

1 **SENATE FLOOR VERSION**

2 February 18, 2021

3 SENATE BILL NO. 459

By: Paxton

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5  
6 An Act relating to workplace drug and alcohol  
7 procedures; amending 40 O.S. 2011, Section 552, as  
8 last amended by Section 24, Chapter 11, O.S.L. 2019  
9 (40 O.S. Supp. 2020, Section 552), which relates to  
10 definitions; modifying definition; including certain  
11 volunteers; amending Section 2, Chapter 11, O.S.L.  
12 2019, as last amended by Section 48, Chapter 161,  
13 O.S.L. 2020 (63 O.S. Supp. 2020, Section 427.2),  
14 which relates to definitions; adding definitions;  
15 including certain applicants, employees and  
16 volunteers; amending Section 8, Chapter 11, O.S.L.  
17 2019 (63 O.S. Supp. 2020, Section 427.8), which  
18 relates to additional rights of medical marijuana  
19 patients; modifying safety-sensitive positions;  
20 updating statutory references; and providing an  
21 effective date.

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

23 SECTION 1. AMENDATORY 40 O.S. 2011, Section 552, as last  
24 amended by Section 24, Chapter 11, O.S.L. 2019 (40 O.S. Supp. 2020,  
Section 552), is amended to read as follows:

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

1. "Alcohol" means ethyl alcohol or ethanol;
2. "Applicant" means a person who has applied for a position  
with an employer and received a conditional offer of employment or a

1 person who seeks to supply services or labor in a safety sensitive  
2 position as defined in Section 427.8 of Title 63 of the Oklahoma  
3 Statutes to an organization;

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

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

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

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

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

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

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

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

21           10. "Public employer" means the State of Oklahoma or any  
22 political subdivision thereof, including any department, agency,  
23 board, commission, institution, authority, public trust,  
24 municipality, county, district or instrumentalities thereof;

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

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

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

13          SECTION 2.           AMENDATORY           Section 2, Chapter 11, O.S.L.  
14 2019, as last amended by Section 48, Chapter 161, O.S.L. 2020 (63  
15 O.S. Supp. 2020, Section 427.2), is amended to read as follows:

16          Section 427.2. As used in this act:

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

24

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 this title to an  
5 organization;

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

7       ~~3.~~ 4. "Batch number" means a unique numeric or alphanumeric  
8 identifier assigned prior to testing to allow for inventory tracking  
9 and traceability;

10       ~~4.~~ 5. "Cannabinoid" means any of the chemical compounds that  
11 are active principles of marijuana;

12       ~~5.~~ 6. "Caregiver" means a family member or assistant who  
13 regularly looks after a medical marijuana license holder whom a  
14 physician attests needs assistance;

15       ~~6.~~ 7. "Child-resistant" means special packaging that is:

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

21           b. opaque so that the outermost packaging does not allow  
22           the product to be seen without opening the packaging  
23           material, and  
24

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

5 ~~7.~~ 8. "Clone" means a nonflowering plant cut from a mother  
6 plant that is capable of developing into a new plant and has shown  
7 no signs of flowering;

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

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

15 ~~10.~~ 11. "Department" means the State Department of Health;

16 ~~11.~~ 12. "Director" means the Executive Director of the Oklahoma  
17 Medical Marijuana Authority;

18 ~~12.~~ 13. "Dispense" means the selling of medical marijuana or a  
19 medical marijuana product to a qualified patient or the designated  
20 caregiver of the patient that is packaged in a suitable container  
21 appropriately labeled for subsequent administration to or use by a  
22 qualifying patient;

23 ~~13.~~ 14. "Dispensary" means a medical marijuana dispensary, an  
24 entity that has been licensed by the Department pursuant to ~~this act~~

1 the Medical Marijuana and Patient Protection Act to purchase medical  
2 marijuana or medical marijuana products from a licensed medical  
3 marijuana commercial grower or medical marijuana processor, sell  
4 medical marijuana or medical marijuana products to patients and  
5 caregivers as defined under ~~this act~~ the Medical Marijuana and  
6 Patient Protection Act, or sell or transfer products to another  
7 dispensary;

