

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. 2659

By: Echols

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to medical marijuana; amending
10 Section 1, State Question No. 788, Initiative
11 Petition No. 412, as last amended by Section 44,
12 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section
13 420), which relates to medical marijuana patient and
14 caregiver licenses; authorizing the possession of
15 topical marijuana; amending Section 2, Chapter 11,
16 O.S.L. 2019, as last amended by Section 48, Chapter
17 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 427.2),
18 which relates to the Oklahoma Medical Marijuana and
19 Patient Protection Act; modifying scope of certain
20 definition; and providing an effective date.

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

22 SECTION 1. AMENDATORY Section 1, State Question No. 788,
23 Initiative Petition No. 412, as last amended by Section 44, Chapter
24 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 420), is amended to
25 read as follows:

26 Section 420. A. A person in possession of a state-issued
27 medical marijuana patient license shall be able to:

1 1. Consume marijuana legally;

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

4 3. Legally possess six mature marijuana plants and the
5 harvested marijuana therefrom;

6 4. Legally possess six seedling plants;

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

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

10 7. Legally possess seventy-two (72) ounces of edible marijuana;
11 and

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

14 B. Possession of up to one and one-half (1.5) ounces of
15 marijuana by persons who can state a medical condition, but are not
16 in possession of a state-issued medical marijuana license, shall
17 constitute a misdemeanor offense punishable by a fine not to exceed
18 Four Hundred Dollars (\$400.00) and shall not be subject to
19 imprisonment for the offense. Any law enforcement officer who comes
20 in contact with a person in violation of this subsection and who is
21 satisfied as to the identity of the person, as well as any other
22 pertinent information the law enforcement officer deems necessary,
23 shall issue to the person a written citation containing a notice to
24 answer the charge against the person in the appropriate court. Upon

1 receiving the written promise of the alleged violator to answer as
2 specified in the citation, the law enforcement officer shall release
3 the person upon personal recognizance unless there has been a
4 violation of another provision of law.

5 C. A regulatory office shall be established under the State
6 Department of Health which shall receive applications for medical
7 marijuana license recipients, dispensaries, growers, and packagers
8 within sixty (60) days of the passage of this initiative.

9 D. The State Department of Health shall, within thirty (30)
10 days of passage of this initiative, make available on its website,
11 in an easy-to-find location, an application for a medical marijuana
12 license. The license shall be good for two (2) years. The
13 application fee shall be One Hundred Dollars (\$100.00), or Twenty
14 Dollars (\$20.00) for individuals on Medicaid, Medicare or
15 SoonerCare. The methods of payment shall be provided on the website
16 of the Department.

17 E. A short-term medical marijuana license application shall
18 also be made available on the website of the State Department of
19 Health. A short-term medical marijuana license shall be granted to
20 any applicant who can meet the requirements for a two-year medical
21 marijuana license, but whose physician recommendation for medical
22 marijuana is only valid for sixty (60) days. Short-term medical
23 marijuana licenses shall be issued for sixty (60) days. The fee for
24 a short-term medical marijuana license and the procedure for

1 extending or renewing the license shall be determined by the
2 Department.

3 F. A temporary license application shall also be made available
4 on the website of the Department. A temporary medical marijuana
5 license shall be granted to any medical marijuana license holder
6 from other states, provided that the state has a state-regulated
7 medical marijuana program, and the applicant can prove he or she is
8 a member of such program. Temporary licenses shall be issued for
9 thirty (30) days. The cost for a temporary license shall be One
10 Hundred Dollars (\$100.00). Renewal shall be granted with
11 resubmission of a new application. No additional criteria shall be
12 required.

13 G. Medical marijuana license applicants shall submit ~~his or her~~
14 their applications to the State Department of Health for approval.
15 The applicant shall be an Oklahoma state resident and shall prove
16 residency by a valid driver license, utility bills, or other
17 accepted methods.

