

1 ENGROSSED SENATE  
2 BILL NO. 305

By: Daniels of the Senate

3 and

4 West (Tammy) and McBride of  
5 the House

6  
7 An Act relating to medical marijuana; amending  
8 Provision No. 6, State Question No. 788, Petition No.  
9 412 (63 O.S. Supp. 2018, Section 425), which relates  
10 to discrimination against a medical marijuana license  
11 holder; prohibiting employers from taking certain  
12 actions except under certain conditions; construing  
13 section; specifying exclusive remedy; defining terms;  
14 specifying that government assistance programs are  
15 not required to provide certain reimbursement;  
16 modifying certain protection; clarifying language;  
17 and declaring an emergency.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY Provision No. 6, State Question  
20 No. 788, Petition No. 412 (63 O.S. Supp. 2018, Section 425), is  
21 amended to read as follows:

22 Section 425. A. No school or landlord may refuse to enroll or  
23 lease to, as appropriate, and may not otherwise penalize a person  
24 solely for his or her status as a medical marijuana license holder,  
unless failing to do so would imminently cause the school or  
landlord to lose a monetary or licensing related benefit under  
federal law or regulations.

1 B. ~~Unless a failure to do so would cause an employer to~~  
2 ~~imminently lose a monetary or licensing related benefit under~~  
3 ~~federal law or regulations, an employer may not discriminate against~~  
4 ~~a person in hiring, termination or imposing any term or condition of~~  
5 ~~employment or otherwise penalize a person based upon either:~~

6 1. ~~The person's status as a medical marijuana license holder;~~  
7 ~~or~~

8 2. ~~Employers may take action against a holder of a medical~~  
9 ~~marijuana license holder if the holder uses or possesses marijuana~~  
10 ~~while in the holder's place of employment or during the hours of~~  
11 ~~employment. Employers may not take action against the holder of a~~  
12 ~~medical marijuana license solely based upon the status of an~~  
13 ~~employee as a medical marijuana license holder or the results of a~~  
14 ~~drug test showing positive for marijuana or its components~~

15 Unless otherwise required by federal law or required to obtain  
16 federal funding:

17 1. No employer may refuse to hire, discipline, discharge or  
18 otherwise penalize an applicant or employee solely on the basis of  
19 such applicant's or employee's status as a medical marijuana  
20 licensee; and

21 2. No employer may refuse to hire, discipline, discharge or  
22 otherwise penalize an applicant or employee solely on the basis of a  
23 positive test for marijuana components or metabolites, unless:  
24

- 1           a. the applicant or employee is not in possession of a  
2           valid medical marijuana license,
- 3           b. the licensee possesses, consumes or is under the  
4           influence of marijuana components or metabolites while  
5           at the place of employment or during the fulfillment  
6           of employment obligations, or
- 7           c. the position is one involving safety-sensitive job  
8           duties, as such term is defined in subsection E of  
9           this section.

10       C. Nothing in this section shall:

11           1. Require an employer to permit or accommodate the use of  
12       medical marijuana on the property or premises of any place of  
13       employment or during hours of employment;

14           2. Require an employer, a government medical assistance  
15       program, private health insurer, worker's compensation carrier or  
16       self-insured employer providing worker's compensation benefits to  
17       reimburse a person for costs associated with the use of medical  
18       marijuana; or

19           3. Prevent an employer from having written policies regarding  
20       drug testing and impairment in accordance with the Oklahoma  
21       Standards for Workplace Drug and Alcohol Testing Act, Section 551 et  
22       seq. of Title 40 of the Oklahoma Statutes.

23       D. Any applicant or employee aggrieved by a willful violation  
24       of subsection B or C of this section shall have, as his or her

1 exclusive remedy, the same remedies as provided for in the Oklahoma  
2 Standards for Workplace Drug and Alcohol Testing Act set forth in  
3 Section 563 of Title 40 of the Oklahoma Statutes.