8 ~~14.~~ 15. "Edible medical marijuana product" means any medical-  
9 marijuana-infused product for which the intended use is oral  
10 consumption including, but not limited to, any type of food, drink  
11 or pill;

12 16. "Employee" means any person who supplies labor for  
13 remuneration to his or her employer in this state and shall not  
14 include an independent contractor, subcontractor, employees of an  
15 independent contractor or volunteer; provided, however, an  
16 independent contractor, subcontractor or employees of an independent  
17 contractor, may be subject to a workplace drug or alcohol testing  
18 policy under the terms of the contractual agreement when the drug or  
19 alcohol testing policy applies to other workers at the job site or  
20 workers who are in the same or similar classification or group, and  
21 a volunteer who supplies volunteer services or labor in a safety-  
22 sensitive position as defined by Section 427.8 of this title to an  
23 organization may be subject to a workplace drug and alcohol testing  
24 policy under the terms of the organization's policy;

1       ~~15.~~ 17. "Entity" means an individual, general partnership,  
2 limited partnership, limited liability company, trust, estate,  
3 association, corporation, cooperative, or any other legal or  
4 commercial entity;

5       ~~16.~~ 18. "Flower" means the reproductive organs of the marijuana  
6 or cannabis plant referred to as the bud or parts of the plant that  
7 are harvested and used to consume in a variety of medical marijuana  
8 products;

9       ~~17.~~ 19. "Flowering" means the reproductive state of the  
10 marijuana or cannabis plant in which there are physical signs of  
11 flower or budding out of the nodes of the stem;

12       ~~18.~~ 20. "Food-based medical marijuana concentrate" means a  
13 medical marijuana concentrate that was produced by extracting  
14 cannabinoids from medical marijuana through the use of propylene  
15 glycol, glycerin, butter, olive oil, coconut oil or other typical  
16 food-safe cooking fats;

17       ~~19.~~ 21. "Good cause" for purposes of an initial, renewal or  
18 reinstatement license application, or for purposes of discipline of  
19 a licensee, means:

20           a. the licensee or applicant has violated, does not meet,  
21 or has failed to comply with any of the terms,  
22 conditions or provisions of the act, any rules  
23 promulgated pursuant thereto, or any supplemental  
24 relevant state or local law, rule or regulation,



1           b.    the licensee or applicant has failed to comply with  
2                    any special terms or conditions that were placed upon  
3                    the license pursuant to an order of the State  
4                    Department of Health, Oklahoma Medical Marijuana  
5                    Authority or the municipality, or

6           c.    the licensed premises of a medical marijuana business  
7                    or applicant have been operated in a manner that  
8                    adversely affects the public health or welfare or the  
9                    safety of the immediate vicinity in which the  
10                   establishment is located;

11       ~~20.~~ 22. "Harvest batch" means a specifically identified  
12 quantity of medical marijuana that is uniform in strain, cultivated  
13 utilizing the same cultivation practices, harvested at the same time  
14 from the same location and cured under uniform conditions;

15       ~~21.~~ 23. "Harvested marijuana" means post-flowering medical  
16 marijuana not including trim, concentrate or waste;

17       ~~22.~~ 24. "Heat- or pressure-based medical marijuana concentrate"  
18 means a medical marijuana concentrate that was produced by  
19 extracting cannabinoids from medical marijuana through the use of  
20 heat or pressure;

21       ~~23.~~ 25. "Immature plant" means a nonflowering marijuana plant  
22 that has not demonstrated signs of flowering;

23       ~~24.~~ 26. "Inventory tracking system" means the required tracking  
24 system that accounts for medical marijuana from either the seed or

1 immature plant stage until the medical marijuana or medical  
2 marijuana product is sold to a patient at a medical marijuana  
3 dispensary, transferred to a medical marijuana research facility,  
4 destroyed by a medical marijuana business or used in a research  
5 project by a medical marijuana research facility;

