

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1195

By: Bergstrom

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5  
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending 63  
8 O.S. 2021, Section 425, which relates to  
9 discrimination against medical marijuana license  
10 holder; prohibiting certain medical marijuana  
11 facilities from operating in certain areas; modifying  
12 entities included in zoning regulations; removing  
13 exception; amending 63 O.S. 2021, Section 427.2,  
14 which relates to definitions; providing exception;  
15 clarifying language; and declaring an emergency.

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

17 SECTION 1. AMENDATORY 63 O.S. 2021, Section 425, is  
18 amended to read as follows:

19 Section 425. A. No school or landlord may refuse to enroll or  
20 lease to and may not otherwise penalize a person solely for his or  
21 her status as a medical marijuana patient licensee, unless failing  
22 to do so would cause the school or landlord the potential to lose a  
23 monetary or licensing-related benefit under federal law or  
24 regulations.

25 B. Unless a failure to do so would cause an employer the  
26 potential to lose a monetary or licensing-related benefit under

1 federal law or regulations, an employer may not discriminate against  
2 a person in hiring, termination or imposing any term or condition of  
3 employment or otherwise penalize a person based upon the status of  
4 the person as a medical marijuana patient licensee. Employers may  
5 take action against a medical marijuana patient licensee if the  
6 licensee uses or possesses marijuana while in his or her place of  
7 employment or during the hours of employment. Employers may not  
8 take action against a medical marijuana patient licensee solely  
9 based upon the status of an employee as a medical marijuana patient  
10 licensee or the results of a drug test showing positive for  
11 marijuana or its components.

12 C. For the purposes of medical care, including organ  
13 transplants, the authorized use of marijuana by a medical marijuana  
14 patient licensee shall be considered the equivalent of the use of  
15 any other medication under the direction of a physician and does not  
16 constitute the use of an illicit substance or otherwise disqualify a  
17 registered qualifying patient from medical care.

18 D. No medical marijuana patient licensee may be denied custody  
19 of or visitation or parenting time with a minor child, and there is  
20 no presumption of neglect or child endangerment for conduct allowed  
21 under this law unless the behavior of the medical marijuana patient  
22 licensee creates an unreasonable danger to the safety of the minor  
23 child.

1 E. No person who possesses a medical marijuana patient license  
2 may be unduly withheld from holding another state-issued license by  
3 virtue of his or her status as a medical marijuana patient licensee  
4 including, but not limited to, a concealed carry permit.

5 F. 1. No city or local municipality may unduly change or  
6 restrict zoning laws to prevent the opening of a medical marijuana  
7 dispensary.

8 2. For purposes of this subsection, an undue change or  
9 restriction of municipal zoning laws means an act which entirely  
10 prevents medical marijuana dispensaries from operating within  
11 municipal boundaries as a matter of law. Municipalities may follow  
12 their standard planning and zoning procedures to determine if  
13 certain zones or districts would be appropriate for locating  
14 marijuana-licensed premises, medical marijuana businesses or any  
15 other premises where marijuana or its by-products are cultivated,  
16 grown, processed, stored or manufactured.

17 3. A medical marijuana dispensary does not include those other  
18 entities licensed by the Oklahoma Medical Marijuana Authority as  
19 marijuana-licensed premises, medical marijuana businesses or other  
20 facilities or locations where marijuana or any product containing  
21 marijuana or its by-products are cultivated, grown, processed,  
22 stored or manufactured.

23 G. The location of any medical marijuana dispensary, commercial  
24 grower, or processor facility is specifically prohibited within one

1 thousand (1,000) feet of any public school ~~or~~, private school, or  
2 childcare facility. The distance indicated in this subsection shall  
3 be measured from the nearest property line of such public school ~~or~~,  
4 private school, or childcare facility to the nearest perimeter wall  
5 of the licensed premises of such medical marijuana dispensary,  
6 commercial grower, or processor facility. If a medical marijuana  
7 dispensary, commercial grower, or processor facility met the  
8 requirements of this subsection at the time of its initial  
9 licensure, the medical marijuana dispensary, commercial grower, or  
10 processor facility licensee shall be permitted to continue operating  
11 at the licensed premises in the same manner and not be subject to  
12 nonrenewal or revocation due to subsequent events or changes in  
13 regulations occurring after licensure that would render the medical  
14 marijuana dispensary, commercial grower, or processor facility in  
15 violation by being within one thousand (1,000) feet of a public  
16 school ~~or~~, private school, or childcare facility. If any public  
17 school ~~or~~, private school, or childcare facility is established  
18 within one thousand (1,000) feet of any medical marijuana dispensary  
19 after such medical marijuana dispensary, commercial grower, or  
20 processor facility has been licensed, the provisions of this  
21 subsection shall not be a deterrent to the renewal of such license  
22 or warrant revocation of the license. For purposes of this  
23 subsection, a property owned, used or operated by a public school ~~or~~  
24 ~~by a~~, private school, or childcare facility that is not used for