4 E. For the purposes of this act:

5 1. "Safety-sensitive" means any job that includes tasks or  
6 duties that the employer reasonably believes could affect the safety  
7 and health of the employee performing the task or others, including  
8 but not limited to, any of the following:

- 9 a. the handling, packaging, processing, storage, disposal  
10 or transport of hazardous materials,
- 11 b. the operation of a motor vehicle, other vehicle,  
12 equipment, machinery or power tools,
- 13 c. repairing, maintaining or monitoring the performance  
14 or operation of any equipment, machinery or  
15 manufacturing process, the malfunction or disruption  
16 of which could result in injury or property damage,
- 17 d. performing duties in the residential or commercial  
18 premises of a customer, supplier or vendor,
- 19 e. the operation, maintenance or oversight of critical  
20 services and infrastructure, including but not limited  
21 to, electric, gas, and water utilities, power  
22 generation or distribution,
- 23 f. the extraction, compression, processing,  
24 manufacturing, handling, packaging, storage, disposal,

1 treatment or transport of potentially volatile,  
2 flammable, combustible materials, elements, chemicals  
3 or any other highly regulated component,  
4 g. preparing or handling food or medicine,  
5 h. carrying a firearm, or  
6 i. direct patient care or direct child care; and

7 2. "Under the influence of marijuana components or metabolites"

8 means a test result that is at or above the cutoff concentration  
9 level established by the United States Department of Transportation  
10 or Oklahoma law regarding being under the influence, whichever is  
11 lower.

12 ~~G.~~ F. For the purposes of medical care, including organ  
13 transplants, a medical marijuana license holder's authorized use of  
14 marijuana ~~must~~ shall be considered the equivalent of the use of any  
15 other medication under the direction of a physician and does not  
16 constitute the use of an illicit substance or otherwise disqualify a  
17 registered qualifying patient from medical care; provided, a  
18 government medical assistance program shall not be required to  
19 reimburse a person for costs associated with the medical use of  
20 marijuana unless required by federal law.

21 ~~D.~~ ~~No medical marijuana license holder may be denied custody of~~  
22 ~~or visitation or parenting time with a minor, and there is no~~  
23 ~~presumption of neglect or child endangerment for conduct allowed~~

1 ~~under this law, unless the person's behavior creates an unreasonable~~  
2 ~~danger to the safety of the minor~~

3 G. The status and conduct of a medical marijuana licensee  
4 acting in accordance with this act shall not, by itself, be used to  
5 restrict or abridge custodial or parental rights to minor children  
6 in any action or proceeding under the jurisdiction of a family or  
7 juvenile court.

8 ~~F. H.~~ No person holding a medical marijuana license may unduly  
9 be withheld from holding a state issued license by virtue of their  
10 being a medical marijuana license holder. ~~This would include such~~  
11 ~~things as, including but not limited to~~ a concealed carry permit.

12 ~~F. I.~~ No city or local municipality may unduly change or  
13 restrict zoning laws to prevent the opening of a retail marijuana  
14 establishment.

15 ~~G. J.~~ The location of any retail marijuana establishment is  
16 specifically prohibited within one thousand (1,000) feet from any  
17 public or private school entrance.

18 ~~H. K.~~ Research ~~will~~ shall be provided for under this law. A  
19 researcher may apply to the ~~Oklahoma~~ State Department of Health for  
20 a special research license. ~~That license will~~ The license shall be  
21 granted, provided the applicant meets the criteria listed under  
22 ~~Section 421.B~~ subsection B of Section 421 of this title. Research  
23 license holders ~~will~~ shall be required to file monthly consumption  
24

1 reports to the ~~Oklahoma~~ Oklahoma State Department of Health with amounts of  
2 marijuana used for research.

3 SECTION 2. It being immediately necessary for the preservation  
4 of the public peace, health or safety, an emergency is hereby  
5 declared to exist, by reason whereof this act shall take effect and  
6 be in full force from and after its passage and approval.

7 Passed the Senate the 14th day of March, 2019.

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Presiding Officer of the Senate

11 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
12 2019.

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Presiding Officer of the House  
15 of Representatives

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