

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 HOUSE BILL 2244

                                  By: May

7                                   AS INTRODUCED

8                   An Act relating to medical marijuana; amending  
9                   Section 8, Chapter 11, O.S.L. 2019 (63 O.S. Supp.  
10                  2020, Section 427.8), which relates to the Oklahoma  
11                  Medical Marijuana and Patient Protection Act;  
                  updating statutory references; modifying scope of  
                  certain definition; and providing an effective date.

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

15           SECTION 1.           AMENDATORY           Section 8, Chapter 11, O.S.L. 2019  
16 (63 O.S. Supp. 2020, Section 427.8), is amended to read as follows:

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

23           B. Municipal and county governing bodies may not enact medical  
24 marijuana guidelines which restrict or interfere with the rights of

1 a licensed patient or caregiver to possess, purchase, cultivate or  
2 transport medical marijuana within the legal limits set forth in  
3 ~~this act~~ the Oklahoma Medical Marijuana and Patient Protection Act  
4 or ~~Section~~ Sections 420 ~~et seq. of Title 63~~ through 426.1 of the  
5 ~~Oklahoma Statutes~~ this title or require patients or caregivers to  
6 obtain permits or licenses in addition to the state-required  
7 licenses provided herein.

8 C. Nothing in ~~this act~~ the Oklahoma Medical Marijuana and  
9 Patient Protection Act or ~~Section~~ Sections 420 ~~et seq. of Title 63~~  
10 through 426.1 of the ~~Oklahoma Statutes~~ this title shall prohibit a  
11 residential or commercial property or business owner from  
12 prohibiting the consumption of medical marijuana or medical  
13 marijuana product by smoke or vaporization on the premises, within  
14 the structures of the premises or within ten (10) feet of the  
15 entryway to the premises. However, a medical marijuana patient  
16 shall not be denied the right to consume or use other medical  
17 marijuana products which are otherwise legal and do not involve the  
18 smoking or vaporization of cannabis when lawfully recommended  
19 pursuant to Section 420 of ~~Title 63 of the Oklahoma Statutes~~ this  
20 title.

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 Oklahoma Medical Marijuana  
23 and 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 Oklahoma Medical Marijuana and  
23 Patient Protection Act or ~~Section Sections 420 et seq. of Title 63~~  
24 through 426.1 of ~~the Oklahoma Statutes~~ this title 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 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.~~ e. 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.~~ f. dispensing pharmaceuticals,

18          ~~h.~~ g. carrying a firearm, or

19          ~~i.~~ h. direct patient care or direct child care; and

20          2. A "positive test for marijuana components or metabolites"  
21 means a result that is at or above the cutoff concentration level  
22 established by the United States Department of Transportation or  
23 Oklahoma law regarding being under the influence, whichever is  
24 lower.

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

7 SECTION 2. This act shall become effective November 1, 2021.

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9 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
10 SUBSTANCES, dated 02/22/2021 - DO PASS.

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