

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 3227

By: Echols

COMMITTEE SUBSTITUTE

An Act relating to medical marijuana; amending Section 2, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2019, Section 421), which relates to licensure requirements for dispensaries; updating language; authorizing licensed dispensaries to contract with licensed transporters to deliver medical marijuana, concentrate and products; directing dispensaries to verify identification of patients and caregivers prior to purchase and delivery; amending Section 16, Chapter 11, O.S.L. 2019 (63 O.S. Supp. 2019, Section 427.16), which relates to the Oklahoma Medical Marijuana and Patient Protection Act; updating statutory citation and name of act; expanding scope of transporter licenses; allowing transporter licensees to deliver medical marijuana, concentrate and products to licensed patients and caregivers; providing restrictions on the delivery of medical marijuana, concentrate and products; removing Global Positioning System tracker requirement for delivery vehicles; directing transporter licensees to verify the identity of patients and caregivers prior to transferring products; prohibiting delivery of medical marijuana, concentrate and products to public and private schools, institutions of higher education and public property; reducing transporter agent license fee; defining term; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 2, State Question No. 788,
2 Initiative Petition No. 412 (63 O.S. Supp. 2019, Section 421), is
3 amended to read as follows:

4 Section 421. A. The ~~Oklahoma~~ State Department of Health shall,
5 within thirty (30) days of passage of this initiative, make
6 available~~7~~ on ~~their~~ its website~~7~~, in an easy-to-find location~~7~~, an
7 application for a medical marijuana dispensary license. The
8 application fee shall be Two Thousand Five Hundred Dollars
9 (\$2,500.00) ~~and a.~~ A method of payment ~~will~~ shall be provided on
10 the website. Retail applicants ~~must all~~ shall be Oklahoma state
11 residents. Any entity applying for a retail license ~~must~~ shall be
12 owned by an Oklahoma state resident and ~~must~~ shall be registered to
13 do business in Oklahoma. The ~~Oklahoma~~ State Department of Health
14 shall have two (2) weeks to review the application, approve or
15 reject the application, and mail the ~~approval/rejection~~ approval or
16 rejection letter ~~(if rejected, stating reasons for rejection)~~
17 stating the reason for rejection to the applicant.

18 B. The ~~Oklahoma~~ State Department of Health ~~must~~ shall approve
19 all applications which meet the following criteria:

20 1. Applicant must be ~~age~~ twenty-five (25) years of age or
21 older;

22 2. Any applicant, applying as an individual, must show
23 residency in the State of Oklahoma;

1 3. All applying entities must show that all members, managers,
2 and board members are Oklahoma residents;

3 4. An applying entity may show ownership of non-Oklahoma
4 residents, but that percentage ownership may not exceed twenty-five
5 percent (25%);

6 5. All applying individuals or entities must be registered to
7 conduct business in the State of Oklahoma; and

8 6. All applicants must disclose all ownership;

9 ~~7. Applicant(s).~~

10 Applicants with ~~only a~~ nonviolent felony ~~conviction(s) in conviction~~
11 within the last two (2) years, any other felony conviction ~~in 5~~
12 ~~(years)~~ within the last five (5) years, currently incarcerated
13 inmates, or any person currently incarcerated may persons under the
14 custody of the Department of Corrections or a jail facility, shall
15 not qualify for a medical marijuana dispensary license.

16 C. ~~Retailers will~~ Dispensaries shall be required to complete a
17 monthly sales report to the ~~Oklahoma~~ State Department of Health.
18 This report ~~will~~ shall be due on the ~~15th~~ fifteenth of each month
19 and provide reporting on the previous month. This report ~~will~~ shall
20 detail the weight of marijuana purchased at wholesale and the weight
21 of marijuana sold to card holders, and account for any waste. The
22 report ~~will~~ shall show total sales in dollars, tax collected in
23 dollars, and tax due in dollars. The ~~Oklahoma~~ State Department of
24 Health ~~will~~ shall have oversight and auditing responsibilities to

1 ensure that all marijuana being grown is accounted for. A ~~retailer~~
2 ~~will only~~ dispensary shall be subject to a penalty if a gross
3 discrepancy exists and cannot be explained. Penalties for
4 fraudulent reporting occurring within any ~~2-year~~ two-year time
5 period ~~will~~ shall be an initial fine of Five Thousand Dollars
6 (\$5,000.00) ~~(first)~~ for the first occurrence of fraudulent reporting
7 and revocation of ~~licensing~~ ~~(second)~~ the medical marijuana
8 dispensary license for the second occurrence of fraudulent
9 reporting.

