

Int. No. 1445-A

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:

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

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

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

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

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

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

17 (A) As police officers or peace officers, as those terms are defined in subdivisions 33 and
18 34 of section 1.20 of the criminal procedure law, respectively, or in a position with a law
19 enforcement or investigative function at the department of investigation;

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

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

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

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

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

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

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

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

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

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

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

MMB/BAM
LS # 4606, LS # 8484, LS # 8564
4/1/19; 3:27 p.m.