

1 **SENATE FLOOR VERSION**

2 February 21, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 305

5 By: Daniels

6
7 **[medical marijuana - discrimination -**
8 **emergency]**
9

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

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

15 Section 425. A. No school or landlord may refuse to enroll or
16 lease to, as appropriate, and may not otherwise penalize a person
17 solely for his or her status as a medical marijuana license holder,
18 unless failing to do so would imminently cause the school or
19 landlord to lose a monetary or licensing related benefit under
20 federal law or regulations.

21 B. ~~Unless a failure to do so would cause an employer to~~
22 ~~imminently lose a monetary or licensing related benefit under~~
23 ~~federal law or regulations, an employer may not discriminate against~~
24

1 ~~a person in hiring, termination or imposing any term or condition of~~
2 ~~employment or otherwise penalize a person based upon either:~~

3 ~~1. The person's status as a medical marijuana license holder;~~
4 ~~or~~

5 ~~2. Employers may take action against a holder of a medical~~
6 ~~marijuana license holder if the holder uses or possesses marijuana~~
7 ~~while in the holder's place of employment or during the hours of~~
8 ~~employment. Employers may not take action against the holder of a~~
9 ~~medical marijuana license solely based upon the status of an~~
10 ~~employee as a medical marijuana license holder or the results of a~~
11 ~~drug test showing positive for marijuana or its components~~

12 Unless otherwise required by federal law or required to obtain
13 federal funding:

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

18 2. No employer may refuse to hire, discipline, discharge or
19 otherwise penalize an applicant or employee solely **for being under**
20 **the influence of** marijuana components or metabolites, unless:

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

23 b. the licensee possesses, consumes or is under the
24 influence of **marijuana components or metabolites** while

1 at the place of employment or during the fulfillment
2 of employment obligations, or

3 c. the position is one involving safety-sensitive job
4 duties, as such term is defined in subsection E of
5 this section.

6 C. Nothing in this section 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 D. Any applicant or employee aggrieved by a willful violation
20 of subsection B or C of this section shall have, as his or her
21 exclusive remedy, the same remedies as provided for in the Oklahoma
22 Standards for Workplace Drug and Alcohol Testing Act set forth in
23 Section 563 of Title 40 of the Oklahoma Statutes.

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

6 1. **The** handling, packaging, processing, storage, disposal or
7 transport of hazardous materials;

8 2. **The** operation of a motor vehicle, other vehicle, equipment,
9 machinery or power tools;

10 3. **Repairing**, maintaining or monitoring the performance or
11 operation of any equipment, machinery or manufacturing process, the
12 malfunction or disruption of which could result in injury or
13 property damage;

14 4. **Performing** duties in the residential or commercial premises
15 of a customer, supplier or vendor;

16 5. **The** operation, maintenance or oversight of critical services
17 and infrastructure, including but not limited to, electric, gas, and
18 water utilities, power generation or distribution;

19 6. **The** extraction, compression, processing, manufacturing,
20 handling, packaging, storage, disposal, treatment or transport of
21 potentially volatile, flammable, combustible materials, elements,
22 chemicals or any other highly regulated component;

23 7. **Preparing** or handling food or medicine;

24 8. **Carrying** a firearm; or

1 **9. Direct patient care or direct child care.**

2 ~~E.~~ F. For the purposes of medical care, including organ
3 transplants, a medical marijuana license holder's authorized use of
4 marijuana ~~must~~ shall be considered the equivalent of the use of any
5 other medication under the direction of a physician and does not
6 constitute the use of an illicit substance or otherwise disqualify a
7 registered qualifying patient from medical care; provided, a
8 government medical assistance program shall not be required to
9 reimburse a person for costs associated with the medical use of
10 marijuana unless required by federal law.

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

16 G. The status and conduct of a medical marijuana licensee
17 acting in accordance with this act shall not, by itself, be used to
18 restrict or abridge custodial or parental rights to minor children
19 in any action or proceeding under the jurisdiction of a family or
20 juvenile court.

21 ~~E.~~ H. No person holding a medical marijuana license may unduly
22 be withheld from holding a state issued license by virtue of their
23 being a medical marijuana license holder. ~~This would include such~~
24 ~~things as, including but not limited to~~ a concealed carry permit.

1 ~~F.~~ I. No city or local municipality may unduly change or
2 restrict zoning laws to prevent the opening of a retail marijuana
3 establishment.

4 ~~G.~~ J. The location of any retail marijuana establishment is
5 specifically prohibited within one thousand (1,000) feet from any
6 public or private school entrance.

7 ~~H.~~ K. Research ~~will~~ shall be provided for under this law. A
8 researcher may apply to the ~~Oklahoma~~ State Department of Health for
9 a special research license. ~~That license will~~ The license shall be
10 granted, provided the applicant meets the criteria listed under
11 ~~Section 421.B~~ subsection B of Section 421 of this title. Research
12 license holders ~~will~~ shall be required to file monthly consumption
13 reports to the ~~Oklahoma~~ State Department of Health with amounts of
14 marijuana used for research.

15 ~~SECTION 2. It being immediately necessary for the preservation~~
16 ~~of the public peace, health or safety, an emergency is hereby~~
17 ~~declared to exist, by reason whereof this act shall take effect and~~
18 ~~be in full force from and after its passage and approval.~~

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
20 February 21, 2019 - DO PASS AS AMENDED
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