Office of Personnel Management)
8 NMIAC § 12-10-320(f)(1) (Pre-employment Testing) (“At the time of application,
9 persons applying for any position within the excepted service will be notified that
10 any offer of employment is contingent upon a negative urine test. After receiving
11 an offer of employment, the candidate shall be tested for the presence of cocaine,
12 marijuana, opiates, amphetamines, and phencyclidine in the urine.”).

1 The Legislature intended to regulate the use of marijuana similar to the use
2 of alcohol. This approach should include the use of alcohol and marijuana at the
3 workplace. Government employers do not prohibit employees or applicants from
4 engaging in off-duty legalized alcohol use. Such employers should do the same
5 with marijuana use.

6 All CNMI employers have adopted an Alcohol and Drug Free Workplace
7 Policy that prohibits the use or possession of alcohol or illegal drugs as well as
8 prohibits employees from being under the influence of alcohol and drugs at the
9 workplace. These policies provide for alcohol and drug testing during employment
10 in response to certain work-related behavior. However, alcohol is not included in
11 the pre-employment drug testing for prospective employees or applicants.

12 Marijuana, which is no longer an illegal drug under CNMI law, should not
13 be included in the pre-employment testing for prospective employees, except for
14 certain employees including enforcement officers, firefighters, first responders,
15 employees in safety sensitive positions, and federally funded employees. However,
16 employees should still be subject to reasonable suspicion testing and post-accident
17 testing to comply with the policy that employees shall not be under the influence
18 of alcohol or drugs when at work. Moreover, employers have an obligation to
19 provide a safe work environment and to protect all its employees from other
20 employees who are under the influence of alcohol or drugs when at work.

1 The Legislature finds that other jurisdictions that have enacted legalized
 2 marijuana in their state or territory have also enacted laws prohibiting pre-
 3 employment testing for marijuana. These US states and municipalities include
 4 Maine, Nevada, City of Rochester (NY), City of Richmond (VA), New York City,
 5 and Washington, DC. There are several other state legislatures reviewing similar
 6 legislation to limit or prohibit pre-employment testing for marijuana. Accordingly,
 7 the purpose of this legislation is to remove marijuana from pre-employment drug
 8 testing of prospective employees or applicants by all government employers with
 9 certain exceptions.

10 **Section 2. Amendment.** Title 1, Division 8, Part 5. Drug Testing, is hereby
 11 amended by inserting a new section 8603 to read as follows:

12 “**§ 8603. Exclusion of Drug Testing for Marijuana.**

13 (a) Pre-employment Testing. Except as otherwise provided in subsection
 14 (b), pre-employment testing of persons applying for any position within the
 15 government of the Commonwealth of the Northern Mariana Islands (CNMI) shall
 16 not include testing for the presence of marijuana, as defined in 4 CMC § 53005(u).

17 (b) Exceptions. The provisions of subsection (a) shall not apply to pre-
 18 employment testing for the presence of marijuana in applicants for government jobs
 19 in safety sensitive positions, meaning jobs that involve activities which directly
 20 affect the safety of one or more persons, including the operation of motor vehicles,
 21 heavy machinery, emergency services or the carrying of firearms. Each department,

1 entity or organization head, in conjunction with the Director of Personnel
2 Management, shall identify in writing all positions that shall be considered safety-
3 sensitive positions.

4 (c) Federal laws. This section does not preempt any federal laws requiring
5 an applicant to be tested for controlled substances, including federal laws governing
6 CNMI employees subject to federal funding, federal benefits or a federal contract.

7 (d) Applicability. This section does not apply to any laws or policies
8 mandating any other type of testing, including random testing, suspicion testing and
9 post-accident testing.

10 (e) Updating regulations and policies. All government agencies shall amend
11 their regulations and policies to comply with this section before the effective date
12 of this law.”

13 **Section 3. Severability**. If any provisions of this Act or the application of
14 any such provision to any person or circumstance should be held invalid by a court
15 of competent jurisdiction, the remainder of this Act or the application of its
16 provisions to persons or circumstances other than those to which it is held invalid
17 shall not be affected thereby.

18 **Section 4. Savings Clause**. This Act and any repealer contained herein
19 shall not be construed as affecting any existing right acquired under contract or
20 acquired under statutes repealed or under any rule, regulation, or order adopted
21 under the statutes. Repealers contained in this Act shall not affect any proceeding

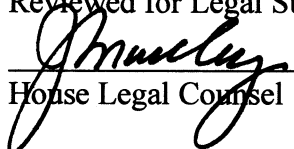
1 instituted under or pursuant to prior law. The enactment of the Act shall not have
2 the effect of terminating, or in any way modifying, any liability, civil or criminal,
3 which shall already be in existence on the date this Act becomes effective.

4 **Section 5. Effective Date.** This Act shall take effect 180 days after its
5 approval by the Governor or becoming law without such approval.

Prefiled: 5/5/2023

Date: _____

Introduced by: 
Rep. Diego V. F. Camacho

Reviewed for Legal Sufficiency by:
 5-3-23
House Legal Counsel

