

## MEDICAL MARIJUANA AND LOCAL GOVERNMENT IN THE 2016 GENERAL SESSION

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### Public Employees

- Section 26-58-29 of S.B. 73 (2016 General Session) (Madsen – R, Dist. 13) contained the following language:
  - *A public employer may not do the following to an individual because the individual uses cannabis, a cannabis product, or a medical cannabis device in accordance with this chapter:*
    - *Refuse to hire or promote the individual;*
    - *Discharge, demote, or terminate the individual;*
    - *Retaliate against or harass the individual; or*
    - *Discriminate against the individual in matters of compensation or in terms, privileges, and conditions of employment*
- This language was changed in the First Substitute S.B. 73 to *“an employer of a public employee may not, in matters of employment, treat an individual who uses cannabis, a cannabis product, or a medical cannabis device in accordance with this chapter differently than the employer would treat a similarly situated individual who uses a doctor-prescribed medication that has a side effect that is similar to cannabis or cannabis product side effect.”*
- The Senate deleted this language on February 18, 2016:
  - Senator Weiler (R – Dist. 23) spoke in favor of the deletion, citing the need for government employers to require their employees to follow federal law
    - He gave the example of UHP officers who guard federal property, who could be liable for a federal crime if they enter that property while using medical marijuana
  - Senator Bramble (R – Dist. 16) spoke in favor of the deletion, citing the fact that public employees would include school teachers and local law enforcement

## Local Regulation of Cannabis Production Establishments

- Section 4-42-105 of S.B. 73 contained the following language:
  - *This chapter preempts any ordinance enacted by a political subdivision of the state regarding a cannabis production establishment.*
    - A “cannabis production establishment” was defined as: “(a) an independent testing laboratory; (b) a cannabis cultivation facility; or (c) a cannabis processing facility.”
- Section 4-42-206 of S.B. 73 contained the following language:
  - *A municipality or local government may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality’s or local government’s jurisdiction, on the sole basis that the cannabis production establishment is a cannabis production establishment.*
  - *A municipality or local government shall allow a cannabis production establishment to operate as a permitted use in an agricultural, industrial, or manufacturing zone, or a comparable zone.*
- Section 26-58-406 of S.B. 73 contained the following language:
  - *(1) Except as provided in Subsection (2), a municipality or local government may not enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location within the municipality’s or local government’s jurisdiction, on the basis that the cannabis dispensary is a cannabis dispensary.*
  - *(2) (a) A municipality or local government may not prohibit a cannabis dispensary from operating, as a permitted use, in an agricultural, industrial, or commercial zone, or in a zone with similar characteristics to an agricultural, industrial, or commercial zone.*
  - *(b) A municipality may prohibit a cannabis dispensary from operating in a zone not described in Subsection (2)(a).*
- The Senate deleted these three sections from S.B. 73 without debate on February 18, 2016.
- Section 26-58-103 of S.B. 89 (2016 General Session) (Vickers – R, Dist. 28) contained the following language:
  - *This chapter does not prohibit a political subdivision from enacting an ordinance, which restricts the location of, or operating requirements of, a CBM dispensary, that is more restrictive than this chapter.*
  - S.B. 89 passed the Senate with this language intact. The House did not move to amend this language.

Neither S.B. 73 nor S.B. 89 was passed into law in 2016. For copies of all bill substitutions, amendments, and video of floor debates, visit <http://le.utah.gov/~2016/bills/static/SB0073.html> for S.B. 73 and <http://le.utah.gov/~2016/bills/static/SB0089.html> for S.B. 89.