



## 2024 South Dakota Legislature

# Senate Bill 12

Introduced by: **Senator Mehlhaff**

1 **An Act to authorize certain employer actions regarding the use of cannabis by an**  
 2 **employee or a prospective employee.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 34-20G-22 be AMENDED:**

5 **34-20G-22.** Except as otherwise provided in this chapter, a registered qualifying  
 6 patient who uses cannabis for a medical purpose ~~shall~~ must be afforded ~~at~~ the same rights  
 7 under state and local law, as the person would be afforded if the person were solely  
 8 prescribed a pharmaceutical medication, as it pertains to:

- 9 (1) Any interaction with a person's employer;  
 10 (2) Drug testing by a person's employer; or  
 11 (3) Drug testing required by any state or local law, agency, or government official.

12 Nothing in this section prohibits adverse employment action, based solely on a  
 13 positive test result for cannabis metabolites, if the person is employed in a safety-sensitive  
 14 job.

15 Nothing in this section prohibits an employer from refusing to hire a person, based  
 16 solely on a positive test result for cannabis metabolites, if the person is seeking  
 17 employment in a safety-sensitive job.

18 **Section 2. That § 34-20G-24 be AMENDED:**

19 **34-20G-24.** No employer is required to allow the ingestion, possession, transfer,  
 20 display, or transportation of cannabis in any workplace or to allow any employee to work  
 21 while under the influence of cannabis.

22 No employer is prohibited from establishing and enforcing a ~~drug-free~~ drug-free  
 23 workplace policy ~~that,~~ which may include a drug testing program that complies with state  
 24 and federal law ~~and,~~ or acting with respect to an applicant or employee under the policy.

- 1           No cause of action is created for employment discrimination or wrongful
- 2           termination arising from an employer's enforcement of a drug-free workplace policy in
- 3           compliance with this chapter.