

NINTH LEGISLATURE
OF THE
CHEYENNE AND ARAPAHO TRIBES
8th REGULAR SESSION
AUGUST 13, 2022
LCR, CONCHO, OK

RESOLUTION: A Bill to Adopt the Medical Marijuana in Employment Act.

RESOLUTION NO: 9L-RS-2022-08-002

DATE INTRODUCED: July 5, 2022

SPONSOR: Travis Ruiz, Arapaho District 3

CO-SPONSOR: Bruce Whiteman Jr., Cheyenne District 1

SUBJECT: A Bill to Adopt the Medical Marijuana in Employment Act.

WHEREAS: The Cheyenne and Arapaho Tribes are a federally recognized tribe with their own form of self-government organized under a constitution approved by Tribal membership on April 4, 2006, and approved by the Secretary of the Interior; and

WHEREAS: Article VI, Section 5(a) of the Constitution grants the Legislature the “power to make all laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes;” and

WHEREAS: Article VI, Section 5, subsection (a) of the Constitution requires that all actions by the Legislature shall be embodied in a written Law or Resolution; and

WHEREAS: Article VI, Section 5, subsection (a) of the Constitution requires that all Laws and Resolutions which have been enacted shall remain valid until amended or repealed; and

WHEREAS: In 2018, the State of Oklahoma enacted laws that provide Oklahoma citizens access to marijuana for medical purposes; and

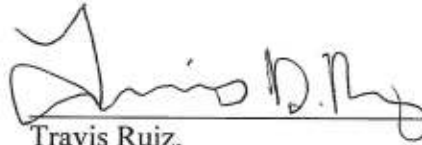
WHEREAS: Many of the Cheyenne and Arapaho Tribes employees have access to medical marijuana as citizens of the State of Oklahoma; and

WHEREAS: To date, the Cheyenne and Arapaho Tribes have considered the usage of marijuana, medical or not, to be a disqualifying factor from employment; and

WHEREAS: The Ninth Legislature of the Cheyenne and Arapaho Tribes recognizes that the Tribes need guidance on establishing workplace policies and procedures for employees who lawfully possess and use medical marijuana; and

WHEREAS: The Ninth Legislature of the Cheyenne and Arapaho Tribes seeks to provide employment protection to employees who are lawful users of medical marijuana and to provide the Tribes guidance on creating workplace policies and procedures; and

NOW THEREFORE BE IT RESOLVED, that the Ninth Legislature of the Cheyenne and Arapaho Tribes hereby enacts the Medical Marijuana in Employment Act, which shall be cited as 5 CAC §5.800 in order to conform to the Codification Act.



Travis Ruiz,
Speaker of the Ninth Legislature
Cheyenne and Arapaho Tribes

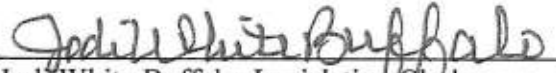


ATTEST:

I, Jodi White Buffalo, Legislative Clerk, hereby certify that the foregoing is a True and Accurate Copy of the Original Bill No. 9L-RS-2022-08-002 which was acted upon by the Legislature of the Cheyenne and Arapaho Tribes in the Ninth Legislature Regular Session, by a roll call vote on the 13th day of August 2022, by a vote.

VOTE RECORD:

DISTRICT	LEGISLATOR	YES	NO	ABSTAIN	ABSENT
A1	Diane Willis	✓			
A2	Kendricks Sleeper	✓			
A3	Travis Ruiz	✓			
A4	Rector Candy	✓			
C1	Bruce Whiteman Jr.		✓		
C2	George Woods	✓			
C3	Darrell Flyingman	✓			
C4	Byron Byrd	✓			
TOTAL		7			
Passes () Fails () Tabled (X) Allowed to Die () No Action ()					


Jodi White Buffalo, Legislative Clerk
Ninth Legislature, Cheyenne and Arapaho Tribes



ATTEST:

Pursuant to Article VI, Section 7, subsection (a)(iv) of the Tribes Constitution reads in part: "All Bills passed by the Legislature shall be presented to the Governor for signature or veto. All laws shall take effect thirty days after signature by the Governor or veto override by the Legislature unless any Member of the Tribes submits to the Coordinator of the Office of Tribal Council a petition signed by at least one hundred fifty Members of the Tribal Council seeking to repeal the law or resolution at the next Tribal Council meeting. If the Tribal Council fails to repeal such law or resolution at the next Tribal Council where the matter has been properly placed on the agenda for the Tribal Council meeting, such law or resolution shall become effective immediately."

Pursuant to Article VII, Section 4, subsection (g) of the Tribes Constitution reads: "The Governor shall have the power to sign any enactment passed by the Legislature into law or to veto any enactment passed by the Legislature within ten days of passage with a written explanation of any objections; and if the Governor takes no action within ten days, then the enactment shall become law in accordance with this Constitution."

