

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 305, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Daniels

Daniels-DC-FS-Req#2078
3/13/2019 10:14 AM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 305

By: Daniels of the Senate

and

6 West (Tammy) and McBride of
7 the House

8
9 FLOOR SUBSTITUTE

10 [medical marijuana - discrimination -
11 emergency]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

23 B. ~~Unless a failure to do so would cause an employer to~~
24 ~~imminently lose a monetary or licensing related benefit under~~

1 ~~federal law or regulations, an employer may not discriminate against~~
2 ~~a person in hiring, termination or imposing any term or condition of~~
3 ~~employment or otherwise penalize a person based upon either:~~

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

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

13 Unless otherwise required by federal law or required to obtain
14 federal funding:

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

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

22 a. the applicant or employee is not in possession of a
23 valid medical marijuana license,

24

1 b. the licensee possesses, consumes or is under the
2 influence of marijuana components or metabolites while
3 at the place of employment or during the fulfillment
4 of employment obligations, or

5 c. the position is one involving safety-sensitive job
6 duties, as such term is defined in subsection E of
7 this section.

8 C. Nothing in this section shall:

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

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

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

21 D. Any applicant or employee aggrieved by a willful violation
22 of subsection B or C of this section shall have, as his or her
23 exclusive remedy, the same remedies as provided for in the Oklahoma
24

1 Standards for Workplace Drug and Alcohol Testing Act set forth in
2 Section 563 of Title 40 of the Oklahoma Statutes.

3 E. For the purposes of this act:

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

8 a. the handling, packaging, processing, storage, disposal
9 or transport of hazardous materials,

10 b. the operation of a motor vehicle, other vehicle,
11 equipment, machinery or power tools,

12 c. repairing, maintaining or monitoring the performance
13 or operation of any equipment, machinery or
14 manufacturing process, the malfunction or disruption
15 of which could result in injury or property damage,

16 d. performing duties in the residential or commercial
17 premises of a customer, supplier or vendor,

18 e. the operation, maintenance or oversight of critical
19 services and infrastructure, including but not limited
20 to, electric, gas, and water utilities, power
21 generation or distribution,

22 f. the extraction, compression, processing,
23 manufacturing, handling, packaging, storage, disposal,
24 treatment or transport of potentially volatile,

1 flammable, combustible materials, elements, chemicals

2 or any other highly regulated component,

3 g. preparing or handling food or medicine,

4 h. carrying a firearm, or

5 i. direct patient care or direct child care; and

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

7 means a test result that is at or above the cutoff concentration

8 level established by the United States Department of Transportation

9 or Oklahoma law regarding being under the influence, whichever is

10 lower.

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

20 ~~D. No medical marijuana license holder may be denied custody of~~
21 ~~or visitation or parenting time with a minor, and there is no~~
22 ~~presumption of neglect or child endangerment for conduct allowed~~
23 ~~under this law, unless the person's behavior creates an unreasonable~~
24 ~~danger to the safety of the minor~~

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

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

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

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

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

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

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6 57-1-2078 DC 3/13/2019 10:14:43 AM