6 ~~25.~~ 27. "Licensed patient" or "patient" means a person who has  
7 been issued a medical marijuana patient license by the State  
8 Department of Health or Oklahoma Medical Marijuana Authority;

9 ~~26.~~ 28. "Licensed premises" means the premises specified in an  
10 application for a medical marijuana business license, medical  
11 marijuana research facility license or medical marijuana education  
12 facility license pursuant to this act that are owned or in  
13 possession of the licensee and within which the licensee is  
14 authorized to cultivate, manufacture, distribute, sell, store,  
15 transport, test or research medical marijuana or medical marijuana  
16 products in accordance with the provisions of this act and rules  
17 promulgated pursuant thereto;

18 ~~27.~~ 29. "Manufacture" means the production, propagation,  
19 compounding or processing of a medical marijuana product, excluding  
20 marijuana plants, either directly or indirectly by extraction from  
21 substances of natural or synthetic origin, or independently by means  
22 of chemical synthesis, or by a combination of extraction and  
23 chemical synthesis;

24

1       ~~28.~~ 30. "Marijuana" shall have the same meaning as such term is  
2 defined in Section 2-101 of ~~Title 63 of the Oklahoma Statutes~~ this  
3 title;

4       ~~29.~~ 31. "Material change" means any change that would require a  
5 substantive revision to the standard operating procedures of a  
6 licensee for the cultivation or production of medical marijuana,  
7 medical marijuana concentrate or medical marijuana products;

8       ~~30.~~ 32. "Mature plant" means a harvestable female marijuana  
9 plant that is flowering;

10       ~~31.~~ 33. "Medical marijuana business (MMB)" means a licensed  
11 medical marijuana dispensary, medical marijuana processor, medical  
12 marijuana commercial grower, medical marijuana laboratory, medical  
13 marijuana business operator, or a medical marijuana transporter;

14       ~~32.~~ 34. "Medical marijuana concentrate" or "concentrate" means  
15 a specific subset of medical marijuana that was produced by  
16 extracting cannabinoids from medical marijuana. Categories of  
17 medical marijuana concentrate include water-based medical marijuana  
18 concentrate, food-based medical marijuana concentrate, solvent-based  
19 medical marijuana concentrate, and heat- or pressure-based medical  
20 marijuana concentrate;

21       ~~33.~~ 35. "Medical marijuana commercial grower" or "commercial  
22 grower" means an entity licensed to cultivate, prepare and package  
23 medical marijuana and transfer or contract for transfer medical  
24 marijuana to a medical marijuana dispensary, medical marijuana

1 processor, any other medical marijuana commercial grower, medical  
2 marijuana research facility, medical marijuana education facility  
3 and pesticide manufacturers. A commercial grower may sell seeds,  
4 flower or clones to commercial growers pursuant to ~~this act~~ the  
5 Medical Marijuana and Patient Protection Act;

6 ~~34.~~ 36. "Medical marijuana education facility" or "education  
7 facility" means a person or entity approved pursuant to ~~this act~~ the  
8 Medical Marijuana and Patient Protection Act to operate a facility  
9 providing training and education to individuals involving the  
10 cultivation, growing, harvesting, curing, preparing, packaging or  
11 testing of medical marijuana, or the production, manufacture,  
12 extraction, processing, packaging or creation of medical-marijuana-  
13 infused products or medical marijuana products as described in ~~this~~  
14 ~~act~~ the Medical Marijuana and Patient Protection Act;

15 ~~35.~~ 37. "Medical-marijuana-infused product" means a product  
16 infused with medical marijuana including, but not limited to, edible  
17 products, ointments and tinctures;

18 ~~36.~~ 38. "Medical marijuana product" or "product" means a  
19 product that contains cannabinoids that have been extracted from  
20 plant material or the resin therefrom by physical or chemical means  
21 and is intended for administration to a qualified patient including,  
22 but not limited to, oils, tinctures, edibles, pills, topical forms,  
23 gels, creams, vapors, patches, liquids, and forms administered by a  
24

