

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 459

By: Paxton

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5
6 AS INTRODUCED

7 An Act relating to workplace drug and alcohol
8 procedures; amending 40 O.S. 2011, Section 552, as
9 last amended by Section 24, Chapter 11, O.S.L. 2019
10 (40 O.S. Supp. 2020, Section 552), which relates to
11 definitions; modifying definition; including certain
12 volunteers; amending Section 2, Chapter 11, O.S.L.
13 2019, as last amended by Section 48, Chapter 161,
14 O.S.L. 2020 (63 O.S. Supp. 2020, Section 427.2),
15 which relates to definitions; adding definitions;
16 including certain applicants, employees and
17 volunteers; amending Section 8, Chapter 11, O.S.L.
18 2019 (63 O.S. Supp. 2020, Section 427.8), which
19 relates to additional rights of medical marijuana
20 patients; modifying safety-sensitive positions;
21 updating statutory references; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY 40 O.S. 2011, Section 552, as last
25 amended by Section 24, Chapter 11, O.S.L. 2019 (40 O.S. Supp. 2019,
26 Section 552), is amended to read as follows:

27 Section 552. As used in the Standards for Workplace Drug and
28 Alcohol Testing Act:

29 1. "Alcohol" means ethyl alcohol or ethanol;

1 2. "Applicant" means a person who has applied for a position
2 with an employer and received a conditional offer of employment or a
3 person who seeks to supply services or labor in a safety sensitive
4 position as defined in Section 427.8 of Title 63 of the Oklahoma
5 Statutes to an organization;

6 3. "Board" means the State Board of Health;

7 4. "Confirmation test" means a drug or alcohol test on a sample
8 to substantiate the results of a prior drug or alcohol test on the
9 same sample and which uses different chemical principles and is of
10 equal or greater accuracy than the prior drug or alcohol test.

11 Where a breathalyzer test is utilized, a confirmation test means a
12 second sample test that confirms the prior result. Where a single-
13 use test is utilized, a confirmation test means a second test
14 confirmed by a testing facility. A breath or blood specimen may be
15 used for the confirmation test for alcohol. A urine, saliva or
16 blood specimen may be used for the confirmation test for drugs;

17 5. "Department" means the State Department of Health;

18 6. "Drug" means amphetamines, cannabinoids, cocaine,
19 phencyclidine (PCP), hallucinogens, methaqualone, opiates,
20 barbiturates, benzodiazepines, synthetic narcotics, designer drugs,
21 or a metabolite of any of the substances listed herein;

22 7. "Drug or alcohol test" means a chemical test administered
23 for the purpose of determining the presence or absence of a drug or
24 its metabolites or alcohol in a person's bodily tissue, fluids or
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1 products. Adulteration of a specimen or of a drug or alcohol test
2 shall be considered as a refusal to test;

3 8. "Employee" means any person who supplies labor for
4 remuneration to his or her employer in this state and shall not
5 include an independent contractor, subcontractor ~~or~~, employees of an
6 independent contractor or volunteer; provided, however, an
7 independent contractor, subcontractor, or employees of an
8 independent contractor, may be subject to a workplace drug or
9 alcohol testing policy under the terms of the contractual agreement
10 when the drug or alcohol testing policy applies to other workers at
11 the job site or workers who are in the same or similar
12 classification or group, and a volunteer who supplies volunteer
13 services or labor in a safety-sensitive position as defined by
14 Section 427.8 of Title 63 of the Oklahoma Statutes to an
15 organization may be subject to a workplace drug and alcohol testing
16 policy under the terms of the organization's policy;

17 9. "Employer" means any person, firm, corporation, partnership,
18 association, nonprofit organization or public employer, which has
19 one or more employees within this state, or which has offered or may
20 offer employment or volunteer opportunities in safety-sensitive
21 positions as defined by Section 427.8 of Title 63 of the Oklahoma
22 Statutes to one or more individuals in this state;

23 10. "Public employer" means the State of Oklahoma or any
24 political subdivision thereof, including any department, agency,