10 D. Only a licensed medical marijuana ~~retailer~~ dispensary may
11 conduct retail sales of medical marijuana, ~~or marijuana derivatives~~
12 medical marijuana concentrate and medical marijuana products in the
13 form provided by licensed processors, ~~and these.~~ Medical marijuana
14 products can only be sold to a licensed medical marijuana ~~license~~
15 ~~holder~~ patient or ~~their~~ licensed medical marijuana caregiver.
16 Penalties for fraudulent sales occurring within any ~~2-year~~ two-year
17 time period ~~will~~ shall be an initial fine of Five Thousand Dollars
18 (\$5,000.00) ~~(first)~~ for the first occurrence of fraudulent sales and
19 revocation of ~~licensing~~ ~~(second)~~ the medical marijuana dispensary
20 license for the second occurrence of fraudulent sales.

21 E. A licensed medical marijuana dispensary may contract with a
22 licensed medical marijuana transporter to deliver medical marijuana,
23 medical marijuana concentrate and medical marijuana products to a
24 licensed medical marijuana patient or licensed medical marijuana

1 caregiver. When contacted by a licensed medical marijuana patient
2 or caregiver for the purchase and delivery of medical marijuana,
3 medical marijuana concentrate or medical marijuana products, the
4 dispensary shall verify that the patient or caregiver is qualified
5 to purchase and receive a delivery of medical marijuana, medical
6 marijuana concentrate and medical marijuana products. The
7 information provided by the patient or caregiver shall, at a
8 minimum, include the following:

9 1. The name and date of birth of the patient or caregiver;

10 2. The 24-character identification number assigned to the
11 medical marijuana patient or caregiver license;

12 3. If the patient is under eighteen (18) years of age, the name
13 and date of birth of the parent or legal guardian of the patient;

14 4. The address of the residence where the order will be
15 delivered; and

16 5. Any other information required by the State Department of
17 Health.

18 SECTION 2. AMENDATORY Section 16, Chapter 11, O.S.L.
19 2019 (63 O.S. Supp. 2019, Section 427.16), is amended to read as
20 follows:

21 Section 427.16 A. There is hereby created a medical marijuana
22 transporter license as a category of the medical marijuana business
23 license.
24

1 B. Pursuant to Section 424 of ~~Title 63 of the Oklahoma Statutes~~
2 this title, the Authority shall issue a medical marijuana
3 transporter license to licensed medical marijuana commercial
4 growers, processors and dispensaries upon issuance of such licenses
5 and upon each renewal.

6 C. A medical marijuana transporter license may also be issued
7 to qualifying applicants who are registered with the Oklahoma
8 Secretary of State and otherwise meet the requirements for a medical
9 marijuana business license set forth in ~~this act~~ the Oklahoma
10 Medical Marijuana and Patient Protection Act and the requirements
11 set forth in this section to provide logistics, distribution and
12 storage of medical marijuana, medical marijuana concentrate and
13 medical marijuana products.

14 D. A medical marijuana transporter license shall be valid for
15 one (1) year and shall not be transferred with a change of
16 ownership. A licensed medical marijuana transporter shall be
17 responsible for all medical marijuana, medical marijuana concentrate
18 and medical marijuana products once the transporter takes control of
19 the product.