1 nebulizer, excluding live plant forms which are considered medical  
2 marijuana;

3 ~~37.~~ 39. "Medical marijuana processor" means a person or entity  
4 licensed pursuant to this act to operate a business including the  
5 production, manufacture, extraction, processing, packaging or  
6 creation of concentrate, medical-marijuana-infused products or  
7 medical marijuana products as described in ~~this act~~ the Medical  
8 Marijuana and Patient Protection Act;

9 ~~38.~~ 40. "Medical marijuana research facility" or "research  
10 facility" means a person or entity approved pursuant to ~~this act~~ the  
11 Medical Marijuana and Patient Protection Act to conduct medical  
12 marijuana research. A medical marijuana research facility is not a  
13 medical marijuana business;

14 ~~39.~~ 41. "Medical marijuana testing laboratory" or "laboratory"  
15 means a public or private laboratory licensed pursuant to ~~this act~~  
16 the Medical Marijuana and Patient Protection Act, to conduct testing  
17 and research on medical marijuana and medical marijuana products;

18 ~~40.~~ 42. "Medical marijuana transporter" or "transporter" means  
19 a person or entity that is licensed pursuant to ~~this act~~ the Medical  
20 Marijuana and Patient Protection Act. A medical marijuana  
21 transporter does not include a medical marijuana business that  
22 transports its own medical marijuana, medical marijuana concentrate  
23 or medical marijuana products to a property or facility adjacent to

24

1 or connected to the licensed premises if the property is another  
2 licensed premises of the same medical marijuana business;

3 ~~41.~~ 43. "Medical marijuana waste" or "waste" means unused,  
4 surplus, returned or out-of-date marijuana, plant debris of the  
5 plant of the genus Cannabis, including dead plants and all unused  
6 plant parts and roots, except the term shall not include roots,  
7 stems, stalks and fan leaves;

8 ~~42.~~ 44. "Medical use" means the acquisition, possession, use,  
9 delivery, transfer or transportation of medical marijuana, medical  
10 marijuana products, medical marijuana devices or paraphernalia  
11 relating to the administration of medical marijuana to treat a  
12 licensed patient;

13 ~~43.~~ 45. "Mother plant" means a marijuana plant that is grown or  
14 maintained for the purpose of generating clones, and that will not  
15 be used to produce plant material for sale to a medical marijuana  
16 processor or medical marijuana dispensary;

17 ~~44.~~ 46. "Oklahoma physician" or "physician" means a physician  
18 licensed by and in good standing with the State Board of Medical  
19 Licensure and Supervision, the State Board of Osteopathic Examiners  
20 or the Board of Podiatric Medical Examiners;

21 ~~45.~~ 47. "Oklahoma resident" means an individual who can provide  
22 proof of residency as required by ~~this act~~ the Medical Marijuana and  
23 Patient Protection Act;

24

1       ~~46.~~ 48. "Owner" means, except where the context otherwise  
2 requires, a direct beneficial owner including, but not limited to,  
3 all persons or entities as follows:

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

21       ~~47.~~ 49. "Package" or "packaging" means any container or wrapper  
22 that may be used by a medical marijuana business to enclose or  
23 contain medical marijuana;

1       ~~48.~~ 50. "Person" means a natural person, partnership,  
2 association, business trust, company, corporation, estate, limited  
3 liability company, trust or any other legal entity or organization,  
4 or a manager, agent, owner, director, servant, officer or employee  
5 thereof, except that "person" does not include any governmental  
6 organization;

7       ~~49.~~ 51. "Pesticide" means any substance or mixture of  
8 substances intended for preventing, destroying, repelling or  
9 mitigating any pest or any substance or mixture of substances  
10 intended for use as a plant regulator, defoliant or desiccant,  
11 except that the term "pesticide" shall not include any article that  
12 is a "new animal drug" as designated by the United States Food and  
13 Drug Administration;