1 board, commission, institution, authority, public trust,
2 municipality, county, district or instrumentalities thereof;

3 11. "Review officer" means a person, qualified by the State
4 Board of Health, who is responsible for receiving results from a
5 testing facility which have been generated by an employer's drug or
6 alcohol testing program, and who has knowledge and training to
7 interpret and evaluate an individual's test results together with
8 the individual's medical history and any other relevant information;

9 12. "Sample" means tissue, fluid or product of the human body
10 chemically capable of revealing the presence of drugs or alcohol in
11 the human body; and

12 13. "Testing facility" means a facility which provides
13 laboratory services to test samples for the presence of drugs or
14 alcohol.

15 SECTION 2. AMENDATORY Section 2, Chapter 11, O.S.L.
16 2019, as last amended by Section 48, Chapter 161, O.S.L. 2020 (63
17 O.S. Supp. 2020, Section 427.2), is amended to read as follows:

18 Section 427.2. As used in this act:

19 1. "Advertising" means the act of providing consideration for
20 the publication, dissemination, solicitation, or circulation, of
21 visual, oral, or written communication to induce directly or
22 indirectly any person to patronize a particular medical marijuana
23 business, or to purchase particular medical marijuana or a medical
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1 marijuana product. Advertising includes marketing, but does not
2 include packaging and labeling;

3 2. "Applicant" means a person who has applied for a position
4 with an employer and received a conditional offer of employment or a
5 person who seeks to supply services or labor in a safety sensitive
6 position as defined in Section 427.8 of this title to an
7 organization;

8 3. "Authority" means the Oklahoma Medical Marijuana Authority;

9 ~~3.~~ 4. "Batch number" means a unique numeric or alphanumeric
10 identifier assigned prior to testing to allow for inventory tracking
11 and traceability;

12 ~~4.~~ 5. "Cannabinoid" means any of the chemical compounds that
13 are active principles of marijuana;

14 ~~5.~~ 6. "Caregiver" means a family member or assistant who
15 regularly looks after a medical marijuana license holder whom a
16 physician attests needs assistance;

17 ~~6.~~ 7. "Child-resistant" means special packaging that is:

- 18 a. designed or constructed to be significantly difficult
19 for children under five (5) years of age to open and
20 not difficult for normal adults to use properly as
21 defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R.
22 1700.20 (1995),

1 b. opaque so that the outermost packaging does not allow
2 the product to be seen without opening the packaging
3 material, and

4 c. resealable to maintain its child-resistant
5 effectiveness for multiple openings for any product
6 intended for more than a single use or containing
7 multiple servings;

8 ~~7.~~ 8. "Clone" means a nonflowering plant cut from a mother
9 plant that is capable of developing into a new plant and has shown
10 no signs of flowering;

11 ~~8.~~ 9. "Commissioner" means the State Commissioner of Health;

12 ~~9.~~ 10. "Complete application" means a document prepared in
13 accordance with the provisions set forth in ~~this act~~ the Medical
14 Marijuana and Patient Protection Act, rules promulgated pursuant
15 thereto, and the forms and instructions provided by the Department,
16 including any supporting documentation required and the applicable
17 license application fee;

18 ~~10.~~ 11. "Department" means the State Department of Health;

19 ~~11.~~ 12. "Director" means the Executive Director of the Oklahoma
20 Medical Marijuana Authority;

21 ~~12.~~ 13. "Dispense" means the selling of medical marijuana or a
22 medical marijuana product to a qualified patient or the designated
23 caregiver of the patient that is packaged in a suitable container
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1 appropriately labeled for subsequent administration to or use by a
2 qualifying patient;

3 ~~13.~~ 14. "Dispensary" means a medical marijuana dispensary, an
4 entity that has been licensed by the Department pursuant to ~~this act~~
5 the Medical Marijuana and Patient Protection Act to purchase medical
6 marijuana or medical marijuana products from a licensed medical
7 marijuana commercial grower or medical marijuana processor, sell
8 medical marijuana or medical marijuana products to patients and
9 caregivers as defined under ~~this act~~ the Medical Marijuana and
10 Patient Protection Act, or sell or transfer products to another
11 dispensary;

