

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3954 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Scott Fetgatter

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3954

By: Fetgatter

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to medical marijuana; amending
10 Section 6, State Question No. 788, Initiative
11 Petition No. 412, as amended by Section 3, Chapter
12 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section 425),
13 which relates to license holder protections;
14 specifying manner by which distance between
15 properties shall be measured; amending Section 4,
16 Chapter 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section
17 426.1), which relates to licensure revocation
18 hearings and licensee information; updating statutory
19 citations; removing mandate that requires the sharing
20 of certain information to law enforcement agencies;
21 removing certain licensure application requirement;
22 amending Sections 14, Chapter 11, O.S.L. 2019, as
23 amended by Section 9, Chapter 477, O.S.L. 2019 and
24 18, Chapter 11, O.S.L. 2019 (63 O.S. Supp. 2019,
Sections 427.14 and 427.18), which relate to the
Oklahoma Medical Marijuana and Patient Protection
Act; deleting certain permit and certificate of
compliance requirements; deleting conditional
licensing provisions; authorizing certain persons to
obtain a medical marijuana business license;
clarifying certain medical marijuana packaging
requirement; providing for the recognition of out-of-
state medical marijuana certifications or licenses;
authorizing licensed dispensaries to dispense
marijuana products under certain circumstances;
directing the Oklahoma Medical Marijuana Authority to
maintain and publish certain list; directing
Authority to make certain information available to
dispensaries; providing penalties when dispensaries

1 fail to verify status and authenticity of
2 certifications and licenses; providing for
3 codification; and declaring an emergency.

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

5 SECTION 1. AMENDATORY Section 6, State Question No. 788,
6 Initiative Petition No. 412, as amended by Section 3, Chapter 509,
7 O.S.L. 2019 (63 O.S. Supp. 2019, Section 425), is amended to read as
8 follows:

9 Section 425. A. No school or landlord may refuse to enroll or
10 lease to and may not otherwise penalize a person solely for his or
11 her status as a medical marijuana license holder, unless failing to
12 do so would cause the school or landlord the potential to lose a
13 monetary or licensing-related benefit under federal law or
14 regulations.

15 B. Unless a failure to do so would cause an employer the
16 potential to lose a monetary or licensing-related benefit under
17 federal law or regulations, an employer may not discriminate against
18 a person in hiring, termination or imposing any term or condition of
19 employment or otherwise penalize a person based upon either:

20 1. The status of the person as a medical marijuana license
21 holder; or

22 2. Employers may take action against a holder of a medical
23 marijuana license if the holder uses or possesses marijuana while in
24 his or her place of employment or during the hours of employment.

1 Employers may not take action against the holder of a medical
2 marijuana license solely based upon the status of an employee as a
3 medical marijuana license holder or the results of a drug test
4 showing positive for marijuana or its components.

5 C. For the purposes of medical care, including organ
6 transplants, the authorized use of marijuana by a medical marijuana
7 license holder shall be considered the equivalent of the use of any
8 other medication under the direction of a physician and does not
9 constitute the use of an illicit substance or otherwise disqualify a
10 registered qualifying patient from medical care.

11 D. No medical marijuana license holder may be denied custody of
12 or visitation or parenting time with a minor, and there is no
13 presumption of neglect or child endangerment for conduct allowed
14 under this law, unless the behavior of the person creates an
15 unreasonable danger to the safety of the minor.

16 E. No ~~person holding a~~ medical marijuana license holder may be
17 unduly ~~be~~ withheld from holding a state-issued license by virtue of
18 ~~their~~ being a medical marijuana license holder including, but not
19 limited to, a concealed carry permit.

20 F. 1. No city or local municipality may unduly change or
21 restrict zoning laws to prevent the opening of a retail marijuana
22 establishment.

23 2. For purposes of this subsection, an undue change or
24 restriction of municipal zoning laws means an act which entirely

1 prevents retail marijuana establishments from operating within
2 municipal boundaries as a matter of law. Municipalities may follow
3 their standard planning and zoning procedures to determine if
4 certain zones or districts would be appropriate for locating
5 marijuana-licensed premises, medical marijuana businesses or any
6 other premises where marijuana or its by-products are cultivated,
7 grown, processed, stored or manufactured.

8 3. For purposes of this section, "retail marijuana
9 establishment" means an entity licensed by the State Department of
10 Health as a medical marijuana dispensary. Retail marijuana
11 establishment does not include those ~~other~~ entities licensed by the
12 Department as marijuana-licensed premises, medical marijuana
13 businesses or other facilities or locations where marijuana or any
14 product containing marijuana or its by-products are cultivated,
15 grown, processed, stored or manufactured.

