A.B. 132

ASSEMBLY BILL NO. 132—ASSEMBLYMEN NEAL, MCCURDY AND FLORES

FEBRUARY 13, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing employment practices. (BDR 53-29)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes.

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EXPLANATION – Matter in bolded italics is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to employment; prohibiting the denial of employment because of the presence of marijuana in a screening test taken by a prospective employee; prohibiting an employer from conditioning employment on a test of the personality traits, behavioral traits or character traits of a prospective employee; providing certain exceptions; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes various unlawful employment practices. (Chapter 613 of NRS)

Section 2 of this bill prohibits an employer from denying employment to a prospective employee because the prospective employee has submitted to a drug screening test and the test indicates the presence of marijuana. Section 2 further provides, however, that it is not unlawful for an employer to condition the employment of a prospective employee who does not hold a valid registry identification card to engage in the medical use of marijuana on the prospective employee’s abstention from use of marijuana.

Section 3 of this bill prohibits an employer from conditioning the employment of a prospective employee on his or her submission to a character assessment. Section 3 defines “character assessment” to mean any test to evaluate the personality traits, behavioral traits or character traits of a person. Section 3 provides certain exceptions to the preceding prohibition for certain employment involving contact with children, elderly persons or vulnerable persons, employment as a peace officer and employment that affects the public safety.
THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN 
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. Except as otherwise specifically provided by law:
1. It is unlawful for any employer in this State to fail or refuse to hire a prospective employee because the prospective employee submitted to a screening test and the results of the screening test indicate the presence of marijuana.
2. It is not unlawful for an employer in this State to require a prospective employee who does not hold a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS to abstain from using marijuana as a condition of employment.
3. As used in this section, “screening test” means a test of a person’s blood, urine, hair or saliva to detect the general presence of a controlled substance or any other drug.

Sec. 3. 1. Except as otherwise provided in this section, it is unlawful for any employer in this State to:
(a) Directly or indirectly, require, request, suggest or cause any prospective employee to take or submit to a character assessment.
(b) Use, accept, refer to or inquire concerning the results of a character assessment of any prospective employee.
(c) Deny employment to or threaten to take such action against any prospective employee:
(1) Who refuses, declines or fails to take or submit to a character assessment; or
(2) On the basis of the results of a character assessment.
2. It is not unlawful for an employer in this State to require an employee to take or submit to a character assessment for the purpose of the professional development of the employee.
3. An employer may require a prospective employee to take or submit to a character assessment and consider the results of such a character assessment for the purpose of evaluating a prospective employee for employment if:
(a) The duties of the position for which the prospective employee is being evaluated for employment involve regular and substantial contact with children, elderly persons or vulnerable persons;
(b) The prospective employee is applying for employment as a peace officer, as defined in NRS 169.125; or
(c) The prospective employee is applying for a position that is designated by the Personnel Commission as affecting public safety pursuant to NRS 284.4066.

4. As used in this section:
   (a) “Character assessment” means any test to evaluate the personality traits, behavioral traits or character traits of a person. The term includes, without limitation, the Caliper Profile, the Myers-Briggs Type Indicator, the Hogan Personality Inventory, the SHL Occupational Personality Questionnaire and other similar assessments.
   (b) “Elderly person” means a person who is 60 years of age or older.
   (c) “Vulnerable person” means a person 18 years of age or older who:
      (1) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or
      (2) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.

Sec. 4. This act becomes effective on July 1, 2019.