12 ~~14.~~ 15. "Edible medical marijuana product" means any medical-
13 marijuana-infused product for which the intended use is oral
14 consumption including, but not limited to, any type of food, drink
15 or pill;

16 16. "Employee" means any person who supplies labor for
17 remuneration to his or her employer in this state and shall not
18 include an independent contractor, subcontractor, employees of an
19 independent contractor or volunteer; provided, however, an
20 independent contractor, subcontractor or employees of an independent
21 contractor, may be subject to a workplace drug or alcohol testing
22 policy under the terms of the contractual agreement when the drug or
23 alcohol testing policy applies to other workers at the job site or
24 workers who are in the same or similar classification or group, and

1 a volunteer who supplies volunteer services or labor in a safety-
2 sensitive position as defined by Section 427.8 of this title to an
3 organization may be subject to a workplace drug and alcohol testing
4 policy under the terms of the organization's policy;

5 ~~15.~~ 17. "Entity" means an individual, general partnership,
6 limited partnership, limited liability company, trust, estate,
7 association, corporation, cooperative, or any other legal or
8 commercial entity;

9 ~~16.~~ 18. "Flower" means the reproductive organs of the marijuana
10 or cannabis plant referred to as the bud or parts of the plant that
11 are harvested and used to consume in a variety of medical marijuana
12 products;

13 ~~17.~~ 19. "Flowering" means the reproductive state of the
14 marijuana or cannabis plant in which there are physical signs of
15 flower or budding out of the nodes of the stem;

16 ~~18.~~ 20. "Food-based medical marijuana concentrate" means a
17 medical marijuana concentrate that was produced by extracting
18 cannabinoids from medical marijuana through the use of propylene
19 glycol, glycerin, butter, olive oil, coconut oil or other typical
20 food-safe cooking fats;

21 ~~19.~~ 21. "Good cause" for purposes of an initial, renewal or
22 reinstatement license application, or for purposes of discipline of
23 a licensee, means:

- 1 a. the licensee or applicant has violated, does not meet,
2 or has failed to comply with any of the terms,
3 conditions or provisions of the act, any rules
4 promulgated pursuant thereto, or any supplemental
5 relevant state or local law, rule or regulation,
6 b. the licensee or applicant has failed to comply with
7 any special terms or conditions that were placed upon
8 the license pursuant to an order of the State
9 Department of Health, Oklahoma Medical Marijuana
10 Authority or the municipality, or
11 c. the licensed premises of a medical marijuana business
12 or applicant have been operated in a manner that
13 adversely affects the public health or welfare or the
14 safety of the immediate vicinity in which the
15 establishment is located;

16 ~~20.~~ 22. "Harvest batch" means a specifically identified
17 quantity of medical marijuana that is uniform in strain, cultivated
18 utilizing the same cultivation practices, harvested at the same time
19 from the same location and cured under uniform conditions;

20 ~~21.~~ 23. "Harvested marijuana" means post-flowering medical
21 marijuana not including trim, concentrate or waste;

22 ~~22.~~ 24. "Heat- or pressure-based medical marijuana concentrate"
23 means a medical marijuana concentrate that was produced by
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1 extracting cannabinoids from medical marijuana through the use of
2 heat or pressure;

3 ~~23.~~ 25. "Immature plant" means a nonflowering marijuana plant
4 that has not demonstrated signs of flowering;

5 ~~24.~~ 26. "Inventory tracking system" means the required tracking
6 system that accounts for medical marijuana from either the seed or
7 immature plant stage until the medical marijuana or medical
8 marijuana product is sold to a patient at a medical marijuana
9 dispensary, transferred to a medical marijuana research facility,
10 destroyed by a medical marijuana business or used in a research
11 project by a medical marijuana research facility;

