

2017 DRAFTING REQUEST

Bill

For: **David Bowen (608) 266-7671** Drafter: **kpleviak**
 By: **Jon** Secondary Drafters:
 Date: **7/25/2017** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Bowen@legis.wisconsin.gov**
 Carbon copy (CC) to: **krista.pleviak@legis.wisconsin.gov**
michael.duchek@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Testing for marijuana by employers; prohibition against

Instructions:

Prohibit employers from testing employees and prospective employees for presence of tetrahydrocannabinols - redraft of 15-3852/1

Per KRP

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 7/25/2017	aernsttr 7/27/2017			
/P1	kpleviak 2/13/2018		dwalker 7/27/2017		State S&L
/1		aernsttr 2/13/2018	dwalker 2/13/2018	lparisi 2/14/2018	State S&L

FE Sent For: **<END>**

At Intro

Pleviak, Krista

From: Hanaman, Cathlene
Sent: Tuesday, July 25, 2017 10:58 AM
To: Pleviak, Krista; Duchek, Michael
Subject: FW: Drug Testing Legislation

Would one of you like to do this for the Bowen office?

From: Knudson, Jon
Sent: Tuesday, July 25, 2017 10:38 AM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Subject: Drug Testing Legislation

Hi Cathlene,

I left you a voicemail regarding this bill this morning – it'd slipped my mind that we actually had this drafted last session. If we could just get a redraft of 2015 LRB-3852/1 that would be perfect.

Thanks!

Jon
6-7671



State of Wisconsin
2015 - 2016 LEGISLATURE

IN: 07/25/17

DUE: 07/27/17 (Thurs.)

4042/PI

LRB-3852/1

GMM:klm

KRP

che

2015 BILL

Salv

No CHANGES

Dean

1 AN ACT to create 103.155 of the statutes; relating to: prohibiting employers
2 from testing employees and prospective employees for the presence of
3 tetrahydrocannabinols, synthetic cannabinoids, or controlled substance
4 analogs of tetrahydrocannabinols or synthetic cannabinoids as a condition of
5 employment.

Analysis by the Legislative Reference Bureau

This bill, subject to certain exceptions, prohibits an employer, including the state, from requiring an employee or prospective employee to submit to a test for the presence of any tetrahydrocannabinol (THC), which is the active ingredient in marijuana, synthetic cannabinoid, or controlled substance analog to THC or a synthetic cannabinoid in his or her system (drug testing) as a condition of employment. The bill, subject to certain exceptions, provides that any agreement between an employer and an employee or prospective employee offering employment or any pay or benefit to an employee or prospective employee in return for the employee or prospective employee submitting to drug testing is prohibited.

The bill, however, does not apply to the drug testing of an employee or prospective employee who is subject to drug testing under 1) any regulation promulgated by the federal Department of Transportation that requires drug testing of an employee or prospective employee or any rule promulgated by the Department of Transportation of this state adopting such a regulation for purposes of enforcing the requirements of that regulation with respect to intrastate commerce; 2) any

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contract entered into between the federal government and an employer or any grant of financial assistance from the federal government to an employer that requires drug testing of employees and prospective employees as a condition of receiving the contract or grant; 3) any federal statute, regulation, or order that requires drug testing of employees and prospective employees for purposes of safety or security; 4) any substance abuse prevention program under a collective bargaining agreement or under the current law that requires such programs for public works and public utility projects; or 5) rules promulgated by the Law Enforcement Standards Board requiring drug testing of prospective law enforcement officers, tribal law enforcement officers, jail officers, and secure detention officers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.155 of the statutes is created to read:

2 **103.155 Testing for marijuana or synthetic cannabinoids prohibited.**

3 (1) **DEFINITIONS.** In this section:

4 (a) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

5 (b) “Employer” means any person engaging in any activity, enterprise, or
6 business employing at least one individual. “Employer” includes the state, its
7 political subdivisions, and any office, department, independent agency, authority,
8 institution, association, society, or other body in state or local government created or
9 authorized to be created by the constitution or any law, including the legislature and
10 the courts.

11 (c) “Synthetic cannabinoid” means a substance included under s. 961.14 (4) (tb).

12 (d) “Tetrahydrocannabinol” means a substance included under s. 961.14 (4) (t).