14       ~~50.~~ 52. "Production batch" means:

- 15           a. any amount of medical marijuana concentrate of the  
16 same category and produced using the same extraction  
17 methods, standard operating procedures and an  
18 identical group of harvest batch of medical marijuana,  
19 or  
20           b. any amount of medical marijuana product of the same  
21 exact type, produced using the same ingredients,  
22 standard operating procedures and the same production  
23 batch of medical marijuana concentrate;

24



1       ~~51.~~ 53. "Public institution" means any entity established or  
2 controlled by the federal government, state government, or a local  
3 government or municipality including, but not limited to,  
4 institutions of higher education or related research institutions;

5       ~~52.~~ 54. "Public money" means any funds or money obtained by the  
6 holder from any governmental entity including, but not limited to,  
7 research grants;

8       ~~53.~~ 55. "Recommendation" means a document that is signed or  
9 electronically submitted by a physician on behalf of a patient for  
10 the use of medical marijuana pursuant to ~~this act~~ the Medical  
11 Marijuana and Patient Protection Act;

12       ~~54.~~ 56. "Registered to conduct business" means a person that  
13 has provided proof that the business applicant is in good standing  
14 with the Oklahoma Secretary of State and Oklahoma Tax Commission;

15       ~~55.~~ 57. "Remediation" means the process by which the medical  
16 marijuana flower or trim, which has failed microbial testing, is  
17 processed into solvent-based medical marijuana concentrate and  
18 retested as required by ~~this act~~ the Medical Marijuana and Patient  
19 Protection Act;

20       ~~56.~~ 58. "Research project" means a discrete scientific endeavor  
21 to answer a research question or a set of research questions related  
22 to medical marijuana and is required for a medical marijuana  
23 research license. A research project shall include a description of  
24 a defined protocol, clearly articulated goals, defined methods and

1 outputs, and a defined start and end date. The description shall  
2 demonstrate that the research project will comply with all  
3 requirements in ~~this act~~ the Medical Marijuana and Patient  
4 Protection Act and rules promulgated pursuant thereto. All research  
5 and development conducted by a medical marijuana research facility  
6 shall be conducted in furtherance of an approved research project;

7 ~~57.~~ 59. "Revocation" means the final decision by the Department  
8 that any license issued pursuant to ~~this act~~ the Medical Marijuana  
9 and Patient Protection Act is rescinded because the individual or  
10 entity does not comply with the applicable requirements set forth in  
11 ~~this act~~ the Medical Marijuana and Patient Protection Act or rules  
12 promulgated pursuant thereto;

13 ~~58.~~ 60. "School" means a public or private preschool or a  
14 public or private elementary or secondary school used for school  
15 classes and instruction. A homeschool, daycare or child-care  
16 facility shall not be considered a "school" as used in ~~this act~~ the  
17 Medical Marijuana and Patient Protection Act;

18 ~~59.~~ 61. "Shipping container" means a hard-sided container with  
19 a lid or other enclosure that can be secured in place. A shipping  
20 container is used solely for the transport of medical marijuana,  
21 medical marijuana concentrate, or medical marijuana products between  
22 medical marijuana businesses, a medical marijuana research facility,  
23 or a medical marijuana education facility;

24

1       ~~60.~~ 62. "Solvent-based medical marijuana concentrate" means a  
2 medical marijuana concentrate that was produced by extracting  
3 cannabinoids from medical marijuana through the use of a solvent  
4 approved by the Department;

5       ~~61.~~ 63. "State Question" means Oklahoma State Question No. 788,  
6 Initiative Petition No. 412, approved by a majority vote of the  
7 citizens of Oklahoma on June 26, 2018;

8       ~~62.~~ 64. "Strain" means the classification of marijuana or  
9 cannabis plants in either pure sativa, indica, afghanica, ruderalis  
10 or hybrid varieties;