12 ~~25.~~ 27. "Licensed patient" or "patient" means a person who has
13 been issued a medical marijuana patient license by the State
14 Department of Health or Oklahoma Medical Marijuana Authority;

15 ~~26.~~ 28. "Licensed premises" means the premises specified in an
16 application for a medical marijuana business license, medical
17 marijuana research facility license or medical marijuana education
18 facility license pursuant to this act that are owned or in
19 possession of the licensee and within which the licensee is
20 authorized to cultivate, manufacture, distribute, sell, store,
21 transport, test or research medical marijuana or medical marijuana
22 products in accordance with the provisions of this act and rules
23 promulgated pursuant thereto;

1 ~~27.~~ 29. "Manufacture" means the production, propagation,
2 compounding or processing of a medical marijuana product, excluding
3 marijuana plants, either directly or indirectly by extraction from
4 substances of natural or synthetic origin, or independently by means
5 of chemical synthesis, or by a combination of extraction and
6 chemical synthesis;

7 ~~28.~~ 30. "Marijuana" shall have the same meaning as such term is
8 defined in Section 2-101 of ~~Title 63 of the Oklahoma Statutes~~ this
9 title;

10 ~~29.~~ 31. "Material change" means any change that would require a
11 substantive revision to the standard operating procedures of a
12 licensee for the cultivation or production of medical marijuana,
13 medical marijuana concentrate or medical marijuana products;

14 ~~30.~~ 32. "Mature plant" means a harvestable female marijuana
15 plant that is flowering;

16 ~~31.~~ 33. "Medical marijuana business (MMB)" means a licensed
17 medical marijuana dispensary, medical marijuana processor, medical
18 marijuana commercial grower, medical marijuana laboratory, medical
19 marijuana business operator, or a medical marijuana transporter;

20 ~~32.~~ 34. "Medical marijuana concentrate" or "concentrate" means
21 a specific subset of medical marijuana that was produced by
22 extracting cannabinoids from medical marijuana. Categories of
23 medical marijuana concentrate include water-based medical marijuana
24 concentrate, food-based medical marijuana concentrate, solvent-based

1 medical marijuana concentrate, and heat- or pressure-based medical
2 marijuana concentrate;

3 ~~33.~~ 35. "Medical marijuana commercial grower" or "commercial
4 grower" means an entity licensed to cultivate, prepare and package
5 medical marijuana and transfer or contract for transfer medical
6 marijuana to a medical marijuana dispensary, medical marijuana
7 processor, any other medical marijuana commercial grower, medical
8 marijuana research facility, medical marijuana education facility
9 and pesticide manufacturers. A commercial grower may sell seeds,
10 flower or clones to commercial growers pursuant to ~~this act~~ the
11 Medical Marijuana and Patient Protection Act;

12 ~~34.~~ 36. "Medical marijuana education facility" or "education
13 facility" means a person or entity approved pursuant to ~~this act~~ the
14 Medical Marijuana and Patient Protection Act to operate a facility
15 providing training and education to individuals involving the
16 cultivation, growing, harvesting, curing, preparing, packaging or
17 testing of medical marijuana, or the production, manufacture,
18 extraction, processing, packaging or creation of medical-marijuana-
19 infused products or medical marijuana products as described in ~~this~~
20 ~~act~~ the Medical Marijuana and Patient Protection Act;

21 ~~35.~~ 37. "Medical-marijuana-infused product" means a product
22 infused with medical marijuana including, but not limited to, edible
23 products, ointments and tinctures;

1 ~~36.~~ 38. "Medical marijuana product" or "product" means a
2 product that contains cannabinoids that have been extracted from
3 plant material or the resin therefrom by physical or chemical means
4 and is intended for administration to a qualified patient including,
5 but not limited to, oils, tinctures, edibles, pills, topical forms,
6 gels, creams, vapors, patches, liquids, and forms administered by a
7 nebulizer, excluding live plant forms which are considered medical
8 marijuana;