20 E. A transporter license shall be required for any person or
21 entity to transport or transfer medical marijuana, medical marijuana
22 concentrate or ~~product~~ medical marijuana products from ~~a~~:

23 1. A licensed medical marijuana business to another medical
24 marijuana business, ~~or from a;~~

1 2. A medical marijuana business to a medical marijuana research
2 facility or medical marijuana education facility; or

3 3. A licensed medical marijuana dispensary to a patient, a
4 parent or legal guardian of a patient or a caregiver who placed the
5 order and who:

6 a. has a valid medical marijuana patient license, is the
7 parent or legal guardian of a patient with a valid
8 medical marijuana patient license or has a valid
9 medical marijuana caregiver license, and

10 b. possesses a current, Oklahoma state-issued
11 identification card.

12 F. 1. A medical marijuana transporter licensee may contract
13 with multiple licensed medical marijuana businesses.

14 2. A medical marijuana transporter licensee may deliver medical
15 marijuana, medical marijuana concentrate and medical marijuana
16 products to a licensed patient, parent or legal guardian of a
17 licensed patient or licensed caregiver. A medical marijuana
18 transporter shall be prohibited from delivering medical marijuana,
19 medical marijuana concentrate and medical marijuana products more
20 than once per day to the same patient, parent or legal guardian of
21 the patient, caregiver or private residence.

22 3. When delivering medical marijuana, medical marijuana
23 concentrate and medical marijuana products to a patient, parent or
24

1 legal guardian of a patient or caregiver, the medical marijuana
2 transporter shall deliver such products only to private residences.

3 G. A medical marijuana transporter may maintain a licensed
4 premises to temporarily store medical marijuana, medical marijuana
5 concentrate and medical marijuana products and to use as a
6 centralized distribution point. A medical marijuana transporter may
7 store and distribute medical marijuana, medical marijuana
8 concentrate and medical marijuana products from the licensed
9 premises. The licensed premises shall meet all security
10 requirements applicable to a medical marijuana business.

11 H. A medical marijuana transporter licensee shall use the seed-
12 to-sale tracking system developed pursuant to ~~this act~~ the Oklahoma
13 Medical Marijuana and Patient Protection Act to create shipping
14 manifests documenting the transport of medical marijuana, medical
15 marijuana concentrate and medical marijuana products throughout the
16 state.

17 I. A licensed medical marijuana transporter may maintain and
18 operate one or more warehouses in the state to handle medical
19 marijuana, medical marijuana concentrate and medical marijuana
20 products.

21 J. All medical marijuana, medical marijuana concentrate and
22 ~~product~~ medical marijuana products shall be transported:

23 1. ~~In vehicles equipped with Global Positioning System (GPS)~~
24 ~~trackers;~~

1 ~~2.~~ In a locked container and clearly labeled "Medical Marijuana
2 or Derivative"; and

3 ~~3.~~ 2. In a secured area of the vehicle that is not accessible
4 by the driver during transit.

5 K. 1. A transporter agent may possess marijuana at any
6 location while the transporter agent is transferring marijuana to or
7 from a licensed medical marijuana business, licensed medical
8 marijuana research facility ~~or~~, licensed medical marijuana education
9 facility, licensed medical marijuana patient or licensed medical
10 marijuana caregiver.

11 2. Prior to transferring possession of the medical marijuana,
12 medical marijuana concentrate or medical marijuana products to a
13 licensed patient, a parent or legal guardian of a licensed patient
14 or a licensed caregiver, the transporter agent shall inspect the
15 state-issued identification card of the patient, parent or legal
16 guardian of the patient or caregiver, and the medical marijuana
17 license of the patient or caregiver issued pursuant to Section 420
18 of this title. The transporter agent shall verify that the
19 information provided at the time of the order matches the name and
20 age on the Oklahoma state-issued identification card of the patient,
21 parent or legal guardian of the patient or caregiver.

22 3. The delivery of medical marijuana, medical marijuana
23 concentrate or medical marijuana products to a public or private
24

1 school, the campus of any institution of higher education or any
2 other public property are hereby prohibited.

3 The Department shall administer and enforce the provisions of
4 this section concerning transportation.

5 L. The Authority shall issue a transporter agent license to
6 individual agents, employees, officers or owners of a transporter
7 license in order for the individual to qualify to transport medical
8 marijuana, medical marijuana concentrate, or ~~product~~ medical
9 marijuana products.