18 H. The State Department of Health shall review the medical
19 marijuana application, approve or reject the application, and mail
20 the approval or rejection letter stating any reasons for rejection
21 to the applicant within fourteen (14) business days of receipt of
22 the application. Approved applicants shall be issued a medical
23 marijuana license which shall act as proof of his or her approved
24 status. Applications may only be rejected based on the applicant

1 not meeting stated criteria or improper completion of the
2 application.

3 I. The State Department of Health shall only keep the following
4 records for each approved medical marijuana license:

- 5 1. A digital photograph of the license holder;
- 6 2. The expiration date of the license;
- 7 3. The county where the card was issued; and
- 8 4. A unique 24-character identification number assigned to the
9 license.

10 J. The State Department of Health shall make available, both on
11 its website and through a telephone verification system, an easy
12 method to validate the authenticity of the medical marijuana license
13 by the unique 24-character identification number.

14 K. The State Department of Health shall ensure that all
15 application records and information are sealed to protect the
16 privacy of medical marijuana license applicants.

17 L. A caregiver license shall be made available for qualified
18 caregivers of a medical marijuana license holder who is homebound.
19 ~~As provided in Section 11 of Enrolled House Bill No. 2612 of the 1st~~
20 ~~Session of the 57th Oklahoma Legislature~~ 427.8 of this title, the
21 caregiver license shall provide the caregiver the same rights as the
22 medical marijuana patient licensee, including the ability to possess
23 marijuana, marijuana products and mature and immature plants
24 pursuant to the Oklahoma Medical Marijuana and Patient Protection

1 Act, but excluding the ability to use marijuana or marijuana
2 products unless the caregiver has a medical marijuana patient
3 license. An applicant for a caregiver license shall submit proof of
4 the license status and homebound status of the medical marijuana
5 patient and proof that the applicant is the designee of the medical
6 marijuana patient. The applicant shall also submit proof that he or
7 she is eighteen (18) years of age or older and proof of his or her
8 Oklahoma residency. This shall be the only criteria for a caregiver
9 license.

10 M. All applicants shall be eighteen (18) years of age or older.
11 A special exception shall be granted to an applicant under the age
12 of eighteen (18); however, these applications shall be signed by two
13 physicians and the parent or legal guardian of the applicant.

14 N. All applications for a medical marijuana license shall be
15 signed by an Oklahoma physician. There are no qualifying
16 conditions. A medical marijuana license must be recommended
17 according to the accepted standards a reasonable and prudent
18 physician would follow when recommending or approving any
19 medication. No physician may be unduly stigmatized or harassed for
20 signing a medical marijuana license application.

21 O. Counties and cities may enact medical marijuana guidelines
22 allowing medical marijuana license holders or caregivers to exceed
23 the state limits set forth in subsection A of this section.

24

SECTION 2. AMENDATORY Section 2, Chapter 11, O.S.L.

2019, as last amended by Section 48, Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 427.2), is amended to read as follows:

Section 427.2 As used in this act:

1. "Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication to induce directly or indirectly any person to patronize a particular medical marijuana business, or to purchase particular medical marijuana or a medical marijuana product. Advertising includes marketing, but does not include packaging and labeling;

2. "Authority" means the Oklahoma Medical Marijuana Authority;

3. "Batch number" means a unique numeric or alphanumeric identifier assigned prior to testing to allow for inventory tracking and traceability;

4. "Cannabinoid" means any of the chemical compounds that are active principles of marijuana;

5. "Caregiver" means a family member or assistant who regularly looks after a medical marijuana license holder whom a physician attests needs assistance;

6. "Child-resistant" means special packaging that is:

- a. designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for normal adults to use properly as

defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R.
1700.20 (1995),

b. opaque so that the outermost packaging does not allow
the product to be seen without opening the packaging
material, and

c. resealable to maintain its child-resistant
effectiveness for multiple openings for any product
intended for more than a single use or containing
multiple servings;

7. "Clone" means a nonflowering plant cut from a mother plant
that is capable of developing into a new plant and has shown no
signs of flowering;

