

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. 2660

By: Echols

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to medical marijuana; amending
10 Section 4, State Question No. 788, Initiative
11 Petition No. 412 (63 O.S. Supp. 2020, Section 423),
12 which relates to medical marijuana processor
13 licensing requirements; providing for the issuance of
14 volatile and nonvolatile processor licenses; updating
15 language; amending Section 17, Chapter 11, O.S.L.
16 2019, as amended by Section 4, Chapter 312, O.S.L.
17 2019 (63 O.S. Supp. 2020, Section 427.17), which
18 relates to the Oklahoma Medical Marijuana and Patient
19 Protection Act; modifying test batch requirements for
20 licensed medical marijuana commercial growers and
21 processors; defining certain term; and providing an
22 effective date.

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

24 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

1 application for a medical marijuana ~~processing~~ processor license.

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

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

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

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

19 B. The ~~Oklahoma State Department of Health~~ must shall approve
20 all applications which meet the following criteria:

21 1. Applicant must be age twenty-five (25) or older;

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 2. AMENDATORY Section 17, Chapter 11, O.S.L.
9 2019, as amended by Section 4, Chapter 312, O.S.L. 2019 (63 O.S.
10 Supp. 2020, Section 427.17), is amended to read as follows:

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

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

21 C. The Authority shall have the authority to develop acceptable
22 testing and research practices, including but not limited to
23 testing, standards, quality control analysis, equipment
24 certification and calibration, and chemical identification and

1 substances used in bona fide research methods so long as it complies
2 with this act.

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

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

10 F. A separate license shall be required for each specific
11 laboratory.

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

21 H. A laboratory applicant shall comply with the application
22 requirements of this section and shall submit such other information
23 as required for a medical marijuana business applicant, in addition
24

1 to any information the Authority may request for initial approval
2 and periodic evaluations during the approval period.

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

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

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

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

22 K. A medical marijuana testing laboratory may transfer samples
23 to another medical marijuana testing laboratory for testing. All
24 laboratory reports provided to or by a medical marijuana business or

1 to a patient or caregiver shall identify the medical marijuana
2 testing laboratory that actually conducted the test.

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

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

1 N. The Department, pursuant to rules promulgated by the State
2 Commissioner of Health, shall develop standards, policies and
3 procedures as necessary for:

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

8 2. Testing procedures, testing standards for cannabinoid and
9 terpenoid potency and safe levels of contaminants, and remediation
10 procedures;

11 3. Controlled access areas for storage of medical marijuana and
12 medical marijuana product test samples, waste and reference
13 standards;

14 4. Records to be retained and computer systems to be utilized
15 by the laboratory;

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

18 6. A certificate of analysis (COA) for each lot of reference
19 standard;

20 7. The transport and disposal of unused marijuana, marijuana
21 products and waste;

22 8. The mandatory use by a laboratory of an inventory tracking
23 system to ensure all test batches or samples containing medical
24 marijuana, medical marijuana concentrate or medical marijuana

1 products are identified and tracked from the point they are
2 transferred from a medical marijuana business, a patient or a
3 caregiver through the point of transfer, destruction or disposal.
4 The inventory tracking system reporting shall include the results of
5 any tests that are conducted on medical marijuana, medical marijuana
6 concentrate or medical marijuana product;

7 9. Standards of performance;

8 10. The employment of laboratory personnel;

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

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

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

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

20 15. The establishment by the laboratory of a system to retain
21 and maintain all required records, including business records, and
22 processes to ensure results are reported in a timely and accurate
23 manner; and
24

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

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

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

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

- 21 1. Microbials;
- 22 2. Mycotoxins;
- 23 3. Residual solvents;
- 24 4. Pesticides;

5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
6. Terpenoid potency; and
7. Heavy metals.

R. A test batch shall not exceed ten (10) pounds of usable marijuana or medical marijuana product, as appropriate. A grower shall separate each harvest lot of usable marijuana into harvest batches containing no more than ~~ten (10)~~ twenty-five (25) pounds. A processor shall separate each medical marijuana production lot into production batches containing no more than ~~ten (10) pounds~~ four (4) liters of distillate and for final products, the Oklahoma Medical Marijuana Authority shall be authorized to promulgate rules on final products as necessary. Provided, however, the Authority shall not require testing of final products more often than every two hundred (200) grams of THC, unless the batch size processed is less than two hundred (200) grams of THC. As used in this subsection, "final products" shall include, but not be limited to, cookies, brownies, candies, gummies and chocolates.

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

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

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

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

15 SECTION 3. This act shall become effective November 1, 2021.
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17 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
18 SUBSTANCES, dated 03/01/2021 - DO PASS, As Amended.
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