



TO: The Honorable Members of the House of Representatives

FROM: Alex Halper, Director, Government Affairs

DATE: March 16, 2016

RE: S.B. 3 impact on employers and employees

The PA Chamber does not have a position on medical marijuana; however, like many bills that come before the General Assembly, S.B. 3 has the potential to impact employers in unpredictable and adverse ways. Addressing, to the extent possible, potential complications and unintended consequences before they actually impact your constituents is in everyone's best interest.

Legalizing medical marijuana while it remains unlawful under federal law creates a legal paradox for employers because rules for managing use of legal prescription drugs and workplace safety are generally set at the federal level and therefore cannot be relied on for marijuana. The same goes for other statutes in which prescription drug use can be a factor – like unemployment compensation and workers' compensation laws. There is no precedent for how these various areas of employment law should interpret a medication that is legal under state law but illegal under federal law.

We worked with bill advocates on both sides of the aisle on language to address these issues, which was filed as A06026. This amendment set guidelines for employment purposes based on a standard similar to what currently exists for other legal prescription drugs. It also included clarifications related to insurance coverage and protections for recipients of federal contracts or funding.

Unfortunately, A06026 was not considered by the House. Implementation of this legislation without addressing these employment issues not only creates uncertainty for employers, it could very well adversely impact users. For example, medical marijuana legislation in Colorado did not address these issues and their Supreme Court ruled last year that an employer could discriminate solely based on medical marijuana use. To the contrary, A06026 retained antidiscrimination protections for users.

All stakeholders should consider it unacceptable to ignore this legal paradox or leave it up to the courts to decide. Accordingly, we urge you to address these unresolved employment issues and help ensure antidiscrimination protections for users are not overturned.

Please contact Alex Halper at 717 720-5471 or ahalper@pachamber.org with any questions.