1 classroom instruction on core curriculum, such as an administrative  
2 building, athletic facility, ballpark, field or stadium, shall ~~not~~  
3 constitute a public school ~~or~~, private school ~~unless such property~~  
4 ~~is located on the same campus as a building used for classroom~~  
5 ~~instruction on core curriculum, or childcare facility.~~

6 H. Research shall be provided for under this law. A researcher  
7 may apply to the State Department of Health for a special research  
8 license. The research license shall be granted, provided the  
9 applicant meets the criteria listed in the Oklahoma Medical  
10 Marijuana and Patient Protection Act. Research licensees shall be  
11 required to file monthly consumption reports to the State Department  
12 of Health with amounts of marijuana used for research. Biomedical  
13 and clinical research which is subject to federal regulations and  
14 institutional oversight shall not be subject to oversight by the  
15 State Department of Health.

16 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.2, is  
17 amended to read as follows:

18 Section 427.2. As used in the Oklahoma Medical Marijuana and  
19 Patient Protection Act:

20 1. "Advertising" means the act of providing consideration for  
21 the publication, dissemination, solicitation, or circulation, of  
22 visual, oral, or written communication to induce directly or  
23 indirectly any person to patronize a particular medical marijuana  
24 business, or to purchase particular medical marijuana or a medical

1 marijuana product. Advertising includes marketing, but does not  
2 include packaging and labeling;

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

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

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

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

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

13 a. designed or constructed to be significantly difficult  
14 for children under five (5) years of age to open and  
15 not difficult for normal adults to use properly as  
16 defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R.  
17 1700.20 (1995),

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

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

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

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

5 9. "Complete application" means a document prepared in  
6 accordance with the provisions set forth in the Oklahoma Medical  
7 Marijuana and Patient Protection Act, rules promulgated pursuant  
8 thereto, and the forms and instructions provided by the Department,  
9 including any supporting documentation required and the applicable  
10 license application fee;

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

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

14 12. "Dispense" means the selling of medical marijuana or a  
15 medical marijuana product to a qualified patient or the designated  
16 caregiver of the patient that is packaged in a suitable container  
17 appropriately labeled for subsequent administration to or use by a  
18 qualifying patient;

19 13. "Dispensary" means a medical marijuana dispensary, an  
20 entity that has been licensed by the Department pursuant to the  
21 Oklahoma Medical Marijuana and Patient Protection Act to purchase  
22 medical marijuana or medical marijuana products from a licensed  
23 medical marijuana commercial grower or licensed medical marijuana  
24 processor, to prepare and package noninfused pre-rolled medical  
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1 marijuana, and to sell medical marijuana or medical marijuana  
2 products to licensed patients and caregivers as defined in this  
3 section, or sell or transfer products to another licensed  
4 dispensary;

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

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

12 16. "Flower" means the reproductive organs of the marijuana or  
13 cannabis plant referred to as the bud or parts of the plant that are  
14 harvested and used for consumption in a variety of medical marijuana  
15 products;

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

19 18. "Food-based medical marijuana concentrate" means a medical  
20 marijuana concentrate that was produced by extracting cannabinoids  
21 from medical marijuana through the use of propylene glycol,  
22 glycerin, butter, olive oil, coconut oil or other typical food-safe  
23 cooking fats;

1 19. "Harvest batch" means a specifically identified quantity of  
2 medical marijuana that is uniform in strain, cultivated utilizing  
3 the same cultivation practices, harvested at the same time from the  
4 same location and cured under uniform conditions;

5 20. "Harvested marijuana" means postflowering medical marijuana  
6 not including trim, concentrate or waste;

7 21. "Heat- or pressure-based medical marijuana concentrate"  
8 means a medical marijuana concentrate that was produced by  
9 extracting cannabinoids from medical marijuana through the use of  
10 heat or pressure;

11 22. "Immature plant" means a nonflowering marijuana plant that  
12 has not demonstrated signs of flowering;