16 G. The location of any retail marijuana establishment is
17 specifically prohibited within one thousand (1,000) feet of any
18 public or private school entrance. Upon the effective date of this
19 act, the distance indicated in this subsection shall be measured
20 from the nearest property line of the public or private school to
21 the front entrance of the retail marijuana establishment.

22 H. Research shall be provided for under this law. A researcher
23 may apply to the State Department of Health for a special research
24 license. The license shall be granted, provided the applicant meets

1 the criteria listed under subsection B of Section 421 of this title.
2 Research license holders shall be required to file monthly
3 consumption reports to the State Department of Health with amounts
4 of marijuana used for research.

5 SECTION 2. AMENDATORY Section 4, Chapter 509, O.S.L.
6 2019 (63 O.S. Supp. 2019, Section 426.1), is amended to read as
7 follows:

8 Section 426.1 A. Except for revocation hearings concerning
9 licensed patients, as defined in Section ~~2 of Enrolled House Bill~~
10 ~~No. 2612 of the 1st Session of the 57th Oklahoma Legislature~~ 427.2
11 of this title, all licensure revocation hearings conducted pursuant
12 to marijuana licenses established in the Oklahoma Statutes shall be
13 recorded. A party may request a copy of the recording of the
14 proceedings. Copies shall be provided to local law enforcement if
15 the revocation was based on alleged criminal activity.

16 B. The State Department of Health shall assist any law
17 enforcement officer in the performance of his or her duties upon
18 such request by the law enforcement officer or the request of other
19 local officials having jurisdiction. ~~Except for license information~~
20 ~~concerning licensed patients, as defined in Section 2 of Enrolled~~
21 ~~House Bill No. 2612 of the 1st Session of the 57th Oklahoma~~
22 ~~Legislature, the Department shall share information with law~~
23 ~~enforcement agencies upon request without a subpoena or search~~
24 ~~warrant.~~

1 C. The State Department of Health shall make available all
2 information displayed on medical marijuana licenses, as well as
3 whether or not the license is valid, to law enforcement
4 electronically through the Oklahoma Law Enforcement
5 Telecommunications System.

6 D. The Department shall make available to political
7 subdivisions a list of marijuana-licensed premises, medical
8 marijuana businesses or any other premises where marijuana or its
9 by-products are licensed to be cultivated, grown, processed, stored
10 or manufactured to aid county and municipal governments in
11 identifying locations within their jurisdiction and ensure
12 compliance with local regulations.

13 ~~E. All marijuana-licensed premises, medical marijuana~~
14 ~~businesses or any other premises where marijuana or its by-products~~
15 ~~are licensed to be cultivated, grown, processed, stored or~~
16 ~~manufactured shall submit with their application, after notifying~~
17 ~~the political subdivision of their intent, a certificate of~~
18 ~~compliance from the political subdivision where the facility of the~~
19 ~~applicant or use is to be located certifying compliance with zoning~~
20 ~~classifications, applicable municipal ordinances and all applicable~~
21 ~~safety, electrical, fire, plumbing, waste, construction and building~~
22 ~~specification codes.~~

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1 SECTION 3. AMENDATORY Section 14, Chapter 11, O.S.L.
2 2019, as amended by Section 9, Chapter 477, O.S.L. 2019 (63 O.S.
3 Supp. 2019, Section 427.14), is amended to read as follows:

4 Section 427.14 A. There is hereby created the medical
5 marijuana business license, which shall include the following
6 categories:

- 7 1. Medical marijuana commercial grower;
- 8 2. Medical marijuana processor;
- 9 3. Medical marijuana dispensary;
- 10 4. Medical marijuana transporter; and
- 11 5. Medical marijuana testing laboratory.

12 B. The Oklahoma Medical Marijuana Authority, with the aid of
13 the Office of Management and Enterprise Services, shall develop a
14 website for medical marijuana business applications.

15 C. The Authority shall make available on its website in an
16 easy-to-find location, applications for a medical marijuana
17 business.

18 D. The nonrefundable application fee for a medical marijuana
19 business license shall be Two Thousand Five Hundred Dollars
20 (\$2,500.00).

