



S.2509 / A.3009, Part H, Section 127

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BILL S.2509 / A.3009, Part H, Section 127
SUBJECT Cannabis Regulation and Taxation Act Workplace Impairment
DATE February 23, 2021
SUPPORT

The Business Council has taken no position on the broader issue of legalization of recreational use of cannabis. However, the provision of the Executive Budget proposal impacting the workplace is of significant interest to employers.

The Business Council supports Part 4 and 5 of §127 of the bill that allows employers to continue to implement policies prohibiting the use or possession of cannabis in the workplace and to take adverse employment action against employees who violate these policies and/or are impaired at work. In addition, the bill allows employers to test according to law for the active ingredients of THC that cause impairment and to take adverse employment action against employees when those ingredients are present.

Any level of workplace “impairment” should be sufficient to warrant employer action. In addition to the impact of cannabis use on an employee’s ability to perform their job duties, impaired employees could potentially be a hazard to themselves and others. This impairment could manifest itself in trips and falls, exposure to hazardous chemicals or blood borne pathogens by failing to use proper personal protective equipment, or the operation of equipment not related to their duties (e.g. personal auto during commute, office machinery, etc.).

Both New York State occupational safety laws and the Federal Occupational Safety and Health Act require employers to maintain a safe and healthful workplace free from recognized hazards. This important language will ensure an employer’s ability to maintain a workplace free from hazards, including those resulting from employee impairment.

For these reasons, The Business Council supports its approval.