9 ~~37.~~ 39. "Medical marijuana processor" means a person or entity
10 licensed pursuant to this act to operate a business including the
11 production, manufacture, extraction, processing, packaging or
12 creation of concentrate, medical-marijuana-infused products or
13 medical marijuana products as described in ~~this act~~ the Medical
14 Marijuana and Patient Protection Act;

15 ~~38.~~ 40. "Medical marijuana research facility" or "research
16 facility" means a person or entity approved pursuant to ~~this act~~ the
17 Medical Marijuana and Patient Protection Act to conduct medical
18 marijuana research. A medical marijuana research facility is not a
19 medical marijuana business;

20 ~~39.~~ 41. "Medical marijuana testing laboratory" or "laboratory"
21 means a public or private laboratory licensed pursuant to ~~this act~~
22 the Medical Marijuana and Patient Protection Act, to conduct testing
23 and research on medical marijuana and medical marijuana products;

1 ~~40.~~ 42. "Medical marijuana transporter" or "transporter" means
2 a person or entity that is licensed pursuant to ~~this act~~ the Medical
3 Marijuana and Patient Protection Act. A medical marijuana
4 transporter does not include a medical marijuana business that
5 transports its own medical marijuana, medical marijuana concentrate
6 or medical marijuana products to a property or facility adjacent to
7 or connected to the licensed premises if the property is another
8 licensed premises of the same medical marijuana business;

9 ~~41.~~ 43. "Medical marijuana waste" or "waste" means unused,
10 surplus, returned or out-of-date marijuana, plant debris of the
11 plant of the genus Cannabis, including dead plants and all unused
12 plant parts and roots, except the term shall not include roots,
13 stems, stalks and fan leaves;

14 ~~42.~~ 44. "Medical use" means the acquisition, possession, use,
15 delivery, transfer or transportation of medical marijuana, medical
16 marijuana products, medical marijuana devices or paraphernalia
17 relating to the administration of medical marijuana to treat a
18 licensed patient;

19 ~~43.~~ 45. "Mother plant" means a marijuana plant that is grown or
20 maintained for the purpose of generating clones, and that will not
21 be used to produce plant material for sale to a medical marijuana
22 processor or medical marijuana dispensary;

23 ~~44.~~ 46. "Oklahoma physician" or "physician" means a physician
24 licensed by and in good standing with the State Board of Medical
25

1 Licensure and Supervision, the State Board of Osteopathic Examiners
2 or the Board of Podiatric Medical Examiners;

3 ~~45.~~ 47. "Oklahoma resident" means an individual who can provide
4 proof of residency as required by ~~this act~~ the Medical Marijuana and
5 Patient Protection Act;

6 ~~46.~~ 48. "Owner" means, except where the context otherwise
7 requires, a direct beneficial owner including, but not limited to,
8 all persons or entities as follows:

- 9 a. all shareholders owning an interest of a corporate
10 entity and all officers of a corporate entity,
- 11 b. all partners of a general partnership,
- 12 c. all general partners and all limited partners that own
13 an interest in a limited partnership,
- 14 d. all members that own an interest in a limited
15 liability company,
- 16 e. all beneficiaries that hold a beneficial interest in a
17 trust and all trustees of a trust,
- 18 f. all persons or entities that own interest in a joint
19 venture,
- 20 g. all persons or entities that own an interest in an
21 association,
- 22 h. the owners of any other type of legal entity, and
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1 i. any other person holding an interest or convertible
2 note in any entity which owns, operates or manages a
3 licensed facility;

4 ~~47.~~ 49. "Package" or "packaging" means any container or wrapper
5 that may be used by a medical marijuana business to enclose or
6 contain medical marijuana;

7 ~~48.~~ 50. "Person" means a natural person, partnership,
8 association, business trust, company, corporation, estate, limited
9 liability company, trust or any other legal entity or organization,
10 or a manager, agent, owner, director, servant, officer or employee
11 thereof, except that "person" does not include any governmental
12 organization;