11       ~~63.~~ 65. "THC" means tetrahydrocannabinol, which is the primary  
12 psychotropic cannabinoid in marijuana formed by decarboxylation of  
13 naturally tetrahydrocannabinolic acid, which generally occurs by  
14 exposure to heat;

15       ~~64.~~ 66. "Test batch" means with regard to usable marijuana, a  
16 homogenous, identified quantity of usable marijuana by strain, no  
17 greater than ten (10) pounds, that is harvested during a seven-day  
18 period from a specified cultivation area, and with regard to oils,  
19 vapors and waxes derived from usable marijuana, means an identified  
20 quantity that is uniform, that is intended to meet specifications  
21 for identity, strength and composition, and that is manufactured,  
22 packaged and labeled during a specified time period according to a  
23 single manufacturing, packaging and labeling protocol;

24

1       ~~65.~~ 67. "Transporter agent" means a person who transports  
2 medical marijuana or medical marijuana products for a licensed  
3 transporter and holds a transporter agent license pursuant to ~~this~~  
4 ~~act~~ the Medical Marijuana and Patient Protection Act;

5       ~~66.~~ 68. "Universal symbol" means the image established by the  
6 State Department of Health or Oklahoma Medical Marijuana Authority  
7 and made available to licensees through its website indicating that  
8 the medical marijuana or the medical marijuana product contains THC;

9       ~~67.~~ 69. "Usable marijuana" means the dried leaves, flowers,  
10 oils, vapors, waxes and other portions of the marijuana plant and  
11 any mixture or preparation thereof, excluding seed, roots, stems,  
12 stalks and fan leaves; and

13       ~~68.~~ 70. "Water-based medical marijuana concentrate" means a  
14 concentrate that was produced by extracting cannabinoids from  
15 medical marijuana through the use of only water, ice, or dry ice.

16       SECTION 3.       AMENDATORY       Section 8, Chapter 11, O.S.L. 2019  
17 (63 O.S. Supp. 2020, Section 427.8), is amended to read as follows:

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

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

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

21 D. A medical marijuana patient or caregiver licensee shall not  
22 be denied eligibility in public assistance programs including, but  
23 not limited to, Medicaid, Supplemental Nutrition Assistance Program  
24 (SNAP), Women, Infants, and Children Nutrition Program (WIC),

1 Temporary Assistance for Needy Families (TANF) or other such public  
2 assistance programs based solely on his or her status as a medical  
3 marijuana patient or caregiver licensee, unless required by federal  
4 law.

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

15 F. A medical marijuana patient or caregiver in actual  
16 possession of a medical marijuana license shall not be subject to  
17 arrest, prosecution or penalty in any manner or denied any right,  
18 privilege or public assistance, under state law or municipal or  
19 county ordinance or resolution including without limitation a civil  
20 penalty or disciplinary action by a business, occupational or  
21 professional licensing board or bureau, for the medical use of  
22 marijuana in accordance with ~~this act~~ the Medical Marijuana and  
23 Patient Protection Act.

24

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

4 H. Unless otherwise required by federal law or required to  
5 obtain federal funding:

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

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

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

15 b. the licensee possesses, consumes or is under the  
16 influence of medical marijuana or medical marijuana  
17 product while at the place of employment or during the  
18 fulfillment of employment obligations, or

19 c. the position is one involving safety-sensitive job  
20 duties, as such term is defined in subsection K of  
21 this section.

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

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

4           2. Require an employer, a government medical assistance  
5 program, private health insurer, worker's compensation carrier or  
6 self-insured employer providing worker's compensation benefits to  
7 reimburse a person for costs associated with the use of medical  
8 marijuana; or

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

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

18           K. As used in this section:

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

23           a. the handling, packaging, processing, storage, disposal  
24                or transport of hazardous materials,



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

21          2. A "positive test for marijuana components or metabolites"  
22 means a result that is at or above the cutoff concentration level  
23 established by the United States Department of Transportation or  
24

1 Oklahoma law regarding being under the influence, whichever is  
2 lower.

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
11 February 18, 2021 - DO PASS  
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