

By Council Members Williams, Cumbo and Rivera

A Local Law to amend the administrative code of the city of New York, in relation to prohibition of drug testing for pre-employment hiring procedures

Be it enacted by the Council as follows:

1 Section 1. Section 8-107 of title 8 of the administrative code of the city of New York is
2 amended by adding a new subdivision 30 to read as follows:

3 30. Employment; pre-employment drug testing policy. (a) Definitions. For purposes of
4 this subdivision the term “tetrahydrocannabinols” has the same meaning as such term is defined
5 in paragraph 21 of subdivision d of section 3306 of the public health law.

6 (b) Prohibition. Except as otherwise provided by law, it shall be an unlawful
7 discriminatory practice for an employer, labor organization, employment agency, or agent
8 thereof to require a prospective employee to submit to testing for the presence of any
9 tetrahydrocannabinols in such prospective employee’s system as a condition of employment.

10 (c) Exceptions. (1) The provisions of this subdivision shall not apply to persons applying
11 to work:

12 (A) As police officers or peace officers, as those terms are defined in subdivisions 33 and
13 34 of section 1.20 of the criminal procedure law, respectively, or in a position with a law
14 enforcement or investigative function at the department of investigation;

15 (B) In a position in which an employee is required to possess security clearance under
16 federal law or the law of any state;

17 (C) In a position requiring the operation of heavy machinery;

18 (D) In a position requiring the operation of a motorized vehicle;

19 (E) As a lifeguard;

1 (F) As an emergency responder; or

2 (G) In any other position determined by the commission in consultation with the
3 department of citywide administrative services.

4 (2) The provisions of this subdivision shall not apply to drug testing required pursuant to:

5 (A) Any regulation promulgated by the federal department of transportation that requires
6 testing of a prospective employee in accordance with 49 CFR 40 or any rule promulgated by the
7 departments of transportation of this state or city adopting such regulation for purposes of
8 enforcing the requirements of that regulation with respect to intrastate commerce;

9 (B) Any contract entered into between the federal government and an employer or any
10 grant of financial assistance from the federal government to an employer that requires drug
11 testing of prospective employees as a condition of receiving the contract or grant;

12 (C) Any federal or state statute, regulation, or order that requires drug testing of
13 prospective employees for purposes of safety or security; or

14 (D) A collective bargaining agreement between an employer and a labor organization
15 representing employees and prospective employees of such employer.

16 d. Rules. The commission, in consultation with the department of citywide administrative
17 services, shall promulgate rules for the implementation of this subdivision.

18 § 2. This local law takes effect 1 year after it becomes law.

MMB
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