

218B.040 Employer not required to permit or accommodate use. (Effective January 1, 2025)

- (1) Nothing in this chapter shall:
 - (a) Require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of medicinal cannabis in the workplace;
 - (b) Prohibit an employer from implementing policies promoting workplace health and safety by:
 1. Restricting the use of medicinal cannabis by employees; or
 2. Restricting or prohibiting the use of equipment, machinery, or power tools by an employee who is a registered qualified patient, if the employer believes that the use of such equipment, machinery, or power tools by an employee who is a registered qualified patient poses an unreasonable safety risk;
 - (c) Prohibit an employer from including in any contract provisions that prohibit the use of medicinal cannabis by employees;
 - (d) Permit a cause of action against an employer for wrongful discharge or discrimination;
 - (e) Except as provided in KRS 218B.045, prohibit a person, employer, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of medicinal cannabis on or in that property;
 - (f) Prohibit an employer from establishing and enforcing a drug testing policy, drug-free workplace, or zero-tolerance drug policy; or
 - (g) Prohibit an employer from exercising his or her ability to determine impairment of an employee who is a cardholder. Good faith determinations of impairment permitted under this paragraph shall include behavioral assessments of impairment and a secondary step of testing an employee who is a cardholder for the presence of cannabis by an established method. If an employer determines, pursuant to KRS 218B.015(2)(c), that an employee who is a cardholder is impaired by the use of cannabis from the behavioral assessment and testing, the burden of proving non-impairment shall shift to the employee to refute the findings of the employer.
- (2) An employee who is discharged from employment for consuming medicinal cannabis in the workplace, working while under the influence of medicinal cannabis, or testing positive for a controlled substance shall not be eligible to receive benefits under KRS Chapter 341, if such actions are in violation of an employment contract or established personnel policy.
- (3) An employer shall not be penalized or denied any benefit under state law for employing a cardholder.

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History: Created 2023 Ky. Acts ch. 146, sec. 7, effective January 1, 2025.