21 E. All applicants seeking licensure as a medical marijuana
22 business shall comply with the following general requirements:
23
24

1 1. All applications for licenses and registrations authorized
2 pursuant to this section shall be made upon forms prescribed by the
3 Authority;

4 2. Each application shall identify the city or county in which
5 the applicant seeks to obtain licensure as a medical marijuana
6 business;

7 3. Applicants shall submit a complete application to the
8 Department before the application may be accepted or considered;

9 4. All applications shall be complete and accurate in every
10 detail;

11 5. All applications shall include all attachments or
12 supplemental information required by the forms supplied by the
13 Authority;

14 6. All applications shall be accompanied by a full remittance
15 for the whole amount of the application fees. Application fees are
16 nonrefundable;

17 7. All applicants shall be approved for licensing review that,
18 at a minimum, meets the following criteria:

- 19 a. all applicants shall be age twenty-five (25) or older,
- 20 b. any applicant applying as an individual shall show
21 proof that the applicant is an Oklahoma resident
22 pursuant to paragraph 11 of this subsection,
- 23 c. any applicant applying as an entity shall show that
24 seventy-five percent (75%) of all members, managers,

- 1 executive officers, partners, board members or any
2 other form of business ownership are Oklahoma
3 residents pursuant to paragraph 11 of this subsection,
4 d. all applying individuals or entities shall be
5 registered to conduct business in the State of
6 Oklahoma,
7 e. all applicants shall disclose all ownership interests
8 pursuant to this act, and
9 f. applicants shall not have been convicted of a
10 nonviolent felony in the last two (2) years, and any
11 other felony conviction within the last five (5)
12 years, shall not be current inmates, or currently
13 incarcerated in a jail or corrections facility;

14 8. There shall be no limit to the number of medical marijuana
15 business licenses or categories that an individual or entity can
16 apply for or receive, although each application and each category
17 shall require a separate application and application fee. A
18 commercial grower, processor and dispensary, or any combination
19 thereof, are authorized to share the same address or physical
20 location, subject to the restrictions set forth in ~~this act~~ the
21 Oklahoma Medical Marijuana and Patient Protection Act;

22 9. All applicants for a medical marijuana business license,
23 research facility license or education facility license authorized
24 by this act shall undergo an Oklahoma criminal history background

1 check conducted by the Oklahoma State Bureau of Investigation (OSBI)
2 within thirty (30) days prior to the application for the license,
3 including:

- 4 a. individual applicants applying on their own behalf,
- 5 b. individuals applying on behalf of an entity,
- 6 c. all principal officers of an entity, and
- 7 d. all owners of an entity as defined by this act;

8 10. All applicable fees charged by OSBI are the responsibility
9 of the applicant and shall not be higher than fees charged to any
10 other person or industry for such background checks;

11 11. In order to be considered an Oklahoma resident for purposes
12 of a medical marijuana business application, all applicants shall
13 provide proof of Oklahoma residency for at least two (2) years
14 immediately preceding the date of application or five (5) years of
15 continuous Oklahoma residency during the preceding twenty-five (25)
16 years immediately preceding the date of application. Sufficient
17 documentation of proof of residency shall include a combination of
18 the following:

- 19 a. an unexpired Oklahoma-issued driver license,
- 20 b. an Oklahoma voter identification card,
- 21 c. a utility bill preceding the date of application,
22 excluding cellular telephone and Internet bills,
- 23 d. a residential property deed to property in the State
24 of Oklahoma, and

1 e. a rental agreement preceding the date of application
2 for residential property located in the State of
3 Oklahoma.

4 Applicants that were issued a medical marijuana business license
5 prior to the enactment of the Oklahoma Medical Marijuana and Patient
6 Protection Act are hereby exempt from the two-year or five-year
7 Oklahoma residency requirement mentioned above;

8 12. All license applicants shall be required to submit a
9 registration with the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control as provided in Sections 2-302 through 2-304
11 of ~~Title 63 of the Oklahoma Statutes~~ this title;

12 13. All applicants shall establish their identity through
13 submission of a color copy or digital image of one of the following
14 unexpired documents:

- 15 a. front and back of an Oklahoma driver license,
- 16 b. front and back of an Oklahoma identification card,
- 17 c. a United States passport or other photo identification
18 issued by the United States government,
- 19 d. certified copy of the applicant's birth certificate
20 for minor applicants who do not possess a document
21 listed in this section, or
- 22 e. a tribal identification card approved for
23 identification purposes by the Oklahoma Department of
24 Public Safety; and

1 14. All applicants shall submit an applicant photograph.

2 F. The Authority shall review the medical marijuana business
3 application, approve or reject the application and mail the
4 approval, rejection or status-update letter to the applicant within
5 ninety (90) business days of receipt of the application.

