

Bill Summary
1st Session of the 58th Legislature

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Bill Analysis

HB 2040 changes several provisions of law relating to medical marijuana usage, production, and disposal. The measure provides that patient licenses must be signed by an Oklahoma physician licensed by and in good standing with the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners. Patients are authorized by the measure to request the withdrawal of their caregiver's license at any time.

The measure extends the time for the Department of Health to review dispensary licenses from 2 weeks to 90 days. Additionally, the measure authorizes dispensaries to package and sell pre-rolled marijuana to licensed medical marijuana patients and licensed caregivers. Such products shall contain only the ground parts of the marijuana plant and shall not include marijuana concentrates or derivatives and may not exceed 1 gram. Dispensaries are also prohibited from displaying or offering for sale products not contained in a sealed or separate package. Commercial growers are authorized by the measure to sell pre-rolled marijuana to dispensaries. Such products shall be subject to the same limitations placed on dispensaries as it relates to pre-rolled marijuana. Additionally, the measure provides that the State Department of Health may issue 2 types of processor licenses for hazardous and non-hazardous materials. Licensed commercial growers may transfer medical marijuana that has failed testing to a licensed processor only for the purposes of decontamination or remediation.

The measure clarifies that the Department may also inspect a processing facility up to 2 times a year. The Department is also directed to establish regulations which require a medical marijuana business to submit information to the Oklahoma Medical Marijuana Authority deemed reasonably necessary to assist the Authority in the prevention of diversion of medical marijuana by a licensed medical marijuana business. Business licensees are required to submit a sample or unit of medical marijuana or medical marijuana product to the quality assurance laboratory when the Department has reason to believe the medical marijuana or medical marijuana product may be unsafe for patient consumption. The measure establishes fines for fraudulently reporting within a 2-year period information as well. The fine is set at \$5,000.00 for the first violation and \$10,000.00 for second and subsequent violations. Licensees whose license was suspended or revoked during the 5 years preceding an application shall be denied a license.

The Department is authorized by the measure to issue a written order to any licensee the Department has reason to believe has committed a violation. The written order shall state with specificity the nature of the violation and shall become a final order not more than 30 days after the order is served to the licensee. The licensee may request an administrative hearing. The

Department is authorized by the measure to issue an emergency order in certain circumstances. Entities failing to comply with the emergency order shall be subject to a \$10,000.00 fine per day of noncompliance. Additionally, unless the Department determines otherwise, an application that has been resubmitted but is still incomplete or contains errors that are not clerical or typographical in nature shall be denied. The measure directs the Department to issue medical marijuana transporter licenses to licensed medical marijuana research facilities, medical marijuana education facilities and medical marijuana testing laboratories upon issuance of such license and upon renewal. Laboratories may not be owned by any person with a business interest in a licensed medical marijuana business or any person who is related to a person with an interest in the commercial aspects of the industry.

The measure specifies that distance from schools is to be measured from the nearest property line of the school to the nearest perimeter wall of the dispensary. Properties that are not used for classroom instruction on core curriculum and are not on the same campus as a building used for such do not constitute a school. The establishment of a school within 1,000 feet of an already existing dispensary shall not be cause for revocation or nonrenewal of the license.

The measure also authorizes the Department to appoint 8 additional members to the Medical Marijuana Advisory Council. The measure requires the makeup of the council to include members of the medical marijuana industry.

Any person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substances within or into this state without first obtaining a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be subject to the same statutory and administrative jurisdiction of the Director as if that person were an applicant or registrant.

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