

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2660 _____
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

Amendment submitted by: TJ Marti

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2660

By: Echols

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to medical marijuana; amending Section 4, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2020, Section 423), which relates to medical marijuana processor licensing requirements; providing for the issuance of volatile and nonvolatile processor licenses; updating language; amending Section 17, Chapter 11, O.S.L. 2019, as amended by Section 4, Chapter 312, O.S.L. 2019 (63 O.S. Supp. 2020, Section 427.17), which relates to the Oklahoma Medical Marijuana and Patient Protection Act; modifying test batch requirements for licensed medical marijuana commercial growers and processors; defining certain term; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2020, Section 423), is amended to read as follows:

Section 423. A. The ~~Oklahoma~~ State Department of Health shall within thirty (30) days of passage of this initiative, make available, on ~~their~~ its website, in an easy-to-find location, an application for a medical marijuana ~~processing~~ processor license.

1 The Department shall be authorized to issue two types of medical
2 marijuana processor licenses:

3 1. Nonvolatile, which involves using any solvent in the
4 extraction process that is not a volatile solvent, including carbon
5 dioxide; and

6 2. Volatile, which involves using any solvent that is or
7 produces a flammable gas or vapor that, when present in the air in
8 sufficient quantities, will create explosive or ignitable mixtures
9 and may also include extraction using nonvolatile solvents or no
10 solvents.

11 The application fee for a nonvolatile or volatile medical marijuana
12 processor license shall be Two Thousand Five Hundred Dollars
13 (\$2,500.00) and methods. Methods of payment will shall be provided
14 on the website. The Oklahoma State Department of Health shall have
15 two (2) weeks to review the application, approve or reject the
16 application, and mail the approval/rejection letter (if rejected,
17 stating reasons 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) or older;

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

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

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

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

6 6. All applicants must disclose all ownership~~+~~.

7 ~~7. Applicant(s)~~ An applicant with ~~only~~ a nonviolent felony
8 conviction~~(s)~~ in the last two (2) years~~, or~~ or any other felony
9 conviction in five (5) years, inmates, or any person currently
10 incarcerated may not qualify for a medical marijuana ~~processing~~
11 processor license.

12 C. A licensed medical marijuana processor may take marijuana
13 plants and distill or process these plants into concentrates,
14 edibles, and other forms for consumption. As required by subsection
15 D of this section, the ~~Oklahoma State Department of Health will~~
16 shall, within sixty (60) days of passage of this initiative, make
17 available a set of standards which will be used by licensed medical
18 marijuana processors in the preparation of edible marijuana
19 products. This should be in line with current food preparation
20 guidelines and no excessive or punitive rules may be established by
21 the ~~Oklahoma State Department of Health~~. Once a year, the ~~Oklahoma~~
22 ~~State Department of Health~~ may inspect a processing operation and
23 determine its compliance with the preparation standards. If
24 deficiencies are found, a written report of ~~deficiency will~~ the

1 deficiencies shall be issued to the licensed medical marijuana
2 processor. The licensed medical marijuana processor ~~will~~ shall have
3 one (1) month to correct the deficiency or be subject to a fine of
4 Five Hundred Dollars (\$500.00) for each deficiency. A licensed
5 medical marijuana processor may sell marijuana products it creates
6 to a licensed retailer, or any other licensed medical marijuana
7 processor. Further, these sales ~~will~~ shall be considered wholesale
8 sales and not subject to taxation. Under no circumstances may a
9 licensed medical marijuana processor sell marijuana, or any
10 marijuana product, directly to a medical marijuana ~~license holder~~
11 patient licensee or caregiver licensee. However, a licensed medical
12 marijuana processor may process cannabis into a concentrated form,
13 for a medical ~~license holder~~, marijuana patient licensee for a fee.
14 ~~Processors will~~ Licensed medical marijuana processors shall be
15 required to complete a monthly yield and sales report to the
16 ~~Oklahoma State Department of Health~~. This report will be due on the
17 ~~15th~~ fifteenth of each month and provide reporting on the previous
18 month. This report ~~will~~ shall detail the amount of marijuana
19 purchased in pounds, the amount of marijuana cooked or processed in
20 pounds, and the amount of waste in pounds. Additionally, this
21 report ~~will~~ shall show total wholesale sales in dollars. The
22 ~~Oklahoma State Department of Health will~~ shall have oversight and
23 auditing responsibilities to ensure that all marijuana being grown
24 is accounted for. A licensed medical marijuana processor ~~will~~ shall