10 M. The annual fee for a transporter agent license shall be ~~One~~
11 ~~Hundred Dollars (\$100.00)~~ Twenty-five Dollars (\$25.00) and shall be
12 paid by the transporter license holder or the individual applicant.

13 N. The Authority shall issue each transporter agent a registry
14 identification card within thirty (30) days of receipt of:

- 15 1. The name, address and date of birth of the person;
- 16 2. Proof of residency as required for a medical marijuana
17 business license;
- 18 3. Proof of identity as required for a medical marijuana
19 business license;
- 20 4. Possession of a valid Oklahoma driver license;
- 21 5. Verification of employment with a licensed transporter;
- 22 6. The application and affiliated fee; and
- 23 7. A criminal background check conducted by the Oklahoma State
24 Bureau of Investigation, paid for by the applicant.

1 O. If the transporter agent application is denied, the
2 Department shall notify the transporter in writing of the reason for
3 denying the registry identification card.

4 P. A registry identification card for a transporter shall
5 expire one (1) year after the date of issuance or upon notification
6 from the holder of the transporter license that the transporter
7 agent ceases to work as a transporter.

8 Q. The Department may revoke the registry identification card
9 of a transporter agent who knowingly violates any provision of this
10 section, and the transporter is subject to any other penalties
11 established by law for the violation.

12 R. The Department may revoke or suspend the transporter license
13 of a transporter that the Department determines knowingly aided or
14 facilitated a violation of any provision of this section, and the
15 licenseholder is subject to any other penalties established in law
16 for the violation.

17 S. Vehicles used in the transport of medical marijuana, medical
18 marijuana concentrate or medical marijuana ~~product~~ products shall
19 be:

20 1. Insured at or above the legal requirements in Oklahoma;

21 2. Capable of securing medical marijuana, medical marijuana
22 concentrate or medical marijuana products during transport; and

23 3. In possession of a shipping container as defined in this act
24 capable of securing all transported ~~product~~ products.

1 T. Prior to the transport of any medical marijuana, medical
2 marijuana concentrate or medical marijuana products, an inventory
3 manifest shall be prepared at the origination point of the medical
4 marijuana. The inventory manifest shall include the following
5 information:

6 1. For the origination point of the medical marijuana:

- 7 a. the licensee number for the commercial grower,
8 processor or dispensary,
- 9 b. address of origination of transport, and
- 10 c. name and contact information for the originating
11 licensee;

12 2. For the end recipient license holder of the medical
13 marijuana:

- 14 a. the license number for the patient, caregiver,
15 dispensary, commercial grower, processor, research
16 facility or education facility destination,
- 17 b. address of the destination, and
- 18 c. name and contact information for the destination
19 licensee;

20 3. Quantities by weight or unit of each type of medical
21 marijuana product contained in transport;

22 4. The date of the transport and the approximate time of
23 departure;

24 5. The arrival date and estimated time of arrival;

1 6. Printed names and signatures of the personnel accompanying
2 the transport; and

3 7. Notation of the transporting licensee.

4 U. 1. A separate inventory manifest shall be prepared for each
5 licensee receiving the medical marijuana.

6 2. The transporter agent shall provide the other medical
7 marijuana business with a copy of the inventory manifest at the time
8 the product changes hands and after the other licensee prints his or
9 her name and signs the inventory manifest.

10 3. An inventory manifest shall not be altered after departing
11 the originating premises other than in cases where the printed name
12 and signature of receipt by the receiving licensee is necessary.

13 4. A receiving licensee shall refuse to accept any medical
14 marijuana, medical marijuana concentrate or medical marijuana
15 product that is not accompanied by an inventory manifest.

16 5. Originating and receiving licensees shall maintain copies of
17 inventory manifests and logs of quantities of medical marijuana
18 received for three (3) years from date of receipt.

19 V. As used in this section, "private residence" means private
20 premises where a person lives, such as a private dwelling place or
21 place of habitation, and specifically excludes any premises located
22 at a public or private school or on the campus of an institution of
23 higher education.

SECTION 3. This act shall become effective November 1, 2020.

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