13 23. "Inventory tracking system" means the required tracking  
14 system that accounts for the entire life span of medical marijuana  
15 and medical marijuana products, including any testing samples  
16 thereof and medical marijuana waste;

17 24. "Licensed patient" or "patient" means a person who has been  
18 issued a medical marijuana patient license by the State Department  
19 of Health or Oklahoma Medical Marijuana Authority;

20 25. "Licensed premises" means the premises specified in an  
21 application for a medical marijuana business license, medical  
22 marijuana research facility license or medical marijuana education  
23 facility license pursuant to the Oklahoma Medical Marijuana and  
24 Patient Protection Act that are owned or in possession of the  
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1 licensee and within which the licensee is authorized to cultivate,  
2 manufacture, distribute, sell, store, transport, test or research  
3 medical marijuana or medical marijuana products in accordance with  
4 the provisions of the Oklahoma Medical Marijuana and Patient  
5 Protection Act and rules promulgated pursuant thereto;

6 26. "Manufacture" means the production, propagation,  
7 compounding or processing of a medical marijuana product, excluding  
8 marijuana plants, either directly or indirectly by extraction from  
9 substances of natural or synthetic origin, or independently by means  
10 of chemical synthesis, or by a combination of extraction and  
11 chemical synthesis;

12 27. "Marijuana" shall have the same meaning as such term is  
13 defined in Section 2-101 of this title;

14 28. "Material change" means any change that would affect the  
15 qualifications for licensure of an applicant or licensee;

16 29. "Mature plant" means a harvestable female marijuana plant  
17 that is flowering;

18 30. "Medical marijuana business (MMB)" means a licensed medical  
19 marijuana dispensary, medical marijuana processor, medical marijuana  
20 commercial grower, medical marijuana laboratory, medical marijuana  
21 business operator or a medical marijuana transporter;

22 31. "Medical marijuana concentrate" or "concentrate" means a  
23 specific subset of medical marijuana that was produced by extracting  
24 cannabinoids from medical marijuana. Categories of medical  
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1 marijuana concentrate include water-based medical marijuana  
2 concentrate, food-based medical marijuana concentrate, solvent-based  
3 medical marijuana concentrate, and heat- or pressure-based medical  
4 marijuana concentrate;

5 32. "Medical marijuana commercial grower" or "commercial  
6 grower" means an entity licensed to cultivate, prepare and package  
7 medical marijuana or package medical marijuana as pre-rolls, and  
8 transfer or contract for transfer medical marijuana and medical  
9 marijuana pre-rolls to a medical marijuana dispensary, medical  
10 marijuana processor, any other medical marijuana commercial grower,  
11 medical marijuana research facility or medical marijuana education  
12 facility. A commercial grower may sell seeds, flower or clones to  
13 commercial growers pursuant to the Oklahoma Medical Marijuana and  
14 Patient Protection Act;

15 33. "Medical marijuana education facility" or "education  
16 facility" means a person or entity approved pursuant to the Oklahoma  
17 Medical Marijuana and Patient Protection Act to operate a facility  
18 providing training and education to individuals involving the  
19 cultivation, growing, harvesting, curing, preparing, packaging or  
20 testing of medical marijuana, or the production, manufacture,  
21 extraction, processing, packaging or creation of medical-marijuana-  
22 infused products or medical marijuana products as described in the  
23 Oklahoma Medical Marijuana and Patient Protection Act;

1 34. "Medical-marijuana-infused product" means a product infused  
2 with medical marijuana including, but not limited to, edible  
3 products, ointments and tinctures;

4 35. "Medical marijuana product" or "product" means a product  
5 that contains cannabinoids that have been extracted from plant  
6 material or the resin therefrom by physical or chemical means and is  
7 intended for administration to a qualified patient including, but  
8 not limited to, oils, tinctures, edibles, pills, topical forms,  
9 gels, creams, vapors, patches, liquids, and forms administered by a  
10 nebulizer, excluding live plant forms which are considered medical  
11 marijuana;

12 36. "Medical marijuana processor" means a person or entity  
13 licensed pursuant to the Oklahoma Medical Marijuana and Patient  
14 Protection Act to operate a business including the production,  
15 manufacture, extraction, processing, packaging or creation of  
16 concentrate, medical-marijuana-infused products or medical marijuana  
17 products as described in the Oklahoma Medical Marijuana and Patient  
18 Protection Act;

19 37. "Medical marijuana research facility" or "research  
20 facility" means a person or entity approved pursuant to the Oklahoma  
21 Medical Marijuana and Patient Protection Act to conduct medical  
22 marijuana research. A medical marijuana research facility is not a  
23 medical marijuana business;