1 only be subject to a penalty if a gross discrepancy exists and
2 cannot be explained. Penalties for fraudulent reporting occurring
3 within any ~~2-year~~ two-year time period ~~will~~ shall be an initial fine
4 of Five Thousand Dollars (\$5,000.00) ~~(first)~~ for a first offense and
5 revocation of ~~licensing~~ ~~(second)~~ the medical marijuana processor
6 license for a second offense.

7 D. The Department shall oversee inspection and compliance of
8 licensed medical marijuana processors producing products with
9 marijuana as an additive. The ~~Oklahoma State Department of Health~~
10 ~~will~~ shall be compelled to, within thirty (30) days of passage of
11 this initiative, appoint a board of twelve (12) Oklahoma residents,
12 who are marijuana industry experts, to create a list of food safety
13 standards for processing and handling medical marijuana in Oklahoma.
14 These standards ~~will~~ shall be adopted by the ~~agency~~ Department and
15 the ~~agency~~ Department can enforce these standards for licensed
16 medical marijuana processors. The ~~agency will~~ Department shall
17 develop a standards review procedure and these standards ~~can~~ may be
18 altered by calling another board of twelve (12) Oklahoma marijuana
19 industry experts. A signed letter of twenty (20) operating licensed
20 medical marijuana processors would constitute a need for a new board
21 and ~~standard~~ standards review.

22 E. If it becomes permissible⁷ under federal law, marijuana may
23 be moved across state lines.

1 F. Any device used for the consumption of medical marijuana
2 shall be considered legal to be sold, manufactured, distributed, and
3 possessed. No merchant, wholesaler, manufacturer, or individual may
4 unduly be harassed or prosecuted for selling, manufacturing, or
5 possession of medical marijuana paraphernalia.

6 SECTION 2. AMENDATORY Section 17, Chapter 11, O.S.L.
7 2019, as amended by Section 4, Chapter 312, O.S.L. 2019 (63 O.S.
8 Supp. 2020, Section 427.17), is amended to read as follows:

9 Section 427.17 A. There is hereby created a medical marijuana
10 testing laboratory license as a category of the medical marijuana
11 business license. The Authority is hereby enabled to monitor,
12 inspect and audit a licensed testing laboratory under this act.

13 B. The Authority is hereby authorized to contract with a
14 private laboratory for the purpose of conducting compliance testing
15 of medical marijuana testing laboratories licensed in this state.
16 Any such laboratory under contract for compliance testing shall be
17 prohibited from conducting any other commercial medical marijuana
18 testing in this state.

19 C. The Authority shall have the authority to develop acceptable
20 testing and research practices, including but not limited to
21 testing, standards, quality control analysis, equipment
22 certification and calibration, and chemical identification and
23 substances used in bona fide research methods so long as it complies
24 with this act.

1 D. A person who is a direct beneficial owner or an indirect
2 beneficial owner of a medical marijuana dispensary, medical
3 marijuana commercial grower, or medical marijuana processor shall
4 not be an owner of a laboratory.

5 E. A laboratory and a laboratory applicant shall comply with
6 all applicable local ordinances, including but not limited to
7 zoning, occupancy, licensing and building codes.

8 F. A separate license shall be required for each specific
9 laboratory.

10 G. A medical marijuana testing laboratory license may be issued
11 to a person who performs testing and research on medical marijuana
12 and medical marijuana products for medical marijuana businesses,
13 medical marijuana research facilities, medical marijuana education
14 facilities, and testing and research on marijuana and marijuana
15 products grown or produced by a patient or caregiver on behalf of a
16 patient, upon verification of registration. No state-approved
17 medical marijuana testing facility shall operate unless a medical
18 laboratory director is on site during operational hours.

