



**DATE**

The Honorable Gavin Newsom  
 Governor, State of California  
 State Capitol  
 Sacramento, CA 95814

**SUBJECT: AB 2188 (QUIRK) DISCRIMINATION IN EMPLOYMENT: USE OF CANNABIS  
 REQUEST FOR VETO**

Dear Governor Newsom:

The California Chamber of Commerce and the undersigned respectfully urge you to **VETO AB 2188 (Quirk)**, as it elevates marijuana use to a protected class, above alcohol or other legal drug use. Under California law, we believe that marijuana should be treated like alcohol – its use is legal in certain settings, but impairment must be kept out of the workplace. We see **AB 2188** as going beyond that by creating new litigation concerns related to its new protections for marijuana use. Notably – we appreciate the June 30 amends addressing pre-employment drug testing and delayed implementation in order to address availability and workplace safety concerns, outlined below. As a result of these amends, though **AB 2188** had previously been labeled as a **JOB KILLER**, the **JOB KILLER** tag has been **REMOVED**.

However, even with recent amendments, **AB 2188** will create a protected status<sup>1</sup> for marijuana use in California's Fair Employment and Housing Act (Gov Code Section 21900 *et seq.*, "FEHA")<sup>2</sup> and California employers may face liability when they take legitimate disciplinary measures against their employees. Put simply: marijuana use is not the same as protecting workers against discrimination based on race or national origin and should not be in FEHA. California employers should not have to fight out proper, impairment-based terminations in FEHA. Moreover, employers must be able to keep their workplace safe by disciplining employees who arrive at work impaired.

If California policymakers wish to force a shift towards newer testing technologies – that is one thing. But we do not believe marijuana should be elevated to a legally-protected status above comparable drugs (like alcohol).

<sup>1</sup> For background on presently protected categories, see DFEH's website listing protected traits here: <https://www.dfeh.ca.gov/employment/#whoBody>.

<sup>2</sup> See proposed Gov. Code Section 12954(a)(1).

For these reasons, we respectfully urge you to **VETO AB 2188 (Quirk)**,

Sincerely,



Robert Moutrie  
Policy Advocate  
California Chamber of Commerce  
on behalf of

Acclamation Insurance Management Services  
Allied Managed Care  
California Apartment Association  
California Asian Pacific Chamber of Commerce  
California Association of Joint Powers  
Authorities  
California Association of Winegrape Growers  
California Attractions and Parks Association  
California Business Properties Association  
California Business Roundtable  
California Chamber of Commerce  
California Farm Bureau  
California Landscape Contractors Association  
California League of Food Producers

California Manufacturers & Technology  
Association  
California Restaurant Association  
California Retailers Association  
California State Association of Counties  
California Travel Association  
Coalition of Small and Disabled Veteran  
Businesses  
Family Business Association of California  
Flasher Barricade Association  
National Federation of Independent Business  
Official Police Garages of Los Angeles  
Public Risk Innovation, Solutions and  
Management  
Rural County Representatives of California

RM:ldl