

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY VICE MAYOR KAPLAN

**A RESOLUTION IN SUPPORT OF ASSEMBLY BILL 1256 (QUIRK),
ANTI-CANNABIS DISCRIMINATION, PROHIBITING EMPLOYERS
FROM DISCRIMINATING AGAINST HIRING, OR TERMINATING, A
PERSON WHO HAS TESTED POSITIVE FOR HAVING CANNABIS
METABOLITES IN THEIR URINE, HAIR, OR BODILY FLUIDS**

WHEREAS, As of March 2021, according to the U.S. Bureau of Labor Statistics, there are approximately 88,500 unemployed residents within the cities of Oakland, Berkley Hayward and Fremont,¹ who are looking for work, which does not include the amount of individuals who have given-up or stopped looking for work, out of frustration or fatigue; and

WHEREAS, the State of California's Employment Development Department, reported the total number of jobs located in the East Bay decreased by 97,800 jobs (8.3%). The leisure and hospitality industry decreased by 40,600 jobs; the arts, entertainment, and recreation industry dropped by 9,100 jobs; local governments lost 12,200 jobs, while the state government lost 1,200 jobs, and the federal government lost 100 jobs; the trade, transportation, and utilities lost approximately 9,400 jobs;² and

WHEREAS, the effects of Covid-19 Pandemic crippled the economy never before seen, where business and restaurants closed down completely, to never re-open, which has caused the exponential increase of food insecurity and housing insecurity due to job or income loss; and

WHEREAS, the most effective way to combat food insecurity, housing insecurity, and poverty to assist as many people with job opportunities by removing *unnecessary barriers to employment*; and

¹ The U.S. Bureau of Labor Statistics. https://www.bls.gov/eag/eag.ca_oakland_md.htm

² The California Employment Development Department, State of California. Labor Market Information Division, April 16, 2021. [https://www.labormarketinfo.edd.ca.gov/file/lfmonth/oak\\$pd.pdf](https://www.labormarketinfo.edd.ca.gov/file/lfmonth/oak$pd.pdf)

WHEREAS, in 1996, Proposition 215 legalized medicinal cannabis use in California. Although it was legalized, California’s Supreme Court ruled Proposition 215 did not protect these same medicinal cannabis users in the workplace from employer discrimination; and

WHEREAS, in 2008, the California Legislature passed a measure intended to protect medicinal cannabis users from workplace discrimination, but the measure was vetoed by Governor Schwarzenegger; and

WHEREAS, in 2016, California voters legalized the recreational use of cannabis for adults. With both medicinal and adult-use cannabis legal under California law, there are still no protections for workers who test positive for “non-psychoactive” cannabis metabolites; and

WHEREAS, urine samples became the standard for most drug-testing programs at this time. Urine tests, along with hair follicle testing methods used by some private companies, are not able to detect the presence of Tetrahydrocannabinol (THC), which is the compound in cannabis that may induce psychoactive effects. Instead, these tests screen for the presence of a non-psychoactive cannabis metabolite, which can remain present in an individual’s bodily fluids for weeks after cannabis use. This is because the chemical compounds in cannabis are different from other substances. After the THC has been metabolized, it is stored in the brain and fat cells as a non-psychoactive cannabis metabolite. While the presence of THC may indicate an individual is impaired, the metabolite only shows employers that an individual has consumed cannabis in the last few weeks; and

WHEREAS, while there is consensus that no one should ever show up to a worksite high or impaired, when most tests are conducted for cannabis, the results only show the presence of the non-psychoactive cannabis metabolite. Testing positive for this non-psychoactive cannabis metabolite does not indicate that the employee is impaired and has no correlation to workplace safety or productivity.

WHEREAS, Oakland residents and applicants in the City of Oakland should not be punished for usage of legalized cannabis; and

WHEREAS, employers should only be authorized to dismiss or discipline workers from usage of legalized cannabis **when hired**, once the applicant is an **employee** subjugated to workplace policies and conditions of employment; and

WHEREAS, “pre-maturely” dismissing or eliminating applicants from being hired for usage of legalized medications and legalized recreational substances places barriers of entry which discriminates and negatively impacts applicants from underserved and disadvantage neighborhoods in the City of Oakland and its surrounding communities; and

WHEREAS, AB 1256 would prohibit employers from discriminating against hiring, or terminating, a person who has tested positive for having non-psychoactive cannabis metabolites in their urine, hair, or bodily fluids. It also allows employees who have experienced

discrimination on the basis of testing positive for non-psychoactive cannabis metabolites, to institute civil action for damages and other relief against their employers; and

WHEREAS, twenty states currently have laws protecting employment rights for medical cannabis users, and Nevada and New Jersey, plus several cities such as New York City, Washington DC, Atlanta, Rochester, NY and Richmond, VA protect recreational cannabis consumers' employment rights.

WHEREAS, California, a global leader in progressive ideology, still has no protections for its workers who consume cannabis; and

WHEREAS, the City of Oakland strives to maintain, improve and preserve Oakland's infrastructure and environment for residents, businesses, visitors and future generations of every neighborhood in our diverse city; and

WHEREAS, the City of Oakland thrives to be a leader in the nation, ensuring equity, race and social justice is the foundation for every policy and program serving the residents of Oakland and beyond; now, therefore, be it:

RESOLVED: that the Oakland City Council hereby endorses AB 1256 and urges the California State Legislature and Governor Gavin Newsom to support its enactment into law, and be it:

FURTHER RESOLVED: that the Oakland City Council requests the City Administrator to transmit a copy of this Resolution to our local state legislative representatives and to the lobbyist for the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, FIFE, GALLO, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California