

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB305 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mark McBride

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 305

By: Daniels of the Senate

and

7 West (Tammy) and McBride of
8 the House

9
10 PROPOSED COMMITTEE SUBSTITUTE

11 An Act relating to medical marijuana; amending
12 Provision No. 6, State Question No. 788, Petition No.
13 412 (63 O.S. Supp. 2018, Section 425), which relates
14 to discrimination against medical marijuana
15 licensees; clarifying drug testing requirement;
16 amending Section 8 of Enrolled House Bill No. 2612 of
17 the 1st Session of the 57th Oklahoma Legislature,
18 which relates to possession rights of medical
19 marijuana licensees; clarifying certain exception;
20 modifying scope of certain definition; and declaring
21 an emergency.

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

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

Section 425. A. No school or landlord may refuse to enroll or
lease to, and may not otherwise penalize a person solely for his
status as a medical marijuana license holder, unless failing to do

1 so would imminently cause the school or landlord to lose a monetary
2 or licensing related benefit under federal law or regulations.

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

8 1. The person's status as a medical marijuana license holder;
9 or

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

18 C. For the purposes of medical care, including organ
19 transplants, a medical marijuana license holder's authorized use of
20 marijuana must be considered the equivalent of the use of any other
21 medication under the direction of a physician and does not
22 constitute the use of an illicit substance or otherwise disqualify a
23 registered qualifying patient from medical care.

24

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

6 E. No person holding a medical marijuana license may unduly be
7 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 a concealed carry permit.

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

13 G. 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. Research will be provided under this law. A researcher may
17 apply to the Oklahoma Department of Health for a special research
18 license. That license will be granted, provided the applicant meets
19 the criteria listed under Section 421.B. Research license holders
20 will be required to file monthly consumption reports to the Oklahoma
21 Department of Health with amounts of marijuana used for research.

22 SECTION 2. AMENDATORY Section 8 of Enrolled House Bill
23 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
24 amended to read as follows:

1 Section 8. A. The rights to possess the marijuana products set
2 forth in Section 420 of Title 63 of the Oklahoma Statutes are
3 cumulative and a duly licensed individual may possess at any one
4 time the totality of the items listed therein and not be in
5 violation of this act so long as the individual holds a valid
6 patient license or caregiver license.

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

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

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

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

19 F. A medical marijuana patient or caregiver in actual
20 possession of a medical marijuana license shall not be subject to
21 arrest, prosecution or penalty in any manner or denied any right,
22 privilege or public assistance, under state law or municipal or
23 county ordinance or resolution including without limitation a civil
24 penalty or disciplinary action by a business, occupational or

1 professional licensing board or bureau, for the medical use of
2 marijuana in accordance with this act.

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

6 H. Unless otherwise required by federal law or required to
7 obtain federal funding:

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

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

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

17 b. the licensee possesses, consumes or is under the
18 influence of ~~medical marijuana or medical~~ marijuana
19 ~~product~~ components or metabolites while at the place
20 of employment or during the fulfillment of employment
21 obligations, or

22 c. the position is one involving safety-sensitive job
23 duties, as such term is defined in subsection K of
24 this section.

1 I. Nothing in this act or Section 420 et seq. of Title 63 of
2 the Oklahoma Statutes shall:

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

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

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

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

20 K. As used in this section:

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

- a. the handling, packaging, processing, storage, disposal or transport of hazardous materials,
- b. the operation of a motor vehicle, other vehicle, equipment, machinery or power tools,
- c. repairing, maintaining or monitoring the performance or operation of any equipment, machinery or manufacturing process, the malfunction or disruption of which could result in injury or property damage,
- d. performing firefighting duties,
- e. the operation, maintenance or oversight of critical services and infrastructure including, but not limited to, electric, gas, and water utilities, power generation or distribution,
- f. the extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment or transport of potentially volatile, flammable, combustible materials, elements, chemicals or any other highly regulated component,
- g. dispensing pharmaceuticals,
- h. carrying a firearm, or
- i. direct patient care or direct child care; and

2. A ~~"positive test for~~ "Under the influence of marijuana components or metabolites" means a test result that is at or above the cutoff concentration level established by the United States

1 Department of Transportation or Oklahoma law regarding being under
2 the influence, whichever is 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 commonly referred to as the "Smoking in Public Places and Indoor
8 Workplaces Act".

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

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14 57-1-8737 GRS 04/10/19

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