6 G. 1. The Authority shall review the medical marijuana
7 business applications and conduct all investigations, inspections
8 and interviews before approving the application.

9 2. Approved applicants shall be issued a medical marijuana
10 business license for the specific category applied under which shall
11 act as proof of their approved status. Rejection letters shall
12 provide a reason for the rejection. Applications may only be
13 rejected based on the applicant not meeting the standards set forth
14 in the provisions of this section, improper completion of the
15 application, or for a reason provided for in this act. If an
16 application is rejected for failure to provide required information,
17 the applicant shall have thirty (30) days to submit the required
18 information for reconsideration. No additional application fee
19 shall be charged for such reconsideration.

20 3. Status-update letters shall provide a reason for delay in
21 either approval or rejection should a situation arise in which an
22 application was submitted properly, but a delay in processing the
23 application occurred.

1 4. Approval, rejection or status-update letters shall be sent
2 to the applicant in the same method the application was submitted to
3 the Department.

4 ~~H. A license provided by this act or by Section 421, 422, 423~~
5 ~~or 425 of Title 63 of the Oklahoma Statutes shall not be issued~~
6 ~~until all relevant local licenses and permits have been issued by~~
7 ~~the municipality, including but not limited to an occupancy permit~~
8 ~~or certificate of compliance.~~

9 ~~I. In the event that an applicant has not received the~~
10 ~~necessary permits, certificates or licenses from a municipality, but~~
11 ~~the applicant has fulfilled all other obligations required by this~~
12 ~~act, the Authority shall grant a conditional license. A conditional~~
13 ~~license shall remain valid for a period of one (1) year or until the~~
14 ~~applicant obtains the necessary local permits, certificates or~~
15 ~~licenses. An applicant shall not transfer any medical marijuana,~~
16 ~~concentrate or products to a medical marijuana business, patient or~~
17 ~~caregiver until approval is received from the Authority.~~

18 ~~J. A medical marijuana business license shall not be issued to~~
19 ~~or held by:~~

20 1. A person until all required fees have been paid;

21 2. A person who has been convicted of a nonviolent felony
22 within two (2) years of the date of application, or within five (5)
23 years for any other felony;

24

1 3. A corporation, if the criminal history of any of its
2 officers, directors or stockholders indicates that the officer,
3 director or stockholder has been convicted of a nonviolent felony
4 within two (2) years of the date of application, or within five (5)
5 years for any other felony;

6 4. A person under twenty-five (25) years of age;

7 5. A person licensed pursuant to this section who, during a
8 period of licensure, or who, at the time of application, has failed
9 to:

10 a. file taxes, interest or penalties due related to a
11 medical marijuana business, or

12 b. pay taxes, interest or penalties due related to a
13 medical marijuana business;

14 6. A sheriff, deputy sheriff, police officer or prosecuting
15 officer, or an officer or employee of the Authority ~~or municipality~~;
16 or

17 7. A person whose authority to be a caregiver as defined in
18 this act has been revoked by the Department.

19 ~~K.~~ I. In investigating the qualifications of an applicant or a
20 licensee, the Department, Authority and municipalities may have
21 access to criminal history record information furnished by a
22 criminal justice agency subject to any restrictions imposed by such
23 an agency. In the event the Department considers the criminal
24 history record of the applicant, the Department shall also consider

1 any information provided by the applicant regarding such criminal
2 history record, including but not limited to evidence of
3 rehabilitation, character references and educational achievements,
4 especially those items pertaining to the period of time between the
5 last criminal conviction of the applicant and the consideration of
6 the application for a state license.

7 ~~H.~~ J. The failure of an applicant to provide the requested
8 information by the Authority deadline may be grounds for denial of
9 the application.

10 ~~M.~~ K. All applicants shall submit information to the Department
11 and Authority in a full, faithful, truthful and fair manner. The
12 Department and Authority may recommend denial of an application
13 where the applicant made misstatements, omissions,
14 misrepresentations or untruths in the application or in connection
15 with the background investigation of the applicant. This type of
16 conduct may be considered as the basis for additional administrative
17 action against the applicant. Typos and scrivener errors shall not
18 be grounds for denial.

19 ~~N.~~ L. A licensed medical marijuana business premises shall be
20 subject to and responsible for compliance with applicable provisions
21 for medical marijuana business facilities as described in the most
22 recent versions of the Oklahoma Uniform Building Code, the
23 International Building Code and the International Fire Code, unless
24 granted an exemption by the Authority or municipality.

