

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 2987

By: Olsen

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5
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending 63
8 O.S. 2021, Section 425, which relates to protections
9 for medical marijuana patient licensees; authorizing
10 counties, cities and local municipalities to enact
11 certain ordinances or resolutions; providing
12 exceptions; directing the Oklahoma Medical Marijuana
13 Authority to cease issuing licenses under certain
14 circumstances; providing exceptions; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 63 O.S. 2021, Section 425, is
18 amended to read as follows:

19 Section 425. A. No school or landlord may refuse to enroll or
20 lease to and may not otherwise penalize a person solely for his or
21 her status as a licensed medical marijuana patient, unless failing
22 to do so would cause the school or landlord the potential to lose a
23 monetary or licensing-related benefit under federal law or
24 regulations.

B. 1. Unless a failure to do so would cause an employer the
potential to lose a monetary or licensing-related benefit under

1 federal law or regulations, an employer may not discriminate against
2 a person in hiring, termination or imposing any term or condition of
3 employment or otherwise penalize a person based upon the status of
4 the person as a licensed medical marijuana patient.

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

13 C. For the purposes of medical care, including organ
14 transplants, the authorized use of marijuana by a licensed medical
15 marijuana patient shall be considered the equivalent of the use of
16 any other medication under the direction of a physician and does not
17 constitute the use of an illicit substance or otherwise disqualify a
18 registered qualifying patient from medical care.

19 D. No licensed medical marijuana patient may be denied custody
20 of or visitation or parenting time with a minor child, and there is
21 no presumption of neglect or child endangerment for conduct allowed
22 under this law, unless the behavior of the person creates an
23 unreasonable danger to the safety of the minor child.

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1 E. No licensed medical marijuana patient may unduly be withheld
2 from holding a state-issued license by virtue of their being a
3 licensed medical marijuana patient including, but not limited to, a
4 concealed carry permit.

5 F. 1. ~~No~~ Upon the effective date of this act, a county, city
6 or local municipality may unduly change or restrict zoning laws to
7 prevent the opening of a enact an ordinance or resolution
8 restricting the aggregate number of additional medical marijuana
9 dispensaries or medical marijuana grow facilities that may operate
10 within the county, city or local municipality; provided, however,
11 the ordinance or resolution shall not entirely prevent or in any
12 manner prohibit the operation of medical marijuana dispensary
13 dispensaries or medical marijuana grow facilities within the county,
14 city or local municipality. Any ordinance or resolution enacted by
15 a county, city or local municipality pursuant to this paragraph
16 shall have no impact upon any medical marijuana dispensary or
17 medical marijuana grow facility operating with a valid medical
18 marijuana business license issued by the Oklahoma Medical Marijuana
19 Authority prior to the effective date of this act.

20 2. If a county, city or local municipality declines to enact an
21 ordinance or resolution restricting the aggregate number of
22 additional medical marijuana dispensaries or medical marijuana grow
23 facilities within its geographic boundaries, the Authority shall
24 cease issuing medical marijuana dispensary and medical marijuana

1 grow facility licenses and shall be restricted from issuing any
2 additional licenses except under the following conditions:

3 a. the Authority shall be authorized to issue one
4 additional medical marijuana dispensary license and
5 one additional medical marijuana grow facility license
6 per county per calendar year, or

7 b. if the population of a county exceeds one hundred
8 thousand (100,000), as determined by the latest
9 Federal Decennial Census, the Authority shall be
10 authorized to issue two additional medical marijuana
11 dispensary licenses and two additional medical
12 marijuana grow facility licenses per county per
13 calendar year.

14 3. For purposes of this subsection, an undue change or
15 restriction of municipal zoning laws means an act which entirely
16 prevents medical marijuana dispensaries from operating within
17 municipal boundaries as a matter of law. Municipalities counties,
18 cities and local municipalities may follow their standard planning
19 and zoning procedures to determine if certain zones or districts
20 would be appropriate for locating marijuana-licensed premises,
21 medical marijuana businesses or any other premises where marijuana
22 or its by-products are cultivated, grown, processed, stored or
23 manufactured.

1 ~~3.~~ 4. For purposes of this section, a medical marijuana
2 dispensary or medical marijuana grow facility does not include those
3 other entities licensed by the Department as marijuana-licensed
4 premises, medical marijuana businesses or other facilities or
5 locations where marijuana or any product containing marijuana or its
6 by-products are ~~cultivated, grown,~~ processed, stored or
7 manufactured.

8 G. Except as otherwise provided in this subsection, the
9 location of any ~~retail~~ medical marijuana dispensary is specifically
10 prohibited within one thousand (1,000) feet of any school entrance.
11 On and after the effective date of this act, for purposes of
12 calculating the 1,000-foot setback distance, the measurement shall
13 be determined by calculating the distance in a straight line from
14 the school door nearest the front door of the ~~retail~~ medical
15 marijuana dispensary to the front door of the ~~retail~~ medical
16 marijuana dispensary.

17 1. On and after June 26, 2018, if any school is established
18 within one thousand (1,000) feet of any ~~retail~~ medical marijuana
19 dispensary after a license has been issued by the Authority for that
20 location, the setback distance between properties shall not apply as
21 long as the licensed property is used for its original licensed
22 purpose. The licensed location shall be grandfathered in as to the
23 setback distance as long as the property is used in accordance with
24 the original licensed purpose.

1 2. On and after June 26, 2018, the Authority, due to an error
2 in measurement of the setback distance or failure to measure the
3 setback distance by the Authority prior to issuance of an original
4 license at a location, shall not:

- 5 a. deny any issuance or renewal of a license at that
6 location,
- 7 b. deny any transfer of license pursuant to a change in
8 ownership at that location, or
- 9 c. revoke any license due to an error in measurement or
10 failure to measure the setback distance, except as
11 otherwise provided by law.

12 The ~~retail~~ medical marijuana dispensary shall be grandfathered
13 in as to the setback distance, subject only to the municipal
14 compliance provisions of Section 426.1 of this title.

15 3. For purposes of this subsection:

- 16 a. "school" means the same as defined in Section 427.2 of
17 this title, and
- 18 b. "error in measurement" means a mistake made by the
19 Authority or a municipality in the setback measurement
20 process where either the distance between a ~~retail~~
21 medical marijuana dispensary and a school is
22 miscalculated due to mathematical error or the method
23 used to measure the setback distance is inconsistent
24 with this section. The setback measurement process is

1 allowed an error in measurement up to and including
2 five hundred (500) feet when remeasured after an
3 original license has been issued.

4 SECTION 2. This act shall become effective November 1, 2022.

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6 58-2-8439 GRS 09/16/21
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