8. "Commissioner" means the State Commissioner of Health;

9. "Complete application" means a document prepared in
accordance with the provisions set forth in this act, rules
promulgated pursuant thereto, and the forms and instructions
provided by the Department, including any supporting documentation
required and the applicable license application fee;

10. "Department" means the State Department of Health;

11. "Director" means the Executive Director of the Oklahoma
Medical Marijuana Authority;

12. "Dispense" means the selling of medical marijuana or a
medical marijuana product to a qualified patient or the designated
caregiver of the patient that is packaged in a suitable container

1 appropriately labeled for subsequent administration to or use by a
2 qualifying patient;

3 13. "Dispensary" means a medical marijuana dispensary, an
4 entity that has been licensed by the Department pursuant to ~~this act~~
5 the Oklahoma Medical Marijuana and Patient Protection Act to:

6 a. purchase medical marijuana or medical marijuana
7 products from a licensed medical marijuana commercial
8 grower, licensed medical marijuana dispensary or
9 licensed medical marijuana processor,

10 b. prepare and package non-infused, pre-rolled medical
11 marijuana,

12 c. sell or transfer products to another dispensary, or

13 d. sell medical marijuana or medical marijuana products
14 to licensed medical marijuana patients and licensed
15 caregivers as defined ~~under~~ in this ~~act,~~ ~~or sell or~~
16 ~~transfer products to another dispensary~~ section;

17 14. "Edible medical marijuana product" means any medical-
18 marijuana-infused product for which the intended use is oral
19 consumption including, but not limited to, any type of food, drink
20 or pill;

21 15. "Entity" means an individual, general partnership, limited
22 partnership, limited liability company, trust, estate, association,
23 corporation, cooperative, or any other legal or commercial entity;

1 16. "Flower" means the reproductive organs of the marijuana or
2 cannabis plant referred to as the bud or parts of the plant that are
3 harvested and used to consume in a variety of medical marijuana
4 products;

5 17. "Flowering" means the reproductive state of the marijuana
6 or cannabis plant in which there are physical signs of flower or
7 budding out of the nodes of the stem;

8 18. "Food-based medical marijuana concentrate" means a medical
9 marijuana concentrate that was produced by extracting cannabinoids
10 from medical marijuana through the use of propylene glycol,
11 glycerin, butter, olive oil, coconut oil or other typical food-safe
12 cooking fats;

13 19. "Good cause" for purposes of an initial, renewal or
14 reinstatement license application, or for purposes of discipline of
15 a licensee, means:

- 16 a. the licensee or applicant has violated, does not meet,
17 or has failed to comply with any of the terms,
18 conditions or provisions of the act, any rules
19 promulgated pursuant thereto, or any supplemental
20 relevant state or local law, rule or regulation,
21 b. the licensee or applicant has failed to comply with
22 any special terms or conditions that were placed upon
23 the license pursuant to an order of the State
24

1 Department of Health, Oklahoma Medical Marijuana
2 Authority or the municipality, or

3 c. the licensed premises of a medical marijuana business
4 or applicant have been operated in a manner that
5 adversely affects the public health or welfare or the
6 safety of the immediate vicinity in which the
7 establishment is located;

8 20. "Harvest batch" means a specifically identified quantity of
9 medical marijuana that is uniform in strain, cultivated utilizing
10 the same cultivation practices, harvested at the same time from the
11 same location and cured under uniform conditions;

12 21. "Harvested marijuana" means post-flowering medical
13 marijuana not including trim, concentrate or waste;

14 22. "Heat- or pressure-based medical marijuana concentrate"
15 means a medical marijuana concentrate that was produced by
16 extracting cannabinoids from medical marijuana through the use of
17 heat or pressure;

18 23. "Immature plant" means a nonflowering marijuana plant that
19 has not demonstrated signs of flowering;

