

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 2614, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator McCortney

McCortney-DC-FS-Req#2243
4/24/2019 11:44 AM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 2614

By: Echols of the House

and

McCortney of the Senate

FLOOR SUBSTITUTE

An Act relating to medical marijuana; amending Section 1, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 420), which relates to medical marijuana license; requiring physical examination prior to issuance of medical marijuana recommendation; prescribing penalties for certain crimes; amending Section 18 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, which relates to packaging and labeling; adding certain requirements and restrictions related to packaging; amending Section 21 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, which relates to advertising; modifying certain restrictions on advertising; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 420), is amended to read as follows:

1 Section 420. A. A person in possession of a ~~state-issued~~
2 state-issued medical marijuana license shall be able to:

3 1. Consume marijuana legally;

4 2. Legally possess up to three (3) ounces of marijuana on their
5 person;

6 3. Legally possess six (6) mature marijuana plants;

7 4. Legally possess six (6) seedling plants;

8 5. Legally possess one (1) ounce of concentrated marijuana;

9 6. Legally possess seventy-two (72) ounces of edible marijuana;

10 and

11 7. Legally possess up to eight (8) ounces of marijuana in their
12 residence.

13 B. Possession of up to one and one-half (1.5) ounces of
14 marijuana by persons who can state a medical condition, but are not
15 in possession of a ~~state-issued~~ state-issued medical marijuana
16 license, shall constitute a misdemeanor offense with a fine not to
17 exceed Four Hundred Dollars (\$400.00).

18 C. A regulatory office shall be established under the ~~Oklahoma~~
19 State Department of Health which ~~will~~ shall receive applications for
20 medical marijuana license recipients, dispensaries, growers, and
21 packagers within sixty (60) days of the passage of this initiative.

22 D. The ~~Oklahoma~~ State Department of Health shall, within thirty
23 (30) days of passage of this initiative, make available, on their
24 website, in an easy to find location, an application for a medical

1 marijuana license. The license ~~will be good~~ shall be valid for two
2 (2) years, and the application fee ~~will~~ shall be One Hundred Dollars
3 (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid,
4 Medicare, or SoonerCare. The methods of payment ~~will~~ shall be
5 provided on the Department's website.

6 E. A temporary license application ~~will~~ shall also be made
7 available on the ~~Oklahoma Department of Health~~ Department's website.
8 A temporary medical marijuana license ~~will~~ shall be granted to any
9 medical marijuana license holder from other states, provided that
10 the state has a ~~state-regulated~~ state-regulated medical marijuana
11 program, and the applicant can prove they are a member of such
12 program. Temporary licenses ~~will~~ shall be issued for thirty (30)
13 days. The cost for a temporary license shall be One Hundred Dollars
14 (\$100.00). Renewal ~~will~~ shall be granted with resubmission of a new
15 application. No additional criteria ~~will~~ shall be required.

16 F. Medical marijuana license applicants ~~will~~ shall submit their
17 application to the ~~Oklahoma~~ State Department of Health for approval
18 ~~and that the applicant must~~. The applicant shall be an Oklahoma
19 state resident and shall prove residency by a valid driver's
20 license, utility bills, or other accepted methods.

21 G. The ~~Oklahoma~~ State Department of Health shall review the
22 medical marijuana application, ~~approve/reject~~ approve or reject the
23 application, and mail the applicant's approval or rejection letter
24 ~~(stating reasons for rejection)~~, stating any reasons for rejection,

1 to the applicant within fourteen (14) days of receipt of the
2 application. Approved applicants ~~will~~ shall be issued a medical
3 marijuana license which ~~will~~ shall act as proof of their approved
4 status. Applications may only be rejected based on the applicant
5 not meeting stated criteria or on improper completion of the
6 application.

7 H. The ~~Oklahoma~~ State Department of Health ~~will~~ shall only keep
8 the following records for each approved medical marijuana license:

- 9 1. A digital photograph of the license holder;
- 10 2. The expiration date of the license;
- 11 3. The county where the card was issued; and
- 12 4. A unique ~~24-character~~ 24-character identification number
13 assigned to the license.

14 I. The State Department of Health ~~will~~ shall make available,
15 both on its website, and through a telephone verification system, an
16 easy method to validate a medical marijuana license ~~holders~~ holder's
17 authenticity by the unique ~~24-character~~ 24-character identifier.

18 J. The State Department of Health ~~will~~ shall ensure that all
19 application records and information are sealed to protect the
20 privacy of medical marijuana license applicants.

21 K. A caregiver license ~~will~~ shall be made available for
22 qualified caregivers of a medical marijuana license holder who is
23 homebound. The caregiver license ~~will~~ shall give the caregiver the
24 same rights as the medical marijuana license holder. Applicants for

1 a caregiver license ~~will~~ shall submit proof of the medical marijuana
2 license holder's license status and homebound status, proof that
3 they are the designee of the medical marijuana license holder, ~~must~~
4 ~~submit~~ proof that the caregiver is age eighteen (18) or older, and
5 ~~must submit~~ proof the caregiver is an Oklahoma resident. This ~~will~~
6 shall be the only criteria for a caregiver license.

7 L. All applicants ~~must~~ shall be eighteen (18) years or older.
8 A special exception ~~will~~ shall be granted to an applicant under the
9 age of eighteen (18), however, these applications must shall be
10 signed by two (2) physicians and the applicant's parent or legal
11 guardian.