13 ~~49.~~ 51. "Pesticide" means any substance or mixture of
14 substances intended for preventing, destroying, repelling or
15 mitigating any pest or any substance or mixture of substances
16 intended for use as a plant regulator, defoliant or desiccant,
17 except that the term "pesticide" shall not include any article that
18 is a "new animal drug" as designated by the United States Food and
19 Drug Administration;

20 ~~50.~~ 52. "Production batch" means:

21 a. any amount of medical marijuana concentrate of the
22 same category and produced using the same extraction
23 methods, standard operating procedures and an
24

1 identical group of harvest batch of medical marijuana,
2 or

3 b. any amount of medical marijuana product of the same
4 exact type, produced using the same ingredients,
5 standard operating procedures and the same production
6 batch of medical marijuana concentrate;

7 ~~51.~~ 53. "Public institution" means any entity established or
8 controlled by the federal government, state government, or a local
9 government or municipality including, but not limited to,
10 institutions of higher education or related research institutions;

11 ~~52.~~ 54. "Public money" means any funds or money obtained by the
12 holder from any governmental entity including, but not limited to,
13 research grants;

14 ~~53.~~ 55. "Recommendation" means a document that is signed or
15 electronically submitted by a physician on behalf of a patient for
16 the use of medical marijuana pursuant to ~~this act~~ the Medical
17 Marijuana and Patient Protection Act;

18 ~~54.~~ 56. "Registered to conduct business" means a person that
19 has provided proof that the business applicant is in good standing
20 with the Oklahoma Secretary of State and Oklahoma Tax Commission;

21 ~~55.~~ 57. "Remediation" means the process by which the medical
22 marijuana flower or trim, which has failed microbial testing, is
23 processed into solvent-based medical marijuana concentrate and
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1 retested as required by ~~this act~~ the Medical Marijuana and Patient
2 Protection Act;

3 ~~56.~~ 58. "Research project" means a discrete scientific endeavor
4 to answer a research question or a set of research questions related
5 to medical marijuana and is required for a medical marijuana
6 research license. A research project shall include a description of
7 a defined protocol, clearly articulated goals, defined methods and
8 outputs, and a defined start and end date. The description shall
9 demonstrate that the research project will comply with all
10 requirements in ~~this act~~ the Medical Marijuana and Patient
11 Protection Act and rules promulgated pursuant thereto. All research
12 and development conducted by a medical marijuana research facility
13 shall be conducted in furtherance of an approved research project;

14 ~~57.~~ 59. "Revocation" means the final decision by the Department
15 that any license issued pursuant to ~~this act~~ the Medical Marijuana
16 and Patient Protection Act is rescinded because the individual or
17 entity does not comply with the applicable requirements set forth in
18 ~~this act~~ the Medical Marijuana and Patient Protection Act or rules
19 promulgated pursuant thereto;

20 ~~58.~~ 60. "School" means a public or private preschool or a
21 public or private elementary or secondary school used for school
22 classes and instruction. A homeschool, daycare or child-care
23 facility shall not be considered a "school" as used in ~~this act~~ the
24 Medical Marijuana and Patient Protection Act;

1 ~~59.~~ 61. "Shipping container" means a hard-sided container with
2 a lid or other enclosure that can be secured in place. A shipping
3 container is used solely for the transport of medical marijuana,
4 medical marijuana concentrate, or medical marijuana products between
5 medical marijuana businesses, a medical marijuana research facility,
6 or a medical marijuana education facility;

7 ~~60.~~ 62. "Solvent-based medical marijuana concentrate" means a
8 medical marijuana concentrate that was produced by extracting
9 cannabinoids from medical marijuana through the use of a solvent
10 approved by the Department;

11 ~~61.~~ 63. "State Question" means Oklahoma State Question No. 788,
12 Initiative Petition No. 412, approved by a majority vote of the
13 citizens of Oklahoma on June 26, 2018;