1 38. "Medical marijuana testing laboratory" or "laboratory"  
2 means a public or private laboratory licensed pursuant to the  
3 Oklahoma Medical Marijuana and Patient Protection Act to conduct  
4 testing and research on medical marijuana and medical marijuana  
5 products;

6 39. "Medical marijuana transporter" or "transporter" means a  
7 person or entity that is licensed pursuant to the Oklahoma Medical  
8 Marijuana and Patient Protection Act. A medical marijuana  
9 transporter does not include a medical marijuana business that  
10 transports its own medical marijuana, medical marijuana concentrate  
11 or medical marijuana products to a property or facility adjacent to  
12 or connected to the licensed premises if the property is another  
13 licensed premises of the same medical marijuana business;

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

19 41. "Medical use" means the acquisition, possession, use,  
20 delivery, transfer or transportation of medical marijuana, medical  
21 marijuana products, medical marijuana devices or paraphernalia  
22 relating to the administration of medical marijuana to treat a  
23 licensed patient;

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

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

9 44. "Oklahoma resident" means an individual who can provide  
10 proof of residency as required by the Oklahoma Medical Marijuana and  
11 Patient Protection Act;

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

- 15 a. all shareholders owning an interest of a corporate  
16 entity and all officers of a corporate entity,
- 17 b. all partners of a general partnership,
- 18 c. all general partners and all limited partners that own  
19 an interest in a limited partnership,
- 20 d. all members that own an interest in a limited  
21 liability company,
- 22 e. all beneficiaries that hold a beneficial interest in a  
23 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 46. "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 47. "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 48. "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 49. "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 50. "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 51. "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 52. "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 the Oklahoma Medical  
21 Marijuana and Patient Protection Act;

22 53. "Registered to conduct business" means a person that has  
23 provided proof that the business applicant or licensee is in good  
24 standing with the ~~Oklahoma~~ Secretary of State;

1 54. "Remediation" means the process by which a harvest batch or  
2 production batch that fails testing undergoes a procedure to remedy  
3 the harvest batch or production batch and is retested in accordance  
4 with Oklahoma laws, rules and regulations;

5 55. "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 the Oklahoma Medical Marijuana and Patient  
13 Protection Act and rules promulgated pursuant thereto. All research  
14 and development conducted by a medical marijuana research facility  
15 shall be conducted in furtherance of an approved research project;

16 56. "Revocation" means the final decision by the Department  
17 that any license issued pursuant to the Oklahoma Medical Marijuana  
18 and Patient Protection Act is rescinded because the individual or  
19 entity does not comply with the applicable requirements set forth in  
20 the Oklahoma Medical Marijuana and Patient Protection Act or rules  
21 promulgated pursuant thereto;

22 57. "School" means a public or private elementary, middle or  
23 high school used for school classes and instruction, except as  
24 provided in subsection G of Section 425 of this title. A

1 homeschool, ~~daycare or child-care~~ facility shall not be considered a  
2 "school" as used in the Oklahoma Medical Marijuana and Patient  
3 Protection Act;

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

10 59. "Solvent-based medical marijuana concentrate" means a  
11 medical marijuana concentrate that was produced by extracting  
12 cannabinoids from medical marijuana through the use of a solvent  
13 approved by the Department;

14 60. "State Question" means Oklahoma State Question No. 788,  
15 Initiative Petition No. 412, approved by a majority vote of the  
16 citizens of Oklahoma on June 26, 2018;

17 61. "Strain" means the name given to a particular variety of  
18 medical marijuana that is based on a combination of factors which  
19 may include, but is not limited to, botanical lineage, appearance,  
20 chemical profile and accompanying effects. An example of a "strain"  
21 would be "OG Kush" or "Pineapple Express";

22 62. "THC" means tetrahydrocannabinol, which is the primary  
23 psychotropic cannabinoid in marijuana formed by decarboxylation of  
24

1 naturally tetrahydrocannabinolic acid, which generally occurs by  
2 exposure to heat;

3 63. "Transporter agent" means a person who transports medical  
4 marijuana or medical marijuana products as an employee of a licensed  
5 medical marijuana business and holds a transporter agent license  
6 specific to that business pursuant to the Oklahoma Medical Marijuana  
7 and Patient Protection Act;

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

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

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

19 SECTION 3. It being immediately necessary for the preservation  
20 of the public peace, health or safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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