

1 ENGROSSED HOUSE
2 BILL NO. 2023

By: Fetgatter of the House

3 and

4 Leewright of the Senate

5
6 An Act relating to medical marijuana; amending
7 Section 6, State Question No. 788, Initiative
8 Petition No. 412, as last amended by Section 46,
9 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section
10 425), which relates to protections for medical
11 marijuana patient licensees; updating language;
12 clarifying distance requirements for medical
13 marijuana dispensaries; amending Section 14, Chapter
14 11, O.S.L. 2019, as last amended by Section 51,
15 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section
16 427.14), which relates to the Oklahoma Medical
17 Marijuana and Patient Protection Act; providing for
18 the transfer of medical marijuana dispensary, medical
19 marijuana processor and medical marijuana commercial
20 grower licenses; providing procedures; setting
21 application fee; prohibiting transfer of license
22 until approval by the Oklahoma Medical Marijuana
23 Authority; granting transferees the same rights,
24 privileges and exemptions as the transferor;
directing the Authority to provide certain notice
upon denial of transfer request; and directing the
Authority to promulgate rules and procedures.

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

SECTION 1. AMENDATORY Section 6, State Question No. 788,
Initiative Petition No. 412, as last amended by Section 46, Chapter
161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 425), is amended to
read as follows:

1 Section 425. A. No school or landlord may refuse to enroll or
2 lease to and may not otherwise penalize a person solely for his or
3 her status as a medical marijuana ~~license holder~~ patient licensee,
4 unless failing to do so would cause the school or landlord the
5 potential to lose a monetary or licensing-related benefit under
6 federal law or regulations.

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

12 1. ~~The~~ the status of the person as a medical marijuana ~~license~~
13 ~~holder~~ patient licensee; ~~or~~

14 2. ~~Employers~~ provided, however, employers may take action
15 against a ~~holder of a~~ medical marijuana ~~license~~ patient licensee if
16 the ~~holder~~ licensee uses or possesses marijuana while in his or her
17 place of employment or during the hours of employment. Employers
18 may not take action against ~~the holder of~~ a medical marijuana
19 ~~license~~ patient licensee solely based upon the status of an employee
20 as a medical marijuana ~~license holder~~ patient licensee or the
21 results of a drug test showing positive for marijuana or its
22 components.

23 C. For the purposes of medical care, including organ
24 transplants, the authorized use of marijuana by a medical marijuana

1 ~~license holder~~ patient licensee shall be considered the equivalent
2 of the use of any other medication under the direction of a
3 physician and does not constitute the use of an illicit substance or
4 otherwise disqualify a registered qualifying patient from medical
5 care.

6 D. No medical marijuana ~~license holder~~ patient licensee may be
7 denied custody of or visitation or parenting time with a minor
8 child, and there is no presumption of neglect or child endangerment
9 for conduct allowed under this law, unless the behavior of the
10 person creates an unreasonable danger to the safety of the minor
11 child.

12 E. No person ~~holding~~ who possesses a medical marijuana license
13 may unduly be withheld from holding a state-issued license by virtue
14 of their being a medical marijuana ~~license holder~~ patient licensee
15 including, but not limited to, a concealed carry permit.

16 F. 1. No city or local municipality may unduly change or
17 restrict zoning laws to prevent the opening of a ~~retail~~ medical
18 marijuana ~~establishment~~ dispensary.

19 2. For purposes of this subsection, an undue change or
20 restriction of municipal zoning laws means an act which entirely
21 prevents ~~retail~~ medical marijuana ~~establishments~~ dispensaries from
22 operating within municipal boundaries as a matter of law.
23 Municipalities may follow their standard planning and zoning
24 procedures to determine if certain zones or districts would be

1 appropriate for locating marijuana-licensed premises, medical
2 marijuana businesses or any other premises where marijuana or its
3 by-products are cultivated, grown, processed, stored or
4 manufactured.

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

15 G. ~~The~~ Except as otherwise provided in this subsection, the
16 location of any ~~retail~~ medical marijuana establishment dispensary is
17 specifically prohibited within one thousand (1,000) feet of any
18 public or private school entrance. On and after November 1, 2019,
19 the prohibited distance shall be measured from the nearest property
20 line of the medical marijuana dispensary to the nearest property
21 line of the public or private school. If any public or private
22 school is established within one thousand (1,000) feet of any
23 medical marijuana dispensary after a license has been issued by the
24 Authority for that location, the prohibited distance between

1 properties shall not apply as long as the licensed property is
2 continuously used for its stated purpose. The Authority shall not
3 deny any issuance or renewal of licensure, deny any transfer of
4 licensure pursuant to a change in ownership or revoke any license
5 due to a mistake in measurement by the Authority or any change in
6 public or private school usage after an initial license has been
7 issued at the location. The licensed location shall be
8 grandfathered by the Authority as long as the property continues to
9 be used in accordance with the original licensed purpose, regardless
10 of any change in ownership.

11 H. Research shall be provided for under this law. A researcher
12 may apply to the ~~State Department of Health~~ Authority for a special
13 research license. The license shall be granted, provided the
14 applicant meets the criteria listed under subsection B of Section
15 421 of this title. Research ~~license holders~~ licensees shall be
16 required to file monthly consumption reports to the ~~State Department~~
17 ~~of Health~~ Authority with amounts of marijuana used for research.
18 Biomedical and clinical research which is subject to federal
19 regulations and institutional oversight shall not be subject to
20 ~~State Department of Health~~ Authority oversight.