14 ~~62.~~ 64. "Strain" means the classification of marijuana or
15 cannabis plants in either pure sativa, indica, afghanica, ruderalis
16 or hybrid varieties;

17 ~~63.~~ 65. "THC" means tetrahydrocannabinol, which is the primary
18 psychotropic cannabinoid in marijuana formed by decarboxylation of
19 naturally tetrahydrocannabinolic acid, which generally occurs by
20 exposure to heat;

21 ~~64.~~ 66. "Test batch" means with regard to usable marijuana, a
22 homogenous, identified quantity of usable marijuana by strain, no
23 greater than ten (10) pounds, that is harvested during a seven-day
24 period from a specified cultivation area, and with regard to oils,

1 vapors and waxes derived from usable marijuana, means an identified
2 quantity that is uniform, that is intended to meet specifications
3 for identity, strength and composition, and that is manufactured,
4 packaged and labeled during a specified time period according to a
5 single manufacturing, packaging and labeling protocol;

6 ~~65.~~ 67. "Transporter agent" means a person who transports
7 medical marijuana or medical marijuana products for a licensed
8 transporter and holds a transporter agent license pursuant to ~~this~~
9 ~~act~~ the Medical Marijuana and Patient Protection Act;

10 ~~66.~~ 68. "Universal symbol" means the image established by the
11 State Department of Health or Oklahoma Medical Marijuana Authority
12 and made available to licensees through its website indicating that
13 the medical marijuana or the medical marijuana product contains THC;

14 ~~67.~~ 69. "Usable marijuana" means the dried leaves, flowers,
15 oils, vapors, waxes and other portions of the marijuana plant and
16 any mixture or preparation thereof, excluding seed, roots, stems,
17 stalks and fan leaves; and

18 ~~68.~~ 70. "Water-based medical marijuana concentrate" means a
19 concentrate that was produced by extracting cannabinoids from
20 medical marijuana through the use of only water, ice, or dry ice.

21 SECTION 3. AMENDATORY Section 8, Chapter 11, O.S.L. 2019
22 (63 O.S. Supp. 2020, Section 427.8), is amended to read as follows:

23 Section 427.8. A. The rights to possess the marijuana products
24 set forth in Section 420 of Title 63 of the Oklahoma Statutes are
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1 cumulative and a duly licensed individual may possess at any one
2 time the totality of the items listed therein and not be in
3 violation of ~~this act~~ the Medical Marijuana and Patient Protection
4 Act so long as the individual holds a valid patient license or
5 caregiver license.

6 B. Municipal and county governing bodies may not enact medical
7 marijuana guidelines which restrict or interfere with the rights of
8 a licensed patient or caregiver to possess, purchase, cultivate or
9 transport medical marijuana within the legal limits set forth in
10 ~~this act~~ the Medical Marijuana and Patient Protection Act or Section
11 420 et seq. of Title 63 of the Oklahoma Statutes or require patients
12 or caregivers to obtain permits or licenses in addition to the
13 state-required licenses provided herein.

14 C. Nothing in ~~this act~~ the Medical Marijuana and Patient
15 Protection Act or Section 420 et seq. of Title 63 of the Oklahoma
16 Statutes shall prohibit a residential or commercial property or
17 business owner from prohibiting the consumption of medical marijuana
18 or medical marijuana product by smoke or vaporization on the
19 premises, within the structures of the premises or within ten (10)
20 feet of the entryway to the premises. However, a medical marijuana
21 patient shall not be denied the right to consume or use other
22 medical marijuana products which are otherwise legal and do not
23 involve the smoking or vaporization of cannabis when lawfully
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1 recommended pursuant to Section 420 of Title 63 of the Oklahoma
2 Statutes.

3 D. A medical marijuana patient or caregiver licensee shall not
4 be denied eligibility in public assistance programs including, but
5 not limited to, Medicaid, Supplemental Nutrition Assistance Program
6 (SNAP), Women, Infants, and Children Nutrition Program (WIC),
7 Temporary Assistance for Needy Families (TANF) or other such public
8 assistance programs based solely on his or her status as a medical
9 marijuana patient or caregiver licensee, unless required by federal
10 law.

