

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2023

By: Fetgatter

7
8 COMMITTEE SUBSTITUTE

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

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

1 SECTION 1. AMENDATORY Section 6, State Question No. 788,
2 Initiative Petition No. 412, as last amended by Section 46, Chapter
3 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 425), is amended to
4 read as follows:

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

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

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

18 2. ~~Employers~~ provided, however, employers may take action
19 against a ~~holder of a~~ medical marijuana ~~license~~ patient licensee if
20 the ~~holder~~ licensee uses or possesses marijuana while in his or her
21 place of employment or during the hours of employment. Employers
22 may not take action against ~~the holder of a~~ medical marijuana
23 ~~license~~ patient licensee solely based upon the status of an employee
24 as a medical marijuana ~~license holder~~ patient licensee or the

1 results of a drug test showing positive for marijuana or its
2 components.

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

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

16 E. No person ~~holding~~ who possesses a medical marijuana license
17 may unduly be withheld from holding a state-issued license by virtue
18 of their being a medical marijuana ~~license holder~~ patient licensee
19 including, but not 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~~ medical
22 marijuana ~~establishment~~ dispensary.

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~~ medical marijuana ~~establishments~~ dispensaries from
2 operating within municipal boundaries as a matter of law.

3 Municipalities may follow their standard planning and zoning
4 procedures to determine if certain zones or districts would be
5 appropriate for locating marijuana-licensed premises, medical
6 marijuana businesses or any other premises where marijuana or its
7 by-products are cultivated, grown, processed, stored or
8 manufactured.

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

19 G. ~~The~~ Except as otherwise provided in this subsection, the
20 location of any ~~retail~~ medical marijuana ~~establishment~~ dispensary is
21 specifically prohibited within one thousand (1,000) feet of any
22 public or private school entrance. On and after November 1, 2019,
23 the prohibited distance shall be measured from the nearest property
24 line of the medical marijuana dispensary to the nearest property

1 line of the public or private school. If any public or private
2 school is established within one thousand (1,000) feet of any
3 medical marijuana dispensary after a license has been issued by the
4 Authority for that location, the prohibited distance between
5 properties shall not apply as long as the licensed property is
6 continuously used for its stated purpose. The Authority shall not
7 deny any issuance or renewal of licensure, deny any transfer of
8 licensure pursuant to a change in ownership or revoke any license
9 due to a mistake in measurement by the Authority or any change in
10 public or private school usage after an initial license has been
11 issued at the location. The licensed location shall be
12 grandfathered by the Authority as long as the property continues to
13 be used in accordance with the original licensed purpose, regardless
14 of any change in ownership.

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

1 SECTION 2. AMENDATORY Section 14, Chapter 11, O.S.L.
2 2019, as last amended by Section 51, Chapter 161, O.S.L. 2020 (63
3 O.S. Supp. 2020, 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~~ Authority before the application may be accepted or
9 considered;

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

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

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

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

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

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

- 1 c. any applicant applying as an entity shall show that
2 seventy-five percent (75%) of all members, managers,
3 executive officers, partners, board members or any
4 other form of business ownership are Oklahoma
5 residents pursuant to paragraph 11 of this subsection,
6 d. all applying individuals or entities shall be
7 registered to conduct business in the State of
8 Oklahoma,
9 e. all applicants shall disclose all ownership interests
10 pursuant to this act, and
11 f. applicants shall not have been convicted of a
12 nonviolent felony in the last two (2) years, and any
13 other felony conviction within the last five (5)
14 years, shall not be current inmates, or currently
15 incarcerated in a jail or corrections facility;

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

1 9. All applicants for a medical marijuana business license,
2 research facility license or education facility license authorized
3 by this act shall undergo an Oklahoma criminal history background
4 check conducted by the Oklahoma State Bureau of Investigation (OSBI)
5 within thirty (30) days prior to the application for the license,
6 including:

- 7 a. individual applicants applying on their own behalf,
- 8 b. individuals applying on behalf of an entity,
- 9 c. all principal officers of an entity, and
- 10 d. all owners of an entity as defined by ~~this act~~ Section
11 427.2 of this title;

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

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

- 23 a. an unexpired Oklahoma-issued driver license,
- 24 b. an Oklahoma voter identification card,

- c. a utility bill preceding the date of application,
excluding cellular telephone and Internet bills,
- d. a residential property deed to property in the State
of Oklahoma, and
- e. a rental agreement preceding the date of application
for residential property located in the State of
Oklahoma.

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

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

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

- a. front and back of an Oklahoma driver license,
- b. front and back of an Oklahoma identification card,
- c. a United States passport or other photo identification
issued by the United States government,

1 d. certified copy of the applicant's birth certificate
2 for minor applicants who do not possess a document
3 listed in this section, or

4 e. a tribal identification card approved for
5 identification purposes by the Oklahoma Department of
6 Public Safety; and

7 14. All applicants shall submit an applicant photograph.

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

12 G. 1. The Authority shall review the medical marijuana
13 business applications and conduct all investigations, inspections
14 and interviews before approving the application.

15 2. Approved applicants shall be issued a medical marijuana
16 business license for the specific category applied under which shall
17 act as proof of their approved status. Rejection letters shall
18 provide a reason for the rejection. Applications may only be
19 rejected based on the applicant not meeting the standards set forth
20 in the provisions of this section, improper completion of the
21 application, or for a reason provided for in this act. If an
22 application is rejected for failure to provide required information,
23 the applicant shall have thirty (30) days to submit the required
24

1 information for reconsideration. No additional application fee
2 shall be charged for such reconsideration.

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

7 4. Approval, rejection or status-update letters shall be sent
8 to the applicant in the same method the application was submitted to
9 the ~~Department~~ Authority.

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

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

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

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

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

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

1 a. file taxes, interest or penalties due related to a
2 medical marijuana business, or

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

5 6. A sheriff, deputy sheriff, police officer or prosecuting
6 officer, or an officer or employee of the Authority or municipality;
7 or

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

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

22 J. The failure of an applicant to provide the requested
23 information by the Authority deadline may be grounds for denial of
24 the application.

1 K. All applicants shall submit information to the ~~Department~~
2 ~~and~~ Authority in a full, faithful, truthful and fair manner. The
3 ~~Department and~~ Authority may recommend denial of an application
4 where the applicant made misstatements, omissions,
5 misrepresentations or untruths in the application or in connection
6 with the background investigation of the applicant. This type of
7 conduct may be considered as the basis for additional administrative
8 action against the applicant. Typos and scrivener errors shall not
9 be grounds for denial.

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

16 M. All medical marijuana business licensees shall pay the
17 relevant licensure fees prior to receiving licensure to operate a
18 medical marijuana business, as defined in this act for each class of
19 license.

20 N. 1. Upon the effective date of this act, the license of a
21 medical marijuana dispensary, medical marijuana processor and
22 medical marijuana commercial grower may be assigned or otherwise
23 transferred from one person to another person, from one medical
24 marijuana business to another, or from one legal entity to another;

1 provided, however, a person may not transfer a license without first
2 applying for and receiving approval by the Oklahoma Medical
3 Marijuana Authority.

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

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

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

1 5. The Authority shall promulgate rules to implement the
2 provisions of this subsection.

3 SECTION 3. 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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8 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
9 SUBSTANCES, dated 02/08/2021 - DO PASS, As Amended.
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