21 SECTION 2. AMENDATORY Section 14, Chapter 11, O.S.L.
22 2019, as last amended by Section 51, Chapter 161, O.S.L. 2020 (63
23 O.S. Supp. 2020, Section 427.14), is amended to read as follows:
24

1 Section 427.14 A. There is hereby created the medical
2 marijuana business license, which shall include the following
3 categories:

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

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

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

15 D. The nonrefundable application fee for a medical marijuana
16 business license shall be Two Thousand Five Hundred Dollars
17 (\$2,500.00).

18 E. All applicants seeking licensure as a medical marijuana
19 business shall comply with the following general requirements:

- 20 1. All applications for licenses and registrations authorized
21 pursuant to this section shall be made upon forms prescribed by the
22 Authority;

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

4 3. Applicants shall submit a complete application to the
5 ~~Department~~ Authority before the application may be accepted or
6 considered;

7 4. All applications shall be complete and accurate in every
8 detail;

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

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

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

17 a. all applicants shall be age twenty-five (25) years of
18 age or older,

19 b. any applicant applying as an individual shall show
20 proof that the applicant is an Oklahoma resident
21 pursuant to paragraph 11 of this subsection,

22 c. any applicant applying as an entity shall show that
23 seventy-five percent (75%) of all members, managers,
24 executive officers, partners, board members or any

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

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

21 9. All applicants for a medical marijuana business license,
22 research facility license or education facility license authorized
23 by this act shall undergo an Oklahoma criminal history background
24 check conducted by the Oklahoma State Bureau of Investigation (OSBI)

1 within thirty (30) days prior to the application for the license,
2 including:

- 3 a. individual applicants applying on their own behalf,
- 4 b. individuals applying on behalf of an entity,
- 5 c. all principal officers of an entity, and
- 6 d. all owners of an entity as defined by ~~this act~~ Section
7 427.2 of this title;

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 residence 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.
24

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~~ Authority.

4 H. A medical marijuana business license shall not be issued to
5 or held by:

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

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

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

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

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

19 a. file taxes, interest or penalties due related to a
20 medical marijuana business, or

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

1 6. A sheriff, deputy sheriff, police officer or prosecuting
2 officer, or an officer or employee of the Authority or municipality;
3 or

4 7. A person whose authority to be a caregiver as defined in
5 this act has been revoked by the ~~Department~~ Authority.

6 I. In investigating the qualifications of an applicant or a
7 licensee, the ~~Department~~, Authority and municipalities may have
8 access to criminal history record information furnished by a
9 criminal justice agency subject to any restrictions imposed by such
10 an agency. In the event the ~~Department~~ Authority considers the
11 criminal history record of the applicant, the ~~Department~~ Authority
12 shall also consider any information provided by the applicant
13 regarding such criminal history record, including but not limited to
14 evidence of rehabilitation, character references and educational
15 achievements, especially those items pertaining to the period of
16 time between the last criminal conviction of the applicant and the
17 consideration of the application for a state license.

18 J. The failure of an applicant to provide the requested
19 information by the Authority deadline may be grounds for denial of
20 the application.

21 K. All applicants shall submit information to the ~~Department~~
22 ~~and~~ Authority in a full, faithful, truthful and fair manner. The
23 ~~Department and~~ Authority may recommend denial of an application
24 where the applicant made misstatements, omissions,

1 misrepresentations or untruths in the application or in connection
2 with the background investigation of the applicant. This type of
3 conduct may be considered as the basis for additional administrative
4 action against the applicant. Typos and scrivener errors shall not
5 be grounds for denial.

6 L. A licensed medical marijuana business premises shall be
7 subject to and responsible for compliance with applicable provisions
8 for medical marijuana business facilities as described in the most
9 recent versions of the Oklahoma Uniform Building Code, the
10 International Building Code and the International Fire Code, unless
11 granted an exemption by the Authority or municipality.

12 M. All medical marijuana business licensees shall pay the
13 relevant licensure fees prior to receiving licensure to operate a
14 medical marijuana business, as defined in this act for each class of
15 license.

16 N. 1. Upon the effective date of this act, the license of a
17 medical marijuana dispensary, medical marijuana processor and
18 medical marijuana commercial grower may be assigned or otherwise
19 transferred from one person to another person, from one medical
20 marijuana business to another, or from one legal entity to another;
21 provided, however, a person may not transfer a license without first
22 applying for and receiving approval by the Oklahoma Medical
23 Marijuana Authority.

1 2. Prior to transferring the license, the licensee shall submit
2 an application requesting such transfer and pay an application fee
3 of Five Hundred Dollars (\$500.00) to the Authority. Applications
4 for the transfer of medical marijuana dispensary licenses, medical
5 marijuana processor licenses or medical marijuana commercial grower
6 licenses shall be made upon a form and in a manner prescribed by the
7 Authority. Failure to obtain approval of a license transfer request
8 may result in the suspension or revocation of the license.

9 3. When the Authority approves an application for a license
10 transfer, the transferee shall be entitled to the same rights,
11 privileges and exemptions provided in statute including, but not
12 limited to, medical marijuana business location restrictions
13 exercised or enjoyed by the transferor prior to the date of the
14 transfer, regardless of whether the medical marijuana business
15 license of the transferor expires pending approval of the transfer
16 request.

17 4. If the Authority denies an application for a license
18 transfer, the Authority shall provide written notice to the
19 applicant of such denial and shall provide an explanation as to why
20 the request was denied.

21 5. The Authority shall promulgate rules to implement the
22 provisions of this subsection.
23
24

1 Passed the House of Representatives the 18th day of February,
2 2021.

3
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2021.

7
8 Presiding Officer of the Senate