

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2019**

No. 91

Introduced by The Public Advocate (Mr. Williams) and Council Members Cumbo, Rivera, Lander, Kallos, Rosenthal, Lancman, Ayala and Miller.

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:

Section 1. Section 8-102 of title 8 of the administrative code of the city of New York is amended by adding new definitions of “marijuana” and “tetrahydrocannabinols” in alphabetical order, to read as follows:

Marijuana. The term “marijuana” has the same meaning as the term “marihuana” as such term is defined in subdivision 21 of section 3302 of the public health law.

Tetrahydrocannabinols. The term “tetrahydrocannabinols” has the same meaning as such term is defined in paragraph 21 of subdivision d of section 3306 of the public health law.

§ 2. Section 8-107 of title 8 of the administrative code of the city of New York is amended by adding a new subdivision 31 to read as follows:

31. Employment; pre-employment drug testing policy. (a) Prohibition. Except as otherwise provided by law, it shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or agent thereof to require a prospective employee to submit to testing for the presence of any tetrahydrocannabinols or marijuana in such prospective employee’s system as a condition of employment.

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

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

(B) In any position requiring compliance with section 3321 of the New York city building code or section 220-h of the labor law;

(C) In any position requiring a commercial driver's license;

(D) In any position requiring the supervision or care of children, medical patients or vulnerable persons as defined in paragraph 15 of section 488 of the social services law; or

(E) In any position with the potential to significantly impact the health or safety of employees or members of the public, as determined by: (i) the commissioner of citywide administrative services for the classified service of the city of New York, and identified on the website of the department of citywide administrative services or (ii) the chairperson, and identified in regulations promulgated by the commission.

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

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

(B) Any 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 prospective employees as a condition of receiving the contract or grant;

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

(D) Any applicants whose prospective employer is a party to a valid collective bargaining agreement that specifically addresses the pre-employment drug testing of such applicants.

(c) Rules. The commission shall promulgate rules for the implementation of this subdivision.

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

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 9, 2019 and returned unsigned by the Mayor on May 9, 2019.

ALISA FUENTES, Acting City Clerk, Acting Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 91 of 2019, Council Int. No. 1445-A of 2019) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.