20 24. "Inventory tracking system" means the required tracking
21 system that accounts for medical marijuana from either the seed or
22 immature plant stage until the medical marijuana or medical
23 marijuana product is sold to a patient at a medical marijuana
24 dispensary, transferred to a medical marijuana research facility,

1 destroyed by a medical marijuana business or used in a research
2 project by a medical marijuana research facility;

3 25. "Licensed patient" or "patient" means a person who has been
4 issued a medical marijuana patient license by the State Department
5 of Health or Oklahoma Medical Marijuana Authority;

6 26. "Licensed premises" means the premises specified in an
7 application for a medical marijuana business license, medical
8 marijuana research facility license or medical marijuana education
9 facility license pursuant to this act that are owned or in
10 possession of the licensee and within which the licensee is
11 authorized to cultivate, manufacture, distribute, sell, store,
12 transport, test or research medical marijuana or medical marijuana
13 products in accordance with the provisions of this act and rules
14 promulgated pursuant thereto;

15 27. "Manufacture" means the production, propagation,
16 compounding or processing of a medical marijuana product, excluding
17 marijuana plants, either directly or indirectly by extraction from
18 substances of natural or synthetic origin, or independently by means
19 of chemical synthesis, or by a combination of extraction and
20 chemical synthesis;

21 28. "Marijuana" shall have the same meaning as such term is
22 defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

23 29. "Material change" means any change that would require a
24 substantive revision to the standard operating procedures of a

licensee for the cultivation or production of medical marijuana,
medical marijuana concentrate or medical marijuana products;

30. "Mature plant" means a harvestable female marijuana plant
that is flowering;

31. "Medical marijuana business (MMB)" means a licensed medical
marijuana dispensary, medical marijuana processor, medical marijuana
commercial grower, medical marijuana laboratory, medical marijuana
business operator, or a medical marijuana transporter;

32. "Medical marijuana concentrate" or "concentrate" means a
specific subset of medical marijuana that was produced by extracting
cannabinoids from medical marijuana. Categories of medical
marijuana concentrate include water-based medical marijuana
concentrate, food-based medical marijuana concentrate, solvent-based
medical marijuana concentrate, and heat- or pressure-based medical
marijuana concentrate;

33. "Medical marijuana commercial grower" or "commercial
grower" means an entity licensed to cultivate, prepare and package
medical marijuana and transfer or contract for transfer medical
marijuana to a medical marijuana dispensary, medical marijuana
processor, any other medical marijuana commercial grower, medical
marijuana research facility, medical marijuana education facility
and pesticide manufacturers. A commercial grower may sell seeds,
flower or clones to commercial growers pursuant to this act;

1 34. "Medical marijuana education facility" or "education
2 facility" means a person or entity approved pursuant to this act to
3 operate a facility providing training and education to individuals
4 involving the cultivation, growing, harvesting, curing, preparing,
5 packaging or testing of medical marijuana, or the production,
6 manufacture, extraction, processing, packaging or creation of
7 medical-marijuana-infused products or medical marijuana products as
8 described in this act;

9 35. "Medical-marijuana-infused product" means a product infused
10 with medical marijuana including, but not limited to, edible
11 products, ointments and tinctures;

12 36. "Medical marijuana product" or "product" means a product
13 that contains cannabinoids that have been extracted from plant
14 material or the resin therefrom by physical or chemical means and is
15 intended for administration to a qualified patient including, but
16 not limited to, oils, tinctures, edibles, pills, topical forms,
17 gels, creams, vapors, patches, liquids, and forms administered by a
18 nebulizer, excluding live plant forms which are considered medical
19 marijuana;

20 37. "Medical marijuana processor" means a person or entity
21 licensed pursuant to this act to operate a business including the
22 production, manufacture, extraction, processing, packaging or
23 creation of concentrate, medical-marijuana-infused products or
24 medical marijuana products as described in this act;

1 38. "Medical marijuana research facility" or "research
2 facility" means a person or entity approved pursuant to this act to
3 conduct medical marijuana research. A medical marijuana research
4 facility is not a medical marijuana business;

