

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

May 11, 2017

The Honorable Corey Stapleton
Secretary of State
State Capital
Helena, MT 59620

Dear Secretary Stapleton:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 116 (SB 116), "AN ACT PROVIDING THAT A FALSE STATEMENT IN AN EMPLOYER-PROVIDED QUESTIONNAIRE UNDER CERTAIN CIRCUMSTANCES IS A BASIS FOR BARRING WORKERS' COMPENSATION BENEFITS; AND PROVIDING AN EFFECTIVE DATE."

An individual's private medical information is one of their most protected privacy interests, under both state and federal law. The conditions under which a worker is required to provide medical information to a prospective employer must be handled with that privacy right clearly defined and respected at the outset. SB 116 does not accomplish that task, is unnecessary, and will increase costs of litigation under both the Workers' Compensation Act and under the Human Rights Act.

SB 116 bars workers' compensation benefits to an injured worker if, at the time they were hired, they made a false representation concerning a medical condition.

In doing so, it fails to recognize protections for employees regarding medical inquiries under state and federal disability discrimination laws. The bill will encourage litigation under the Americans with Disabilities Act (ADA) because it does not properly protect workers from potential discrimination based on a disability related to a medical condition. In this failure, SB 116 may lead Montana's employers to make unlawful medical inquiries that do not equally apply to all applicants and are not job related and consistent with the demands of the job.

And, as I have already noted regarding HB 358 and SB 184, pursuant to 39-71-105(4), MCA, "Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering" and "the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities." SB 116 runs afoul of this basic principle of workers' compensation law and introduces potential for discrimination in hiring.

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For these reasons, I veto SB 116.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Bullock", with a long horizontal flourish extending to the right.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Scott Sales, President of the Senate
Austin Knudsen, Speaker of the House