



Legislation Text

File #: 20-015, Version: 1

FOR DISCUSSION ONLY - AN ACT TO PROTECT CHEROKEE EMPLOYEES AND HOLDERS OF A MEDICAL MARIJUANA LICENSE IN THE CONTEXT OF EMPLOYMENT BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This Act shall be codified at Title 63, Section 425 of the Cherokee Nation Code Annotated and shall be known as the Non-Discrimination Medical Marijuana Act.

Section 2. Purpose

The purpose of this Act is to amend Title 63 of the Cherokee Nation Code Annotated to protect Cherokee employees within the jurisdiction of the Cherokee Nation and clarify who must be accommodated in the employment context if they are medical marijuana users. The need for this legislation arose upon the passage of Oklahoma State Question 788, which legalized marijuana for any medical use on a doctor's recommendation. This Oklahoma legislation has legalized the medical use of marijuana by all Oklahomans, which include many Cherokee citizens and employees. **This legislation recognizes that the federal government has not legalized, nor allows, the use and/or possession of marijuana. This legislation specifically provides an exception to its enforcement if the Cherokee Nation, or any employer, would lose any monetary or licensing related benefit under federal law or regulations through the enforcement of this act.**

Section 3. Legislative History

Section 4. Definitions

Section 5. Substantive Provisions

§ 425. Medical Marijuana License Holder Protection - Non-Discrimination

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

1. Solely, the person's status as a medical marijuana license holder; or
2. Solely, the results of a drug test showing positive for marijuana or its components.

Employers may take action against a holder of a medical marijuana license if the holder uses or possesses marijuana while in the holder's place of employment or during hours of employment.

Section 6. Provisions as Cumulative

The provisions of this act shall be cumulative to existing law.

Section 7. Severability

The provisions of this act are severable and if any part or provision hereof shall be held void the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Section 8. Effective Date/Emergency Declared

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

Section 9. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.