{ } APPROVED

{ } VETOED: Attachment ____; Governor's written explanation of any objections.

On the _____ day of _____, 2022.

Reggie Wassana, Governor
Cheyenne and Arapaho Tribes



TRANSMITTAL OF DOCUMENTS:

From the Legislative Branch to the Office of Records Management

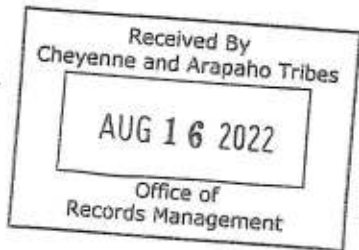
ATTEST:

Pursuant to Article VI, Section 7, subsection (a)(v), of the Tribes Constitution reads, "The Office of Records Management shall compile all Laws and Resolutions into a comprehensive Code in an orderly manner that shall be published annually."

Office of Records Management Staff, hereby certify that the foregoing is a True and Accurate Original Resolution No. 9L-RS-2022-08-002.

Space below is reserved for Stamp:

Received (Date) Office of Record Management



Signature: Cheryl Blind

Print Name: Cheryl Blind

Title: Director

Date: 8/16/22

Office of Records Management
Department of Administration, Executive Branch
Cheyenne and Arapaho Tribes



CHEYENNE AND ARAPAHO TRIBAL CODE (CAC)
TITLE 5 – PERSONNEL, EMPLOYMENT, AND LABOR
MEDICAL MARIJUANA IN EMPLOYMENT ACT
SECTION 5.800 – ENACTED BY LEGISLATURE: AUGUST 13, 2022
CITE AS: 5 CAC §5.800

SUBJECT

This Act creates the Medical Marijuana in Employment Act for the Cheyenne and Arapaho Tribes.

FINDINGS

The Cheyenne and Arapaho Tribes are a federally recognized Indian tribe, organized under a Constitution approved by Tribal membership on April 4, 2006 and approved by the Secretary of the Interior; and

- A. Article VI, Section 5(a) and (c) in the Constitution provides that “Legislative power shall be vested in the Legislature” and “[t]he Legislature shall have the power to make laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes...Laws and resolutions which have been enacted shall remain valid until amended or repealed[;]” and
- B. In 2018, the State of Oklahoma enacted laws that provide Oklahoma citizens access to marijuana for medical purposes; and
- C. Many of the Cheyenne and Arapaho Tribes employees have access to medical marijuana as citizens of the State of Oklahoma; and
- D. To date, the Cheyenne and Arapaho Tribes have considered the usage of marijuana, medical or not, to be a disqualifying factor from employment; and
- E. The Ninth Legislature of the Cheyenne and Arapaho Tribes recognizes that the Tribes need guidance on establishing workplace policies and procedures for employees who lawfully possess and use medical marijuana; and
- F. The Ninth Legislature of the Cheyenne and Arapaho Tribes seeks to provide employment protection to employees who are lawful users of medical marijuana and to provide the Tribes guidance on creating workplace policies and procedures.

SUBSTANTIAL PROVISIONS

The Legislature of the Cheyenne and Arapaho Tribes hereby creates and adopts the following MEDICAL MARIJUANA IN EMPLOYMENT ACT.

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CHAPTER 1: SHORT TITLE

§5.800 Short Title

This Act shall be known and may be cited as the “Medical Marijuana in Employment Act.”

CHAPTER 2: AUTHORITY AND DEFINITIONS

§5.801 Authority

- (a) The Cheyenne and Arapaho Tribes are duly recognized by the United States Secretary of the Interior as a self-governing, Sovereign Nation, that is a federally recognize Indian Tribe with all rights, privileges, and powers attended thereto as a sovereign government, and organized in accordance with Title 25 of the United States Code, Section 450, the “Indian Self-Determination and Education Assistance Act,” and Article XVII of the Tribe’s Constitution and By-Laws and Section 3 of the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), under an amended Constitution ratified on April, 2006 and approved by the Secretary of Interior on May 17, 2006; and
- (b) Article VI, Section 5, subsection (a) of the Constitution grants that the Legislative power shall be vested in the Legislature; and
- (c) Article VI, Section 5, subsection (a) of the Constitution further grants that the Legislature shall have the power to make laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes; and
- (d) Article VI, Section 5, subsection (a) of the Constitution further grants that all actions by the Legislature shall be embodied in a written law or resolution; and
- (e) Article VI, Section 5, subsection (a) of the Constitution further grants that laws and resolutions which have been enacted shall remain valid until amended or repealed.

