

Oklahoma Amends Workplace Drug Testing Law: Key Changes and Next Steps

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Oklahoma has passed [HB 3127](#), updating its Medical Marijuana and Patient Protection Act (Okla. Stat. Tit. 63, § 427.8) effective November 1, 2026. The changes matter in two practical ways:

1. They reframe how employers designate “safety-sensitive” positions; and
2. They expand when an employer may rely on a positive marijuana test to take adverse action against applicants and employees.

If you have Oklahoma operations, this is the right time to revisit your safety-sensitive positions and drug-testing framework. You should prepare now to provide the requisite 10-day notice of policy changes in the Oklahoma Standards for Workplace Drug and Alcohol Testing Act (Okla. Stat. Tit. 40, § 551 et seq.) well before the effective date of the new rules.

There’s also an important federal backdrop that employers must consider in responding to the enactment of HB 3127. The Department of Justice has acted on [Executive Order 14370](#), and issued a [final rule](#), reclassifying cannabis and cannabis containing products covered by a state medical marijuana license, from Schedule I to Schedule III. While the Department of Transportation (“DOT”) has not changed its rules yet, employers are encouraged to keep following DOT guidance and regulations for potential changes. Because Schedule III drugs are not “illegal” per se, policies prohibiting “illegal” drugs may create ambiguity. Further, depending on the facts, because medical marijuana licensed under state law is no longer categorically “illegal” under federal law, the Americans with Disabilities Act, as amended (the “ADA”), may require accommodation unless that accommodation would result in “undue hardship” or the accommodation would pose a “direct threat” – both legal terms of art requiring detailed analysis.

On safety-sensitive roles, Oklahoma’s amendment moves away from the old “reasonable belief” approach and uses an example-based list that still gives employers some room to designate similar jobs as safety-sensitive. Once you designate a job as safety-sensitive,

Oklahoma law allows a zero-tolerance approach: you may take adverse action based on a positive marijuana test even if the applicant or employee has a medical marijuana license. That said, you still need to account for the federal reclassification and the ADA when deciding what action to take in a particular situation, and DOT rules continue to control for DOT-regulated roles.

Outside safety-sensitive roles, Oklahoma's amendment also broadens when you can act on a positive test. You may take action if the person doesn't have a valid medical marijuana license; if a licensee possesses, uses, or is under the influence at work or while performing job duties; or (this is the notable change) if your action is based on a written policy that complies with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act. In practice, a compliant policy lets you rely on a positive marijuana test even for non-safety-sensitive positions under Oklahoma law. Given the federal shift to Schedule III, however, it's wise to think carefully about which roles you test and why, and to consult experienced employment counsel before you finalize your approach.

What should employers do between now and November 1, 2026?

- Identify all positions subject to DOT regulations;
- Reevaluate which roles you will treat as safety-sensitive and make sure they align with the statute's amendments;
- Consider which jobs could create a "direct threat" if someone is under the influence of medical marijuana and document your analysis;
- Decide where, when, and why you will test for marijuana based on your business objectives;
- Update your written testing policy so it complies with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act (Okla. Stat. Tit. 40, § 551 et seq.);
- Review and tighten policy language that bans "illegal drugs" to avoid ambiguity;
- Determine how you will administer a zero-tolerance policy for safety-sensitive roles;
- Refresh HR guidance and supervisor training on the interactive process and disability accommodations to address the federal reclassification of medical marijuana products licensed under Oklahoma state law;
- Consult with your experienced employment counsel to align state and federal requirements with your goals; and
- Develop a communication plan to announce and explain upcoming policy changes to employees.

GableGotwals' Labor & Employment attorneys are well-versed in recent developments regarding the state-sanctioned marijuana industry and how those developments impact employers. If you need help in any of these areas, please contact any GableGotwals Labor & Employment attorney.



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