19 H. A laboratory applicant shall comply with the application
20 requirements of this section and shall submit such other information
21 as required for a medical marijuana business applicant, in addition
22 to any information the Authority may request for initial approval
23 and periodic evaluations during the approval period.

1 I. A medical marijuana testing laboratory may accept samples of
2 medical marijuana, medical marijuana concentrate or medical
3 marijuana product from a medical marijuana business for testing and
4 research purposes only, which purposes may include the provision of
5 testing services for samples submitted by a medical marijuana
6 business for product development. The Department may require a
7 medical marijuana business to submit a sample of medical marijuana,
8 medical marijuana concentrate or medical marijuana product to a
9 medical marijuana testing laboratory upon demand.

10 J. A medical marijuana testing laboratory may accept samples of
11 medical marijuana, medical marijuana concentrate or medical
12 marijuana product from an individual person for testing only under
13 the following conditions:

14 1. The individual person is a patient or caregiver pursuant to
15 this act or is a participant in an approved clinical or
16 observational study conducted by a research facility; and

17 2. The medical marijuana testing laboratory shall require the
18 patient or caregiver to produce a valid patient license and current
19 and valid photo identification.

20 K. A medical marijuana testing laboratory may transfer samples
21 to another medical marijuana testing laboratory for testing. All
22 laboratory reports provided to or by a medical marijuana business or
23 to a patient or caregiver shall identify the medical marijuana
24 testing laboratory that actually conducted the test.

1 L. A medical marijuana testing laboratory may utilize a
2 licensed medical marijuana transporter to transport samples of
3 medical marijuana, medical marijuana concentrate and medical
4 marijuana product for testing, in accordance with this act and the
5 rules adopted pursuant thereto, between the originating medical
6 marijuana business requesting testing services and the destination
7 laboratory performing testing services.

8 M. The medical marijuana testing laboratory shall establish
9 policies to prevent the existence of or appearance of undue
10 commercial, financial or other influences that may diminish the
11 competency, impartiality and integrity of the testing processes or
12 results of the laboratory, or that may diminish public confidence in
13 the competency, impartiality and integrity of the testing processes
14 or results of the laboratory. At a minimum, employees, owners or
15 agents of a medical marijuana testing laboratory who participate in
16 any aspect of the analysis and results of a sample are prohibited
17 from improperly influencing the testing process, improperly
18 manipulating data, or improperly benefiting from any ongoing
19 financial, employment, personal or business relationship with the
20 medical marijuana business that provided the sample.

21 N. The Department, pursuant to rules promulgated by the State
22 Commissioner of Health, shall develop standards, policies and
23 procedures as necessary for:
24

1 1. The cleanliness and orderliness of a laboratory premises and
2 the location of the laboratory in a secure location, and inspection,
3 cleaning and maintenance of any equipment or utensils used for the
4 analysis of test samples;

5 2. Testing procedures, testing standards for cannabinoid and
6 terpenoid potency and safe levels of contaminants, and remediation
7 procedures;

8 3. Controlled access areas for storage of medical marijuana and
9 medical marijuana product test samples, waste and reference
10 standards;

11 4. Records to be retained and computer systems to be utilized
12 by the laboratory;

13 5. The possession, storage and use by the laboratory of
14 reagents, solutions and reference standards;

15 6. A certificate of analysis (COA) for each lot of reference
16 standard;

17 7. The transport and disposal of unused marijuana, marijuana
18 products and waste;

19 8. The mandatory use by a laboratory of an inventory tracking
20 system to ensure all test batches or samples containing medical
21 marijuana, medical marijuana concentrate or medical marijuana
22 products are identified and tracked from the point they are
23 transferred from a medical marijuana business, a patient or a
24 caregiver through the point of transfer, destruction or disposal.