11 E. A medical marijuana patient or caregiver licensee shall not
12 be denied the right to own, purchase or possess a firearm,
13 ammunition, or firearm accessories based solely on his or her status
14 as a medical marijuana patient or caregiver licensee. No state or
15 local agency, municipal or county governing authority shall
16 restrict, revoke, suspend or otherwise infringe upon the right of a
17 person to own, purchase or possess a firearm, ammunition, or firearm
18 accessories or any related firearms license or certification based
19 solely on their status as a medical marijuana patient or caregiver
20 licensee.

21 F. A medical marijuana patient or caregiver in actual
22 possession of a medical marijuana license shall not be subject to
23 arrest, prosecution or penalty in any manner or denied any right,
24 privilege or public assistance, under state law or municipal or

1 county ordinance or resolution including without limitation a civil
2 penalty or disciplinary action by a business, occupational or
3 professional licensing board or bureau, for the medical use of
4 marijuana in accordance with ~~this act~~ the Medical Marijuana and
5 Patient Protection Act.

6 G. A government medical assistance program shall not be
7 required to reimburse a person for costs associated with the medical
8 use of marijuana unless federal law requires reimbursement.

9 H. Unless otherwise required by federal law or required to
10 obtain federal funding:

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

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

- 18 a. the applicant or employee is not in possession of a
19 valid medical marijuana license,
20 b. the licensee possesses, consumes or is under the
21 influence of medical marijuana or medical marijuana
22 product while at the place of employment or during the
23 fulfillment of employment obligations, or

1 c. the position is one involving safety-sensitive job
2 duties, as such term is defined in subsection K of
3 this section.

4 I. Nothing in ~~this act~~ the Medical Marijuana and Patient
5 Protection Act or Section 420 et seq. of Title 63 of the Oklahoma
6 Statutes shall:

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

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

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

19 J. Any applicant or employee aggrieved by a willful violation
20 of this section shall have, as his or her exclusive remedy, the same
21 remedies as provided for in the Oklahoma Standards for Workplace
22 Drug and Alcohol Testing Act set forth in Section 563 of Title 40 of
23 the Oklahoma Statutes.

24 K. As used in this section:

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

- 5 a. the handling, packaging, processing, storage, disposal
6 or transport of hazardous materials,
- 7 b. the operation of a motor vehicle, other vehicle,
8 equipment, machinery or power tools,
- 9 c. repairing, maintaining or monitoring the performance
10 or operation of any equipment, machinery or
11 manufacturing process, the malfunction or disruption
12 of which could result in injury or property damage,
- 13 d. performing firefighting or law enforcement duties,
- 14 e. the operation, maintenance or oversight of critical
15 services and infrastructure including, but not limited
16 to, electric, gas, and water utilities, power
17 generation or distribution,
- 18 f. the extraction, compression, processing,
19 manufacturing, handling, packaging, storage, disposal,
20 treatment or transport of potentially volatile,
21 flammable, combustible materials, elements, chemicals
22 or any other highly regulated component,
- 23 g. dispensing pharmaceuticals,
- 24 h. carrying a firearm, or

1 i. direct patient care, vulnerable or elderly adult care,
2 disabled or handicapped care or direct child care; and

3 2. A "positive test for marijuana components or metabolites"
4 means a result that is at or above the cutoff concentration level
5 established by the United States Department of Transportation or
6 Oklahoma law regarding being under the influence, whichever is
7 lower.

8 L. All smokable, vaporized, vapable and e-cigarette medical
9 marijuana product inhaled through vaporization or smoked by a
10 medical marijuana licensee are subject to the same restrictions for
11 tobacco under Section 1-1521 of ~~Title 63 of the Oklahoma Statutes~~
12 this title, commonly referred to as the "Smoking in Public Places
13 and Indoor Workplaces Act".

14 SECTION 4. This act shall become effective November 1, 2021.

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