

1 STATE OF OKLAHOMA

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

3 SENATE BILL 305

By: Daniels

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7 AS INTRODUCED

8 An Act relating to medical marijuana; amending
9 Provision No. 6, State Question No. 788, Petition No.
10 412 (63 O.S. Supp. 2018, Section 425), which relates
11 to discrimination against a medical marijuana license
12 holder; prohibiting employers from taking certain
13 actions except under certain conditions; construing
14 section; specifying exclusive remedy; defining terms;
15 clarifying language; and declaring an emergency.

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

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

20 Section 425. A. No school or landlord may refuse to enroll or
21 lease to, as appropriate, and may not otherwise penalize a person
22 solely for his or her status as a medical marijuana license holder,
23 unless failing to do so would imminently cause the school or
24 landlord to lose a monetary or licensing related benefit under
25 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 medical marijuana or medical marijuana
5 product while at the place of employment or during the
6 fulfillment 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. A "positive test for marijuana components or metabolites"
8 means a result that is at or above the cutoff concentration level
9 established by the United States Department of Transportation or
10 Oklahoma law regarding being under the influence, whichever is
11 lower.

12 ~~E.~~ 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~~
24

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 ~~E. H.~~ 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.~~ 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.~~ 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.~~ 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.

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