

ASSEMBLY – SUPPORT AB 2069 (BONTA)

HELD IN COMMITTEE THIS SESSION – ASK FOR RECONSIDERATION

MEDICAL CANNABIS WORKERS PROTECTION

AB 2069 (Bonta) would curb discrimination against workers who use medical cannabis to treat a disability or medical condition by requiring employers to accord them the same “reasonable accommodation” as is currently required for use of prescription opioids and other controlled substances under the state’s Fair Employment and Housing Act (FEHA). (Employers who are required by federal regulations or contractual obligations to ban medical cannabis would be exempted under the bill.)

BACKGROUND AND NEED FOR THE BILL

Under present California law, employers can summarily fire workers for using medical marijuana or testing positive for its use on a drug test. In contrast, employers are required by the federal Americans with Disabilities Act to afford “reasonable accommodation” to employees who use legal prescription drugs such as opioids to treat a disability or medical condition. Thus a worker may be excused from a positive drug test for opiates if a medical review officer determines that they had been legitimately prescribed. A medical cannabis user has no such protection.

As a result, many employees are forced to use opiates or other dangerous prescription drugs for conditions that cannabis can treat more safely and effectively. This problem is especially serious in light of the current opioid epidemic, given the extensive scientific evidence that medical cannabis can effectively reduce opioid abuse, overdoses, deaths and prescription drug costs.

This situation is due to an unfortunate California Supreme Court decision, *Ross v. RagingWire* (2008), which ruled that Prop 215 doesn’t protect users’ rights to employment. More recent court decisions in other states have held otherwise, and 12 states now have laws protecting employment rights for medical cannabis users. AB 2069 would give California workers the same rights as those in other states by effectively overruling *Ross v. RagingWire*.

Opponents have objected that there are no good impairment tests for marijuana use. However, urine tests have no proven relation to job performance, and computer-based performance tests could be far more effective at detecting impairment of all kinds.

The “reasonable accommodation” provisions in FEHA still leave employers wide latitude to disallow any drug use, legal or otherwise, that would impair workplace safety or pose undue hardship. Workers would have to make their cannabis use known beforehand in order to be qualify for accommodation on a drug test.

AB 2069 was held back in the Appropriations Committee this year due to concerns about its impact, but it deserves to be reconsidered in the coming year.

CALIFORNIA CITIZEN LOBBY DAY 2018

Constituent Comments

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