5 39. "Medical marijuana testing laboratory" or "laboratory"
6 means a public or private laboratory licensed pursuant to this act,
7 to conduct testing and research on medical marijuana and medical
8 marijuana products;

9 40. "Medical marijuana transporter" or "transporter" means a
10 person or entity that is licensed pursuant to this act. A medical
11 marijuana transporter does not include a medical marijuana business
12 that transports its own medical marijuana, medical marijuana
13 concentrate or medical marijuana products to a property or facility
14 adjacent to or connected to the licensed premises if the property is
15 another licensed premises of the same medical marijuana business;

16 41. "Medical marijuana waste" or "waste" means unused, surplus,
17 returned or out-of-date marijuana, plant debris of the plant of the
18 genus Cannabis, including dead plants and all unused plant parts and
19 roots, except the term shall not include roots, stems, stalks and
20 fan leaves;

21 42. "Medical use" means the acquisition, possession, use,
22 delivery, transfer or transportation of medical marijuana, medical
23 marijuana products, medical marijuana devices or paraphernalia
24

1 relating to the administration of medical marijuana to treat a
2 licensed patient;

3 43. "Mother plant" means a marijuana plant that is grown or
4 maintained for the purpose of generating clones, and that will not
5 be used to produce plant material for sale to a medical marijuana
6 processor or medical marijuana dispensary;

7 44. "Oklahoma physician" or "physician" means a physician
8 licensed by and in good standing with the State Board of Medical
9 Licensure and Supervision, the State Board of Osteopathic Examiners
10 or the Board of Podiatric Medical Examiners;

11 45. "Oklahoma resident" means an individual who can provide
12 proof of residency as required by this act;

13 46. "Owner" means, except where the context otherwise requires,
14 a direct beneficial owner including, but not limited to, all persons
15 or entities as follows:

- 16 a. all shareholders owning an interest of a corporate
17 entity and all officers of a corporate entity,
- 18 b. all partners of a general partnership,
- 19 c. all general partners and all limited partners that own
20 an interest in a limited partnership,
- 21 d. all members that own an interest in a limited
22 liability company,
- 23 e. all beneficiaries that hold a beneficial interest in a
24 trust and all trustees of a trust,

- 1 f. all persons or entities that own interest in a joint
2 venture,
3 g. all persons or entities that own an interest in an
4 association,
5 h. the owners of any other type of legal entity, and
6 i. any other person holding an interest or convertible
7 note in any entity which owns, operates or manages a
8 licensed facility;

9 47. "Package" or "packaging" means any container or wrapper
10 that may be used by a medical marijuana business to enclose or
11 contain medical marijuana;

12 48. "Person" means a natural person, partnership, association,
13 business trust, company, corporation, estate, limited liability
14 company, trust or any other legal entity or organization, or a
15 manager, agent, owner, director, servant, officer or employee
16 thereof, except that "person" does not include any governmental
17 organization;

18 49. "Pesticide" means any substance or mixture of substances
19 intended for preventing, destroying, repelling or mitigating any
20 pest or any substance or mixture of substances intended for use as a
21 plant regulator, defoliant or desiccant, except that the term
22 "pesticide" shall not include any article that is a "new animal
23 drug" as designated by the United States Food and Drug
24 Administration;

1 50. "Production batch" means:

2 a. any amount of medical marijuana concentrate of the
3 same category and produced using the same extraction
4 methods, standard operating procedures and an
5 identical group of harvest batch of medical marijuana,
6 or

7 b. any amount of medical marijuana product of the same
8 exact type, produced using the same ingredients,
9 standard operating procedures and the same production
10 batch of medical marijuana concentrate;

11 51. "Public institution" means any entity established or
12 controlled by the federal government, state government, or a local
13 government or municipality including, but not limited to,
14 institutions of higher education or related research institutions;

15 52. "Public money" means any funds or money obtained by the
16 holder from any governmental entity including, but not limited to,
17 research grants;