1 The inventory tracking system reporting shall include the results of
2 any tests that are conducted on medical marijuana, medical marijuana
3 concentrate or medical marijuana product;

4 9. Standards of performance;

5 10. The employment of laboratory personnel;

6 11. A written standard operating procedure manual to be
7 maintained and updated by the laboratory;

8 12. The successful participation in a Department-approved
9 proficiency testing program for each testing category listed in this
10 section, in order to obtain and maintain certification;

11 13. The establishment of and adherence to a quality assurance
12 and quality control program to ensure sufficient monitoring of
13 laboratory processes and quality of results reported;

14 14. The establishment by the laboratory of a system to document
15 the complete chain of custody for samples from receipt through
16 disposal;

17 15. The establishment by the laboratory of a system to retain
18 and maintain all required records, including business records, and
19 processes to ensure results are reported in a timely and accurate
20 manner; and

21 16. Any other aspect of laboratory testing of medical marijuana
22 or medical marijuana product deemed necessary by the Department.

23 O. A medical marijuana testing laboratory shall promptly
24 provide the Department or designee of the Department access to a

1 report of a test and any underlying data that is conducted on a
2 sample at the request of a medical marijuana business or qualified
3 patient. A medical marijuana testing laboratory shall also provide
4 access to the Department or designee of the Department to laboratory
5 premises and to any material or information requested by the
6 Department to determine compliance with the requirements of this
7 section.

8 P. A medical marijuana testing laboratory shall retain all
9 results of laboratory tests conducted on marijuana or products for a
10 period of at least two (2) years and shall make them available to
11 the Department upon request.

12 Q. A medical marijuana testing laboratory shall test samples
13 from each harvest batch or product batch, as appropriate, of medical
14 marijuana, medical marijuana concentrate and medical marijuana
15 product for each of the following categories of testing, consistent
16 with standards developed by the Commissioner:

- 17 1. Microbials;
- 18 2. Mycotoxins;
- 19 3. Residual solvents;
- 20 4. Pesticides;
- 21 5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
- 22 6. Terpenoid potency; and
- 23 7. Heavy metals.

1 R. A test batch shall not exceed ten (10) pounds of usable
2 marijuana or medical marijuana product, as appropriate. A grower
3 shall separate each harvest lot of usable marijuana into harvest
4 batches containing no more than ~~ten (10)~~ fifty (50) pounds. A
5 processor shall separate each medical marijuana production lot into
6 production batches containing no more than ~~ten (10)~~ two (2) pounds
7 of distillate and for final products, a maximum batch size of fifty
8 thousand (50,000) milligrams of THC. As used in this subsection,
9 "final products" shall include, but not be limited to, cookies,
10 brownies, candies, gummies and chocolates.

11 S. Medical marijuana testing laboratory licensure shall be
12 contingent upon successful on-site inspection, successful
13 participation in proficiency testing and ongoing compliance with the
14 applicable requirements in this section.

15 T. A medical marijuana testing laboratory shall be inspected
16 prior to initial licensure and annually thereafter by an inspector
17 approved by the Authority.

18 U. Beginning on a date determined by the Commissioner, not
19 later than January 1, 2020, medical marijuana testing laboratory
20 licensure shall be contingent upon accreditation by the NELAC
21 Institute (TNI), ANSI/ASQ National Accreditation Board or another
22 accrediting body approved by the Commissioner, and any applicable
23 standards as determined by the Department.

1 V. A commercial grower shall not transfer or sell medical
2 marijuana and a processor shall not transfer, sell or process into a
3 concentrate or product any medical marijuana, medical marijuana
4 concentrate or medical marijuana product unless samples from each
5 harvest batch or production batch from which that medical marijuana,
6 medical marijuana concentrate or medical marijuana product was
7 derived has been tested by a medical marijuana testing facility for
8 contaminants and passed all contaminant tests required by this act.

9 SECTION 3. This act shall become effective November 1, 2021.

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11 58-1-7656 GRS 02/23/21
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