12 M. All applications for a medical marijuana license ~~must~~ shall
13 be signed by an Oklahoma ~~Board certified~~ physician. There are no
14 qualifying conditions. Before issuing a medical marijuana
15 recommendation, a physician must first conduct a physical
16 examination while physically present in the same room as the patient
17 and a full assessment of the medical history of the patient. The
18 physical examination shall not be performed by remote means
19 including, but not limited to, telemedicine. A medical marijuana
20 license ~~must~~ shall be recommended according to the accepted
21 standards a reasonable and prudent physician would follow when
22 recommending or approving any medication. No physician may be
23 unduly stigmatized or harassed for signing a medical marijuana
24 license application.

1 N. Counties and cities may enact medical marijuana guidelines
2 allowing medical marijuana license holders or caregivers to exceed
3 the state limits set forth in subsection A of this section.

4 O. Any person who violates any provision of this act by
5 creating, possessing or using a counterfeit medical marijuana
6 license shall be guilty of a misdemeanor, and upon conviction shall
7 be subject to imprisonment in the county jail for not more than one
8 (1) year or by a fine of not more than Five Hundred Dollars
9 (\$500.00), or by both such imprisonment and fine.

10 P. Any person who intentionally and falsely assumes the
11 identity of another, and in such assumed character uses a medical
12 marijuana license that has been licensed to the individual so
13 personated, shall be guilty of a misdemeanor, and upon conviction
14 shall be subject to imprisonment in the county jail for not more
15 than one (1) year or by a fine of not more than Five Hundred Dollars
16 (\$500.00), or by both such imprisonment and fine.

17 SECTION 2. AMENDATORY Section 18 of Enrolled House Bill
18 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
19 amended to read as follows:

20 Section 18. A. An Oklahoma medical marijuana business shall
21 not sell, transfer or otherwise distribute medical marijuana or
22 medical marijuana product that has not been packaged and labeled in
23 accordance with this section and rules promulgated by the State
24 Commissioner of Health.

1 B. A medical marijuana dispensary shall return medical
2 marijuana and medical marijuana product that does not meet packaging
3 or labeling requirements in this section or rules promulgated
4 pursuant thereto to the entity who transferred it to the dispensary.
5 The medical marijuana dispensary shall document to whom the item was
6 returned, what was returned and the date of the return or dispose of
7 any usable marijuana that does not meet these requirements in
8 accordance with this act.

9 C. 1. Medical marijuana packaging shall be packaged to
10 minimize its appeal to children and shall not depict shapes, text or
11 designs appealing to children including, but not limited to,
12 cartoons, or any images other than the business name logo of the
13 medical marijuana producer and image of the product.

14 ~~2. A medical marijuana business shall not place any content on~~
15 ~~a container in a manner that reasonably appears to target~~
16 ~~individuals under the age of twenty-one (21), including but not~~
17 ~~limited to cartoon characters or similar images.~~

18 ~~3.~~ Labels on a container shall not include any false or
19 misleading statements.

20 ~~4.~~ 3. No container shall be intentionally or knowingly labeled
21 so as to cause a reasonable patient confusion as to whether the
22 medical marijuana, medical marijuana concentrate or medical
23 marijuana product is a trademarked product or labeled in a manner
24 that violates any federal trademark law or regulation. Medical

1 marijuana packaging shall not bear a reasonable resemblance to any
2 commercially available product.

3 ~~5.~~ 4. The label on the container shall not make any claims
4 regarding health or physical benefits to the patient.

5 ~~6.~~ 5. All medical marijuana, medical marijuana concentrate and
6 medical marijuana products shall be in a child-resistant container
7 or child-resistant packaging as required by the federal Poison
8 Prevention Packaging Act of 1970 at the point of transfer to the
9 patient or caregiver.

10 D. The State Department of Health shall develop minimum
11 standards for packaging and labeling of medical marijuana and
12 medical marijuana products. Such standards shall include, but not
13 be limited to, the required contents of labels to be affixed to all
14 medical marijuana and medical marijuana products prior to transfer
15 to a licensed patient or caregiver, which shall include, at a
16 minimum:

17 1. A universal symbol indicating that the product contains
18 tetrahydrocannabinol (THC);

19 2. THC and other cannabinoid potency, and terpenoid potency;

20 3. A statement indicating that the product has been tested for
21 contaminants;

22 4. One or more product warnings to be determined by the
23 Department; and

24 5. Any other information the Department deems necessary.

1 E. Medical marijuana and medical marijuana product packages

2 shall:

3 1. Be plain;

4 2. Be opaque;

5 3. Be designed to maximize the shelf life of contained medical
6 marijuana products;

7 4. Be tamper-evident; and

8 5. Protect the product from contamination and shall not impart
9 any toxic or deleterious substance to the product.

10 SECTION 3. AMENDATORY Section 21 of Enrolled House Bill
11 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
12 amended to read as follows:

13 Section 21. A. A medical marijuana business shall not engage
14 in advertising that is deceptive, false or misleading.

15 B. ~~A medical marijuana business shall not include in any form~~
16 ~~of advertising or signage any content that specifically targets~~
17 ~~individuals under the age of eighteen (18), including but not~~
18 ~~limited to cartoon characters or similar images~~

19 Medical marijuana advertising shall not contain any statement or
20 illustration that:

21 1. Promotes overconsumption;

22 2. Represents that the use of marijuana has curative or
23 therapeutic effects; or

1 3. Depicts a child or other person under legal age to consume
2 marijuana, or includes:

- 3 a. objects such as toys, cartoon or other characters,
4 which suggest the presence of a child, or any other
5 depiction designed in any manner to be especially
6 appealing to children or other persons under legal age
7 to consume marijuana, or
8 b. any manner or design that would be especially
9 appealing to children or other persons under eighteen
10 (18) years of age.

11 SECTION 4. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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