18 53. "Recommendation" means a document that is signed or
19 electronically submitted by a physician on behalf of a patient for
20 the use of medical marijuana pursuant to this act;

21 54. "Registered to conduct business" means a person that has
22 provided proof that the business applicant is in good standing with
23 the Oklahoma Secretary of State and Oklahoma Tax Commission;

1 55. "Remediation" means the process by which the medical
2 marijuana flower or trim, which has failed microbial testing, is
3 processed into solvent-based medical marijuana concentrate and
4 retested as required by this act;

5 56. "Research project" means a discrete scientific endeavor to
6 answer a research question or a set of research questions related to
7 medical marijuana and is required for a medical marijuana research
8 license. A research project shall include a description of a
9 defined protocol, clearly articulated goals, defined methods and
10 outputs, and a defined start and end date. The description shall
11 demonstrate that the research project will comply with all
12 requirements in this act and rules promulgated pursuant thereto.
13 All research and development conducted by a medical marijuana
14 research facility shall be conducted in furtherance of an approved
15 research project;

16 57. "Revocation" means the final decision by the Department
17 that any license issued pursuant to this act is rescinded because
18 the individual or entity does not comply with the applicable
19 requirements set forth in this act or rules promulgated pursuant
20 thereto;

21 58. "School" means a public or private preschool or a public or
22 private elementary or secondary school used for school classes and
23 instruction. A homeschool, daycare or child-care facility shall not
24 be considered a "school" as used in this act;

1 59. "Shipping container" means a hard-sided container with a
2 lid or other enclosure that can be secured in place. A shipping
3 container is used solely for the transport of medical marijuana,
4 medical marijuana concentrate, or medical marijuana products between
5 medical marijuana businesses, a medical marijuana research facility,
6 or a medical marijuana education facility;

7 60. "Solvent-based medical marijuana concentrate" means a
8 medical marijuana concentrate that was produced by extracting
9 cannabinoids from medical marijuana through the use of a solvent
10 approved by the Department;

11 61. "State Question" means Oklahoma State Question No. 788,
12 Initiative Petition No. 412, approved by a majority vote of the
13 citizens of Oklahoma on June 26, 2018;

14 62. "Strain" means the classification of marijuana or cannabis
15 plants in either pure sativa, indica, afghanica, ruderalis or hybrid
16 varieties;

17 63. "THC" means tetrahydrocannabinol, which is the primary
18 psychotropic cannabinoid in marijuana formed by decarboxylation of
19 naturally tetrahydrocannabinolic acid, which generally occurs by
20 exposure to heat;

21 64. "Test batch" means with regard to usable marijuana, a
22 homogenous, identified quantity of usable marijuana by strain, no
23 greater than ten (10) pounds, that is harvested during a seven-day
24 period from a specified cultivation area, and with regard to oils,

1 vapors and waxes derived from usable marijuana, means an identified
2 quantity that is uniform, that is intended to meet specifications
3 for identity, strength and composition, and that is manufactured,
4 packaged and labeled during a specified time period according to a
5 single manufacturing, packaging and labeling protocol;

6 65. "Transporter agent" means a person who transports medical
7 marijuana or medical marijuana products for a licensed transporter
8 and holds a transporter agent license pursuant to this act;

9 66. "Universal symbol" means the image established by the State
10 Department of Health or Oklahoma Medical Marijuana Authority and
11 made available to licensees through its website indicating that the
12 medical marijuana or the medical marijuana product contains THC;

13 67. "Usable marijuana" means the dried leaves, flowers, oils,
14 vapors, waxes and other portions of the marijuana plant and any
15 mixture or preparation thereof, excluding seed, roots, stems, stalks
16 and fan leaves; and

17 68. "Water-based medical marijuana concentrate" means a
18 concentrate that was produced by extracting cannabinoids from
19 medical marijuana through the use of only water, ice, or dry ice.

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

21
22 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
23 SUBSTANCES, dated 03/01/2021 - DO PASS, As Amended.
24