1 ~~Θ.~~ M. All medical marijuana business licensees shall pay the
2 relevant licensure fees prior to receiving licensure to operate a
3 medical marijuana business, as defined in this act for each class of
4 license.

5 SECTION 4. AMENDATORY Section 18, Chapter 11, O.S.L.
6 2019 (63 O.S. Supp. 2019, Section 427.18), is amended to read as
7 follows:

8 Section 427.18 A. An Oklahoma medical marijuana business shall
9 not sell, transfer or otherwise distribute medical marijuana or
10 medical marijuana product that has not been packaged and labeled in
11 accordance with this section and rules promulgated by the State
12 Commissioner of Health.

13 B. A medical marijuana dispensary shall return medical
14 marijuana and medical marijuana product that does not meet packaging
15 or labeling requirements in this section or rules promulgated
16 pursuant thereto to the entity who transferred it to the dispensary.
17 The medical marijuana dispensary shall document to whom the item was
18 returned, what was returned and the date of the return or dispose of
19 any usable marijuana that does not meet these requirements in
20 accordance with this ~~act~~ section.

21 C. 1. Medical marijuana packaging shall be packaged to
22 minimize its appeal to children and shall not depict images other
23 than the business name logo of the medical marijuana producer and
24 image of the product.

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

5 3. Labels on a container shall not include any false or
6 misleading statements.

7 4. No container shall be intentionally or knowingly labeled so
8 as to cause a reasonable patient confusion as to whether the medical
9 marijuana, medical marijuana concentrate or medical marijuana
10 product is a trademarked product or labeled in a manner that
11 violates any federal trademark law or regulation.

12 5. The label on the container shall not make any claims
13 regarding health or physical benefits to the patient.

14 6. All medical marijuana, medical marijuana concentrate and
15 medical marijuana products ~~shall be in a~~ sold at medical marijuana
16 dispensaries may be packaged in any type of container that is
17 generally recognized as safe for use and protects the product
18 against foreseeable external factors that can cause deterioration or
19 contamination of the product; provided, however, the product shall
20 not be packaged in any type of plastic sandwich bag, one-use zipper
21 or slider storage bag or plastic or cling wrap and must be placed in
22 opaque packaging that is child-resistant ~~container at the point of~~
23 ~~transfer to,~~ as such term is defined in Section 427.2 of this title,
24

1 at the point of final sale to the licensed patient or licensed
2 caregiver.

3 D. The State Department of Health shall develop minimum
4 standards for packaging and labeling of medical marijuana and
5 medical marijuana products. Such standards shall include, but not
6 be limited to, the required contents of labels to be affixed to all
7 medical marijuana and medical marijuana products prior to transfer
8 to a licensed patient or caregiver, which shall include, at a
9 minimum:

10 1. A universal symbol indicating that the product contains
11 tetrahydrocannabinol (THC);

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

13 3. A statement indicating that the product has been tested for
14 contaminants;

15 4. One or more product warnings to be determined by the
16 Department; and

17 5. Any other information the Department deems necessary.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 427.24 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A person who is not a resident of the State of Oklahoma, but
22 who is authorized to engage in the medical use of marijuana under
23 the laws of his or her state of residence, is deemed to hold a valid
24 medical marijuana license for the purpose of the exemption from

1 arrest, prosecution or penalty described in subsection F of Section
2 427.8 of Title 63 of the Oklahoma Statutes, if the person abides by
3 the legal limits on the possession of marijuana for medical purposes
4 in this state as set forth in Section 420 of Title 63 of the
5 Oklahoma Statutes.

6 B. A licensed medical marijuana dispensary may dispense
7 marijuana to a person described in subsection A of this section if
8 the person presents to the medical marijuana dispensary a valid
9 medical marijuana certification or license from his or her state of
10 residence.

11 C. The Oklahoma Medical Marijuana Authority shall maintain and
12 publish a list of other states that authorize the medical use of
13 marijuana and images of the medical marijuana certifications or
14 licenses from those states. The Authority shall make that
15 information available to licensed medical marijuana dispensaries for
16 purposes of verification.

17 D. A licensed medical marijuana dispensary that fails to verify
18 the authenticity and status of an out-of-state medical marijuana
19 certification or license prior to conducting a marijuana transaction
20 shall be subject to the following penalties:

21 1. A fine in the amount of Five Hundred Dollars (\$500.00) for a
22 first offense;

23 2. A fine in the amount of One Thousand Dollars (\$1,000.00) for
24 a second offense; and

1 3. Revocation or suspension of the medical marijuana dispensary
2 license for a third and subsequent offense.

3 SECTION 6. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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