§5.802 Definitions

The following words or terms shall have the following meaning when used in the subchapter unless the context clearly indicates otherwise:

- (a) “Cheyenne and Arapaho Tribes” means all four branches of the government specified in Constitution Article II, Section 2, and includes all departments, commissions, boards, agencies, economic enterprises, and instrumentalities thereof;
- (b) “Employee” means any person who supplies labor for remuneration to the Cheyenne and Arapaho Tribes and shall not include an independent contractor, subcontractor, or employees of an independent contractor; provided, however, an independent contractor,

subcontractor, or employees of an independent contractor, may be subject to a workplace drug or alcohol testing policy under the terms of the contractual agreement when the drug or alcohol testing policy applies to other workers at the job site or workers who are in the same or similar classification or group;

- (c) “License Holder” or “Licensee” means a person who has been issued a medical marijuana patient license by the Oklahoma State Department of Health or Oklahoma Medical Marijuana Authority;
- (d) “Safety-Sensitive” means any job that includes tasks or duties that the employer reasonably believes could affect the safety and health of the employee performing the task or others including, but not limited to, any of the following:
 - a. The handling, packaging, processing, storage, disposal or transport of hazardous materials;
 - b. The routine operation of a motor vehicle or other vehicle for transportation of individuals or delivery of goods;
 - c. The routine operation of equipment, machinery, or power tools;
 - d. 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;
 - e. Performing firefighting duties;
 - f. The operation, maintenance, or oversight of critical services and infrastructure including, but not limited to, electric, gas, and water utilities, power generation, or distribution;
 - g. 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;
 - h. Dispensing pharmaceuticals;
 - i. Acting as a first responder;
 - j. Carrying a firearm;
 - k. Direct patient care; or
 - l. Direct childcare.

CHAPTER 3: PURPOSE

§5.803 Purpose

- (a) In 2018, the State of Oklahoma legalized the use and possession of marijuana for medical related purposes. Many employees of the Cheyenne and Arapaho Tribes have access to medical marijuana as citizens of the State of Oklahoma. To date, the Cheyenne and Arapaho Tribes have considered the usage of marijuana, medical or not, to be a disqualifying factor from employment. The Ninth Legislature of the Cheyenne and Arapaho Tribes recognizes that the Tribes need guidance on establishing workplace policies and procedures for employees who lawfully possess and use medical marijuana.

CHAPTER 4: EMPLOYMENT PROTECTIONS AND LIMITATIONS

§5.804 License Holder Protections

- (a) Unless otherwise required to obtain federal funding:
- a. The Cheyenne and Arapaho Tribes shall not refuse to hire, discipline, discharge or otherwise penalize an applicant or employee on the basis of such applicant's or employee's status as a medical marijuana licensee; and
 - b. The Cheyenne and Arapaho Tribes shall not refuse to hire, discipline, discharge, or otherwise penalize an applicant or employee solely on the basis of a positive test for marijuana components or metabolites, unless:
 - i. The applicant or employee is not in possession of a valid medical marijuana license;
 - ii. The licensee possesses, consumes, or is under the influence of medical marijuana or medical marijuana product within 1000 feet of a tribal government building, tribal business, tribally owned property, or during the fulfillment of employment obligations;
 - iii. The position is one involving safety-sensitive duties, as such term is defined within this Act; or
 - iv. The employee is subject to a "Last Chance Agreement" or similar agreement, as provided within the Cheyenne and Arapaho Tribes Drug and Alcohol Free Workplace Policy.

§5.805 Limitations

- (a) Nothing within this act shall:
- a. Require the Cheyenne and Arapaho Tribes to permit or accommodate the use of medical marijuana on the property or premises of any place of employment or during hours of employment; or
 - b. Prevent the Cheyenne and Arapaho Tribes from having written policies regarding drug testing and impairment.

CHAPTER 5: MISCELLANEOUS PROVISIONS

§5.806 Construction

This Act shall be liberally construed to carry out its purpose. The effectiveness and enforceability of this Act shall not be dependent upon the adoption of any regulations promulgated hereunder and shall be construed to diminish, limit or otherwise adversely affect any right, remedy held or available to the Cheyenne and Arapaho Tribes.

§5.807 Severability

If any section of this Act, or any part thereof, or any application thereof to any party, person or entity or in any circumstance shall be held invalid for any reason whatsoever by a court of competent jurisdiction, the remainder of the section or part of the Act shall not be affected and shall remain in full force and effect as though no section or part has been declared to be invalid.

§5.808 Statement of Supersedure

This Act shall supersede any law in place before it, which conflict with its intent and purpose.

§5.809 Effective Date

This Act shall be effective on the later of January 1, 2023, or thirty (30) days after signature by the Governor as provided in the Constitution.