13 (2) **TESTING PROHIBITED.** (a) Except as provided in sub. (3), no employer or agent
14 of an employer may directly or indirectly solicit or require an employee or prospective
15 employee to submit to testing for the presence of any tetrahydrocannabinol,

BILL

1 synthetic cannabinoid, or controlled substance analog of a tetrahydrocannabinol or
2 synthetic cannabinoid in his or her system as a condition of employment.

3 (b) Except as provided in sub. (3), any agreement between an employer or agent
4 of an employer and an employee or prospective employee offering employment or any
5 pay or benefit to an employee or prospective employee in return for the employee or
6 prospective employee submitting to testing for the presence of any
7 tetrahydrocannabinol, synthetic cannabinoid, or controlled substance analog of a
8 tetrahydrocannabinol or synthetic cannabinoid in his or her system is prohibited.

9 (3) EXCEPTIONS. Subsection (2) does not apply to the testing for the presence
10 of any tetrahydrocannabinol, synthetic cannabinoid, or controlled substance analog
11 of a tetrahydrocannabinol or synthetic cannabinoid in the system of an employee or
12 prospective employee who is subject to drug testing under any of the following:

13 (a) Any regulation promulgated by the federal department of transportation
14 that requires testing of an employee or prospective employee in accordance with 49
15 CFR 40 or any rule promulgated by the department of transportation of this state
16 adopting such a regulation for purposes of enforcing the requirements of that
17 regulation with respect to intrastate commerce.

18 (b) Any contract entered into between the federal government and an employer
19 or any grant of financial assistance from the federal government to an employer that
20 requires drug testing of employees and prospective employees as a condition of
21 receiving the contract or grant.

22 (c) Any federal statute, regulation, or order that requires drug testing of
23 employees and prospective employees for purposes of safety or security.

Pleviak, Krista

From: Rep.Bowen
Sent: Tuesday, February 13, 2018 1:50 PM
To: Pleviak, Krista
Subject: LRB 4042/1

Hi Krista – could Rep. Bowen have a /1 of LRB 4042 created and jacketed? Sorry for another short notice...he wants to circulate this on Thursday.

Jon
6-7671



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4042/P1
KRP:ahc

TODAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

NO CHANGES

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contract entered into between the federal government and an employer or any grant of financial assistance from the federal government to an employer that requires drug testing of employees and prospective employees as a condition of receiving the contract or grant; 3) any federal statute, regulation, or order that requires drug testing of employees and prospective employees for purposes of safety or security; 4) any substance abuse prevention program under a collective bargaining agreement or under the current law that requires such programs for public works and public utility projects; or 5) rules promulgated by the Law Enforcement Standards Board requiring drug testing of prospective law enforcement officers, tribal law enforcement officers, jail officers, and secure detention officers.

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7 political subdivisions, and any office, department, independent agency, authority,
8 institution, association, society, or other body in state or local government created or
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15 employee to submit to testing for the presence of any tetrahydrocannabinol,

1 synthetic cannabinoid, or controlled substance analog of a tetrahydrocannabinol or
2 synthetic cannabinoid in his or her system as a condition of employment.

3 (b) Except as provided in sub. (3), any agreement between an employer or agent
4 of an employer and an employee or prospective employee offering employment or any
5 pay or benefit to an employee or prospective employee in return for the employee or
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14 that requires testing of an employee or prospective employee in accordance with 49
15 CFR 40 or any rule promulgated by the department of transportation of this state
16 adopting such a regulation for purposes of enforcing the requirements of that
17 regulation with respect to intrastate commerce.

18 (b) Any contract entered into between the federal government and an employer
19 or any grant of financial assistance from the federal government to an employer that
20 requires drug testing of employees and prospective employees as a condition of
21 receiving the contract or grant.

22 (c) Any federal statute, regulation, or order that requires drug testing of
23 employees and prospective employees for purposes of safety or security.

1 (d) A substance abuse prevention program under s. 103.503 or under a
2 collective bargaining agreement between an employer and a labor organization
3 representing employees and prospective employees of the employer.

4 (e) Rules promulgated by the law enforcement standards board requiring drug
5 testing of prospective law enforcement officers, tribal law enforcement officers, jail
6 officers, and secure detention officers.

7

(END)